

## FIFTH AMENDMENT: MIRANDA V. ARIZONA AND CRIMINAL DEFENSE

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This activity is based on the historical landmark Supreme Court case *Miranda v. Arizona*. In this activity participants will review a summary of the case and look at other significant cases dealing with the *Miranda* rights.

### About These Resources

- Analyze the [facts and case summary](#) for *Miranda v. Arizona*
- Use critical thinking skills and share reflections on the [discussion questions](#).
- Learn about related [related Circuit Court cases](#).
- Compare the cases using a [worksheet](#) and answer key.

### How to Use These Resources

These resources are for the classroom, the courtroom, and for independent study. After reading about *Miranda*, review the related Circuit Court decisions and complete the worksheet to identify common factors in the cases.

1. Participants prepare presentations of the facts and case summary.
2. Use critical thinking skills and share reflections on the discussion questions.
3. Compare Circuit Court cases using the worksheet and answer key.

## FACTS AND CASE SUMMARY

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### Facts:

The Supreme Court's decision in *Miranda v. Arizona* addressed four different cases involving custodial interrogations. In each of these cases, the defendant was questioned by police officers, detectives, or a prosecuting attorney in a room in which he was cut off from the outside world. In none of these cases was the defendant given a full and effective warning of his rights at the outset of the interrogation process. In all the cases, the questioning elicited oral admissions and, in three of them, signed statements that were admitted at trial.

- *Miranda v. Arizona*: Miranda was arrested at his home and taken in custody to a police station where he was identified by the complaining witness. He was then interrogated by two police officers for two hours, which resulted in a signed, written confession. At trial, the oral and written confessions were presented to the jury. Miranda was found guilty of kidnapping and rape and was sentenced to 20-30 years imprisonment on each count. On appeal, the Supreme Court of Arizona held that Miranda's constitutional rights were not violated in obtaining the confession.
- *Vignera v. New York*: Vignera was picked up by New York police in connection with the robbery of a dress shop that had occurred three days prior. He was first taken to the 17th Detective Squad headquarters. He was then taken to the 66th Detective Squad, where he orally admitted the robbery and was placed under formal arrest. He was then taken to the 70th Precinct for detention, where he was questioned by an assistant district attorney in the presence of a hearing reporter who transcribed the questions and answers. At trial, the oral confession and the transcript were presented to the jury. Vignera was found guilty of first degree robbery and sentenced to 30-60 years imprisonment. The conviction was affirmed without opinion by the Appellate Division and the Court of Appeals.
- *Westover v. United States*: Westover was arrested by local police in Kansas City as a suspect in two Kansas City robberies and taken to a local police station. A report was also received from the FBI that Westover was wanted on a felony charge in California. Westover was interrogated the night of the arrest and the next morning by local police. Then, FBI agents continued the interrogation at the station. After two-and-a-half hours of interrogation by the FBI, Westover signed separate confessions, which had been prepared by one of the agents during the interrogation, to each of the two robberies in California. These statements were introduced at trial. Westover was convicted of the California robberies and sentenced to 15 years' imprisonment on each count. The conviction was affirmed by the Court of Appeals for the Ninth Circuit.
- *California v. Stewart*: In the course of investigating a series of purse-snatch robberies in which one of the victims died of injuries inflicted by her assailant, Stewart was identified as the endorser of checks stolen in one of the robberies. Stewart was arrested at his home. Police also arrested Stewart's wife and three other people who were visiting him. Stewart was placed in a cell, and, over the next five days, was interrogated on nine different occasions. During the ninth interrogation session, Stewart stated that he had robbed the deceased, but had not meant to hurt her. At that time, police released the four other people arrested with Stewart because there was no evidence to connect any of them with the crime. At trial, Stewart's statements were introduced. Stewart was convicted of robbery and first-degree murder and sentenced to death. The Supreme Court of California reversed, holding that Stewart should have been advised of his right to remain silent and his right to counsel.

### Issues:

Whether "statements obtained from an individual who is subjected to custodial police interrogation" are admissible against him in a criminal trial and whether "procedures which assure that the individual is accorded his privilege under the Fifth Amendment to the Constitution not to be compelled to incriminate himself" are necessary.

