

University of Nevada, Reno

**An Initial Study of the Spanish *Miranda* Warnings in the State of Nevada**

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by

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## Abstract

Since the passage of the Bill of Rights, every person in the United States is entitled to know and understand their rights to legal counsel and protection against self-incrimination. The Supreme Court decision in *Miranda v. Arizona* codified these entitlements in 1966, but the adequacy of the Miranda translations into Spanish has been questioned for decades. The present study is an initial review of the Spanish-language forms of the *Miranda* rights from six Nevada law enforcement agencies to determine whether content, grammar, or translation problems exist. Each sample was examined to determine whether the translation contains all the necessary cautions, whether it has grammar problems, and whether the Spanish translation is accurate. Upon review of the data, factors that would affect the comprehensibility and accuracy of the Spanish translations demonstrated significant variation when compared to corresponding English versions, and in some instances, linguistic errors were found that would likely inhibit listener comprehension. The results of this study indicate a need for broader research on the *Miranda* rights in Nevada.

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## Introduction

In the United States, the Constitutional rights to a fair trial and protection against self-incrimination have a long and complex history. These rights, today known as the *Miranda* rights, have been discussed in the courts and by legislators for decades. In recent years, a massive influx of Spanish-speaking people into the United States has further complicated the discussion about what these rights mean and what standards must be upheld when they are communicated to a suspect. Given these complexities, my research investigates whether the *Miranda* rights meet linguistic and legal standards when they are communicated in Spanish.

In the United States, every person's entitlement to know their right to due process of law, a fair trial, and protection against self-incrimination stems from the Bill of Rights (Const. Amend. V, Const. Amend. VI, Const. Amend. XIV). The Fifth and Sixth Amendments to the US Constitution specifically require that all people in the United States— not just American citizens— know their right to remain silent, to refuse to make self-incriminating statements, and to have an attorney appointed by the state if they cannot afford one (Const. Amend. V; Const. Amend. VI). These rights are central to the American justice system, which is founded upon the premise that every person is innocent in the eyes of the law until proven guilty.

Because the Bill of Rights was created on the principles of English Common Law that extend all the way back to the Magna Carta (Klingen, 2016), the Constitution does not address how the rights are “read” – meaning spoken, read aloud, or communicated via sign language – or whose responsibility it is to communicate these rights. In the landmark case *Miranda v. Arizona* (1966), the Supreme Court prescribed a series of warnings that

should be delivered to all suspects prior to interrogation (*Miranda v. Arizona*, 1966). The decision in *Miranda v. Arizona* (1966) provides these parameters for the caution police officers must give to all suspects:

The foremost requirement, upon which later admissibility of a confession depends, is that a four-fold warning be given to a person in custody before he is questioned, namely, that he has a right to remain silent, that anything he says may be used against him, that he has a right to have present an attorney during the questioning, and that, if indigent he has a right to a lawyer without charge. To forgo these rights, some affirmative statement of rejection is seemingly required.

*Miranda v. Arizona* (1966) also requires that every person understands their rights in a “knowing, voluntary, and intelligent manner,” and may only waive their rights if they fully understand what they mean.

It is important to note that the Court did not prescribe very specific parameters for what the rights should say, and instead leaves the law enforcement agencies plenty of room to create their own interpretations. In fact, in *Duckworth v. Eagan* (1989), the Court decided against the petitioner, *Duckworth*, who argued that the unusual phrasing of the clause that gave him the right to an attorney was inadequate. The petitioner argued that this phrase could be interpreted to mean the suspect may only have a lawyer in court, and that because of this, he did not knowingly understand his rights as *Miranda* requires (*Duckworth v. Eagan*, 1989). Nonetheless, the Court decided in favor of the respondent, and set a precedent that allowed law enforcement agencies more freedom in the way that they communicate the rights to suspects.

*Duckworth v. Eagan* (1989) further complicated the debate about the *Miranda* warnings because it minimized the need for a standardized *Miranda* recital. Now, it is not uncommon to find that two law enforcement agencies in the same state might have different *Miranda* warnings. In fact, each law enforcement agency represented in this study has a different version of the *Miranda* warnings, and some agencies even have different versions within their own offices (see Appendix B). So long as all versions “reasonably convey” the meaning of the *Miranda* warnings, they are considered adequate interpretations of the *Miranda* rights in the eyes of the law (*United States v. Botello Rosales*, 2013).

The inconsistencies among and complications of the *Miranda* warnings are further exacerbated when they are translated into another language. Knowing this, the Court decided in *United States v. Botello Rosales* (2013) that the *Miranda* warning in another language must “reasonably convey” the content described in *Miranda v. Arizona* (1966). This applies to both translations of the rights, which are written documents, and interpretations, which are spoken aloud by an interpreter.

In non-English versions of the *Miranda* rights, linguistic errors like those exposed in *United States v. Botello Rosales* (2013) are very common (Eades and Pavlenko, 2016; Filipovic and Abad Vergara, 2018; see also *Wisconsin v. Santiago*, 2017). Some examples of linguistic problems include grammatically complex phrasing in the reading of the rights, grammatical and lexical errors made by untrained police interpreters, and misunderstandings about whether the suspect understood their rights (Eades and Pavlenko, 2016). These problems are often overlooked, even though they fail to meet the standards established in *United States v. Botello Rosales* (2013) as well as *Miranda v.*

*Arizona* (1966), and can be so significant that they prevent a Spanish speaker from understanding their rights at all, which violates their right to due process and prevents them from receiving a fair trial (Eades and Pavlenko, 2016).

In Nevada, where 21% of the population speaks Spanish and 40.9% of Spanish speaking households report they speak English less than “very well,” a large portion of this state’s population is at risk of not understanding the Constitutional rights to which they are entitled (American Community Survey, 2016). In the interest of protecting the rights of Nevada’s Spanish speakers, my project assesses whether the *Miranda* rights meet the necessary linguistic and legal standards when they are read to Spanish-speaking persons.

The purpose of the present research is to determine whether the Spanish versions of the *Miranda* rights in the state of Nevada include all the necessary information, are not unnecessarily grammatically complex, and do not contain any translation errors. To assess the adequacy of the *Miranda* rights as they are read in Nevada, I contacted nine Nevada law enforcement agencies: Carson City Sheriff, Douglas County Sheriff, Las Vegas Metropolitan Police Department, Nevada Highway Patrol headquarters, Reno Police Department, Reno/Tahoe International Airport Police Department, Sparks Police Department, University of Nevada, Reno Police Department, and Washoe County Sheriff. From these agencies, I received six unique *Miranda* card pairs in English and Spanish. I then examined all six pairs to ensure that the content in both the English and Spanish versions are adequate when compared to *Miranda v. Arizona* (1966), to discover differences between the English and Spanish versions, and to determine if any lexical,

grammatical, or syntactic changes took place in the Spanish translation that might affect the comprehensibility of the rights.

This research demonstrates that the Spanish *Miranda* rights in Nevada do have linguistic variations compared to the English versions, some of which are so substantial that they affect a listener's ability to understand their rights. The ample scholarly literature regarding the inadequacy of translations and interpretations of the *Miranda* rights further supports this finding. This initial study serves to demonstrate that linguistic variation does exist in Spanish translations of the *Miranda* cautions and suggests that a broader study must take place to examine whether Spanish-speaking suspects in Nevada are likely to be read their rights in a way that satisfies the requirements of *Miranda v. Arizona* (1966).

### Literature Review

Since the 1960s when the Warren Court began expanding individuals' Constitutional rights and limiting the freedom of law enforcement agencies, lawyers, human rights advocates, and linguists have discussed whether all people have equal treatment under the law (Krotoszynski, 2002). During this time, researchers in the United States and the international community have questioned whether the reading of the rights is currently adequate, whether the rights should continue to be expanded, and how the reading of the rights can sometimes fall short.

Many linguists, lawyers, and psychologists argue that the reading of the rights continues to need improvement (Eades and Pavlenko, 2016). Extensive research has been done on the myriad ways in which the rights can be delivered incorrectly, including grammatical and semantic problems caused by improperly interpreting the rights, failure by a law enforcement officer to recognize that the listener did not understand their rights, and the grammatical complexity of the rights themselves (Eades and Pavlenko, 2016; Shuy, 1997; Shuy, 1993). These variations, individually or collectively, can have a substantial impact on a listener's understanding of their rights and thereby preclude them from their right to due process and a fair trial (Eades and Pavlenko, 2016; Shuy, 1997; Shuy, 1993).

One key problem in any analysis of the *Miranda* rights is that there is no one standard *Miranda* warning; in fact, they vary from locality to locality (Rogers, R. Hazelwood, L.L, Sewell, K.W., Harrison, K.S., Shuman, D.W., 2008; Rogers, R., Harrison, K. S., Shuman, D. W., Sewell, K. W., & Hazelwood, L. L., 2007b). Even within one law enforcement agency, the officers might use multiple variations of the

*Miranda* warning (see Appendix B). Rogers et al and Rogers et al. (2008; 2007b) demonstrated that the *Miranda* warnings can vary substantially in content, length, vocabulary, and grammatical structure, making it difficult to discuss “the *Miranda* warning” as a singular statement. Moreover, each of the problems with the *Miranda* rights outlined below may apply to certain versions but not others, or may be more prevalent in one version of the *Miranda* warnings than it is in another. This variability further exacerbates the difficulties of ensuring consistency and accuracy in delivering the *Miranda* caution, especially when it is translated into another language.

### **Grammatical Problems Created by Paraphrasing/Improperly Interpreting the Rights**

Of all the errors which can prevent a listener from understanding their rights, improper interpretation by police officers or interpreters is the most studied as well as the most concerning to linguists today (Cal-Meyer and Coulthard; 2017; Filipovic and Abad Vergara, 2018; O’Laughlin, 2016; Russell, 2000). Specifically, Russell (2000) points out that interpreting the rights into another language is an especially difficult task for interpreters, especially when police officers attempt to “simplify” the rights for a non-native English speaker. Because interpreters are required to make a decision between form-based and meaning-based interpretation when they interpret what an officer says, the simplification the officer provides can actually become confusing to the interpreter, and therefore confusing to the listener as well (Russell, 2000).

The issue of improper interpretation is crucially important in the United States because of the U.S. Ninth Circuit Court of Appeals decision in 2015 which states that the interpreter who interprets an interaction between a police officer and a suspect is not

available for cross-examination (Cal-Meyer and Coulthard, 2017; *United States v. Aifang Ye*, 2015). Unlike translation, which is the written conversion from one language to another, interpretation is done verbally by a person who is fluent in both languages. This means that there is no written record of an interpreter's interpretation of a police officer's statement, which makes it difficult to retroactively examine the accuracy of that interpretation. By excluding an interpreter from cross-examination, the interpreter's interpretation cannot be called into question at trial. This creates the possibility that if the rights were not properly interpreted to a suspect, that suspect may have no legal defense for unintentionally waiving their rights. With this in mind, it is absolutely essential that interpretations are as accurate as possible.

In the United States, it is common for police officers to serve as interpreters, sometimes even without an interpretation certificate. Interpretation certification standards are a recent development in the field of court interpretation, and are currently not federally mandated (O'Laughlin, 2016). In many cases, police officer-interpreters have no formal certification, and are heritage speakers of the language rather than individuals who received an education in both their first and second languages (Filipovic and Abad Vergara, 2018). Filipovic and Abad Vergara (2018) discovered that, although a police officer may have a working knowledge of their second language in a conversational sense, they lack the skills or training to adequately interpret for another police officer as well as the suspect. In their study, Filipovic and Abad Vergara (2018) recorded several instances of the police officer transferring the grammar structure of his first language into his second language, which resulted in an incomprehensible interpretation for the suspect.

