

“You Have the Right to Keep Quiet”: Translation Inadequacies in Nevada’s Spanish Miranda Warnings

Ashley Rose Keaton

University of Nevada, Reno, USA

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Abstract. *In the landmark case *Miranda v. Arizona* (1966), the United States Supreme Court required law enforcement agencies to advise all suspects of their “Miranda warnings,” or Constitutional protections, prior to interrogation. Previous research demonstrates that the Miranda warnings in the United States are largely unregulated and highlights how inadequate translations can impact comprehensibility. The present study evaluates the translation problems found in the Spanish Miranda warnings in Nevada, including complex grammar, formal lexicon, and the assumption by law enforcement agencies that detainees will have a baseline familiarity with their rights. In some instances, these errors are significant enough that they might preclude a listener from understanding their Constitutional rights. This study suggests specific areas where the Spanish Miranda warnings require specific revision in order to conform to case law and best practices based on research.*

Keywords: *Miranda warning, reading of the rights, Miranda rights, Spanish translation, caution.*

Resumo. *No caso paradigmático *Miranda v. Arizona* (1966), o Supremo Tribunal dos Estados Unidos determinou que as forças policiais teriam de passar a informar todos os suspeitos das suas “advertências de Miranda,” ou proteções Constitucionais, antes de qualquer interrogatório. Estudos anteriores demonstraram que as advertências de Miranda nos Estados Unidos não são, em grande parte, regulamentadas e realçam que as traduções inadequadas podem influenciar a compreensibilidade. O presente estudo avalia os problemas de tradução existentes nas advertências de Miranda em espanhol no Estado de Nevada, incluindo gramática complexa, léxico formal e o pressuposto, por parte das forças policiais, de que os detidos possuem conhecimento de base dos seus direitos. Nalguns casos, estes erros são suficientemente sérios para impedir o interlocutor de compreender os seus direitos Constitucionais. Este estudo sugere algumas áreas específicas das advertências de Miranda em espanhol que necessitam de revisão específica para, com base na*

investigação, cumprir a lei e as boas práticas.

Palavras-chave: *Advertência de Miranda, leitura dos direitos, Direitos de Miranda, tradução para espanhol, advertência.*

Introduction

This study examines linguistic elements of the Spanish-language *Miranda* warnings in Nevada with a focus on two specific issues: the translational relationship between the respective English and Spanish *Miranda* warnings from a given law enforcement agency, and the grammatical and lexical quality of an agency's Spanish-language warning. A comparison of the translations between the English and Spanish versions from each agency reveals substantive errors as well as grammatical and lexical problems caused by mistranslation. The present study provides evidence that in some instances, the Spanish *Miranda* warnings used by Nevada law enforcement agencies do not satisfy the legal requirements and best practices for the reading of the rights in the United States.

Relevant Case Law

The Supreme Court decision in *Miranda v. Arizona* (1966) set the precedent that law enforcement agencies must advise all suspects of their Constitutional rights prior to interrogation. As a result, law enforcement agencies in the United States were left to determine how they would fulfill these requirements, now known as the "*Miranda* rights." Various scripts, collectively referred to as the "*Miranda* warnings," were produced in order to satisfy the guidelines provided by the 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. (p. 33)

Following this decision, several more cases were brought to the Supreme Court that further codified the process of the reading of the rights to suspects. In 1989, the Supreme Court heard the case *Duckworth v. Eagan*, in which the petitioner alleged that he was not properly advised of his rights because the officer used an unusual phrasing in the *Miranda* warnings. The Court decided against the petitioner, thereby broadening the already imprecise requirements proposed in *Miranda v. Arizona* (1966).

Nine years later, the Ninth Circuit Court of Appeals decided law enforcement officers must verify that the suspect understands English well enough to "knowingly and intelligently" waive their *Miranda* rights (*United States v. Garibay*, 1998). This decision created the precedent that if non-native English speakers cannot understand their rights in English, they must be communicated in the suspect's native language.

In 2013, the Ninth Circuit Court of Appeals heard the case *United States v. Botello Rosales*, where a Spanish-speaking respondent alleged that he had not been advised of his rights because the officer had explained them to him in near-incomprehensible Spanish. The Court decided all foreign-language readings of the *Miranda* warnings must "reasonably convey" the meaning of the rights. To date, this decision is the most specific standard for reading the rights in Spanish.