### Supreme Court holding:

The Court held that "there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves." As such, "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By

custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.”

The Court further held that “without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual’s will to resist and to compel him to speak where he would otherwise do so freely.” Therefore, a defendant “must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.”

The Supreme Court reversed the judgment of the Supreme Court of Arizona in *Miranda*, reversed the judgment of the New York Court of Appeals in *Vignera*, reversed the judgment of the Court of Appeals for the Ninth Circuit in *Westover*, and affirmed the judgment of the Supreme Court of California in *Stewart*.

**Argued:** Feb. 28, March 1 and 2, 1966

**Decided:** June 13, 1966

**Vote:** 5-4

**Majority opinion** written by Chief Justice Warren and joined by Justices Black, Douglas, Brennan, and Fortas.

**Dissenting opinion** written by Justice Harlan and joined by Justices Stewart and White.

**Dissenting in part opinion** written by Justice Clark.

**Follow-Up:**

*Miranda v. Arizona*: After Miranda’s conviction was overturned by the Supreme Court, the State of Arizona retried him. At the second trial, Miranda’s confession was not introduced into evidence. Miranda was once again convicted and sentenced to 20-30 years in prison.

## DISCUSSION QUESTIONS

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### *Miranda v. Arizona* Discussion Questions

1. What aspect of the Fifth Amendment does the *Miranda* decision address?
2. In what circumstances does the *Miranda* decision apply?
3. What does the *Miranda* decision require law enforcement officers to do in those circumstances?
4. Why does it matter whether people suspected of a crime who are in the custody of law enforcement are advised of their rights?
5. How do the warnings set forth by the Supreme Court relate to the Fifth Amendment?
6. What happens if *Miranda* warnings are not given to a suspect who is later put on trial for criminal charges? Why?

## RELATED CIRCUIT COURT CASES

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*Note to Teachers:* The following four cases\*, decided by different Courts of Appeals between 2001 and 2010, are presented for homework reading and classroom analysis. Use the accompanying charts and answer key to identify the factors that determine whether someone is in custody and, therefore, should receive a *Miranda* warning.

[United States v. Kim - 292 F.3d 969 \(9th Cir. 2002\)](#)

*\*click each case to expand and view the case contents.*  
[expand all](#)

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**Case #2**  
**U.S. Court of Appeals**  
***United States v. Luna-Encinas***  
**603 F.3d 876 (11th Cir. 2010)**

### Facts

At the time of his arrest on September 20, 2007, 28-year-old Cesar Osvaldo Luna-Encinas lived in Pensacola, Florida, with his girlfriend, in a second-floor room of Wanda Caceres' townhouse at 3407A Hernandez Street ("Townhouse A"). In that room, Luna-Encinas stored a Sig Sauer .357 caliber pistol under the mattress. He kept an empty pistol box, also bearing the Sig Sauer label, in the bedroom closet.

Earlier that day, at a local Federal Express office, City of Pensacola police officers had intercepted a package addressed to 3407B Hernandez Street ("Townhouse B") containing 30 pounds of marijuana. They obtained a warrant to search Townhouse B from a state-court judge and planned to make a controlled delivery there. Florida Department of Law Enforcement agent Chris Webster, posing as a Federal Express employee, arrived at Townhouse B to deliver the package, while the other officers remained nearby to monitor the operation. As agent Webster neared the front of Townhouse B, several men were standing in the yard in front of Townhouse A. One of them, later identified as Alejandro Pulido-Govea, left the group and approached Webster. Pulido signed for and accepted the package, and then entered Townhouse B. Webster left the immediate vicinity, at which point officers entered Townhouse B pursuant to the search warrant. They located the unopened package in a closet but, unable to find Pulido, left the building to ask the neighbors about his whereabouts. A neighbor told the officers that she had seen someone leave the adjacent Townhouse B and enter Townhouse A.

