



Training Key® #682

Miranda Invocations

This *Training Key*® discusses when a suspect can invoke his *Miranda* rights and what constitutes an invocation.

When can a suspect invoke his *Miranda* rights? And what constitutes an invocation? Both of these questions are important because, if officers prematurely terminate an interview as a result of their mistaken belief that the suspect invoked, any confession or incriminating statement the suspect would have made is lost forever. And, if officers ignore an invocation, or if they fail to clarify the suspect's intent, any incriminating statement made might be suppressed by the courts. Fortunately, the law today is much clearer than it was in the past.

As will be discussed, the most significant change in the law is the U.S. Supreme Court's ruling that a remark by a suspect no longer constitutes an invocation if it merely indicates the suspect might be invoking or is undecided. Furthermore, officers may now consider the suspect's words in context, including body language and inflection. The courts also eliminated the rule that an invocation will result if it appears the suspect is unwilling to discuss his case "freely and completely," thereby recognizing "limited" invocations. Other improvements included the courts' rejection of anticipatory and third-party invocations, and the relaxation of the rules pertaining to post-invocation questioning.

These changes became necessary because, although *Miranda* was intended to provide officers with "clear-cut" rules for interrogating suspects,² some courts were interpreting these rules so strictly that interrogations had become procedural minefields where one little mistake could detonate an entire investigation. The situation was especially acute in major felony cases in which officers frequently confronted

suspects who, although they waived their *Miranda* rights, admitted to virtually nothing unless the officers were somehow able to "unbend their reluctance,"³ which often required relentless probing, confrontation, accusation, and even verbal combat. The longer this goes on, the more likely the suspect will say something that could conceivably be deemed an invocation. In other words, *Miranda* had become an impediment to the fair and efficient administration of justice.

This *Training Key*® will explain when a suspect can and cannot invoke his rights, the test for determining when a suspect has invoked, when officers may clarify possible invocations, and how they can recognize and respond to "limited" invocations.

When a Suspect Can Invoke

The courts do not permit anticipatory invocations. This means that suspects cannot invoke their *Miranda* rights unless (1) they are "in custody" at the time, and (2) the invocation occurs during actual or impending "interrogation." In so ruling, the Court observed in *McNeil v. Wisconsin*, "Most rights must be asserted when the government seeks to take the action they protect against."⁴

Custody. A suspect who is not "in custody" cannot invoke. This means that an invocation cannot occur unless the suspect has been arrested or unless his or her freedom of action has been curtailed to the degree associated with a formal arrest.⁵ Similarly, most suspects who are being detained cannot invoke their *Miranda* rights because detainees are not in custody for *Miranda* purposes unless the surrounding circum-

stances have taken on the outward appearance of an arrest.⁶

Actual or Impending Interrogation. Even if the suspect is “in custody,” he cannot invoke unless officers are interrogating him or unless interrogation is imminent.

It should be noted that one reason for the rule against anticipatory invocations is that, if suspects can invoke before being arrested and interrogated, criminals would flood their local law enforcement agencies with notarized letters announcing, “I hereby invoke my *Miranda* rights, so don’t even think about questioning me about any crimes I have already committed or might commit in the future.”

In addition, the only person who can invoke a suspect’s *Miranda* rights is the suspect—not his attorney, not his family, not his friends. As the U.S. Supreme Court explained, “[T]he privilege against compulsory self-incrimination, by hypothesis, is a personal one that can only be invoked by the individual whose testimony is being compelled.”⁷

What Constitutes an Invocation? The “Unambiguous” Requirement

Perhaps the most significant change to *Miranda* law took place in 1994 when the U.S. Supreme Court ruled in *Davis v. United States*⁸ that *Miranda* invocations no longer result merely because a suspect’s words might indicate he wants to remain silent or that he might want an attorney. Instead, the Court ruled that officers are required to terminate an interview only if the suspect demonstrates an obvious or unambiguous intent to invoke.

The reason for requiring explicit invocations is that the old rule was transforming *Miranda* safeguards into “wholly irrational obstacles to legitimate police investigative activity,”⁹ and was forcing officers to “make difficult decisions about an accused’s unclear intent and face the consequence of suppression if they guess wrong.”¹⁰

It should be noted that, although the Court technically ruled that invocations must be both “unambiguous” and “unequivocal,” and although these words have slightly different meanings, it intended only a single requirement: the suspect’s intention to invoke must be reasonably apparent. To follow are the general principles that the courts apply in determining whether a suspect invoked.

