Special Forces Veterans
Peace Officer Licensing Course

Course Number 1030

Texas Commission on Law Enforcement

Created: September 2015/Updated February 2017
Disclaimer

The material included in this curriculum are learning objectives with some reference material. All learning objectives must be taught, because it is testable material. Most of the learning objectives contain reference material information listed below the learning objective. This reference material is designed to be used to assist the instructor in developing comprehensive lesson plans to teach the learning objectives. The use of current statistical data, best practice policing methods, and scenario-based training should be included in lesson plan development. If you are using this curriculum as the lesson plan and it is stored in the training files as a stand-alone, this is unacceptable. This curriculum is not a lesson plan, and instructors are expected to develop comprehensive lesson plans to teach the curriculum material.

Definition:

1. **Curriculum** – a curriculum is the set of courses, course work, and content offered, that collectively describes the teaching, learning, and assessment materials available for a given course of study.

2. **Lesson Plan** – is an instructor’s detailed description of the course of instruction for an individual lesson. It is a document that sets forth specific information the instructor is to teach and the student is to learn. The four major lesson plan formats are the Outline, Sentence Outline, Narrative Outline and Narrative.

3. **Pedagogy** - study of teaching methods, including the aims of education and the ways in which such goals may be achieved. The field relies heavily on educational psychology, or theories about the way in which learning takes place. The term generally refers to strategies of instruction, or a style of instruction. Pedagogy is also sometimes referred to as the correct use of teaching strategies. In correlation with those teaching strategies the instructor’s own philosophical beliefs of teaching are harbored and governed by the student’s background, knowledge and experiences, personal situations, and environment, as well as learning goals set by the student and teacher.

4. **Learning Objective** – is an outcome statement that captures specifically what knowledge, skills, and attitudes a learner should be able to exhibit following instructions. Learning Objectives helps to connect the content and assessment around learning and it gives the student a clear picture of what to expect and what’s expected of them. Learning Objectives forms the basis for evaluating instructors, students and the curriculum effectiveness.
Special Forces Veterans Peace Officer Course

ABSTRACT

The Special Forces veterans’ peace officer course is designed to provide beginning peace officers who has previously completed Special Forces training with an understanding of the peace officer environment. This course is required for certification as a basic peace officer.

Note to Training Providers: This instructor guide is designed as a standardized outline for all training providers; however, instructors are expected to develop detailed lesson plans that supplement this outline. The incorporation of scenarios is recommended to facilitate the learning of the material. It is the responsibility of the coordinator to ensure that individual copies of the course are up to date. This may be done by checking the Commission website at www.tcole.texas.gov.

Target Population: Individuals desiring to obtain a basic Peace Officers License with Special Forces Training credit.

Pre-requisites: Must meet enrollment standards (Commission Rule 215.5). The following chart depicts the training requirements of this certification. This curriculum package is contained in the “Remaining Training” category.

TExAS SUPPLEMENTAL PEACE OFFICER COURSE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Topic Area</th>
<th>Hours</th>
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<tr>
<td>6</td>
<td>Code of Criminal Procedure</td>
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<td>8</td>
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<td>12</td>
<td>Alcoholic Beverage Code</td>
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<td>Health and Safety Code – Controlled Substances Act</td>
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<td>Family Code – Juvenile Issues</td>
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<td>Family Violence and Related Assaultive Offenses</td>
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<td>33</td>
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MILITARY TRAINING CREDIT

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<td>3</td>
<td>Professionalism and Ethics</td>
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<td>Multiculturalism and Human Relations</td>
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<td>15</td>
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<td>Professional Policing</td>
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<td>U.S. &amp; Texas Constitutions, Bill of Rights, and Criminal Justice System</td>
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<td>Arrest, Search, and Seizure</td>
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<tr>
<td>Civil Process</td>
<td>8</td>
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<td>Mechanics of Arrest</td>
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<tr>
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<tr>
<td>Patrol Operations/Consular Notification</td>
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<td>Victims of Crime</td>
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<td><strong>Total Training Hours</strong></td>
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**Length of Course:** 286 hours

**Facility Requirements:** Appropriate training environment

**Evaluation Process & Procedures:** Classroom interaction with the instructor and other students, and a final comprehensive examination based on course objectives. Training providers are responsible for assessing and documenting student mastery of all objectives contained in this course.

**NOTE:** This course is **not** intended to override local departments’ policies and procedures.
# 190-HOUR SPECIAL FORCES VETERANS PEACE OFFICER COURSE

(Created September 2015/updated February 2017)

In accordance with Commission regulations, the course shall consist of a minimum of 286 classroom hours and shall include, but not be limited to, the subjects set forth below. This is the recommended sequence for teaching the course. Academies may change the sequence, if necessary.

<table>
<thead>
<tr>
<th>#</th>
<th>SUBJECT</th>
<th>Total HOURS</th>
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<tbody>
<tr>
<td>1</td>
<td>Introduction and Orientation</td>
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<tr>
<td>2</td>
<td>Professional Policing</td>
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Introduction

The Instructor Guide to the Basic Peace Officer Course is designed to give the educator the guidelines necessary to prepare a person to become a Texas peace officer. They are the minimum guidelines that the training provider must meet. Training providers are encouraged to go beyond these minimums. After completing all of the learning objectives and reporting course completion to the Commission, the training provider may issue an endorsement to take the Texas Peace Officer Licensing Examination. The training provider is responsible for assessing the students’ mastery of all objectives, including those objectives that are skill-based.

Instructor Resource Guides are provided, as needed, to aid the instructor in designing detailed lesson plans for each unit. The use of scenarios to promote student learning is encouraged because it facilitates the application of knowledge and skills to the job. The training facility may use other scenarios that better meet the needs of specific learning goals. It is important that the training facility document as completely as possible the performance of students in all areas of the curriculum.

Skill mastery is vital to the successful transition to work as a peace officer. Communication skills, both written and verbal are most critical to becoming a successful peace officer. Practice of communication skills should be incorporated into as many of the scenarios, exercises, and homework items as possible. Writing exercises should be conducted at least twice weekly, and more often in those scenarios where a report is involved. Writing exercises often can be assigned as homework, saving class time for the practice of verbal communication skills. Each report submitted should be evaluated, and feedback should be provided to the student. The student should be required to make any necessary changes to bring the report or written work up to standard.
Training providers should require the students to keep course materials in a readily accessible form. Students should be graded on a regular basis to assess their completeness and their ability to communicate orally and in writing.

2. Professional Policing

Unit Goal: 2.1. To develop a knowledge of the development and influence of the evolution of police service models and styles.

2.1.1. Describe significant historical events that have influenced policing in the United States.

Policing in America has its roots in European methods. This can be seen in such concepts as:

- County
- Sheriff
- Common law
- English “bobby” foot patrol methods

The northeastern states generally had the “watch and ward” system. “Watch” was nighttime, while “ward” was daytime police. As American policing developed in New York, Boston, and Philadelphia, an entire system of criminal justice began to experience corruption.

2.1.2. Describe the historical development of police service models or styles.

From 1900 through the 1940s

The use of the automobile provided a more rapid response to police calls for service.

The advent of radio communications allowed calls for service to be dispatched to officers in the field.

Many officers were reassigned from walking beats to radio cars.

The assignment of officers from walking beats initiated the distancing of the police from the individual citizens through increased mobility.

The police performance level increased due to rapid response, while actual communications with citizens decreased.

The absence of quality evaluation was prevalent throughout the period.
During this era, law enforcement personnel (especially the “beat officers”) were known by the citizens in the areas in which they worked.

This relationship created a bond that made the officer feel an ownership of his work area. The community also felt a more personal relationship with their officer(s).

American policing went through a “reform” era marked by the contributions of such men as August Vollmer, whose goal was to bring professionalism to the police. This age also saw the emergence of the present federal law enforcement system and the contributions of J. Edgar Hoover and the FBI.

The National Commission on Law Observance and Enforcement (Wickersham Commission) reported in 1931 “the greatest promise for the future of policing is the college or university.”

From 1950 through the 1970s

Technology continued to improve, with computers and communications gradually becoming commonplace.

The use of automobiles improved response time to calls for service.

The increased use of automobile travel and technology created a fast-paced service style, which further removed peace officers from constant citizen contact.

The professional police model developed with emphasis on accountability and increased standards. Success measures such as response time, crime statistics, and citizen complaints became common indicators of police performance.

Police professionalism was again an issue in the late 60s when the President’s Commission on Law Enforcement and the Administration of Justice stated in 1967 that, in their opinion, police personnel should have two or four years of college education. This Commission indicated that the ultimate aim of all police departments was for personnel with general enforcement powers to have baccalaureate degrees.

The National Advisory Commission on Criminal Justice Standards and Goals (NAC) reported in 1973 that the police still had low educational requirements. The NAC cited the recommendations of the 1967 commission and established minimum entry-level requirements. The immediate educational standard was to be one year of college. The educational standard increase was to continue by requiring two years of college by 1975, three years of college by 1978, and a baccalaureate degree by 1982. A study was done in 1986 of entry-level educational requirements to determine which of the NAC’s goals had been met. The responding 289 agencies reported that 0.9% had no minimum educational requirement, 84.8% had a high school or G.E.D. requirement, and 0.6% required a four-year baccalaureate degree.

Evaluation research became a tool for success measurement.
The Law Enforcement Assistance Administration (LEAA) funded numerous projects to speed up the criminal justice process.

The development and use of numerous specialized units resulted in the removal of patrol officers from most follow-up activities.

The patrol system became an incident-driven approach in which police officers often became little more than report takers in most communities.

During this era, the police became controlled by the radio system. As a result of officers being required to answer calls for police services in a larger area, the peace officer lost much of the positive relationship and communications with the community.

From 1980 through Today

Technology continues to improve with computers, mobile devices, and weapons.

*Note to Instructor: Instructor should give examples of technology available in their area.*

There is increased interest in evaluation research.

Interest in other styles of police service led to considerable interest in new methods and experimentations.

The development of community- or problem-oriented policing has opened new potential for progressive policing in agencies using both the traditional model and the problem-oriented model.

The implementation of community or problem-oriented policing projects.

Ironically, professionalization of policing has resulted, very often, in emphasis on walking beats and citizens interaction.

**2.1.3. Describe the evolution of policing in Texas.**

During Texas’ 100 years as a province of Mexico, Mexican governors reigned over the territory that would later become Texas. Policing was handled by the Spanish military. This ended when Texas became a free and independent republic after the Battle of San Jacinto in 1836.

*Texas Rangers*
Stephen F. Austin employed a militia group to protect the settlers from Indian and bandit raids. This group later became known as the Texas Rangers.
The watch/ward system of police did not evolve in Texas because of its large territory and absence of large cities/urban areas.

**Elected County Law Enforcement**
- Constables: Art. 5, Sec. 18 Texas Constitution
- Sheriffs: Art. 5, Sec. 23 Texas Constitution

**Municipal Law Enforcement**
- Police Force of a Type A General-law Municipality: 341.001 Local Government Code

*Note to the Instructor:* You may want to include a discussion of regional and local development in law enforcement.

### 2.1.4. List the requirements of licensees under selected sections of the current Commission Rules.

The Occupations Code is the statutory authority for the Commission to establish rules that law enforcement agencies and officers must follow.

*Note to Instructor:* Instructor should emphasize that it is each officer’s responsibility to ensure compliance with Commission rules. Demonstration of TCLEDDS and MYTCLEOSE Training is encouraged.

#### Requirements

<table>
<thead>
<tr>
<th>Topic</th>
<th>Rules</th>
<th>Occupations Code</th>
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<tbody>
<tr>
<td>Reporting Responsibilities of Individuals</td>
<td>211.27</td>
<td>1701.502</td>
</tr>
<tr>
<td>Minimum Standards for Initial Licensure</td>
<td>217.1</td>
<td>1701.301, .307</td>
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<tr>
<td>Eligibility to take State Examinations</td>
<td>219.1</td>
<td>1701.304</td>
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<tr>
<td>Examinee Requirements</td>
<td>219.5</td>
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<tr>
<td>Legislatively Required Continuing Education for Licensees</td>
<td>217.11</td>
<td>1701.351-354</td>
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<tr>
<td>Firearms Proficiency Requirements</td>
<td>217.21</td>
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<tr>
<td>Reactivation of a License</td>
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The coordinator is required by rule 215.9 to distribute copies of the current Commission Rules to all students admitted to a licensing course. The coordinator is also responsible for ensuring that a review of the rules pertaining to the following areas is conducted during the teaching of any course that may result in the issuance of a license: Law Enforcement Achievement Awards (211.33), Proficiency Certificate Requirements (221.1), License Action and Notification (223.1), Answer Required (223.3), Suspension of a License (223.15), Revocation of a License (223.19), and Reinstatement of a License (223.17).
**Note to the Instructor:** You must provide copies of current Commission Rules to each student as per Commission Rule 215.9(b) (2) (F). The rules can be found at the Commission website: [www.tcleose.state.tx.us](http://www.tcleose.state.tx.us).

### 2.1.5. Explain the traditional police service model.

**Reactive response**
Most of the workload of patrol officers and detectives consists of handling crimes that have already been committed, disturbances in progress, traffic violations, and such. Exceptions include crime prevention and narcotics investigations.

**Incident driven**
This relies on limited information, mostly from victims, witnesses, and suspects. Focus tends to be on one “incident” which is resolved before moving to the next “incident”.

**Use of the criminal justice system**
The primary means of resolving incidents is to involve the criminal justice process.

**Use of aggregate statistics**
The department’s performance is largely measured by statistical comparisons. The department is doing a good job when the citywide crime rate is low, or the citywide arrest rate is high. The best officers are those who make many arrests or service many calls. Statistics can be affected by a number of factors.