More importantly, however, the researchers noticed that the police officer often erred when interpreting Spanish subjunctive tenses into English (Filipovic and Abad Vergara, 2018). Proper interpretation of the subjunctive mood is essential because it “can cause a change in the interpretation of the whole event description (e.g., how likely is it that something happened or not)” (Filipovic and Abad Vergara, 2018). This is especially true in Spanish, where the subjunctive tenses communicate a greater level of doubt, uncertainty, or denial than do the indicative tenses. If a police officer misuses the subjunctive or indicative mood in their reading of the *Miranda* warnings to a Spanish-speaking person, this could prevent the listener from understanding the meaning of the sentence.

Moreover, Filipovic and Abad Vergara (2018) suggest that the cognitive load of interpreting is simply too great for a police officer to handle while also acting in his primary job function. O’Laughlin (2016) describes how interpretation carries a heavy cognitive load for the interpreter; professional court interpreters often report exhaustion after just a few hours of work. Significantly, O’Laughlin (2016) emphasizes how, in order to decrease their cognitive load, untrained interpreters will “broker” and summarize conversations. The summarized versions of these interpretations might intentionally or unintentionally alter the intended meaning of the speaker, and these alterations can be so substantial that they can lead to a false confession, as they did in the case of *United States v. Aifang Ye* (2015) (see above).

The American Bar Association (ABA) (2016) recognized the problems that result from police officer interpretation and ad hoc interpretations by certified interpreters, and wrote Resolution 110 in response to these issues. The ABA suggests that this standard

Spanish translation be adopted in order to decrease the likelihood of improper interpretation:

1. Tiene derecho a permanecer callado.
2. Todo lo que diga podrá y será utilizado en su contra en corte.
3. Tiene derecho a tener un abogado presente cuando se le hagan preguntas.
4. Si no puede pagar por un abogado, se le provera uno sin costo alguno.

Though the ABA suggests a standard Spanish translation, this translation does not make use of the most idiomatic Spanish phrases, and therefore still might not be entirely clear to a Spanish-speaking person. It also includes several grammar and translation errors, which could prevent a listener from understanding their rights.

Unfortunately, even if the ABA recommended translation was perfectly accurate, the ABA is not a governing authority, and they have no persuasive basis on which to convince law enforcement agencies to adopt their translation. At this time, the ABA translation is, at best, a suggestion. This means that, for the foreseeable future, officers and interpreters will continue to be able to deliver ad hoc interpretations of the rights to Spanish-speaking suspects while remaining immune from cross-examination of their interpretation.

### **Officer Does Not Recognize that the Listener Failed to Understand**

As Filipovic and Abad Vergara (2018), Kredens (2016), and O’Laughlin (2016) all state, officers sometimes fail to understand the pragmatic meaning of a suspect’s response to whether they understand their rights. An additional perspective on this issue is offered by Shuy (1993), who explains that the mental framework of a police officer is unique from the mental framework of an interpreter. This is because police officers have

adopted a certain set of beliefs through their work, and tend to conjecture that a suspect is guilty even when they lack evidence to prove as much (Shuy, 1993). Shuy's (1993) research focuses largely on how police officers disguised as confederates will suggest that a suspect commit a crime, and continue to insist even after the suspect has repeated that they will not do what the officer has asked. In these cases, an officer might even interpret a "no" as a disguised "yes," or change the subject before the suspect has time to deny the officer's request for an illegal act (Shuy, 1993). This repeated refusal by officers to accept a negative answer can lead to false confessions or imply a suspect's guilt when in fact they are innocent.

This same refusal to accept negative answers can also transfer into an officer's attempt to determine whether a suspect understands their rights. Usually, after a police officer has read a suspect their rights, they will ask, "do you understand what I have just read to you?" (see Appendix B). A suspect might give a variety of answers to this question, from "yes" to "sort of" to "a little" or even "no." Because of an officer's mental framework which may cause them to ignore negative responses, they are more likely to interpret an ambiguous answer to their question as a "yes" rather than a "no" (Shuy, 1993). So, for instance, an officer might ask if a suspect understands their rights, and if the suspect were to reply, "pretty much," the officer would likely understand that response as a "yes," when in actuality the suspect may be trying to signal an incomplete understanding of what they have been told.

Moreover, Ainsworth (2008) suggests that this same mental framework can cause police officers to not recognize that a suspect wants to invoke their right to silence. While police officers might interpret many different responses by a suspect to signal that they

understand their rights, they are far less likely to recognize that a suspect is signaling that they want to invoke their right to silence (Ainsworth, 2008; Shuy, 1997). This possibility is also supported by Mason's (2013) work, which examines how indirect requests by suspects are often overlooked by police officers during interrogation, yet suspects are more likely to make indirect requests because they are in an intimidating situation. Mason's (2013) research demonstrates that even when a suspect is interrogated in their first language, they might not be able to invoke their rights despite wanting to do so. For a non-native English speaker, then, this process could be even more difficult.

This issue is further complicated by the fact that suspects will often reply "yes" when asked if they understand their rights even if they do not (Eades and Pavlenko, 2016). Suspects may choose to state they understand their rights in order to defer to the officer's authority, because they believe they understand what was said when in fact they might not have fully gleaned the meaning of the rights, or because they are unfamiliar with the legal system of the United States and therefore do not understand the import their rights have (Eades and Pavlenko, 2016). Shuy (1997) highlights the essential difference between *recognizing* the words that are read and *understanding* the words that are read. Many lay people as well as police officers are not familiar with this distinction, and therefore might state that they understand the rights when in fact they have not fully comprehended them (Shuy, 1997). Eades and Pavlenko (2016) suggest that this issue could be largely circumvented by removing the "do you understand?" question and replacing it with a "repeat-in-your-own-words" clause after each right, but even then the mental framework of police officers might cause them to assume a greater level of understanding by suspects than that which is actually present.

### **Grammatical Complexity of the Reading of the Rights Can Impede Comprehension by the Listener**

In the research previously mentioned, each author assumes some level of fault on the officer's behalf when reading the rights to a suspect. However, the *Miranda* rights themselves are rather grammatically complex, and even in a person's native language, it is possible they might not understand their rights (Eades and Pavlenko, 2016). For this reason, the Communication of Rights Group (CoRG) developed a treatise that prescribes recommendations for simplifying the language in the rights.

In the CoRG (2016) treatise, the authors maintain that both lexicon and grammar can negatively impact a listener's comprehension (Eades and Pavlenko, 2016). To simplify the lexicon of the rights, CoRG recommends that the rights should not include archaic or infrequently-used words like "waive" or "remain silent," because they are unlikely to be familiar to a second language learner who might only have a conversational understanding of English. For the same reason, words that have homophones (for example, "waive") should not be used in the rights, because the listener might be familiar with the meaning of one homophone, but not the other. Additionally, CoRG discourages the use of conditional phrases like "unless" and "if," because they are difficult for second language learners to understand; in some languages, there is not a translational equivalent for these words (Eades and Pavlenko, 2016). This is especially true when translating the rights into Spanish, because there is no Spanish-language equivalent for the word "unless."

From a grammatical perspective, CoRG recommends simplifying the grammar of the rights by removing phrases that use the passive voice and phrases that do not

explicitly state who is the agent of the action in the sentence (Eades and Pavlenko, 2016). These kinds of constructions are problematic because they require the listener to derive who the agent of the action is (in other words, who is performing the action that the sentence describes), which hinders their comprehension and decreases the likelihood that they will understand the following phrases. In a similar sense, CoRG discourages the use of derived nouns, like “failure” in the phrase “failure to do so,” because it implies rather than states the agent of the action (Eades and Pavlenko, 2016).

CoRG also suggests removing sentences with multiple clauses or prepositional phrases, which can be difficult for a second language learner to follow. In a general sense, CoRG recommends that the rights should be communicated in an active voice that avoids ambiguity, and be arranged in a concise, easy-to-follow syntax.

Other researchers take issue not only with the grammar of the *Miranda* rights, but also the order and which they are delivered and the length of the *Miranda* warning (Kurzon, 2000; Shuy, 1997). Shuy (1997) explains how the order in which the rights are read can negatively impact a listener’s ability to understand them, because the way the *Miranda* warning is currently delivered is not necessarily conversationally logical; instead, it summarizes the fifth and sixth amendments as they appear in the Constitution. This makes sense from a legal standpoint considering that the purpose of the *Miranda* warning is, first, to advise a suspect of their right to silence, and second, their right to an attorney, but to a person who has never heard the *Miranda* warning the order of the cautions might not make sense (Shuy, 1997). Kurzon (2000) also explains how the dilemma between brevity and comprehensibility makes it difficult to determine what length the *Miranda* warning should be. If it is too short, Kurzon (2000) argues, it might

prevent the listener from understanding the entire meaning and context of the rights. If it is too long, this could be equally detrimental, because the excessive length might prevent the listener from assimilating the meaning of each caution (Kurzon, 2000).

Many of the recommendations made by CoRG are also reflected in the literature from legal analysts. In the legal field, the same constructions that CoRG cautions against are referred to as “legalese,” which is the pedantic and often grammatically incorrect language used in legal documents (Makodia, 2009; Schwartz, 2017). Increasingly, courts and lawmakers are looking to incorporate plain language into their standard method of discourse in order to improve understanding by the general public (McLernon, 2017). Since individuals with low socioeconomic status or who speak English as a second language have the most difficulty understanding “legalese,” they are at a distinct disadvantage (McLernon, 2017). From both a linguistic and legal perspective, grammatically complex language does little to aid the comprehension of the reader and instead precludes them from understanding their rights.

In every linguistic variation described in this paper, the impact of inaccuracy can range from minimal to severe. Research shows that unacceptable interpretations of the *Miranda* rights do occur and that sometimes the defendant in the case does not learn their rights until after they have been convicted. The literature reflects that improper communication of the rights is a serious issue in the United States today, yet legislatures as well as law enforcement agencies have made little effort to improve upon these shortcomings.

### **Methodology**

The purpose of this study is to examine the differences between the Spanish and English versions of the *Miranda* rights. At the start of this study, I set out to collect both written copies of the *Miranda* cards in English and Spanish as well as video footage of the reading of the *Miranda* rights being given either at the time of arrest or prior to the interrogation of a suspect. To collect my data, I used three methods: personal contact with officers I was previously acquainted with, e-mail requests for information, and in-person discussions at police agencies.

I systematically contacted each agency by visiting their office in person (see *Miranda card acquisition*, below). I spoke to the receptionist, briefly explained the purpose of my research, and requested a copy of their *Miranda* card in English as well as in Spanish. In the event that I spoke with a uniformed officer, I asked them a prepared series of questions about the *Miranda* warnings and how they are administered (see Appendix A). Following each visit to a police agency, I immediately took notes on my interaction, who I spoke with and their names, their responses to my questions, and which data sample corresponded to which agency.

Upon conclusion of my data collection, I had contacts with Carson City Sheriff, Douglas County Sheriff, Las Vegas Metropolitan Police Department, Nevada Highway Patrol headquarters, Reno Police Department, Reno/Tahoe International Airport Police Department, Sparks Police Department, University of Nevada, Reno Police Department, and Washoe County Sheriff. These agencies are anonymized in this report and referred to by the letters A through I. In total, I contacted nine police agencies, and received scanned copies, photos, or actual *Miranda* cards in English from seven of these agencies.