The “reasonable officer” test. A suspect’s remark will be deemed an unambiguous invocation only if it would have been so interpreted by a reasonable officer.¹¹

Consider words in context. In determining how a reasonable officer would have understood the suspect’s remark, the courts consider it in context.¹² This is important because a remark that appears to be an invocation in the abstract may take on an entirely different meaning when considered in light of what the suspect and the officers said or did beforehand.

Context can be especially important if (1) the suspect makes the remark shortly after he unequivocally

agrees to speak with the officers, and (2) there is no apparent reason for a sudden change of mind.

Note that, although the courts will consider the suspect’s words in context, they will not consider what he said after his alleged invocation. As the U.S. Supreme Court explained, “[A]n accused’s post-request responses to further interrogation may not be used to cast retrospective doubt on the clarity of the initial request itself.”¹³

Body language, inflection. If officers audio record and videotape the interview, the context of the suspect’s words may include the “tone, inflection, body language, and the infinite other minute qualities of demeanor and affect that cannot be ascertained from words alone.”¹⁴

Pre- and post-waiver ambiguities: Are they treated differently? So far, we have been discussing situations in which a suspect makes an ambiguous remark while being interviewed; i.e., after he waives his rights. In such cases, it is clear that an ambiguous remark does not constitute an invocation. But what if the suspect makes the remark shortly before he waives? Specifically, are pre-waiver remarks subject to the old rule that an invocation results if the suspect merely indicates that he might be invoking?

The answer is uncertain. That is because the U.S. Supreme Court’s opinion in *Davis* contained language that could be interpreted as limiting its decision to ambiguous remarks that occur after the suspect waived; e.g., “We therefore hold that, *after a knowing and voluntary waiver*, law enforcement officers may continue questioning until and unless the suspect clearly requests an attorney.”¹⁵ (Emphasis added.)

On the other hand, the U.S. Supreme Court in its post-*Davis* decision in *Berghuis v. Thompkins* spent some time discussing the reasons that an ambiguous remark should not be deemed an invocation, and nowhere in its discussion did it say or intimate that the reasons include the fact that the suspect previously waived his rights.¹⁶ This makes sense, as the Court previously observed, “[A] statement either is such an assertion of the right to counsel or it is not,”¹⁷ which would indicate that the sequence in which it occurred is not critical. Still, until the courts resolve this question, officers who encounter a pre-waiver ambiguous remarks should consider trying to clarify the suspect’s intent.

Invocations of the Right to Remain Silent

A suspect unambiguously invokes the right to remain silent if he says something that demonstrates either (1) a present unwillingness to submit to an impending interview with officers (“I don’t want to talk to you”¹⁸; “I plead the Fifth”¹⁹), or (2) a desire to terminate an interview in progress. Located between unambiguous invocations and unambiguous waivers is “a significant middle ground—one all too familiar to those with law enforcement experience—occupied by those suspects who are simply unsure of how they wish to proceed.”²⁰ This “middle ground” also includes situations in which suspects are merely ex-

pressing reluctance to answer questions, frustration with an officer or their predicament, a desire to speak with someone other than an attorney, an unwillingness to give a recorded statement, or a refusal to sign a waiver. None of these expressions ordinarily constitutes an invocation.

Expressions of Reluctance. A suspect's expression of uncertainty or reluctance to talk with officers, discuss the details of the crime, or answer certain questions does not constitute an invocation. As the Eighth Circuit observed, "Being evasive and reluctant to talk is different from invoking one's right to remain silent."²¹

That's All I Have to Say. Similarly, an invocation does not result if the suspect merely indicates he had nothing more to tell the officers or if he remained "largely silent" during the interview.²² As we will discuss later, however, a suspect's absolute refusal to answer a certain question or discuss a certain subject may constitute a "limited" invocation.

Expressions of Frustration. For suspects who are guilty of the crime under investigation, an interrogation is, among other things, stressful. Consequently, suspects who are being interviewed will frequently express frustration that might sound like an invocation, but is usually not.

Request to Talk to Someone. A request by the suspect—adult or juvenile—to speak with someone other than an attorney is not a *Miranda* invocation. For example, the courts have ruled that a juvenile does not invoke his right to remain silent by requesting to talk with his probation officer or one of his parents.²³ As we will discuss later, however, a suspect's demand to speak with a third person might be deemed a limited invocation.

