

Your Right to Remain Silent

Miranda v. Arizona



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SUMMARY

In 1966, the Supreme Court handed down a controversial 5-4 ruling in *Miranda v. Arizona* that dramatically changed criminal procedures throughout the country. For the first time in history, the Court linked the Fifth Amendment's privilege against self-incrimination to the Sixth Amendment's guarantee of a right to counsel and applied both to protect a suspect's rights from arrest through trial.

Within a year, every state had integrated specific guidelines given in the majority opinion into a series of questions or statements known as Miranda warnings. To this day, all police officers seeking evidence for a conviction must inform a custodial suspect of their "Miranda rights" before an interrogation by reading (or reciting) the Miranda warnings.

The process of "Mirandizing" is very well known, but it has changed over the years. Legal challenges made in the interest of liberty and security have brought about Court-approved modifications. Now, in the age of global terrorism, Miranda faces new issues. Are more changes ahead?

This lesson is based on a video about the landmark Supreme Court case that made law enforcement the protectors of individual liberty where people are most vulnerable—in the interrogation room.

"No person . . . shall be compelled in any criminal case to be a witness against himself." (Fifth Amendment)

You have the right to remain silent (Miranda warnings)

NOTES AND CONSIDERATIONS

- This lesson presupposes that students are familiar with Supreme Court cases, legal terminology, and constitutional principles.
- Technology is relied on to facilitate learning.
- This is a self-contained lesson with resources and activities that can be adapted to different teaching styles, length of classes, and levels of students.

Snapshot of Lesson

Grades: Middle School; High School (Focus)

Subject Focus: Civics/Government

Estimated Time: 3, 50-minute classes

Alignment: National Standards for Civics and Government Grades 5-8, Grades 9-12; Common Core Standards: Literacy in History/Social Studies, Science and Technical Subjects, Grades 6-8, 9-10, 11-12

Materials/Equipment Needed:

- Annenberg Video: *The Constitution Project: The Right to Remain Silent: Miranda v. Arizona*
- Computer lab —Internet access and projector

Materials Included:

Readings and Resources

- Video Transcript
- Opinion of the Court: *Miranda v. Arizona*
- Chapter 17: The Privilege Against Self-Incrimination, *Our Rights*—David J. Bodenhamer
- Chapter 17: The Right to Remain Silent, *Pursuit of Justice* by Kermit L. Hall and John J. Patrick
- Fifth & Sixth Amendments, *Our Constitution* by Donald Ritchie & JusticeLearning.org
- Topics: Common Good; Government, Constitutional and Limited; Justice; Liberty; Rights, *Understanding Democracy, A Hip Pocket Guide* by John J. Patrick

Student Activities

- Class-Prep Assignment
- Information and Excerpts for Background
- Student's Video Guide
- A Closer Look at Miranda Warnings
- Making the Rules

Teacher Materials

- Teacher's Video Guide
- Through the Lens of the Common Core
- Keys for student work

Standards-level Detail

- National Standards for Civics and Government

TOPICS

- Arrest procedures
- Bill of Rights
- Criminal justice system
- Federal and state law enforcement
- Fifth Amendment
- Historical basis for right to remain silent
- Individual rights and the common good
- Responsibilities, and limits of government
- Justice
- Liberty v. security
- Miranda warning
- Police interrogation practices
- Privilege against self-incrimination
- Responsibilities of citizens
- Supreme Court
- U.S. Constitution
- U.S. Court System

NATIONAL STANDARDS

Document: *National Standards for Civics and Government* (1994) Center for Civic Education
<http://new.civiced.org/national-standards-download>

Grades 5-8 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
 - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
 - B. What are the essential characteristics of limited and unlimited government?
 - C. What are the nature and purposes of constitutions?

- II. What are the foundations of the American political system?
 - A. What is the American idea of constitutional government?
 - B. What are the distinctive characteristics of American society?
 - C. What is American political culture?
 - D. What values and principles are basic to American constitutional democracy?

- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
 - A. How are power and responsibility distributed, shared, and limited in the government established by the United States Constitution?
 - C. How are state and local governments organized and what do they do?
 - E. What is the place of law in the American constitutional system?
 - F. How does the American political system provide for choice and opportunities for participation?

- V. What are the roles of the citizen in American democracy?
 - B. What are the rights of citizens?
 - C. What are the responsibilities of citizens?
 - D. What dispositions or traits of character are important to the preservation and improvement of American constitutional democracy?
 - E. How can citizens take part in civic life?

Grades 9-12 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
 - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
 - B. What are the essential characteristics of limited and unlimited government?
 - C. What are the nature and purposes of constitutions?

- II. What are the foundations of the American political system?
 - A. What is the American idea of constitutional government?
 - B. What are the distinctive characteristics of American society?
 - C. What is American political culture?
 - D. What values and principles are basic to American constitutional democracy?

- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
 - A. How are power and responsibility distributed, shared, and limited in the government established by the United States Constitution?
 - B. How is the national government organized, and what does it do?
 - C. How are state and local governments organized and what do they do?
 - D. What is the place of law in the American constitutional system?

- V. What are the roles of the citizen in American democracy?
 - B. What are the rights of citizens?
 - C. What are the responsibilities of citizens?
 - D. What civic dispositions or traits of private and public character are important to the preservation and improvement of American constitutional democracy?
 - E. How can citizens take part in civic life?

Note: A more detailed standards-level alignment related to these questions can be found in the Standards section at the end of this lesson plan.

COMMON CORE STANDARDS

Document: English Language Arts & Literacy in History/Social Studies, Science and Technical Subjects

Standards: Grades 6-12 Literacy in History/Social Studies, Science and Technical Subjects

<http://www.corestandards.org/ELA-Literacy>

Reading in History/Social Studies 6-8

Key Ideas and Details

CCSS.ELA-Literacy.RH.6-8.1

CCSS.ELA-Literacy.RH.6-8.2

CCSS.ELA-Literacy.RH.6-8.3

Craft and Structure

CCSS.ELA-Literacy.RH.6-8.4

CCSS.ELA-Literacy.RH.6-8.6

Integration of Knowledge and Ideas

CCSS.ELA-Literacy.RH.6-8.7

CCSS.ELA-Literacy.RH.6-8.8

CCSS.ELA-Literacy.RH.6-8.9

Range of Reading and Level of Text Complexity

CCSS.ELA-Literacy.RH.6-8.10

Writing 6-8

Text Types and Purposes

CCSS.ELA-Literacy.WHST.6-8.1

CCSS.ELA-Literacy.WHST.6-8.2

Production and Distribution of Writing

CCSS.ELA-Literacy.WHST.6-8.4

CCSS.ELA-Literacy.WHST.6-8.6

Research to Build and Present Knowledge

CCSS.ELA-Literacy.WHST.6-8.7

CCSS.ELA-Literacy.WHST.6-8.8

CCSS.ELA-Literacy.WHST.6-8.9

Range of Writing

CCSS.ELA-Literacy.WHST.6-8.10

Writing 9-10

Text Types and Purposes

CCSS.ELA-Literacy.WHST.9-10.1

CCSS.ELA-Literacy.WHST.9-10.2

Production and Distribution of Writing

CCSS.ELA-Literacy.WHST.9-10.4

CCSS.ELA-Literacy.WHST.9-10.6

Research to Build and Present Knowledge

CCSS.ELA-Literacy.WHST.9-10.7

CCSS.ELA-Literacy.WHST.9-10.8

CCSS.ELA-Literacy.WHST.9-10.9

Range of Writing

CCSS.ELA-Literacy.WHST.9-10.10

Reading in History/Social Studies 11-12

Key Ideas and Details

CCSS.ELA-Literacy.RH.11-12.1

CCSS.ELA-Literacy.RH.11-12.2

Craft and Structure

CCSS.ELA-Literacy.RH.11-12.4

CCSS.ELA-Literacy.RH.11-12.5

CCSS.ELA-Literacy.RH.11-12.6

Integration of Knowledge and Ideas

CCSS.ELA-Literacy.RH.11-12.7

CCSS.ELA-Literacy.RH.11-12.8

CCSS.ELA-Literacy.RH.11-12.9

Range of Reading and Level of Text Complexity

CCSS.ELA-Literacy.RH.11-12.10

Writing 11-12

Text Types and Purposes

CCSS.ELA-Literacy.WHST.11-12.1

CCSS.ELA-Literacy.WHST.11-12.2

Production and Distribution of Writing

CCSS.ELA-Literacy.WHST.11-12.4

Research to Build and Present Knowledge

CCSS.ELA-Literacy.WHST.11-12.7

CCSS.ELA-Literacy.WHST.11-12.8

CCSS.ELA-Literacy.WHST.11-12.9

Range of Writing

CCSS.ELA-Literacy.WHST.11-12.10

Reading in History/Social Studies 9-10

Key Ideas and Details

CCSS.ELA-Literacy.RH.9-10.1

CCSS.ELA-Literacy.RH.9-10.2

CCSS.ELA-Literacy.RH.9-10.3

Craft and Structure

CCSS.ELA-Literacy.RH.9-10.4

CCSS.ELA-Literacy.RH.9-10.6

Integration of Knowledge and Ideas

CCSS.ELA-Literacy.RH.9-10.9

Range of Reading and Level of Text Complexity

CCSS.ELA-Literacy.RH.9-10.10

STUDENT OUTCOMES

Knowledge, skills, and dispositions

Students will . . .

- Identify, connect, and relate historical events to the right to remain silent.
- Recognize the confluence of factors that brought about the decision in *Miranda v. Arizona*.
- Explore pro and con arguments related to *Miranda*.
- Gain insight into the reasoning used by the Supreme Court in *Miranda v. Arizona*.
- Explore the development, use, impact, and controversy surrounding the *Miranda* warnings.
- Appreciate the constitutional protections due each person in our system of justice.
- Make real-world connections.

Integrated Skills

1. Information literacy skills

Students will . . .

- Extract, organize and analyze information from different sources.
- Use skimming and research skills.
- Organize information into usable forms.
- Build background knowledge to support new learning.
- Use technology to facilitate learning.

2. Media literacy skills

Students will . . .

- Gather and interpret information from different media.
- Use online sources to support learning.

3. Communication skills

Students will . . .

- Write and speak clearly to contribute ideas, information, and express own point of view.
- Write in response to questions.
- Respect diverse opinions and points of view.
- Interpret visual models.
- Develop interpretive skills.

4. Study skills

Students will . . .

- Take notes.
- Manage time and materials.
- Complete an outline.

5. Thinking skills

Students will . . .

- Describe and recall information.
- Make personal connections.
- Explain ideas or concepts.
- Draw conclusions.
- Analyze and evaluate issues.
- Use sound reasoning and logic.
- Evaluate information and decisions.
- Critique arguments.

6. Problem-solving & Decision-making

Students will . . .

- Identify issues and facts.
- Analyze cause and effect relationships.
- Examine reasoning used in making decisions.
- Evaluate proposed solutions.
- Ask meaningful questions.
- Base decisions on sound reasoning.

7. Participation skills

Students will . . .

- Contribute to small and large group discussion.
- Work responsibly both individually and with diverse people.
- Express own beliefs, feelings, and convictions.
- Show initiative and self-direction.
- Interact with others to deepen understanding.