These cases represent only a small slice of the decisions based on the case law in *Miranda v. Arizona* (1966), and for this reason, discussion continues about the meaning of the *Miranda* rights and what the *Miranda* warnings should convey (see *Commonwealth v. Ochoa*, 2014; *State v. Carrasco-Calderon*, 2008; *Riviera-Reyes v. Commonwealth*, 2006; *State v. Ortez*, 2006; *State v. Teran*, 1993; *United States v. Castro-Higuero*, 2007; *United States v. Higareda-Santa Cruz*, 1993; and *Wisconsin v. Santiago*, 2017).

Linguistic Issues Surrounding the Miranda Warnings

Research concerning systemic problems with the *Miranda* warnings is divided here into three subsections: problems with the length and order of the warnings, problems with the language used in the warnings, and problems with translations of the rights into other languages. These issues are compounded by the significant variation in quality and accuracy of different *Miranda* warning texts. While it is possible that many different, high-quality versions of the *Miranda* warnings exist, research demonstrates that variation in the *Miranda* warnings can have a somewhat unpredictable effect on a listener's ability to understand their rights.

Before discussing the various problems with the warnings texts themselves, it is best to highlight the importance of understanding the *Miranda* warnings prior to interrogation. While police officers might interpret many different responses by a suspect to signal that they understand their rights, officers are far less likely to recognize that a suspect is signaling that they want to invoke their rights during interrogation (Ainsworth, 2008). This is supported by Mason's (2013) work, where suspects who made indirect requests to exercise their rights were frequently ignored or challenged by interrogating officers. Pavlenko's (2008) case study produced similar findings. Even if suspects understand their rights perfectly, it is unlikely that they will succeed in invoking them; therefore, if suspects have an incomplete understanding of their rights, the likelihood that they will utilize them is further diminished.

Some scholars argue that the *Miranda* warnings are not structured in a way that enables suspects to easily understand them. Shuy (1997) outlines how the current order of the *Miranda* warnings is not conversationally logical, and therefore decreases listener comprehension. Kurzon (2000) demonstrates that a dilemma exists between brevity and completeness; that is, the shorter the warning is, the more difficult it is to unambiguously interpret, but a longer warning may cause the listener to lose focus and ignore important information. Eades and Pavlenko (2016) suggest that suspects would better understand the importance and meaning of the *Miranda* warnings if they were delivered in a question-and-answer format, rather than as a rote recitation.

Moreover, the *Miranda* rights themselves use language that is inaccessible to the average listener. In an attempt to resolve these comprehension barriers, *The Communication of Rights Group* (CoRG) treatise (2016) provides guidelines for communicating legal rights to non-native speakers of English. In order to accommodate the widest possible range of language proficiency, the rights should use the simplest grammar constructions available. Conditional statements and prepositional phrases should be avoided because they require the listener to parse multiple levels of embedding (Eades and Pavlenko, 2016; Gibbons, 2001). Shuy (1997) demonstrates that prepositional phrases are frequently used in the *Miranda* warnings and are likely to be recognized but not understood by the listener. Further, Pavlenko (2008) and Shuy (1997) argue that suspects who do not com-

pletely understand the meaning of the *Miranda* warnings will assume that they got "the gist" since they recognized words within the sentence (see also Rock 2007).

Additionally, the *Miranda* warnings typically use formal lexicon characteristic of the legal register. Suspects who are unfamiliar with legal language are more likely to not understand it, which puts first-time offenders and recent immigrants at a disadvantage (Pavlenko, 2008; Rock, 2007; Rogers *et al.*, 2007). To avoid an uneven understanding of the warnings by detainees, the CoRG proposals suggest that the *Miranda* warnings should use plain language wherever possible, as well as high-frequency lexical items and phrases that are not culture-specific (Eades and Pavlenko 2016; see also Rock 2007). This position is supported by research from Rogers, Hazelwood, Sewell, Blackwood, and Rogstad (2009b), which demonstrates a relationship between higher grade-level difficulty of *Miranda* vocabulary and worse average comprehension by detainees.

Further, Rogers *et al.* (2007) indicate that some words in the *Miranda* warnings might have significantly different reading levels depending on the context. For instance, the word "right" (*derecho* in Spanish), is a polysemic word that can evoke both a sense of direction and legal right. When used to convey direction, the word right has an elementary level of difficulty, whereas it has an eighth-grade level difficulty when used to mean legal claim. Rogers *et al.* (2007) demonstrate that the grade-level difficulty of the *Miranda* warnings can vary from a third-grade reading level to a collegiate reading level, depending on the jurisdiction. Thus, a detainee's ability to comprehend the *Miranda* rights might depend on the vocabulary used in that particular jurisdiction, and their understanding of the correct use of the word in context.