Entering the backyard of Townhouse A with their service weapons drawn but pointed downward, two officers, one in uniform and one in plain clothes wearing a vest with police insignia, found Luna-Encinas and another man, Jose, doing yard work. The only Spanish-speaking officer on the scene, Drug Enforcement agent Keith Humphreys, explained to the two men in Spanish and in a "serious" tone that the officers were looking for a specific person. Humphreys inquired if there were any other males in Townhouse A and if anyone had run through the yard or into the residence. Both men answered "no" to the questions. To make sure they were not armed, Humphreys then asked them to raise their shirts to reveal their waistbands, and they complied. Neither had a weapon. Humphreys directed Luna-Encinas and Jose to sit down until the residence had been secured, telling them that the investigation would not take long. Again, they complied, and for ten minutes, the two officers, Luna-Encinas, and Jose remained in the backyard making small talk as the investigation proceeded.

In the meantime, officers had approached the front of Townhouse A. Caceres answered the door. An officer explained that a narcotics investigation was under way. Caceres permitted officers to enter the dwelling. Caceres told the officers that several people were upstairs and upon request, asked them to come down. One of the men descending the stairs was identified as Pulido; he was arrested and placed in a squad car. Caceres consented to a search of her home, where officers found the handgun box in the bedroom closet.

Several minutes later, while Caceres was signing a consent form, Humphreys and the other officer brought Luna-Encinas and Jose to the front yard of Townhouse A. At no point had the two men been handcuffed, and the officers, with their weapons holstered, walked behind them as they all traveled the 30 feet separating the backyard from the front of the house. The officers did not physically touch or otherwise restrain the defendant Luna-Encinas or Jose. When the four men arrived in the front yard, one of the officers told Luna-Encinas and Jose to sit on the ground. Luna-Encinas attempted to speak to Jose, but was told not to. An officer asked Luna-Encinas where

handgun was located, and via Caceras' translation, Luna-Encinas informed the officer the gun was under the mattress. Officers retrieved the gun and then advised Luna-Encinas of his *Miranda* rights in Spanish.

### **Procedural History**

Luna-Encinas filed a pre-trial motion to suppress the statements he made regarding the location of the gun, arguing that they were taken in violation of his Fifth Amendment rights. The district court denied the motion, concluding that he was seized, but was not in custody at the time of the interrogation and so did not need to be advised of his *Miranda* rights.

### **Issue**

Whether Luna-Encinas was in custody at the time he made incriminating statements such that those statements should be suppressed if not preceded by advisement of his *Miranda* rights.

### **Rule**

In assessing whether a reasonable innocent person in Luna-Encinas' position "would have understood his freedom of action to have been curtailed to a degree associated with formal arrest," the Eleventh Circuit considered the totality of the circumstances, "including whether the officers brandished weapons, touched the suspect, or used language or a tone that indicated that compliance with the officers could be compelled, as well as the location and length of the detention."

### **Eleventh Circuit Holding**

No. The Eleventh Circuit concluded that "Luna-Encinas was detained for a relatively brief period in a neutral, outdoor location, while other officers searched for a drug suspect who, as they had told Luna-Encinas, was not him. Even accepting that Luna-Encinas had been "seized" as he sat on the ground in the front yard of his home, the Eleventh Circuit was "convinced that a reasonable person in his position would not have understood his freedom of action to have been curtailed to a degree associated with formal arrest. Luna-Encinas' very brief detention did not involve the type of 'highly intrusive' coercive atmosphere that may require *Miranda* warnings before a formal arrest is made. The totality of the circumstances were such that a reasonable person in Luna-Encinas' position would not have believed that he was utterly at the mercy of the police, away from the protective public scrutiny, and had better confess or else."

Therefore, because Luna-Encinas was not in "custody" when he made the statements leading to the discovery of the firearm, the officers were under no obligation to advise him of his *Miranda* rights, and no Fifth Amendment violation occurred. Thus, the district court properly denied Luna-Encinas' motion to suppress his pre-arrest statements.

The Eleventh Circuit affirmed the judgment of the district court.