ASSESSMENT

Evidence of understanding may be gathered from student performance related to the following:

- Class-Prep Assignment
- Responses to each section in video guide
- Class discussion and daily assignments

VOCABULARY

admission of guilt	due process	opinion of the Court
adversarial system of justice	<i>Escobedo v. Illinois</i>	petitioner
<i>amicus curiae</i>	evidence	police
appeal	felony	police custody
arrest	Fifth Amendment privilege	police interview
Bill of Rights	framers	prosecution
burden of proof	<i>Gideon v. Wainwright</i>	public safety exception
certiorari	government	Richard Nixon
Chief Justice Earl Warren	guilt	respondent
civil liberties	innocent until proven guilty	rights
compelled	interrogation	right to counsel
concurring opinion	James Hundley	right to remain silent
confession	John Lilburn	security
conviction	judicial opinion	self-incrimination
crime	jurisdiction	shall
criminal	Justice Byron White	Sixth Amendment
criminal justice system	Justice Hugo Black	Star Chamber
criminal law	liberty	suspect
criminal procedure	magisterial opinion	taking the Fifth
criminal trial	majority opinion	the third degree
cruel and unusual punishment	Miranda rights	U.S. Constitution
custody	Miranda warnings	voluntary confession
defendant	Mirandize	Warren Court
<i>Dickerson v. United States</i>	misdemeanor	Wickersham Commission
dissenting opinion	noncustodial interview	

Resources for Definitions

- **Findlaw—Law Dictionary**
<http://dictionary.lp.findlaw.com/>
- **National Standards for Civics and Government: Glossary**
http://www.civiced.org/index.php?page=stds_glossary
- **NOLO's Free Dictionary of Law Terms and Legal Definitions**
<http://www.nolo.com/dictionary>
- **Merriam-Webster Online**
<http://www.merriam-webster.com/>
- **Annenberg Classroom – Glossary**
<http://www.annenbergclassroom.org/terms>

LESSON OVERVIEW

Goal: Students will . . .

- Learn about the U.S. Supreme Court decision in *Miranda v. Arizona* that extended the Fifth Amendment privilege against self-incrimination to individuals in the interrogation room and made the police responsible for informing custodial suspects of their right to remain silent.
- Gain insight into the development, use and controversy surrounding the Miranda warnings.
- Develop an appreciation for what is required of all Americans to help ensure the protection of individual rights and society under the Fifth Amendment.

Class-Prep Assignment:

Students complete an independent assignment to build background knowledge for the video they will watch and study during the first in-class session.

DAY 1: Right in the Interrogation Room

Students watch the video *The Right to Remain Silent: Miranda v. Arizona* and begin a guided study of the landmark Supreme Court decision.

DAY 2: The “Right to Remain Silent” Case

Students extract information from the video and other sources to complete a detailed outline as a brief for *Miranda v. Arizona* in order to learn more about the case that requires police to inform criminal suspects of their right to remain silent.

DAY 3: Making the Rules

Students make connections between the language used in the Miranda warnings and the words written by Chief Justice Earl Warren in the *Miranda* opinion. Through closer analysis of the sections, they learn about the reasons and principles of law upon which the decision is based and the arguments presented by the majority.

“The Fifth Amendment was designed to protect the accused against infamy as well as against prosecution.”

—Justice William O. Douglas,
dissenting opinion, *Ullmann v. United States* (1956)

Class-Prep Assignment

This assignment provides important background knowledge and context for the content and concepts that will be covered in the video through narration, interviews, graphics, and embedded audio and video clips. Students should complete it as an independent activity before the first in-class session.

Materials/Technology Needed:

- Class-Prep Assignment Sheet (Student Handout)
- Information & Excerpts for Background (Student Handout)
- Computer with Internet access

Students will . . .

• Watch

Annenberg Classroom: Online Video Documentaries
The Story of the Bill of Rights (16:20)
The Fifth Amendment (3:07)
The Sixth Amendment (1:26)

<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>

• Read and Respond

After reading each section in the handout (Information & Excerpts for Background), students will identify ONE significant point (e.g., problem, fact, idea, concept, value, principle, concern, issue, controversy, conclusion) and explain its importance. It may be important to them personally or important to others.

Sections in the Readings:

1. Rights, Liberties, and the Common Good
2. Commitment to Justice
3. Criminal Justice
4. U.S. Constitution and Bill of Rights
5. Protection Against Self-Incrimination
6. U.S. Court System
 - 6.1 Federal and State Courts
 - 6.2 Supreme Court
7. Law Enforcement
 - 7.1 Federal Law Enforcement
 - 7.2 State and Local Law Enforcement
8. Criminal Procedures

Remind students to bring their Class-Prep Assignment Sheet to class.

DAY 1: RIGHT IN THE INTERROGATION ROOM

Overview: Students watch the video *The Right to Remain Silent: Miranda v. Arizona* and begin a guided study divided into three sections: video study questions, brief outline for the case for *Miranda v. Arizona*, and reflection and follow-up with questions and activities.

Goal: Students gain information, understanding and appreciation for the controversy, challenges, principles, people and processes that make law enforcement responsible for protecting our liberty should we be accused of a crime.

Materials/Equipment:

• Technology

Computer lab with internet connection

Video: *The Right to Remain Silent: Miranda v. Arizona* (25 min.)

Available from Annenberg Classroom:

<http://www.annenbergclassroom.org/page/all-videos>

• Student Materials (Included)

Student's Video Guide

A Closer Look at Miranda Warnings

Through the Lens of the Common Core

• Readings and Resources: (Included)

Video transcript: *The Right to Remain Silent: Miranda v. Arizona*

Opinion of the Court, *Miranda v. Arizona*

Available online from Cornell University Law School at this link:

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html

Chapter 17: The Right to Remain Silent, *The Pursuit of Justice*

Available online from Annenberg Classroom at this link:

<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

Chapter 17: The Privilege Against Self-Incrimination, *Our Rights*

Available from Annenberg Classroom at this link:

<http://www.annenbergclassroom.org/page/our-rights>

• Teacher Materials (Included)

Teacher's Video Guide

A Closer Look at Miranda Warnings (Key)

Procedure:

1. Write these words on the board: *You have the right to remain silent.* Ask students what statement comes next. Most likely they will know. (*Anything you say can and will be used against you in a court of law.*) Record all versions given.
2. Ask students to share what they know about the right to remain silent: Where does it come from? What does it mean? When and why is it given? Without any confirmation of responses, compile a list called "What We Know about the Right to Remain Silent" that can be revisited at the end of the lesson.
3. Distribute and review the handouts, show the video, and, if there is time remaining, allow students to begin work.
Assign SECTION I: Video Study Questions for homework.

DAY 2: THE “RIGHT TO REMAIN SILENT” CASE

Overview: Students develop a brief for *Miranda v. Arizona* by completing a detailed outline.

Goal: Students extract information from the video and other sources to complete a detailed outline as a brief for *Miranda v. Arizona* in order to learn more about the case that requires police to inform criminal suspects of their right to remain silent.

Materials Needed:

- **Technology**

Computer with internet connection

Video: *The Right to Remain Silent: Miranda v. Arizona* (25 min.)

Available from Annenberg Classroom:

<http://www.annenbergclassroom.org/page/all-videos>

- **Resources: (Included)**

Video transcript: *The Right to Remain Silent: Miranda v. Arizona*

Opinion of the Court, *Miranda v. Arizona*

Available online from Cornell University Law School at this link:

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html

Chapter 17: The Right to Remain Silent, *The Pursuit of Justice*

Available online from Annenberg Classroom at this link:

<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

- **Student Materials (Included)**

Student’s Video Guide (Focus on Section II)

- **Teacher Materials**

Teacher’s Video Guide (Included)

Game Guide for Teachers on *Argument Wars*:

<http://cdn.icivics.org/sites/default/files/AW-Game-Guide.pdf>

Procedure:

1. Assign SECTION II: Brief the Case: An Outline (in the Video Guide)
2. Review the parts in the outline and give students a chance to ask clarifying questions.
3. Students may collaborate or work independently to develop the brief.
4. Use class time as a research and work period.

Homework:

1. Complete the brief for Section II.
2. Play this iCivics game at <http://www.icivics.org/games>
 - Select the *Argument Wars* game in *The Judicial Branch* section at the bottom of the page.
 - Select the case of *Miranda v. Arizona* for the game.
 - Print the Certificate at the end or provide a screen shot to verify completion of the game.

DAY 3: MAKING THE RULES

Overview: Students search the opinion of the Court to “find the Miranda warnings” and analyze it section by section.

Goal: Students make connections between the language used in the Miranda warnings and the words written by Chief Justice Earl Warren in the *Miranda* opinion. Through closer analysis of the sections, students learn about the reasons and principles of law upon which the decision is based and the arguments presented by the majority.

Materials Needed:

- **Technology**

- Computer with internet connection

- **Resources: (Included)**

- Opinion of the Court, *Miranda v. Arizona*

- Available online from Cornell University Law School at this link:

- http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html

- **Student Materials (Included)**

- Making the Rules

- A Closer Look at Miranda Warnings

- Student’s Video Guide (Focus on Section III)

- “What We Know about the Right to Remain Silent” (class list produced in Lesson 1)

- Through the Lens of the Common Core

- **Teacher Materials (Included)**

- A Closer Look at Miranda Warnings (Key)

- Making the Rules (Key)

- **Other needs**

- Highlighters (5 different colors) or

- Software with searching and highlighting capabilities

Procedure:

1. Use a sports metaphor to introduce this lesson. Discuss the importance of rules in a game, why rules are made, how rules are made, compare/contrast rules and laws etc.
2. Assign Making the Rules and go over the instructions for both activities.

Homework:

1. Review the class list created in the first lesson: “What We Know about the Right to Remain Silent.”
Correct any misconceptions.
2. Respond to this quote in the opinion: “The quality of a nation’s civilization can be largely measured by the methods it uses in the enforcement of its criminal law.” – Chief Justice Earl Warren quoting Mr. Justice Schaefer on Federalism and State Criminal Procedure

EXTENSION ACTIVITIES

Have more time to teach?

1. Research to identify changes made to Miranda warnings by the U.S. Supreme Court, and discuss their implications:

- Has the Supreme Court Decimated Miranda?
<http://www.time.com/time/nation/article/0,8599,1993580-1,00.html>
- Miranda Warnings tweaked by the Court
<http://www.caselaw4cops.net/questioning/miranda.htm>
- Supreme Court Expands Juveniles' Miranda Rights
<http://blogs.wsj.com/law/2011/06/16/supreme-court-expands-juveniles-miranda-rights/>
- Mere Silence Doesn't Invoke Miranda, Justices Say
http://www.nytimes.com/2010/06/02/us/02scotus.html?_r=0
- Supreme Court Nipping at Miranda Rights
<http://www.kansas.com/2010/06/08/1348359/supreme-court-nipping-at-miranda.html>

2. Discuss/debate timely topics:

- Are there limits to whom the protections of the Constitution apply?
- Should suspected terrorists arrested abroad be read Miranda rights if they are not U.S. citizens?
Consider this case: On February 28, 2013, Osama bin Laden's son-in-law, Suleiman Abu Ghaith, was arrested in Jordan and flown to the U.S. for trial in a New York criminal court where Miranda rights apply. He pleaded not guilty.
- Topic: The increasing number of federal crimes
The Heritage Foundation: "Revisiting the Explosive Growth of Federal Crimes" by John Baker, June 16, 2008
<http://www.heritage.org/research/reports/2008/06/revisiting-the-explosive-growth-of-federal-crimes>

National Association of Criminal Defense Lawyers – Overcriminalization—Are We a Nation of Criminals?
<http://www.nacdl.org/criminaldefense.aspx?id=25905>

3. Explore how Miranda rights relate to juveniles:

- Do Kids Get It? (Miranda Rights)
http://www.enquirer.com/editions/2001/08/29/loc_miranda_rights_do.html
- Annenberg Classroom: Speak Out
Juveniles and Miranda
<http://www.annenbergclassroom.org/speakout/you-have-a-right-to-remain-silent-juveniles-and-miranda-rights>
- Supreme Court: Children are different when it comes to Miranda warning against self-incrimination
http://articles.washingtonpost.com/2011-06-16/politics/35233649_1_justice-sonia-sotomayor-elena-kagan-miranda
- Landmark U.S. Supreme Court Decision Protects Miranda Rights for Youth
<http://www.jlc.org/news-room/press-releases/landmark-us-supreme-court-decision-protects-miranda-rights-youth>
- National Juvenile Defense Center: Know Your Rights
<http://www.njdc.info/gaultat40/knowyourrights.php>

4. Argue by playing an iCivics Game for *Miranda v. Arizona*:

<http://www.icivics.org/games>

- Select the Argument Wars game in The Judicial Branch section at the bottom of the page.
- Select the case of *Miranda v. Arizona* for the game.