Rogers *et al.* (2007) and Rogers *et al.* (2008) demonstrate that the *Miranda* warnings in the United States exhibit a great degree of variance in substantive content, length, and quality. While these variations already present challenges to English-speaking detainees, these problems are compounded when the warnings texts must be translated into another language. The American Bar Association (ABA) identified this issue in ABA Resolution 110 (2016) and suggests a standard Spanish translation that could be used by all law enforcement agencies. However, the Spanish *Miranda* warning proposed in the Resolution includes translation errors, such as omission of the requisite subject pronouns, and is written in only one dialect of Spanish; therefore, it fails to provide an adequate template for law enforcement agencies to implement.

If anything, the imperfect translation by the ABA suggests that insufficient attention has been given to the Spanish *Miranda* warnings in the United States. Rogers *et al.* (2009a) analyzed the Spanish *Miranda* warnings from 121 jurisdictions and indicated a number of significant translation errors. However, Rogers *et al.* (2009a), do not offer an in-depth textual analysis in their study. The current study aims to build upon the existing evidence of translation inadequacies in the Spanish *Miranda* warnings, and identify persistent problems within these translations.

Given the requirements of *Miranda v. Arizona* (1966) and subsequent case law combined with the linguistic issues seen in previous research, there is significant potential for the Spanish *Miranda* warnings to be incomprehensible to the listener. This is especially true in jurisdictions where a linguist or court-certified interpreter was not involved in the construction of a standard Spanish *Miranda* warning. The present study, therefore, seeks to answer the following questions: 1) Is there a standard *Miranda* warning in

Nevada, 2) Is there a Spanish standard translation of the *Miranda* warnings in Nevada, and 3) Are the Spanish translations of the *Miranda* warnings adequate to ensure listener comprehension?

Methodology

Data Collection

Nine of the twenty-two law enforcement agencies in Nevada were initially contacted for participation in this study. These law enforcement agencies are located in the most populous regions of Nevada (that is, the northwest and south). From these nine, those that were able to provide both a Spanish and English version of their *Miranda* warning were included in this study. The resulting sample includes five law enforcement agencies: two rural sheriff's offices, two urban police departments, and the state highway patrol. These agencies are anonymized in this report by letters A through E.

The data in this study was collected through visits to law enforcement agency headquarters; each law enforcement agency was asked for a physical copy of its *Miranda* warnings in English and Spanish. Some law enforcement agencies were able to provide physical copies of the warnings during that visit, while others required email correspondence in order to obtain the English and Spanish versions of the warnings.

The scope of this study is limited to written translations only and assumes, for the purposes of analysis (unlikely as it may be), that the listener would hear the *Miranda* warnings exactly as they appear on the card. This study does not examine recordings of the *Miranda* warnings as read by law enforcement officers, nor does it attempt to comment on the ability of law enforcement officers to speak Spanish with sufficient proficiency to guarantee the warnings were read correctly.

Data Analysis

The English and Spanish versions from each agency were reviewed to ensure each of the five *Miranda* rights was present. Next, the samples were reviewed for lexical or grammatical errors caused by translation inadequacies. Many small translation errors were present in the data collected; the only translation errors described in the current study are those which, in the view of the analyst, could substantially preclude a listener's ability to understand the intended meaning of the rights.

Results

Absence of Standard Warning

Based on the data collected, Nevada does not have a standard English *Miranda* warning. Of the nine law enforcement agencies initially surveyed, no two law enforcement agencies had an identical English *Miranda* warning. While it appears that two out of five law enforcement agencies in this study have an official, agency-specific version, the other three do not. Further, data suggests that even at agencies with standard *Miranda* warnings, some officers use other versions that do not match the official agency warning (for the complete set of data, see Appendix A). As one example, an officer at Agency D showed me that he carried the agency's official English language *Miranda* warning as well as a different version he had obtained elsewhere, because he believed the unofficial version was more descriptive.

Further, law enforcement officers at Agencies A, B, and C did not have the Spanish *Miranda* warnings readily available, nor did they seem familiar with where to find their agency's version of the warning. An officer at Agency A was able to find a version of the *Spanish* *Miranda* warnings, but mentioned that he frequently would do an ad-hoc interpretation of the English *Miranda* warning into Spanish. The officer explained, because he was a heritage Spanish speaker, he felt "more than confident" in his ability to accurately interpret the *Miranda* warnings. As a measure to ensure that his interpretation was accurate, the officer would type the warnings into Google Translate and ask the Spanish speaker to read the translated text. At Agency B, an officer stated that he was not sure whether police officers were issued a copy of the *Miranda* warnings by his law enforcement agency or whether they were supposed to obtain them by their own accord, but he did not indicate where an officer might obtain a *Miranda* card.

