

Hello, fellow teacher!  
 Below is your reading passage; I hope it serves you well.  
 Print it out and it's ready to use.  
 Click [here](#) to get a digital copy.  
 Don't forget to check back to the site regularly and see what has been added!  
 Warmest Wishes,  
 Joan

How would you like a **FREE** Google activity?  
 It's a choice board style lesson with 2 variations: 1 generic done-for-you and one that's editable to create your own. Click [here](#) to get yours!



## Terms of Use

### Please do not post on the Open Web

By purchasing/downloading this resource, you are agreeing that the contents are licensed to you only for classroom/personal use as a single user. I retain the copyright and reserve all rights to this product.

# Miranda v. Arizona

The Supreme Court, led by Chief Justice Earl Warren, handed down many decisions in the 1960s protecting criminal defendants. Some were very controversial, said to wrongly hinder law enforcement. The proper balance continues to be debated.

## Bill of Rights

When someone is arrested, or even merely taken into governmental custody for questioning, a person's freedom is significantly limited in various ways. The people were aware of this when the Constitution was being written. They wanted some clear limits on governmental power, some clear expression of the rights of the people. The Fourth to Eighth Amendments particularly address these concerns.

## Assistance of Counsel

Those accused of a crime have a right to a lawyer (counsel) to help defend them, which is not only important to help the innocent, but to overall help everyone make sure their rights are being defended. This is essential for equal justice of the law.

The Supreme Court held that if such a person could not afford a lawyer, the government is required to provide one. Furthermore, the Supreme Court also held that while a person is being questioned by the police trying to obtain a confession, while in custody, they also have a right to request assistance of counsel.

## Right to Remain Silent

The common expression "Taking the Fifth" refers to declaring a right to enjoy the protection found in the Fifth Amendment preventing anyone from being "compelled in any criminal case to be a witness against himself." Note this does not cover a lawsuit, such as if John sues Mary for failure to pay a debt. That is a civil, not a criminal case. Also, a person might be required to be a witness in a criminal case if the person is protected from prosecution. This is called "immunity."

A person can decide to testify anyway, just as they can decide they do not need a lawyer. But, if they do so, they are at risk of having their words used against them. They are at risk of the government asking them questions, questions they must answer truthfully or be at risk of prosecution for perjury, sometimes bringing out other things that they wish to remain private. Things that might get them in trouble, even if they are actually innocent. Since they look guilty, such as past crimes they committed having nothing to do with the issue at hand.

## Miranda Warnings

Ernesto Miranda was taken into police custody for questioning, the police believing he was guilty of kidnapping and rape. After a few hours of questioning, he confessed, saying he did so voluntarily. But, he was not warned of his right to remain silent or to have a lawyer. He was convicted based on this confession, but challenged his conviction, arguing the confession was not truly voluntary. Miranda himself did not do so, of course; he had lawyers available to appeal his conviction.

In 1966, in an opinion written by Chief Justice Warren, Miranda's conviction was overturned. The Supreme Court said that before you questioned someone in police custody you had to tell them of their right to remain silent, that anything they said could be used against them, that they had a right to a lawyer and one would be provided to them if they could not afford one. These are now called "Miranda warnings." Miranda, however, was convicted again anyway, based on other evidence.

## Dissent

The ruling remains controversial. Four of nine justices dissented, arguing that there was no finding in that case that Miranda's confession was unfairly obtained. Sometimes, perhaps, that might happen. Sometimes, police would mistreat someone to pressure them to confess. Then, you can keep it out. However, the warnings are not *constitutionally* necessary, and saying so would wrongly make it harder to fight crime. Such concerns continue today, proper police limits greatly debated.