5. Help students learn how to develop an effective argument:

- Annenberg Classroom: Critical Thinking Lesson Plan - Building a Better Argument

<http://www.annenbergclassroom.org/page/buildingabetterargument>

- iCivics Lessons for Teachers:

Select from 8 lessons that cover the development of a well-written argument.

Lesson 1: So You Think You Can Argue

<http://www.icivics.org/teachers/lesson-plans/lesson-1-so-you-think-you-can-argue>

- iCivics Drafting Board (requires login, which is free)

Drafting Board “guides your students through the process of producing a clear and polished argumentative essay. Students will learn to connect claims, evidence, and reasoning to ultimately produce a structured and effective argument.” It is also aligned to Common Core Standards.

<http://www.icivics.org/draftingboard/>

6. Learn more about decision-making and judicial interpretation at the Supreme Court:

- View the video: Conversation on the Constitution: Judicial Interpretation (37 min.)

<http://www.annenbergclassroom.org/page/a-conversation-on-the-constitution-judicial-interpretation>

Justices Stephen G. Breyer and Antonin Scalia and a group of students discuss the different theories of how to interpret and apply the Constitution to cases.

- View the video: The Origin, Nature and Importance of the Supreme Court (37 min.)

<http://www.annenbergclassroom.org/page/a-conversation-on-the-origin-nature-and-importance-of-the-supreme-court>

Chief Justice John G. Roberts Jr. and a group of students discuss the Supreme Court: its history, how it selects and decides cases, and the role of an independent judiciary.

- United States Supreme Court

<http://www.supremecourt.gov>

RESOURCES

Miranda v. Arizona (1966)

- *United States Reports: Miranda v. Arizona*
<https://bulk.resource.org/courts.gov/c/US/384/384.US.436.584.759-761.html>

- *OYEZ: Miranda v. Arizona*
http://www.oyez.org/cases/1960-1969/1965/1965_759

Find the audio and transcript for the argument presented by John J. Flynn on behalf of Ernesto Miranda linked under *Miranda v. Arizona* - Oral Argument, Part 1

- Cornell University Law School: *Miranda v. Arizona*
Syllabus, Opinion, Dissent
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
- Findlaw: *Miranda v. Arizona*
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=384&page=436>
- U.S. Courts: Amendment V (Includes educational resources related to *Miranda v. Arizona*)
<http://www.uscourts.gov/EducationalResources/ClassroomActivities/FifthAmendment.aspx>

- Street Law: Landmark Supreme Court Cases (Includes educational resources)
Miranda v. Arizona
http://www.streetlaw.org/en/landmark/cases/miranda_v_arizona

Miranda – A Primer

http://www.streetlaw.org/en/Page/459/Miranda__v__Arizona__A__Primer

- Center for Civic Education: *Miranda v. Arizona*
<http://www.civiced.org/pdfs/WTP/resources/MirandaVsArizona.pdf>
- C-SPAN: *Miranda v. Arizona*
<http://www.c-spanvideo.org/program/59486-1>

- iCivics Game
<http://www.icivics.org/games>
Select the *Argument Wars* game in The Judicial Branch section at the bottom of the page. Select the case of *Miranda v. Arizona* for the game.

Fifth Amendment & Self-Incrimination

- Annenberg Online Video Documentaries
The Story of the Bill of Rights (16:20)
Fifth Amendment (3:07)
Sixth Amendment (1:06)
<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>
- Annenberg Classroom: Fifth Amendment
<http://www.annenbergclassroom.org/page/fifth-amendment>

- Annenberg Classroom: Timeline - Right Against Self-Incrimination
<http://www.annenbergclassroom.org/timeline/right-against-self-incrimination>
- Annenberg Classroom: Chapter 17: The Right to Remain Silent, The Pursuit of Justice—Kermit L. Hall and John J. Patrick
http://www.annenbergclassroom.org/Files/Documents/Books/The%20Pursuit%20of%20Justice/140_145_Ch_17.pdf
- Annenberg Classroom: Chapter 17: The Privilege Against Self-Incrimination, Our Rights—David J. Bodenhamer
http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Rights/Chapter_17_Our_Rights.pdf
- Annenberg Classroom: Fifth Amendment, Our Constitution—Donald Ritchie and Justicelearning.org
http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Fifth%20Amendment_Our%20Constitution.pdf
- U.S. Constitution: Fifth Amendment (Self-Incrimination)
<http://constitution.findlaw.com/amendment5/annotation07.html>
- Findlaw: Annotation 7: Fifth Amendment – Self Incrimination
<http://constitution.findlaw.com/amendment5/annotation07.html>
- Lexis Nexis: Criminal Procedure Capsule Summary
Chapter 8: Privilege Against Self-Incrimination
<http://www.lexisnexis.com/lawschool/study/outlines/html/crimpro/crimpro08.htm>
- iCivics (Interactives)
The Constitution and Bill of Rights
<http://www.icivics.org/subject/constitution-and-bill-rights>
- ACLU History: The Right to Remain Silent
<http://www.aclu.org/criminal-law-reform/aclu-history-right-remain-silent>

Criminal Law and Procedures

- Cornell University Law School: Criminal Procedure: An Overview
http://www.law.cornell.edu/wex/criminal_procedure
- Lexis Nexis: Criminal Procedure Capsule Summaries: Index
<http://www.lexisnexis.com/lawschool/study/outlines/html/crimpro/tocabb.htm>
- Findlaw: Criminal Law
<http://criminal.findlaw.com/>
- The Reid Technique of Interviewing and Interrogation
http://www.reid.com/educational_info/r_updates.html

State and Federal Courts

- Supreme Court of the United States
<http://www.supremecourtus.gov>
- United States Courts
<http://www.uscourts.gov>
- Federal Judicial Center
<http://www.fjc.gov>
- Findlaw: State Laws
<http://statelaws.findlaw.com/>

Online Books from Annenberg

- *Understanding Democracy, A Hip Pocket Guide*—John J. Patrick
<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>
- *Our Constitution*—Donald Ritchie and Justicelearning.org
<http://www.annenbergclassroom.org/page/our-constitution>
- *Our Rights*—David J. Bodenhamer
<http://www.annenbergclassroom.org/page/our-rights>
- *The Pursuit of Justice*—Kermit L. Hall and John J. Patrick
<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

“The quality of a nation’s civilization can be largely measured by the methods it uses in the enforcement of its criminal law.”

— Chief Justice Earl Warren quoting Mr. Justice Schaefer on Federalism and State Criminal Procedure, *Miranda v. Arizona* (1966)

Student Materials

- Class-Prep Assignment Sheet
- Information & Excerpts for Background
- Student's Video Guide: *The Constitution Project: The Right to Remain Silent: Miranda v. Arizona*
- A Closer Look at Miranda Warnings
- Making the Rules
- Through the Lens of the Common Core

Class-Prep Assignment Sheet

Complete this assignment before watching the 25-minute video *The Right to Remain Silent: Miranda v. Arizona*. It provides important background knowledge and context for the content and concepts that will be covered in the video through narration, interviews, graphics, and embedded audio and video clips.

Materials & Technology Needed:

- Information & Excerpts for Background (Student Handout)
- Computer and Internet access

Instructions:

1. Read through the information and excerpts in each section. Use the questions to engage your thinking about the material and as a self-check of your understanding.
2. Complete the following activities.

Activities:

1. Watch:

Annenberg Classroom: Online Video Documentaries

The Story of the Bill of Rights (16:20)

The Fifth Amendment (3:07)

The Sixth Amendment (1:26)

<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>

2. Read and Respond:

- Read through each section in the handout (Information & Excerpts for Background) and review the questions.
- For each section below, identify ONE significant point (e.g., problem, fact, idea, concept, value, principle, concern, issue, controversy, conclusion) and explain its importance. It may be important to you personally or important to others. **Bring your responses to class.**

1. Rights, Liberties, and the Common Good

2. Commitment to Justice

3. Criminal Justice

4. U.S. Constitution and Bill of Rights

5. Protection Against Self-Incrimination

6. U.S. Court System

6.1 Federal and State Courts

6.2 Supreme Court

7. Law Enforcement

7.1 Federal Law Enforcement

7.2 State and Local Law Enforcement

8. Criminal Procedures

**** REMEMBER: Bring your responses to class. ****

Information & Excerpts for Background

About:

The information and excerpts in this resource are included to build essential background and context for the concepts covered in the video *The Right to Remain Silent: Miranda v. Arizona*. They are organized under the following headings:

1. Rights, Liberties, and the Common Good
2. Commitment to Justice
3. Criminal Justice
4. U.S. Constitution and Bill of Rights
5. Protection Against Self-Incrimination
6. U.S. Court System
 - 6.1 Federal and State Courts
 - 6.2 Supreme Court
7. Law Enforcement
 - 7.1 Federal Law Enforcement
 - 7.2 State and Local Law Enforcement
8. Criminal Procedures

Instructions to Students:

Prepare for the video *The Right to Remain Silent* and activities in this lesson by reading the information and excerpts on these pages. Use the questions to engage your thinking about the material and as a self-check of your understanding. If you don't know the answers, read or research to find them.

1. Rights, Liberties, and the Common Good

Questions:

1. Why spend time learning about the U.S. Constitution and issues related to it?
2. What responsibilities do you have as an individual living under the Constitution?
3. Do you have any concerns about the power of government? Explain.
4. In our constitutional democracy, who has ultimate control over the government?
5. How can you protect your rights and liberties?
6. Identify the two competing purposes of government and explain why there is tension between the two.

Readings:

1. “When it comes to your rights and liberties, it would be dangerous to be indifferent. True, the U.S. Constitution has stood the test of time for more than two hundred years, preserving our rights, preventing despotism, and adjusting to the needs of an evergrowing nation. Yet despite its appearance of strength and stability, time and again constitutional rights and liberties have been imperiled and might have crumbled if taken for granted.” . . .

“Because we live under . . . rules [outlined by the Constitution], it is essential that we know what they are, why they were established, how they have been implemented, and how they directly affect us. The Constitution not only designed a government but also placed limits on it to prevent arbitrary rule. Particularly through its amendments, the Constitution guarantees every American fundamental rights and protection of life, liberty, and property.”

“The continuing debates over how to interpret the Constitution influence your freedom to worship, to read what you want, to speak your mind, and to protest injustices. They involve your life, liberty, and property, everything that you consider valuable. For these reasons, it is in your interest to know your constitutional rights. You will have the opportunity to choose your leaders—and perhaps to become one yourself. That carries with it a civic responsibility to understand how government works, to know its powers and its limits, and the meaning of a constitution written in the name of ‘we the people.’”

