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Only those words and actions of officers aimed at invoking an incriminating response from a suspect will be seen as interrogation (or the functional equivalent of interrogation) under *Miranda v. Arizona*

QUESTION: Did an officer's announcement, after drugs had been recovered during execution of search warrant, that he was going to "arrest everybody" in the apartment amount to interrogation under *Miranda v. Arizona*?

ANSWER: No. Since the words and actions of the officer were not deliberately designed to elicit an incriminating statement from the suspect, no interrogation occurred.

**CASE: *Thomas Smith v. State*
Court of Appeals of Maryland, Decided May 17, 2010**

In this case, Maryland's highest court revisited the often "fine line" between custodial interrogation and routine police procedure. The facts established that Corporal Scott Peter, Detective James Pullen, and other officers of the Westminster Police Department, participated in the execution of a search warrant at an apartment rented by Thomas Smith. Prior to their entry, a SWAT team had secured the apartment by placing the occupants, including Smith, Smith's girlfriend Kathy Magruder, and another man and woman in flex cuffs. Smith was detained on the living room sofa. The other occupants were detained on the balcony. Corporal Peter searched the kitchen and recovered what he believed to be crack cocaine from a glass bowl inside the microwave. In the bedroom, Corporal Peter and Detective Pullen recovered from inside a sock drawer, a plastic bag containing what they suspected to be an ounce of crack cocaine. Holding the baggie, Corporal Peter then walked by Smith, who now was standing in the hallway, and announced to the other officers that he was going to arrest everyone, including anyone who had entered or exited the apartment during pre-raid surveillance. As he passed Smith, Corporal Peter showed him the baggie. Within seconds of Corporal Peter's announcement, Smith said that the baggie and what was in it was all his. He quickly repeated his admission. Corporal Peter believed Smith made the admission to protect his girlfriend. Smith and the others were formally arrested and transported to the station for booking.

Smith was charged with numerous offenses, including possession with intent to distribute crack cocaine and possession of crack cocaine. Smith's motion to suppress the evidence, including his admission of ownership of the drugs, was denied. Smith was found guilty and sentenced to fourteen years' incarceration, with all but five years suspended. Smith appealed.

The Court of Special Appeals affirmed Smith's convictions and Smith sought, and obtained, review in the Court of Appeals. The Court of Appeals did not decide, as had the Court of Special Appeals, that Smith was "in custody" at the time of his statements. The Court of Appeals avoided the issue because it concluded that Corporal Peter's announcement and actions in showing Smith the drugs did not amount to interrogation or the functional equivalent of interrogation. The court rejected Smith's argument that the words and/or actions of the police were designed to elicit an incriminating response from him. Therefore, according to Smith, Corporal Peter's words and actions amounted to interrogation. And, since Smith had not been read his *Miranda* warnings, his statements should have been suppressed. The court disagreed, finding that Smith's statements were classic "blurts," and not a product of interrogation. The court commented that not every meeting between a law enforcement officer and a suspect should be considered interrogation. Instead, the critical inquiry is whether the officer, based on the totality of the circumstances, knew or should have known that the words spoken or actions taken were reasonably likely to elicit an incriminating response. The court was not persuaded that Corporal Peter should have known that his actions and words would likely invoke an incriminating response from Smith. In other words, it was not reasonably foreseeable that Smith would admit ownership of the drugs in response to Corporal Peter's announcement and display of the drugs. Corporal Peter did not stop in front of Smith when he made the announcement. Instead, he walked past Smith and continued walking as he made his announcement to the officers. Since neither the announcement nor the display of drugs was deliberately done to force Smith to admit or disclaim ownership, there was no custodial interrogation. As a result, Smith's convictions were upheld.

NOTE: As stated above, there is often a very fine line between what the courts deem to be or not to be custodial interrogation. As a general rule, an officer's words or actions that are normally attendant to arrest or custody will not be seen as interrogation. Keep in mind, however, that the determination of whether an officer's words or actions were "reasonably likely" to elicit an incriminating response focuses primarily upon the perceptions of the suspect, rather than the intent of the officer. If the police conduct in question is conduct routinely used to evoke an incriminating response, it will be deemed to be interrogation. This is because the officers knew or should have known what their actions were designed to do. In this case, Corporal Peter testified that his purpose in showing Smith the drugs was not to elicit a statement; rather it was to inform him of why he was being arrested. The officer further testified that he ordinarily shows all suspects the contraband recovered during a drug arrest. On the other hand, if Corporal Peter had asked Smith any questions about what was found, the result would have been different. The result also would have been different if the evidence had been deliberately shown to Smith, not as part of the ordinary arrest and custody process, but in a confrontational

manner to force him to admit or deny that the drugs were his. So, when it comes to interrogation, actions often speak as loudly as words.

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