Three of these agencies provided me with their *Miranda* rights, but did not provide me with an actual card. One agency sent me an email with the text that agency claimed was listed on their *Miranda* cards in English and Spanish. Another agency gave me the search results from Google and Google translate in lieu of their English and Spanish *Miranda* cards, and one other agency provided me with their English card and then had a Spanish-speaking officer email me to provide the text they generally use to deliver the rights in Spanish.

My requests for video footage, either from body cameras or interrogation videos, were unproductive. No agency I contacted ultimately provided me with video footage to analyze. At the start of my study, I had planned to analyze video footage alongside the written *Miranda* cards from the respective agencies so that I could directly compare the language on the card to what was actually said by the officer who delivered the rights. In response to my request for video footage, one officer explained the process for acquiring body camera footage, but emphasized that it was lengthy and expensive because the identifying information from the footage would have to be redacted. He suggested that he would look for any relevant videos, but did not provide me with any. At the time of this study, video and audio recordings proved to be inaccessible.

I analyzed the data I collected in three ways. First, I reviewed both the English and Spanish versions to verify that each *Miranda* caution was present in the warning in both languages. Next, I examined the differences in content between the Spanish and English texts given to me by each agency. Third, I reviewed the Spanish *Miranda* cards for translational problems including vocabulary, and syntax, and described the potential for such errors to create a misunderstanding for a Spanish-speaking listener.

***Miranda* Card Acquisition**

My data collection began somewhat organically, as I began by asking my personal police contacts for the samples I needed. For the first police department (henceforth referred to as Agency A), a brief phone conversation in which I asked about the process for administering the *Miranda* rights yielded a scanned copy of that agency's *Miranda* cards in both English and Spanish. Next, I spoke with a commander at the second police department (Agency B) who gave me their *Miranda* card in English and explained that their agency never delivers the rights in Spanish, did not have a translation of the *Miranda* rights in Spanish, nor did they have the means to procure one if necessary.

The commander at Agency B gave me the contact information of an officer at a third police department (Agency C) who he believed would be able to help me find videos of the reading of the *Miranda* rights. I sent the officer at Agency C three emails requesting the body camera footage as well as their *Miranda* cards in English and Spanish, and while his initial responses were promising, I ultimately did not receive these videos or the cards. He also emphasized that the videos would have to be redacted, which is a lengthy and very expensive process.

Lastly, I contacted a commander at a fourth police agency (Agency D). He agreed to meet with me to discuss what exactly I needed for my research, but ultimately did not respond to my request to schedule a meeting.

After I had contacted every police officer that I knew personally, I had acquired only one complete set of *Miranda* card samples, one English *Miranda* card, and no video samples.

Having exhausted my personal connections to police agencies, I moved on to systematically contacting police and sheriff's offices. I began by following up with Agency C, since I had not heard back from the officer I had contacted via email. I spoke with the receptionist, who explained that they did not have any *Miranda* cards in the office and asked me to leave my contact information so that their community outreach officer could get back to me with the information I needed. Six hours later, the community outreach officer contacted me by phone to clarify which data I needed for my research. Over the phone, he stated that he was not sure whether the police officers obtained a *Miranda* card by their own accord, or whether they were issued one by the agency they worked for. After our conversation, the officer sent me an email with the text that he stated was printed on their *Miranda* cards in English and in Spanish. In his email, he explained that officers will only deliver the rights in Spanish if they are fluent in that language, and that they "will utilize an officer or detective fluent in a given language to ensure accuracy of the *Miranda* rights." I replied to request a scanned copy of the cards, but did not receive a response.

Next, I visited Agency E, where I encountered an employee of the agency who asked me what I needed help with. I explained my research, to which he replied by asking whether I had read "Unites States v. Miranda [sic]," and whether I knew that the *Miranda* rights are the same throughout the country, so this agency's *Miranda* rights would be identical to the *Miranda* rights anywhere else. Nonetheless, I asked him to direct me to someone who could help me find a *Miranda* card. I spoke to the community outreach officer, who agreed to get me a *Miranda* card, but before she was able to do so, the man I had spoken to first returned with a scanned copy of the *Miranda* rights in English. He

explained that a police officer might use their card to deliver the *Miranda* rights, but they may also Google the rights and read them from LexisNexis “or something.” I asked the community outreach officer whether she had a copy of the *Miranda* rights in Spanish, to which she replied that the agency would call a court certified interpreter to administer the rights via telephone in the event that a police officer needed to deliver the *Miranda* rights in Spanish.

Following this interaction, I visited Agency F. I spoke to the receptionist and explained my project, and she then went to look for any patrol officers who might be in the building and have a *Miranda* card on them, since their office did not have any. After a considerable length of time the receptionist returned with a printed piece of paper and explained that since there were no officers in the building, her supervisor had Googled the *Miranda* rights and could certify that they were “word for word” identical to what was printed on the *Miranda* cards at this agency. In lieu of a Spanish *Miranda* card, they had put the Google result for the *Miranda* rights into Google Translate and printed that out as well. Another person in the office overheard this conversation and indicated that she did not believe the Google Translate result would be correct. I then asked for the contact information of their community outreach officer so that I could try to obtain an actual *Miranda* card, which they provided to me. I called their community outreach officer’s number, but did not receive a reply.

I continued on to Agency G. The receptionist at Agency G sent an officer out to meet me, who provided me with a scanned copy of their *Miranda* rights in English. He explained that in the event they needed to deliver the rights in Spanish, they would call a Spanish-speaking officer to administer them. I asked whether his agency has ever used a

language hotline or the Language Bank, to which he replied that those services are generally reserved for agencies based in cities or counties that have court interpreters available. He stated that he was not aware of a language hotline his agency would be able to use, but asked me to inform him if there was a hotline available to them. I then asked him if he could put me in contact with a Spanish-speaking officer so that I could ask further questions, and he took down my information. A week later, I was contacted via email by a Spanish-speaking officer who included in the text of her email the version of the Spanish *Miranda* rights that she uses. I responded with the four questions that I asked the other officers I had encountered, and also asked for a printed version of the card. The officer then replied to tell me that she has a Spanish card in her possession, which she transcribed verbatim into her previous email, but she did not provide me with a scanned copy of it. She also indicated that she is not a certified interpreter, and had three years of high school Spanish experience from 2000 to 2003 that she utilizes to communicate with suspects in Spanish.

I then proceeded to Agency H, where the receptionist provided me with the *Miranda* rights in English and Spanish as they appear on the form that a suspect would sign prior to interrogation. I saved this copy and then requested to speak to an officer, who provided me with two different English cards that he carries with him. I asked him the questions in Appendix A, and he explained that their first choice is to have a Spanish-speaking officer read the rights to the Spanish-speaking person, but, if that is not possible, the agency will utilize the Language Bank. He explained that the *Miranda* form is given to suspects prior to interrogation, and they would use a *Miranda* card to read the *Miranda* rights to any person they believed to be associated with a crime. I left my

contact information so that he could put me in contact with a Spanish-speaking officer, but I did not receive any correspondence.

I next went to Agency I, where the receptionist replied to my request for a Spanish *Miranda* card by exclaiming, “this is America, we speak American! What do we need Spanish Miranda for?” He then directed me to the administrative office, who did not have any *Miranda* cards at their disposal but took down my contact information so that they could find one. The receptionist then took it upon himself to find me the *Miranda* card in English, and gave me a laminated copy of the card that agency used. He also printed out an infographic for me with the major points of the *Miranda* rights. It was unclear to me what Agency I would do in the event that they encountered a Spanish-speaking person. The receptionist, who was a retired officer, said that during the time that he was on active duty, they would call the Language Bank if they needed interpretation services, but he does not know the current practice. The following day, I received an email from the administrator, who attached their *Miranda* forms in English and Spanish. Agency I does not appear to have any copy of a Spanish *Miranda* card.

## Results

Upon conclusion of my data collection, six agencies had given me both their Spanish and English *Miranda* rights in one form or another. I received texts in English and Spanish from Agencies A, C, F, G, H, and I. The original texts I received from each are available in Appendix B, and the charts which I used to analyze each agency's *Miranda* warnings are available in Appendix C. For each agency, I examined whether the warning contained all four cautions that are required by *Miranda v. Arizona* (1966), the grammatical complexity of the warning, and any mistranslations that occurred. For the purposes of this analysis, I have focused on major problems that are likely to affect the comprehensibility of the rights; many other, more minor errors exist as well.

### Agency A

In the Spanish and English versions provided to me by Agency A, I found the following:

#### **Content– Agency A.**

In both the English and Spanish versions of Agency A's rights, all four of the essential elements of the warning prescribed in *Miranda v. Arizona* (1996) are present, but the final caution does not explicitly state that an attorney will be provided free of charge (see Appendix D). This is the current language:

*If you cannot afford an attorney, one will be appointed before questioning.*

The word “appointed” is intended here to imply to the listener that the attorney will be provided without any cost to them, but this is not sufficiently clear in the English or the Spanish versions. Agency A actually includes an additional caution in both languages:

*You have the right to consult with an attorney before questioning<sup>1</sup>.*

Because *Miranda v. Arizona* (1966) only states that a suspect must know “that he has a right to have present an attorney during the questioning,” this additional caution provides more context about when a suspect can request an attorney. Generally, at the end of a *Miranda* warning, there is a section called the waiver of rights, which usually includes two questions. Agency A includes one of the two waiver questions:

*Do you understand these rights?*

Considering that *Miranda v. Arizona* (1966) only states that “an affirmative statement of rejection” of the suspect’s rights is necessary for the suspect to revoke their rights, this waiver is adequate according to case law.

#### **Grammatical complexity– Agency A.**

Agency A’s *Miranda* warning contains some good examples of simple constructions as recommended by the Communication of Rights Group treatise (Eades and Pavlenko, 2016), while other sentences feature conditional phrases or compressed phrases that make them more difficult to understand (Evans and Orasan, 2018; Schulz, 2014). For example, the language in these three clauses all use the same construction of “before/during questioning”:

*You have the right to consult with an attorney before questioning.*

*You have the right to the presence of an attorney during questioning.*

*If you cannot afford an attorney, one will be appointed before questioning.*

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<sup>1</sup> This translation ignores the translation problems with this text, which will be discussed below.

This structure can be confusing to the listener because it implies the agent of the action instead of stating the agent of the action. In Spanish, the translation reads “before the interrogation,” which is somewhat unclear for the same reason as the English version. Additionally, the construction “you have the right to the presence of an attorney” is less clear than the active construction would be in this case.

The following caution contains a conditional dependent clause at the start of the phrase:

*If you cannot afford an attorney, one will be appointed before questioning.*

Conditional clauses are more grammatically complex than simple ones, and therefore are more likely to confuse the listener (Schulz, 2014). Also, Eades and Pavlenko (2016) always advise against using ambiguous referents in the reading of the rights, so “one” would be better replaced by the use of “an attorney” once again. Importantly, the English version reads:

*One [an attorney] will be appointed before questioning.*

This leaves out the very important prepositional phrase “for you,” so the listener might not know who or what the appointed attorney is for. This ambiguity also exists in the Spanish version:

*...uno se le asignará antes del interrogatorio.*

The inclusion of the indirect object pronoun “le” signals to the listener that the attorney is for them, which provides additional clarity to the listener, but still lacks the prepositional phrase “a usted,” which is necessary for this sentence to be completely unambiguous.

