

Lesson Template for James Madison Foundation

Recommended Grade/Ability Level

8th, 9th, 10th, 11th and 12th grades.

Recommended Lesson Length

Total class time 90 minutes.

Central Engagement Question/Essential Question

Do Miranda rights apply to youth under the age of 18 in and out of school? What constitutes “in custody?”

Overview

Using JDB v. North Carolina as a backdrop, students will analyze situations that warrant the reading of the Miranda warning. Prior to the Supreme Court’s ruling that age is a factor when considering a student’s have a right to the reading of Miranda, schools interrogated students that often lead to criminal prosecution and/or educational consequences.

Materials

Key Terms (Attachment A)
Miranda v. Arizona Case Summary (Attachment B)
JDB v. North Carolina Summary (Attachment C)
Gallery Walk Graphic Organizer (Attachment D)
PowerPoint of Pictures for Gallery Walk



Miranda Gallery
Walk pictures.pptx

PuppyJusticeAutomated video clip of the JDB v. North Carolina oral argument found on YouTube: <https://www.youtube.com/watch?v=4Ixi8qligOc>

Objectives

- 1) Analyze the significance of Miranda as an important part of the Fifth Amendment.
- 2) Review the case of JDB v. North Carolina that established age as a factor when deciding to read Miranda.
- 3) Identify situations that warrant the reading of Miranda for students.

Standards

National Council for the Social Studies:
I.B – What are the essential characteristics of limited and unlimited government?
IV.B – What are the rights of citizen?

Background Information/Homework/Pre-Learning

This lesson is part of the overall Judicial Branch unit. Thus, types of court cases (criminal and civil), as well as types of charges (misdemeanor and felony) is already introduced.

Pre-reading:

Review key terms and definitions (Attachment A)
Miranda v. Arizona Case Summary (Attachment B)

Anticipatory Activity/Bell-Ringer

Show 3-5 minutes of the PuppyJusticeAutomated video clip. These are dogs as the Supreme Court Justices hearing the JDB v. North Carolina oral argument.

Activity (Activities)

1. Read and review/lecture the summary of JDB v. North Carolina. Clarify and emphasize the term “custodial interrogation.” (Attachment C)
2. Post the pictures around the room from the Gallery Walk PowerPoint found in the materials list. Pass out the graphic organizer that has a matching picture and different scenarios. (Attachment D). Students walk around and read the scenarios and then decide if Miranda is applicable. Additionally, they write a brief rationale for their answer.
3. Class discussion of the gallery walk. Provide answers and rationale.

Wrap-Up

Class discussion on at what age should juveniles have Miranda read.

Assessment

Homework: Students create their own scenario to share in class.

Extensions: Participate in a “Deliberating in a Democracy” activity on juvenile justice.

Additional Resources

Deliberating in a Democracy: Juvenile Justice is provided by the Constitutional Rights Foundation and Street Law. http://www.did.deliberating.org/lessons/juvenile_justice.html

Author Contact Information

Cynthia Burgett, cpburgett@fcps.edu

Attachment A

Key Terms and Definitions

Custody: Under arrest; period of time during which a person has been deprived of his freedom of action

Interrogation: Questioning; questions, words, or actions initiated by the police that the police should know is likely to lead to an incriminating response from the suspect.

Custodial Interrogation: When you are asked questions by the police while you are under arrest and have been taken into custody by the police; to trigger Miranda rights, there must be a “custodial interrogation.” This means that you must be in custody and be interrogated. Miranda rights do not apply if only one or the other condition exists. **IMPORTANT TO NOTE:** It means you are not “free” to leave.

Coerce: Force or threat of force.

