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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 207  
October 7, 1996

BARRICADED SUBJECT  
MIRANDA NOT REQUIRED

Reference: Manfred F. West  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 1482  
P.2d  
September 20, 1996

FACTS:

West was involuntarily discharged from a residential drug and alcohol treatment program where he had been allowed to stay pending sentencing for forgery. West had been directed to report to jail if his treatment program was terminated, but he did not do so.

State Troopers learned that West was staying in a cabin owned by his brother. Telephone contact was made with West and he refused to surrender, stating that he was armed; he threatened to blow up the cabin.

Trooper Jim McCann talked by telephone to West for about three and one-half hours. During this time, West told McCann that he (West) had shot and killed Joe Vogler and offered to tell McCann where Vogler's body was buried.

Ultimately, the cabin burned. West, however, survived the fire by seeking shelter under the foundation.

West was subsequently charged with the Vogler homicide. The statement West made to McCann was used against him. West argued that not only was he in custody for purposes of Miranda, but that his lawyer, the one representing him on the forgery case, should have been contacted.

ISSUE:

Are Miranda warnings required when police communicate with barricaded suspects who hold them at bay?

HELD: No.

REASONING:

1. For purposes of Miranda, West was not subjected to custodial interrogation.
2. The Troopers' contact with West related to the new crime of unlawful evasion which resulted from West's failure to return to custody. Since West had not yet been charged with or arrested for that crime, his right to counsel had not yet attached.
3. The Troopers had no responsibility to contact the attorney who represented West in the other cases.

NOTES:

Review of the following cases is recommended:

Thiel v. State, Legal Bulletin No. 125--not being under arrest or formally charged does not bar police initiated contact.

Thompson v. State, Legal Bulletin No. 128--not in custody at police station.

Alaska v. Murray, Legal Bulletin No. 148--not in custody during interview in police car.

Kochutin v. State, Legal Bulletin No. 186--break in custody does not require police to contact lawyer for "new uncharged" case.

Higgins v. State, Legal Bulletin No. 188--person in custody for Miranda during police search warrant service "raid."

Frances Ripley v. State, 590 P.2d 48 (no Legal Bulletin)--a non-custody case when police dispatcher instructs person to "stay on the (telephone) line" which resulted in a confession.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section P, "Right to Counsel and Waivers during Custodial Interviews," of your Contents and Text. File Legal Bulletin No. 207 numerically under Section R of the manual.