



# Coffee Break Training - Fire Investigation Series

## Fire/Arson and Explosion Investigation Curriculum: The Bottom Line on Miranda Warnings

No. FI-2013-17 November 18, 2013

**Learning Objective:** The student shall be able to identify the situations that require investigators to advise individuals of their Miranda Warnings.

Everyone is probably familiar with the language contained in the Miranda Warnings from watching television crime shows and movies. However, many individuals may not be aware that the Miranda Warnings are required only in situations involving custodial interrogation (questioning). Custodial interrogation is generally defined as questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his or her freedom of action in any significant way. No warnings are necessary unless the suspect is in custody, nor are any warnings needed until a law enforcement officer (i.e., police or fire investigator) initiates questioning.

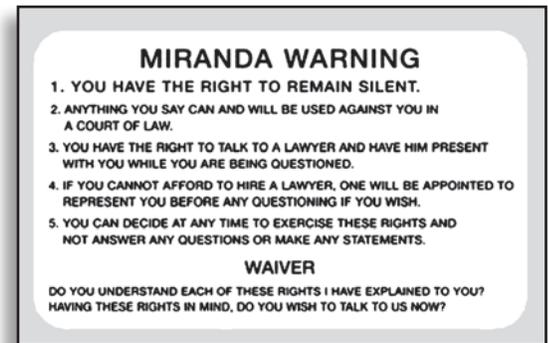
There is no bright line rule for determining whether an individual is “in custody”; that fact must be determined from a totality of the circumstances. When deciding whether a suspect is in custody, it does not matter whether a suspect feels threatened or intimidated by an investigator’s authority, or whether the investigator has a secret intention to arrest the suspect if he or she confesses. Custody is determined from a “reasonable persons” perspective and not from a suspect’s or investigator’s perspective. One Ohio court has held that although a determination of whether a suspect is in custody for the purposes of receiving Miranda protection depends on the circumstances of each case, the ultimate inquiry is simply whether there is a formal arrest or restraint on movement of the degree associated with a formal arrest.

The U.S. Supreme Court has stated that the proper focus is on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the person being questioned. The question to be decided is: Would a reasonable person believe that he or she was free to leave? Of course, if an investigator intends to question a suspect without reciting Miranda Warnings, it is a good idea to remind the suspect that he or she may leave at any time. If the investigator has transported the suspect to a place that is distant from where they initially met, the investigator should also offer to take the suspect back to that location. However, unless investigators give a suspect a reason to believe that he or she is not free to leave, no Miranda Warnings are necessary. Even if a suspect is in custody, Miranda Warnings are not always necessary for investigators to obtain confessions. The Fifth Amendment does not bar volunteered statements. If suspects wish to “confess their sins” without being questioned or provoked, nothing prevents investigators from passively listening to what they have to say.

The courts have held that when a suspect has initiated the discussion with police and volunteered the information on his or her own, and when the investigator asked no questions, the suspect was not subject to custodial interrogation and was not entitled to Miranda Warnings.

This does not mean that an investigator can “bait” a suspect into making a statement without actually asking any questions. Interrogation includes not only questioning by investigators but also the functional equivalent of questioning. An investigator’s words, comments or actions that he or she knows are reasonably likely to elicit an incriminating response from the suspect will be considered the same as questioning.

Investigators should consult with prosecutors in any situation where they may have questions concerning the advisement of the Miranda Warnings to subjects in custody.



The Miranda Warnings are required only in those situations that involve both custody and interrogation.