**Decided:** April 13, 2010

**Majority opinion** written by Judge Marcus and joined by Judges Black and Higginbotham.

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### [\*\*United States v. Romaszko - 253 F.3d 757 \(2d Cir. 2001\)\*\*](#)

#### **Case #3**

#### **U.S. Court of Appeals**

***United States v. Romaszko*  
253 F.3d 757 (2d Cir. 2001)**

#### **Facts**

Maryann Romaszko was employed as a window clerk at the Niagara Square Post Office. After a loss was discovered at the post office, Romaszko became a target of the investigation. On June 16, 1999, Postal Inspectors Kurt Hammer and Molly Hackimer interviewed Romaszko in the office of the station manager.

The meeting was planned for a time when Romaszko was at work and she was directed by her boss to attend the interview. Romaszko was confronted by two postal inspectors with badges, handcuffs, and weapons, who immediately accused her of stealing money. Romaszko was never told that she was free to

leave this meeting. Indeed, on at least five occasions, Romaszko asked to leave or attempted to stand up and was told that she could not. At one point during the meeting, the lead investigator told Romaszko, "No, you're not going anywhere." Romaszko was not advised of her *Miranda* rights. During the course of the interview, Romaszko was asked if she had taken money from the Post Office, and she stated that she had not. On the basis of this statement, Romaszko was charged with a felony for making a false statement to postal inspectors during the course of their investigation.

### **Procedural History**

Romaszko moved to suppress the statements obtained in the June 16, 1999, interview with the United States Postal Inspectors. The district court granted the motion, concluding that Romaszko was in custody at the time she made the statements.

### **Issue**

Whether Romaszko was in custody at the time she made incriminating statements such that those statements should be suppressed if not preceded by advisement of her *Miranda* rights.

### **Rule**

The Second Circuit stated that "[a] court evaluating whether a person is in custody for *Miranda* purposes must consider the circumstances surrounding the interrogation; and ... given those circumstances, would a reasonable person have felt he or she was not at liberty to terminate the interrogation and leave."

### **Second Circuit Holding**

Yes. The Second Circuit concluded that a reasonable person in Romaszko's circumstances would not have felt at liberty to terminate the interrogation and leave without suffering the economic sanction of losing their job. Further, the postal inspectors "acted in a manner which conveyed the message that they would not have permitted defendant to leave at any time during the interview," specifically because Romaszko was ordered into a room and told on at least five occasions that she could not leave.

Therefore, because Romaszko was not in "custody" when she made the statements, the district court properly suppressed the statements because they were not preceded by an advisement of *Miranda* rights.

The Second Circuit affirmed the judgment of the district court.

**Decided:** June 19, 2001

**Per Curiam opinion**

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### **[United States v. Thompson - 496 F.3d 807 \(7th Cir. 2007\)](#)**

#### **Case #4**

#### **U.S. Court of Appeals**

#### ***United States v. Thompson***

**496 F.3d 807 (7th Cir. 2007)**

#### **Facts**

On October 20, 1999, Dennis Thompson robbed a branch of the LaSalle National Bank in Peru, Illinois, taking \$64,761 in cash. Nearly five years later, on September 22, 2004, FBI Special Agents Timothy Eley and Dan Lee arrived at Thompson's home to interview him about the robbery. The agents identified themselves to Thompson, showed their photo identification to him, and asked him if he was willing to speak with them. Thompson agreed, inviting the agents into his living room. Once inside and while everyone remained standing, the agents questioned Thompson about his background.

Thompson answered the agents' questions but gave the agents his alias, David James Fowler, and an alias birth date. He denied that he was involved in the bank robbery until the agents showed him a sketch of the robbery suspect and called him by his given name, Dennis. At that point, he realized that the agents knew his identity.

The agents questioned Thompson from that point forward while sitting in the living room. Thompson sat

on the couch while the agents sat in chairs to the left and right of him, approximately four or five feet away. Neither agent physically touched Thompson in a threatening or intimidating manner. During the interview, Thompson asked to get a glass of water from the kitchen and, later, his Bible from a walk-in closet in the living room. Eley agreed to Thompson's requests but followed him on both occasions at a distance of about five to six feet, keeping Thompson in view at all times. Over the next few hours, the agents told Thompson that criminal defendants who cooperate with the authorities receive lighter punishments and mentioned the possibility that Thompson might be released from jail on bond in order to dispose of his personal possessions. Eventually, Thompson confessed to the robbery in detail. Agent Eley prepared a written confession that Thompson reviewed and signed. The agents then left Thompson's home without arresting him.

