

**MORE METHODS AND STRATEGIES USED TO TEACH ENGLISH FOR LAW STUDENTS**

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**Abstract.** *As the case Miranda v. Arizona (1966) represents a landmark in American law and society, this paper intends to suggest further methods and strategies, different from those used in the former paper, methods and strategies which might help our law students of English to better understand American law and the American legal system, thus introducing them into this new field of study. The main aim is to show how one can teach the same subject by using completely different methods.*

**Keywords:** *Miranda Warnings/Rights, constitutional rights, Fifth Amendment, Sixth Amendment*

The following is a sample lesson plan, based on *Miranda v. Arizona* (1966) trial, trying to offer a mere suggestion of how we can teach such an important text to our law students of English, by using various methods, thus supporting pleasant student learning and creating student interest in the events.

**Seminar 2 (2 Classes)**

**Sample Lesson Plan**

Level: intermediate

Subject: The U.S. Supreme Court Cases Based on Violation of the Constitutional Rights; The Trial of Ernesto Arturo Miranda, A Landmark in American law.

Purpose: to develop the students' knowledge about American legal system; to create students' interest in the trial by using new interesting methods.

**Teaching Objectives:**

**1.to provide factual knowledge by exploring the trial account of Miranda v. Arizona;**

- a. to learn the Constitutional rights;
- b. to read the Fifth and Sixth Amendments to the U.S Constitution;
- c. to know what Miranda Rights/Warnings are;

**2.to develop the necessary legal language and analytical skills;**

- a.to help students to understand the language content (grammar and vocabulary);
- b.Tense Revision, Noun Plural Forms;
- c.to help students to broaden legal vocabulary and expand the means of expression, both in speaking and writing through various activities;
- d.to help students to understand and use the American English language of law.

**List of Suggested Tasks and Activities in teaching Miranda Warnings**

**A. Pre-reading Activity**

**The instructor asks the students that they answer the following questions, before reading the text.**

1. After you have read the text *History of Miranda Warnings*, how can you explain, in your own words, what the *Miranda Warnings* are?
2. How do you translate the *Miranda Warnings* into Romanian?

**B.Reading Section**

**1. The instructor suggests that the students read the following text, then copy the text in their notebooks and**

**then, translate it into Romanian by making use of an English-English Law Dictionary.**

**The Miranda Warnings**

The Constitution reserves many rights for those suspected of crime. One of the fears of the Farmers was that the government could act however it wished by simply saying an individual was a suspected criminal. Many of the rights in the Constitution and the Bill of Rights, such as habeas corpus, the right to remain silent, and the right to an attorney, are designed to ensure that those accused of a crime are assured of those rights.

Police were able to take advantage of the fact that not everyone knows their rights by heart. In fact, it is likely that most citizens could name a few of their rights as accused criminals, but not all of them. The police's position was that if the accused, for example, spoke about a crime without knowing that they did not need to, that it was a person's fault for not invoking that right, even if they did not know, or did not remember, that they had that right.

This was the crux of the issue in *Miranda v. Arizona*. In 1963, Ernesto Miranda was accused of kidnapping and raping an 18-year-old, mildly retarded woman. He was brought in for questioning, and confessed to the crime. He was not told that he did not have to speak or that he could have a lawyer present. At trial, Miranda's lawyer tried to get the confession thrown out, but the motion was denied. In 1966, the case came in front of the Supreme Court. The Court ruled that the statements made to the police could not be used as evidence, since Miranda had not been advised of his rights.

Since then, before any pertinent questioning of a suspect is done, the police have been required to recite the Miranda warning. The statement, reproduced below, exists in several forms, but all have the key elements: the right to remain silent and the right to an attorney. These are also often referred to as the "Miranda rights". When you have been read your rights, you are said to have been "Mirandized". Note that one need not be Mirandized to be arrested. There is a difference between being arrested and being questioned. Also, basic questions, such as: name, address, and Social Security Number do not need to be covered by a Miranda Warning. The police also need not Mirandize someone who is not a suspect in a crime.

As for Ernesto Miranda, his conviction was thrown out, though he did not become a free man. The police had some piece of evidence that was independent of the confession, and when Miranda was tried a second time, he was convicted again. After release from prison, Miranda was killed in a barroom brawl in 1976.

**2.The instructor suggests that the students read the minimal Miranda Warnings as outlined in the *Miranda v Arizona* case:**

- 1.You have the right to remain silent.
- 2.Anything you say can and will be used against you in a court of law.
- 3.You have the right to speak to an attorney, and to have an attorney present during any questioning.
- 4.If you cannot afford a lawyer, one will be provided for you at the government expense.