Source:

Annenberg Classroom: *Our Constitution*, pgs. 4-11

<http://www.annenbergclassroom.org/page/our-constitution>

2. “The common good (sometimes called the public good) may refer to the collective welfare of the community. It also may refer to the individual welfare of each person in the community. A communitarian view of the common good in a democracy is equated with the collective or general welfare of the people as a whole. The well-being of the entire community is considered to be greater than the sum of its parts, and the exemplary citizen is willing to sacrifice personal interests or resources for the good of the entire community. The good of the country or the community is always placed above the personal or private interests of particular groups or individuals. From this communitarian perspective, the ultimate expression of the common good is the elevation of public or community interests above private or individual interests.”

“When viewed individualistically, however, the common good is based on the well-being of each person in the community. In a democracy, the government is expected to establish conditions of liberty and order that enable each person to seek fulfillment and happiness on his or her own terms. The exemplary citizen respects and defends the individual rights of each person in the expectation of reciprocity from others. From the perspective of individualism, the ultimate achievement of the common good is when the rights of each person in the community are protected and enjoyed equally.”

Source:

Annenberg Classroom: *Understanding Democracy, A Hip Pocket Guide*, pgs. 24, 25

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

2. Commitment to Justice

Questions:

1. Who is ultimately responsible for establishing justice in this country?
2. How are the three branches of government involved in establishing justice?
3. What does justice “look like” in practical terms?
4. Write a short paragraph that explains what justice means to you.

Readings:

1. “In a democracy, the source of a government’s authority is the people, the collective body of citizens by and for whom the government is established. The ultimate goal of government in a democracy is to protect individual rights to liberty within conditions of order and stability.”

“The government may not assume powers that are not listed or granted to it [by the Constitution].”

“An independent judiciary that can declare null and void an act of the government it deems contrary to the constitution is an especially important means to prevent illegal use of power by any government official.”

Source:

Annenberg Classroom: *Understanding Democracy*, pg. 42

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

2. “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

Source:

Annenberg Classroom: Constitution Guide - Preamble

<http://www.annenbergclassroom.org/page/preamble>

3. Justice is the “Fair distribution of benefits and burdens, fair correction of wrongs and injuries, or use of fair procedures in gathering information and making decisions.”

Source:

Center for Civic Education: Glossary

http://www.civiced.org/index.php?page=stds_glossary

4. “Justice is one of the main goals of democratic constitutions, along with the achievement of order, security, liberty, and the common good. The Preamble to the Constitution of the United States, for example, says that one purpose of the document is to ‘establish Justice.’ And, in the 51st paper of *The Federalist*, James Madison proclaims, “Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.” So, what is justice? And how is it pursued in a constitutional democracy?”

“Since ancient times, philosophers have said that justice is achieved when everyone receives what is due to her or him. Justice is certainly achieved when persons with equal qualifications receive equal treatment from the government. For example, a government establishes justice when it equally guarantees the human rights of each person within its authority. As each person is equal in her or his membership in the human species, each one possesses the same immutable human rights, which the government is bound to protect equally. By contrast, the government acts unjustly if it protects the human rights of some individuals under its authority while denying the same protection to others.”

Source:

Annenberg Classroom: *Understanding Democracy*, pgs 49-51

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

5. The separation of powers is a constitutional doctrine that “allocates the powers of national government among three branches: the legislative, which is empowered to make laws; the executive, which is required to carry out the laws; and the judicial, whose job it is to interpret and adjudicate (hear and decide) legal disputes.”

Source:

Annenberg Classroom: Glossary – Separation of Powers

<http://www.annenbergclassroom.org/term/separation-of-powers>

6. “Separation and sharing of powers among the three branches, through checks and balances, is the basic constitutional means for achieving limited government and thereby protecting the people from governmental abuses. . . . Under the system of checks and balances, no branch of the government can accumulate too much power. But each branch, and the government generally, is supposed to have enough power to do what the people expect of it. So, the government is both limited and empowered; neither too strong for survival of the people’s liberty nor too limited to be effective in maintaining order, stability, and security for the people. “

Source:

Annenberg Classroom: *Understanding Democracy*, pgs. 91-92

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

7. “Agreement on certain fundamental values and principles is essential to the preservation and improvement of American constitutional democracy. They are stated in the Declaration of Independence, the Constitution, the Gettysburg Address, and other significant documents, speeches, and writings. They provide common ground on which Americans can work together to decide how best to promote the attainment of individual, community, and national goals. The values and principles of American constitutional democracy have shaped the nation’s political institutions and practices. These values and principles are sometimes in conflict, however, and their very meaning and application are often disputed.”

For example, conflicts inevitably arise when individuals are confronted with the power of the government, or the government is confronted by the constitutional protections granted individuals.

The process required to bring law-breakers to justice often results in loud debates about

- conflicts between liberty and security
- conflicts between individual rights and the common good
- conflicts between the rights of different individuals

In a changing society, ensuring that justice is upheld in criminal matters is a pursuit that will never end. It's the Constitution that gives the government competing responsibilities (e.g., protecting individual rights and promoting the common good) and it gives the people the power to decide what matters most.

Source:

Center for Civic Education: National Civics and Government Standards, Grade 5-8, pgs. 101, 123-127

http://new.civiced.org/images/stories/PDFs/Publications/National_Standards/National_Standards_5-8.pdf

3. Criminal Justice

Questions:

1. What do Americans expect from their criminal justice system?
2. What is the objective of the criminal justice system?
3. When the power of the government threatens your liberty, what legal protections do you have?
4. When your safety is threatened, what legal protections do you have?

Readings:

1. "In general, the goal of the American legal system is justice. As a community, we want to get the "perp," right the wrong and restore our sense of order. We put bad guys behind bars to keep the rest of us safe. But justice also requires providing those accused of crimes with a fair and appropriate adjudication of their guilt. They are not only given, but informed of their rights to counsel and silence, and they should have the right to due process upheld at each step. Justice, therefore, means avoiding mistakes. It keeps those who are innocent out of the criminal system, and its utmost end is to find the truth."

Source:

American Criminal Law Review: "Defining Justice" by Emily Smith

<http://www.americancriminallawreview.com/Drupal/blogs/blog-entry/defining-justice-01-05-2011>

2. The criminal justice system is "the system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing, and punishing those who are suspected or convicted of criminal offenses."

Source:

Oxford Dictionaries

<http://oxforddictionaries.com/definition/english/criminal%2Bjustice%2Bsystem>

3. "The criminal justice system is comprised of three major institutions which process a case from inception, through trial, to punishment. A case begins with law enforcement officials, who investigate a crime and gather evidence to identify and use against the presumed perpetrator. The case continues with the court system, which weighs the evidence to determine if the defendant is guilty beyond a reasonable doubt. If so, the corrections system will use the means at their disposal, namely incarceration and probation, to punish and correct the behavior of the offender."

"Throughout each stage of the process, constitutional protections exist to ensure that the rights of the accused and convicted are respected. These protections balance the need of the criminal justice system to investigate and prosecute criminals with the fundamental rights of the accused (who are presumed innocent)."

Source:

Findlaw: How Does the Criminal Justice System Work?

<http://criminal.findlaw.com/criminal-law-basics/how-does-the-criminal-justice-system-work.html>

4. "All of us rely on the criminal justice system to keep us safe and maintain order. We expect it to meet the fundamental aims of our criminal laws: to separate the guilty from the innocent, to incapacitate truly dangerous individuals, and to promote deterrence and retribution for those who violate law. We also expect the criminal law and the criminal justice system to be fair and even-handed and to rehabilitate criminal offenders. And we expect the criminal justice system to assist offenders who have completed their sentences to reenter the community as productive citizens and to avoid commission of crimes in the future.

Source:

American Bar Association: Criminal Justice System Improvements

http://www.americanbar.org/content/dam/aba/migrated/poladv/transition/2008dec_crimjustice.authcheckdam.pdf

5. The mission statement of the United States Department of Justice is “To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.”

Source:

United States Department of Justice

<http://www.justice.gov/about/about.html>

6. “The U.S. Constitution generally, and especially its Bill of Rights, protects individuals accused of crimes from wrong or unjust accusations and punishments by government officials. But the Constitution and laws made in conformity with it also authorize the federal and state governments to exercise certain powers in order to protect people from criminals intending to harm them. So Americans want their federal and state governments to be simultaneously powerful enough to protect them from criminals and sufficiently limited to prevent the government from abusing anyone, including those accused of criminal behavior.”

“Constitutional issues inevitably arise when the government’s efforts to prevent crime [or identify and punish a criminal] clash with the need to protect those accused of a crime.”

Source:

Annenberg Classroom: The Pursuit of Justice, pg. 140

<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

4. U.S. Constitution and Bill of Rights

Questions:

1. What is the purpose of the U.S. Constitution?
2. After the Constitution was written, why were the states reluctant to ratify it? What convinced them to proceed with ratification?
3. What is the significance of these dates? 1787, 1791
4. Explain the relationship between the Constitution and the Bill of Rights?
5. What authority did the Bill of Rights have over the states in 1800? 1925? 1931?
6. Do all rights in the Bill of Rights apply to your state today? Explain.
7. Describe the relationship of the government to the people under the Constitution.
8. Respond to this statement: Constitutional challenges over issues of liberty and security are signs of a healthy democracy.

Readings:

1. The ratification of the U.S. Constitution in 1787 depended on a promise by James Madison that a bill of rights would be added. The people recognized that the Constitution established the federal government and determined its relationship to the states, but it did not include protections for individual liberties.

Source:

Annenberg Classroom: Online Video Documentaries

Story of the Bill of Rights (16:20)

<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>

2. In 1791, the Bill of Rights was ratified, resulting in the addition of the first 10 amendments to the Constitution. Now the Constitution protected individual rights from the new federal government and from popular majorities who might use their power to abuse the minority.

Source:

Annenberg Classroom: Online Video Documentaries

The Story of the Bill of Rights (16:20)

<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>

3. When ratified in 1791, the Bill of Rights applied only to the federal government, not the states. The Supreme Court's practice of selective incorporation (application) of the Bill of Rights didn't actively start until 1925, when the Court began interpreting the due process clause of the Fourteenth Amendment (1868) as a limit on the power of state governments, as well as the federal government. Since the 1960s, practically all clauses in the Bill of Rights have been incorporated. But, there are some the Supreme Court has expressly refused to do.

Sources:

Annenberg Classroom: *Our Constitution*, pgs. 158-161

<http://www.annenbergclassroom.org/page/our-constitution>

United States Courts: Judicial Interpretation of the Fourteenth Amendment

<http://www.uscourts.gov/EducationalResources/ConstitutionResources/LegalLandmarks/JudicialInterpretationFourteenthAmendment.aspx>

4. "The U.S. Constitution generally, and especially its Bill of Rights, protects individuals accused of crimes from wrong or unjust accusations and punishments by government officials. But the Constitution and laws made in conformity with it also authorize the federal and state governments to exercise certain powers in order to protect people from criminals intending to harm them. So Americans want their federal and state governments to be simultaneously powerful enough to protect them from criminals and sufficiently limited to prevent the government from abusing anyone, including those accused of criminal behavior."

"Constitutional issues inevitably arise when the government's efforts to prevent crime clash with the need to protect those accused of crime."

"Tensions between liberty and order in the United States [are ongoing]. In our free society, there will always be questions about the proper balance between the rights of criminal suspects and the need for safety and security against criminals. The exact meaning and practical applications of due process rights . . . will continue to be debated in community forums and courts of law. Such constructive controversies are vital signs of a healthy constitutional democracy."

Source:

Annenberg Classroom: *Pursuit of Justice*, pg. 140

<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

5. Protection Against Self-Incrimination

Questions:

1. Define self-incrimination.
2. Why is the privilege against self-incrimination essential for individual liberty?
3. Why do we have the privilege against self-incrimination?
4. Quote the clause that is the basis for this privilege and give the reference.
5. Consider the use of these statements:
 - a. "You have the right to remain silent."
 - Who says it?
 - What circumstances prompt its use?
 - Why say it?

