Miranda and Admissibility of Statements

When has a suspect waived his right to remain silent? How long does that waiver stay in place? Can officers ask questions of suspects before reading the Miranda warning? The answers to these questions and more can make or break a case.

In this scenario, you’ll see what happens when two suspects are arrested and questioned about a possible break-in at a store called TechGear.

Suspects Detained

Riverbend City, November 2, 3:13 a.m. Two suspects have been detained at the mall near the TechGear store, on suspicion of breaking and entering, among other things. At the scene, Pete Salgado, one of the officers who responded to the call for backup at the mall, asks the suspects some questions about what they’ve been up to – and what they’ve got in the back seat of their car.

**Rob Landers:**Well, you caught us. Guess you’re big heroes now, huh? Caught the big bad robbers, didn’tcha? [Spits in the direction of arresting officers.]

**Officer Salgado:**What’s your name, sir?

**Rob Landers:**Ronald McDonald.

**Officer Salgado:**Uh-huh. What about your friend here? You got a name?

**Tim Fong:**Santa Claus.

**Officer Salgado:**Ronald McDonald and Santa Claus, okay. Got it. Is this your car, sir? [Pause] Sir, is this your car? Or your friend’s car?

**Rob Landers:**What’ll you give me if I tell you?

**Tim Fong:**Shut up, Ronald.

**Rob Landers:**Guess I can’t tell you.

**Officer Salgado:**You always do what your buddy says?

**Rob Landers:**Only when he tells me to annoy the cops.

**Officer Salgado:**Well, what’s the story here? I’ll ask you again. Care to tell me what you’re doing with all those iPhones in your back seat here?

**Rob Landers:**They’re ours. That’s our business.

**Tim Fong:**Ronald! Shut up!

**Rob Landers:**Whatever. [Spits again.]

**Officer Salgado:**Santa, would you like to tell me about those iPhones?

**Tim Fong:**No, but I’ll bet you’ve got something to tell us.

**Officer Salgado:**I do. You’re under arrest. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford one, one will be provided to you. Do you understand?

Rob Lander's Interrogation

Riverbend City Police Precinct 5, November 2, 3:55 a.m. The two TechGear suspects have been brought to the station, and provided their names. Detective Lorna Sommer is going to handle the interrogations. She decides to talk to the younger one, Rob Landers, first.

**Lorna Sommer:**All right, good morning, sir. I’m Detective Lorna Sommers, and I’m in charge of investigating the events of yesterday. Think you can answer some questions, Mr. Landers?

**Rob Landers:**I didn’t do so hot in school. So don’t ask me the hard ones about physics.

**Lorna Sommer:**Don’t worry, Rob, you’ll know the answers to these questions. First of all: When you were arrested, you said, “Guess you’re big heroes now, huh? Caught the big bad robbers?” Do you remember saying that?

**Rob Landers:**Huh?

**Lorna Sommer:**You heard me. Did you say that? What did you mean by that?

**Rob Landers:**I don’t remember saying that. You’re crazy.

**Lorna Sommer:**Well, the arresting officer says you said that. Is that true? Are you a big bad robber?

**Rob Landers:**I don’t know what you’re talking about. And I’m diabetic. In fact, you probably better get me some orange juice.

**Lorna Sommer:**You’re a diabetic?

**Rob Landers:**Yep, and I need orange juice. Now.

**Lorna Sommer:**Here’s a piece of candy. That should hold you for now. Where were you going with those iPhones, Rob?

**Rob Landers:**Wherever. Just driving.

**Lorna Sommer:**Uh-huh. And you work for TechGear, right? That’s what you told the arresting officer?

**Rob Landers:**Nah. Why would I tell him that?

**Lorna Sommer:**You don’t work for them?

**Rob Landers:**Oh, okay, I do. Like we told him, sometimes stuff comes in big crates, and we need a crowbar to get them open.

**Lorna Sommer:**Do you need a gun to get them open too?

**Rob Landers:**Don’t know what you mean.

**Lorna Sommer:**There was a handgun in the back seat. Want to tell me what that was for?

**Rob Landers:**What are guns usually for?

**Lorna Sommer:**Usually, shooting someone. Were you going to shoot someone?

**Rob Landers:**No, self-defense.

**Lorna Sommer:**Were you going to defend yourself?

**Rob Landers:**I told you I need some OJ.

**Lorna Sommer:**Tell you what. Answer my question, and I’ll get you a glass of orange juice. Sound good? One answer, and you get a glass of OJ.