**Lack of community and employee involvement in the decision making process**
Most decisions are made at the management and mid-management level with little citizen involvement.

**Citizen and employee expectations**
The expectations of both the community and agency employees are often not met due to the expectation that peace officers will have a high impact on crime in the community.

**The use of specialized units**
The traditional model has used specialized units with a high degree of effectiveness. Directed patrol, traffic, investigative, and other related approaches have had a large degree of success in many police agencies.

### 2.1.6. Define “community policing” and explain this service model.

**Definition of Community Policing (in IRG)**

**Ten Principles of Community Oriented Policing (in IRG)**
How does community policing differ from police community relations?

Handout on Definition of Community Oriented Policing

Handout on Ten Principles of Community Oriented Policing

Overhead or handout comparison of community policing to police - community relations

What is the importance of networking cooperatively with other professionals in the criminal justice system and with professionals employed by other community based agencies and service providers?

The peace officer is but one cog in the gear of our modern society. In order to maximize his/her potential as an agent of change in the community, the officer must recognize the need to call on the expertise of other professionals in the resolution of problems directed toward improvement of the quality of life in the particular community served. Below are some examples.

Private Attorneys/ Bail Bondsmen
No officer should ever make a referral to a private attorney or bail bondsman. This could result in a suit against an officer.

Legal Services:
- Local Lawyer Referral Service - usually operated by County or District Bar Association
- County Bar Association - for complaints against attorneys
- District or County Attorney - to directly file criminal cases or apply for family protective orders.
- Small Claims Court - when cases involve money matters of $10,000.00 or less and no attorney is required. Both parties to action may represent themselves. (GC 28.003)
- County/District Grand Jury - citizens may apply directly to grand jury to hear a criminal action (give examples of when applicable)

Social Services
- State Department of Mental Health and Mental Retardation
- Alcoholic problems/mental illness/counseling services

Texas Department of Health and Human Services
- Child Protection
- Elderly Protection
- Emergency Financial Assistance

Local Women’s Shelters
- Battered/abused women and children
- Local ministers or other religious figures, civil shelters, etc.
What is the importance of involving the community in all policing activities that directly affect the quality of community life?

- Reducing fear by addressing problem of crime in the community
- Establishing trust and harmony between the community residents and the peace officer
- Exchanging information to strengthen rapport and enhance community safety
- Assisting in identifying and resolving community problems
- Clarifying responsibilities on behalf of citizens and peace officer
- Helping define service needs

What are the philosophical differences between community based policing and traditional approaches?

- Traditional model is incident driven; i.e., reactive.
- Officer activity is based on calls for service (CFS).
- CPOs are pro-active and co-active
- New role is more complex:
  - Law Enforcer - CFS, incident driven and reactive
  - Planner - information gatherer and analyst
  - Problem Solver - strategist, critical thinker
  - Community organizer - co-active role in resolving community problems through joint efforts

Students should be instructed to check local departmental policy regarding community referrals.

Unit Goal: 2.2. To increase the understanding of the organization's role in society and police organizational issues.

2.2.1. Interpret the police organization’s role in society.

What is the purpose of a police organization?

- To fight crime?
- To serve and protect?
- To promote the public safety?

The concept of quality police customer service:

For whom do we work?
The peace officer works for and services the citizen of the community in which (s) he is employed. It is the police officer’s duty to protect and serve his/her community even to the point of placing his/her life at risk.

To whom are we responsible?
The peace officer is responsible to the citizens of the community through the chain of command in the organization.
Whose standards do we attempt to meet?
The officer and his/her agency must meet numerous standards that determine how (s) he is to do the job. All levels of government, the agency, our family, and the community set these standards.

Who are our customers?
Our customers are the citizens of the community, and those citizens from other communities who happen to need our services while in our community.

What is quality police customer service?
The basic concept of quality police customer service is to provide a level of service in which the citizen not only receives the basic protection expected of a police agency, but receives it in a highly effective and efficient manner from police personnel who display a highly positive, friendly, and helpful manner. This means that the citizen and his needs are placed before the personal desires of the officer, or of the agency in general.

Discuss the primary mission(s) of law enforcement agencies.

2.2.2. Recognize the values of providing quality police customer service.

What are the values of providing quality police customer services?
The quality driven police agency and its employees must consider themselves as a business venture in which a high degree of value is placed on quality customer service. The most desirable outcome of this concept is that the community is well served, and the agency becomes a highly professional, respected service-oriented organization.

What are the rewards of providing quality police customer service?
The rewards are many, and include the building of pride within the agency and the community.

The peace officer who serves in an agency that provides its citizens with a high quality of service has much to be proud of and should enjoy the strong, loyal support of the community on a day-to-day basis (and especially in times of critical needs).

2.2.3 Analyze the characteristics of traditional (formal) police organizational structure and police subculture (informal).

Paramilitary
- Authoritarian
- Chain of command
- Micromanagement

Discuss the advantages and disadvantages of the paramilitary model.
Alternative models
  • Participative

Why look at police subculture?
  • To better understand the behavior of others and to allow for informed choices about one's own behavior
  • To understand public perceptions of police
  • To discover ways to change the organization’s culture
  • Police bureaucracy and organizational structure shapes and molds young officers
  • Applicants are not attracted by authoritarian roles or deep-seated power needs
  • Authoritarianism is cultivated by police culture

Characteristics of the Police Subculture
  • Curiosity and suspiciousness
  • Solidarity - taking care of one another
  • Secrecy - protection from hostile environment
  • Political and social conservatism
  • Cynicism - Hobbesian view of social work
  • Social isolation
  • Authoritarian approach to control, conformity
  • Support during difficult/stressful time

Subculture social problems
  • Stress (cyclic - continuous reinforcement)
  • Commitment to community values and needs becomes secondary
  • Cynicism and alienation (Niederhoffer)
  • Dirty Harry problem: good ends, but through dirty means

Subculture benefits
  • Officers must choose between the subculture and professionalism

“There is nothing sadder than a young pessimist.” - Mark Twain

Origins of the subculture (Niederhoffer and Blumberg)

“If there is one principle, clearer than any other, it is this - that in any business, whether government or merely merchandising, somebody must be trusted.” - Woodrow Wilson

Refer to IRG

2. PROFESSIONAL POLICING

PROFESSIONAL POLICING
LEARNING OBJECTIVE 2.1.3

Article 5, Section 23, Sheriffs, Texas Constitution

Interpretive Commentary (Adapted)

The office of sheriff is a very ancient one. The origin of the office can be found in the institution of the king’s “reeves,” who watched over royal interests in the towns of the ninth century. By the end of that century, the king’s reeve had acquired judicial as well as financial functions: and early in the tenth century, he became the official of a shire instead merely the official of a town, and was called the shire-reeve.

By the end of the Anglo-Saxon period, he had supplanted the “ealdorman” (i.e., alderman or magistrate) as the effective head of the shire, and, soon after the Norman Conquest, his powers reached their peak. The financial, judicial, and administrative importance of the office added to the personal influence of the great landowners who normally filled it, which constituted a serious menace to the crown as well as an unending source of oppression to the crown’s subjects.

A long struggle covering a span of many centuries took place, in which various measures were employed to curb the powers of the sheriff, and to establish the principle that the sheriff was merely a servant of the crown, not an independent source of authority.

Among the most ancient duties of the sheriff is that of conserving the peace and suppressing disorder with the help of the posse comitatus. Until the development of the office of lord lieutenant in the 16th century, he was also the head of the military forces of the shire. His duty of receiving writs, summoning juries, and executing judgments is as old as the common law itself, and remains the most important part of his work.

The office of sheriff was introduced into America as part of the county organization. In New England, this was a slow development, for local government was for the most part centered in towns. Further south, however, where larger units of local government were more common, the sheriff rapidly became the leader of his county. Appointment was generally by the governor, but as early as 1705 the office became elective in Pennsylvania, and other states soon adopted this procedure for filling the office.

The constitution prior to 1954 provided for a sheriff to be elected biennially in each county. In November 1954, this section was amended, increasing the term of office of sheriffs from two to four years. The office has been provided for under every Texas constitution, and supersedes the alguacil of Spanish and Mexican rule (See Art. 5, Sec. 18).

The main duties of the Sheriff are to act as a conservator of the peace and the executive officer of the county and district courts, serve writs and processes of the courts, and supervise the
jail and all prisoners. In counties with a population of less than 10,000 he is also *ex officio* tax assessor and collector.

The Commission’s current rules and Chapter 1701, Texas Occupations Code can be found at the Commission website: www.tcleose.state.tx.us

INSTRUCTIONAL STRATEGY: Readings on the Profession

PURPOSE OF ACTIVITY: to increase the student's awareness of the profession, awareness of effective and ineffective approaches to policing, understanding of the role of research in police work, and sensitivity to the changing nature of police work and to practice communication skills.

SUGGESTED USES: individual work, small group discussion, and large group wrap up.

ACTIVITY:

1. Share purpose of activity.

2. Assign individuals topics based upon their interest or their needs with sufficient time to do homework (see enclosed lists and selections).

3. Assign small groups of five to nine people for discussion, critical thinking, and formulation of a report for the whole class. (The instructor may let the group elect a spokesperson or assign someone as appropriate.)

4. Oral presentation to the whole class of what they have learned, critiques of research, practices, etc.

5. Make the connection between their findings and current practices. Emphasize that there is room for disagreement.

*Note to the instructor: Be sure to be sensitive to the variations between departmental philosophies, current practices, and ideal recommendations. If one of the groups does not adequately cover a topic the instructor must be prepared to fill in the needed information, either through a short mini-lecture or through the assignment of readings. Emphasize that students are responsible for readings.*
READING ASSIGNMENTS FOR PROFESSIONAL POLICING APPROACHES

Books

Articles
Making Every Encounter Count: Building Trust and Confidence in the Police, NIJ, January 2007, NCJ 216524
Police Innovation and Crime Prevention: Lessons Learned From Police Research Over the Past 20 Years, NIJ-Sponsored, 2006, NCJ 218585
Police Organization and Management Issues for the Next Decade, NIJ-Sponsored, 2006, NCJ 218584
Situational Policing (FBI Magazine, November, 2005) - This article may be located on the web at http://findarticles.com/p/articles/mi_m2194/is_11_74/ai_n15981195

Web Sites
Center for Problem-Oriented Policing http://www.popcenter.org
Police Executive Research Forum (Free Doc Library) http://www.policeforum.org
Department of Justice COPS http://cops.usdoj.gov
Community Oriented Policing http://www.policing.com
Texas Regional Center for Policing Innovation http://www.cjcenter.org/trcpi/index.htm
Definition of Community Policing

Community policing is a new philosophy of policing, based on the concept that police officers and private citizens working together in creative ways can help solve contemporary community problems related to crime, fear of crime, social and physical disorder, and neighborhood decay. The philosophy is predicated on the belief that achieving these goals requires that police departments develop a new relationship with the law-abiding people in the community, allowing them a greater voice in setting local police priorities and involving them in efforts to improve the overall quality of life in their neighborhoods. It shifts the focus of police work from handling random calls to solving community problems.

The Community policing philosophy is expressed in a new organizational strategy that allows police departments to put theory into practice. This requires freeing some patrol officers from the isolation of the patrol car and the incessant demands of the police radio, so that these officers can maintain direct, face-to-face contact with people in the same defined geographic area (beat) every day. This new “community policing officer” (CPO) serves as a generalist: an officer whose mission includes developing imaginative, new ways to address the broad spectrum of community concerns embraced by the community policing philosophy. The goal is to allow CPOs to own their beat areas, so that they can develop the rapport and trust that is vital in encouraging people to become involved in efforts to address the problems in their neighborhoods. The CPO acts as the police department’s outreach to the community, serving as the people’s link to other public and private agencies that can help. The CPO not only enforces the law, but supports and supervises community-based efforts aimed at local concerns. The CPO allows people direct input in setting day-to-day, local police priorities in exchange for their cooperation and participation in efforts to police themselves.

Community policing requires both a philosophical shift in the way that police departments think about their mission and a commitment to the structural changes this new form of policing demands. Community policing provides a new way for the police to provide decentralized and personalized police service that offers every law-abiding citizen an opportunity to become active in the police process.

Adapted from Robert Trojanowicz and Bonnie Bucqueroux, Community Policing: A Contemporary Perspective, Anderson Publishing.
THE TEN PRINCIPLES OF COMMUNITY POLICING

1. Community policing is both a philosophy and an organizational strategy that allows the police and community residents to work closely together in new ways to solve the problems of crime, fear of crime, physical and social disorder, and neighborhood decay. The philosophy rests on the belief that law-abiding people in the community deserve input into the police process, in exchange for their participation and support. It also rests on the belief that solutions to contemporary community problems demand freeing both people and the police to explore creative, new ways to address neighborhood concerns beyond a narrow focus on individual crime incidents.

2. Community policing organizational strategy first demands that everyone in the department, including both civilian and sworn personnel, must investigate ways to translate the philosophy into practice. This demand makes a subtle but sophisticated shift so that everyone in the department understands the need to focus on solving community problems in creative, new ways that can include challenging and enlisting people in the process of policing themselves. Community policing also implies a shift within the department that grants greater autonomy to line officers, which implies enhanced respect for their judgment as police professionals.

3. To implement true community policing, police departments must also create and develop a new breed of line officer, the “community policing officer” (CPO), who acts as the direct link between the police and people in the community. As the department’s community outreach specialists, CPOs must be freed from the isolation of the patrol car and the demands of the police radio, so that they can maintain daily, direct, face-to-face contact with the people they serve in a clearly defined beat area.

