



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 287

November 2, 2004

**CUSTODIAL-INTERROGATION STATEMENTS**  
**ELICITED WITHOUT MIRANDA WARNINGS**  
**WILL NEGATE ANY POST-MIRANDA STATEMENTS**

**Reference:** Phillip A. Crawford Alaska Court of Appeals  
v. Opinion No. 1951  
State of Alaska P.3d  
October 22, 2004

**FACTS:**

State Troopers stopped Crawford's car because his registration tags were expired. Crawford's breath smelled of alcohol and the Trooper asked him if he had been drinking. Crawford denied having anything to drink that day, but did admit to drinking the day before.

The Trooper asked Crawford if he had any alcohol, weapons or drugs in the car; he also asked Crawford's consent to a search of his vehicle. Crawford denied having any contraband and consented to the car search.

A computer check confirmed that Crawford's driver's license was revoked. Crawford was informed that he was under arrest for driving with a revoked license and the Trooper handcuffed him. The Trooper then conducted a pat-down search and felt what seemed to be a small smoking pipe in Crawford's right-front pocket. When asked, Crawford gave the Trooper consent to remove the pipe. The Trooper then asked Crawford if he had anything else and Crawford admitted having a little can of marijuana in his pocket.

Next, the Trooper asked Crawford if he had any more drugs in his vehicle. Crawford admitted he had more marijuana and a couple grams of cocaine under the front seat. At this point, the Trooper took Crawford back to the patrol car and, for the first time, advised him of his Miranda

rights. Crawford waived his rights and agreed to further questioning. The Trooper then repeated the same questions he asked Crawford after he put handcuffs on him.

At his subsequent trial, the Court allowed the statements Crawford made after the Miranda warning, but suppressed statements made while he was handcuffed and not advised of his Miranda rights.

**ISSUE:**

Were Crawford's statements tainted by the earlier Miranda violations and should the second statements be suppressed?

**HELD:** Yes--at the moment he was arrested and handcuffed, he was in custody for Miranda purposes.

**REASONING:**

1. Police forgetfulness or inexperience is not recognized as an excuse for failure to give Miranda warnings to a suspect in custody before interrogation begins. (emphasis added)

2. In this case, there was no attempt to administer Miranda warnings to Crawford following his arrest until after he admitted having cocaine beneath his car seat.

3. Miranda rulings hinge on an objective view of the facts of the interrogation, not on an inquiry into the subjective motives of either the police interrogator or the suspect.

4. Viewing the facts objectively, from a person in Crawford's position, Crawford was subjected to a continuing interrogation about his possession of cocaine, with Miranda warnings inserted midstream--after he had already confessed to this crime.

**NOTES:**

The only issue addressed in this Bulletin is the Miranda violation. The consent to search of his person and his vehicle were not argued and may be addressed at Crawford's new trial.

The Court of Appeals, in this case, followed the recent U.S. Supreme Court case, Missouri v. Seibert (see Legal Bulletin No. 284), where they ruled that "question-first, give the warnings and repeat questions" violate Miranda.

**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. 287 numerically under Section R of the manual.