Two other agents stood watch over Thompson's home approximately 100 yards away. Early the next morning, Thompson left his home dressed in athletic clothing to go for a jog. When Thompson attempted to leave, the agents arrested him, eventually bringing him to the FBI's Rockford, Illinois' office. They placed Thompson in an interview room and advised him of his *Miranda* rights, which Thompson waived. Thompson then gave a second confession to the October 20, 1999, robbery of the LaSalle National Bank.

### **Procedural History**

Thompson filed a pre-trial motion to suppress the confessions, arguing that he was in custody when he gave the first confession at his home, and thus, was taken in violation of his Fifth Amendment rights. The district court denied the motion.

### **Issue**

Whether Thompson was in custody at the time he made the first confession, such that those statements as well as those that followed, should be suppressed if not preceded by advisement of his *Miranda* rights.

### **Rule**

The Seventh Circuit noted that "[a] suspect is 'in custody' for *Miranda* purposes when there is questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. Custody 'implies a situation in which the suspect knows he is speaking with a government agent and does not feel free to end the conversation; the essential element of a custodial interrogation is coercion.'"The Seventh Circuit looks to the totality of the circumstances and considers whether a reasonable person would have believed that he or she was free to leave. The Seventh Circuit considers "such factors as whether the encounter occurred in a public place; whether the suspect consented to speak with the officers; whether the officers informed the individual that he was not under arrest and was free to leave; whether the individual was moved to another area; whether there was a threatening presence of several officers and a display of weapons or physical force; and whether the officers' tone of voice was such that their requests were likely to be obeyed."

### **Seventh Circuit Holding**

No. The Seventh Circuit concluded that under "the totality of the circumstances present here, a reasonable person would not have believed that he was in custody. Thompson invited the agents into his home and agreed to be questioned. While Thompson's living room is small, requiring Thompson and the agents to sit within a few feet of one another, the close proximity of the agents alone, in these circumstances, [was] insufficient to render a suspect 'in custody.'" Additionally, the agents did not raise their voices or display their weapons in an intimidating manner, nor did they physically restrain Thompson in any way. Agent Eley followed Thompson when Thompson went to get a glass of water and his Bible, activities that are not inherently private and that do not establish a custodial situation by the mere presence of a law enforcement officer. There [was] also no evidence of coercion or subterfuge. . . . Thompson was not arrested at the conclusion of the interview, and his own actions the following morning of leaving his home dressed in athletic apparel to go jogging suggest that Thompson himself did not believe that he was in custody."

Thus, the Seventh Circuit was "in agreement with the district court's finding that Thompson was not 'in custody' during the September 22 interview and denial of Thompson's motion to suppress the

September 22 confession.

The Seventh Circuit affirmed the judgment of the district court.

**Decided:** August 7, 2007

**Majority opinion** written by Judge Bauer and joined by Judges Cudahy and Flaum

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### [Critical Analysis of the Circuit Courts' Decisions](#)

#### **Critical Analysis of the Circuit Courts' Decisions**

#### **Discussion Questions**

1. What factors have many of the courts looked at in determining whether a person is "in custody" for purposes of giving a *Miranda* warning?
2. Are these factors the only ones? What other factors should a court consider?
3. What should be a court's ultimate consideration?
4. Is there consistency in the court's determinations regarding when a person is in custody and when he is not?
5. Should a court take into account factors specific to a particular suspect? Why or why not?

## WORKSHEET AND ANSWER KEY

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Activity worksheet and answer guide for Courts of Appeals decisions in *U.S. v. Kim*; *U.S. v. Luna-Encinas*; and *U.S. v. Romaszko*; *U.S. v. Thompson*

Worksheet   Answer Key

*Note to Teachers:* Use this chart to help students identify the factors that courts might take into consideration in each case to determine if someone is in custody and, therefore, should receive a *Miranda* warning.