Attachment B

Facts and Case Summary - *Miranda v. Arizona*

Facts

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

- *Miranda v. Arizona*: Miranda was arrested at his home and taken in custody to a police station where he was identified by the complaining witness. He was then interrogated by two police officers for two hours, which resulted in a signed, written confession. At trial, the oral and written confessions were presented to the jury. Miranda was found guilty of kidnapping and rape and was sentenced to 20-30 years imprisonment on each count. On appeal, the Supreme Court of Arizona held that Miranda's constitutional rights were not violated in obtaining the confession.
- *Vignera v. New York*: Vignera was picked up by New York police in connection with the robbery of a dress shop that had occurred three days prior. He was first taken to the 17th Detective Squad headquarters. He was then taken to the 66th Detective Squad, where he orally admitted the robbery and was placed under formal arrest. He was then taken to the 70th Precinct for detention, where he was questioned by an assistant district attorney in the presence of a hearing reporter who transcribed the questions and answers. At trial, the oral confession and the transcript were presented to the jury. Vignera was found guilty of first degree robbery and sentenced to 30-60 years imprisonment. The conviction was affirmed without opinion by the Appellate Division and the Court of Appeals.
- *Westover v. United States*: Westover was arrested by local police in Kansas City as a suspect in two Kansas City robberies and taken to a local police station. A report was also received from the FBI that Westover was wanted on a felony charge in California. Westover was interrogated the night of the arrest and the next morning by local police. Then, FBI agents continued the interrogation at the station. After two-and-a-half hours of interrogation by the FBI, Westover signed separate confessions, which had been prepared by one of the agents during the interrogation, to each of the two robberies in California. These statements were introduced at trial. Westover was convicted of the California robberies and sentenced to 15 years' imprisonment on each count. The conviction was affirmed by the Court of Appeals for the Ninth Circuit.
- *California v. Stewart*: In the course of investigating a series of purse-snatch robberies in which one of the victims died of injuries inflicted by her assailant, Stewart was identified as the endorser of checks stolen in one of the robberies. Stewart was arrested at his home. Police also arrested Stewart's wife and three other people who were visiting him. Stewart was placed in a cell, and, over the next five days, was interrogated on nine different occasions. During the ninth interrogation session, Stewart stated that he had robbed the deceased, but had not meant to hurt

her. At that time, police released the four other people arrested with Stewart because there was no evidence to connect any of them with the crime. At trial, Stewart's statements were introduced. Stewart was convicted of robbery and first-degree murder and sentenced to death. The Supreme Court of California reversed, holding that Stewart should have been advised of his right to remain silent and his right to counsel.

Issues

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

Supreme Court holding

The Court held that "there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves." As such, "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."

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

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

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

Decided: June 13, 1966

Vote: 5-4

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

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

Attachment C

Facts and case summary for *J.D.B. v. North Carolina*

Background

In 1966, in the landmark case *Miranda v. Arizona*, the Supreme Court held that a person questioned by law enforcement officers after being "taken into custody or otherwise deprived of his freedom of action in any significant way" must first "be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of any attorney, either retained or appointed." Statements made by a defendant when law enforcement has not complied with this rule may not be admitted as evidence of guilt in a criminal trial.

An officer's obligation to administer *Miranda* warnings attaches only where there has been such a restriction on a person's freedom as to render him "in custody." In determining whether an individual was in custody, a court must examine all the circumstances surrounding the interrogation in determining whether there was a "formal arrest or restraint of freedom of movement of the degree associated with a formal arrest."

Many Circuit Courts of Appeals have laid out a number of nonexclusive factors to consider in determining whether a defendant is in custody, such as (1) the language or tone used when initially confronting or later questioning the suspect; (2) the physical surroundings or location of the questioning; (3) the duration of the interview; (4) the extent to which the defendant is confronted with evidence of guilt; and (5) the degree of pressure applied to detain the individual, including whether the officers brandished weapons or touched the suspect.

In *J.D.B. v. North Carolina*, the Supreme Court was asked to decide whether the age of a child subjected to police questioning is also relevant to this custody determination.

Facts

J.D.B. was a 13 year-old student in the seventh grade when a uniformed police officer on detail at the school escorted him from his social studies classroom to a conference room where two school administrators and another police officer were waiting. In the closed-door room, Police Investigator Joseph DiCostanzo questioned J.D.B. for 30 to 45 minutes about some recent neighborhood break-ins. Among the items reported stolen was a digital camera that had been found at the school and seen in J.D.B.'s possession.

J.D.B. first denied his involvement. However, after the investigator pressed him for additional details about his presence in the neighborhood after one of the break-ins and confronted him with the stolen camera, and after the assistant principal urged him to tell the truth, J.D.B. asked whether he would "still be in trouble" if he returned the "stuff." Investigator DiCostanzo then warned J.D.B. that he may face juvenile detention. J.D.B. confessed. At that time, Investigator DiCostanzo told J.D.B. that he could refuse to answer questions and was free to leave. Asked whether he understood, J.D.B. nodded and provided further details, including the location of the stolen items. He also wrote a statement, at the investigator's request. When the school day ended, J.D.B. was permitted to leave.

