# Assessing for Waiver of Miranda Rights – MRCI and SAMA

General Concerns for Waiving of Miranda - Culture and Language Factors

- Were rights administered in English?
- Use of interpreters
- Culture impacting on knowledge of Miranda
- Culture impacting on knowledge of role of law enforcement
- Relevance and validity of psychological testing
- Use of cultural consultants
- Military Culture (could impact voluntariness)

## Miranda Rights Comprehension Instruments (MRCI)

**From Bruce Frumkin (2013)**

**Original Tests to Assess Understanding and Appreciation of Miranda Rights**

Mental health testimony has been used by the courts to assist in a determination of a defendant's ability to have made a knowing, intelligent, and voluntary waiver of Miranda rights at the time of the police interrogation. There is a body of literature that discusses methodology to be used in evaluat- ing a defendant's capacity to waive Miranda rights (Brodsky & Bennett, 2005; DeClue 2005a, 2005b; Frumkin, 2000, 2008, 2010; Frumkin, Lally, & Sexton, 2012; Goldstein & Goldstein, 2010; Grisso, 2003; Oberlander, Goldstein, & Goldstein, 2003; Rogers & Shuman, 2005). With the excep- tion of Rogers and Shuman (2005), the aforementioned authors have recommended the use of the Grisso (1981, 1998) Instruments for Assessing Understanding and Appreciation of Miranda Rights (IAUAMR) as one compo- nent to a comprehensive psychological evaluation that includes a clinical interview, cognitive and personality test- ing, assessment for effort or malingering, record review, interviewing collateral sources as necessary, and reviewing recordings and/or transcripts of the interrogation. In fact, the IAUAMR have been widely used by forensic practitioners to assist in an assessment of a defendant's capacity to have validly waived one's Miranda rights (e.g., Archer, Buffington-Vollum, Stredney, & Handel, 2006; Lally, 2003; Ryba, Brodsky, & Shlosberg, 2007).

There are four different tests that comprise the IAUAMR. Three of the tests, Comprehension of Miranda Rights (CMR), Comprehension of Miranda Rights–Recognition (CMR-R), and Comprehension of Miranda Vocabulary (CMV) are designed to help assess a current understanding of the Miranda warnings, analogous to Miranda's (1966) knowing waiver requirement. On the CMR, an individual is read and shown each of the four Miranda warnings and asked to paraphrase the warnings in his or her own words. A standardized scoring system was developed from the work of a national panel of judges, attorneys, and legal scholars. A 2-point response indicates a full understanding, a 1-point response indicates partial understanding, and a 0-point response indicates no understanding, which yields a total score range from 0 to 8. The CMR-R was developed to assess a less verbal means of determining current Miranda understanding. Three comparison statements are paired with each of the four warnings. The defendant is asked for each comparison statement whether it means the same or different than the Miranda warning for which it is paired. One obtains a total score of 0 to 12. The CMV requires the individual to define six words that were part of the original Miranda warnings used in the research project. Scores for the individual words range from 0 to 2, with a total score of 12.

The fourth test is the Function of Rights in Interrogation (FRI). Unlike the other tests, this test assists in the assessment of an individual's ability to appreciate the function and significance of the warnings based on the context of an interrogation and their comprehension of the legal sys- tem. Four short vignettes are given and hypothetical questions asked about each of the vignettes to help measure one of three areas relevant to the intelligent waiver of the Miranda rights: the nature of the interrogation process, intelligent use of right to counsel, and intelligent use of right to silence. Again, individual items are scored from 0 to 2, with a total score of 30 and a total score of 10 for each of the subtests.

**Revised Tests to Assess Understanding and Appreciation of Miranda Rights**

The Miranda Rights Comprehension Instruments (MRCI; Goldstein, Zelle, & Grisso, 2012) constitute a revision of the IAUAMR. The authors reworded some of the Miranda warnings to more closely approximate the warnings used across jurisdictions and added a fifth warning regarding the ability to invoke the right to an attorney and to silence at any time. They also provided updated juvenile normative data comprising a juvenile justice sample, ages 12 through 19, and a community sample, ages 10 through 16. Although the present MRCI manual does not include adult norms, the authors report that such normative data will be forthcoming.

