

A woman is on trial for the attempted murder of a man whom she shot with a handgun on March 1. According to a State A police report:

The woman started dating the man in August. A few months later, after the woman broke up with him, the man began calling the woman's cell phone and hanging up without saying anything. In February, the man called and said, "I promise you'll be happy if you take me back, but very unhappy if you do not." The following week, to protect herself against the man, the woman lawfully bought a handgun.

On March 1, the woman was working late in her office. At 10:00 p.m., the man entered the woman's office without knocking. The woman immediately grabbed the gun and shot the man once, hitting him in the shoulder.

The police arrived at the scene at 10:10 p.m. By this time, a number of people had gathered outside the doorway of the woman's office. A police officer entered the office, and his partner blocked the doorway so that the woman could not leave and no one could enter. The officer immediately seized the gun from the woman and asked her, without providing Miranda warnings, "Do you have any other weapons?" She responded, "I have a can of pepper spray in my purse. Is that a weapon?"

At 10:20 p.m., after the woman had been arrested and the man taken to the hospital, a custodian told the police officer, "I didn't see the shooting, but I heard some noises in the hall around 10 and then a loud bang and screaming."

A few hours later, at the hospital, the man told the police officer that he had entered the woman's office just to speak with her and that the woman had shot him without provocation.

The woman will defend against the attempted murder charge on the ground that she acted in self-defense. In State A, self-defense is defined as "the use of force upon or toward another person when the defendant reasonably believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion."

State A has adopted evidence rules identical to the Federal Rules of Evidence. State A follows the doctrine of the Supreme Court of the United States when interpreting protections provided to criminal defendants under the U.S. Constitution.

The prosecution and the defense have fully complied with all pretrial notice requirements, the authenticity of all the evidence has been established, and the court has rejected defense objections based on the Confrontation Clause.

The woman, the man, and the police officer will testify at trial. The custodian is unavailable to testify at trial.

Under the Miranda doctrine and the rules of evidence, explain how the court should rule on the admissibility of the following evidence:

1. Testimony from the woman, offered by the defense, repeating the man's statement, "I promise you'll be happy if you take me back, but very unhappy if you do not."
2. Testimony from the police officer, offered by the prosecution, repeating the woman's statement, "I have a can of pepper spray in my purse. Is that a weapon?"
3. Testimony from the police officer, offered by the prosecution, repeating the custodian's statement, "I didn't see the shooting, but I heard some noises in the hall around 10 and then a loud bang and screaming."

Question Presented

The woman claims self-defense; the man had earlier told her, happy if you take me back, but very unhappy if you do not.

← offered for effect on the listener, not its truth → nonhearsay

After the shooting, police entered and blocked the doorway so she could not leave.

← not free to leave = custody for Miranda

The officer seized the gun and, without Miranda warnings, asked 'any other weapons?' amid a crowd.

← a focused safety question → public-safety exception

She answered, I have pepper spray in my purse. Is that a weapon?

← her own words offered against her = opposing-party statement

About 20 minutes after the shooting, a custodian said he heard a loud bang and screaming.

← present sense impression / excited utterance

The custodian is unavailable, and Confrontation Clause objections were rejected.

← these exceptions do not require availability

Rule on the admissibility of items 1, 2, and 3.

← → relevance, hearsay, Miranda

Item 1: The Man's Threat (Effect on the Listener)

Issue. Whether the woman's testimony repeating the man's threat is inadmissible hearsay.

Hearsay?

Rule. HEARSAY is an out-of-court statement offered for the truth of the matter asserted; it is inadmissible unless an exception applies. A statement offered for a non-truth purpose, such as its effect on the listener or the listener's state of mind, is not hearsay.

Not offered for its truth = not hearsay.

Analysis. Here, self-defense turns on the woman's reasonable belief of imminent harm, so the threat is offered not to prove its content but to show the information she had, bearing on the reasonableness of her fear.

Shows what she reasonably feared, not that the threat was true.

Conclusion. Therefore, the statement is not hearsay and is admissible.

Item 1: admissible.

Item 2: The Woman's Statement (Miranda + Opposing Party)

Issue. Whether the woman's un-warned statement is barred by Miranda or by hearsay.

Rule. MIRANDA bars statements from custodial interrogation without warnings; custody exists when a reasonable person would not feel free to leave. A public-safety exception allows focused, limited questions prompted by an immediate safety concern. Separately, a statement offered against the party who made it is not hearsay.

Analysis. Here, the blocked doorway made this custody, and asking about weapons was interrogation, but the 'any other weapons?' question amid a crowd was a focused safety inquiry, so the public-safety exception applies. On hearsay, her own statement offered by the prosecution against her is an opposing-party statement.

Conclusion. Therefore, the statement survives Miranda and is not hearsay, so it is admissible.

Miranda bar? Hearsay bar?

Public-safety exception excuses the missing warning; a party's own statement is nonhearsay.

Custody yes, but the safety question is OK; her words used against her = an admission.

Item 2: admissible.

Item 3: The Custodian's Statement (PSI / Excited Utterance)

Issue. Whether the custodian's statement is admissible under a hearsay exception.

Rule. A present sense impression describes an event made while or immediately after perceiving it. An excited utterance relates to a startling event, made while under the stress it caused. Both apply whether or not the declarant is available.

Analysis. Here, the statement is offered for its truth, so it is hearsay, but the shooting was startling and the report came about 20 minutes later. Whether 20 minutes is immediately after for a present sense impression is debatable; if the custodian was still under the stress, it qualifies as an excited utterance. That he is unavailable does not matter.

Conclusion. Therefore, the court may admit the statement as a present sense impression or excited utterance; the reasoning matters more than the outcome.

Fits an exception?

PSI = contemporaneous; excited utterance = still under the stress. Availability irrelevant.

The 20-minute gap is a stretch for PSI; excited utterance if he was still stressed.

Item 3: likely admissible (reasoning over result).

Step-by-Step: Miranda + Hearsay Screen

For each item, ask why it is offered: non-truth purposes and party statements dodge hearsay, and the public-safety exception can save an un-warned answer.

1. The man's threat: offered for its truth?

→ No, offered for its effect on the listener (reasonable fear) → not hearsay. **self-defense belief**



2. The woman's statement: Miranda, then hearsay?

→ Custody (door blocked), but a focused safety question → public-safety exception. **'any other weapons?'**

→ Her own words offered against her = opposing-party statement, not hearsay. **party admission**



3. The custodian's statement: a hearsay exception?

→ PSI (if immediately after) or excited utterance (if still stressed); availability irrelevant → **likely ADMISSIBLE. bang + screaming**