<b>Discussion Guide for COA Cases #1 - #4</b>	<i>United States v. Kim</i>	<i>United States v. Luna-Encinas</i>	<i>United States v. Romaszko</i>	<i>United States v. Thompson</i>
Language Used to Summon the Individual				
Confrontation with Evidence of Guilt				
Physical Surroundings/Location				
Duration				
Degree of Pressure Applied (physical or otherwise)				
Other Factors				
<b>Totality of the Circumstances: In Custody or Not?</b>				

## WORKSHEET AND ANSWER KEY

Activity worksheet and answer guide for Courts of Appeals decisions in *U.S. v. Kim*; *U.S. v. Luna-Encinas*; and *U.S. v. Romaszko*; *U.S. v. Thompson*

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<b>Answer Key COA Cases #1 - #4</b>	<i>United States v. Kim</i>	<i>United States v. Luna-Encinas</i>	<i>United States v. Romaszko</i>	<i>United States v. Thompson</i>
Language Used to Summon the Individual	Voluntarily went to store, Separated from husband at door told to "shut up"	Serious tone of voice in context of search, Guns drawn	Supervisor required attendance, Meeting was during work hours at work	Police identified themselves, Asked and were invited, Conversational approach
Confrontation with Evidence of Guilt	Not known	Yes	Not known	Showed sketch that matched him
Physical Surroundings/Location	In her own store, Separated from husband, Surrounded by officers	Outside his own home	Office of station manager	Seated in his living room
Duration	1+ to 3 hours	20 minutes	Not known	Several hours
Degree of Pressure Applied (physical or otherwise)	Isolated from husband and son, Told not to speak Korean, She was seated, officers standing	Police in backyard with guns, Told to pull up shirts, Told to sit and stay, Told not to talk to each other	At least 5 times asked to leave or tried to stand, Told "No, you're not going anywhere."	No apparent pressure
Other Factors	Language barrier	Spanish-speaking officer on scene	Anticipated job loss if didn't cooperate	Felt free to go jogging the next day
<b>Totality of the Circumstances: In Custody or Not?</b>	In custody	Not in custody	In custody	Not in custody

## WORKSHEET AND ANSWER KEY

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Use this worksheet and answer key as a discussion guide for *J.D.B. v. North Carolina* and the fictional scenario of *People v. Brandon Salinger*

Worksheet   Answer Key

*Note to Teachers:* Use this chart to help students identify the factors that courts might take into consideration in each case to determine if someone is in custody and, therefore, should receive a *Miranda* warning.

<b>Discussion Guide:</b> Were They in Custody?	<i>J.D.B. v. North Carolina</i>	<i>People v. Brandon Salinger</i>
Language Used to Summon the Individual		
Confrontation with Evidence of Guilt		
Physical Surroundings/Location		
Duration		
Degree of Pressure Applied (physical or otherwise)		
Other Factors		
<b>Totality of the Circumstances: In Custody or Not?</b>		

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Use this worksheet and answer key as a discussion guide for *J.D.B. v. North Carolina* and the fictional scenario of *People v. Brandon Salinger*

Worksheet    Answer Key

*Note to Teachers:* Use this chart to help students identify the factors that courts might take into consideration in each case to determine if someone is in custody and, therefore, should receive a *Miranda* warning.

<b>Answer Key:</b> Were They in Custody?	<i>J.D.B. v. North Carolina</i>	<i>People v. Brandon</i>
Language Used to Summon the Individual	Escorted by police from class to school conference room	Escorted by mall security to mall business office
Confrontation with Evidence of Guilt	Yes – shown a digital camera	Yes – had tie in his pocket
Physical Surroundings/Location	Closed-door school conference room with two police officers and two school administrators	Mall business office with window on the reception area where others were seen, including his sister using her cell phone
Duration	About 45 minutes	15 minutes +
Degree of Pressure Applied (physical or otherwise)	When summoned by school authorities, students do not feel free to leave until released, but was allowed to leave at end of school day	Was told that if he didn't cooperate, he and his sister might go to jail, Threat that he would be held in detention pending trial
Other Factors		Questioned in a public space, not isolated, and could see his sister talking on her cell phone
<b>Totality of the Circumstances: In Custody or Not?</b>	Question of custody has been remanded to the N.C. state courts to answer	You decide