

Exercise re the Law of Interrogation

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Maggie Merchant owns a jewelry store. She sees a man break the front window of the store and run off with a valuable diamond necklace. She calls the police and Officer Ollie responds. Ollie looks at the store's surveillance footage and recognizes the perpetrator as Dan Defendant.

1. Dan is an adult, but he lives with his mother. Ollie goes to Dan's mother's house, and finds Dan at home. Ollie says "Dan, I want to talk to you." Dan replies "about what?" Ollie says "you know what. Why don't you come sit in my car for a minute?" Dan does so. Must Ollie read Dan his Miranda rights before he can ask Dan questions about the theft?
 - a. Is it relevant that Dan has been in trouble before, and so is well aware of his rights?
 - b. Is it relevant that Dan is not very bright?
2. Dan gets in Ollie's car, but Ollie decides that he doesn't want to ask Dan any questions yet after all. Instead, he decides to arrest Dan, handcuff him, and take him to the police station for questioning about the incident. Must Ollie read Dan his Miranda rights before he begins the interrogation?
3. Instead of asking Dan about the theft – which, after all, was captured on video – Ollie decides to begin the stationhouse interrogation by questioning Dan about his involvement in drug activity. Must Ollie read Dan his Miranda rights before questioning him about this matter that is unrelated to the crime of arrest?
4. Dan denies any criminal activity. Ollie says, "look, Dan, you can play this game if you want to but the truth will come out. If you admit the truth now, I'll tell that to the DA. Usually people who are honest get the most leniency in court. But if you keep lying, things aren't going to go well for you." If Dan confesses, will his statement be admissible?
5. Dan doesn't confess. Instead, he says "I'd like to remain silent." Ollie responds, "OK, fine. Don't talk. But will you agree to let us search your house? I'd like to see if that diamond necklace is there?" If Dan agrees, will any evidence found during the search be admissible?
6. Ollie takes Dan before the magistrate for an initial appearance. Dan is charged with felony larceny. He can't make bond, so he remains in jail until his first appearance in district court the following morning. He asks the district court judge to appoint him a lawyer, which she does. He returns to jail. The following day, Ollie has the jail staff bring Dan to a conference room, and he

asks Dan if he is now willing to waive his Miranda rights and make a statement. If Dan agrees, will the statement be admissible?

7. Dan says "I'm not talking to you without my lawyer," and Ollie leaves. On his way out, Ollie bumps into Habitual Hal, another inmate at the jail. Ollie lets Hal know that he's interested in Dan and that Hal should keep his eyes and ears open. Hal cultivates a friendship with Dan, and eventually asks him what he's charged with. Dan replies "I robbed a jewelry store." Is Dan's statement admissible?
8. Dan eventually makes bond and is released. One week after Dan's release, Ollie sees him at a gas station. Ollie approaches Dan and says, "why don't you tell me about that theft?" If Dan does so, will his statement be admissible?
 - a. What if Ollie had asked Dan about his involvement in drug activity instead?
 - b. What if Ollie had waited until three weeks after Dan's release?
9. If Ollie obtained a statement from Dan that was voluntary but was the fruit of a Miranda violation, could the statement be used to impeach Dan if he testified in a way that differed from the statement?