

Topic:

Double Jeopardy Clause:
A Fifth Amendment
Constitution Trivia Game

Time:

1 class period

Grade:

4-6

Core:**Objectives:** Students will:

1. Develop an understanding of the criminal due process rights guaranteed by the Fifth Amendment.
2. Understand that people cannot be forced to say things that will incriminate themselves unless they volunteer the information.
3. Interpret the concepts of the Fifth Amendment.
4. Demonstrate an understanding of the Fifth Amendment through conversation.

Procedure:

1. Divide the class into small groups.
2. Go over Handout 1: **Terms to Know**, before teaching the lesson. Cut up and distribute Handout 2: **Double Jeopardy Clause** law question cards.
3. Each group will choose one person to be the reader, and only this person will be allowed to talk when the question is being read.
4. Each group will discuss the assigned question and ask the following questions:
 - a. What are the important facts about this case?
 - b. Does this case fit into the Fifth Amendment?
 - c. What are the legal precedents which could alter the outcomes?
 - d. What are the possible questions?

Questions students may ask:

 - What crime has been committed?
 - What are the rules the police read to the people they arrest?
 - What rights do the victims have?
 - What happens if the accused agrees to give the stolen item back?
 - Who decides what the punishment(s) might be? What if the convicted persons feel it is not fair?
 - If the convicted persons feel they did not get a fair trial, is there anything they can do?
5. After the questions have been discussed, a representative from each group will present the findings to the entire class for discussion. (See Answer Key: Double Jeopardy Clause.) The entire class will then evaluate the small groups' findings and decide which answer would be the best and why.

Additional Resources:

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Community Legal Ed.

6. Each small group will continue to discuss their findings with the entire class until every group has had a turn.
7. The teacher will decide which questions are used for the small groups and which are discussed by the class as a whole.
8. One student in each group must be the writer and document the outcome of each question to share with the class.
9. Introduce the students to the need for compromise in the creation of the Constitution. Because of the varying interests, individuals frequently had to work together to find solutions that pleased everyone.
10. Discuss the need for this and the fact that without it, the convention would probably have ended without creating a Constitution.

TERMS TO KNOW

Miranda Rights:

You have the right to remain silent. You have the right to a lawyer. If you cannot afford one, one will be provided.

Coercion:

Using force to get a person to confess to a wrong doing.

Search Warrant:

Court document giving police the right to conduct a search. The warrant must tell what they are looking for, where they expect to find it, and the reason why.

Probable Cause:

A good reason to believe something happened. Probable cause is needed to obtain a search warrant.

Contraband:

Anything that is illegal for you to have in your possession.

Self Incrimination:

You cannot be forced to testify against yourself.

Immunity:

The court says that it will not prosecute you if you give testimony against another person.

Curfew:

An order establishing a specific time during which certain restrictions apply.

Plain Sight:

If officers conducting a legal search can see an illegal object or substance while searching for something else, they can take it and charge the owner with possession.

Double Jeopardy:

You cannot be charged twice for the same crime.

Miranda Law

1. You have the right to remain silent.
2. If you choose to speak, anything you say may be used against you in a court of law.
3. If you decide to answer any questions, you may stop at any time and not answer any further questions.
4. You have a right to talk to an attorney before answering any questions. If you wish, you have the right to have your attorney present in the event you decide to answer questions, and if you cannot afford an attorney, one will be provided for you without cost to you before any further questions are asked.

DOUBLE JEOPARDY CLAUSE

1. Tom Tom, son of one of the town pipers, was thought to have stolen a pig. A neighbor reported hearing some squealing and oinks coming from Tom's garage. Police came and wanted to search the garage. ***Did they need a warrant?***

4. Batman is arrested for the murder of the Joker. He is taken to the police station and given the Miranda Warning. He says he does not want a lawyer and to go ahead and ask anything. They ask him if he killed the Joker, and he says, "I want a lawyer." ***Can the police ask him any more questions?***

2. In answer to the question, "Who's been sleeping in my bed?" Goldilocks replied, "Me, Goldilocks." ***Could this confession be used against her?***

5. Barry Bonds stole 2nd base. Groundskeeper Dick Erickson needed it for the next game, so he reported it to the police. ***What three things would the police need to get a warrant to search Barry Bonds' house?***

3. The Big Bad Wolf is arrested for destroying the Pigs' house at 11:15 p.m. one night. You saw the crime being committed. You are called to testify against the Wolf. You don't want to do that because you will have to admit being out after curfew. ***Can you plead the Fifth Amendment?***