4. The CPO’s broad role demands continuous, sustained contact with the law-abiding people in the community, so that together they can explore creative new solutions to local concerns involving crime, fear of crime, disorder, and decay, with private citizens serving as unpaid volunteers. As full-fledged law enforcement officers, CPOs respond to calls for service and make arrests, but they also go beyond this narrow focus to develop and monitor broad-based, long-term initiatives that can involve community residents in efforts to improve the overall quality of life in the area over time. As the community’s ombudsman, the CPO also links individuals and groups in the community to the public and private agencies that offer help.

5. Community policing implies a new contract between the police and the citizens it serves— one that offers the hope of overcoming widespread apathy, while restraining any impulse to vigilantism. This new relationship based on mutual trust also suggests that the police serve as a catalyst, that challenge people to accept both their share of the responsibility for solving their own individual problems and their share of the responsibility for the overall quality of life in the community. The shift to community policing also means a slower response time for non-emergency calls, and that citizens themselves will be asked
to handle more of their minor concerns; but in exchange this will free the department to work with people on developing long-term solutions for pressing community concerns.

6. Community policing adds a vital proactive element to the traditional reactive role of the police, resulting in full-spectrum police service. As the only agency of social control open 24 hours a day, seven days a week, the police must maintain the ability to respond to immediate crises and crime incidents; but community policing broadens the police role so that they can make a greater impact on making changes today that hold the promise of making communities safer and more attractive places to live tomorrow.

7. Community policing stresses exploring new ways to protect and enhance lives of those who are most vulnerable: juveniles, the elderly, minorities, the poor, the disabled, and the homeless. It both assimilates and broadens the scope of previous outreach efforts such as crime prevention and police/community relations units, by involving the entire department in efforts to prevent and control crime in ways that encourage the police and law-abiding people to work together with mutual respect and accountability.

8. Community policing promotes the judicious use of technology, but it also rests on the belief that nothing surpasses what dedicated human beings, talking and working together, can achieve. It invests trust in those who are on the front lines together on the street, relying on their combined judgment, wisdom, and expertise to fashion creative new approaches to contemporary community concerns.

9. Community policing must be a fully integrated approach that involves everyone in the department, with the CPOs as specialists in bridging the gap between the police and the people they serve. The community policing approach plays a crucial role internally, within the police department, by providing information and assistance about the community and its problems, and by enlisting broad-based community support for the department’s overall objectives.

10. Community policing provides decentralized, personalized police service to the community. It recognizes that the police cannot impose order on the community from outside: people must be encouraged to think of the police as a resource they can use in helping to solve contemporary community concerns. It is not a tactic to be applied and then abandoned, but an entirely new way of thinking about the police role in society: a philosophy that also offers a coherent and cohesive organizational plan that police departments can modify to suit their specific needs.

Adapted from Robert Trojanowicz and Bonnie Bucqueroux, Community Policing: A Contemporary Perspective, Anderson Publishing.
Comparison of Community Policing to Police-Community Relations


<table>
<thead>
<tr>
<th></th>
<th>COMMUNITY POLICING</th>
<th>POLICE-COMMUNITY RELATIONS</th>
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</thead>
<tbody>
<tr>
<td><strong>Goal:</strong></td>
<td>Solve problems - improved relations with citizens is a welcome byproduct</td>
<td>Goal: Change attitudes and project a positive image - improved relations with citizens is a main focus</td>
</tr>
<tr>
<td><strong>Line function:</strong></td>
<td>Regular contact between officers and citizens</td>
<td>Staff Function: Irregular contact between officers and citizens</td>
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<tr>
<td><strong>A department-wide philosophy and department-wide acceptance</strong></td>
<td></td>
<td>Isolated acceptance often localized in the PCR unit</td>
</tr>
<tr>
<td><strong>Internal and external influence and respect for officers</strong></td>
<td></td>
<td>Limited influence and respect for officers</td>
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<tr>
<td><strong>Well defined role - does both proactive and reactive policing - a full service officer</strong></td>
<td></td>
<td>Loose role definition - focus on dealing with problems of strained relations between police and citizens; crime prevention encouraged</td>
</tr>
<tr>
<td><strong>Direct service - same officer takes complaints and gives crime prevention tips</strong></td>
<td></td>
<td>Indirect service - advice on crime prevention from PCR officer but “regular” officers respond to complaints</td>
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<tr>
<td><strong>Citizens nominate problems and cooperate in setting up the police agenda</strong></td>
<td></td>
<td>“Blue Ribbon” committees identify the problems and “preach” to police</td>
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<tr>
<td><strong>The citizens receiving the service (in addition to administrative mechanisms) ensure police accountability</strong></td>
<td></td>
<td>Police accountability is ensured by civilian review boards and formal police supervision</td>
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<tr>
<td><strong>Officer is the leader and catalyst for change in the neighborhood to reduce fear, disorder, decay and crime</strong></td>
<td></td>
<td>Officer provides consultation on crime issues without having identified beat boundaries or “field responsibilities”</td>
</tr>
<tr>
<td><strong>Chief of Police is an advocate and sets the tone for the delivery of both law enforcement and social services in the jurisdiction</strong></td>
<td></td>
<td>Chief of Police reacts to only the law enforcement concerns of special interest groups</td>
</tr>
<tr>
<td><strong>Officers educate public about issues (such as response time or preventive patrol) and the need to prioritize services</strong></td>
<td></td>
<td>Officers focus on racial and ethnic tension issues and encourage increased services</td>
</tr>
<tr>
<td><strong>Increased trust between the police officer and citizens because of long term, regular contact results in an enhanced flow of information to the police</strong></td>
<td></td>
<td>Cordial relationship but often-superficial trust with minimum information flows to prevent and solve crime</td>
</tr>
<tr>
<td>Officer is continually accessible in person, by telephone, or in a decentralized office</td>
<td>Intermittent contact with the public because of city-wide responsibility - contact is made through central headquarters</td>
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<tr>
<td>Regular visibility in the neighborhood</td>
<td>Officer seldom seen “on the streets”</td>
<td></td>
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<tr>
<td>Officer is viewed as having a “stake in the community”</td>
<td>Officer is viewed as an “outsider”</td>
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<tr>
<td>Officer is a role model (especially a youth role model) because of regular contact with citizens</td>
<td>Citizens do not get to know officer on an intense basis</td>
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<tr>
<td>Influence is “from the bottom up” - citizens receiving service help set priorities and influence police policy</td>
<td>Influence is “from the top down” - those who “know best” have input and make decisions</td>
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<tr>
<td>Meaningful organizational change and departmental restructuring - ranging from officer selection to training, evaluation, and promotion</td>
<td>Traditional organization stays intact with ‘new” programs periodically added - no fundamental organizational change</td>
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<tr>
<td>When intervention is necessary, informal social control is the first choice</td>
<td>When intervention is necessary, formal means of control are typically the first choice</td>
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<tr>
<td>Officer encourages citizens to solve many of their own problems and volunteer to assist neighbors</td>
<td>Citizens are encouraged to volunteer but are told to request and expect more government services (including law enforcement)</td>
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<tr>
<td>Officer encourages other service providers such as animal control, fire fighters, and mail carriers to become involved in community problem solving</td>
<td>Service providers stay in traditional roles</td>
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<tr>
<td>Officer mobilizes all community resources, including citizens, private and public agencies, and private businesses</td>
<td>Officers do not have mobilization responsibility because there is no specific beat area for which they are responsible</td>
<td></td>
</tr>
<tr>
<td>Success is determined by the reduction in citizen fear, neighborhood disorder, and crime</td>
<td>Success is determined by traditional measures (e.g., crime rates and citizen satisfaction with the police)</td>
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</tr>
<tr>
<td>All officers are sworn personnel</td>
<td>Most staff members are sworn personnel but some are non-sworn</td>
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### 4. U.S. and Texas Constitutions, Bill of Rights, and Criminal Justice System

**Unit Goal: 4.1. The student will understand, respect, and apply the U.S. Constitution and Bill of Rights as they pertain to the role of peace officers and the rights of citizens.**
4.1.1. Explain the basis of the U.S. Constitution and Bill of Rights, including special emphasis on the freedom of the individual and human rights.

Preamble (breakdown of phrases)

Refer to IRG for copy of U. S. Constitution and mandatory lecture material.

4.1.2. Define Writ of Habeas Corpus.

Writ of Habeas Corpus:

A Writ of Habeas Corpus is the name given to a variety of writs with the objective of bringing a party before a court, or judge. The primary function of the writ is release from unlawful imprisonment. The purpose of the writ is not to determine prisoner's guilt or innocence, and the only issue which it presents is whether prisoner is restrained of his liberty by due process. (Article 1, Sec. 9 and CCP 11.01)

Refer to IRG for

Mandatory scenarios similar to examples provided in IRG.

4.1.3. Recall the main concepts of Article 1, 2 and Article 3 of the Constitution.

- **Article 1:** provides legislative powers to U.S. Congress.
- Article 2: provides procedure for election of President and Vice-President of the U.S.
- Article 3: establishment and jurisdiction of the U.S. Supreme Court.
- "Original jurisdiction" means that cases are referred first to the court. A court with "appellate jurisdiction" hears only cases that have been appealed from the lower courts.
- Article 3 establishes the fact that all trials shall be in the state where the crime was committed.
- Article 3 defines the only crime in the U.S. Constitution: treason.

Bill of Rights/Amendments

**Note to the Instructor:** A discussion of rights enumerated in the Bill of Rights and Amendments should include a discussion of the applicability of each to the criminal justice process.

4.1.4. Discuss rights enumerated in Constitutional Amendment I.

Freedom of religion, speech, press, assembly, and petition. (Amendment I)
(Duran v. City of Douglas AZ, 904 F.2d 1A372 (CA9))
Demonstration at a military funeral Snyder vs. Phelps 06-51067 (2011)
Refer to IRG: Mandatory activity.
4.1.5. Discuss rights enumerated in Constitutional Amendment IV.


Refer to IRG

4.1.6. Discuss rights enumerated in Constitutional Amendment V.

Double jeopardy - witness against self; due process; self-incrimination (Amendment V) (Miranda v. Arizona, 384 U.S. 436 (1966))
14 day rule Maryland vs. Shatzer Florida v. Powell, No. 08-1175, SUPREME COURT OF THE UNITED STATES, 130 S. Ct. 1195

Refer to IRG

4.1.7. Discuss rights enumerated in Constitutional Amendment VI.

Right to trial; nature of offense; confronting accusers; right to counsel (Amendment VI) (In re Gault, 387 U.S. 1 (1967))

Refer to IRG

Note to the Instructor: Ask the students “Why is your right to trial by jury important to you as a citizen?” “Why do you think lawyers defend unscrupulous characters?” Make the point that some day the peace officer may also need that same attorney defending him/her and that due process is necessary to sift the truly unscrupulous character from those who are only accused of being unscrupulous without sufficient evidence or, perhaps, any evidence at all. “Have you ever been accused of doing something you did not do? No matter how minor the alleged offense, how did it make you feel deep down inside? Imagine how that would be magnified if the accusation was of a serious nature – one that could not only harm your reputation, but could restrain your liberty or take your life.”

4.1.8. Discuss rights enumerated in Constitutional Amendment VIII.

Excessive bail – excessive fines – cruel and unusual punishment (Amendment VIII)

4.1.9. Discuss rights enumerated in Constitutional Amendment IX.

Individual's Rights (Amendment IX)

4.1.10. Discuss rights enumerated in Constitutional Amendment X.
States’ Rights (Amendment X)

4.1.11. Discuss rights enumerated in Constitutional Amendment XIV.

U.S. law supersedes state law, due process, and equal protection (Amendment XIV, Section 1)

Refer to IRG

Unit Goal: 4.2. The student will understand, respect, and apply the Texas Constitution and Bill of Rights as they pertain to the role of peace officers and the rights of citizens.

4.2.1. Discuss and defend an individual's rights proclaimed under Article 1 of the Constitution of the State of Texas.

Article 1 - Title (summarize)
Sections 3, 3A, 6, 8, 9, 10, 11, 11a, 12, 13, 14, 15a, 16, 18, 19, 20, 22, 23, 24, 27, 28, 30 (CRIME VICTIMS BILL OF RIGHTS) and any other amendments

Refer to IRG

Note to the Instructor: Give the following homework to the students. Read the sections of the Texas Constitution that is provided in the IRG. Write down what they mean to you. Bring it to class the next day. Discuss how the Texas Constitution and the U.S. Constitution is similar and/or different.

Unit Goal: 4.3. The student will understand and appreciate the specific roles and inter-relationships of the various components within the Criminal Justice system.

4.3.1 Outline the structure and role of the Criminal Justice System.

Police – function and role of:

- City
- County
- State
- Federal

Courts – function and role of:

- Municipal
- County
Correctional system – function and role of:

- Municipal Fines
- County Jail
- State Prison
- Probation
- Parole

Refer to IRG

4.3.2 Explain how the three components of the criminal justice system directly affect each other.

Effects of criminal justice component interaction:

- Increased arrests causes increase in court dockets.
- Court dispositions increase correctional populations.
- Correctional releases (parole & time complete) often impacts police functions if correctional system fails.

Note to the instructor: Discuss variables affecting the system, e.g., early parole, plea bargaining, city police v. FBI on cases, etc. Guide the discussion and keep it on track so that it doesn’t stray into the areas that will be discussed later.

4.3.3 Identify the differences between civil and criminal law.

Civil law vs. Criminal law:

- **Civil Law**: that portions of the law which defines the personal and property rights of individuals; the rights of an individual to seek redress or to prevent a wrong; any action other than criminal proceedings.
  - **Tort**: any one of various, legally recognized, private injuries or wrongs. A civil action. (Cochran’s Law Lexicon, Fifth Edition)
  - Examples: divorce, child custody, protective orders, injunctions, debt, personal damages
- **Criminal Law**: law which for the purpose of preventing harm to society, (a) declares what conduct is criminal, and (b) prescribes the punishment to be imposed for such conduct. It includes the definition of specific offenses and general principles of criminal responsibility. Criminal laws are commonly codified into criminal or penal codes, e.g. Texas Penal Code.
Examples: criminal trespass, murder, assault, theft

Note to the instructor: You may want to refer to Black’s Law Dictionary.