### **Translation problems–Agency A.**

The second caution in the Spanish version of Agency A's *Miranda* caution reads as follows:

*Cualquier cosa que usted diga puede ser usado en su contra en un tribunal de justicia.*

This caution presents several translation problems. For instance, the verb construction “puede ser” is used here as the Spanish equivalent of “can be.” While this is technically an acceptable translation, use of the future tense “podrá” could be more comprehensible. In this translation, “court of law” is translated as “tribunal de justicia.” According to the *Diccionario del Español Jurídico*, this phrase specifically refers to the Tribunal of the European Union (Real Academia Española, 2016). The *Diccionario de Uso del Español* defines “tribunal” as the translation equivalent of “tribunal” in English: that is, a tribunal usually includes more than one judge, which is not the same as a criminal trial that the *Miranda* warning refers to (*Miranda v. Arizona*, 1966; Moliner, 1986). In this context, “corte” is the better translation choice for “court.”

The third caution omits the pronoun “usted,” which makes the meaning of these sentences ambiguous:

*Tiene el derecho de consultar con un abogado antes del interrogatorio.*

*Tiene el derecho a la presencia de un abogado durante el interrogatorio.*

Both of these sentences should start with the word “usted” so as to signal to the listener that the rights described in the above sentences are available to them.

The final caution in Agency A's *Miranda* warning contains indefinite pronouns that do not define the subject:

*Si usted no puede pagar un abogado, uno se le asignará antes del interrogatorio.*

The direct and indirect object pronouns in this sentence, “se le,” can refer to either the listener or any third person, and there is no context in this sentence to help the listener understand who these pronouns refer to. This makes it more difficult for the listener to understand their right, because they do not know whether they themselves are receiving an attorney, or whether some other third person will receive one.

Lastly, Agency A’s waiver is worded as follows:

*¿Entiende estos derechos?*

This question should include the pronoun “usted” after “entiende,” or else the subject of this question is ambiguous.

### **Agency C**

Agency C presents the following problems with content, grammatical complexity, and mistranslation:

#### **Content– Agency C.**

In both English and Spanish, Agency C’s *Miranda* cautions contain each of the necessary clauses, except they do not explicitly state that a lawyer will be appointed for the suspect free of charge. This presents the same problems as listed above. Agency C also has both parts of the waiver of the rights in both languages, which ensures that listeners in both languages will have the opportunity to confirm that they understand their rights.

#### **Grammatical complexity– Agency C.**

The *Miranda* warnings from Agency C contain grammatically complex phrases in both languages. The third caution is one example of a compressed sentence that could be better understood as two sentences:

*You have the right to talk to a lawyer and have him present with you while you are being questioned.*

Because this caution contains two well-constructed, simple statements in one statement, they could be better expressed as two separate sentences.

By far the most grammatically complex and confusing sentence is in the fourth caution:

*If you cannot afford a lawyer, one will be appointed to represent you before any questioning, if you wish one.*

First, this sentence contains two different conditional clauses, which is difficult for the listener to decode even in their first language. Worse, the ambiguous referent “one” is used two different times within the same sentence. The second use of the ambiguous referent “one” becomes even more confusing because it is embedded within the conditional clause, and therefore requires the listener to decode the meaning of the conditional clause while at the same time determining the meaning of the referent. The prepositional phrase “before any questioning” further breaks up the logical flow of the sentence, so that it is unclear as to who or what “questioning” refers to and who is doing the questioning. Under even ideal circumstances, a listener could have a difficult time decoding the entire meaning of this sentence. The current structure of this sentence is confusing, unnecessarily grammatically complex, and an excellent example of the “legalese” that McLernon (2017) and Schwartz (2017) discourage. This sentence could be better deconstructed into three different sentences: a) you are allowed to have a lawyer with you; b) if you cannot afford a lawyer, we will appoint a lawyer for you free of charge; c) we will appoint the lawyer for you before we ask you any questions.

**Translation problems—Agency C.**

Each caution in Agency C's *Miranda* caution contains at least one translation problem, and the second waiver question in Agency C's translation has an error as well.

Consider the first *Miranda* caution:

*Usted tiene el derecho de permanecer en silencio.*

“Permanecer en silencio” presents an additional translation problem, because “guardar silencio” is more idiomatic, and also because “permanecer” in this context has some unusual pragmatic implications. “Permanecer” generally is used to mean that the agent of the action will continue to remain in a place or state of being (Moliner, 1986). In other words, “permanecer en silencio” could suggest to a listener that they have the right to *continue* being silent, which implies that if they choose to speak to the police, they might not be able to invoke their right to silence at any point afterward.

The second clause reads as follows:

*Todo lo que diga puede ser usado en su contra en un juzgado.*

Here, “todo lo que diga” is ambiguous. While it is not always necessary to state the noun or pronoun that is the agent of the action in Spanish, for the purposes of ensuring clarity in the reading of the rights, it would be better to revise this sentence to include the pronoun “usted,” so that the listener knows this sentence is referring to them. For the same reasons as above, “puede ser” could be better translated as “podrá” or “será.”

In the third caution, there are three translation problems:

*Tiene derecho de hablar con un abogado y que esté presente con usted mientras se le interroga.*

First, the subject pronoun “usted” should be explicitly placed before “tiene,” in order to demonstrate to the listener that they have the right to talk to an attorney. “Derecho” should be preceded by “el” to improve its grammatical accuracy. “Mientras” should also be followed by “que.”

The grammatical complexity of the fourth caution in English is unfortunately transferred into the caution in Spanish, and therefore creates translation problems.

Consider the following language:

*Si no puede costear los gastos de un abogado, se le asignará uno para que le represente ante cualquier interrogatorio, si desea uno.*

First, the grammar in this caution is problematic for several reasons. Just as in the previous caution, the third-person construction “se le asignará uno” does not define who is the agent of the action and who is the direct object in this sentence. This becomes even less clear considering that “le” (the indefinite pronoun) is not defined later in the sentence, but rather the pronoun “le” is repeated to represent the same undefined actor. In fact, the second “le” here refers to the pronoun “uno,” so this is actually an instance of an undefined pronoun referring to another undefined pronoun, which might be profoundly confusing for a listener. It is possible that a Spanish-speaking listener could understand the meaning of this sentence, but the referent is so deeply embedded in the context of this sentence that it could also be impossible to decode.

Additionally, “costear” is used here to mean “to pay for,” but “costear” has multiple meanings in the Spanish language, and is also a formal word that is not used in conversational Spanish. Other Spanish verbs could be used that more directly mean “to pay,” and therefore should be used in place of “costear.”

In the same sentence, “ante” is used to mean “before,” though “ante” in the Spanish language actually means “in the presence of” or “with respect to” (Real Academia Española, 2016), which completely changes the meaning of this sentence. In this context, “antes de” is the correct translation. The Arizona Court of Appeals specifically addresses this issue in their decision in *State v. Carrasco-Calderon* (2008), and describes it as an inappropriate translation in this context.

The Spanish-language waiver also presents some translation problems:

*¿Entiende cada uno de estos derechos que le he explicado?*

This question omits the pronoun “usted” twice, which makes the subject of the question ambiguous.

### **Agency F**

Agency F is a unique sample in this study because it did not come from an actual *Miranda* card. Instead, I received this sample from the records supervisor at the law enforcement agency, who had printed the Google result for the *Miranda* rights, and then certified that it was “word for word” identical to what was printed on their cards. The records supervisor then put the Google result into Google translate in order to obtain the Spanish version. Therefore, I have little reason to believe that these *Miranda* cautions are an accurate representation of what this law enforcement agency is actually using; nonetheless, I will analyze the sample here to demonstrate the importance of having a specific version of the *Miranda* caution as well as the importance of having a standard translation.

### **Content– Agency F**

The *Miranda* warning provided by Agency F does not fully describe the third and fourth rights that are required by *Miranda v. Arizona* (1966). In Agency F's version, they attempt to convey the third caution as follows:

*You have the right to an attorney.*

This caution intends to explain the suspect's right to have an attorney present before and during questioning, but leaves out the essential prepositional phrase ("before and during questioning") that explains the actual meaning of this right. As it is written in Agency F's caution, it provides no context whatsoever for the role of the attorney or when the suspect might want an attorney, and therefore renders the right virtually meaningless.

The fourth caution is presented as such:

*If you cannot afford an attorney, one will be provided for you.*

This caution does not specify that the attorney will be provided free of charge, nor does it specify that the attorney will be provided before questioning or be present during questioning. Neither the third or fourth caution implies or states when the suspect would receive an attorney or the purpose of the attorney, and therefore wholly misses the essential points of the third and fourth *Miranda* cautions.

Agency F also does not include a waiver, which means that a suspect could not make an "affirmative statement of rejection" in order to renounce their rights (*Miranda v. Arizona*, 1966). Because this agency does not have a waiver to confirm the suspect understood, it could be difficult to demonstrate that the suspect did knowingly waive their rights.

**Grammatical complexity– Agency F**

Agency F's caution has one major instance of compression that might affect comprehensibility:

*If you cannot afford an attorney, one will be provided for you.*

As in other versions of the *Miranda* caution, it would be better to replace "one" with "an attorney," so that the referent is well-defined.

### **Translation problems– Agency F**

Because Agency F's Spanish *Miranda* cautions were translated in Google Translate rather than by a certified translator, there are many translation errors. In the first caution, we observe the following:

*Usted tiene el derecho de permanecer en silencio.*

For the same reasons as explained above, "permanecer en silencio" is not an appropriate translation of "remain silent," and is actually completely incorrect and quite confusing. Likewise, the second caution demonstrates many of the same translation problems as Agency C:

*Todo lo que diga puede y será usado en su contra en un tribunal.*

Like Agency C, "todo lo que diga" is unnecessarily vague, because it lacks the pronoun "usted," and "tribunal" is the inappropriate word choice for the English equivalent of "court." Furthermore, Agency F translates "can and will" as "puede y será," which is a verb phrase that combines present and future tenses and does not communicate the actual meaning of the English version.

The next caution is far more confusing:

*Tiene derecho a un abogado.*

Aside from the fact that this phrase contains the words “you have,” “right,” and “lawyer,” it communicates little else. Importantly, the word “el” is missing before “derecho,” and there is no pronoun to signal whether “tiene” refers to the listener or someone else, which makes this sentence literally translate to, “have right to an attorney.” It is unacceptable to suggest that this is a fair translation of “[you have] a right to have present an attorney during the questioning” (*Miranda v. Arizona*, 1966). This phrase also does not indicate the subject of the sentence, because it lacks the pronoun “usted.”

The final caution completely fails to communicate the right it is meant to describe:

*Si no puede permitirse un abogado, se le proporcionará uno.*

This is incorrect first and foremost because it never refers to the agent of the action in this sentence or the direct object it affects. Because the only pronouns in this sentence are indefinite pronouns, the listener cannot determine whether they will be given an attorney by the police or some other person, or whether they are supposed to provide an attorney for themselves. “Permitirse” is used here to mean “afford,” but “permitir” is never used in this context, and the reflexive “-se” at the end does not make sense in this context, even if “permitir” were an acceptable translation (Moliner, 1986). The “a” is also missing between “permitirse” and “un abogado,” which is essential to the Spanish grammar structure of transitive verb + direct object. This translation also uses the ambiguous pronoun construction “se le proporcionará,” which omits the important prepositional phrase “a usted,” and is confusing for same reasons as mentioned above.

### **Agency G**

The *Miranda* cards provided by Agency G are interesting because the Spanish and English versions are remarkably different. In my analysis of Agency G's samples, I noticed the following:

**Content– Agency G**

Agency G is very thorough in describing the cautions in their English version, and covers every *Miranda* right while also providing additional context that is not required by *Miranda v. Arizona* (1966). One minor problem with the English version is that the third right reads as such:

*You have the right to speak to an attorney before answering any questions.*

This advises the listener that they can speak to an attorney before questioning but does not also state that the attorney can be with the suspect during questioning. Because the decision in *Miranda v. Arizona* (1966) specifically requires that the suspect know their right “to have an attorney present during the questioning,” it should be explicitly stated in Agency G's *Miranda* warning.