- b. “I take the Fifth.”
- Who says it?
 - What circumstances prompt its use?
 - Why say it?

Readings:

1. “Right against Self-Incrimination: This provision of the Fifth Amendment is probably the best-known of all constitutional rights, as it appears frequently on television and in movies—whether in dramatic courtroom scenes (“I take the Fifth!”) or before the police question someone in their custody (“You have the right to remain silent. Anything you do say can be used against you in a court of law.”). The right protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution. Even if a person is guilty of a crime, the Fifth Amendment demands that the prosecutors come up with other evidence to prove their case. If police violate the Fifth Amendment by forcing a suspect to confess, a court may suppress the confession, that is, prohibit it from being used as evidence at trial.”

“The right to remain silent also means that a defendant has the right not to take the witness stand at all during his or her trial, and that the prosecutor cannot point to the defendant’s silence as evidence of guilt. There are, however, limitations on the right against self-incrimination. For example, it applies only to testimonial acts, such as speaking, nodding, or writing. Other personal information that might be incriminating, like blood or hair samples, DNA or fingerprints, may be used as evidence. Similarly, incriminating statements that an individual makes voluntarily—such as when a suspect confesses to a friend or writes in a personal diary—are not protected.”

Source:

Annenberg Classroom: Constitution Guide - Fifth Amendment
<http://www.annenbergclassroom.org/page/fifth-amendment>

2. “The Fifth Amendment’s privilege against self-incrimination . . . is necessary for our sense of justice because it helps to ensure fairness. We assume the innocence of an individual until the government proves otherwise. Government has vast power, so we balance the scales of justice by, among other things, protecting the individual from a forced confession, an involuntary admission of guilt. Without it, there can be no due process of law.”

“The privilege against self-incrimination is also essential to our understanding of individual liberty. As a society, we believe freedom rests upon a fundamental right to privacy and human dignity. Central to our conception of privacy is the need for men and women to be custodians of their own consciences, thoughts, feelings, and sensations. Forcing us to reveal these things, making us confess without our consent, robs us of the things that make us individuals. No one and no power has the right to take something so precious from us, and the Fifth Amendment exists to ensure that we guarantee to each citizen the dignity and self-respect that allows us all to be free.”

Source:

Annenberg Classroom: *Our Rights*, pg. 141
<http://www.annenbergclassroom.org/page/our-rights>

3. “No person . . . shall be compelled in any criminal case to be a witness against himself.”

Source:

Findlaw: U.S. Constitution - Fifth Amendment (Annotation 7 - Self-Incrimination)
<http://constitution.findlaw.com/amendment5/annotation07.html>

Learn more:

Annenberg Online Video Documentaries – The Story of the Bill of Rights
Fifth Amendment (3:07)
<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>

6. U.S. Court System

Questions:

1. What is the purpose of a court?
2. Compare and contrast the two types of court systems in the U.S.
3. What is the highest court in the U.S.?
4. Why are there two court systems in the U.S.?
5. Define the two types of cases heard by the courts.
6. What constitutes a crime and who gets to decide?
7. What is the difference between a federal crime and a state crime?
8. Where are most criminal cases heard? Why?
9. What process makes it possible to move a case along in the judicial system?
10. How does the U.S. Supreme Court relate to the federal and state courts?
11. Under what circumstances would a state criminal case be heard by the U.S. Supreme Court?
12. Explain the role and responsibility of the U.S. Supreme Court.
13. What is the jurisdiction of the U.S. Supreme Court and the source of its authority?
14. To which branch of government does the U.S Supreme Court belong?

6.1 Federal and State Courts

Readings:

1. Comparison of Federal and State Courts:

Federal Courts	State Courts
<p>Establishment: Established under the U.S. Constitution by Congress to decide disputes involving the Constitution and laws passed by Congress.</p> <p>Jurisdiction: Federal court jurisdiction is limited to the types of cases listed in the Constitution and specifically provided for by Congress.</p> <ul style="list-style-type: none"> • Cases in which the United States is either the plaintiff or the defendant • Cases involving violations of the U.S. Constitution or federal laws • Cases between citizens of different states if the amount in controversy exceeds \$75,000 • Bankruptcy, copyright, patent, and maritime law cases <p>Federal crimes:</p> <ul style="list-style-type: none"> • Congress determines what constitutes a federal crime by passing laws against a particular behavior. There are “over 4,450 crimes scattered throughout the federal code and hundreds of thousands more hidden in federal regulations.” (NACDL) • Every year, Congress passes more criminal laws • Actions that break federal laws or violate the Constitution constitute a crime. <p>Examples of federal crimes:</p> <p>Bank robbery, trafficking in illegal drugs, tax evasion, crimes committed on federal property, such as national parks or military reservations</p> <p>Note:</p> <ol style="list-style-type: none"> 1. Criminal cases involving federal laws can be tried only in federal court. 2. Federal courts may hear cases concerning state laws if the issue is whether the state law violates the federal Constitution. 	<p>Establishment: Established by a state (within states there are also local courts that are established by cities, counties, and other municipalities)</p> <p>Jurisdiction: State court jurisdiction is geographically limited.</p> <ul style="list-style-type: none"> • Cases individuals most likely to be involved in, (e.g., robberies, traffic violations, broken contracts, and family disputes). • Most criminal cases involve violations of state law and are tried in state courts <p>State crimes:</p> <ul style="list-style-type: none"> • State legislatures make crime laws that define what constitutes a crime in their state. Not all states have the same crimes so the number of criminal laws varies. • Actions that break state laws are crimes. <p>Examples of state crimes:</p> <p>Murder, rape, DUI, theft, drug possession, robbery and shoplifting, and assault. The majority of misdemeanors are state crimes.</p> <p>Note:</p> <ul style="list-style-type: none"> • The only cases state courts are not allowed to hear are lawsuits against the United States and those involving certain specific federal laws: criminal, antitrust, bankruptcy, patent, copyright, and some maritime law cases. • A case that only involves a state law can be heard only in state court. • In many cases, both federal and state courts have jurisdiction. Parties may choose whether to go to state or federal court.
<p>Both Federal and State</p> <ul style="list-style-type: none"> • Both courts hear civil and criminal cases • In cases where both federal and state courts have jurisdiction, parties may choose whether to go to state or federal court. 	

Sources:

Federal Judicial Center: What the Federal Courts Do - How is a federal court different from a state court?

<http://www.fjc.gov/federal/courts.nsf/autoframe?OpenForm&nav=menu2b&page=/federal/courts.nsf/page/CCA93B3B87C844BC85256C7900460860?opendocument>

United States Courts: Jurisdiction State and Federal Courts
<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/JurisdictionOfStateAndFederalCourts.aspx>

Findlaw: View all Criminal Charges
<http://criminal.findlaw.com/criminal-charges/view-all-criminal-charges.html>

Findlaw: Criminal Law Basics
<http://criminal.findlaw.com/criminal-law-basics/criminal-law-basics.html>

Findlaw: State Laws
<http://statelaws.findlaw.com/>

The Heritage Foundation: “Revisiting the Explosive Growth of Federal Crimes” by John Baker, June 16, 2008
<http://www.heritage.org/research/reports/2008/06/revisiting-the-explosive-growth-of-federal-crimes>

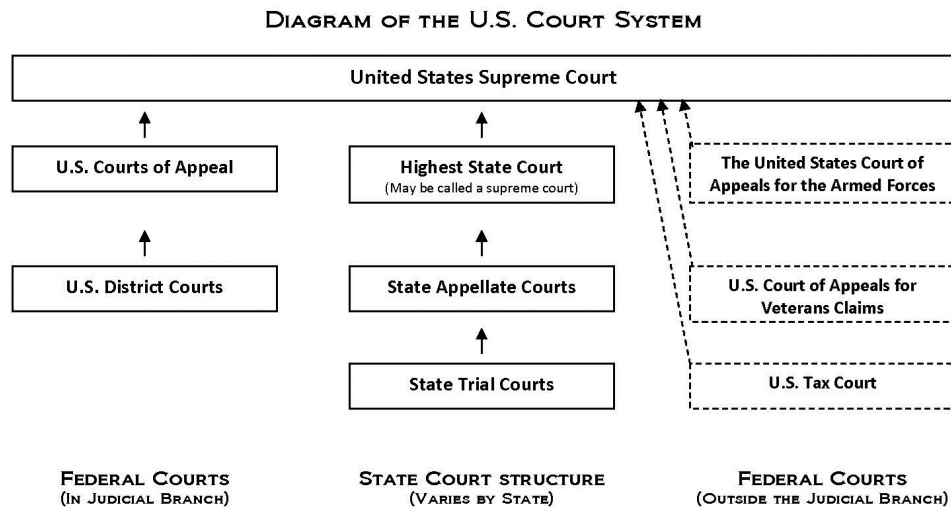
National Association of Criminal Defense Lawyers – Overcriminalization—Are We a Nation of Criminals?
<http://www.nacdl.org/criminaldefense.aspx?id=25905>

2. “The U.S. Constitution created a governmental structure for the United States known as federalism. Federalism refers to a sharing of powers between the national government and the state governments. The Constitution gives certain powers to the federal government and reserves the rest for the states. Therefore, while the Constitution states that the federal government is supreme with regard to those powers expressly or implicitly delegated to it, the states remain supreme in matters reserved to them. This supremacy of each government in its own sphere is known as separate sovereignty, meaning each government is sovereign in its own right.”

“Both the federal and state governments need their own court systems to apply and interpret their laws. Furthermore, both the federal and state constitutions attempt to do this by specifically spelling out the jurisdiction of their respective court systems.”

Source:

United States Courts: Understanding Federal and State Courts
<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/JurisdictionOfStateAndFederalCourts.aspx>



3. Below is a simple diagram of the U.S. Court System, showing how cases generally move through the courts.

Sources:

United States Courts: Understanding Federal and State Courts

<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/UnderstandingFederalAndStateCourts.aspx>

Federal Judicial Center: History of the Federal Judiciary

<http://www.fjc.gov/history/home.nsf/page/courts.html>

Federal Judicial Center: Federal Courts Outside the Judicial Branch

http://www.fjc.gov/history/home.nsf/page/courts_special_fcotj.html

4. “State courts are the final deciders of state laws and the state constitutions. Most criminal cases end up in state court. Their interpretations of federal law or the U.S. Constitution may be appealed to the U.S. Supreme Court. The Supreme Court may choose to hear or not to hear such cases.”

Source:

United States Courts: The Difference between Federal and State Courts

<http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/Jurisdiction/DifferencebetweenFederalAndStateCourts.aspx>

5. The law recognizes two types of cases: civil and criminal
- “Civil cases involve conflicts between people or institutions such as businesses. A civil case usually begins when a person or organization determines that a problem can’t be solved without the intervention of the courts. In civil cases, one (or more) of these persons or organizations brings suit (i.e., files a complaint in court that begins a lawsuit).”
 - “Criminal cases involve enforcing public codes of behavior as embodied in the laws, with the government prosecuting individuals or institutions. In a criminal case, the government brings charges against the person alleged to have committed the crime.”

Source:

American Bar Association: Steps in a Trial – Civil and Criminal Cases

http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/cases.html

Learn more:

Federal Judicial Center: What the Federal Courts Do – What’s the difference between a civil and a criminal case?