Refusal to Sign a Waiver. It frequently happens that a suspect will verbally waive his *Miranda* rights but refuse to sign a waiver form. It is settled that such a refusal does not constitute an invocation.²⁴ As the Eighth Circuit explained in *U.S. v. Binion*, "Refusing to sign a written waiver of the privilege against self incrimination does not itself invoke that privilege and does not preclude a subsequent oral waiver."²⁵

Invocation of Right to Counsel

In the past, whenever a suspect uttered or even mumbled the word "lawyer," some courts would rule that he had invoked his right to counsel. Davis changed that.²⁶ As the Ninth Circuit observed, a suspect "does not necessarily invoke his rights simply by saying the magic word 'attorney'; that word has no talismanic qualities, and a defendant does not invoke his right to counsel any time the word falls from his lips."²⁷

An invocation will, however, result if the suspect's words unambiguously demonstrate an intent to speak with a lawyer before being questioned or to have an attorney present during questioning.

Remarks about Having an Attorney in Court. Most people who are arrested want to be represented by an attorney when they appear before a judge. And

the Sixth Amendment gives them that right.²⁸ *Miranda* does not.

That's because the sole objective of the *Miranda* (Fifth Amendment) right to counsel is to make an attorney available to an arrestee before and during police interrogation—not during court proceedings.²⁹ This means that a suspect's demand that he be represented by counsel in court or at a later time does not constitute an invocation of his *Miranda* right to counsel.³⁰

Questions about Attorneys. Asking a question about an attorney is, by its very nature, not an unambiguous request for one. For example, the courts have ruled that the following remarks did not constitute *Miranda* invocations:

- Am I going to be able to get an attorney?³¹
- What time will I see a lawyer?³²
- Do I get a lawyer?³³
- I don't have a lawyer. I guess I need to get one, don't I?³⁴
- I can't afford a lawyer but is there any way I can get one?³⁵
- Do I need a lawyer before we start talking?³⁶
- Do you think I need a lawyer?³⁷
- Should I be telling you or should I talk to a lawyer?³⁸

Expressions of Uncertainty. At the start of an interview, or at some point after it begins, suspects may express some uncertainty as to whether they should talk to officers (or whether they should continue talking with them) without a lawyer. So long as the suspect's words demonstrate only uncertainty—not resolve—it is not apt to be deemed an invocation.

Note that expressions of uncertainty are often qualified by words such as "I don't know," "if," "I think," or "probably." Thus, the Eighth Circuit recently observed that the phrase "I guess" is ordinarily used to indicate that "although one thinks or supposes something, it is without any great conviction or strength of feeling."³⁹

Suspect Retained an Attorney. A suspect does not invoke his right to counsel by notifying officers that he hired an attorney to represent him in the case under investigation or in any other case.⁴⁰ This is because such an expression does not unambiguously demonstrate an intent to speak with an attorney before an interview began or to have an attorney present during one. Likewise, an invocation of the *Miranda* right to counsel does not result merely because the suspect appears in court on the crime under investigation and was represented by counsel or requested a court-appointed attorney.⁴¹

Request to Talk with Someone. A suspect's request to speak with any person (other than an attorney) does not constitute an invocation of the *Miranda* right to counsel. Thus, in *Fare v. Michael C.* the U.S. Supreme Court rejected the argument that a juvenile's request to speak with his probation officer was an invocation because, said the Court, it is the "pivotal role of legal counsel that justifies the per se rule established in *Miranda*, and that distinguishes the request for counsel

from the request for a probation officer, a clergyman, or a close friend.”⁴²

Limited Invocations

In the past, an invocation resulted if the suspect said something that was inconsistent with a willingness to discuss his case “freely and completely.” That has changed. Now the courts recognize that a suspect’s act of placing restrictions or conditions on an interview does not demonstrate a desire to terminate it. On the contrary, it demonstrates a willingness to speak with officers if they will agree to his demands.⁴³ So, if an invocation is so “limited,” officers need not end the interview if they accede to the suspect’s terms.

Limited Invocation of Right to Remain Silent.

Refusal to Discuss a Certain Subject. It often happens that a suspect will absolutely refuse to discuss a certain subject or answer a certain question, as is his right. But such a refusal will constitute only a limited invocation.⁴⁴ As the Ninth Circuit observed, “A person in custody may selectively waive his right to remain silent by indicating that he will respond to some questions, but not to others.”⁴⁵

Refusal to Speak at the Present Time. A suspect’s statement that he is willing to speak with officers—but not at the present time—constitutes an invocation as to immediate questioning, but not as to questioning that officers initiate after the passage of some time.