Frumkin, I. B., & Sellbom, M. (2013). **Miranda Rights Comprehension Instruments: A Critical Review.** Assessment, 20(5), 545–546.

**Changes in the MRCI**

- Updated "norms" for adolescents and adults
- Added a 5th right
- Added 12 vocabulary words for CMV-II
- Lower readability levels for the Miranda warnings, 7.2 grade level vs. 7.9 grade level for original instruments
- Increased statistical analyses

**Potential Problems in the use of the MRCI**

- Composition of the norms - Juvenile Justice Sample-mean VIQ=81.75. But community sample-college prep students had a mean VIQ of 119.41!
- Adult Offender Sample - mean VIQ = 82.45, only 8 subjects had VIQ greater than 100.
- This sample also had more mental health symptoms. 74% had a Global Symptom Index T-score in clinically significant range on Brief Symptom Inventory.
- Changed test stimuli but kept same scoring.
- Created potentially inconsistent decision rules for scoring.
- Over half of the panel assessing adequacy of understanding/appreciation were not attorneys. Only one of nine in panel was a prosecutor.
- Juveniles defined as up to age 19.
- Possibly confusing use of terms in the manual, e.g. how the authors define "*Miranda comprehension*"
- For MRCI, only one peer-reviewed publication (Frumkin & Sellbom, 2013) from other than test authors

**Miranda Rights Comprehension Instruments: A Critical Review.**

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**Abstract**

The Miranda Rights Comprehension Instruments (MRCI) constitute a revision of Grisso's Instruments for Assessing Understanding and Appreciation of Miranda Rights (IAUAMR) original series of tests. We believe that the MRCI represents an improvement in many respects, including (but not limited to) a thorough discussion of admissibility issues in the test manual, simplification of language, the addition of a fifth warning, and updated normative data. We also review some potential challenges associated with the revised MRCI tests. These concerns include inconsistent and confusing terminology in the test manual, potentially nonrepresentative normative data, problematic reliability estimates, issues with scoring criteria for the CMR-II, item and test content representativeness for specific tests, and recommendations on how test effort and malingering should be assessed via the CMR-R-II. We conclude with a series of recommendations for forensic use of the MRCI.

# Standardized Assessment of Miranda Abilities (SAMA)

The SAMA is a comprehensive set of five measures that helps forensic psychologists evaluate a defendant's understanding of his or her Miranda rights.

- **Miranda Quiz (MQ)**. Twenty-five true-or-false questions measure common misconceptions about Miranda rights and their potential effect on Miranda decision making.
- **Miranda Vocabulary Scale (MVS)**. Assesses the comprehension of 36 key words that are relevant to Miranda, have specific legal meanings, and/or could be semantically confusing.
- **Miranda Comprehension Template (MCT)**. Assesses a client's ability to accurately paraphrase the warning used in his or her actual Miranda advisement; examines highly prototypical content found in many Miranda warnings.
- **Miranda Acquiescence Questionnaire (MAQ)**. Measures the client's level of yea-saying versus nay-saying.
- **Miranda Reasoning Measure (MRM)**. Provides a foundation for understanding the examinee's thoughts and basic reasoning at the time of the Miranda warning and subsequent relinquishment of Constitutional rights.

**Features and benefits**

- The most comprehensive assessment of Miranda decision making available.
- Assesses vocabulary and comprehension of the wording typically used in Miranda warnings.
- Assesses the knowledge, beliefs, and misconceptions that may affect a client's choice to exercise or waive Miranda rights.
- Measures the client's reasoning skills as well as his or her tendency to acquiesce to authority.
- Appropriate for use with defendants who may have lower verbal or intellectual abilities.
- A detailed Professional Manual offers guidance and a standardized methodology to forensic evaluators.

**Potential Problems in the use of the SAMA**

- SAMA's normative groups for comparison are 738 detainees from two jails in OK, one in TX and a state forensic hospital in TX. There are no community comparison groups.
- 82.9% of detainees had at least three arrests
- WASI, VIQ scores ranged from 85-88 for three of the jails, the 222 inmates where data was not collected on jail locations in OK, mean VIQ was 95.
- No peer-reviewed publications from others than test authors.