<http://www.fjc.gov/federal/courts.nsf/autoframe?OpenForm&nav=menu2c&page=/federal/courts.nsf/page/A2ACB10A0EEA99B185256824004B4FAA?opendocument>

United States Courts: Jurisdiction of State and Federal Courts

<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/JurisdictionOfStateAndFederalCourts.aspx>

6.2 Supreme Court

Readings:

1. The Supreme Court is the highest court in the federal judiciary. Specifically established by Article III of the U.S. Constitution, the Supreme Court and the lower federal courts established by Congress (appellate courts and trial courts) make up the judicial branch of the federal government.
2. “It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.” —Chief Justice John Marshall , *Marbury v. Madison* (1803)

3. Cases that are reviewed by the Supreme Court are selected at the discretion of the Justices based their national significance, matters of federal law, and the Constitutional principles involved. In some special cases, the Supreme Court is the first to hear a case.

Sources:

Annenberg Classroom: Constitution Guide- Article III, Section 2

<http://www.annenbergclassroom.org/page/article-iii-section-2>

Supreme Court: The Court and Constitutional Interpretation

<http://www.supremecourt.gov/about/constitutional.aspx>

Federal Judicial Center: The Supreme Court of the United States and the Federal Judiciary

http://www.fjc.gov/history/home.nsf/page/courts_supreme.html

United States Courts: Understanding State and Federal Courts

<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/UnderstandingFederalAndStateCourts.aspx>

7. Law Enforcement

Questions:

1. What branch of government is responsible for law enforcement?
2. Compare and contrast the duties of federal, state, and local enforcement officers.
3. When does police questioning become interrogation?
4. Explain the importance of timing and context when police question individuals.
5. Should individuals be careful about what they say to the police? Explain.

Readings:

1. “Law enforcement” is the term that describes the individuals and agencies responsible for enforcing laws and maintaining public order and public safety. Law enforcement includes the prevention, detection, and investigation of crime and the apprehension and detention of individuals suspected of law violation.”

Source:

Bureau of Justice Statistics: Law Enforcement

<http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=7>

2. Law enforcement is the responsibility of the executive branch of the federal government. States model their governments after the federal government, so the same is true for the executive branch in state governments.

Sources:

The White House: The Executive Branch

<http://www.whitehouse.gov/our-government/executive-branch>

The White House: State and Local Government

<http://www.whitehouse.gov/our-government/state-and-local-government>

3. “A law enforcement officer is a government employee who is responsible for the prevention, investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws, including an employee engaged in this activity who is transferred to a supervisory or administrative position; or serving as a probation or pretrial services officer.”

Source:

USLegal: Definitions

<http://definitions.uslegal.com/l/law-enforcement-officer/>

Learn more:

Bureau of Justice Statistics: Terms & Definitions – Law Enforcement

<http://bjs.ojp.usdoj.gov/index.cfm?ty=tdtp&tid=7>

7.1 Federal Law Enforcement

Readings:

1. “There are 65 federal agencies and 27 offices of inspector general that employ full time personnel authorized to make arrests and carry firearms.” . . . “Federal officers’ duties include police response and patrol, criminal investigation and enforcement, inspections, security and protection, court operations, and corrections.”

Source:

Discover Policing: Types of Law Enforcement Agencies

http://discoverpolicing.org/whats_like/?fa=types_jobs

2. Criminal cases involving violations of federal law are tried in federal court.

3. Federal law enforcement agencies include the following:

U.S. Federal Bureau of Investigation

U.S. Customs Bureau and Investigations

U.S. Marshal Service

U.S. Department of Homeland Security

U.S. Secret Service

U.S. Central Intelligence Agency

Source:

Go Law Enforcement: Federal Law Enforcement Agencies

<http://www.golawenforcement.com/FederalLawEnforcementAgenciesHighSpeedConnection.htm>

7.2 State and Local Law Enforcement

Readings:

1. There are more than 17,000 state and local law enforcement agencies in the United States, ranging in size from one officer to more than 30,000.
 - Criminal cases involving violations of state law are tried in state court
 - Local police, state police/ highway patrol, special jurisdiction police, and deputy sheriffs are state law enforcement officers.
 - State-level police departments are operated by the state government.
 - Municipal police departments are operated by local governments.

Source:

Discover Policing: Types of Law Enforcement Agencies

http://discoverpolicing.org/whats_like/?fa=types_jobs

Learn more:

Discover Policing: Find a Law Enforcement Agency

<http://discoverpolicing.org/discover/>

2. “Uniformed police officers typically do the following:
 - Enforce laws
 - Respond to calls for service
 - Patrol assigned areas
 - Conduct traffic stops and issue citations
 - Arrest suspects
 - Write detailed reports and fill out forms
 - Prepare cases and testify in court

Police officers pursue and apprehend people who break the law and then warn them, cite them, or arrest them. Most police officers patrol their jurisdictions and investigate any suspicious activity they notice. They also respond to calls, issue traffic tickets, investigate domestic issues, and give first aid to accident victims.”

Source:

Bureau of Labor of Statistics: What Police and Detectives Do

<http://www.bls.gov/ooh/protective-service/police-and-detectives.htm#tab-2>

Learn more:

O*NET:

<http://www.onetonline.org/>

(For more information, conduct an occupation search using the database created for the U.S. Department of Labor.)

8. Criminal Procedures

Questions:

1. How did the ruling in *Miranda v. Arizona* affect criminal procedures?
2. What are Miranda rights and where did they come from?
3. What impact, if any, do you think *Miranda* had on the training programs offered by Reid and Associates? Provide details to support your conclusion.
4. For which category of crimes would you expect police to always read a suspect their Miranda rights? Why?
5. Why is it important to distinguish between an interview and interrogation?

Readings:

1. Crimes are classified according to their severity. The more serious the crime the more serious the punishment. “The classification of a crime influences both the substance and procedure of a criminal charge.”
 - Infraction – mildest; sometimes called a “petty offense” is the violation of an administrative regulation, an ordinance, a municipal code, and, in some jurisdictions, a state or local traffic rule. Most traffic offenses fall in this category and are considered to be non-criminal. Generally the offenders are issued a ticket and have monetary punishments. In some states, however, can arrest someone who is speeding.
 - Misdemeanor – less serious than a felony and more serious than an infraction, this type of crime is generally punishable by a fine or incarceration in a local jail, or both.
 - Felony – most serious crimes; examples include terrorism, treason, arson, murder, rape, robbery, burglary, and kidnapping

Source:

Findlaw: Classification of Crimes

<http://criminal.findlaw.com/criminal-law-basics/classifications-of-crimes/>

2. “An ‘arrest’ occurs when a person has been taken into police custody and is no longer free to leave or move about. The use of physical restraint or handcuffs is not necessary. An arrest can be complete when a police officer simply tells a crime suspect that he or she is “under arrest,” and the suspect submits without the officer’s use of any physical force. The key to an arrest is the exercise of police authority over a person, and that person’s voluntary or involuntary submission.”

Source:

Findlaw: Arrest

<http://criminal.findlaw.com/criminal-procedure/arrest.html>

Learn more:

Findlaw: Chronology: The Arrest Process

<http://criminal.findlaw.com/criminal-procedure/chronology-the-arrest-process.html>

3. “The rules regarding what an officer must do while making an arrest vary by jurisdiction.”

“There are only a very limited number of circumstances in which an officer may make an arrest:

- The officer personally observed a crime;
- The officer has probable cause to believe that person arrested committed a crime;
- The officer has an arrest warrant issued by a judge.”

“An officer cannot arrest someone just because she feels like it or has a vague hunch that someone might be a criminal. Police officers have to be able to justify their arrest usually by showing some tangible evidence that led them to probable cause.”

Source:

Findlaw: What Procedures Must Police Follow While Making an Arrest?

<http://criminal.findlaw.com/criminal-procedure/what-procedures-must-the-police-follow-while-making-an-arrest.html>

4. ““Police custody”” is generally defined as anytime the police deprive you of your freedom of action in a significant way. Realistically though, it means being arrested. Some jurisdictions treat detentions differently than arrests, though, and a Miranda warning isn’t required in such a situation.”

“Generally speaking, an actual arrest must take place before the police need to give you a Miranda warning. This means that simple things such as traffic stops or a police officer walking up to you and asking you questions are not considered police custody. When in doubt, just stay silent (except for the exception about identification discussed below).

“Finally . . . the warning must come before you are being interrogated, so until the interrogation has begun, you are not necessarily owed a Miranda warning. A request for identification is generally not considered an interrogation, nor have the police placed you into custody simply by asking about your identity. In general, you must always give a police officer identification.”

“Once police officers begin asking questions that may implicate involvement in a crime, however, an interrogation has begun.”

Source:

Findlaw: FAQs: Police Interrogations

<http://criminal.findlaw.com/criminal-rights/faqs-police-interrogations.html>

5. Interview or Interrogation? There is a difference.

In the 1940s, police interrogation procedures became more formalized when John E. Reid and Associates developed The Reid Technique. As the law changed, the technique evolved, too. The current version, The Reid Technique for Interviewing and Interrogation, has been used to train hundreds of thousands of law enforcement officers since 1974. According to its website (www.reid.com), “The Reid Technique of Interviewing and Interrogation, [is] widely recognized as the most effective means available to exonerate the innocent and identify the guilty.”

Interview

- An interview is non-accusatory.
- The purpose for an interview is to gather information.
- An interview may be conducted early during an investigation.
- An interview may be conducted in a variety of environments.
- Interviews are free flowing and relatively unstructured.
- The investigator should take written notes during a formal interview.

Interrogation

- An interrogation is accusatory.
- An interrogation involves active persuasion.
- The purpose for an interrogation is to learn the truth.
- An interrogation is conducted in a controlled environment.
- An interrogation is conducted only when the investigator is reasonably certain of the suspect's guilt.
- The investigator should not take any notes until after the suspect has told the truth and is fully committed to that position.

Source:

The Reid Technique of Interviewing and Interrogation by Joseph P. Buckley, President John E. Reid and Associates, Inc.

http://law.wisc.edu/fjr/clinical/ip/wcjsc/files/buckley_chapter_on_reid_technique.doc

Learn more:

The Reid Technique of Interviewing and Interrogation

<http://www.reid.com/index.html>

6. In 1966, the U.S. Supreme Court handed down a ruling in *Miranda v. Arizona* that dramatically changed criminal procedure and sparked debates that continue to this day. Because of *Miranda*, the police are required to inform arrested suspects of their Fifth Amendment privilege against self-incrimination by telling them they have the right to remain silent before an interrogation.

Source:

Findlaw: Miranda Warnings and Police Questioning

<http://criminal.findlaw.com/criminal-rights/miranda-warnings-and-police-questioning.html>

Student's Video Guide

Video: *The Constitution Project: The Right to Remain Silent*

(Time: 25 minutes)

Overview

In 1966, the U.S. Supreme Court handed down a ruling in *Miranda v. Arizona* that was “the most controversial criminal procedure decision ever.” When the practical guidelines given in the opinion of the Court became the Miranda warnings used in every state, government power was limited and individual liberties were protected. The Court’s ruling, however, did not stop the controversy or the legal challenges that would seek changes. Because of *Miranda*, the police are required to inform arrested suspects of their Fifth Amendment privilege against self-incrimination by telling them before an interrogation that they have the right to remain silent. The line between liberty and security had shifted.

This video tells the story behind the landmark case, highlights the changes brought about by the Court’s decision, and explores the controversy that continues under the Constitution. It’s the Constitution that gives the government competing responsibilities (e.g., protecting individual rights and promoting the common good) and it gives the people the power to decide what matters most.

Background Knowledge

More than likely you already know something about Miranda warnings because you’ve seen crime dramas on TV or in the movies. But for this video and the related activities, you will need a broader base of knowledge. Complete the Class-Prep Assignment to help you develop that base.

