

You Have the Right to Remain Silent: The 5th Amendment and Miranda
50-minute Program for Distance Learning

Program summary: Students meet and work with a judge, a criminal defense attorney, and a prosecutor to gain a basic understanding of Miranda v. Arizona before advocating as student-attorneys.

Program goals:

1. Develop an understanding of factors that courts apply to determine if someone should have received a Miranda warning.
2. Practice oral communication skills.
3. Meet and learn from a federal judge, federal criminal defense attorney, and Assistant U.S. Attorney.

Time	Activity	Location
(5 mins.)	<p>Welcome!</p> <ul style="list-style-type: none"> • Brief introduction from judge and attorneys • Brief introduction from judge about today’s program topic 	Group
(25 mins.)	<p>You Can’t Use That Statement Against Me!</p> <ul style="list-style-type: none"> • (10 mins.) Judge briefly reviews <u>Miranda</u> Power Point slides: text of 5th Amendment, basic material facts from <u>Miranda</u>, factors courts weigh to determine if someone is “in custody”, and what happens to an incriminating statement made by someone who should have been given <u>Miranda</u> warnings but was not. • (15 mins.) Students break into 2 groups: (1) prosecutors and (2) defense attorneys. • Review fact summary of <u>United States v. Cavazos</u>. • Was Mr. Cavazos in custody when he made his incriminating statement? Prosecutors (no – did not need to be Mirandized); Defense attorneys (yes – should have been Mirandized). • <i>Additional topics of discussion among students and attorneys:</i> • 1. What is your initial reaction to law enforcement’s visit to the Cavazos home? • 2. Do you believe <u>Miranda</u> offers too much protection for potential suspects or too little or just enough? • 3. How do you present your side’s “argument” in a civil way to the judge? • 4. How do prosecutors and defense attorneys work together when the defense believes there’s a 5th Amendment violation? 	Group Two Break-Out Rooms
(10 mins.)	<p>Court’s in Session!</p>	Group

	<ul style="list-style-type: none"> • Students reconvene as a group for a hearing before the judge on whether law enforcement was required to give Mr. Cavazos his <u>Miranda</u> warnings. • The judge calls on the selected student-attorneys to present their “arguments” – be ready for the judge to ask you questions! 	
(10 mins.)	Q&A with the Judge and Attorneys <ul style="list-style-type: none"> • Students discuss with the judge and attorneys careers in the law and more. 	Group

Case scenario: **United States v. Cavazos**

Who: Michael Cavazos woke up between 5:30a.m. and 6:00a.m. to banging on his door and flashlights shining through his window. His wife answered the door, and 14 law enforcement officers entered their house to execute a search warrant.

Handcuffed: Officers ran to the bedroom, identified Mr. Cavazos, and handcuffed him as he stepped out of bed. He was allowed to dress before being taken to the kitchen. Meanwhile, his wife and children were taken to the living room. Officers then removed Mr. Cavazos’s handcuffs and sat with him in the kitchen for five minutes while other officers finished securing the home.

The Ground Rules: Two federal agents asked to speak with Mr. Cavazos privately so he suggested his son’s bedroom where he sat on the bed and the agents sat in chairs facing him. They asked Mr. Cavazos if he wanted the door open, but he said to close it. They then informed him that he was free to get something to eat or drink and to use the bathroom during the interview.

The Interview: The agents then began questioning Mr. Cavazos. After five minutes, he asked to use the bathroom, which the agents permitted after they searched it. An agent remained outside the bathroom door which was left slightly open so he could observe Mr. Cavazos. The agent then followed Mr. Cavazos to the kitchen where he washed his hands (because the bathroom sink was broken). They then returned to the bedroom.

Other officers interrupted the interview several times to obtain clothing for Mr. Cavazos’s children. At some point, Mr. Cavazos asked to speak with his brother who was his supervisor at work. Agents brought Mr. Cavazos a phone, allowed him to call his brother, but instructed him to hold the phone so the agents could hear the conversation.

After the agents had been questioning Mr. Cavazos for more than an hour, he admitted certain criminal conduct and wrote a statement. After he had been writing for five minutes, an agent interrupted him, formally arrested him, and advised him of his Miranda rights for the first time.

Court Proceedings: Mr. Cavazos was then charged with federal crimes. He has moved to suppress (exclude, keep out) the incriminating statements he made before he received his Miranda rights.