More generally, law enforcement officers seemed unaware that different versions of the *Miranda* warnings existed. At Agency E, when I requested a copy of the *Miranda* warning, the police officer looked at me skeptically and asked, "you know they're all the same, right? Like the decision in *United States v. Miranda*, it makes them all the same." A second officer at the same agency firmly challenged the idea that there were different *Miranda* warnings until he was shown evidence to the contrary; when shown the warnings from Agency C, he remarked that Agency C was giving "too much information." These interactions suggest that law enforcement officers are not aware that multiple versions of the warnings exist.

There is also no standard version for the Spanish translation. Most law enforcement agencies in this study use Spanish translations that closely mirror their English versions. However, Agency C's warnings have no apparent similarity between the English and Spanish versions, nor do they closely resemble the Spanish warnings from another law enforcement agency in the study.

Quality of Translated *Miranda* Warnings

To examine whether the Spanish translations adequately meet the requirements in *Miranda v. Arizona* (1966), the results have been divided into the four sections described in the decision of the case: 1) you have the right to remain silent, 2) anything you say may be used against you, 3) you have a right to have present an attorney during the questioning, and 4) if indigent, you have a right to a lawyer without charge. These sections are based on the precise language from the decision in *Miranda v. Arizona* (1966). The Court's decision also requires law enforcement agencies to "inform accused persons of their right of silence and assure a continuous opportunity to exercise it," which has been noted in a fifth section (5).

1. *You have the right to remain silent.*

Agency D translates *remain silent* as *mantenerse callado*, which would translate as *keep quiet*. *Mantenerse* is not conversationally equivalent to *remain*, and would have questionable meaning to a Spanish speaker; in the federal court case *United States v. Higareda-Santa Cruz* (1993), the court decided *mantenerse* was not an acceptable translation of *remain*. Additionally, *callado* is more often used to mean *reserved* or *quiet* than *silent*, and is only a medium-frequency Spanish word, whereas *silencio* is more common (Collins, 2020). The *Miranda* Vocabulary Scale (MVS) evaluates the word *silent* as one of the highest-import words in the *Miranda* warnings, earning a five-point score on a scale of

one to five; because of its importance in understanding this right, it is critical that the word silence be translated accurately (Rogers *et al.*, 2009b).

2. Anything you say may be used against you.

Agencies C and E use the phrasing *can and will* in their English version of the *Miranda* warnings, but translate this as *puede ser*, which in Spanish is only equivalent to *can*. *United States v. Botello-Rosales* (2013) supports that *puede ser* is not equivalent to *will*.

Further, Agency E translated *court of law* from the original English version as *corte de ley*, which is not a meaningful translation according to *State v. Ortez* (2006).

3. You have the right to have an attorney present during the questioning.

Agency C has a substantive error in the Spanish version of the right to counsel; that is, it does not specify when the listener can have an attorney or what the attorney is for. The court in *Riveria-Reyes v. Commonwealth* (2006) determined that the English and Spanish *Miranda* warnings at the same agency must have identical content, but Agency C's warnings do not meet this standard.

English version	Spanish version	Back-translated into English
You have the right to speak with an attorney before answering any questions,		
and to have an attorney present with you while you answer any questions.	Usted tiene el derecho de tener un abogado presente.	You have the right to have a lawyer present.

Table 1. Agency C *Miranda* warning, third prong.

Agency A omits the second-person singular pronoun *usted*, or *you*, when it describes the listener's right to an attorney. Critically, Agency A's two-part warning lacks a subject pronoun, and does not include any anaphoric references in either sentence that would provide necessary clarity. It is possible that a suspect would hear this warning and interpret it to mean that someone else has the right to an attorney rather than themselves.

Agency B also omits the subject pronoun *usted*. Agency B does make passing reference to the subject; however, the subject is only found in a cataphoric reference within a subordinate clause. This sentence also features three levels of embedding following the main clause.

Agency B translates the second subordinate clause of the warning as *mientras se le interroga*. In Spanish, *se* and *le* can serve as second or third person object pronouns. *Se* can also function as a syntactic element to reference the impersonal *se*. The function of these pronouns in this clause is ambiguous and could be clarified by including another referent to the subject, such as *mientras se le interroga a usted*. The current representation of this statement requires the listener to hypothesize about who this right applies to.

English version	Spanish version	Back-translated into English
You have the right to talk to a lawyer	Tiene el derecho de hablar con un abogado	[You] have the right to talk with a lawyer
and have him present with you	y que esté presente con usted	and that [s/he] is present with you
while you are being questioned.	mientras se le interroga.	while [ambiguous] interrogate.