Refusal to Speak with a Specific Officer. It’s not uncommon that a suspect will refuse to speak with one of the officers in the room (especially when officers are employing the good-cop/bad-cop routine). Even if a court were to rule that this constituted an invocation, it would be considered only a limited invocation of the right to remain silent as to that officer but not any others.

Going “Off the Record.” It appears that a suspect’s request to go “off the record” constitutes a request that something he is about to say will not be used against him in court; i.e., a limited invocation of the right to remain silent. Thus, if officers agree to the request, the off-the-record portion of the interview may be suppressed.

“No Recording.” There is not much recent case law on when, or under what circumstances, a limited invocation results if the suspect demands that an interview not be recorded. This is probably because most interviews are now secretly recorded or videotaped, which means that, even if officers pretend to go along with the demand, or if they assure the suspect that the room is not bugged, a recording of the interview would be available. And because the suspect understood that anything he said could be used against him, it seems unlikely that such a recording would be suppressed on grounds that the officers’ deception somehow violated *Miranda*.

Limited Invocation of Right to Counsel.

Request for an Attorney Regarding Certain Questions. A suspect’s refusal to discuss a certain subject without first consulting with a lawyer or without having an attorney present constitutes an invocation of the

Miranda right to counsel only as to questioning about that subject.

Refusal to Give a Written Statement. A suspect’s refusal to give a written statement without having first consulted with an attorney is a limited invocation, which means that officers may take a verbal statement.⁴⁶

Refusal “If I’m a Suspect.” In *Smith v. Endell*⁴⁷ the court ruled that a limited invocation resulted when the defendant told officers that he wanted a lawyer if “you’re looking at me as a suspect,” and they were.

Clarifying the Suspect’s Intent

It used to be the rule that, when a suspect said something that might constitute an invocation, officers were required to stop the interview and attempt to clarify his intentions.⁴⁸ But the U.S. Supreme Court said in *Davis v. U.S.* that, because an ambiguous remark does not constitute an invocation, “we decline to adopt a rule requiring officers to ask clarifying questions.”⁴⁹

Officers may not, however, “play dumb.”⁵⁰ Also note that in close cases, it may be prudent to seek clarification as a remark that appears ambiguous to officers might be viewed as an unambiguous invocation by a judge.⁵¹ As the Court pointed out:

*Of course, when a suspect makes an ambiguous or equivocal statement it will often be good police practice for the interviewing officers to clarify whether or not he actually wants an attorney. [This] will minimize the chance of a confession being suppressed due to subsequent judicial second guessing.*⁵²

Finally, as discussed earlier in the section on pre-waiver ambiguities, it is possible that an ambiguous remark might constitute an invocation if it was made before the suspect waived his rights. Consequently, until this issue is resolved, it might be wise to seek clarification in such a situation.

Procedure When Suspect Invokes

If the suspect invokes the right to remain silent or the right to counsel, officers must terminate the interrogation if it is in progress.⁵³ If the invocation occurs while officers are reading the *Miranda* warning, they must not insist that the suspect listen to all warnings before he can invoke.⁵⁴ Furthermore, they must not urge the suspect to change his mind or even ask why he won’t talk.⁵⁵

Finally, if a suspect invokes in the field, or if officers thought he did, they should write in their report exactly what he said. This will enable investigators to determine if he had, in fact, invoked and, if so, which right he invoked.

Acknowledgment

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Endnotes

¹ For the purposes of this document, the masculine (e.g. he/his) third-person will be used, rather than combining the feminine and masculine (he/she, his/hers).

² *Miranda v. Arizona* (1966) 384 U.S. 436, 469.

³ *Culombe v. Connecticut* (1961) 367 U.S. 568, 572.

⁴ (1991) 501 U.S. 171, 182, fn.3. ALSO SEE *Bobby v. Dixon* (2011) ___ U.S. ___ [132 S.Ct. 26, 29].

⁵ See *Howes v. Fields* (2012) ___ U.S. ___ [132 S.Ct. 1181, 1189]; *Berkemer v. McCarty* (1984) 468 U.S. 420, 440.

⁶ See *Berkemer v. McCarty* (1984) 468 U.S. 420, 439-40.

⁷ *Moran v. Burbine* (1986) 475 U.S. 412, 433, fn.4 [edited].

