



An Initial Study of the Spanish Miranda Warnings in Nevada



Ashley Keaton

University of Nevada, Reno

Mentored by Dr. Gerald McMenam and Dr. Casilde Isabelli

Intro

According to the Fifth, Sixth, and Fourteenth Amendments to the US Constitution, every person in the United States is guaranteed the right against self incrimination and the right to be represented by an attorney free of charge. These rights were upheld in the landmark case *Miranda v Arizona* (1966), which required police agencies to tell all suspects their rights before they are interrogated. In *United States v Botello Rosales* (2013), the Court decided that the rights must be translated into Spanish for Spanish-speaking people. The present study examines the Spanish versions of the Miranda warnings given by six Nevada law enforcement agencies with the intent to determine whether they meet constitutional requirements as well as linguistic standards.

Literature

Previous research demonstrates that the Miranda warnings are more likely to have linguistic inaccuracies when they are translated into another language (Eades and Pavlenko, 2016). One problem is that officers or interpreters might paraphrase or incorrectly translate the rights (Cal-Meyer and Coulthard, 2017; Filipovic and Abad Vergara, 2018; Russell, 2000). Officers also might fail to recognize that the listener did not understand their rights (Shuy, 1993; Ainsworth, 2008; Mason, 2012). Lastly, the Miranda warnings are sometimes so grammatically complex that they inhibit listener comprehension (Eades and Pavlenko, 2016; Shuy, 1997; Kurzon, 2000). To avoid these problems, scholars recommend using simple sentences, clearly stating the agent of the action in every sentence, and avoiding conditional clauses in reading the Miranda rights (Eades and Pavlenko, 2016; Shuy, 1997).

Results

The six Spanish versions of the Miranda warnings that I collected shared several common problems with content, grammatical complexity, and translation problems. Below, I have italicized and bolded each right, and bolded the problems in the translations.

You have the right to remain silent.

Usted tiene el derecho de **mantenerse** callado.
Usted tiene el derecho de **permanecer** en silencio.
Tiene el derecho de guardar silencio.

Anything you say may be used against you.

Cualquier cosa que Usted diga **puede ser** usada contra Usted en una corte de ley.
Anything you say **can and will** be used against you in a court of law.

Todo lo que diga **puede y será** usado en su contra en un tribunal.
Anything you say **can and will** be used against you in a court of law.

You have a right to have present an attorney during the questioning.

Tiene derecho a un abogado.
Usted tiene el derecho de tener un abogado presente.

If indigent, you have a right to a lawyer without charge.

Si no puede permitirse un abogado, se le proporcionará uno.
Si Usted no tiene medios para emplear un abogado, el juzgado de la corte adjudicara uno para Usted, sin costo, antes de iniciar el interrogatorio, si Usted quiere.

Commentary

“Mantenerse” is an incorrect translation.
“Permanecer” is not an appropriate translation.
This sentence omits the pronoun “usted.”

Each of these translations mistranslate “can and will,” which is how they are written in the English versions from these agencies.
The first example translates “can and will” as simply “can,” and the second example is a grammatically nonsensical translation.

These translations solely communicate “you have the right to an attorney” and “you have the right to have an attorney present.”
Neither of these translations adequately communicate the meaning of this right.

“Permitirse” is a nonsensical translation in this context, and “proporcionará” is an excessively formal translation.
The second example uses the past subjunctive form of “ajudicara” in place of the future tense “ajudicará.”
This example also uses two conditional clauses within one sentence, which makes it very grammatically complex.

Methodology

To collect samples, I used two approaches: first, I contacted any police officers that I knew personally; second, I systematically visited each law enforcement agency and requested a copy of their Miranda cards in English and Spanish. I contacted nine agencies and ultimately received eight Miranda cards in English, six of which had an accompanying Spanish version. I made note of officer attitudes about the Miranda warnings as I progressed.
It is interesting to point out that many agencies demonstrated a lack of preparedness to provide this data; for instance, one agency did not have any Miranda cards anywhere in their office, so they provided me with the Google search result instead.

Discussion

Though this study is limited in its sample size, sample type, and lack of replication, it demonstrates that significant linguistic variation exists in the translations of the Miranda warnings in Nevada. Future research might explore audio and video recordings of suspects being read their rights in Spanish in order to determine whether they match what is written in the Spanish Miranda card. Other directions for research include exploring the way that officer bias affects the quality of the Miranda warnings read to a listener, whether a nationwide standard translation would improve the quality of the Miranda warnings, and the usefulness of “legalese” as it appears in the Miranda warnings and the justice system as a whole.