**3.The instructor suggests that the students read the much more verbose Miranda warnings, designed to cover all bases that a detainee might encounter while in police custody. A detainee may be asked to sign a statement acknowledging the following:**

1. You have the right to remain silent and refuse to answer questions. Do you understand?
2. Anything you say may be used against you in a court of law. Do you understand?
3. You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future. Do you understand?
4. If you cannot afford an attorney, one will be appointed for you before any questioning if you wish. Do you understand?
5. If you decide to answer questions now without an attorney present you will still have the right to stop answering at any time until you talk to an attorney. Do you understand?
6. Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?

**4.Grammar In A Nutshell: Tense Revision, the Plural Forms of Some Nouns Present Tense – form and uses**  
**POLICE + PLURAL FORM OF THE VERB (always) (police have / are and not has / is)**

**C.Practice Section**

**1.a. The instructor suggests that the students fill in the gaps with the following words. After they have finished, they will have a short account / summary of the reading text.**

*Custody, freedom, subjected, self-incrimination, safeguards, silence, right, measures, warned, silent, anything, court of law, presence, afford, warnings, waive, questions, statement, waiver, interrogation.*

When an individual is taken into (1)... or otherwise deprived of his (2)... by the authorities in any significant way and is (3)... to questioning, the privilege against (4)... is jeopardized. Procedural (5)... must be employed to protect the privilege, and unless other fully effective means are adopted to notify the person of his right of (6)... and to assure that the exercise of the (7)... will be scrupulously honored, the following (8)... are required. He must be (9)... prior to any questioning that he has the right to remain (10)..., that (11)... he says can be used against him in a (12)..., that he has the right to (13)... of an attorney, and that if he cannot (14)... an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation. After such (15)... have been given, and such opportunity afforded him, the individual may knowingly and intelligently (16)... these rights and agree to answer (17)... or make a (18)... . But unless and until such warnings and (19) ... are demonstrated by the prosecution at trial, no evidence obtained as a result of (20) ... can be used against him.

**1.b.The instructor suggests the students that they copy the above short account / summary in their notebooks and translate it into Romanian.**

**1.c.The instructor suggests that the students write their own short accounts/summaries of the reading text.**

**2.The instructor suggests that the students read the following questions and answers to find out more about the F.B.I.**

*1.Q.:When an individual is interviewed by agents of the Federal Bureau of Investigation, what warning is given to him?*

A.: The standard warning long given by Special Agents of the FBI to both suspects and persons under arrest is that the person has a right to say nothing and a right to counsel, and that any statement he makes may be used against him in court.

*2.Q.: When is the warning given?*

A.: The FBI warning is given to a suspect at the very outset of the interview. The warning may be given to a person arrested as soon as practicable after the arrest, but in any event it must proceed the interview with the person for a confession or admission of his own guilt.

*3.Q.: What is the Bureau's practice in the event that (a) the individual requests counsel and (b) counsel appears?*

A.: When the person who has been warned of his right to counsel decides that he wishes to consult with the counsel before making a statement, the interview is terminated at that point. It may be continued, however, as to all matters other than the person's own guilt or innocence. If he is indecisive in his request for counsel, there may be some question on whether he did or did not waive counsel. Situations of this kind must necessarily be left to the judgment of the interviewing Agent. A person being interviewed and desiring to consult counsel by telephone must be permitted to do so. When counsel appears in person, he is permitted to confer with his client in private.

*4.Q.: What is the Bureau's practice if the individual requests counsel, but cannot afford to retain an attorney?*

A.: If any person being interviewed after warning of counsel decides that he wishes to consult with counsel before proceeding further, the interview is terminated. FBI Agents do not pass judgment on the ability of the person to pay for counsel. They do, however, advise those who have been arrested for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, of a right to free counsel if they are unable to pay, and the availability of such counsel from the Judge.

**3.The instructor suggests that the students read the following information and then make a poster with the chronology of the crime events in *Miranda v. Arizona*.**

Chronology of crime events

November 27, 1962:

A young bank teller was abducted from a parking lot in downtown Phoenix, Arizona, with the intention of being raped. The kidnapper frightened by the victim's screams only robbed her of her 8\$.

February 22, 1963:

Alvin Moore suggested that E.M. should plead insanity at the time of the robbery and at the time of the trial. In response of this motion, the court selected 2 prominent Phoenix psychiatrists: Dr. James Kilgore and Dr. Leo Rubinow. May 28, 1963:

Dr. James Kilgore's report: "Mr. Miranda has an emotional illness ... a schizophrenic reaction [of the] chronic, undifferentiated type".[1]. However, M., "was aware of the nature and quality of his acts and he was aware that what he did was wrong".

May 22-23, 1963

Dr. Leo Rubinow report's: He described M. as heavily tattooed and "very immature, psychologically and somewhat inadequate". Rubinow also wrote that he found no evidence of psychotic manifestations. In his opinion, M. was neither insane nor mentally defective, and knew the difference between right and wrong. Dr. Rubinow's official diagnosis for M. was "sociopathic [sic] personality disturbance".