4.3.4 Identify the civil/criminal courts and their jurisdiction.

Courts and their jurisdictions:

- U.S. Supreme Court - civil/criminal
- Texas Supreme Court - civil
- Court of Criminal Appeals - criminal - CCP 4.04, Sec. 1 & 2
- Courts of Appeals - civil/criminal - CCP 4.03
- District Courts - criminal/civil (felony) - CCP 4.05
- County Court at Law - criminal/civil in Texas (changes from state to state) A & B misdemeanors - CCP 4.07
- Jurisdiction of Justice Courts - criminal/civil C misdemeanors - CCP 4.11
- Jurisdiction of Municipal Courts - criminal – city ordinances, misdemeanor cases – Class C - CCP 4.14
- Small claims court – civil
- Juvenile court – civil

Note to the instructor: Refer to the chart in the IRG for the jurisdiction of these courts. Mention that County Courts at Law are statutorily created courts and that their specific subject matter jurisdiction comes from the statute that creates the court. Various names may be given by the statute to a statutorily created county court.
INSTRUCTOR RESOURCE GUIDE MATERIAL

THE CONSTITUTION OF THE UNITED STATES

PREAMBLE

We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. [1] The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

[2] No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

[3] Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

[4] When vacancies happen in the representation from any state, the Executive Authority thereof shall issue writs of election to fill such vacancies.

[5] The House of Representatives shall chuse their Speaker and other officers; and shall have the sole power of impeachment.

Section 3. [1] The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.
[2] Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any state, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

[3] No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

[4] The Vice-President of the United States shall be President of the senate, but shall have no vote, unless they are equally divided.

[5] The Senate shall chuse their other officers, and also a president pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

[6] The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; And no person shall be convicted without the concurrence of two-thirds of the members present.

[7] Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4. [1] The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of chusing Senators.

[2] The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5. [1] Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

[2] Each house May determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.
[3] Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present be entered on the journal.

[4] Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section 6. [1] The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

[2] No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Section 7. [1] All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

[2] Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; If he approve he shall sign it, but if not he shall return it, with his objections to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays accepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevents its return in which case it shall not be a law.

[3] Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.
Section 8. [1] The Congress shall have Power

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

[2] To borrow money on the credit of the United States;

[3] To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

[4] To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

[5] To coin money, regulate the value thereof, and of foreign coin, and fix; the standard of weights and measures;

[6] To provide for the punishment of counterfeiting the securities and current coin of the United States;

[7] To establish post offices and post roads;

[8] To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

[9] To constitute tribunals inferior to the supreme court;

[10] To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

[11] To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

[12] To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

[13] To provide and maintain a navy;

[14] To make rules for the government and regulation of the land and naval forces;

[15] To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repeal invasions;

[16] To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the
States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

[17] To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings:-And

[18] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Section 9. [1] The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

[2] The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

[3] No bill of attainder or ex post facto law shall be passed.

[4] No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

[5] No tax or duty shall be laid on articles exported from any state.

[6] No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state be obliged to enter, clear, or pay duties in another.

[7] No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

[8] No title of nobility shall be granted by the United States:-And no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10. [1] No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a
tender in payment of debts; pass any bill of attainder; ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

[2] No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

Section 1. [1] The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows.

[2] Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[3] The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately chuse by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner chuse the president. But in chusing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall chuse from them by ballot the vice-president.

[4] The Congress may determine the time of chusing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.
[5] No person except a natural born citizen or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

[6] In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

[7] The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

[8] Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

Section 2. [1] The president shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

[2] He shall have power, by and with the advice and consent of the senate to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

[3] The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient;
he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4. The president, vice-president and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

Section 1. The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section 2. [1] The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a state and citizens of another state; between citizens of different States; between citizens of the same state claiming lands under the grants of different States, and between a state, or the citizens thereof, and foreign States, citizens or subjects.

[2] In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

[3] The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. [1] Treason against the United States, shall consist only in levying war against them, or, in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.
[2] The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2. [1] The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

[2] A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

[3] No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Section 3. [1] New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

[2] The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4. The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when, ratified by the legislatures of three-fourths of the several states, or by conventions in three fourths
thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI

[1] All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

[2] This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

[3] The senators and representatives beforementioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same.

ARTICLES IN ADDITION TO, AND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

AMENDMENT I [1791]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II [1791]

A well regulated Militia, being necessary to the security of a Free State, the right of the people to Keep and bear Arms, shall not be infringed.
AMENDMENT III [1791]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV [1791]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI [1791]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII [1791]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury, shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII [1791]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
AMENDMENT IX [1791]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI [1798]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII [1804]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. - The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.
AMENDMENT XIII [1865]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV [1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.
Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV [1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI [1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII [1913]

[1] The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

[2] When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

[3] This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XVIII [1919]

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.
Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX [1920]

[I] The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

[2] Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX [1933]

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If the President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice-President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.
AMENDMENT XXI [1933]

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XXII [1951]

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

AMENDMENT XXIII [1961]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice-President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.
AMENDMENT XXIV [1964]

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice-President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV [1967]

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice-President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice-President, the President shall nominate a Vice-President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice-President as Acting President.

Section 4. Whenever the Vice-President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice-President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice-President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the power and duties of his office, the Vice-President shall continue
to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT XXVI [1971]

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
Section 2. The Congress shall have power to enforce this article by appropriate legislation.
U.S. CONSTITUTION AND BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.1.

INSTRUCTIONAL STRATEGY: Lecture

PURPOSE OF ACTIVITY: The student will be able to understand the basis of the U. S. Constitution and Bill of Rights, including special emphasis on the freedom of the individual and human rights as embodied in the Constitution.

SUGGESTED USES: beginning of lesson

ACTIVITY: Instructor should give a short lecture

Lecture Material:

   A. When did it begin? On September 17, 1787. When a convention of delegates from all the thirteen states - except Rhode Island - proposed a new Constitution to the Continental Congress and the States for ratification.
   B. What caused this new Constitution? The colonists rebelled because the English king refused to all of them their historic rights as free English citizens.

      Americans, before the Revolution, believed that the law was superior to any government, even the king.

2. The First Continental Congress.
   A. A meeting held in September, 1774. Delegates from 12 colonies met in the First Continental Congress.
   B. What was the purpose of the First Continental Congress?
      • To petition England for their rights:
      • Right to "life, liberty and property."
      • Trial by jury.
      • Peaceably assemble.
      • Consideration of their grievances.
      • And, for other rights they had been denied.
C. The First Continental Congress and its "list of rights" were ignored by England. Soon afterward, fighting broke out at Lexington and Concord.

3. The "Mecklenburg Resolves" of May 1775.
   A. What were the "Mecklenburg Resolves?"
      In May, 1775 citizens in Mecklenburg County, North Carolina, declared the laws of Parliament to be null and void.
   B. The citizens instituted their own form of local government.

4. The Declaration of Independence.
   A. In June 1776, a resolution was introduced in the Continental Congress, and a month later, on July 4, 1776, the Thirteen Colonies declared themselves free and independent of England.
   B. The Declaration of Independence was truly revolutionary.

The colonists listed a large number of abuses they had suffered at the hands of the English government.

And they justified their independence in these famous words:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain Inalienable Rights that among these are Life, Liberty, and the pursuit of Happiness."

Source: The Preamble to the U.S. Constitution.

5. The Articles of Confederation of 1778.
   A. The newly independent states joined in a united government. The Articles of Confederation was our nation's first Constitution.

      But, the Articles of Confederation did not provide for a working, efficient government.

      No authority to levy taxes or to regulate foreign or interstate commerce.
   B. Work on a compromise Constitution - 1787.
      A convention of delegates, meeting in Philadelphia - realized that a new system of government was necessary.

      A compromise Constitution was agreed upon.
Delaware was the first state to accept the new Constitution, ratifying it on December 7, 1787.

C. Not all states were pleased with the new Constitution. A major argument was the absence of Bill of Rights to protect citizens from abuses by the new central government.

6. The Bill of Rights.

A. On September 25, 1789 Congress proposed the first Ten Amendments to the U.S. Constitution -- the Bill of Rights. Ratification of the Constitution, with the Bill of Rights attached, was completed on December 15, 1791.

B. Protections of the Bill of Rights.

Since 1791, the Bill of Rights has served as our nation's testimony to its belief in:

• The basic and inalienable rights of the people.
• And, in the limitations on the power of government.

Note: The U.S. Constitution, with its Bill of Rights, protects that great body of liberties that belong to every citizen.
U.S. CONSTITUTION AND BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.1.

INSTRUCTIONAL STRATEGY: Lecture

U.S. CONSTITUTION AND BILL OF RIGHTS
INTRODUCTION

"It may be reasonably assumed that the most important task of any law enforcement service in America is the fulfillment of its function as the protector of the people."

Who are these people, what are they to be protected from, and how?

Who - all people (individuals, groups, and society at large).
What - protection from each other and from endangering conditions.
How - by promoting and enforcing their rights and respecting their dignity.

The United States government was founded during a period when great emphasis was being placed on the freedom of the individual and on human rights. These were basic considerations in the organization of the government through the Constitution and the first ten amendments to it— the Bill of Rights.

This was to be:

a government of and by the people in which their interests were served, their liberty was promoted, and their rights were protected.

Even the government itself was considered to be a potential source of loss of freedom. Consequently, basic individual rights that might be endangered by government were expressly protected for the people in the Constitution and the Bill of Rights. In addition, rights not listed were "retained by the people." Thus, the rights of the people received dominant emphasis.

But the Constitution and its Amendments left much to be done in the area of extending protection to groups in the minority and in interpreting how these lofty principles were to be applied. People, having differences among themselves, could each claim a Constitutional protection. Was the right of one to domestic tranquillity (Preamble) more or less important than the right of another to freedom of assembly (Amendment 1)? Thus, interpretation of the Constitution became, and still is, necessary.

The Constitution, while unchanging in principle, had to be adapted not only to specific conditions of the time, but also to changing conditions. Because of the need for continuing interpretation the Constitution, in effect, became a "living" standard which was potentially in
tune with the needs of each generation of people. It became the people's principal recourse for protection of fundamental rights. This module concerns the protection of rights and the dignity this protection affords every citizen.

DESCRIPTION OF THE ROLE

The role of protecting rights and dignity of individuals was identified on the basis of detailed research conducted by Project STAR on criminal justice roles. It is described as follows:

PROTECTING, THE RIGHTS OF ALL INDIVIDUALS AND GROUPS TO EQUAL APPLICATION OF THE LAW, A FAIR AND IMPARTIAL TRIAL, AND APPROPRIATELY DIGNIFIED TREATMENT.

The terms "fair," "impartial," "equal," and "dignity" describes the rights a person is entitled to whether that person is dealt with as an individual, a member of a group, or a participant in society.

Preamble (Breakdown of Phrases)

Constitutional Rights:

Societal Rights

The Preamble to the Constitution places primary emphasis on the rights of all of the people:

"PREAMBLE.  WE THE PEOPLE OF THE UNITED STATES...DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA."

Society (the people) established the Constitution for its own purposes.

"...to form a more perfect union..."

The people have a right to a unified and effective government.

"...establish justice..."

All of the people have a right to justice.

"...to ensure domestic tranquillity..."

The people have a right to peaceful and orderly relationships.
"...provide for the common defense..."

The people have a right to protection from violations by other nations.

"...promote the general welfare..."

The people have a right to constructive programs promoted by government in the interest of all.

"...secure the blessings of liberty to ourselves and our posterity..."

This statement sets a principal theme for governmental operations--to maximize the freedom of the individual.

**Personal Rights**

Rights to personal freedom reserved to the individual citizen are contained in Amendments 1, 2, 3, and 4. The government as an agent of society has the dual responsibility of protecting these rights of citizens from being violated by other citizens and by the government itself.

**Amendment 1**

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievance."

Neither federal (nor state and local governments) may eliminate a citizen's right to:

- hold or practice religious beliefs
- speak freely
- transmit or receive free media communications
- assemble peaceably
- formally ask the government to correct a wrong

**Amendment 2**

"A well-regulated militia being necessary to the security of a free state, the right to the people to keep and bear arms shall not be infringed."

In the context of being prepared to serve temporarily in
national or state emergencies, a citizen may:

keep weapons
carry weapons

**Amendment 3**

"No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law."

The enforced lodging of soldiers in private homes is:

forbidden in peacetime without owner's permission
permitted in wartime in accordance with established law

**Amendment 4**

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..."

No one may conduct an unreasonable search or seizure of a citizen's:

person
house
papers
effects

**Right to Due Process**

The rights of due process describe legal procedures to which a citizen is entitled through provisions of the Constitution and its Amendments. These procedures are identified in Article 1, Section 9, clauses 2 and 3 of the Constitution and in Amendments 4 through 8.

* Article 1, Section 9, Clause 2.

"The privilege of the writ of habeas corpus shall not be suspended, unless...rebellion or invasion..."

The citizen is protected from imprisonment without a formal trial except during an invasion or rebellion.

* Article 1, Section 9, Clause 3.

"No bill of attainder or ex post facto law shall be passed."
Citizens are protected from:

- laws pronouncing a specific person guilty of an alleged crime (usually treason) without a regular court trial, sentencing him to death, and seizing his estate (bills of attainder)
- punishment for actions that are later made illegal (ex post facto laws)

Amendment 4

"... and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

Warrants must be supported by:

- reasonable facts to justify the action requested
- specific identification of places to be searched as well as persons or things to be seized.