Table 2. Agency B *Miranda* warning excerpt, third prong.

4. If indigent, you have the right to an attorney without charge.

As is the case with the previous warning, many law enforcement agencies in this study omit the subject of the main clause or use ambiguous pronouns instead of explicitly stating the agent of the action. Agency A uses the phrasing *se le asignará* to mean [*an attorney*] *will be appointed [for you]*, but this does not provide sufficient context for the listener to derive precisely that the pronoun *le* refers to *you*.

English version	Spanish version	Back-translated into English
If you cannot afford an attorney,	Si usted no puede pagar un abogado	If you cannot pay a lawyer
one will be appointed before questioning.	uno se le asignará antes del interrogatorio.	One will be assigned [ambiguous] before the interrogation.

Table 3. Agency A *Miranda* warning excerpt, prong four.

Agencies C and E omit the necessary diacritic marks over the words *asignará* and *adjudicará* (*will assign* and *will award* or *will determine*), respectively, and thereby change the verb mood and tense from indicative to subjunctive and from future to past. Instead of the intended meaning *one will be assigned to you*, this clause may be taken to mean *one might be assigned to you*, and implies a significant degree of uncertainty or doubt that the event will take place. Additionally, *adjudicara* is almost exclusively used in the legal register in Spanish. For many Spanish speakers without a college education, *adjudicara* might be a completely unfamiliar word. The use of a rare translation of *assign*, which earns a score of 4.33 on the *Miranda* Vocabulary Scale, could cause a suspect to misunderstand their right to an attorney.

On the whole, the fourth *Miranda* warning is the most likely to be presented in complex grammar constructions. Although all law enforcement agencies in this study use at least one conditional statement in their translations of the fourth *Miranda* warning, Agency E has a particularly complex statement that contains four subordinate clauses within five levels of embedding:

This sentence requires the listener to parse the agent and the action of a main clause, which is buried in a haystack of subordination. Then the listener must interpret how

<i>Part 4 of Agency E's English-language Miranda Warning</i>				
1-Main	2	3	4	5
<p>If you do not have the means to pay a lawyer the court will appoint one for you without cost before starting the interrogation if you want.</p>				
<i>Part 4 of Agency E's Spanish-language Miranda Warning</i>				
1-Main	2	3	4	5
<p>Si usted no tiene medios para emplear un abogado el juzgado de la corte [sic] adjudicara [sic] uno para Usted antes de iniciar el interrogatorio si Usted quiere.</p>				
<i>A back-translation of Part 4 of Agency E's Spanish-language Miranda Warning</i>				
1-Main	2	3	4	5
<p>If you do not have means to hire a lawyer the tribunal of the Court [sic] will determine [sic] one for you before starting the interrogation if you want.</p>				

Table 4. Agency E *Miranda* excerpt, prong four.

each of the four surrounding clauses relate to the court will appoint one for you without cost. Rimmer (2009) offers subordination as one method to demonstrate sentence complexity; here, this measure illustrates the unusually great complexity of this warning.

Agency B's warning is very similar to Agency E's, but without any of the appropriate subject pronouns to render a comprehensible sentence. The subject of the sentence, *usted*, is omitted without the necessary anaphoric references to define it. The object noun *abogado* is only present in the first of the three clauses in the sentence. Though it is possible to connect the pronouns *le*, *le*, and *uno* to the referent *abogado*, it presents a significant challenge to the listener.

The clause *if you wish one* in Agency B's warning is especially ambiguous in the Spanish translation because it relies on embedded anaphoric references to define the subject noun and object noun, and because the verb *desea* could refer to the second person singular *usted*, or the third person singular *él* or *ella* (*he* or *she*). Though the listener may recognize all the words used in this sentence and therefore believe they comprehended it, it is highly unlikely that a listener could understand the meaning of this sentence (Shuy, 1997).

Lastly, for the clause *if you cannot afford*, most law enforcement agencies in this study use low-frequency or legalistic translations. Agency B's translation uses *costear* to mean *to pay*. *Costear* has multiple meanings in the Spanish language and is not equivalent to *afford* in the English version. Agency E uses the complex phrase *tiene medios*

English version	Spanish version	Back-translated into English
If you cannot afford a lawyer	Si no puede costear los gastos de un abogado,	If cannot finance the expenses of a lawyer,
one will be appointed to represent you before any questioning	Se le asignará uno para que le represente ante cualquier interrogatorio	[ambiguous pronoun] will assign one so that [ambiguous pronoun] represent before any interrogation
if you wish one.	si desea uno.	if want one.