Words and Phrases

Review the words/phrases below. Look up definitions as needed so you are better prepared to understand what you see and hear in the video. Because the video is about legal matters, you will need to understand legal terms.

admission of guilt	Eighth Amendment	prosecution
adversarial system of justice	<i>Escobedo v. Illinois</i>	public safety exception
appeal	evidence	Richard Nixon
arrest	Fifth Amendment privilege	rights
Bill of Rights	framers	right to counsel
burden of proof	<i>Gideon v. Wainwright</i>	right to remain silent
Chief Justice Earl Warren	government	security
civil infraction	guilt	self-incrimination
civil liberties	innocent until proven guilty	Sixth Amendment
civilized society	interrogation	Star Chamber
compelled	James Hundley	suspect
confession	John Lilburn	taking the Fifth
conviction	jurisdiction	the third degree
crime	Justice Byron White	U.S. Constitution
criminal	Justice Hugo Black	voluntary confession
criminal justice system	liberty	Warren Court
criminal procedure	magisterial opinion	Wickersham Commission
criminal trial	Miranda warnings	
cruel and unusual punishment	opinion (Supreme Court)	
custody	opinion for the majority	
defendant	plead guilty	
<i>Dickerson v. United States</i>	police	
dissent	police custody	
due process	police interview	

Preparation for Viewing and Study

1. Complete the Class-Prep Assignment before watching the video.
2. Review the words and phrases listed above.
3. In addition to Internet access, you will need these materials and references AFTER watching the video.
 - Student Handout: (Included)
 - A Closer Look at Miranda Warnings
 - Lesson Resources:
 - Video transcript: *Miranda v. Arizona*
Opinion of the Court, *Miranda v. Arizona*
Also available online from Cornell University Law School at this link:
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
 - Chapter 17: The Right to Remain Silent, *The Pursuit of Justice*
Also available online from Annenberg Classroom at this link:
<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>
 - Chapter 17: The Privilege Against Self-Incrimination, *Our Rights*
Also available from Annenberg Classroom at this link: <http://www.annenbergclassroom.org/page/our-rights>

During the Video (1st Viewing)

For the first viewing, stay focused and attentive to the whole story. You will have a chance to revisit the video as needed to complete the questions and activities in this guide.

After 1st Viewing

The study assignments for this video are organized into three sections:

SECTION I: Video Study Questions

SECTION II: Brief the Case: Outline

SECTION III: Reflection & Follow-up

Revisit the video and consult other resources as needed to complete the questions and activities.

SECTION I. Video Study Questions

1. Identify the amendment and quote the relevant part that is the focus of the video.

Explain what the phrase means in practical terms.
2. Write down the Miranda warnings shown in the video.

Which Miranda warning relates to the phrase you quoted when answering Question #1?
3. What are the Miranda warnings?
4. In the opening scenes of the video, a suspect is being read the Miranda warnings. Explain why the narrator said, “It’s like watching the Bill of Rights go to work.”
5. Give the two reasons *Miranda* was considered the most controversial criminal procedure decision ever.
6. Explain these statements:
 - a. “The Miranda warnings are a staple of popular culture.”
 - b. “*Miranda* is really one of our iconic Supreme Court decisions.”
 - c. “. . . the right that says you can’t be forced to confess or testify against yourself is a fundamental protection of our liberty.”

- d. “Interrogation rooms can be the ultimate home court advantage.”
 - e. “Silence is a vacuum that humans don’t like.”
7. Define self-incrimination.
 8. Explain what happened in the Star Chamber in 1637 and how it relates to us today?
 9. When it comes to the criminal justice system, what problem did the framers face, and what was their solution?
 10. Identify the fundamental principle of our criminal justice system.
 11. Explain how our adversarial system of justice works in a criminal trial? Give specifics.
 12. Why does the law allow the accused to not answer any questions?
 13. Explain the significance of a confession for the police and for the accused.
 14. Identify the legal problem with Miranda’s confession.
 15. At the time of Miranda . . .
What rights did the accused have when he/she went to trial?
What rights did the accused have in the interrogation room?
 16. When police departments finally got started in the middle of the 19th century, the local police didn’t care about the U.S. Constitution. Explain why. Identify the problem.
 17. How were the states forced to comply with the Bill of Rights?
 18. Discuss the circumstances that led to the creation of the Wickersham Commission. What was learned through the commission’s report?

SECTION II: Student Brief – An Outline

For this section, use the Student Brief Outline as a framework for gathering and organizing your notes about the featured Supreme Court case. While most of the information can be obtained from the video, you will need to consult the following resources to fill in gaps.

- Video transcript: *The Constitution Project: The Right to Remain Silent: Miranda v. Arizona* (Included as lesson resource)
- Opinion of the Court, *Miranda v. Arizona* (Included as a lesson resource)
Also available online from Cornell University Law School at this link:
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
- *The Pursuit of Justice*: Chapter 17: The Right to Remain Silent (Included as a lesson resource)
Also available online from Annenberg Classroom at this link:
<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>
- Encyclopedia of American Civil Liberties: *Miranda, Ernesto Arturo* (1941-1976)
<http://american-civil-liberties.com/biography/4157-miranda-ernesto-arturo-19411976.html>
- Oyez: *Miranda v. Arizona*
http://www.oyez.org/cases/1960-1969/1965/1965_759
- C-SPAN: *Miranda v. Arizona*
1994 8-minute segment containing an interview with professor Peter Irons about the background story in *Miranda*
Begin listening at 00:25. (The audio for the oral argument is not included in this video)
<http://www.c-spanvideo.org/program/59486-1>

Brief the Case: An Outline

Case: _____

1. Official Title and Citation

Miranda v. Arizona (No. 759)
384 U.S. 436 (1966)

2. Consolidated Cases

3. Reason for Consolidation

4. Constitutional issue

5. Lower courts and their rulings

- a. Court of original jurisdiction
- b. Appeal court

6. Why the Supreme Court granted certiorari (decided to hear the case)

7. Petitioner/Counsel

8. Respondent /Counsel

9. Legal basis for appeal

10. Question before the Court

(Write a Yes/No question for the Court to decide that focuses on the issue.)

11. Background Information

a. Facts of the Case

- **Overview:** (Write as a narrative.)
- **Immediate Context** (Essential details about the incident behind the question.)
 - Where did the problem occur?
 - Describe the nature of the setting.
 - Who was involved?
 - Describe the relationship between the two sides.
 - What expectations or goals did each side have?
 - How did each side behave?
- **Issues/Concerns in Society**

b. Legal context (Understandings/problems before *Miranda*)

c. Legal Precedents: Cases, decisions, implications

- *Gideon v. Wainwright*:
 - Date:
 - Decision:
- *Escobedo v. Illinois*:
 - Date:
 - Decision:

12. Parties

- a. Petitioner:
 - Name:
 - Position: (basis for appeal)
 - Arguments:

- b. Respondent:
 - Name:
 - Position:
 - Arguments:

13. Decisions of the Court (Holding)

- a. Vote of the court:
- b. For *Miranda v. Arizona* (No. 759):
- c. For the three other cases:

14. Reasoning (Rationale) - Majority Opinion

- a. Which justice wrote the opinion of the Court?
- b. What arguments and instructions were given by the Court?

15. Opinions of other Justices

- a. Complete the chart below. Identify the other justices and tell how each voted. Circle the justices who wrote their opinions. Consult the following sites to supplement the information provided in the video.
 - Cornell University Law School
Miranda v. Arizona
 Syllabus, Opinion, Dissent
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
 - OYEZ: Case Summary
Miranda v. Arizona
http://www.oyez.org/cases/1960-1969/1965/1965_759

Full Names of Justices	Vote	Reasons/Reactions (if available)

SECTION III: Reflection & Follow-Up

Additional resources to consult:

- Opinion of the Court, *Miranda v. Arizona* (Included as a lesson resource)
 Also available online from Cornell University Law School at this link:
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
- Chapter 17: The Privilege Against Self-Incrimination, *Our Rights* by David J. Bodenhamer (Included as a lesson resource)
 Also available from Annenberg Classroom at this link:
<http://www.annenbergclassroom.org/page/our-rights>
- 1994, 8-minute C-SPAN segment containing an interview with professor Peter Irons about the background story in *Miranda*
 Begin listening at 00:25. (The audio for the oral argument is not included in this video)
<http://www.c-spanvideo.org/program/59486-1>
- About Ernesto Arturo Miranda
<http://american-civil-liberties.com/biography/4157-miranda-ernesto-arturo-19411976.html>

Questions:

1. Who was Ernesto Arturo Miranda? What was his life situation at the time of his arrest?
2. Given his background, how is it possible that Ernesto Miranda's case not only made it to the Supreme Court but convinced the justices to rule as they did?
3. Explain the ironic ending to Ernesto Miranda's life.
4. Compare and contrast police practices before and after the ruling in *Miranda*. Who's got the power in the interrogation room – in principle, in reality?
5. What is the significance of the decision in *Miranda*? (immediate and long term)
For Miranda:
For the consolidated cases:
For all the states:
For police procedures:
For fighting crime:
For American society:
For the government:
For every individual:
For the law:
For our constitutional democracy:

Activity:

A Closer Look at Miranda Warnings (Student Handout)

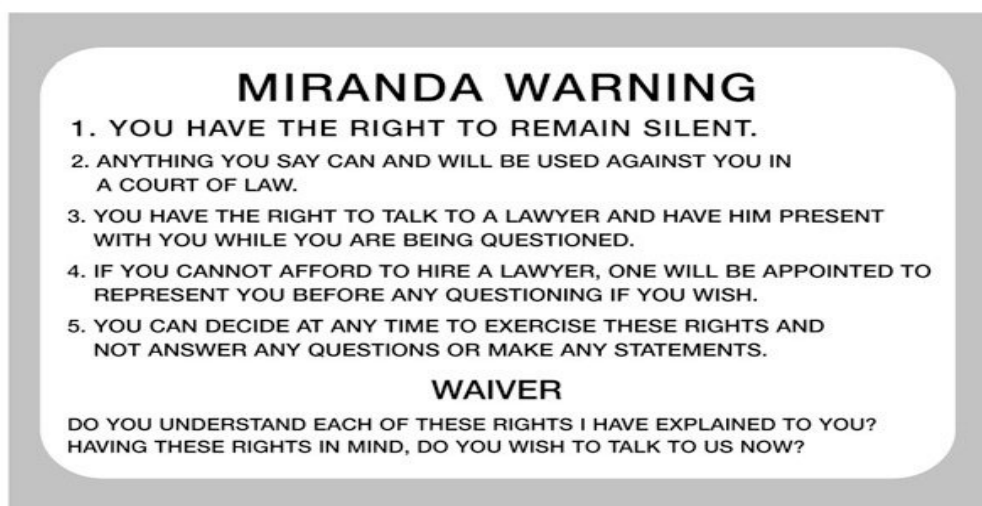
For Discussion or Argument:

1. In your view, should any changes be made to the Miranda warnings either in words or application?
2. Shouldn't it be the responsibility of individuals to KNOW their Fifth Amendment rights? Why does the law make it the responsibility of the police to inform custodial suspects? Police aren't required to inform individuals or their other rights. Is there a difference?
3. Why be concerned if a confession is given voluntarily or not? A confession is a confession whether given voluntarily or when under duress. Isn't the goal to get the truth?
4. When it comes to catching a criminal, does the end justify the means?
5. Has the public's perception of police behavior changed since the Wickersham Report? Explain.
6. Are there any situations that should give more power back to the government in the interrogation room? Explain.

A Closer Look at Miranda Warnings

1. Versions of Miranda Warnings

- a. Why are there different versions of the Miranda warnings?
- b. Write the Miranda warnings as shown in the video.
- c. Compare and contrast the Miranda warnings below to the ones in the video. Chart the similarities and differences. Comment on the significance (if any) of the differences.



