



Judicial Decision-Making and the Constitution

OVERVIEW:

The goal of this activity is to understand how judges make decisions through the interpretation and application of law. In this lesson, students will apply the United States Constitution and United States Supreme Court precedent to a real case scenario. Students will explore the balancing of individual freedoms guaranteed by the U.S. Constitution with the ability of law enforcement to investigate crime and serve the public good.

OBJECTIVES:

Upon successful completion of this activity, students will be able to:

- Analyze the Fifth and Fourteenth Amendments;
- Apply the Fifth and Fourteenth Amendments to specific case studies; and
- Weigh complex social issues from a constitutional framework.

MATERIALS NEEDED:

- PowerPoint Presentation
- Copy of Fifth and Fourteenth Amendments/Handout A
- Supreme Court Case Study Form/Handout B
- Miranda v. Arizona/Handout C
- Constitutional Question/Handout D
- Court Decisions (for facilitator only)

TIME REQUIRED:

90 minutes recommended. Can be shortened or lengthened. Can also be divided into two lessons.

NEXT GENERATION SUNSHINE STATE STANDARDS:

Grades 6-8:	Grades 9-12:
SS.C.1.3(3)	SS.C.2.4(3)
SS.C.1.3(5)	SS.C.2.4(5)



ACTIVITIES:

This handout will be used in conjunction with the PowerPoint presentation titled: “The Courts and the Constitution: Miranda v. Arizona, 384 U.S. 436 (1966).

1. **Slide 1:** Introduce yourself and let the students know that they will be given an opportunity to act like real judges and decide an issue previously addressed by the United States Supreme Court.
2. **Slides 2-7:** Begin the lesson by asking participants what knowledge, skills, and qualities they think judges should have. Discuss their answers. Continue the discussion by distinguishing judges from legislators.
3. **Slides 8-9:** Inform the students that today they will be experiencing the judicial branch first hand. Today they will be judges. And like judges, they need to have some background information on the law.
4. **Slide 10:** Discuss the two relevant clauses in the Fifth Amendment: the right against self-incrimination, and the Due Process Clause. Using the PowerPoint, have a student read the clauses and follow up with a discussion.
5. **Slide 11:** Using the PowerPoint, have a student read the Due Process Clause of the Fourteenth Amendment. Ask students if they think it is similar to, or different from, the Due Process Clause in the Fifth Amendment.
6. **Slides 12:** Provide students with two questions they should keep in mind in understanding the existing precedent and the case they will decide today.
7. **Slide 13:** Ask the students what they think “compelled to be a witness against yourself” means.
8. **Slide 14:** Give the students dictionary definitions for “compelled” and “witness.” See if their definitions vary from the definitions provided.
9. **Slide 15:** Ask the students what they think “due process” means. Ask them why “due process” appears in two different constitutional amendments.
10. **Slide 16:** Review the legal definition of “due process”, and ask the class to compare their answers on due process to the definition provided. Briefly explain how the Fourteenth Amendment Due Process Clause applies to the states. Ask students to keep in mind the terms “compelled to be a witness” against yourself and “due process” as they consider how the United States Supreme Court has addressed this area of the law.



11. **Slides 17-19:** Discuss Brown v. Mississippi, 297 U.S. 278 (1936). Ask students how a confession at the police station may incriminate someone. Discuss how physical torture of a suspect violates the Due Process Clause. Ask the class if there are other reasons not to use torture or violence to obtain a confession.
12. **Slides 20-22:** Discuss Chambers v. Florida, 309 U.S. 277 (1940). Note this case was the first victory before the Supreme Court for Thurgood Marshall, the attorney who represented the plaintiffs in Brown v. Board of Education of Topeka, 347 U.S. 483 (1954), before he became first African-American Justice on the Supreme Court. Ask students to explain how the Due Process Clause is now expanded beyond physical beatings.
13. **Slides 23-25:** Discuss Cicenia v. La Gay, 357 U.S. 504 (1958). Ask students why the police might not want to allow a suspect to speak with his or her attorney. Ask if they think the defendant should have known not to say anything because he had already spoken to a lawyer.
14. **Slide 26:** Prepare the students to decide an actual case that was previously decided by the United States Supreme Court.
15. **Slides 27-29:** Discuss the relevant facts of the case at hand, Miranda v. Arizona, 384 U.S. 436 (1966). Refer the students to Handout C.
16. **Slide 30:** Present, for the first time, the constitutional question that they must decide. Refer the students to Handout D.
17. **Slide 31-34:** Allow the students to individually answer the question. Give the students directions on how to answer the constitutional question. Ask them to think about how Brown v. Mississippi, Chambers v. Florida, and Cicenia v. La Gay might affect their answer to the constitutional question. Have them compare and contrast the facts in those cases to those in Miranda. Then, divide participants into groups of five to simulate an actual Supreme Court conference.
 - Select a Chief Justice in each group to maintain order and lead discussions. Remaining participants are associate justices.
 - The Chief Justice will poll the justices to determine the final decision of the Court. Encourage the students to try and reach a unanimous court decision. Give at least 10-15 minutes.
 - Have each group's Chief Justice come to the front of the classroom and present the decision of their court.
 - Tally responses and compare the differences between the groups.



