

## **Dr. Thomas Grisso's Understanding and Appreciating Miranda Rights**

In *Middleton v. State* (Jan 2016) Dr. James Barnard testified for the defense. He prepared two reports, one was a psychological evaluation and the other examined Middleton's competency to waive his *Miranda* rights.

Dr. Barnard administered an instrument entitled "Dr. Thomas Grisso's Understanding and Appreciating *Miranda* Rights." Dr. Barnard testified that Middleton's total score was 13 out of 30, more than two standard deviations below the mean. He testified that, although Middleton could paraphrase portions of *Miranda*, he "showed a very significant weakness in terms of his ability to intelligently apply knowledge of *Miranda*, to novel situations." Dr. Barnard stated that it was difficult to reconcile his findings during the testing with what he saw on the confession video. He explained that there is no correlation between having had *Miranda* warnings administered in the past and actually understanding them. He also stated that there are no validity scales for Grisso's *Miranda* test.

Here is some information on the Grisso Instrument, Understanding and Appreciating Miranda Rights:

### **Descriptions of Instruments**

The measure is composed of the following four discrete instruments:

1. Comprehension of Miranda Rights (CMR) assesses an examinee's basic understanding of the four Miranda warnings. Each warning is read aloud to the examinee, and the examinee is asked to paraphrase each warning. Examinees' responses are scored 0 (inadequate), 1 (questionable), or 2 (adequate), and standardized questions are provided to probe questionable and inadequate responses. Total scores can range from 0 to 8, and administration requires approximately 15 minutes.
2. Comprehension of Miranda Rights-Recognition (CMR-R) also assesses an examinee's basic understanding of the four Miranda warnings but does so without relying on verbal expressive skills. Each warning is presented with three preconstructed sentences, and an examinee must determine whether the meaning of each preconstructed sentence is semantically identical to the associated warning. Scoring is bimodal, 0 for incorrect responses and 1 for correct responses. Total scores can range from 0 to 12. Administration requires approximately 5 to 10 minutes.
3. Function of Rights in Interrogation (FRI) assesses more than basic understanding by targeting an examinee's appreciation of the significance of the Miranda warnings. Four separate illustrations of police, legal, and court proceedings are each accompanied by a short vignette. After reading each vignette, the examiner asks questions about the boy in the vignette (e.g., what he should tell his lawyer, what would happen if he does not talk to the police). There are 15 standardized questions that assess appreciation of three areas: the adversarial nature of police interrogation (NI subscale), the advocacy role of attorneys (RC subscale), and the entitlement to the right to silence (RS subscale). Scoring for the FRI employs the same 0-to-2 scale as the CMR; total scores can range from 0 to 30. Administration requires about 15 minutes.

4. Comprehension of Miranda Vocabulary (CMV) assesses understanding of six vocabulary words that are typically used in Miranda warnings: consult, attorney, interrogation, appoint, entitled, and Initially, nine words were included in the CMV. However, the vast majority of participants in a pilot study adequately understood three of the words, and consequently, those three words were discarded. To administer the CMV, the examiner shows a vocabulary word to the examinee while reading it aloud, using it in a sentence, and repeating it. The examinee is then asked to define the word. Scoring procedures are identical to those of the CMR and FRI, and the total score may range from 0 to 12 points. Administration time is approximately 10 minutes.

## **Instruments Application, Interpretation, and Acceptability**

The instruments are appropriate for delinquent and nondelinquent youths aged 10 to 17 and for offending and nonoffending adults. There is no overall Miranda comprehension score, because the instruments were designed to assess different aspects of comprehension. Instead, scores on each instrument can be compared with the established absolute or relative standard. To meet the minimal absolute standard, an examinee must not have any inadequate, or 0-point, responses. To meet a higher absolute standard, an examinee must achieve all adequate, or 2-point, responses. To assess an examinee's scores using a relative standard, scores can be compared against norms.

The instruments have been strongly endorsed by forensic psychologists and are considered the gold standard by licensed clinical psychologists for use in forensic evaluations of capacities to waive Miranda rights. For instance, one survey of 64 diplomates of the American Board of [Forensic Psychology](#) revealed that these instruments, along with the Wechsler Adult Intelligence Scale-III (WAIS-III), were the only traditional or [forensic assessment](#) instruments that were recommended for use in Miranda rights evaluations by the majority of surveyed psychologists.

Although these instruments are well respected by experts in the field, several limitations should be considered. First, the instruments provide only an estimate of the examinee's understanding and appreciation of his or her rights at the time of the evaluation. Questions about the validity of a Miranda waiver typically are not raised at the time the waiver is offered, and a great deal of time may pass between the waiver and the evaluation. Thus, the examinee's understanding and appreciation of the Miranda rights may have changed in the interim as a result of discussions with the attorney, maturation, or experience.

Furthermore, although the instruments provide information about capacities related to the knowing and intelligent requirements of a valid Miranda waiver, they do not measure the validity of the waiver. Rather, the evaluator can use data from the instruments to inform the court about an examinee's capacities to understand and appreciate his or her rights. The court may then use this information, in conjunction with other factors considered in the totality of circumstances test, to determine the ultimate question of waiver validity.

## **Revised Instruments**

Grisso's original instruments were developed nearly three decades ago using the language of the Miranda warnings in Saint Louis County, Missouri, the location of the instruments' development. Although there is no standardized wording of the Miranda warning, the language used in most jurisdictions today is far simpler than the warnings used in Grisso's instruments. In addition, many jurisdictions today include a fifth warning, informing suspects that they have the right to stop questioning at any time during a custodial interrogation to ask for an attorney.

To maintain the utility of the instruments, Naomi E. Sevin Goldstein, Lois Oberlander Condie, and Thomas Grisso have developed a revised version, the Miranda Rights Comprehension Instruments-II (MRCI-II). In addition to simplifying the wording of the rights and including the fifth warning, the updated instruments include additional vocabulary words in the CMVs and a supplemental instrument, Perceptions of Coercion During Holding and Interrogation Procedures (P-CHIP), designed to assess self-reported confession behavior in a variety of holding and interrogation situations. Research on the revised instruments has established updated norms for the 21st century, and the MRCI-II manual is in preparation.