The Spanish version is less thorough. It includes every right, except it does not explicitly state that the suspect may have an attorney present during questioning; instead, it only reads:

*Usted tiene el derecho de tener un abogado presente.*

Which translates to, “you have the right to have an attorney present.” This is unacceptable for the same reasons as are detailed above with regard to Agency G's English version, as well as Agency F's Spanish translation. In order for the third caution to completely convey the meaning as it was intended in *Miranda v. Arizona* (1966), it

must state that a suspect may have an attorney present both before and during questioning.

Although the following information is not required by *Miranda v. Arizona* (1966), it is omitted from the Spanish version of the rights. There are two sentences where this occurs:

*If you give up that right to remain silent anything you say can and will be used against you in a court of law.*

*If you cannot afford an attorney, an attorney will be appointed for you at no cost to you, and you need not answer any questions until that attorney has been appointed for you.*

These sentences provide far more context than their corresponding Spanish translations, which read as follows:

*Cualquier cosa que usted declare puede ser usada contra usted en la corte.*

*Si no tiene usted recursos para pagar un abogado, la corte le asignara un abogado antes de serinterrogado.*

These sentences translate to “whatever you say can be used against you in court,” and “if you do not have the resources to pay an attorney, the court will assign an attorney before questioning.”

Furthermore, The English version has both parts of the conventional two-part waiver, while the Spanish version only has the first:

*¿Entiende usted estos derechos?*

This question means “do you understand these rights?” in English. This is substantially less developed than the English waiver, which reads as follows:

*Do you understand each of these rights I have explained to you?*

*Understanding these rights, would you like to speak to me now?*

The English version contains an entire second waiver question that the Spanish warning does not, and also includes the phrase “I have explained to you,” which provides more clarity than simply asking “do you understand these rights,” as the Spanish version does.

### **Grammatical complexity– Agency G**

Agency G has an English version of the rights that is very long, and includes multiple compound sentences. One benefit of the length of this version of the *Miranda* rights is that it repeats information from previous cautions in the cautions that follow; this way, the listener has better context through which to interpret their rights. For example, the second caution reads as such:

*If you give up that right to remain silent anything you say can and will be used against you in a court of law.*

This is also a compressed conditional sentence, which is more grammatically complex than two simple sentences, but the conditional statement here serves to remind the listener of their first right and to connect it to their second right. This additional context would likely be more helpful to the listener than distracting, as compressed conditional statements sometimes are.

Like other agencies, Agency G uses a prepositional phrase to refer to the act of interrogation:

*You have the right to speak to an attorney before answering any questions.*

“Before answering any questions” is a vague phrase that implies the agent of the action of questioning. “Before answering any questions we ask you” is a more direct construction.

The third caution in Agency G's *Miranda* caution is quite lengthy:

*If you cannot afford an attorney, an attorney will be appointed for you at no cost to you, and you need not answer any questions until that attorney has been appointed for you.*

Part of the reason that this sentence is so lengthy is because it uses the same definite referents throughout; for instance, it never replaces "attorney" with "one" as other agencies do. Though this makes the sentence longer, it does substantially improve the clarity of the sentence. That being said, this sentence would benefit from being broken into two simple sentences.

The first sentence begins with a conditional statement and ends with two consecutive prepositional phrases, which makes it still quite grammatically complex. The second sentence also includes the unusual construction "need not," which would be better replaced by "do not need to."

The final caution is also constructed as a lengthy conditional statement:

*If you decide to answer any questions now, you may stop at any time and ask to talk to an attorney before any questioning continues.*

Again, this sentence could benefit from a comma between "time" and "and," but it would be better to break this into two separate sentences.

The Spanish version does not repeat any of the grammatical problems of the English version because the two versions are so different. The one problem with the Spanish version is the conditional clause in the fourth warning:

*Si no tiene usted recursos para pagar un abogado, la corte le asignara un abogado antes de serinterrogado.*

In English, this translates to, “if you do not have the resources to pay an attorney, the court will assign you an attorney prior to interrogation.”<sup>2</sup> Conditional statements are always more grammatically complex than simple statements, but considering that this statement provides context and uses definite pronouns and nouns throughout, it is an appropriate way to communicate the meaning that it expresses (Schulz, 2014).

On a positive note, the Spanish version of the rights includes definite pronouns in every instance possible, and includes the Spanish pronoun “usted,” which in English means “you,” even though, grammatically speaking, it could have been implied. This increases the clarity for the listener, and even though it is not idiomatic, it is beneficial in the context of the *Miranda* cautions, where comprehension is key.

#### **Translation problems– Agency G**

Agency G’s Spanish version successfully avoids many translation errors that other agencies make, but includes a small number of its own translation problems. The first example is in the first caution:

*Usted tiene el derecho de permanecer en silencio.*

For the same reasons as detailed above, “permanecer en silencio” is not an appropriate translation. However, the use of “usted” at the beginning of the sentence signals to the listener that they are the agent of the action, which improves the comprehensibility of the sentence.

The second caution clearly states “anything you say” in a way the listener would understand:

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<sup>2</sup>This translation ignores the translation problems with this right, which are described in “Translation problems– Agency G” below.

*Cualquier cosa que usted declare puede ser usada contra usted en la corte.*

This translation of “anything you say” is accurate, and even uses the subjunctive mood of the verb “declarar.” This says to the listener “anything you [might] say,” rather than “anything you [will] say,” which is what the indicative mood would suggest. The subjunctive mood here communicates to the listener that they have the choice to declare anything, while the indicative mood would almost serve as a command in this context. Because the subjunctive mood is rare in the English language, this translation nuance is often overlooked by translators. Agency G attempts to translate “can and will be” as “puede ser.” This should instead be written as “podrá y será” in order to demonstrate that whatever the suspect says can and will be used against them, because it currently only says “can be used against you,” and does not even use the correct translation to say that. Agency G does use the correct translation of “court,” which here is “corte.”

The third caution contains the following spelling error:

*Usted tiene el derecho de tener un abagado presente.*

If a Spanish speaking listener read the word “abagado,” it is likely they would understand the meaning of that word. However, if a Spanish-speaking officer were to read the word “abagado” aloud as it is written here, the listener might have no idea what it meant, because it could be phonetically quite different from the correct spelling, “abogado.”

The fourth caution reads as follows:

*Si no tiene usted recursos para pagar un abogado, la corte le asignara un abogado antes de serinterrogado.*

There are several problems with this caution. For one, “asignara” is not the correct verb tense here; the future tense “asignará” should have been used. “Asignara” is the past

subjunctive conjugation of “to assign,” which in the Spanish language signals to the listener a degree of doubt that an attorney would be assigned. In other words, this translation might be interpreted by a listener as, “if you do not have the resources to pay for an attorney, the court might assign you an attorney, [but they might not].” This error in verb tenses could make it impossible for a listener to understand that they are entitled to an attorney. Furthermore, “seritnerrogado” is not a word in the Spanish language. It is possible that this translation meant to read “antes de [ser] interrogado,” but a suspect listening to their rights should never have to guess what a word means.

### **Agency H**

When I spoke to a uniformed officer at Agency H, he provided me with two versions of his own *Miranda* cards that he carries for personal use, as well as the *Miranda* waiver in English and Spanish that is given to suspects to sign before interrogation. For the purposes of this analysis I will only examine the *Miranda* waiver, because the English version on the waiver is the translational equivalent of the Spanish version.

### **Content– Agency H**

Agency H has all parts of the *Miranda* rights present in both their Spanish and English versions, with the notable exception that the third right in both languages only states that the suspect may have an attorney present during questioning. In order for the third caution to completely fulfill the meaning in *Miranda v. Arizona* (1966), it should state that an attorney is available both before and during questioning. Both versions contain both parts of the two-part waiver, which is not required but is helpful to the suspect’s understanding.

**Grammatical complexity– Agency H**

Like other *Miranda* cautions, Agency H compresses their third caution into one sentence when it could be expressed as two simple sentences. This is Agency H’s third caution, which is similar to their Spanish version:

*You have the right to talk to an attorney and have him present during any questioning.*

Here, “during any questioning” could be better expressed as “during our interrogation,” “during our questioning,” or “when we question you.”

Yet another compressed conditional statement appears in the fourth warning in Agency H’s *Miranda* caution. It reads:

*If you desire and cannot afford one, an attorney will be appointed to represent you prior to any questioning.*

In this sentence, an undefined referent is used in the conditional clause, which is then defined in the independent clause that follows. This requires the listener to determine the referent while also decoding the content of the sentence, which makes it confusing. As in other examples, “any questioning” is not an ideal construction. The use of the words “desire” as well as “prior” require a higher level of English vocabulary than their equivalents “want” and “before,” so this sentence could be made more simple by replacing them with their more common synonyms.

**Translation problems– Agency H**

The first caution in Agency H’s *Miranda* warning is translated as follows:

*Usted tiene el derecho de mantenerse callado.*

*El Diccionario de Uso del Español* (1986) defines “mantenerse” as the act of maintaining oneself or sustaining oneself, which does not fit with the context of the *Miranda* rights. The United States District Court in Oregon decided in *United States v. Higareda-Santa Cruz* (1993) that “mantenerse” is not an appropriate way to translate “remain silent,” and decided to suppress the defendant’s confession in court because this mistranslation substantially affected the defendant’s understanding of his rights..

Agency H’s second caution is translated to say:

*Cualquier cosa que usted diga sera usada en su contra en un juzgado.*

“Cualquier cosa que usted diga” is a good translation of “anything you say,” and even uses the subjunctive mood, which is better suited for this context than the indicative. This translation attempts to use the verb conjugation “será” as the Spanish equivalent of “will be,” but lacks the written accent mark. Unlike the above example where the lack of an accent mark changes the verb tense from future to past subjunctive, “sera” is not the past subjunctive conjugation of “ser.” This means that although “sera” is not a word in the Spanish language– which is a problem in itself– it at least avoids the confusion with the past subjunctive tense that exists in the previous sample. Further, “juzgado” is a misspelling of “juzgado.” As with the misspelling mentioned in Agency G’s translation above, a Spanish speaker could probably understand the meaning of “juzgado” if they read it, but might not understand it if a police officer mispronounced it while reading it to them.

Agency H has a good translation of the third caution, which is written below:

*Usted tiene el derecho de hablar con un abogado y tenerlo presente durante cualquier interrogatorio.*

It is important that this sentence defines the referent “abogado” before stating “tenerlo presente,” which means either “to have it present” or “to have him present.” By context, the listener can conclude that the “lo” is referring to “him,” the attorney. Agency H provides a good example of how to communicate the third right in a way that makes sense for the listener.

Here is the fourth caution in Agency H’s Spanish version:

*Si usted desea un abogado pero no tiene fondos, un abogado sera nombrado para que lo represente antes de empezar cualquier interrogatorio.*

Agency H’s translation uses the word “fondos” for the English equivalent of “funds.” While this is technically an acceptable use of the word, “fondo” can also be used in legal contexts to refer to an argument based on the law (Moliner, 1986). Additionally, “fondos” is a less comprehensible translation because it is a formal translation of the word “money.” In this context, the word “dinero” would be more comprehensible.

### **Agency I**

Like Agency H, Agency I also provided me with a *Miranda* card in English that is different from their *Miranda* waiver in English and Spanish. Again, this analysis will only cover the *Miranda* waiver.