Amendment 5

"No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury,...nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

When accused of a crime, a citizen is entitled to:

- a written notice of the charges against him
- freedom from being prosecuted a second time for the same crime
- freedom from acknowledging facts which may establish his guilt
- be processed through a system of justice in accordance with established rule, principles, and jurisdiction
- reasonable reimbursement for any property seized for
public use.

Amendment 6

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury...and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

Accused citizens are entitled to:

- a formal trial free from unreasonable delay
- a trial open to public view
- an unbiased jury
- knowledge of the accusation against him
- cross-examine witnesses
- obtain witnesses by requiring their presence in court
- the advice and representation of an attorney in court.

Amendment 7

"In suits at common law...the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined...than according to the rules of common law."

In a civil suit a citizen is entitled to have:

- a jury
- the rules of common law applied during appeals

Amendment 8

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted."

A citizen is entitled to reasonable:

- bail
- fine
- punishment

General Citizen Rights
The rights of citizens are expressed in the privileges of the people and in the limitations on governmental actions which apply to rights generally, as stated in Amendments 9, 10, and 14.

**Amendment 9**

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Rights not identified in the Constitution belong to the citizen.

**Amendment 10**

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

Powers not identified by the Constitution belong to the states or to the people.

**Amendment 14**

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside."

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of the law, nor deny to any person within its jurisdiction the equal protection of the laws."

Citizens of each state are also citizens of the United States. State governments (as well as the Federal government) must respect the Constitutional rights of United States citizens.

[Source: Project STAR Module 9]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.2.

INSTRUCTIONAL STRATEGY: Scenarios

PURPOSE OF ACTIVITY: The student will be able to understand the basis of the U. S. Constitution and Bill of Rights (in particular Writ of Habeas Corpus), including special emphasis on the freedom of the individual and human rights as embodied in the Constitution.

SUGGESTED USES: Small group discussions

Activity: (step-by-step)

1. Put Scenarios on overhead (see next page).
2. Ask students to determine the resolution.
   a. Would the judge grant the writ?
   b. If so, on what grounds would he grant it?
3. Give the students 5 minutes.
4. Have students write down their answers.
5. Bring students back together in large group.
6. Have students tell what the resolution is and why.
7. Instructor will then tell what the resolution is and why.

Notes to Instructor:

1. Resolution for Scenario #1: the judge would decide that there is no criminal offense charged and order Mr. Jones released.
2. Resolution for Scenario #2: the judge determines that the man is being held on a valid charge and denies the writ.
3. Writs of habeas corpus are also issued in non-criminal cases in which a person wishes to get out of a place of confinement.
4. Resolution for Scenario #3: If the judge finds that Mr. Wilson is being held for good medical reasons, he may deny the writ, but if Mr. Wilson is being held without just medical cause, the writ will be issued and Mr. Wilson will be able to leave the hospital.
U.S. CONSTITUTION AND BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.4.

Case Study

Duran v. City of Douglas (Arizona)

A person cannot be punished for simply failing to obey the command of an officer if that command violates the federal Constitution. In the same vein, speech is generally protected by the First Amendment—even if it is intended to interfere with the performance of an officer's duty—provided no physical interference results. With that in mind, the arrest of a person who refuses to desist from verbally "chipping" at an officer (even if the chipping is intended to interfere with the officer's duties) is probably a "bad" arrest that will subject the officer and the department to civil liability.

In the case of Duran v. City of Douglas (Arizona), an intoxicated individual directed a series of expletives and obscene hand gestures at a police officer who responded by detaining and arresting the plaintiff and the plaintiff's wife. Plaintiff sued under 42 U.S.C.S.1983. Cross motions for summary judgment were filed. The officers defended on the grounds that they were qualifiedly immune from suit because they acted in the good faith belief that their actions were reasonable. The district court ruled in favor of plaintiff, and the defendants appealed.

The appellate court held that mere boisterous conduct, although tasteless and crass, was alone insufficient to give a police officer any cause to detain plaintiff. Absent such cause, the stop and detention were illegal and could subject the defendants to liability. Further, the court noted that if the officer intended retaliation for plaintiff's method of expressing his opinion, this was a separate violation of S.1983 and squarely within First Amendment protection.

The court further reasoned that government officials in general—and police officers in particular—may not exercise authority for personal motives (i.e., anger, vengeance, spite, etc.), particularly in response to real or perceived slights to their dignity, and concluded that no matter how peculiar, abrasive, unruly or distasteful a person's conduct may be, it cannot justify a police stop unless it suggests that some specific crime has been—or is about to be—committed, or that there is imminent danger to persons or property.

Thus, it is clear that mere verbal interference or harassment, without more, cannot justify an arrest or detention for "resisting, delaying or obstructing." However, should the offending party stray beyond the bounds of "innocent" constitutionally protected speech, and thereby violate a statute such as those prescribing peace disturbances by challenging to fight or inciting a riot, or engage in some physical interference with the officer’s duties, detention and arrest become appropriate.

Applying the use-of-force principles discussed earlier, any use of force in the situation where the arrester was merely exercising his First Amendment rights would be per se unreasonable.
excessive and unprivileged under state or federal authority. If the suspect's behavior goes beyond mere speech, the permissible degree of force would be subject to the same reasonableness analysis.

[From: THE POLICE CHIEF, FEBRUARY 1992]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.4.

INSTRUCTIONAL STRATEGY: Role Play

PURPOSE OF ACTIVITY: The purpose of this activity is to draw student attention to the use of two strategies for protecting rights: optimizing and prioritizing rights.

ACTIVITY:
1. Select 2 role play terms of 2 persons each to act out 2 different situations involving strategies for protecting rights.
2. Allow each team about 10 minutes to read their roles and prepare to act them out;
3. The role players should:
   a. not look at anyone else's role
   b. read the role carefully
   c. play the role conscientiously
   d. demand their rights vigorously
4. After each role play (about 5 minutes), discuss the manner questions indicated.
5. Have each role player describe his feelings and the insights he gained during his own performance. Have the class members describe their reactions. (Videotapes of these role-play activities can provide a stimulating addition to the discussions that follow).

Questions to be asked after role play #1:

1. What are three ways in which the rights of the individuals could be satisfied?
2. How would you rank order these alternatives according to their effectiveness in optimizing the rights of all parties concerned?
3. Should the nature of the organization have anything to do with the award of the permit? If so, in what way?

Questions to be asked after role play #2:

1. Hill claims his freedom of speech is being abridged. Szabo claims that the peace and order of the neighborhood is threatened. Is there any legal basis for these rights?
2. How is the priority of these rights established?
3. If Szabo has the responsibility to prevent disorderly conduct and Hill has the right of free speech, how can the conflict be resolved?

Note to the instructor: You should help the class summarize the protection strategies and how they apply to the role of protecting rights and dignity of individuals at the street level.
Situation 1

Situation 1, Role 1 - Officer Blake:
As an officer of the Community Relations Division, it is your responsibility to meet with a Reverend Grant. He is the local leader of a group which has requested a permit to parade down Main Street at 4 p.m. next Friday, a week from today, to commemorate the recent death of the national leader of the group. The Chief of Police has advised you that 4 p.m. on Main street is unsuitable because of crowded traffic conditions. He suggests you propose to Reverend Grant that the group parade on Elm Street, a street which runs parallel to Main, two blocks east and does not carry as much rush-hour traffic. The deadline for parade permits is seven days in advance of the event, which means the request must be in by the close of office hours today. It is now 1 p.m. and Reverend Grant is here to see you.

Situation 1, Role 2 - Reverend Grant:

As leader of a community organization, you are responsible for arranging a parade to commemorate the recent death of the national leader of your group. There will be between 500 and 1,000 paraders. They want to march down Main Street at 4 p.m. next Friday, a week from today, singing and carrying placards. They chose Main Street because they want the parade to be noticed by other citizens. They chose 4 p.m. so that school children and teachers could march. They have requested that you get the parade permit and negotiate in whatever way you think best. The deadline for getting the permit is 5 p.m. today. You have a 1 p.m. appointment with Officer Blake of the Community Relations Division to work out an acceptable solution. You had asked for an appointment with the Chief but were assigned to talk to Officer Blake instead. It is 1 p.m. and you are in Blake's office.
Situation 2

Situation 2, Role 1 - Officer Szabo:

You are a police officer alone in your patrol car cruising a street which surrounds a public park in a suburban area. You stop to observe a long-haired, bearded person standing on a large wooden box shouting at the crowd using a battery operated loudspeaker. A crowd of 50-75 people have gathered around. You observe a lot of shoving by a big, burly man who is heckling the speaker. The man shouts, "If you don't get that guy off his orange crate in two minutes, I'll shove it down his throat." One of the listeners comes over to you and says, "Can't you stop that big gorilla?" You begin to feel that the gathering could erupt into a fight. You decide to warn the speaker and ask him to break up the crowd "to prevent it from turning into a brawl." You repeat your suggestion several times. You are ignored. You hear the burly heckler shout "Get the bum." You tell the speaker that you are going to have to take him into custody for his own safety.

Situation 2, Role 2 - Robert Hill:

You are a member of the student activist group at the local university. You have been on your "soap box" for 20 minutes berating the government and its leaders. You have succeeded in attracting a large crowd of men, women, and children. One man has been heckling you and now has begun making threatening statements. You observe a police officer approaching you. You ignore him and keep on with your speech. You hear the police officer tell you to break it up. You continue to ignore him. Finally, the officer orders you to stop. You refuse and object to the interference by the burly man and the police officer. The officer takes you into custody telling you that "it's for your own safety." As he escorts you to the police car, you become very belligerent and you keep shouting "What's happening to free speech? I've got a right to say what I think."

[Source: Project STAR, Module 9, Situations 2 & 4]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.4.

INSTRUCTIONAL STRATEGY: Scenario

PURPOSE OF ACTIVITY: The student will be able to demonstrate knowledge of Constitutional Amendment 1.

SUGGESTED USES: Small group discussions

ACTIVITY:

1. Put Scenario on overhead (see next page).
2. Ask students the following questions:
   a. Can the courts order that the child be given the blood transfusion?
   b. Which way would it go and why?
3. Give the students 5 minutes.
4. Have students write down their answers.
5. Bring students back together in large group.
6. Have students tell what the resolution is and why.
7. Instructor will then tell what the resolution is and why.

Note to the instructor: The courts have held that a parent's religious freedom does not extend to letting a child die when reasonable medical care would save it. The health of the child is more important to the community than the parent's rights to a particular belief.

Scenario #1:
Mr. Jones is brought before the judge on a writ and the jailer testifies that Mr. Jones is being held because he has red hair.

Scenario #2:
Mr. Jones is brought before a judge on a writ of habeas corpus and the jailer testifies that the man is being held on a charge of car theft, that bail had been set and that the man could not pay it.

Scenario #3:
Mr. Wilson's wife has him committed to a state mental hospital and he is not allowed to leave. He maintains that he is not in need of treatment. He applies for a writ of habeas corpus. At the hearing, the judge hears testimony from the hospital officials as to Mr. Wilson's condition.

Scenario: Because of their religious beliefs, the parents of a seriously ill child do not want that child to be given a blood transfusion that could save the child's life.

   a. Can the courts order that the child be given the blood transfusion?
   b. Which way would it go and why?
U.S. CONSTITUTION AND BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.5.

Case Study

Tennessee v. Garner, 471 U.S. 1, 7, 85 L.Ed.2d 1, 7, 105 S.Ct. 1694

In 1985, the Supreme Court considered the question of whether or not the use of deadly force is actually a seizure under the Fourth Amendment, and thus to be judged by that section's reasonableness standard. Finding in the affirmative, the court stated:

Whenever an officer restrains the freedom of a person to walk away, he has seized that person...there can be no question that application of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment.

Extending the Garner analysis further, in 1989, the Supreme Court stated:

Today we make explicit what was implicit in Garner's analysis and hold that all claims that law enforcement officers have used excessive force--deadly or not--in the course of an arrest, investigatory stop or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard,...

Thus, the ultimate test to be applied to a claim of excessive force is whether or not the force used was reasonable under all the circumstances known to the officer at the time he acted.

That question is not the complete analysis, however, as there must first be a seizure under the Fourth Amendment. The test to be applied to make that determination is three-fold and requires finding a (1) governmental interest; (2) termination of freedom of movement; (3) through means intentionally applied.

[From: THE POLICE CHIEF, FEBRUARY 1992]

Further Analysis of Garner:

Because the Garner case on deadly force based the constitutional violation upon the Fourth Amendment's right to be free from unreasonable seizure rather than a due process violation under the Fifth and Fourteenth Amendments, more litigation on excessive force can be expected.

Under this reasoning the use of any significant degree of excessive force in effecting an otherwise constitutional arrest may constitute an unreasonable seizure.
Whether a particular seizure is constitutionally unreasonable depends upon factual circumstances.

To determine the question requires that the court "balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the governmental interests alleged to justify the intrusion." (Garner)

The use of Fourth Amendment deprivation could allow even minor cases into federal court under 1983 where those have been denied or diverted to state courts before.
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.5.

INSTRUCTIONAL STRATEGY: Scenario

PURPOSE OF ACTIVITY: The student will be able to demonstrate knowledge of Constitutional Amendment 4.

ACTIVITY:

1. Put Scenarios on overhead (see next page).
2. Ask the discussion questions.
3. Give the students 5 minutes.
4. Have students write down their answers.
5. Bring students back together in large group.

Notes to Instructor:

1. Possible discussion questions:
   a. Have any of you ever been stopped and/or searched by the police?
   b. How do you think the Constitution protects you as a citizen?
2. Keep generic.

Scenario #1 - You are in your own home and a police officer pushes his way in and starts walking through your house. How does this make you feel? How does the Constitution protect you?