⁸ (1994) 512 U.S. 452, 461-62 ["If the suspect's statement is not an unambiguous or unequivocal request for counsel, the officers have no obligation to stop questioning him."]. ALSO SEE *McNeil v. Wisconsin* (1991) 501 U.S. 171, 178 [a suspect's words will constitute an express invocation of the right to counsel only if they demonstrated an unequivocal and unambiguous "expression of a desire for the assistance of an attorney in dealing with custodial interrogation by the police"]. NOTE: The requirement of unambiguously applies to both the right to remain silent and the *Miranda* right to counsel. See *Berghuis v. Thompson* (2010) ___ U.S. ___ [130 S.Ct. 2250, 2260].

⁹ *Davis v. United States* (1994) 512 U.S. 452, 460. A

¹⁰ *Berghuis v. Thompson* (2010) 560 U.S. ___ [130 S.Ct. 2250, 2260].

¹¹ See *Davis v. United States* (1994) 512 U.S. 452, 459.

¹² See *Connecticut v. Barrett* (1987) 479 U.S. 523, 528.

¹³ *Smith v. Illinois* (1984) 469 U.S. 91, 99.

¹⁴ *Sessoms v. Runnels* (9th Cir. 2010) 650 F.3d 1276, 1288.

¹⁵ *Davis v. United States* (1994) 512 U.S. 452, 461.

¹⁶ (2010) ___ U.S. ___ [130 S.Ct. 2250, 2260]. ALSO SEE *U.S. v. Plugh* (2nd Cir. 2011) 648 F.3d 118, 123 ; *U.S. v. Wysinger* (7th Cir. 2012) 683 F.3d 784, 795 [court applied *Davis* to a pre-waiver remark].

¹⁷ *Smith v. Illinois* (1984) 469 U.S. 91, 97-98.

¹⁸ *U.S. v. DeMarce* (8th Cir. 2009) 564 F.3d 989, 994.

¹⁹ *Anderson v. Terhune* (9th Cir. 2008) 516 F.3d 781, 784.

²⁰ *U.S. v. Plugh* (2nd Cir. 2011) 648 F.3d 118, 125.

²¹ *Mann v. Thalacker* (8th Cir. 2001) 246 F.3d 1092, 1100. ALSO SEE *Fare v. Michael C.* (1979) 442 U.S. 707, 727 [although defendant sometimes told officers that he "would not answer the question," these remarks "were not assertions of his right to remain silent"];

²² *Berghuis v. Thompson* (2010) 560 U.S. ___ [130 S.Ct. 2250, 2256-60].

²³ See *Fare v. Michael C.* (1979) 442 U.S. 707.

²⁴ See *Berghuis v. Thompson* (2010) 560 U.S. ___ [130 S.Ct. 2250, 2256]; *U.S. v. Oehme* (2nd Cir. 2012) 698 F.3d 119, 123.

²⁵ (8th Cir. 2009) 570 F.3d 1034, 1041.

²⁶ See *Davis v. United States* (1994) 512 U.S. 452, 461.

²⁷ *U.S. v. Cheely* (9th Cir. 1994) 36 F.3d 1439, 1447-48.

²⁸ See *Rothgery v. Gillespie County* (2008) 554 U.S. 191, 213 ["[A] criminal defendant's initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel."].

²⁹ *Arizona v. Roberson* (1988) 486 U.S. 675, 684.

³⁰ See *McNeil v. Wisconsin* (1991) 501 U.S. 171, 178 ["To invoke the Sixth Amendment interest is, as a matter of fact, not to invoke the *Miranda-Edwards* interest."]; *Texas v. Cobb* (2001) 532 U.S. 162, 177 (conc. opn. of Kennedy, J.) ["It is quite unremarkable that a suspect might want the assistance of an expert in the law to guide him through hearings and trial, and the attendant complex legal matters that might arise, but nonetheless might choose to give on his own a forthright account of the events that occurred."]; *U.S. v. Charley* (9th Cir. 2005) 396 F.3d 1074, 1082 ["Invocation of the Sixth Amendment right to counsel alone does not constitute an invocation of the *Miranda-Edwards* Fifth Amendment right to counsel."].

³¹ *U.S. v. Shabaz* (7th Cir. 2009) 579 F.3d 815, 819.

³² *U.S. v. Doe* (9th Cir. 1999) 170 F.3d 1162, 1166

³³ *U.S. v. Wipf* (8th Cir. 2005) 397 F.3d 677, 685.

³⁴ *U.S. v. Havlik* (8th Cir. 2013) ___ F.3d ___ [2013 WL 1235259].

³⁵ *Lord v. Duckworth* (7th Cir. 1994) 29 F.3d 1216, 1221.