Procedural History

The state of North Carolina charged J.D.B. with breaking and entering and larceny. The public defender who represented J.D.B. moved to suppress his statements and any evidence gathered as a result of those statements. The public defender argued on behalf of J.D.B. that J.D.B. was in custody at the time he was interrogated and that the police had failed to give him a Miranda warning. The state trial court ruled that J.D.B. was not in police custody and denied the motion to suppress the statements and evidence. The court adjudicated him delinquent, finding that J.D.B. had violated criminal laws.

J.D.B.'s public defender disagreed and appealed first to the North Carolina Court of Appeals and then to the North Carolina Supreme Court. Both appellate courts agreed with the trial court. The North Carolina Supreme Court held that the test for custody did not include consideration of the age of an individual subjected to questioning by police.

Issue

"[W]hether the *Miranda* custody analysis includes consideration of a juvenile suspect's age." More specifically, whether "a child's age 'would have affected how a reasonable person' in the suspect's position 'would perceive his or her freedom to leave.'"

Supreme Court Holding

Yes. "So long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to any reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of the test. . . . Just as police officers are competent to account for other objective circumstances that are a matter of degree such as the length of questioning or the number of officers present, so too are they competent to evaluate the effect of relative age."

The Supreme Court reversed the judgment of the North Carolina Supreme Court and remanded the case to the lower court to determine whether, taking his age into consideration, J.D.B. was in custody when he was interrogated.

Dissent

Four Justices dissented, noting that the *Miranda* rule "places a high value on clarity and certainty." The dissent states that the majority's holding "shifts the *Miranda* custody determination from a one-size-fits-all reasonable-person test into an inquiry that must account for at least one individualized characteristic—age—that is thought to correlate with susceptibility to coercive pressures." The dissent asserts that "[t]he Court's decision greatly diminishes the clarity and administrability that have long been recognized as 'principal advantages' of *Miranda*'s prophylactic requirements."

Argued: March 23, 2011

Decided: June 16, 2011

Vote: 5-4

Majority opinion written by Justice Sotomayor and joined by Justices Kennedy, Ginsburg, Breyer, and Kagan.

Dissenting opinion written by Justice Alito and joined by Chief Justice Roberts and Justices Scalia and Thomas.

JANNEE

Miranda Rights for Students Gallery Walk

Directions: Based on the scenarios, decide if the student needs to have the Miranda warning read. Using the word bank, write a rationale for your opinion.

1



Garrett was outside his apartment building when the police approached him to ask if he knew anything about the recent car vandalism.

Opinion:

2



Kevin was called to the principal's office to answer questions about recent cell phone thefts in the cafeteria. He was in his office for an hour with the door shut.

Opinion:

3



Veronica was a suspect in a murder. She was taken to the police station where two police officers began questioning her. She was informed she was implicated in a murder.

Opinion:

4



Jenny and Mark were hanging out at the playground smoking pot. Neighbors called the police who took them to the police station and questioned them about their source for drugs.

Opinion:

5



Tiffany and Alex, both 10 years old, were taken out of class and sent to the assistant principal's office. The principal was joined by the School Resource Police Officer. They were questioned about recent vandalism at school.

Opinion:

6



Samantha was in the hallway between classes when a teacher and principal began accusing her of cyberbullying another girl at school. They threatened her with suspension.

Opinion:

Word Bank

- Custody
- Interrogation
- Custodial Interrogation
- Coerce

Answers to the Gallery Walk:

Scenario 1: No. He was not in custody.

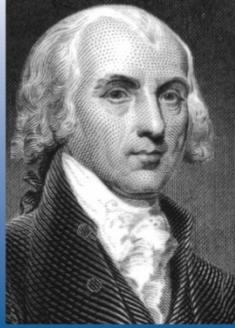
Scenario 2: No. Miranda is only read when the police are involved.

Scenario 3: Yes. She was in custody and an interrogation situation.

Scenario 4: Yes. They were in custody and an interrogation situation.

Scenario 5: Yes. Even though they are young, the fact that the School Resource Officer was questioning them they should have their Miranda rights read to them. Although they were not arrested, they might feel that they are not free to leave.

Scenario 6: No. The teacher and principal were accusing her not interrogating her, and the police were not involved.



James Madison Jr.

JAMES MADISON
MEMORIAL FELLOWSHIP
FOUNDATION

JAMES MADISON