Well before dinner hour, the jury returned a unanimous finding of guilty. Since M. was scheduled to be tried on the rape charge the next day, and since both cases involved the same confession, lawyers, and courtroom, Judge McFate deferred sentence on the robbery case, pending completion of the rape case.

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**4. The instructor suggests that the students read the following information and then make a poster on the information with the chronology of time events.**

Ernesto Miranda's rape trial on second consecutive day in court

The bailiff makes the announcement: "Case Number 41948". [2]

The prosecutor Larry Turoff said: "The State versus Ernest Arthur Miranda. Is the State ready?" [3]

The jury was summarily selected, empanelled, and sworn; the clerk read the charges and recorded the defendant's plea of not guilty.

June 13, 1963: Judge McFate delayed sentencing for 7 days.

June 20, 1963: After the 7 days passed, Judge McFate sentenced E.M. to 20 to 30 years on each count (kidnapping and rape) with terms to be served concurrently. McFate also sentenced Miranda to spend 20 to 25 years in the Arizona State Penitentiary on the 8 dollar robbery charge.

The sentence on the robbery case was run concurrently with the sentence on the rape case.

Sept. 1971: retrial on the robbery charge was conducted before Judge William Gooding of the Maricopa County Superior Court.

Judge Robert Flynn and Tom Thinnies represented Miranda.

John Flynn delivered the oral argument for Miranda. His influence on the Supreme Court during the oral argument phase of the Miranda case was so great that in 1994, American Heritage's "Our Times" magazine, in profiling the previous 4 decades, gave Flynn the credit for winning the case, naming him on its list of "ten people who changed the way you live but you have never heard of any of them". Flynn's objective was the striking point: when to warn.

**5. The instructor suggests that the students read the key participants in the trial, then find out more information about them on the net on their birthplaces, families, jobs and hobbies, photos. Then, they should make folders, in group/team work or individual work for each of the participants.**

Twila Hoffman, Ernesto Miranda's wife; Sergeant Seymour Nealis, head of the Crime Against Persons Detail for the Phoenix Police Department; Detective Carroll Cooley; Detective Wilfred Young; Judge Yale McFate; Dr. James Kilgore; Dr. Leo Rubinow; Prosecutor Larry Turoff; Alvin Moore defender; Judge Robert Storrs; Judge John Flynn and Judge Tom Thinnies; Gray K. Nelson, the assistant attorney general of the State of Arizona; Duane R. Nedrud, of the National District Association, appearing at the invitation of the Court, to argue for his fellow-prosecutors.

**6. The instructor suggests that the interested students read more about the case, namely about the history of Miranda Warnings.**

Intimidating or coercive methods of police interrogation were commonly referred to as undergoing the 'third degree'. Today, as protection against any possibility of police intimidation, we have the Miranda Warning.

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On June 13, 1966, the outcome of *Miranda v. Arizona* provided that suspects must be informed of their specific legal rights when they are placed under arrest. This decision was based on a case in which a defendant, Ernesto Miranda, was accused of robbery, kidnapping, and rape. During police interrogation, he confessed to the crimes.

The conviction was overturned due to allegedly intimidating police interrogation methods. After a retrial that included witnesses and other evidence, Miranda was again convicted, and the original conviction was reasonably upheld without question. In 1964 the results of another trial, *Escobedo v. Illinois*, additionally provided that a suspect has the right to counsel being present during police questioning or to consult with an attorney before being questioned by the police if the police intend to use the answers against the suspect at a trial that the person was not of sound mind or were under circumstantial duress when they gave their confession.

The Miranda Warning protects an individual's rights by explaining their options clearly and upholds police authority when they properly read the Miranda Warning and get a clear, intelligent answer that the suspect understands his or her rights as they have been explained.

The Miranda Warning is a legal necessity throughout the United States, and varies only slightly in its wording in different states. **CONCLUSIONS**

If common sense alone had dictated, the story would have ended on June 20, 1963. It did not matter that he had made his confession in the absence of counsel and without knowing that he had a right to remain silent, and that, therefore, most of the evidence used to convict him had come out of his own mouth. He had not been tortured, unduly tricked, or cleverly manipulated into admitting his guilt. The police had acted consistently and in accordance with standards that had been deemed acceptable for many years.

By 1963 America's criminal justice system had entered an era of civil unrest. Under pressure from liberal and activist groups all over the country, appellate courts had begun an active reexamination of the laws of the land of their basis in the Constitution and their application. The central issue had actually already come to rest on two questions:

- 1). When could a suspect assert his constitutional rights under the Fifth and Sixth Amendments and,
- 2). Must he be appraised of those rights by the police before anything he said could be used against him?

Thus, it is not surprising that Miranda's handwritten confession, while it had not helped him at all in Judge McFate's courtroom, or on appeal in the Arizona Supreme Court, nevertheless caught the attention of the U.S. Supreme Court as well as most law-review writers in the country. Four similar cases involving the coerced-confession issue were subjected to the judicial scrutiny of the U.S. Supreme Court.

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