

Double Jeopardy Clause: A Fifth Amendment Constitution Trivia Game

by Kathi Kusch and John Branstrom

The following lesson is intended to introduce students to the Fifth Amendment of the Bill of Rights and to interpret what certain constitutional rights mean in specific cases pertaining to the law. Students will apply such concepts as "*probable cause*" and the Miranda Law to situations given to them. Students will also develop an appreciation of how the legal system works and the complexity of applying specific concepts to unique situations.

This lesson consists of a series of sixteen jeopardy questions designed to generate thinking and discussion questions about the Fifth Amendment. It is our suggestion that these questions be used either as a small group activity where each group receives one question to think and discuss or as a large group activity whereby the questions could be read aloud. Students need to have a clear definition and understanding of the Fifth Amendment prior to doing this activity.

Students will:

1. Develop 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. Be able to interpret the concepts of the Fifth Amendment.
4. Demonstrate an understanding of the Fifth Amendment through conversation.

Materials needed: Copies of: **Fifth Amendment** (See Appended Materials)
Student Handout: TERMS TO KNOW
Student Handout: DOUBLE JEOPARDY CLAUSE

Time needed: approximately 1 class period

Grade level: 4th - 6th grades

Procedure:

1. Divide the class into small groups.

RIGHTS OF THE ACCUSED

DOUBLE JEOPARDY CLAUSE: A FIFTH AMENDMENT TRIVIA GAME

Procedure cont.

2. Go over **Student Handout: TERMS TO KNOW** before teaching this lesson. Cut up and hand out **Student Handout: DOUBLE JEOPARDY CLAUSE** law question cards. (Teacher decides how many.)
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:

 - Q. What crime has been committed?
 - Q. What are the rules for police officers?
 - Q. What are the rules the police read to the people they arrest? (See Miranda Rules in **Student Handout: TERMS TO KNOW**.)
 - Q. What rights do the victims have?
 - Q. What happens if the accused agrees to give the stolen items back.
 - Q. Who decides what the punishment(s) might be? What if the convicted persons feel it is not fair?
 - Q. What 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.
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.

RIGHTS OF THE ACCUSED

DOUBLE JEOPARDY CLAUSE: A FIFTH AMENDMENT TRIVIA GAME

Procedure cont.

- 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.

Student Handout: 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.

Miranda Law

1. You have the right to remain silent.
2. If you choose to speak, anything you say may be held 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.

Student Handout: 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?***



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



3. The Big Bad Wolf is arrested for destroying the pig's 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?***



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 anymore questions?***



5. Kirby Puckett 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 Kirby Puckett's house?***



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?***

Student Handout: Double Jeopardy Clause cont.



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 was 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?*



8. The police were searching Keith Millard'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 Chicago Bears Playbook in a dresser drawer. *Can he be charged for theft of the playbook?*



9. Bobby Smith and Mike Modano were charged with taking the Stanley Cup from the Pittsburgh Penguins. Mike was given immunity for testifying against Bobby. *Can he refuse to testify on 5th Amendment grounds?*



10. Pooh Richardson was accused of taking Michael Jordan'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 Pooh's gym bag. *Is this a legal search?*



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?*

RIGHTS OF THE ACCUSED

DOUBLE JEOPARDY CLAUSE: A FIFTH AMENDMENT TRIVIA GAME

Student Handout: DOUBLE JEOPARDY CLAUSE cont.



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 closing arguments?*



15. *Can contraband seized in an illegal search be required to be returned to the people that it was taken from?*



16. *What is "plain sight?"*



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 South Dakota. You have given the police good tips like this in the past. *Could this be considered probable cause for the police officer to obtain a search warrant for your neighbor's house?*

ANSWER KEY: 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?***



Answer: Yes, because they did not see Tom carrying any pigs into the garage.

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

Answer: Yes, if Papa Bear wasn't a police officer and Goldilocks was not under arrest.



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?***

Answer: Yes, if answering the question could get you into trouble for a curfew violation.



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 anymore questions?***

Answer: No, you can ask for your rights at anytime. Any further questions would have to be asked with the lawyer present.



5. Kirby Puckett 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 Kirby Puckett's house?***

Answer:

- A. What they are looking for (Second base.)
- B. Where they expect to find it. (Kirby's house)
- C. Reason they feel it is at Kirby's house. (Probable cause, 40,000 people in the dome and 285,000 on television saw him, and a neighbor saw him come home carrying a rectangular object.)

RIGHTS OF THE ACCUSED

DOUBLE JEOPARDY CLAUSE: A FIFTH AMENDMENT TRIVIA GAME

ANSWER KEY: Double Jeopardy Clause cont.



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?*



Answer: No, the confession was coerced by the beating.

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 was 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.*



Answer: No, to do so would be in violation of the double jeopardy clause of the 5th Amendment.

8. The police were searching Keith Millard'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 Chicago Bears Playbook in a dresser drawer. *Can he be charged for theft of the playbook?*

Answer: Probably not. His lawyers would try to have the search declared invalid because the playbook was in a dresser drawer; a place you would not find a sacked quarterback.



9. Bobby Smith and Mike Modano were charged with taking the Stanley Cup from the Pittsburgh Penguins. Mike was given immunity for testifying against Bobby. *Can he refuse to testify on 5th Amendment grounds?*

Answer: No. He has been given immunity so he is not able to incriminate himself.



10. Pooh Richardson was accused of taking Michael Jordan'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 Pooh's gym bag. *Is this a legal search?*

Answer: Yes. It is logical to find gym shoes in a gym bag. The evidence could be used against Pooh.

RIGHTS OF THE ACCUSED

DOUBLE JEOPARDY CLAUSE: A FIFTH AMENDMENT TRIVIA GAME

ANSWER KEY: Double Jeopardy Clause cont.



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?*

Answer: Not if he has not been given his Miranda rights.



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 closing arguments?*

Answer: No. A person cannot be forced to testify against themselves.



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

Answer: 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. 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 South Dakota. You have given the police good tips like this in the past. *Could this be considered probable cause for the police officer to obtain a search warrant for your neighbor's house?*

Answer: Yes, because you have been a good source of information to this officer. It would constitute "probable cause."



15. *Can contraband seized in an illegal search be required to be returned to the people that it was taken from?*

Answer: No. Contraband seized can not be returned because of a legal or illegal search. Think about it. If it was illegal for you to possess it and they gave it back after an illegal search, they could seize it immediately and charge you with possession.



16. *What is "plain sight?"*

Answer: 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."