

1979 WL 43116 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 16, 1979

*1 Mr. Tom D. Murtiashaw, Jr.
Magisterial Court Administrator
Richland County
1328 Huger Street
Columbia, South Carolina 29201

Dear Mr. Murtiashaw:

In a letter to this Office you asked:

1. When an officer is conducting an investigation at the scene of an accident and he begins questioning those involved as to what took place, does the officer in fact have to give those persons the 'Miranda Warning' before he begins the questioning?
2. When an officer appears in court to prosecute a defendant as a result of an arrest or charge made from an accident can the physical evidence and statements an officer is presenting to the court be admitted if there is no eyewitness to the accident present in court to corroborate in the State's behalf?

As to your first question in the case of [State v. Tabory, 260 S.C. 355, 196 S.E.2d 111 \(1973\)](#) the Supreme Court stated: '(t)he courts use custodial interrogation as the point at which the warning should be given. And it is generally held that the kind of interrogation that takes place during an on-the-street encounter does not require compliance with the Miranda standards.' [260 S.C. at 366.](#)

Therefore, as to the situation outlined in your letter, as long as none of those individuals questioned at the scene of an accident may be considered to be in custody, Miranda warnings would not be necessary.

Your second question is quite broad and therefore it is difficult to be specific as to all circumstances that might occur. As to the necessity of the testimony of a corroborating witness prior to the introduction of certain physical evidence, such evidence could typically be introduced without any corroborating testimony. Of course, as to any physical evidence, the officer must be able to properly identify the evidence and further establish the proper foundation for its introduction.

As to the testimony of an officer as to statements made to the officer at the scene of an accident by a witness or other individual, generally the statements made by a defendant in the presence of the officer are admissible. Statements attributable to individuals other than the defendant generally would fall within the broad definition of hearsay and therefore any testimony by an officer as to such statements would be inadmissible regardless of whether or not a corroborating witness could support such testimony. However there are exceptions to the general rules of evidence and therefore it is difficult to make a general comment relevant to all situations.

Hopefully the above is in full response to your inquiry.

Sincerely,

Charles H. Richardson

Assistant Attorney General

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