Scenario #2: You are in your own home and a police officer knocks and asks if he can come in. You let him in and he walks through your house. How does this make your feel?

   a. Have any of you ever been stopped and/or searched by the police?
   b. How do you think the Constitution protects you as a citizen?
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.6.

INSTRUCTIONAL STRATEGY: Case Study

PURPOSE OF ACTIVITY: The purpose of this activity is to increase the student's understanding of the implications of a landmark decision concerning the protection of individual rights.

ACTIVITY:
1. Have students take home Miranda v. Arizona case study along with the Amendment and the Law and read as homework.
2. Have students write their responses to the following questions:
   a. What is due process?
   b. What does it mean to you?
   c. What are the key points in due process?
3. Bring back written answers to class the next day.
4. Discuss briefly as a class.

Notes to Instructor: (Answers to above questions)

A warning must be given to the suspect that he has the right to remain silent and that any statement he does make may be used in evidence against him.

The suspect must be advised that he is entitled to consult a lawyer before he is interrogated and that, if he cannot afford a lawyer, that state will make one available to him before he is questioned.

The privilege against self-incrimination and the right to counsel may be waived if the waiver is made voluntarily and with the knowledge of the consequences. But the heavy burden of proving there is a waiver is on the state.

Even if the suspect has waived his rights, as questioning continues he may withdraw the waiver, than questioning must stop and can continue only after counsel has been obtained and is present.
MIRANDA v. ARIZONA (1966)

Miranda was arrested and accused of kidnapping and rape. He was taken to the police station where he was identified by the victim and questioned for two hours by the police. He was not informed of his Constitutional rights, including his right to have an attorney present during questioning. When the questioning ended, Miranda confessed. The confession was written up and Miranda signed it. A paragraph added to the top of the confession stated that the confession was given voluntarily, without threats, without promise of immunity, and "with full knowledge of my legal rights, understanding that any statement I make may be used against me." The confession was used in the trial in which Miranda was convicted.

In an appeal to the U. S. Supreme Court, Miranda's lawyer claimed that his client had not been told of his right to remain silent nor of his right to an attorney and, therefore, his confession had been obtained illegally.

The State of Arizona argued that Miranda could have asked for a lawyer at any time, that he was aware of his rights, and that he had confessed voluntarily.

The issue before the Supreme Court was whether Miranda's right against self-incrimination and his right to counsel had been violated.

The Supreme Court found in favor of Miranda. They determined that he should have been informed of his right to remain silent and his right to consult a lawyer. The Court also handed down some very strict guidelines for police to follow in making arrests:

A warning must be given to the suspect that he has the right to remain silent and that any statement he does make may be used in evidence against him.

The suspect must be advised that he is entitled to consult a lawyer before he is interrogated and that, if he cannot afford a lawyer, the state will make one available to him before he is questioned.

The privilege against self-incrimination and the right to counsel may be waived if the waiver is made voluntarily and with the knowledge of the consequences. But the heavy burden of proving there is a waiver is on the state.

Even if the suspect has waived his rights, as questioning continues he may withdraw the waiver, and then questioning must stop and can continue only after counsel has been obtained and is present.

What is due process and what does it mean to you?
[Source: Project STAR, Module 9, p.9-53.]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE: 4.1.7.

INSTRUCTIONAL STRATEGY: Case Study

ACTIVITY:

1. Divide students into groups of 4 or 5.

2. Ask students what they think the Supreme Court decided and why.

3. Ask students which amendment applies to this.

Questions to students:

1. Arizona Supreme Court Issues in the Gault Case
   - What is the “Notice of Charges”?
   - What are the "Rights to Counsel"?
   - What are the "Rights to Confrontation"?
   - What are the "Privileges against Self-Incrimination"?

2. U.S. Supreme Court Issues in the Gault Case
   - What is the “Notice of Charges”?
   - What are the "Rights to Counsel"?
   - What are the "Rights to Confrontation"?
   - What are the "Privileges against Self-Incrimination"?
The Gault Case*

A Brief Summary

Gerald Gault and another boy were taken into custody on the morning of June 8, 1964, by the Sheriff of Gila County, Arizona. The police were acting on a verbal complaint from a Mrs. Cook, a neighbor of the boys, that she had received a lewd and indecent phone call. Gerald's parents were at work that morning and no notice of the police action was left at their home. Gerald's mother learned of his being taken to the Children's Detention House only after Gerald's older brother went to look for him at the home of the other boy. At the detention home, the mother and brother were told "why Jerry was there" and that a hearing would be held the next day at three o'clock.

A petition praying for a hearing was filed on June 9 by an Officer Flagg which recited that "said minor is under the age of eighteen years and in need of protection of this Honorable Court (and that) said minor is a delinquent minor." The petition was not served on the Gaults and they first saw it two months later.

On June 9, a hearing was held in the chambers of Juvenile Judge McGhee with Gerald, his mother, his brother, and probation officers present. No record, formal or informal, of this hearing was made.

Gerald was released from the detention home on the 11th of June pending formal hearings. A hearing was then held on a later date.

Mrs. Gault asked that Mrs. Cook be present but was told by the judge that she did not have to be present. At the conclusion of the hearing, Gerald was committed as a juvenile delinquent to the state industrial school for the period of his minority (six years) unless sooner discharged by due process of law.

No appeal is permitted under Arizona law in juvenile cases. Gerald filed a writ of habeas corpus with the Supreme Court of Arizona which was referred to the Superior Court for hearing.

The Superior Court dismissed the habeas corpus petition and Gerald sought review in the Arizona Supreme Court on many due process grounds. The Arizona Supreme Court affirmed the Superior Court's dismissal of the petition. The case was appealed to the United States Supreme Court who found in favor of the Gaults.

Arizona Supreme Court Issues in the Gault Case

**Notice of Charges:**

A petition alleging in general terms that the child is neglected, dependent, or delinquent is sufficient notice.

Mrs. Gault knew the exact nature of the charge against Gerald from the day he was taken to the detention home.

The Gaults appeared at the hearings without objection and knew the nature of the charge.

Advance notice of the specific charges as a basis for taking the juvenile into custody and for the hearing is not necessary because the policy of the juvenile law is to hide youthful errors from the full gaze of the public.

**Right to Counsel:**

Representation of concern for a minor is discretionary with the trial judge.

When Mrs. Gault failed to appear with counsel, it constituted a waiver of the right.

**Right to Confrontation:**

Sworn testimony must be required of all witnesses including those related to the juvenile court system.

Sworn testimony by the witnesses is sufficient.

**Privilege against Self-Incrimination:**

Necessary flexibility for individualized treatment will be enhanced by a rule which does not require the judge to advise the infant of a privilege against self-incrimination.

The Fifth Amendment provides only that no person "shall be compelled in any criminal case to be a witness against himself" and should therefore not apply through the Fourteenth Amendment to State juvenile proceedings. Juveniles may be placed in adult penal institutions after a finding of delinquency.

**The Basis for Appeal:**
The appeal by Gault to the U.S. Supreme Court was based on the argument that the Juvenile Code of Arizona is invalid because, contrary to the due process clause of the Fourteenth Amendment, the juvenile is taken from the custody of the parents and committed to a state institution pursuant to proceedings where the juvenile court has virtually unlimited discretion and in which the following basic rights are denied; (1) notice of the charges, (2) right to counsel, (3) right to confrontation, (4) privilege against self-incrimination, (5) right to a transcript of the proceedings, and (6) right to appellate review.

U.S. Supreme Court Issues in the Gault Case:

Notice of Charges:

Due process was denied because of failure to provide adequate notice.

The initial hearing was in fact a hearing on the merits of the case.

Even if you want to protect the child from the public eye, you must yield to the due process requirement of adequate notice.

Where a youth's freedom and a parent's right to custody are in jeopardy, a hearing may not be held unless the child and his parents are first notified in writing of the specific issues that must be met at that hearing. Such notice must be given at the earliest practical time and sufficiently in advance of the hearing to permit preparation.

Mere knowledge of the kind Mrs. Gault allegedly had, of the charges against Gerald, does not constitute a waiver of the right to adequate notice because of its lack of peculiarity.

Right to Counsel:

Neither probation officer nor judge can adequately represent the child. The juvenile needs the assistance of counsel for the same reasons underlying the inclusion of that right in the Sixth Amendment. When a child stands to be found "delinquent" and subject to loss of liberty, it is comparable to an adult felony prosecution. If the defendant is unable to afford a lawyer, one must be appointed for him.

Notification of the right to counsel plus "specific consideration" of whether to waive the right must precede a valid waiver. Mrs. Gault was not specifically advised of the right and therefore no waiver was made.

Right to Confrontation:

There was no sworn testimony. Mrs. Cook did not appear.

Sworn testimony is not sufficient. In the absence of a valid confession adequate to support the determination of the court, confrontation and sworn testimony by witnesses available for cross-
examination is essential for a finding of "delinquency." A juvenile must be afforded the same protection respecting sworn testimony that an adult would receive in a criminal trial.

**Privileges against Self-Incrimination:**

Any admissions that Gerald made were improperly obtained in violation of the Fifth Amendment's privilege against self-incrimination. It would indeed be surprising if the privilege against self-incrimination were available to hardened criminals but not to children.

The privilege against self-incrimination is not based upon the type of proceedings in which it is involved but upon the nature of the statement or admission made and the exposure which it invites. It makes no difference whether juvenile proceedings are deemed civil or criminal. No person shall be "compelled" to be a witness against himself when he is threatened with deprivation of his liberty.

The Fifth Amendment's self-incrimination provision is vitally interwoven with the Sixth Amendment's right-to-counsel provision.

The "admission" or "confession" was obtained in violation of his right to counsel, his right to the presence of his parents, and his right to remain silent.

[Source: Project STAR, Module 9, p. 9-41.]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE: 4.1.11.

INSTRUCTIONAL STRATEGY: Case Study

ACTIVITY:

1. Overhead of "FACTS" section

2. Assign as homework night before or in class as an assignment to read Section 1983.

Questions to students: (ask entire group and then discuss)

• Were the police officers liable under Section 1983 for what was done to the plaintiffs? (Yes)
• Was the city of Chicago liable under Section 1983 and why?

Notes to Instructor:

• Instructor should give a short lecture on the CASE SIGNIFICANCE.
• Instructor should have the students take notes.
• This may open discussion on probable cause.
MONROE v. PAPE 365 U.S. 167 (1961)

FACTS
Six black children and their parents brought a Section 1983 action in federal district court against the city of Chicago and thirteen of its police officers for damages for violation of their rights under the Fourteenth Amendment. They alleged that, without warrant, the police officers broke into their home in the early morning, routed them from bed, made them stand naked in the living room, and ransacked every room, emptying drawers and ripping mattress covers; that the father was taken to the police station and detained on "open" charges for ten hours while he was interrogated about a two-day-old murder; that he was not taken before a magistrate, though one was accessible; that he was subsequently released without criminal charges being filed against him.

ISSUE
Were the police officers and the city of Chicago liable under Section 1983 for what was done to the plaintiffs? (Yes)

SUPREME COURT DECISION
Police officers acting illegally and outside their scope of authority may be liable under Section 1983 despite the requirement that the officers must have been acting under color of state law. The statutory words "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory" contained in 42 U.S.C. 1983 do not exclude acts of an official or police officer who can show no authority under state law, custom, or usage to do what he or she did or who even violated the state constitution and laws. The city of Chicago, however, was not held liable, because the Court ruled that Congress did not intend to bring municipal corporations within the ambit of Section 1983 (this ruling was later overturned by the Court).

CASE SIGNIFICANCE
This case virtually opened the floodgates of the courts to civil rights (or Section 1983) litigation. Prior to this, it was difficult to hold public officials liable under Section 1983 because of the requirement that they must have acted under color of state law. Most civil liabilities, however, stem from the abuse of power or authority by the police, and such actions were considered outside the color of state law. Monell changed all that. Now police officers can be sued under Section 1983 if what they did arose out of a "misuse of power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." An officer who abuses his or her authority can now be sued under Section 1983 as having acted under color of state law. Under Monell, the term "under color of state law" is not synonymous with "acting within the scope of authority." An officer can act outside the scope of authority, or even illegally, and still be sued under Section 1983 as having acted under color of state law.

[from: Civil Liabilities in American Policing: A Text for Law Enforcement Personnel, Rolando V. Del Carmen, p.45., (published by BRADY)]
U.S. CONSTITUTION AND THE BILL OF RIGHTS
LEARNING OBJECTIVE 4.1.12.

INSTRUCTIONAL STRATEGY: Discussion

PURPOSE OF ACTIVITY: The student will be able to understand personal and organizational values relative to his/her role in relation to the Constitution and Bill of Rights.

ACTIVITY:

1. Begin discussion of values by saying: Anyone who is prejudice, please raise your hand?

2. Everyone has different values depending on how they were socialized, but everyone including peace officers must follow the laws.

3. Provide students with handouts: local agencies' policies concerning officer behavior.

Notes to Instructor: This is only a touch on ethics. It will be covered in more detail later in the course.
TEXAS CONSTITUTION AND BILL OF RIGHTS
LEARNING OBJECTIVE: 4.2.1.

INSTRUCTIONAL STRATEGY: Lecture

Note to the instructor: This material is suggested as a basis for a short introduction stressing the importance of studying the Texas Constitution as a part of the Basic Curriculum.

Texas Constitution:

• Supports the basic rights of our citizens outlined in the U.S. Constitution

• Shows the importance stressed by the state's founding fathers for the rights of our citizens

• Allows the students to more fully understand the dynamic nature of the Constitution, and where the legislature receives its authority to make and amend laws that peace officers must enforce

• Is important to the law enforcement professional because it supports the basic rights of the citizens we are sworn to protect
TEXAS CONSTITUTION

Art. 1 Sec. 1

PREAMBLE

Humbly invoking the blessings of Almighty God, the people of the State of Texas, do ordain and establish this Constitution.