#### **Content– Agency I**

Agency I’s *Miranda* waiver contains all of the necessary elements of the *Miranda* warning in both languages, except for the right to have an attorney present both before and during questioning. Agency I in fact provides a Spanish version that is more thorough than the English version:

*Usted tiene el derecho de hablar con un abogado, y tener un abogado presente durante nuestras preguntas ahora y en el futuro.*

*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.*

*Si usted decide contestar las preguntas sin tener un abogado presente, usted puede, cuando quiera, pedir un abogado durante el interrogatorio.*

In these cautions, the listener is advised that they have the right to have an attorney present during questioning now and in the future; that if the listener begins to answer questions without an attorney, they can request one at any time; and in the second waiver question, the listener is asked if they want to answer questions without an attorney present.

In the Spanish version, each caution is followed by the question “¿Entiende usted?” which translates to, “do you understand?” Asking this question after each caution provides the listener many instances where they can clarify their rights or indicate they do not understand, but also signals to the listener that each right is important and provides a cue that they should be listening.

### **Grammatical complexity– Agency I**

In the English version, the third caution is expressed as a compressed sentence:

*You have the right to talk to a lawyer and have him/her present while you are being questioned.*

This sentence could be improved by bifurcating it into two, so that the compression would be removed. The current caution also uses the indefinite pronouns “him/her” in

place of “lawyer,” when it could be better to simply use the word “lawyer” once again within the same sentence. This same construction is mirrored in the Spanish version, but the Spanish version also includes this language:

*...tener un abogado presente durante nuestras preguntas ahora y en el futuro.*

This translates as “...to have an attorney present during our questions now and in the future.” The “now and in the future” phrase provides clarity, but also increases the complexity of the sentence by adding two more prepositional phrases and an additional conjunction.

Like Agency C, Agency I’s fourth caution is worded with two conditional phrases in one declarative statement, which makes it compressed and grammatically complex. Agency I avoids some of the ambiguity of the second conditional statement by wording it as follows:

*If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.*

“If you wish” is more clear than “if you wish one” as it appears in Agency C’s version, because Agency I does not include the indefinite referent that refers to the attorney. Agency I also identifies the listener as “you” three times in the sentence, which helps the listener understand who the agent of the action is in the sentence. However, Agency I uses the indefinite referent “one” to refer to “an attorney,” when the definite referent could be used instead. The Spanish version mirrors this construction, and could be improved by similar restructuring.

As in other examples, this caution could also be improved by changing “before any questioning” to “before we question you.” This is especially true for the Spanish version, which reads as follows:

*...el juzgado de la corte adjudicara uno para usted, sin costo, antes de iniciar el interrogatorio, si usted quiere.*

The phrase “antes de iniciar el interrogatorio” is especially confusing here, because it does not in any way imply the agent of the action. If this were to be translated to English, it would state something similar to, “before the start of the interrogation.” This leaves the listener to wonder when the interrogation is, who it is by, and even who will be interrogated. To improve this phrase, it could be written as “antes que nosotros le interrogamos,” which translates to, “before we interrogate you.”

Additionally, in the Spanish version only, there is a second part of the fourth caution that is quite grammatically complex. It reads as follows:

*Si usted decide contestar las preguntas sin tener abogado presente, usted puede, cuando quiera, pedir un abogado durante el interrogatorio.*

This sentence has a conditional phrase as well as a parenthetical clause, which makes it grammatically complex and therefore confusing for a listener to follow. In English, this would be translated as:

*If you decide to answer the questions without having an attorney present, you can, when you want, ask for an attorney during the interrogation.*

Another problem with this statement is the phrase “the questions,” when “our questions” would be far less vague.

### **Translation problems– Agency I**

Consider the language of the second caution:

*Cualquier cosa que usted diga puede ser usada contra usted en una corte de ley.*

Agency I uses the translation “puede ser” to mean “can be,” when “podrá” is more appropriate; this translation only reads as “can be used against you,” and does not include “será” which would complete the meaning of the phrase as “can and will be used against you.” Also, as the North Carolina Court of Appeals decided in *State v. Ortez* (2006), “corte de ley” is not an acceptable translation of “court,” because it has no meaning in Spanish.

In the fourth caution, there are several translation problems:

*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.*

“Adjudicará,” meaning “will adjudicate,” is incorrectly spelled here as “adjudicara,” which is the past subjunctive form. The past subjunctive conjugation is used to suggest that it is unknown or doubtful that an event will occur. This translation problem is therefore quite serious, because it can imply to the listener that they might not be given an attorney.

Interestingly, in the following caution, Agency I does elect to use the proper translation of “quiere”:

*Si usted decide contestar las preguntas sin tener abogado presente, usted puede, cuando quiera, pedir un abogado durante el interrogatorio.*

Instead of “quiere,” which is the indicative mood, “quiera,” which is the subjunctive mood, is used and indicates that the suspect is able to make a choice rather than being

commanded. Also, “contestar las preguntas” means “to answer the questions,” which is needlessly vague. Instead, “contestar nuestras preguntas,” as is used above, would be better.

One final point that is worth noting is that in the final waiver question, the officer asks:

*¿Quiere usted contestar mis preguntas sin tener un abogado presente?*

This question is unusual because in every sentence prior when the officer talks about “the questioning,” it is phrased as “nuestras preguntas,” or “our questions.” Here, the waiver reads, “my questions.” This might imply to the listener that they will only be questioned by the police officer that read them their rights rather than an interrogation team. Under these circumstances, a suspect might decide to waive their rights based on the assumption that they are talking to one police officer, and then might be surprised to find that several police officers will be interrogating them. In order to maintain clarity, the interrogating officer should pick one set of pronouns (either “nuestros” or “mis”), and maintain those pronouns throughout the warning.

### **Analysis**

The results of my data collection indicate that no version of the Spanish *Miranda* warnings is entirely accurate and that the Spanish versions vary substantially in quality and completeness among agencies. While some agencies had content, grammar, or translation problems that were unique to their own translations, many of the same problems were repeated across several agencies. Here, I will discuss those common problems as well as the institutional problems I encountered during my data collection.

#### **Common Problems with Content**

I discovered several common problems with the content of the *Miranda* warnings. The four most prevalent problems were the omission of the right to an attorney free of charge, the omission of the right to an attorney both before and during questioning, differences in content between the Spanish and English versions in the same agency, and variance between “can and will” and “can” in the translations of the rights.

The right that states that a suspect is entitled to an attorney free of charge is absent in both Spanish and English versions of the rights from Agencies A, C, and F. In each of these agencies, they imply that the attorney is free by use of the verb “appointed.” The right to an attorney free of charge should never be implied to a listener; it must be explicitly stated, as is required by *Miranda v. Arizona* (1966) and affirmed by the Court in *United States v. Higareda-Santa Cruz* (1993). Sufficient case law exists to demonstrate that this right must be explicitly stated, yet these agencies fail to convey that message to the listener.

Another repeated problem with the content of the *Miranda* warnings is that many agencies do not state that the suspect may have an attorney present both before and

during questioning. The American Bar Association (2016) points out that the *Miranda* warning must state that the suspect may have an attorney present both before and during questioning and cites the cases *State v. Ramirez* (1999) and *United States v. Castro-Higuero* (2007) to support this requirement. Agencies F and G both do not state of what use an attorney might be to a suspect; they only state, “you have the right to an attorney” and “you have the right to have an attorney present,” respectively. For Agency F, this problem exists in both languages; for Agency G, it only occurs in the Spanish version. This is problematic because a Spanish-speaking suspect might not know why they would want an attorney present or what the attorney is for, and the entire purpose of the *Miranda* rights is to inform a suspect of these issues (*Miranda v. Arizona*, 1966). Agencies C, H, and I state that a suspect may have an attorney present during questioning, but do not make it clear that the suspect may talk to one before interrogation. The *Miranda* warning provided by all five of these agencies is inadequate to meet the requirements established in *Miranda v. Arizona* (1966), *State v. Ramirez* (1999), or *United States v. Castro-Higuero* (2007). Only Agency A succeeds in warning a suspect that they have the right to an attorney both before and during questioning.

Two agencies provided *Miranda* warnings that had substantial differences in content between their English and Spanish versions. Agency G’s Spanish *Miranda* warning is substantially shorter and less thorough than its English counterpart; at Agency I, the reverse is true; the Spanish version provides better context for the *Miranda* rights than does their English one. At both of these agencies, there is a substantial difference between what an English speaker would be told about their rights compared to a Spanish speaker. By having two different versions of the *Miranda* rights, these agencies are not

providing equal protection under the law to speakers of all languages. This is in direct violation of the due process clause of the Fourteenth Amendment (Const. Amend. XIV).

One problem that straddles the line between a content problem and a translation problem is the mistranslation of “can and will” or “can” as “puede ser” or “sera” by every single police agency in this study except for Agency A. Agencies G, H, and I translate “can and will” as “puede ser,” which is an incorrect translation that only means “can,” not “will.” Agency F uses the strange construction “puede y será” to mean “can and will,” which includes one verb in present tense and one verb in future tense, and therefore is confusing. In each of these cases, the correct phrasing “podrá” or “podrá y será” is not used, and therefore does not properly convey the meaning of the sentence, “anything you say can and will be used against you.”

### **Common Problems with Grammar**

There are three major, common problems that affect the grammatical complexity of several agencies’ *Miranda* warnings. Here, I have identified them as the use of compressed sentences, the use of conditional clauses, and the frequent use of ambiguous pronouns.

The first common problem is the frequent use of compressed sentences in the *Miranda* warnings, especially in the third and fourth cautions. Every single sample in this study has a compressed, compound sentence, which are far more grammatically complex than simple sentences, in at least one of their *Miranda* warnings (Evans and Orasan, 2018). Just as McLernon (2017) and Schwartz (2017) emphasize the importance of plain language in legal discourse, the *Miranda* warnings should contain plain language as well.

This problem is also reflected in the very high number of conditional clauses in the *Miranda* warnings. Every agency in this study has at least one conditional clause in their third or fourth *Miranda* caution, which is a type of compressed sentence (Evans and Orasan, 2018; Schulz, 2014). In some instances, such as the warnings from Agencies C and I, there are two different conditional clauses within one sentence. Sentences with several conditional clauses require the listener to decode a large amount of information in order to understand the meaning of the sentence. Further, compound conditional sentences can oftentimes be simplified into two simple sentences which are easier to understand.

One final problem with the grammatical complexity of the *Miranda* warnings is that every agency except Agency G has at least one instance in which they use an ambiguous pronoun to refer to a defined referent. In English, the ambiguous referent is usually “one,” which refers to the noun “an attorney.” In Spanish, the ambiguity usually stems from the omission of the pronoun “usted.” While it is true that, in some cases, it is appropriate to omit “usted” in a sentence in the Spanish language, the omission of “usted” in the *Miranda* warnings creates the opportunity for a listener to misinterpret the meaning of their rights. In order to ensure clarity, the *Miranda* warnings should never include ambiguous pronouns, and should always repeat the defined referent instead.

### **Common Problems with Translation.**

Unlike content and syntactic problems, which have consistent themes across agencies, translation problems tend to be unique to each agency. Here, I have identified the three translation problems that appear in more than one agency’s translation: the

mistranslation of “remain silent,” the use of excessively formal Spanish or uncommon translations, and the confusion between future and past subjunctive tenses.

One consistent problem was the use of “permanecer” or “mantenerse” to mean “remain” in the phrase “remain silent.” Agencies C, F, and G use “permanecer” in their translation, while Agency H uses “mantenerse.” Neither of these verbs are appropriate to convey the meaning “remain silent.” Additionally, the court case *United States v. Higareda-Santa Cruz* (1993) specifically details why “mantenerse” is a nonsensical translation, and decided to suppress the defendant’s confession because of this particular mistranslation. Additionally, the Court in *State v. Teran* (1993) decided that it is unacceptable to use excessively formal Spanish in the *Miranda* warning, which further demonstrates why verbs like “permanecer” and “mantenerse” should not be used when more appropriate translations like “guardar” provide the same meaning.

