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New Legal Developments Impacting Police Policies and Practices

Case Law Updates 2025

STATE v. GARRISON, 350 Conn. 61 (2024)

The court concluded that the defendant was not in custody when he spoke with police officers in his hospital room without have received *Miranda* warnings.

This decision **reversed** the prior contrary decision of the Appellate Court in *State v. Garrison*, 213 Conn. App. 786 (2022), which means that the Appellate Court's decision is no longer good law.

In reaching its conclusion, the Supreme Court applied the following **generally applicable** nonexclusive list of factors to be considered in determining whether a suspect was in custody for *Miranda* purposes: (1) the nature, extent and duration of the questioning; (2) whether the suspect was handcuffed or otherwise physically restrained; (3) whether the officers explained that the suspect was free to leave or not under arrest; (4) who initiated the encounter, (5) the location of the interview, (6) the length of the detention, (7) the number of officers in the immediate vicinity of the questioning, (8) whether the officers were armed, (9) whether the officers displayed their weapons or used force of any kind before or during questioning, and (10) the degree to which the suspect was isolated from friends, family, and the public.

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The court also considered the following factors that relate to an inquiry in the **context of a hospital setting**: (1) whether the police ordered medical attendants to restrain the suspect physically; (2) whether the police took advantage of an inherently coercive situation created by any physical restraint that medical attendants on their own used on the suspect for purposes of treatment; (3) whether the suspect was able to converse with other people or request assistance from them; (4) whether the police took the suspect to the hospital from the scene of a crime, monitored the suspect's stay, stationed themselves at or outside the door, or influenced the suspect's treatment schedule, (5) the time of day; and (6) the mood and mode of the questioning.

The generally applicable factors are often referred to as the ***Mangual* factors** because they derive from *State v. Mangual*, 311 Conn. 182 (2014).

The hospital setting factors are often referred to as the ***Jackson* factors** because they derived from *State v. Jackson*, 304 Conn. 383 (2012).

The suspect's age, intelligence, and mental make-up are relevant factors in any context.

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Noteworthy aspects of the court's decision:

-the interaction with the police was neither threatening nor aggressive and consumed about 1 hour of the suspect's 4.5 hour hospital stay;

-when the suspect appeared annoyed, the officers paused the interview, and when the suspect eventually expressed a desire to stop, the police terminated the interview;

-the suspect was connected to an IV line, but the police did not take advantage of this limitation, and the suspect was able to get out of bed and move around;

-the police told the suspect that he was free to leave for police purposes near the end of his hospital stay. The court rejected the defendant's contention that the timing of the advisement suggested that the suspect was not free to leave before it was made;

A "free to leave" advisement is highly advisable, but it is not required if a reasonable person under the circumstances would understand that the meeting with the police is consensual;

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-although the police seized the suspect's clothing, which had been removed per hospital policy, the suspect willingly signed a written form consenting to the seizure;

-the suspect had gotten himself to the hospital;

-the suspect was not isolated. Although no family or friends were present, medical staff came in and out of the suspect's room or area while police were present, and the police asserted no control over medical staff, and did not delay, interrupt or restrict the suspect's medical care.

STATE v. MARCIANO, 231 Conn. App. 348 (2025)

The Appellate Court upheld the decision of the trial court that the defendant was **unlawfully seized** when;

- the officer observed a lone motor vehicle parked parallel to the curb along the unlit side of the parking lot of a closed Cumberland Farms gas station and convenience store at 1:30 a.m;

-there were no signs or barriers prohibiting or barring afterhours entry;

-the officer drove into the lot, stopped the cruiser about 40-50 feet away from, and perpendicular to, the parked vehicle, and immediately spotlighted it with the cruiser's "takedown lights." He observed the defendant in the driver's seat, whose head was pointed down, towards the steering wheel;

-as the officer approached on foot, he observed the defendant sit upright in the seat, start the car, and illuminate its lights, at which point the officer waved his illuminated flashlight in a circular motion to signal the defendant to lower his window;

-when the officer reached the side of the parked vehicle, the defendant opened the driver's door because the window didn't work, the officer asked the defendant what he was doing there and, when the defendant replied, the officer smelled the odor of alcohol, detected slurred speech, and asked the defendant to exit;

-after an OUI investigation, the defendant was arrested;

-the Appellate Court agreed with the trial court that a seizure occurred when the officer used his flashlight to signal the defendant to lower the window and that, at this point, no legal justification existed to affect a seizure.

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The court rejected the State's argument that, prior to suspecting OUI, the officer was acting in a community caretaking function. The case lacked facts supporting an objective belief on the officer's part that life/wellbeing or property was at risk, and when the defendant sat up, started the car, and turned on its lights, any belief that he may have been in distress "ceased to exist";

The court distinguished *State v. Pompei*, 338 Conn. 749 (2021), which is a case in which (1) a citizen reported an apparently unconscious person in a vehicle parked in a Cumberland Farms parking lot, and (2) the officer arrived to find a person was nonresponsive and apparently unconscious inside of a car;

The court concluded that spotlighting the defendant's vehicle with the cruiser's takedown lights announced that he was the of attention and that, approaching the vehicle on foot while using the flashlight to signal the defendant to lower the window after the defendant signaled his intention to leave, was authoritative or commanding behavior that would have cause a reasonable person to believe that the only available option at that point was to stop and engage with the officer.