Table 5. Agency B *Miranda* warning excerpt, prong four.

para emplear (have the means to employ) when *puede pagar* is considerably simpler and uses higher-frequency Spanish words. Agency C uses the formal *si no tiene usted recursos* (if you do not have the resources), when *dinero* would work as well. Additionally, Agency D uses *fondos* as the translation for *funds*. *Fondos* has a variety of distinct meanings in Spanish, and *money* is listed as the tenth out of twelve possible definitions in the COBUILD (2020) dictionary. Each of these translations is unsatisfactory for the high-import word afford, which earns a score of 4.67 on the *Miranda* Vocabulary Scale.

5. Continuous opportunity to exercise your rights.

Agency E is the only agency in this study that includes any language to suggest to the listener that their rights are ongoing. Many of the Spanish warnings in this study contain conditional clauses and subjunctive verbs that imply uncertainty that the rights mentioned therein are absolute, much less that a detainee can invoke them at any time. Meanwhile, most agencies use language that implies that an interrogation is imminent or inevitable, like *while we interrogate you* and *during the interrogation*. This creates the implicit message that an interrogation by police is compulsory, when in fact the accused person is not obligated to participate.

Though Agency E does partially explain that the accused person can ask for a lawyer at any time, a more accurate representation would inform the listener that they have the right to an attorney at any time. This warning also fails to mention that the right to silence is ongoing, as is required by *Miranda v. Arizona* (1966). Interestingly, in the English version from Agency E, there is no warning that advises the listener that any of their rights are ongoing.

Analysis

The results of this study indicate that no version of the Nevada Spanish *Miranda* warnings is entirely accurate and that the Spanish versions vary substantially in quality and completeness among agencies. Each problem described above can itself create confusion for the listener; when combined with other translation errors, these problems can compound to create significantly more confusing translations. The consistent problems with the *Miranda* warnings in this study fall into three categories: errors caused by unskilled translation, complex grammar constructions, or the false assumption that suspects have a baseline familiarity with their rights.

English version	Spanish version	Back-translated into English
	Si usted decide contestar las preguntas sin tener un abogado presente,	If you decide to answer the questions without having a lawyer present,
	usted puede,	you can,
	cuando quiera,	when you want,
	pedir un abogado durante el interrogatorio.	ask for a lawyer during the interrogation.

Table 6. Agency E *Miranda* warning excerpt, prong five.

Errors Caused by Unskilled Translation

All Spanish *Miranda* warnings in this study contain at least one translation that is not a direct equivalent to its English counterpart. For instance, law enforcement agencies in this study tend to use imprecise or incorrect verb translations especially in modal verb phrases. In the warning *anything you say can and will be used against you*, Agencies C and E translated *can and will* as *puede*. The modal *puede*, or *can* in English, suggests a low degree of probability that an event will occur, whereas *será*, or *will*, marks a significantly higher degree of probability. This creates an uneven standard for communicating the rights between the two languages, which was deemed unconstitutional in *Riviera-Reyes v. Commonwealth* (2006).

Other law enforcement agencies in this study do not include the requisite diacritic marks in certain verb translations. In the Spanish language, future tense verbs which lack the appropriate diacritic marks will appear to be the past subjunctive form; therefore, the omission of written accents can affect a reader's ability to identify the intended mood and tense. In the fourth part of the *Miranda* warning where the suspect is advised, *if you do not have means to hire a lawyer, the court will appoint one for you*, the verb phrase *will appoint* is incorrectly translated as *might appoint* by Agencies D and E. These same agencies require Spanish speakers to sign a form that contains the Spanish *Miranda* warnings prior to interrogation. On these forms, none of the future tense verbs have the appropriate accents. Since the past subjunctive mood and tense is consistent throughout the statement rather than the future indicative, the reader is likely to interpret that to be the correct conjugation and therefore interpret the fourth warning incorrectly.

Alongside the persistent verb translation issues, the data contains several examples of the omission of necessary subject pronouns, usually the second person singular *usted*, or *you*. In Spanish, anaphoric references sometimes allow the referent to be inferred by the listener. However, in many of the *Miranda* warnings in this study, not only is the subject pronoun absent from the clause but there is no compensating anaphoric reference to provide context. Under these conditions, it is difficult for the listener to unequivocally determine the subject pronouns.

This problem is especially common in the clauses which advise the listener of their right to an attorney during questioning, and their right to have an attorney provided by the court without cost. Without the second person singular pronoun *usted*, it is unclear whether the listener has this right or some other person. Additionally, Rock (2007) suggests that detainees are more likely to exercise their rights when the rights texts ex-

plicitly contain *you*. If the subject *usted*, or *you*, is consistently absent from the warnings, then suspects are significantly less likely to understand the relevance of these statements to their own situation.

