

Class Length: 50 Minutes

I. Objectives

A. Skills/Learning Objectives

1. After this class, students should have a better understanding of the rights a person has when in the custody of police.
2. Additionally, students should be able to defend an opinion that they have taken on a particular issue.
3. Finally, students should have a greater understanding and appreciation for Miranda Rights, their origin, and their importance.

B. Attitudinal Objectives

1. After this class students should have more confidence in dealing with law enforcement authorities.
2. Additionally, students should have more confidence in their ability to take a position on an issue, and defend that opinion in an open and constructive manner.

II. Classroom Methods

A. Review of Prior Class Material

1. Ideally, this lecture will follow a lecture on the Fourth Amendment and Search and Seizure Law. Begin, therefore, by quizzing the students on the search and seizure materials covered in the prior class.
2. Next, explain to the class that today we move forward in time from a suspect's first encounter with police to the point where they are arrested and placed in custody.

B. Explanation of "Miranda Rights."

1. Ideally, at this point you might show a clip from a legal television show, such as Law and Order, where a suspect is being interrogated and asks for a lawyer, or where a suspect is being placed under arrest.
2. In the alternative, ask the students what kinds of rights they think they have when they are placed in custody by the police.
 - a) Poll the students to get out the fact that they have a right to an attorney.
 - b) Also want to get out the things the police must tell a suspect when they want to place them under arrest.
 - c) Finally, you should be able to get them to tell identify this process as reading a suspect their Miranda Rights.

3. After the students have identified the right, then place the Miranda Rights handout on the overhead.
 - a) Note: You may want to explain a bit about the case that created these rights first—i.e., explain the facts of the Miranda case.
 - b) Next, go through the overhead and explain the concepts and rights espoused by Miranda.
 - (1) As you do this, you should quiz the students about why any particular right or duty, such as the police officer's duty to inform a suspect of their right to remain silent, is important.
 - (2) Also, quiz them on whether they think that requiring the police to read a suspect their Miranda Rights is beneficial, or just a hindrance to getting at the truth. You may want to explain some of the court's rationale for these requirements (abusive behavior by police, etc.).

C. Opinion Poll

1. When you are comfortable that the students understand the concepts on the overhead, then explain that we are going to do an opinion poll.
2. Pass around the fact scenario handout and explain to the students that they should consider each fact scenario and decide how they feel about it. Then, once they have decided, they should circle the appropriate opinion.
3. When the students are done filling out their opinion poll, then ask them to get up and move under the sign that corresponds to their opinion for question number one (these signs should be posted around the room prior to the start of class).
4. As you move through each fact scenario, the teacher should act as a facilitator of the debate among the students. Press the students to defend the choice they have made, and get responses or disagreements with that viewpoint from students who have taken different opinions.
5. As you conclude with each fact scenario, take a moment to explain how the court decided the case (see the teachers handout for information on this), and, if time, quiz them about the court's decision.
6. Note: This exercise should take the majority of the class period.

III. Evaluation and Homework

- A. Assign the students to find three examples on television, in the news, etc. where Miranda Rights either were given or should have been given. Ask them to either bring in the article or write a description of the situation if they saw it on television.

B. Your Fifth Amendment Rights: Miranda v. Arizona

1. Before any “Custodial Interrogation,” the police must inform you of the following:

- a. You have a right to remain silent.**
- b. Anything you say can and will be used against you in a court of law.**
- c. You have the right to an attorney, either retained or appointed.**

2. What does “Custodial Interrogation” mean?

- a. This means that you have been taken into custody or otherwise deprived of your freedom of action.**
- b. In other words, if the police arrest you, or if you aren't allowed to leave the place of questioning.**

3. What if I answer some questions, but then decide I want a lawyer?

- a. If you decide to have a lawyer present during questioning, then the police must stop questioning you until the lawyer gets there.**

SHOULD THE CONFESSION BE ALLOWED?

Consider the following Scenarios. Have the defendant's Miranda rights been violated? Indicate whether you Strongly Agree, Agree, Can't Decide, Disagree, or Strongly Disagree with the court's decision.

- 1. Benny was arrested by New York Police and charged with the armed robbery of a taxicab driver. While Benny was in jail waiting for his trial, a new York undercover officer was placed in Benny's cell. Before the officer asked any questions, Benny said that he had robbed the cab driver. Benny's statement was used against him at trial, despite his objection that he was not read his Miranda Rights, in violation of the Fifth Amendment. The court should allow the statement.**

Strongly Agree Agree Undecided Disagree Strongly Disagree

- 2. Rhode Island police officers arrested Jared on suspicion of shooting a local taxicab driver in the head, and then burying the body nearby. Jared was read his Miranda rights, and indicated that he wished to speak to a lawyer. On the way to the station, the police began talking to each other about the murder, while Jared listened in the back seat. Then, without warning, Jared admitted to the murder. At his trial, Jared argued that the police had coerced him into admitting to the murder, and that his Fifth Amendment rights had been violated. The court should allow the statement.**

Strongly Agree Agree Undecided Disagree Strongly Disagree

- 3. Robert Berkemer was driving 40 mph in a 25 mph zone when he saw the flashing lights of a patrol car behind him. He dutifully pulled over to the side of the road. The officer approached him, and requested that he step outside of the vehicle. Robert stepped out of the car, and the officer asked him whether or not he was aware of how fast he was going. In response to the officer's questioning, Robert admitted that he had been speeding. At his traffic hearing, Robert argue that because he was detained and interrogated without receiving his Miranda warnings, his confession should not be admitted. The court should allow Robert's confession.**

Strongly Agree Agree Undecided Disagree Strongly Disagree

Guide to Outcomes in Opinion Poll: Miranda

Scenario Number One:

The Supreme Court held that this was not a violation of the Fifth Amendment. They felt that unless the defendant could show that the police officer actually questioned the prisoner, instead of merely listening to him, then the discussion did not qualify as a custodial interrogation.

Note: A later supreme court case went even further, saying that Miranda warnings are not required if the defendant does not know he is speaking to a law enforcement agent.

Scenario Number Two:

The Supreme Court said that this situation did not violated the defendant's Miranda rights because he had not been expressly questioned, nor had the police said anything that the knew would likely coerce the defendant into admitting guilt.

Note: The court did indicate in a later case that if, under the same circumstances, the officer's conversation was intended to produce a confession, then it would violate the defendant's Fifth Amendment, even absent express questioning.

Scenario Number Three:

The Supreme Court said that Miranda warnings need not be given before roadside questioning of a motorist detained pursuant to a routine traffic stop. They did not feel that such stops impair a person's free exercise of his privilege against self-incrimination to require that he be warned of his constitutional rights.