

Miranda Procedure Checklist

Requirements for a valid waiver of *Miranda* rights were described in *Colorado v. Spring*, 479 U.S. 564, 573 (1987):

First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness both of the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the “totality of the circumstances surrounding the interrogation” reveals both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the *Miranda* rights have been waived.

Police can advise a suspect of his or her rights fairly, with no intimidation, coercion, or deception. As they do so, police can create a clear record of what the police said and did, and of what the suspect understood at the time of the warning and waiver. This checklist facilitates analysis of police actions and the suspect’s responses.

1. Police can record the entire interaction, beginning as close as possible to the initial contact between police and suspect.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

2. Police can use a neutral camera angle, with equal focus on the interviewer and the suspect.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

3. Police can clearly inform the suspect, both orally and in writing, of the nature of the interaction and his or her true position. For example, “The police want to talk to you about [*describe allegation*].” And, if true, “The police suspect that you might have committed a crime.”

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

4. Police can scrupulously avoid, verbally and nonverbally, making any statement, comment, or gesture to minimize the importance of the *Miranda* rights.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

5. Police can clearly present *Miranda* warnings to the suspect in both written and oral form, allowing and encouraging the suspect to read along as the rights are read to him.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

6. Police can use a version of *Miranda* warnings that includes a clear statement that, if a suspect invokes any of his rights, that fact cannot be used against him or her in court.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

7. Police can use a written version of *Miranda* rights that is literally accurate and is consistent with current law, including case law.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

8. Throughout the interrogation, police can scrupulously avoid making any statement that contradicts, or tends to contradict, any of the *Miranda* rights. For example, police can refrain from telling a suspect that talking to the police provides him an opportunity to tell his side of the story, that talking to police would be used to help him, or that remaining silent could in any way be harmful to him.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

9. Police can refrain from communicating to a suspect that talking to the police might result in not being arrested.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

10. Police can use an unbiased written *Miranda* rights form that includes a clear option to invoke each right, presented with no less prominence than the option to waive the right. For example, "I want to remain silent, and I understand that my silence cannot be used against me in any way."

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

11. Police can use a written *Miranda* rights form that includes a simple, clear presentation of how the suspect can get questioning to stop. For example, "I understand that I can change my mind and stop questioning at any time by telling you, 'I want to stop answering questions.'"

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

12. Police can use a written *Miranda* rights form that is easy to read, and is understandable to all or most suspects.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

13. Police can read the *Miranda* rights form aloud, pausing after each right to allow an interaction between the interviewer and the suspect.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

14. When police read the *Miranda* rights form aloud, they can do so slowly and carefully.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

15. After each right is read aloud, police can ask the suspect to paraphrase the right. For example, “You have the right to remain silent. Tell me in your own words what that means.”

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					

16. If the suspect says, “I don’t know,” or gives inaccurate or incomplete paraphrases, police can provide additional, accurate information and clarify any misconceptions or misunderstandings. Then, police can give the suspect another opportunity to show his or her understanding of the right by providing another paraphrase in his or her own words.

	Strongly Disagree	Disagree	Neutral or N/A	Agree	Strongly Agree
Police did this in this case.					
Comments:					