6. Snow White was found dead when the Dwarfs came home and found her body. Sleepy and Dopey took a miner's pick and shovel and visited Snow White's evil stepmother. They started to hit her with the pick and shovel until she confessed to giving Snow White the poisoned apple. ***Can this confession be used in court?***

7. Mary Had A Little Lamb, It's Fleece Was White As Snow. The Big Bad Wolf was charged with stealing her lamb as it followed her to school one day. He was tried in court and found not guilty. At a press conference after the trial, he admitted taking the lamb. "It was wandering around, not knowing which way to go. I didn't know who it belonged to." ***Can the Wolf be tried with stealing the lamb again?***

10. John Stockton was accused of taking Kobe Bryant's shoes, hoping they would make it possible for him to jump higher. Police obtained a warrant to search the locker room and found the shoes in John's gym bag. ***Is this a legal search?***

8. The police were searching Jim Fassel's house looking for a couple of quarterbacks he had sacked. They showed a valid search warrant as they entered his house. They did not find any quarterbacks, but they did find a copy of the New York Giants' Play book in a dresser drawer. ***Can he be charged for theft of the play book?***

11. Bart Simpson was arrested and charged with contributing to the delinquency of minors by telling kids not to go to school. When asked by police at the police station about this, he answered, "Sure I said it. I sell T-shirts that say it. It's made me what I am today." ***Could this statement be used against him in a trial?***

9. Scott Stevens and Bobby Holik were charged with taking the Stanley Cup from the Colorado Avalanche. Scott was given immunity for testifying against Bobby. ***Can Scott refuse to testify on 5th Amendment grounds?***

12. Roseanne Barr was charged with creating a public nuisance after her singing of the national anthem. At her trial, she did not testify. ***Could the prosecuting attorney make an issue out of this fact in his/her closing arguments?***

13. *Do police have to give you the “Miranda Warning” before they question you after arresting you?*

14. You told a police officer that you saw a neighbor carry what appeared to be a big quantity of fireworks into his house on July 3rd. He had just come home from a trip to Evanston, Wyoming. You have given the police good tips like this in the past. *Could this be considered probable cause for the police to obtain a search warrant for your neighbor’s house?*

15. **What is “plain sight?”**

ANSWER KEY

1. Did they need a warrant?
Yes, because they did not see Tom carrying any pigs into the garage.
2. Could this confession be used against her?
Yes, if Papa Bear weren't a police officer and Goldilocks were not under arrest.
3. Can you plead the Fifth Amendment?
Yes, if answering the question could get you into trouble for a curfew violation.
4. Can the police ask him any more questions?
No, you can ask for your rights at any time. Any further questions would have to be asked with the lawyer present.
5. What three things would the police need to get a warrant to search Barry Bonds' house?
 - a. **What they are looking for. (Second base.)**
 - b. **Where they expect to find it. (Barry's house.)**
 - c. **Reason they feel it is at Barry's house. (Probable cause; 285,000 people saw him on television, and a neighbor saw him come home carrying a rectangular object.)**
6. Can this confession be used in court?
No, the confession was coerced by the beating.
7. Can the Wolf be tried with stealing the lamb again?
No, to do so would be in violation of the double jeopardy clause of the 5th Amendment.
8. Can Jim be charged for theft of the play book?
Probably not. His lawyers would try to have the search declared invalid because the play book was in a dresser drawer, a place you would not find a sacked quarterback.
9. Can Scott refuse to testify on 5th Amendment grounds?
No. He has been given immunity so he is not able to incriminate himself.
10. Is this a legal search?
Yes. It is logical to find gym shoes in a gym bag. The evidence would be used against John.
11. Could this statement be used against him in a trial?
Not if he has not been given his Miranda rights.

12. Could the prosecuting attorney make an issue out of this fact in his/her closing arguments?
No. A person cannot be forced to testify against himself/herself.
13. Do police have to give you the “Miranda Warning” before they question you after arresting you?
If they want to use anything you say, they must give you the warning before they ask. If you volunteer information, it can be used in a court of law.
14. Could this be considered probable cause for the police officer to obtain a search warrant for your neighbor’s house?
Yes, because you have been a good source of information to this officer. It would constitute “probable cause.”
15. What is “plain sight?”
In conducting a legal search, if the searchers spot something that is illegal for you to possess, they have the power to take it. As long as one could reasonably expect to see it in conducting a legal search, it is considered to be in “plain sight.”