As with anaphoric references to subject pronouns, cataphoric referents for direct and indirect object pronouns are at times left to be inferred by the listener in Spanish. For example, *le vendió el coche* may be a truncated form of *ella le vendió el coche a Juan*. Here, the subject pronoun *ella* and the object noun *a Juan* may or may not appear. However, the *Miranda* warnings do not provide the necessary lexical or syntactic context to easily make these inferences. For instance, Agency B's version contains the clause *mientras se le interroga*, which translates as *while* + [*se*: impersonal *se*] *interrogate* [*le*: indirect-object pronoun]. This clause does not provide sufficient context for the listener to reasonably infer *se* has a syntactic function as opposed to a pronominal one. Likewise, it is not sufficiently clear that *le* refers to *usted*, since the subject pronoun does not appear in this clause. In any case, the *Miranda* warnings should use language that explicitly defines the subject and object pronouns in order to eliminate any ambiguity.

More generally, the Spanish *Miranda* warnings in this study frequently contain low-frequency words where more commonplace equivalents are available. In some cases, these translations have been deemed unacceptable in federal court (see *State v. Ortez*, 2006; *United States v. Higareda-Santa Cruz*, 1993). *Afford*, a word of "high importance" on the *Miranda* Vocabulary Scale, is especially likely to be translated into complex verb phrases rather than more straightforward translations.

The formal language used in Spanish *Miranda* warnings is likely derived from the culture-specific legal register that exists in the English versions as well. As such, the average detainee is unlikely to have the vocabulary necessary to understand the *Miranda* warnings (Rock, 2007; Rogers *et al.*, 2009b). Rogers *et al.* (2009b) demonstrate that a failure to understand just one or two key words in the *Miranda* warnings can cause detainees to misunderstand their rights. To ensure comprehension, the warnings should incorporate higher-frequency words and plain language standards, which would increase the likelihood that listeners understand their rights Eades and Pavlenko (2016).

Complex Grammar Constructions

Every Spanish *Miranda* warning in this study contains several complex grammar constructions which could be revised into much simpler equivalents. At Agencies B, D, and E, all but one of the sentences in their respective warnings have two or more clauses and feature several levels of embedding. All three agencies have at least one conditional statement in their warning; Agencies B and E each have two conditional statements in one sentence. Agency E's fourth warning has four subordinate clauses spread across five levels of embedding.

In general, the third and fourth warnings are the most likely to have complex grammar, conditional statements, and multiple prepositional phrases, all of which should be avoided in rights texts (Eades and Pavlenko, 2016; Gibbons, 2001; Rock, 2007; Shuy, 1997). While it would be impractical to attempt to remove every dependent clause in every agency's *Miranda* warnings, there is potential for the warnings to be broken into simpler clauses or more sentences.

Rimmer (2009) indicates that with each additional level of embedding, a sentence becomes more difficult to understand, and places a greater cognitive load on the listener.

Complex constructions such as those seen in the third and fourth warnings demand that suspects have the memory and literacy skills necessary to recall antecedent glosses and connect them to later clauses. As Rock (2007) demonstrates, detainees are frequently unable to connect glosses to clauses that appear later in the warning, and as a result do not understand their rights. Thus, it is essential that the *Miranda* warnings are easily understood and accessible to people of various literacy levels. The warnings in this study overall do not meet such a requirement.

Assumption of Familiarity with the Miranda Rights

Moreover, the most significant issue with the *Miranda* warnings in this study is the assumption by law enforcement agencies that detainees will have a baseline familiarity with their Constitutional rights and will be able to fill in linguistic gaps through assumptions and inferences. Of all the shortcomings in the *Miranda* warnings investigated in this study, the lack of a statement that the *Miranda* rights are continuing has the most impact on listener comprehension and is the most frequent problem across agencies. Four out of five agencies in this study do not advise suspects that their rights are continuing through the entire interrogation, and nothing in the language of the warnings would imply that legal fact to the listener. Rogers *et al.* (2007) demonstrated that in the Western United States, inclusion of a statement of continuation of rights is rare, but the authors do not provide an explanation for this. In any case, the lack of a statement of continuation of rights significantly compromises detainees' understanding of their rights and is in direct violation of the decision in *Miranda v. Arizona* (1966).