**ENGLISH
(FRONT)**

Source: <http://www.houstoncriminallawjournal.com/tags/miranda-warning/>

2. Who, what, where, when, why and how: It all matters.

Evaluate the numbered statements listed below that relate to situations requiring the Miranda warnings by doing the following:

- a. Highlight or underline the **two prerequisites** that are essential BEFORE Miranda warnings must be given by police.
- b. Circle the numbers for the TRUE or GENERALLY TRUE statements.
- c. Correct the FALSE statements.
- d. Refer to the video and these resources as needed:
 - What Procedures Must the Police Follow While Making an Arrest
<http://criminal.findlaw.com/criminal-procedure/what-procedures-must-the-police-follow-while-making-an-arrest.html>
 - Miranda Warnings and Police Questioning
<http://criminal.findlaw.com/criminal-rights/miranda-warnings-and-police-questioning.html>
 - FAQs: Police Interrogations
<http://criminal.findlaw.com/criminal-rights/faqs-police-interrogations.html>
 - Waiving Miranda Rights
<http://criminal.findlaw.com/criminal-rights/waiving-miranda-rights.html>

Statements Related to the Individual

1. An individual is suspected of committing a crime.
2. The suspect is in police custody.
3. Suspect is under interrogation by police.
4. Suspect is free to leave.
5. Suspect is not free to leave.
6. Noncustodial suspects are owed their Miranda rights.
7. After hearing the Miranda warnings, the suspect must indicate he or she understands.
8. You are owed a Miranda warning every time you are stopped by the police.
9. Suspects must verbally respond to the Miranda warnings.
10. A suspect may waive his/her rights.
11. Miranda warnings may be read by the suspect.
12. Any individual who is stopped for a traffic ticket is owed the Miranda rights.
13. A request for identification by police must always be followed by a Miranda warning.
14. To gain the full protection of Miranda rights, suspects must clearly invoke either the right to remain silent or the right to an attorney, and must not waive their Miranda rights.
15. Only those living in the U.S. are required to be Mirandized when arrested.
16. Miranda warnings give a person the right to stop a police interrogation at any time even if the person already waived the right to remain silent.
17. Waiving your Miranda rights means you can say anything you want without fear of the consequences.
18. You cannot change your mind after waiving your Miranda rights.
19. Miranda rights are constitutional rights that belong to citizens and noncitizens alike.
20. Having the right to remain silent means custodial suspects do not have to orally answer any questions asked of them by the police, except Miranda warnings asked in the form of a question.

Statements Related to the Police

1. In all circumstances, police must read Miranda warnings before they can ask any questions.
2. Police must take a suspect to an interrogation room before questioning.
3. Police are legally obligated to read Miranda warnings to a suspect at the time of an arrest.
4. Police are required by law to read Miranda warnings any time they question an individual.
5. Police may ask questions before giving Miranda warnings without jeopardizing their case.
6. The purpose of a police interrogation is to get incriminating evidence for a trial.
7. A custodial suspect is someone who is under arrest and suspected of committing a crime.
8. Under the law, police may ask personal ID questions without having to give Miranda warnings.
9. Miranda warnings can be read by police any time during an interrogation.
10. Miranda warnings are read when the suspect is in court.
11. Simply reading the Miranda warnings to a suspect is enough to satisfy the law.
12. When the suspect signs a waiver, the questioning stops.
13. Failure to give Miranda warnings to a suspect makes any evidence gained admissible in court.
14. Many states have their own particular variation of Miranda requirements that their police officers must use.
15. If police want to use any evidence gained from questioning a suspect, the suspect must first be Mirandized.
16. Police are not allowed to use lying, trickery, and other types of noncoercive methods to obtain a confession from a suspect.
17. Even after Mirandizing a suspect, a confession may be inadmissible if it was gained through coercive tactics.
18. If the police fail to Mirandize a suspect, the case will be thrown out of court.
19. The goal of a police interrogation is to learn the truth.
20. The purpose of Mirandizing a suspect is to gain a voluntary confession.

3. Advice to a Criminal Suspect (Refer to the video)

Find the “best advice that a criminal suspect can receive” in the script of the video.

- a. Where can it be found? (Give the time markers)
- b. Who said it?
- c. What is his/her title in the video?
- d. Quote the entire section of dialogue that contains the advice:
- e. How do you know the advice is credible?

Use the Internet to find additional information about the speaker. Name the source and include the link.

<https://law.newark.rutgers.edu/faculty/faculty-profiles/george-c-thomas-iii>

- f. Is this considered good advice? Explain.

Making the Rules

Materials Needed:

- Technology
 - Computer with Internet connection

- Resources (Included)
 - Opinion of the Court, *Miranda v. Arizona*
Also available online from Cornell University Law School at this link:
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZO.html
Note: A searchable version is preferable for this activity.

- Student Handouts (Included)
 - A Closer Look at Miranda Warnings
 - Student's Video Guide (Focus on Section III)

- Other needs
 - Highlighters (5 different colors) *or*
 - Software with highlighting capability

Activity 1: Colorful Connections

Instructions:

1. Using one of the lists of Miranda warnings in the Video Guide (either version) and the opinion of the Court...
 - Highlight each of the 5 Miranda warnings in the list with a different color.
 - Show the connection to language in the opinion. Using appropriate software, find and highlight (using the same set of colors) every incidence of language in the opinion that is common to each warning.

2. Describe the nature and extent of the connection between the Miranda warnings and the opinion.

3. Did the Court require or recommend the use of specific language? Provide quotes to support your answer.

Activity 2: Examine the Opinion

A Supreme Court opinion is the formal written expression of the reasons and principles of law upon which the decision in a case is based.

1. Read through the opinion of the Court for content and meaning.
TIP: (To stay focused on the content and not interrupt the flow, “bleep” over the inserted citations. You can always circle back to get them later if needed.)

NOTE: For easier reading and study, use the copy provided with this lesson. Although it is from a reputable source, it is not considered “official.”

When it comes to analyzing Supreme Court opinions, the Court gives this warning:

“**Caution:** Only the bound volumes of the United States Reports contain the final, official text of the opinions of the Supreme Court of the United States. In case of discrepancies between the bound volume and any other version of a case – whether print or electronic, official or unofficial – the bound volume controls.”

Source: Supreme Court of the United States: Information About Opinions

http://www.supremecourt.gov/opinions/info_opinions.aspx

Obtain a copy of *Miranda v. Arizona* from United States Reports online at this link. https://bulk.resource.org/courts.gov/c/US/384/384_US.436.584.759-761.html

2. Analyze the Sections

The opinion in *Miranda* is organized into six sections. Discover what is covered in each section.

Set up an outline with the sections bulleted below.

After reading a section, select statements that are true about what you read. **Write the entire statement, not just number.**

The completed outline will give you insight into the organization of the opinion and the reasons and reasoning it contains.

- Opinion
No header indicated
- I
- II
- III
- IV
- V

Note: Any differences in the placement of the statements should be accompanied by a documented explanation.

1. Describes principles and practices that became the “new rules” for interrogating custodial suspects.
2. Applies the constitutional principles set forth in the decision to the consolidated cases.
3. Gives the directive that safeguards must be observed.
4. Summarizes the decision and the reasoning behind it.
5. Traces the historical basis for the self-incrimination clause.
6. Uses history to add significance to the Fifth Amendment privilege.
7. Emphasizes the importance of the question before the Court.
8. Obtains support from precedents.
9. Summarizes the facts of *Miranda*’s case.
10. Describes the “salient features” of the consolidated cases.
11. Gives the holding of the Court.
12. Provides evidence supporting the widespread problem with interrogation practices.
13. Links the Court’s role of interpreting the law to making the rules.
14. Describes the importance of warnings in the interrogation room.
15. Counterargument addressed: society’s need for security outweighs the privilege.
16. Introduces and explains the need for safeguards.
17. Cites FBI practices as supporting evidence.
18. Gives the definition used by the court for custodial interrogation.
19. Claims an “intimate connection between privilege against self-incrimination with police custodial interrogation.”
20. Uses history and precedent underlying the self-incrimination clause to determine its applicability in this situation.
21. Provides a brief review of each consolidated case.
22. Claims that the limits being placed on the interrogation process should not unduly interfere with a “proper system of law enforcement.”
23. Gives a ruling for each consolidated case.
24. Reviews the current nature of interrogation practices and effects on those in custody.
25. Issues the order of the court.
26. Identifies the circumstances that created the constitutional problem needing resolution by the court.
27. Identifies specific safeguards, links each to the Fifth Amendment, and explains how and why they work to uphold the Constitution.
28. Identifies the constitutional issue that must be decided for all the consolidated cases.
29. Identifies the reasons the Court decided to hear the case.
30. Discusses the use of the third degree.
31. Discusses problems related to confessions and how they are obtained.
32. Addresses the responsibilities of government and citizens.

3. How are the sections related? How does each section contribute to the opinion?
4. Bracket transitional paragraphs that tie sections together.
5. Using the opinion of the Court, conduct word searches, read the context, and select a significant quote to include for each word:
 - confession
 - counsel
 - guidelines
 - incriminate
 - in-custody
 - lawyer
 - privilege
 - procedural
 - remain silent
 - rights
 - safeguards
 - waiver
 - warnings
6. Reflect on these quotes :
 - a. “Our decision in no way creates a constitutional straitjacket which will handicap sound efforts at reform, nor is it intended to have this effect. We encourage Congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws. However, unless we are shown other procedures which are at least as effective in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it, the following safeguards must be observed.”
 - b. “Procedural safeguards must be employed to protect the privilege [against self-incrimination], and unless other fully effective means are adopted to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored, the following measures are required.”
 - c. “As courts have been presented with the need to enforce constitutional rights, they have found means of doing so.”
 - d. “Procedural safeguards must be employed to protect the privilege [against self-incrimination], and unless other fully effective means are adopted to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored, the following measures are required. He 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.”

****What do you think?***

Did the Court venture beyond the bounds of its constitutional responsibility to interpret the law and also make law? Explain your answer.

Through the Lens of the Common Core

Use the following Common Core Standards to guide discussions, assist with writing, and analyze arguments related to *Miranda* covered in the video and in the majority and minority opinions.

Writing – Grades 6-8	Writing – Grades 9-10	Writing – Grades 11-12
Text Type and Purposes	Text Type and Purposes	Text Type and Purposes
Write arguments focused on discipline-specific content.	Write arguments focused on discipline-specific content.	Write arguments focused on discipline-specific content.
Introduce claim(s) about a topic or issue, acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.	Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.	Introduce precise, knowledgeable claim(s), establish the significance of the claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that logically sequences the claim(s), counterclaims, reasons, and evidence.
Support claim(s) with logical reasoning and relevant, accurate data and evidence that demonstrate an understanding of the topic or text, using credible sources.	Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline-appropriate form and in a manner that anticipates the audience’s knowledge level and concerns.	Develop claim(s) and counterclaims fairly and thoroughly, supplying the most relevant data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline-appropriate form that anticipates the audience’s knowledge level, concerns, values, and possible biases.
Use words, phrases and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.	Use words, phrases and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.	Use words, phrases and clauses as well as varied syntax to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.
Establish and maintain a formal style.	Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.	Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.
Provide a concluding statement or section that follows from and supports the argument presented.	Provide a concluding statement or section that follows from or supports the argument presented.	Provide a concluding statement or section that follows from or supports the argument presented.

Source: Grades 6-12 Literacy in History/Social Studies, Science and Technical Subjects
http://www.corestandards.org/assets/CCSSI_ELA%20Standards.pdf