**Rob Landers:**Guns are in cars sometimes. It’s fine.

**Lorna Sommer:**So was that your gun?

**Rob Landers:**My gun is at home.

**Lorna Sommer:**Rob, I need you to answer my question. Was that your gun in the car?

**Rob Landers:**I didn’t need it.

**Lorna Sommer:**Rob, you’re sweating a lot and you seem pretty twitchy. Any chance you’re coming down off of something? Oxy, Vicodin, heroin?

**Rob Landers:**Whatever. I didn’t do nothing. Leave me alone. I want a lawyer.

**Lorna Sommer:**Sure, Rob. But while we wait for your lawyer, you can tell me about the iPhones, don’t you think?

Tim Fong Interrogation

Riverbend City Police Precinct 5, November 2, 4:47 a.m. With Rob Landers’s interrogation over with, Detective Sommers talks to Tim Fong, an employee of TechGear, next.

**Lorna Sommer:**So, Mr. Fong, let’s talk.

**Tim Fong:**Okay.

**Lorna Sommer:**First, I want to repeat what the officer said to you when you were arrested. You have the right to remain silent. Anything you say…

**Tim Fong:**[talking over her] …can be used against me, blah blah blah.

**Lorna Sommer:**…can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford one…

**Tim Fong:**An attorney. No way! I hate lawyers. Besides, you can’t fool me.

**Lorna Sommer:**Fool you?

**Tim Fong:**Everybody knows you look guilty if you lawyer up. I get a lawyer, you think I’m guilty and you do everything you can to make sure I go away forever. A lawyer is the last thing I need.

**Lorna Sommer:**You think I’m trying to fool you about that?

**Tim Fong:**I know you are. But you can’t do it.

**Lorna Sommer:**Well…

**Tim Fong:**Don’t bother.

**Lorna Sommer:**Well, I need to finish saying this, because I want you to know your rights. I’m on your side here. If you cannot afford an attorney, one will be provided for you. Do you understand your rights?

**Tim Fong:**Whatever. What do I have to tell you to get out of here?

**Lorna Sommer:**All you need to do is to tell me what happened, Tim Fong. That’s it. I need to know what you did, when you did it, what your friend did, all of that. That’s what you need to tell me. I think you want to get this off your chest, and I’m here to help.

**Tim Fong:**I need to get home and check on my kids.

**Lorna Sommer:**You have kids?

**Tim Fong:**Yeah, two. I don’t know where their mother is, she may be at home but she has to work and I’m supposed to have them right now.

**Lorna Sommer:**How old are they?

**Tim Fong:**Melissa’s five and David is seven.

**Lorna Sommer:**Those are great ages. Listen, Tim, let me help you. Where are they now?

**Tim Fong:**They should be at home. Did you already get them? Are they with child protection already? [Voice rising, getting stressed]

**Lorna Sommer:**[Pauses] Well, that’s usually what happens. Any reason why it wouldn’t happen with you?

**Lorna Sommer thought bubble:**I’m guessing the mom just made other arrangements. But if it encourages him to talk…

**Tim Fong:**[sounding very worried] I can’t have them in juvie, man. Anything could happen to them there!

**Lorna Sommer:**Well, don’t you think you better tell me what happened, then?

**Tim Fong:**Tell you about what?

**Lorna Sommer:**Let’s start with the store.

**Tim Fong:**Store, huh? Somebody go shopping?

**Lorna Sommer:**Look, Tim. I get that you’re scared. But I know you’re pretty worried about your kids. Aren’t you? I sure would be. If you are, then the best way to get to them and keep them out of juvie is to talk to me.

**Tim Fong:**[Sighs] we didn’t mean to hurt nobody. We just needed some cash.

**Lorna Sommer:**Go on.

**Tim Fong:**[Pauses, thinking] what the hell, right? I already talked, and you only get one chance to remain silent.

**Lorna Sommer thought bubble:**That’s not true, actually, but I’m finally getting somewhere with this guy.

**Tim Fong:**Okay, I’ll tell you.

Conclusion

Evidence matters in every case, but suspects’ statements are part of the evidence. The case against Rob Landers and Tim Fong may hinge on whether the statements that Officer Salgado and Detective Lorna Sommer heard will be admissible in court.