ARTICLE 1

BILL OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Sec. 1. FREEDOM AND SOVEREIGNTY OF STATE. Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.

Sec. 2. INHERENT POLITICAL POWER; REPUBLICAN FORM OF GOVERNMENT. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Sec. 3. EQUAL RIGHTS. All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Sec. 3a. EQUALITY UNDER THE LAW. Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. This amendment is self-operative. (Added Nov. 7, 1972.)

Sec. 4. RELIGIOUS TESTS. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Sec. 5. WITNESSES NOT DISQUALIFIED BY RELIGIOUS BELIEFS; OATHS AND AFFIRMATIONS. No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or
affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Sec. 6. FREEDOM OF WORSHIP. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sec. 7. APPROPRIATIONS FOR SECTARIAN PURPOSES. No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 8. FREEDOM OF SPEECH AND PRESS; LIBEL. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 9. SEARCHES AND SEIZURES. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger. (Added Nov. 5, 1918.)
Sec. 11. BAIL. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Sec. 11a. MULTIPLE CONVICTIONS; DENIAL OF BAIL. Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, or (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above or of the offense committed while on bail in (2) above, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above or the accusation and indictment used under (2) above within sixty (60) days from the time of his incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals. (Added Nov. 6, 1956; as amended Nov. 8, 1977.)

Sec. 12. HABEAS CORPUS. The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

Sec. 13. EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

Sec. 14. DOUBLE JEOPARDY. No person, for the same offense, shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction.

Sec. 15. RIGHT OF TRIAL BY JURY. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury. (As amended Aug. 24, 1935.)

Sec. 15a. COMMITMENT OF PERSONS OF UNSOUND MIND. No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony.
The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held, and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury. (Added Nov. 6, 1956.)

Sec. 16. BILLS OF ATTAINDER; EX POST FACTO OR RETROACTIVE LAWS; IMPAIRING OBLIGATION OF CONTRACTS. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Sec. 17. TAKING, DAMAGING OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

Sec. 18. IMPRISONMENT FOR DEBT. No person shall ever be imprisoned for debt.

Sec. 19. DEPRIVATION OF LIFE, LIBERTY, ETC.; DUE COURSE OF LAW. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Sec. 20. OUTLAWRY OR TRANSPORTATION FOR OFFENSE. No citizen shall be outlawed. No person shall be transported out of the State for any offense committed within the same. This section does not prohibit an agreement with another state providing for the confinement of inmates of this State in the penal or correctional facilities of that state. (As amended Nov. 5, 1985.)

Sec. 21. CORRUPTION OF BLOOD; FORFEITURE; SUICIDES. No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

Sec. 22. TREASON. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 23. RIGHT TO KEEP AND BEAR ARMS. Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.
Sec. 24. MILITARY SUBORDINATE TO CIVIL AUTHORITY. The military shall at all times be subordinate to the civil authority.

Sec. 25. QUARTERING SOLDIERS IN HOUSES. No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, or in time of war but in a manner prescribed by law.

Sec. 26. PERPETUITIES AND MONOPOLIES; PRIMOGENITURE OR ENTAILMENTS. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 27. RIGHT OF ASSEMBLY; PETITION FOR REDRESS OF GRIEVANCES. The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Sec. 29. PROVISIONS OF BILL OF RIGHTS ACCEPTED FROM POWERS OF GOVERNMENT; TO FOREVER REMAIN INVOLATE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is accepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Sec. 30. RIGHTS OF CRIME VICTIMS. (a) A crime victim has the following rights:

(1) the right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and

(2) the right to be reasonably protected from the accused throughout the criminal justice process.

(b) On the request of a crime victim, the crime victim has the following rights:

(1) the right to notification of court proceedings;

(2) the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;

(3) the right to confer with a representative of the prosecutor's office;

(4) the right to restitution; and
(5) the right to information about the conviction, sentence, imprisonment, and release of the accused.

(c) The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.

(d) The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.

(e) The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge. (Added Nov. 7, 1989.)

Art. 17 Sec. 1

ARTICLE 17

MODE OF AMENDING THE CONSTITUTION OF THIS STATE

Sec. 1. PROPOSED AMENDMENTS; PUBLICATION; SUBMISSION TO VOTERS; ADOPTION. The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution, to be voted upon by the qualified electors for statewide offices and propositions, as defined in the Constitution and statutes of this State. The date of the elections shall be specified by the Legislature. The proposal for submission must be approved by a vote of two-thirds of all the members elected to each House, entered by yeas and nays on the journals.

A brief explanatory statement of the nature of a proposed amendment, together with the date of the election and the wording of the proposition as it is to appear on the ballot, shall be published twice in each newspaper in the State which meets requirements set by the Legislature for the publication of official notices of offices and departments of the state government. The explanatory statement shall be prepared by the Secretary of State and shall be approved by the Attorney General. The Secretary of State shall send a full and complete copy of the proposed amendment or amendments to each county clerk who shall post the same in a public place in the courthouse at least 30 days prior to the election on said amendment. The first notice shall be published not more than 60 days nor less than 50 days before the date of the election, and the second notice shall be published on the same day in the succeeding week. The Legislature shall fix the standards for the rate of charge for the publication, which may not be higher than the newspaper's published national rate for advertising per column inch.
The election shall be held in accordance with procedures prescribed by the Legislature, and the returning officer in each county shall make returns to the Secretary of State of the number of legal votes cast at the election for and against each amendment. If it appears from the returns that a majority of the votes cast have been cast in favor of an amendment, it shall become a part of this Constitution, and proclamation thereof shall be made by the Governor. (As amended Nov. 7, 1972.)

Sec. 2. CONSTITUTIONAL REVISION COMMISSION; CONSTITUTIONAL CONVENTION. (a) When the legislature convenes in regular session in January, 1973, it shall provide by concurrent resolution for the establishment of a constitutional revision commission. The legislature shall appropriate money to provide an adequate staff, office space, equipment, and supplies for the commission.

(b) The commission shall study the need for constitutional change and shall report its recommendations to the members of the legislature not later than November 1, 1973.

(c) The members of the 63rd Legislature shall be convened as a constitutional convention at noon on the second Tuesday in January, 1974. The lieutenant governor shall preside until a chairman of the convention is elected. The convention shall elect other officers it deems necessary, adopt temporary and permanent rules, and publish a journal of its proceedings. A person elected to fill a vacancy in the 63rd Legislature before dissolution of the convention becomes a member of the convention on taking office as a member of the legislature.

(d) Members of the convention shall receive compensation, mileage, per diem as determined by a five member committee, to be composed of the Governor, Lieutenant Governor, and Speaker of the House, Chief Justice of the Supreme Court, and Chief Justice of the Court of Criminal Appeals. This shall not be held in conflict with Article XVI, Section 33 of the Texas Constitution. The convention may provide for the expenses of its members and for the employment of a staff for the convention, and for these purposes may by resolution appropriate money from the general revenue fund of the state treasury. Warrants shall be drawn pursuant to vouchers signed by the chairman or by a person authorized by him in writing to sign them.

(e) The convention, by resolution adopted on the vote of at least two thirds of its members, may submit for a vote of the qualified electors of this state a new constitution which may contain alternative articles or sections, or may submit revisions of the existing constitution which may contain alternative articles or sections. Each resolution shall specify the date of the election, the form of the ballots, and the method of publicizing the proposals to be voted on. To be adopted, each proposal must receive the favorable vote of the majority of those voting on the proposal. The conduct of the election, the canvassing of the votes, and the reporting of the returns shall be as provided for elections under Section 1 of this article.

(f) The convention may be dissolved by resolution adopted on the vote of at least two-thirds of its members; but it is automatically dissolved at 11:59 p.m. on May 31, 1974, unless its duration
is extended for a period not to exceed 60 days by resolution adopted on the vote of at least two thirds of its members.

(g) The Bill of Rights of the present Texas Constitution shall be retained in full. (Added Nov. 7, 1972.)

12-1-91
CRIMINAL JUSTICE SYSTEM
LEARNING OBJECTIVE 4.3.1.

INSTRUCTIONAL STRATEGY: Lecture

Lecture Notes:

If the criminal justice system is to meet its goals, it must function as a system rather than as a collection of almost independent organizations. This requires, among other things, that criminal justice personnel develop the willingness and the ability to assist people in other criminal justice agencies and in governmental and community organizations involved in crime reduction, criminal justice, and rehabilitation.

Individuals working in the system need to have an increased awareness and responsibility concerning how they fit into the system, what demands it makes on them; and how their efforts each day impact on other parts of the system, agencies external to the criminal justice system, and their clients.

The term client, as used here, may refer to a victim and a complainant, a suspect, a defendant, or an offender depending on the situation and position involved. Client could also mean another agency or another jurisdiction. Thus, it is important to remember that all criminal justice positions have a number of clients for whom they are responsible and to whom they must provide assistance.

There are many reasons to believe that a pressing need exists for criminal justice personnel to more effectively assist others inside and outside the criminal justice system. The National Commission on the Causes and Prevention of Violence supports this position as follows:

> It is commonly assumed that these three components--law enforcement (police, sheriffs, marshals), the judicial process (judges, prosecutors, defense lawyers), and corrections (prison officials, probation and parole officers)--add up to a "system" of criminal justice.

> A system implies some unity of purpose and organized interrelationship among component parts. In the typical American city and state, and under Federal jurisdiction as well, no such relationship exists. There is, instead, a reasonably well-defined criminal process, a continuum through which each accused offender may pass. From the hands of the police, to the jurisdiction of the courts, behind the walls of a prison, then back onto the street, the inefficiency, fallout, and failure of purpose during this process is notorious.

> The pervasive fragmentation of police, court, and correctional agencies suggests that some catalyst is needed to bring them together. An assumption that parallel and overlapping public agencies will cooperate efficiently can no longer suffice as a substitute for deliberate action to make it happen in real life.
The catalyst to cooperation referred to above could mean a variety of things. Cooperation could be brought about by legislation, by agreement of principal administrative officers, or by requirement of budget constraints. It could involve the interaction of police, court, and correctional agencies. It could involve sensitivity to the purposes of all agencies concerned with the criminal justice process--or with persons directly or indirectly affected by this process--in order to assist each other in achieving mutual goals and objectives.

This Criminal Justice System Role Training Program provides insight and experience in the various criminal justice system relationships and assistance. Such insight and experience could go a long way towards being that very necessary catalyst.

[Source: Project STAR, Module 1]
07. Arrest, Search, and Seizure

Unit Goal: 7.1. Understand the legal authorities as they pertain to the role of the peace officer and the rights of citizens regarding arrest.

Note to Instructor: Instructors are encouraged to use the Texas Law Enforcement Handbook by authors Holtz and Spencer, 2009 edition to assist in explaining many of the statutes and case law to students.

There are three classifications of interactions between peace officers and persons:

- **Consensual Encounters:** Peace officers are free to approach and ask questions of persons so long as officers recognize that those persons can refuse to identify themselves, refuse to cooperate, refuse to answer questions, and simply walk away. *Florida v. Royer, 460 U.S. 491 (1983);*
- **Investigatory Stops/Detentions:** The temporary seizure of a person for investigation based on an officer’s reasonable suspicion of criminal activity. *Terry v. Ohio, 392 U.S. 1 (1968).*
- **Arrests:** Take persons into custody for purposes of charging them with a crime based on an officer’s establishment of probable cause. *U.S. v. Mendenhall, 446 U.S. 544 (1980).*

7.1.1. Identify the conditions for arrest.

There are four elements that have been used by courts to determine whether an arrest has occurred:

- **Intent** – A peace officer’s purpose or intention to take a person into the custody of the law.
- **Authority** – The peace officer’s arrest must be made under real authority. This means the officer is authorized by law to make an arrest and the arrest is supported by probable cause.
- **Actual seizure** – The person arrested is taken into custody either by physical force or by submission to assertion of authority.
- **Understanding** – by the person to be arrested of the officer’s intention to arrest.

Note to the Instructor: Instructors should review the following articles from the Code of Criminal Procedure or Penal Code with students:
• When a person is arrested - CCP 15.22;  
• Constructive Custody - CCP 11.21;  
• Restraint - CCP 11.22.  
• Definition of custody found in PC 38.01  
Duties of arresting officer and magistrate – CCP 15.17

7.1.2 Discuss the issues surrounding custodial statements

• Peace officers must respect the citizen’s right against self-incrimination as protected by the U.S. Constitution’s Fifth Amendment.  
• Therefore, persons in custody prior to interrogation must be clearly informed by peace officers that they have the right to remain silent and that anything they say can and will be used against them in court.  
• These Miranda warnings also require peace officers to advise persons in custody prior to interrogation that they have the right to an attorney and that if they can’t afford an attorney, one will be appointed to represent them. *Miranda v. Arizona*, 384 U.S. 436 (1966).  
• Once persons in custody indicate their right to remain silent, interrogations must cease. If the persons in custody request an attorney, the interrogations must cease until an attorney is present or, alternatively, until there is at least a fourteen-day break in *Miranda* custody. *Maryland v. Shatzer*, 130 S.Ct. 1213 (2010).  
• See CCP 38.22 for further requirements concerning when statements made be used.  