There are many instances where the *Miranda* translations from the agencies use an unusual or excessively formal translation. For instance, Agency A uses “tribunal de justicia” when “corte” is more appropriate; Agency C uses the very unusual phrase “costear los gastos.” Agency F in particular has several inappropriate word choices. Agency F uses “proporcionará” to mean “appoint,” which is the very translation that the Court decided in *State v. Teran* (1993) was confusing enough to overturn the lower court’s decision against the defendant. Agency F also uses “permitirse” to mean “afford,” which is an inappropriate translation. Agency H translates “funds” as “fondos,” which is a formal Spanish word with many meanings and makes its meaning needlessly ambiguous in this context. Agency I translates “court of law” as “corte de ley,” which is not a meaningful phrase in Spanish (*State v. Ortez*, 2006). Each of these instances involve

using excessively formal or inappropriate Spanish in their translations of the rights, which goes against the Court's decision in *State v. Teran* (1993) and may prevent the listener from understanding their rights.

The final frequently occurring translation problem is confusion between the future tense and past subjunctive tense, which have similar spellings but very different meanings. Agencies G, H, and I all omit the written accent over a verb which is meant to be future tense, and therefore change the tense to the past subjunctive. This is a critical error, because the past subjunctive tense is meant to convey doubtfulness or that something is unlikely to occur. So, if "the court will assign you an attorney" is instead written in the past subjunctive, as it is in Agency G's translation, it could change in meaning to say, "the court might assign you an attorney," which could then also imply that the court might not assign an attorney to the suspect. This changes the meaning of the entire sentence, and might cause a Spanish-speaking person to not request an attorney, because they do not know they are entitled to one.

### **Systemic Problems with Delivery of the *Miranda* Warnings**

During my data collection, I frequently observed instances where the police agencies seemed to have rather indifferent attitudes about the *Miranda* warnings or their meanings in Spanish. At the time that I requested the Spanish *Miranda* warning from Agency A, I was told by a detective that he would often just put the English *Miranda* warning into a translation app and then read that to a Spanish-speaking subject. At Agency E, which ultimately did not provide me a Spanish *Miranda* warning, an officer said to me, "why do you want a copy of the *Miranda* card? You know they're all the same across the country, right?" Agency F did not have any *Miranda* cards anywhere in

the entire department office, and felt comfortable giving me the Google result for their *Miranda* warning instead of providing me with what they actually use.

Each of these instances indicate that these agencies do not know that there are differences in both the English and Spanish versions of the *Miranda* warnings nationwide, and that these differences can impact a suspect's ability to understand their rights. In order for the *Miranda* warnings to be delivered in a consistent and appropriate manner, the officers at each of these agencies must make it a priority to deliver the *Miranda* rights in strict accordance with what is written on their agency's card, and what is written on the card must be correct.

### Discussion

The results of this study contextualize the importance of assuring the quality of the *Miranda* warnings in both English and Spanish while also demonstrating some of the systemic problems that prevent effective delivery of the *Miranda* warnings. This initial study demonstrates that problems exist within the Spanish translations of the *Miranda* rights and that these problems could substantially impact a listener's ability to understand their Constitutional rights. The findings in this study provide some examples of emerging patterns in content, grammar, and translation problems that affect comprehension, and codify them so that they can be easily identified in other translations of the *Miranda* rights. This study also provides some insight into the attitudes and beliefs of law enforcement agencies about the importance of the *Miranda* warnings, and the necessity for a standard Spanish version of the rights at each law enforcement agency. Though the sample size in this study is small, it is sufficient to demonstrate the need for future research on the differences in the Spanish and English versions of the *Miranda* rights both in Nevada and nationally.

Although this study provides some initial insight into the problems with the Spanish *Miranda* warnings, additional research is needed in order to improve the generalizability of the results presented here. In order to determine whether the Spanish *Miranda* warnings are adequately delivered in the state of Nevada, a larger sample size would be necessary. Before the results of this study could be considered representative of the Spanish *Miranda* warnings in Nevada, it would be necessary to obtain a Spanish and English sample from every law enforcement agency in the state. On a national level, a study the size of Rogers et al's (2008) would be necessary, and the study should be

replicated in order to ensure accuracy. Additionally, although the results of this study indicate that there may be some patterns in the problems with the Spanish *Miranda* warnings, the sample size is too small to definitively confirm the existence of these patterns.

Yet another limitation of this study is that the *Miranda* samples received were intended for a variety of purposes; in other words, some of the samples were from *Miranda* cards, some were from interrogation waiver forms, and others came from Google search results. It is possible that the *Miranda* warnings on interrogation waiver forms are more accurate than those on *Miranda* cards, and this study did not control for that variable. A future study could improve the generalizability of its results by using only waivers or *Miranda* cards for analysis.

Moreover, a future study could better determine how the *Miranda* warnings are actually delivered to Spanish speakers by examining audio or video recordings of the *Miranda* rights being read in real police-suspect interactions. This was beyond the scope of this initial study, but data from law enforcement officers' interactions with Spanish speakers would provide more information about the quality of the delivery of the *Miranda* warnings.

The results of the current study present many more general questions about the *Miranda* rights, and point to new directions for research about the *Miranda* warnings. One question that the current study cannot answer is whether it would be best to have one standard Spanish *Miranda* translation nationwide, or whether it is best to allow each agency to develop their own version. On one hand, a standard translation would not be able to account for the regional differences in Spanish dialects throughout the United

States; for example, a speaker of Mexican Spanish may understand the standard translation better than a speaker of Caribe Spanish. On the other hand, allowing law enforcement agencies to develop their own translations invites the possibility for substantial variation in quality of the translations between agencies.

This study also raises the question of the extent to which Spanish speakers, and in particular Spanish immigrants, are discriminated against by not receiving accurate accounts of their *Miranda* rights. As is demonstrated by every sample in this study, each agency assumes that the listener is at least partially familiar with their *Miranda* rights or the American criminal justice system. Because many monolingual Spanish speakers are likely to be recent immigrants to the United States, they may not have any knowledge about their rights or the legal system in the US. Therefore, the rights that are implied by the *Miranda* warnings are actually voided if the listener does not understand the context of the American legal system. Depending on the extent to which these omissions prevent a Spanish speaker from understanding their rights, this could result in widespread discrimination against monolingual Spanish speakers in the court system, and may even be a violation of their fourteenth amendment rights (Const. Amend. XIV). Future research must examine whether these omissions impact comprehensibility and whether these omissions are systemic or purposeful.

Another question raised by this study is to what extent the attitudes and beliefs that law enforcement agencies have about the *Miranda* rights impacts the quality of the delivery of the *Miranda* rights to suspects. The research in this study suggests that law enforcement agencies have a variety of attitudes about the importance of the Spanish *Miranda* rights; they range from seriously invested to remarkably indifferent. The sample

size in this study is too small to determine how these attitudes affect the quality of the Spanish *Miranda* rights, but a future study could examine this relationship.

This study also poses larger questions about the usefulness of legalese and what place it has in the criminal justice system. Prior academic discourse suggests that legalese is detrimental to the comprehensibility of legal documents, and suggests that legalese provides no benefit to the legal system (Makodia, 2009; McLernon, 2017; Schwartz, 2017). A future study could examine to what extent legalese influences the language used the *Miranda* warnings, and how legalese affects the comprehensibility of the *Miranda* rights.

Another implication of this study that requires future research is whether law enforcement officers have the qualifications necessary to read the *Miranda* rights to Spanish speakers, and how officer beliefs about their own Spanish proficiency can influence that decision. In other words, the present study suggests that police officers may believe that they are able to adequately deliver the *Miranda* rights in Spanish because they have some familiarity with the Spanish language. Prior research and case law demonstrate that police officers often overestimate their Spanish-language abilities, and therefore deliver the rights inadequately (Filipovic and Abad Vergara, 2018; O’Laughlin, 2016; *Commonwealth v. Ochoa*, 2014; *People v. Aguilar-Ramos*, 2004; see also American Bar Association, 2016). A future study might examine to what extent this issue affects a Spanish speaker’s ability to understand their rights when they are delivered by an untrained officer.

Moreover, the importance of the present study within the context of scholarly research is to demonstrate that problems do exist in the content, grammar, and

translations of Spanish *Miranda* warnings, and to suggest future avenues for exploring these problems. Though the current study cannot form generalizable conclusions about the comprehensibility of the Spanish *Miranda* warnings in Nevada, it offers some initial insights into what problems currently exist and what problems future researchers might encounter in larger studies of the *Miranda* warnings in Spanish.

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**Appendix A**

1. If you do not have a *Miranda* card in Spanish, how do you communicate these rights to Spanish-speaking people?
2. Do you use a certified court interpreter, the Language Bank, or a certified police-interpreter to interpret the rights for Spanish-speaking people?
3. If you do not speak Spanish, what do you do in the event that you have a contact with a Spanish-speaking person?
4. Is there a Spanish-speaking officer who you could put me in contact with?
5. Can I see a copy of your personal *Miranda* card?

**Appendix B**

**Miranda Warnings in English and Spanish from Six Nevada Law Enforcement**

**Agencies**

**Agency A.**

<p><b>ADVISEMENT FOR CUSTODIAL INTERROGATION (Adults)</b></p> <p>You have the right to remain silent.</p> <p>Anything you say can be used against you in a court of law.</p> <p>You have the right to consult with an attorney before questioning.</p> <p>You have the right to the presence of an attorney during questioning.</p> <p>If you cannot afford an attorney, one will be appointed before questioning.</p> <p>Do you understand these rights?</p>	
<p><b>INFORMACIÓN SOBRE EL PROCEDIMIENTO DE INTERROGACIÓN BAJO CUSTODIA</b></p>	
<p><b>Adultos</b></p> <hr/> <p>Tiene el derecho de guardar silencio.</p> <p>Cualquier cosa que usted diga puede ser usado en su contra en un tribunal de justicia.</p> <p>Tiene el derecho de consultar con un abogado antes del interrogatorio.</p> <p>Tiene el derecho a la presencia de un abogado durante el interrogatorio.</p> <p>Si usted no puede pagar un abogado, uno se le asignará antes del interrogatorio.</p> <p>¿Entiende estos derechos?</p>	<p><b>Juveniles</b></p> <hr/> <p>Tiene el derecho de guardar silencio.</p> <p>Cualquier cosa que usted diga puede ser usado en su contra en un tribunal de justicia.</p> <p>Tiene el derecho de consultar con un abogado antes del interrogatorio.</p> <p>Tiene el derecho a la presencia de un abogado durante el interrogatorio.</p> <p>Si usted no puede pagar un abogado, uno se le asignará antes del interrogatorio.</p> <p>¿Desea que alguno de sus padres o tutores esté presente?</p> <p>¿Entiende estos derechos?</p>

**Agency C.**

Hello Ashley,

I included what is available to our Officers regarding Miranda Rights in both Spanish and English. Its important to note that Officers usually wont attempt to interview a suspect in a language that they are not fluent in. If needed we will utilize an Officer or Detective fluent in a given language to ensure accuracy of Miranda Rights.

**ADMONITION**

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
4. If you cannot afford a lawyer, one will be appointed to represent you before any questioning, if you wish one.

**WAIVER OF RIGHTS**

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk to us now?