³⁶ *U.S. v. Wysinger* (7th Cir. 2012) 683 F.3d 784, 795

³⁷ *U.S. v. Ogbuehi* (9th Cir. 1994) 18 F.3d 807, 813.

³⁸ *Clark v. Murphy* (9th Cir. 2003) 331 F.3d 1062, 1072

³⁹ *U.S. v. Havlik* (8th Cir. 2013) ___ F.3d ___ [2013 WL 1235259]

⁴⁰ See *McNeil v. Wisconsin* (1991) 501 U.S. 171.

⁴¹ See *Montejo v. Louisiana* (2009) 556 U.S. 778.

⁴² (1979) 442 U.S. 707, 722.

⁴³ See *Connecticut v. Barrett* (1987) 479 U.S. 523, 525 ["The Connecticut Supreme Court nevertheless held as a matter of law that respondent's limited invocation of his right to counsel prohibited all interrogation. . . . Nothing in our decisions, however, or in the rationale of *Miranda*, requires authorities to ignore the tenor or sense of a defendant's response to these warnings."].

⁴⁴ See *Michigan v. Mosley* (1975) 423 U.S. 96, 103-104 ["Through the exercise of his option to terminate questioning he can control . . . the subjects discussed"]; *McGraw v. Holland* (6th Cir. 2001) 257 F.2d 513, 518 [limited invocation occurred when the suspect said "I don't want to talk about it. I don't want to remember it."].

⁴⁵ *U.S. v. Lopez-Diaz* (9th Cir. 1980) 630 F.2d 661, 664, fn.2.

⁴⁶ See *Connecticut v. Barrett* (1987) 479 U.S. 523, 525; *Arizona v. Roberson* (1988) 486 U.S. 675, 683; *U.S. v. Martin* (7th Cir. 2011) 664 F.3d 684, 689.

⁴⁷ (9th Cir. 1988) 860 F.2d 1528, 1531.

⁴⁸ See *U.S. v. Rodriguez* (9th Cir. 2008) 518 F.3d 1072, 1077 ["Prior to 1994, this circuit, along with a number of other jurisdictions [ruled that] officers were required to clarify [ambiguous statements]."]

⁴⁹ (1994) 512 U.S. 452, 461-62.

⁵⁰ *Anderson v. Terhune* (9th Cir. 2008) 516 F.3d 781, 788 ["[T]he officer decided to 'play dumb,' hoping to keep Anderson talking"].

⁵¹ See *Lord v. Duckworth* (7th Cir. 1994) 29 F.3d 1216, 1221.

⁵² *Davis v. United States* (1994) 512 U.S. 452, 461. ALSO SEE *U.S. v. Wysinger* (7th Cir. 2012) 683 F.3d 784, 795 ["we encourage law enforcement officers to heed the Supreme Court's suggestion in *Davis*"].

⁵³ See *Miranda v. Arizona* (1966) 384 U.S. 436, 473-74; *Edwards v. Arizona* (1981) 451 U.S. 477, 484-85.

⁵⁴ See *Smith v. Illinois* (1984) 469 U.S. 91.

⁵⁵ See *Id.* at 98.

questions

The following questions are based on material in this *Training Key*®. Select the one best answer for each question.

1. Which of the following is false regarding *Miranda* invocations?
 - (a) A suspect must be in custody before he can invoke.
 - (b) An attorney can invoke on behalf of his client.
 - (c) Officers are required to terminate an interview after a suspect demonstrates an obvious and unambiguous intent to invoke.
 - (d) The suspect's body language, as well as the context of the words used, can be taken into account when determining whether an invocation is valid.
2. Which of the following is true?
 - (a) A request to talk with someone other than an attorney is not a *Miranda* invocation.
 - (b) If a suspect refuses to sign a waiver form after verbally waiving his rights, it is considered an invocation.
 - (c) Asking a question about an attorney automatically constitutes an invocation of the right to counsel.
 - (d) Officers should immediately stop an interview if the suspect expresses frustration or appears uncertain if he should continue answering questions.
3. If a suspect states that he refuses to speak with a particular officer, all questioning should immediately stop.
 - (a) True.
 - (b) False.

answers

1. (b) The only person who can invoke a suspect's *Miranda* rights is the suspect.
2. (a) Only a request to speak with an attorney is considered an invocation of *Miranda* rights.
3. (b) False. This is considered a limited invocation. Questioning can continue as long as the individual's request to speak with another officer is honored.