Furthermore, many agencies summarized essential parts of the *Miranda* rights with excessively simple phrases in Spanish, such as Agency C's Spanish warning which merely states *usted tiene el derecho de tener un abogado [sic] presente* (*you have the right to have an attorney present*), while the English version contains the much more complete *you have the right to speak with an attorney before answering any questions, and to have an attorney present with you while you answer any questions*. While a native to the United States might understand the importance of the presence of an attorney, the Spanish version of this warning does not explain it in explicit terms. Some agencies in this study use the English word *appointed* to imply that a lawyer will be provided free of charge, but the chosen Spanish equivalents like *nombrar* or *adjudicar* do not have the same implication.

Moreover, none of the *Miranda* warnings in this study explain exactly how the detainee can invoke their rights, even though it is evident that police officers expect detainees to use specific language to invoke them (Ainsworth, 2008, 2010; Mason, 2013; Pavlenko, 2008; Shuy, 1997). While a citizen of a Common Law country might be able to understand their rights and invoke them without issue, it is mistakenly taken for granted that all Spanish speakers in the United States would be able to do the same. In fact, research by Rock (2007) and Pavlenko (2008) indicates that most citizens of Common Law countries are familiar with their constitutional protections because of television reenactments of the legal process. Recent immigrants to the United States will lack this cultural exposure to the United States criminal justice system, and therefore may not realize the paramount importance of their constitutional right to counsel and protection against self-incrimination. The *Miranda* warnings in this study do not have sufficient contextual or conversational markers to indicate their importance to a listener.

Discussion

In Nevada, where 21% of the population speaks Spanish and 40.9% of Spanish speakers report they speak English less than "very well" (American Community Survey, 2016), law enforcement agencies have a responsibility to explain the *Miranda* warnings completely and accurately in Spanish. To meet this need, the translations in this study require revision before they can wholly reflect the meaning of the decision in *Miranda v. Arizona* (1966).

The results of this study indicate a need for improvement to the Spanish *Miranda* warnings in Nevada and suggest key areas that require specific revisions in order to conform to case law and best practices based on linguistic research. When writing the *Miranda* warnings, law enforcement agencies should take into consideration the sociopolitical background and native dialect of the demographic population of Spanish speakers under the agency's jurisdiction. It is likely necessary that law enforcement agencies increase the length of their warning in order to provide better context for the detainee's legal rights, and to decrease the level of complexity of the warnings. In order to best capture the meaning of the *Miranda* rights, any revisions should be made by a cooperative of linguists, legal experts, law enforcement officers and native Spanish speakers, as is recommended by Eades and Pavlenko (2016) and Rock (2007).

One limitation of this study is that not all *Miranda* warnings were provided directly from *Miranda* cards; since some were obtained via email, they may not accurately reflect the actual practices of law enforcement officers when they read the *Miranda* warnings to suspects. Likewise, this study does not reflect how the *Miranda* warnings are actually communicated to suspects, because audio or video footage was not examined; the written translations of the *Miranda* warnings serve only as a guideline for law enforcement officers and may or may not be used in actual practice.

In future studies, audio and video footage could also be used to evaluate the role of pragmatics (e.g., interrogation strategies used by police), proxemics, and articulation in listener comprehension when a suspect is read their rights. In addition, the efficacy of standard translations of the *Miranda* warnings as compared to the efficacy of sight interpretations could be tested. Lastly, further research could investigate to what extent officer's competence in the Spanish language, their beliefs, and biases affect the quality of the *Miranda* warnings read to Spanish-speaking suspects.

It is important to note that the present study represents a fraction of law enforcement agencies in Nevada. Future research with a larger sample size would provide a better picture of the overall quality of the Spanish *Miranda* warnings. The current study serves as a pilot for future studies as it provides an in-depth textual analysis of the shortcomings of the translated *Miranda* warnings. In doing so, this study expands upon research on linguistic issues related to the *Miranda* rights and indicates systemic problems with translation of the *Miranda* warnings into Spanish.

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Appendix A

Agency A

ADVISEMENT FOR CUSTODIAL INTERROGATION (Adults)	
<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>	
INFORMACIÓN SOBRE EL PROCEDIMIENTO DE INTERROGACIÓN BAJO CUSTODIA	
Adultos	Juveniles
<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>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 B

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 C

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?

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 D

<u>MIRANDA WARNING</u> (Your Rights)	
<p>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? _____.</p>	
<p>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?</p>	<p>MIRANDA WARNING</p> <ul style="list-style-type: none">• 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?
<u>LA ADVERTENCIA MIRANDA</u> (Sus Derechos)	
<p>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?</p>	

Agency E

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 explique? _____
- ¿Quiere Usted contestar mis preguntas sin tener un abogado presente? _____