

## Miranda Warning Questionnaire - Answers

**1. When is Miranda Rights triggered?**

Miranda Rights are triggered by “*custody*” and “*interrogation*”. Meaning the suspect is “in custody” and is subjected to “interrogation”.

**2. What does “custody” mean?**

The suspect has been placed under arrest, or the suspect’s freedom of action or movement has been curtailed to a degree associated with formal arrest.

**3. What does “in custody” mean?**

Suspect is “in custody” when arrested, taken into full custody, or otherwise deprived of his or her freedom of action in a “significant way”.

**4. What factors should be considered in deciding whether someone is “in custody”?**

The place of the interrogation  
Whether the interrogation is conducted during normal business hours or is conducted at an odd hour of the night  
The presence of friends, relatives or neutral persons at the interview  
The presence or absence of fingerprinting, photographing, and other booking procedures  
Telling a suspect that he/she is under arrest  
The length and mode of the interrogation  
The existence or probable cause to make the arrest.

**5. What does interrogation mean?**

Interrogation refers to any words or actions that the officer could infer to elicit an incriminating response.

**6. What happens if a suspect waives his or her rights?**

Go ahead and proceed with your questioning.

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**7. What if the detainee changes his/her mind 15-20 minutes later and requests counsel?**

A suspect may change his or her mind at any time. Once a suspect requests counsel, you must cease questioning and provide access to counsel. However, book questions can still be asked since they do not incriminate the suspect.

**8. Are there any exceptions to this rule?**

Yes, there are two exceptions to this rule: when the suspect himself reinitiates conversation or when the suspect is released from custody

**9. What if the suspect expresses a desire to remain silent?**

You must honor the request and cease questioning.

**10. So, what is Court Rule Right to Counsel (3.1)?**

An arrested person must be notified as soon as practicable after arrest of his/her court rule right to an attorney. Court rule right is not the same as an arrested person's Miranda rights.

**11. How is it different from Miranda?**

Arrest triggers 3.1 and Custody and Interrogation trigger Miranda.

**12. What considerations do you need to allow?**

The police maintain the responsibility of providing the resources necessary for contact such as:

- Access to a telephone and telephone number of a public defender.
- Must provide arrested with any other means to place him/her in communication with a lawyer.
- Must be given reasonable privacy during the phone call.
- Access must be timely upon request.

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**13. How does the state determine whether a confession is voluntary?**

The test in determining whether a confession is voluntary is whether the behavior of the state's law enforcement officials was such as to overbear the defendant's will to resist and bring about confessions not freely self-determined.

**14. What factors or issues could impact whether or not?**

Physical abuse

Isolation

Withholding of sleep, food, beverages, medical care and/or bathroom privileges

Intoxicated or medicated individuals

Promises or threats

Mental illness or low intelligence

Language barriers

Prior experience with the criminal justice system

Deception