**AMONESTACIÓN**

1. Usted tiene el derecho a permanecer en silencio
2. Todo lo que diga puede ser usado en su contra en un juzgado.
3. Tiene el derecho de hablar con un abogado y que esté presente con usted mientras se le interroga.
4. Si no puede costear los gastos de un abogado, se le asignará uno para que le represente ante cualquier interrogatorio, si desea uno. \_\_\_\_\_

**RENUNCIACIÓN DE DERECHOS:**

1. ¿Entiende cada uno de estos derechos que le he explicado?
2. ¿Considerando estos derechos, desea hablar con nosotros ahora?

**Agency F.**

"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 an attorney, one will be provided for you."

"Usted tiene el derecho de permanecer en silencio. Todo lo que diga puede y será usado en su contra en un tribunal. Tiene derecho a un abogado. Si no puede permitirse un abogado, se le proporcionará uno. "

**Agency G.**

You have the right to remain silent if you give up that right to remain silent anything you say can and will be used against you in a court of law. You have the right to speak to an attorney before answering any questions, and to have an attorney present with you while you answer any questions. If you cannot afford an attorney, an attorney will be appointed for you at no cost to you, and you need not answer any questions until that attorney has been appointed for you. If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues. If you decide to stop answering questions once you have begun, all questioning will stop. Do you understand each of these rights I have explained to you? Understanding these rights, would you like to speak to me now?

---

**Miranda Rights**

---

Hello Ms. Keaton,

I hope this email finds you well. Your information was passed along to me with the message that you were looking for a Spanish version of our Miranda Rights. Here is the version I use:

Usted tiene el derecho de permanecer en silencio. Cualquier cosa que usted declare puede ser usada contra usted en la corte. Usted tiene el derecho de tener un abogado presente. Si no tiene usted recursos para pagar un abogado, la corte le asignara un abogado antes de serinterrogado. Entiende usted estos derechos?

For juveniles (under 18 years of age), there's an additional line: Desea un padre o tutor este presente?

Please let me know if I may be of further assistance.

Best regards,

Agency H.

**MIRANDA WARNING**  
(Your Rights)

**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 talk to an attorney and have him present during any questioning.**  
**If you desire and cannot afford one, an attorney will be appointed to represent you prior to any questioning.**  
**Do you understand each of these rights I have explained to you? \_\_\_\_\_.**  
**Having these rights in mind, do you wish to talk to me now? \_\_\_\_\_.**

**MIRANDA WARNING**  
You have the right to remain silent  
Anything you say can and may be used against you in a court of law.  
You have the right to talk to an attorney and have him present during any questioning.  
If you so desire and cannot afford one, an attorney will be appointed to represent you prior to any questioning.  
Do you understand each of these rights I have explained to you?  
Having these rights in mind, do you wish to talk to me now?

**MIRANDA WARNING**

- 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 talk to a lawyer and have him present with you while you are being questioned.
- If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
- You can decide at any time to exercise these rights and not answer any questions or make any statements.
- Do you understand each of these rights I have explained to you?
- Having these rights in mind, do you wish to talk to us now?

**LA ADVERTENCIA MIRANDA**  
(Sus Derechos)

**Usted tiene el derecho de mantenerse callado.**  
**Cualquier cosa que usted diga sera usada en su contra en un juzgado.**  
**Usted tiene el derecho de hablar con un abogado y tenerlo presente durante cualquier interrogatorio**  
**Si usted desea un abogado pero no tiene fondos, un abogado sera nombrado para que lo represente antes de empezar cualquier interrogatorio.**  
**Entiende usted cada de estos derechos que yo le he explicado?**  
**Teniendo estos derechos en mente, desea usted hablar conmigo ahora?**

**Agency I.**

**Miranda Rights**

- 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 talk to a lawyer and have him/her present while you are being questioned. \_\_\_\_\_
- If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish. \_\_\_\_\_

**Juvenile Admonishment**

- You have the right to have your parent or guardian present during questioning. \_\_\_\_\_
- Anything you say can and will be used against you in Juvenile Court. \_\_\_\_\_
- (If 14 years or older and accused of a felony)  
You may be certified as an adult and tried in Adult Criminal Court.  
Anything you say can and will be used against you in Adult Court. \_\_\_\_\_

**Waiver**

- Do you understand each of these rights I have explained to you? \_\_\_\_\_
- Having these rights in mind, do you wish to talk to us now? \_\_\_\_\_

**SUS DERECHOS DE MIRANDA**

- Usted tiene el derecho de guardar silencio.  
¿Entiende Usted? \_\_\_\_\_
- Cualquier cosa que Usted diga puede ser usada contra Usted en una corte de ley.  
¿Entiende Usted? \_\_\_\_\_
- Usted tiene el derecho de hablar con un abogado, y tener un abogado presente durante nuestras preguntas ahora y en el futuro.  
¿Entiende Usted? \_\_\_\_\_
- 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.  
¿Entiende Usted? \_\_\_\_\_
- Si Usted decide contestar las preguntas sin tener un abogado presente, Usted puede, cuando quiera, pedir un abogado durante el interrogatorio.  
¿Entiende Usted? \_\_\_\_\_
- ¿Entiende Usted sus derechos como yo se los expliqué? \_\_\_\_\_
- ¿Quiere Usted contestar mis preguntas sin tener un abogado presente? \_\_\_\_\_

### Appendix C

#### Side-by-Side Texts of the *Miranda* Warnings in English and Spanish from Six Nevada

##### Law Enforcement Agencies

##### Agency A.

	MIRANDA RIGHTS	Agency A – ENGLISH FORM	Agency A – SPANISH FORM
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent.	Tiene el derecho de guardar silencio.
2	<b>Anything you say may be used against you.</b>	Anything you say can be used against you in a court of law.	Cualquier cosa que usted diga puede ser usado en su contra en un tribunal de justicia.
3	<b>You have a right to have present an attorney during the questioning.</b>	You have the right to consult with an attorney before questioning.	Tiene el derecho de consultar con un abogado antes del interrogatorio.
		You have the right to the presence of an attorney during questioning.	Tiene el derecho a la presencia de un abogado durante el interrogatorio.
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you cannot afford an attorney, one will be appointed before questioning.	Si usted no puede pagar un abogado, uno se le asignará antes del interrogatorio.
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5		Do you understand these rights?	¿Entiende estos derechos?

## Agency C.

	<b>MIRANDA RIGHTS</b>	<b>Agency C – ENGLISH FORM</b>	<b>Agency C – SPANISH FORM</b>
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent.	Usted tiene el derecho de permanecer en silencio.
2	<b>Anything you say may be used against you.</b>	Anything you say can be used against you in a court of law.	Todo lo que diga puede ser usado en su contra en un juzgado.
3	<b>You have a right to have present an attorney during the questioning.</b>	You have the right to talk to a lawyer and have him present with you while you are being questioned.	Tiene derecho de hablar con un abogado y que esté presente con usted mientras se le interroga.
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you cannot afford a lawyer, one will be appointed to represent you before any questioning, if you wish one.	Si no puede costear los gastos de un abogado, se le asignará uno para que le represente ante cualquier interrogatorio, si desea uno. _____
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5		Do you understand each of these rights I have explained to you?	¿Entiende cada uno de estos derechos que le he explicado?
6		Having these rights in mind, do you wish to talk to us now?	Considerando estos derechos, desea hablar con nosotros ahora?

**Agency F.**

	<b>MIRANDA RIGHTS</b>	<b>Agency F – ENGLISH FORM</b>	<b>Agency F – SPANISH FORM</b>
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent.	Usted tiene el derecho de permanecer en silencio.
2	<b>Anything you say may be used against you.</b>	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.
3	<b>You have a right to have present an attorney during the questioning.</b>	You have the right to an attorney.	Tiene derecho a un abogado.
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you cannot afford an attorney, one will be provided for you.	Si no puede permitirse un abogado, se le proporcionará uno.
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5			
6			

**Agency G.**

	<b>MIRANDA RIGHTS</b>	<b>Agency G – ENGLISH FORM</b>	<b>Agency G – SPANISH FORM</b>
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent	Usted tiene el derecho de permanecer en silencio.
2	<b>Anything you say may be used against you.</b>	if you give up that right to remain silent anything you say can and will be used against you in a court of law.	Cualquier cosa que usted declare puede ser usada contra usted en la corte.
3	<b>You have a right to have present an attorney during the questioning.</b>	You have the right to speak to an attorney before answering any questions.	Usted tiene el derecho de tener un abogado presente.
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you cannot afford an attorney, an attorney will be appointed for you at no cost to you, and you need not answer any questions until that attorney has been appointed for you.	Si no tiene usted recursos para pagar un abogado, la corte le asignara un abogado antes de serinterrogado.
		If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues.	
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5		Do you understand each of these rights I have explained to you?	Entiende usted estos derechos?
6		Understanding these rights, would you like to speak to me now?	

**Agency H.**

	<b>MIRANDA RIGHTS</b>	<b>Agency H – ENGLISH FORM</b>	<b>Agency H – SPANISH FORM</b>
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent.	Usted tiene el derecho de mantenerse callado.
2	<b>Anything you say may be used against you.</b>	Anything you say can and will be used against you in a court of law.	Cualquier cosa que usted diga sera usada en su contra en un juzgado.
3	<b>You have a right to have present an attorney during the questioning.</b>		
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you desire and cannot afford one, an attorney will be appointed to represent you prior to any questioning.	Si usted desea un abogado pero no tiene fondos, un abogado sera nombrado para que lo represente antes de empezar cualquier interrogatorio.
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5		Do you understand each of these rights I have explained to you?	¿Entiende usted cada de estos derechos que yo le he explicaado?
6		Having these rights in mind, do you wish to talk to us now?	¿Teniendo estos derechos en mente, desea usted hablar conmigo?

**Agency I.**

	<b>MIRANDA RIGHTS</b>	<b>Agency I – ENGLISH FORM</b>	<b>Agency I – SPANISH FORM</b>
	<b>Rights</b>	<b>Rights</b>	<b>"Derechos"</b>
1	<b>You have the right to remain silent.</b>	You have the right to remain silent.	Usted tiene el derecho de guardar silencio. ¿Entiende Usted? _____
2	<b>Anything you say may be used against you.</b>	Anything you say can and will be used against you in a court of law.	Cualquier cosa que Usted diga puede ser usada contra Usted en una corte de ley. ¿Entiende Usted? _____
3	<b>You have a right to have present an attorney during the questioning.</b>	You have the right to talk to a lawyer and have him/her present while you are being questioned.	Usted tiene el derecho de hablar con un abogado, y tener un abogado presente durante nuestras preguntas ahora y en el futuro. ¿Entiende Usted? _____
4	<b>If indigent, you have a right to a lawyer without charge.</b>	If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.	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. ¿Entiende Usted? _____
			Si Usted decide contestar las preguntas sin tener abogado presente, Usted puede, cuando quiera, pedir un abogado durante el interrogatorio. ¿Entiende Usted? _____
	<b>Waiver</b>	<b>Waiver</b>	<b>"Renuncia"</b>
5		Do you understand each of these rights I have explained to you?	¿Entiende Usted sus derechos como yo se los expliqué?
6		Having these rights in mind, do you wish to talk to us now?	¿Quiere Usted contestar mis preguntas sin tener un abogado presente?

### **Appendix D**

#### **Decision in *Miranda v. Arizona* (1966).**

The foremost requirement, upon which later admissibility of a confession depends, is that a four-fold warning be given to a person in custody before he is questioned, namely, that he has a right to remain silent, that anything he says may be used against him, that he has a right to have present an attorney during the questioning, and that, if indigent he has a right to a lawyer without charge. To forgo these rights, some affirmative statement of rejection is seemingly required (*Miranda v. Arizona*, 1966).