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At this point, the result in *Marciano* is presumably the result of its cumulative facts – the absence of an articulable basis to believe that there is a risk to person or property, spotlighting, approaching on foot, and the authoritative use of a flashlight in response to the suspect apparently intending to disengage and leave.

In future cases, if **safety, procedure, good judgment** reasonably permit, avoid this combination of facts, or like facts;

-if there is a basis to believe that there is a risk to person or property be sure to articulate and document it;

-avoid using take down lights, and use headlights and a flashlight for illumination instead;

-avoid actual or arguably authoritative communications.

STATE v. MAHARG, 352 Conn. 355 (2025)

In this case, the trial court granted the defendant's motion to suppress statements that he made to police at the stationhouse based on its conclusion that the interrogating officers violated aspects of *Miranda* and disregarded the defendant's need for medical care;

On the plus side, the Supreme Court rejected the defendant's claim that, even though the trial court suppressed the defendant's statements, fruit of those statements seeped into the trial and rendered it unfair;

On the minus side, the court as whole, to differing degrees among two blocs of justices, was expressly critical of the fairly egregious nature of the *Miranda* violation in this case.

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For today's purposes, the views of the three justices who concurred in the result, but expressed their own views, are paramount. These justices not only were highly critical of the officers who conducted the interrogation, they criticized the State for not "com[ing] to oral argument … equipped with information [regarding whether the interrogating officers were disciplined, subject to retraining, or otherwise held accountable,] and persuasive arguments for why this court need not take action to ensure law enforcement's compliance with state law and its own internal policies."

The criticism of the State at oral argument was unprecedented and unexpected because no issues regarding personal consequences had been raised at the trial and any information in this regard would have been extra-judicial;

Given this development, it is essential to remind interrogating officers to be especially careful to heed *Miranda*, and all departmental policies regarding the interrogation of suspects. Especially important is the state constitutional "stop and clarify" rule that the court adopted in of *State v. Purcell*, 331 Conn. 318 (2019), whenever a suspect makes an ambiguous or equivocal request for counsel during the advisement/interrogation process.

STATE v. EVANS, 352 Conn. 794 (2025)

In this case, the police obtained a search warrant for records relating to the defendant's cell phone number, including cell site location information (CSLI), for a defined period of time before and after the crime under investigation. With all such warrants, it is essential that the affidavit establish probable cause to believe that the suspect committed the crime and that he was known to use or possess a cell phone with a particular number. This warrant did so;

The court rejected the defendant's claim that the affidavit was deficient because it did not establish that the defendant **actually used or possessed** the cell phone in question during the period for which the records were sought;

There is "no requirement for the [affiants] to provide facts from which a judge could find probable cause that the defendant actually used [or possessed] his cell phone around the time of criminal activity."

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Today, information in the affidavit establishing probable cause to believe that the suspect committed the crime and is known to use or possess a cell phone with a particular number, provides a substantial factual basis for a judge to reasonably infer as a matter of common sense that the location of the phone reflects the approximate physical location of its known user.

Information that the suspect was actually using or in possession of a particular phone at the relevant time is, of course, relevant and material. *Evans* means only that such additional information is not constitutionally required to establish probable cause.

Information known to the police that the suspect was ***not in possession*** of the cell phone during the relevant time period must be included in the affidavit to avoid a claim of material omission.

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The court also rejected the defendant's claim that the warrant was overbroad because it failed to establish a nexus between the crime and CSLI for the entire seven-day period for which the trial court found that probable cause existed. The Supreme Court concluded that probable cause had been established for a five-day period - three days prior to the crime, the day of the crime, and the day after the crime;

Probable cause existed for the three days prior to crime based on information in the affidavit establishing the defendant's known movements during that time period. CSLI information for this period "would have assisted in securing the defendant's conviction by connecting the defendant's cell phone with his known movements to further demonstrate that he was the individual in possession of the phone on the night of the crime."

CSLI information for the day of and the day after the crime "would have likely provided crucial evidence showing the defendant's presence at the crime scene as well as his flight from that location, including evidence of any attempt to evade detection or consciousness of guilt."

The court saw no sufficient nexus between CSLI and the crime beyond the day after it was committed. "Of course, if there were specific assertions in the affidavit that demonstrated that the defendant's movements on those dates were somehow connected to the [crime] or that the CSLI would somehow assist in the apprehension or conviction of the defendant, that would be [another] thing."

Detailed and comprehensive training regarding CSLI and cell phone search warrants is available through Supervisory Assistant State's Attorney Seth Garbarsky and Senior Assistant State's Attorney Ronald Weller.