18. **Slides 36-40:** Debrief with the actual U.S. Supreme Court decision. Explain the reasoning that the Court used and walk them through each of the Miranda rights. Note that Miranda and another case, Escobedo v. Illinois, 378 U.S. 478 (1964), overruled Cicenia v. La Gay. Briefly discuss the breakdown of the Justices who voted for the majority and those who voted for the dissent. Discuss key points raised by the dissent. (See **Slide 39**). Ask the students which position they believe is stronger in light of the majority and dissenting opinions and prior Supreme Court precedent. Conclude and thank the students for their attention and participation.



FIFTH AMENDMENT – UNITED STATES CONSTITUTION

No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law

FOURTEENTH AMENDMENT – UNITED STATES CONSTITUTION

§ 1

. . . [Nor] shall any state deprive any person of life, liberty, or property, without due process of law



Case Study/Supreme Court Conference

I. What are the Facts? _____

II. State the Issue to be Decided: _____

III. Arguments For Petitioner/Appellant: _____

IV. Arguments For Respondent/Appellee: _____

V. What Would You Decide? _____

VI. Reasons/Evaluation: _____

VII. Mock Supreme Court Conference Decision: _____

VIII. Actual Decision of the Court: _____



Miranda v. Arizona:

Ernesto Miranda had a long history of criminal behavior. He dropped out of school in ninth grade, by which time he had already received his first criminal conviction. A psychiatrist later diagnosed him with a form of schizophrenia.

In March of 1963, Miranda was already a suspect in an earlier robbery and rape when a new woman identified him in a police lineup and claimed that he had kidnapped and raped her. He was arrested, and police interrogated him for two hours about his alleged involvement.

After the two-hour interrogation, he produced a written confession, in which he admitted to the crimes. The written confession also stated that it was voluntary and made "with full knowledge of my legal rights, understanding any statement I make will be used against me." However, contrary to the written confession, he was never advised of his legal rights. This confession was admitted during trial, and Miranda was convicted of kidnapping and rape. He was sentenced to 20 to 30 years in prison for each count.

Miranda appealed the convictions to the Arizona Supreme Court and claimed that his confession was illegally obtained. The Arizona Supreme Court affirmed the convictions, and Miranda sought review by the United States Supreme Court.

Handout C



Issue

Can incriminating statements made by a person who is in police custody and subject to police questioning be used against that person during trial if that person is not told of his or her constitutional rights?



COURT DECISIONS: FOR THE FACILITATOR

The trial court concluded that Miranda's statement was voluntary and denied his motion to suppress the confession. The motion was admitted during trial and heard by the jury, and Miranda was convicted for kidnapping and rape. The Arizona Supreme Court noted that Miranda had a lengthy criminal history, which should have made him aware of his rights, and that he never requested an attorney during the interrogation. It therefore concluded that he did not need to be advised of his rights upon this arrest and affirmed his convictions.

DO NOT ANNOUNCE UNTIL CONCLUSION OF THE ACTIVITY:

In a 5-4 decision authored by Chief Justice Warren, a majority of the United States Supreme Court held that any time a suspect is subject to custodial interrogation, he or she must be informed of the rights guaranteed by the Fifth and Sixth Amendments, specifically (1) the right to counsel; (2) being told that anything said or done could be used against the suspect in court; (3) the right to an attorney; and (4) that an attorney would be appointed if the suspect could not afford one. The claim by Miranda in his written confession that he was aware of his legal rights was not sufficient to establish a knowing and intelligent waiver of his constitutional rights. No suspect should be presumed to understand his or her rights based solely on an individual's intelligence, criminal history, or background. Therefore, the best way to ensure that every individual is aware of his or her rights is to read the rights to suspects when they are subject to custodial interrogation.

Justices Harlan, Stewart, and White dissented from the majority opinion, and each concurred in dissents written by Justices Harlan and White. Justice Clark wrote his own partial dissent and partial concurrence. The dissent remembered most by historians and lawyers is that of Justice Harlan, who was concerned that the Court announced a new bright-line rule that was not clearly rooted in Fifth Amendment precedent. He wrote that the new rule would undermine legitimate police investigations because a suspect would be likely to request a lawyer and refuse to answer any questions immediately upon being informed of his or her rights. Moreover, Justice Harlan was not convinced that the rule would prevent police abuse because a cunning officer could easily lie and claim that the Miranda rights had been administered.