7.1.3. Explain the statutory requirements for warrantless arrests. CCP Chapter 14: Arrest Without Warrant

• Offense Within View - CCP 14.01  
  Note the difference between paragraphs (a) and (b). Paragraph (a) sets limited conditions to be met for either a peace officer or “any other person” to make a warrantless arrest while paragraph (b) sets the conditions for only peace officers to make a warrantless arrest.  
• Within View of a Magistrate - CCP 14.02  
• Authority of a Peace Officer - CCP 14.03  
  Peace officers must be able to articulate specific facts and circumstances to justify an arrest regarding “suspicious places”and “circumstances”. See Dyar v. State, 125 SW3d 460 (Tex. Crim. App. 2003) which provides a detailed explanation of the statute.  
• Mandatory Arrest Authority - CCP 14.03(b)  
  • Violation of a Protective Order in the officer’s presence.  
*Note to the Instructor: Instructors should emphasize that the conduct must in fact be prohibited by the protective order or there is no violation.*
- Public Intoxication - CCP 14.031
- When felony has been committed - CCP 14.04:
  
  *See Frye v. State, 639 SW2d 463 (Tex. Crim. App. 1982),* (Peace officer need only show that he reasonably believed escape was imminent and no time to procure a warrant).

- Rights of Officer - CCP 14.05
- Arrest by peace officer from other jurisdiction - CCP 14.05
- Must take offender before magistrate - CCP 14.06
- Preventing the consequences of theft - CCP18.16

  *See Payton v. New York, 100 SCt 1371 (1980);* (absent exigent circumstances, a peace officer may not make a warrantless entry into a suspect’s home to make a routine felony arrest)

  - See Brigham City, Utah v. Smart, 126 S.Ct 1943 (2006). (exigent circumstances such as breaking up a violent fight permit warrantless entry into dwelling without a warrant.
  - See Kentucky v. King, 131 S.Ct. 1849 (2011). (Peace officers cannot create the exigency by engaging or threatening to engage in conduct that violates the Fourth Amendment).
- Uniform Criminal Extradition Act - CCP 51.13, Sec. 14
- Diplomatic Immunity - 22 USC 254 Diplomatic Relations Act
- Privilege of Legislators - CCP 1.21
- Uniform Act to Secure Attendance of Witnesses from Outside the State - CCP 24.28
- Uniform Act to Secure Rendition of Prisoners in Criminal Proceedings - CCP 24.29(9)
- Refer to IRG

**7.1.4. Explain procedures for obtaining a warrant of arrest.**

**CCP Chapter 15: Arrest Under Warrant**

- Warrant of Arrest - CCP 15.01
- Requisites of Warrants - CCP 15.02
- Magistrate May Issue Warrant or Summons - CCP 15.03
- Complaint - CCP 15.04
- Requisites of Complaint - CCP 15.05
- Warrant extended to every part of State - CCP 15.06
- Warrants Issued by Other Magistrates - CCP 15.07

**7.1.5. Identify the process for arresting with a warrant.**

- How An Arrest Warrant is Executed - CCP 15.16
- Duties of Arresting Officer and Magistrate - CCP 15.17
- Arrest for Out-of-County Offense - CCP 15.18
- Notice of Arrest - CCP 15.19
- When a Person is Arrested - CCP 15.22
- Time of Arrest - CCP 15.23
- What Force May be Used - CCP 15.24
• Authority to Arrest Must Be Made Known - CCP 15.26
• Capias - CCP 23.01
• Bench Warrant - CCP 24.13

• What force may be used – CCP 15.24
• May break door - CCP 15.25
• Authority to arrest must be made known - CCP 15.26

Note to the Instructor: Students should be informed of the limitations on executing third party arrest warrants found in Steagald v. United States, 101 S.Ct. 1642 (1981). Steagald stands for the proposition that entry may only be forced to execute an arrest warrant when the warrant is being executed at the residence where the person named in the arrest warrant lives.

7.1.6. Identify suspicious circumstances.

Mere suspicion: A hunch or the feeling of intuition. Although intuitively knowing something is undoubtedly a skill that serves law enforcement officers well, mere suspicion is insufficient proof of any fact in a court of law. (Criminal Procedure for the Law Enforcement Professional, 11th edition, Ferdico, Fradella, and Totten, Wadsworth Cengage Learning, 2013).

What can a peace officer do with mere suspicion?

• Computer checks may be made of license plates.
• Surveillance may occur. Officers can lay back and watch the individual(s) or activity suspected for additional facts and circumstances that amount to more than mere suspicion.
• Officers can initiate a police-citizen encounter so long as the officer understands the persons approached do not have to identify themselves or answer the officer’s questions, and are free to simply walk away.
• The officer’s objective is to obtain articulable facts and circumstances that rise to the level of either reasonable suspicion which gives officers the power to detain or probable cause which permits the officer to arrest.

7.1.7. Building probable cause and its application

There are two different but similar definitions of probable cause, one for search and one for arrest, because different types of information are required to establish probable cause in each instance:

Probable cause to search exists when “the facts and circumstances within their [the officers’] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that [seizable property would be found in a particular place or on a particular person].” Carroll v. United States, 267 U.S. 132
Probable cause to arrest exists where “the facts and circumstances within [the officers’] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed [by the person to be arrested].” *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949). The probable cause test, then, is an objective one meaning that, for there to be probable cause, the facts must be such as would warrant a belief by a reasonable man.”

- “If subjective good faith alone (of probable cause) were the test, the protection of the Fourth Amendment would evaporate, and the people would be ‘secure in their persons, houses, papers, and effects’ only in the discretion of the police.” *Beck v. Ohio*, 379 U.S. 89 (1964).

Facts and circumstances that can be used to establish probable cause:
- High crime rate area
- Time of day or night
- Location
- Furtive Act - It is not enough for the officer to state that the suspect acted “furtively” or made a “furtive” move; the officer must specifically articulate why the act was “furtive.”
- Abnormal demeanor
- Officer’s own knowledge of facts and circumstances applicable to that particular location, person, or situation. Officer’s sensory perceptions: what he sees, smells, hears, or touches.
- Statements, including hearsay, by suspects or other persons
- Geographical or temporal proximity to a crime scene
- Clothing
- Physical or mental condition of the suspect
- Inconsistent statements by the suspect and persons with the suspect
- Fingerprints, DNA and other forensic evidence
- Possession of tools of the crime
- Possession of fruits of the crime
- Possession of contraband
- Officer’s past experience and training
- Information provided by an informant engaged in criminal activity

Application of Probable Cause:

- An officer may arrest for that offense which the probable cause leads the officer to believe is occurring or has occurred. Whether or not probable cause was present to support an arrest or search is a question that will be resolved by the courts.
- The court will examine the “totality of the circumstances” surrounding the seizure or detention to determine if there were sufficient facts and circumstances present to satisfy the Fourth Amendment.
• Only that information known to the officer at the moment of the seizure or search will be considered by the court – any evidence found after the arrest or during the search will not be admissible to prove probable cause.

• Although the courts are the ultimate arbiters of what constitutes probable cause, the U.S. Supreme Court in the Gates opinion also said: Perhaps the central teaching of our past decisions bearing on the probable cause standard is that it is a practical, non-technical conception. In dealing with probable cause…as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men (peace officers), not legal technicians (attorneys), act.” 421 U.S. at 231.


7.1.8. Reasonable suspicion and temporary detention

• Reasonable suspicion has been defined by the court as sufficient articulable facts and circumstances, and reasonable inferences drawn from those facts, which would lead a reasonable officer to conclude that criminal activity is afoot.

• Temporary Detention is "holding a person for a limited time, but who, as yet, is not answerable to a criminal offense."

• The U.S. Supreme Court has recognized that stopping and detaining persons for the purpose of investigating possible criminal activity is sometimes necessary to the government’s interest in effective crime prevention and detention. “It is this interest which underlies the recognition that a police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possibly criminal behavior even though there is no probable cause to make an arrest.” Terry v. Ohio, 392 U.S. 1,22 (1968).

Elements required for temporary detention:

• Reasonable suspicion by a peace officer that some activity out of the ordinary is or has taken place.
• Some indication to connect the person, to be detained, with the suspicious activity.
• Some indication the suspicious activity is related to a specific offense.
• An officer may conduct an interview to determine what, if anything is occurring. The court will consider the status of the person being interviewed (i.e. are they in custody or free to leave)

Note to the Instructor: Instructors should point out that general questions will be more acceptable to the courts. Once the questions take on the form that will elicit an incriminating response, the protections required by Miranda and art. 38.22 will come into play.
• A person cannot be required to identify himself, even when a detention is lawful. You may orally command the person to remain for a reasonable length of time that can be satisfactorily accounted for, while actively involved in the investigation at hand. You may take the person with you to check out a possible crime scene. Persons who have been lawfully detained are under no obligation to answer questions posed by officers.

See Brown v. Texas, 443 U.S. 47 (1979)

Note to the Instructor: Instructors should review section 38.02 of the Penal Code with students and point out that an arrest is not authorized during a detention UNLESS the suspect give a false name or other information as defined in the statute.

Refer to IRG.

7.1.9. Identify circumstances when frisking is permitted.

Definition
• A "pat down" of the outer clothing of a person whom you have stopped
• To protect the safety of the officer
• Not a fishing expedition
• Permitted anytime an officer is in contact with another person and can articulate reasons that he feared for his safety; whenever an officer has reason to believe another has a weapon on or about his person that can be used to cause injury or death. [Terry v. Ohio, 392 U.S. 1 (1968)] The officer must articulate the facts, observations, and information known at that particular point in time with regards to that particular person that led the officer to believe that the frisk was necessary to insure the officer’s safety and the safety of others.

Refer to IRG

7.1.10. Distinguish who may be frisked and what may be seized during the frisk.

Persons
• Officers may pat down entire body, but the outside of clothing only at the beginning of the frisk. If the officer detects a weapon, the officer may place her hand inside the clothing to retrieve the weapon. Additionally, officers may now be able to retrieve non-weapon contraband if certain criteria are met. In order for an officer to place their hands inside a suspect’s clothing during a frisk, without first feeling a weapon, the officer must be able to articulate that it was “immediately apparent” that the item she felt was contraband.
Vehicles

Weapons found during a frisk can be seized and arrests made.

Plain feel/touch
- Contraband found during a frisk in which it was immediately apparent (by touch or feel) to the frisking officer that it was contraband may be admissible at trial. (*see Minnesota v. Dickerson*, 113 SCt 2130 (1993))
  - A reasonable amount of force may be used to frisk.

*Refer to IRG*

7.1.11. Identify the categories of evidence for which a search may be conducted.

Search defined: A search is generally defined as an examination or inspection of a location, vehicle, or person by a law enforcement officer for the purpose of locating objects or substances relating to or believed to relate to criminal activity. (*Criminal Procedure for the Law Enforcement Professional, Ferdico, Fratella, and Totten, 11th edition, Wadsworth Cengage Learning, 2012)*

Evidence is defined as anything to be offered in court to prove the truth of facts at issue in a case. The object of a search is anything of evidentiary value
- Fruits of the crime
- Tools of a crime
- Contraband
- Mere evidence
- Property subject to forfeiture pursuant to Ch. 59 of the Code of Criminal Procedure

7.1.12. Identify circumstances which justify a lawful search pursuant to a search warrant.

Search Warrant
- Search warrants are issued based upon probable cause
- The reviewing magistrate will determine probable cause from information contained in the affidavit supporting the warrant.
- The warrant must specify the items to be searched for and the specific location of the search.

Legal authority of a search warrant:
- Define - CCP 18.01(a)
- Grounds for Issuance - CCP 18.02
- Photograph Injured Child - CCP 18.021
Knock and Announce Requirement

Peace officers are generally required to “knock and announce” their presence, authority, and purpose before entering premises to execute a search warrant. *Wilson v. Arkansas*, 514 U.S. 927 (1995). According to the *Texas Law Enforcement Handbook*, the purpose of the requirement is:

- To reduce the risk of violence inherent in any unannounced entry;
- To protect privacy by reducing the risk of entering the wrong premises; and
- To prevent property damage. (Holtz & Spencer, 2012, pp. 181-182)

Courts usually require peace officers to wait a “reasonable time under all the circumstances” before entering the premises. If officers knock and announce but are refused entry, officers may forcibly enter the premises. *United States v. Banks*, 540 U.S. 31 (2003). However, courts have recognized that not every entry must be preceded by an announcement. The exceptions are a “reasonable suspicion” that knocking and announcing would:

- Present a threat of physical violence, such as occupant’s criminal history or propensity for violence;
- Be futile or a “useless” gesture;
- Result in the likelihood that evidence would be destroyed.

The Supreme Court acknowledged that this showing by peace officers to demonstrate “reasonable suspicion” before entering is “not high.” *Hudson v. Michigan*, 547 U.S. 586 (2006)

7.1.13 Identify circumstances which justify a lawful search without a warrant. *(Revised 2-2010)*

Search incidental to Lawful Arrest:

- A person under arrest may be searched;
- The area immediately around the person arrested may be searched, and;
- The passenger compartment of a motor vehicle may be searched incident to arrest of an occupant only if the officer can demonstrate he or she had reason to believe evidence of the crime *for which the suspect was arrested* will be found in the car. For example, an officer arrests the driver of a vehicle for a traffic offense and a warrant from another jurisdiction. A search of the passenger compartment incident to this type of arrest would most likely be unlawful, as an officer could not reasonably believe he or she would find evidence of a traffic violation or evidence of the offense named in the arrest warrant. See *Chimel v. California*,
Search of Motor Vehicles — the Automobile Exception

- Known as the “Carroll doctrine” which holds that a warrantless search of a readily mobile motor vehicle by a peace officer who has probable cause to believe that the vehicle contains incriminating items subject to seizure is not unreasonable under the Fourth Amendment. *Carroll v. United States*, 267 U.S. 132 (1925).
- The warrantless search of motor vehicles is permitted by the courts because persons have a lessened expectation of privacy in a motor vehicle due to its inherent mobility and the fact that it is driven on public roads where its occupants and contents are open to view. *United States v. Chadwick*, 433 U.S. 1 (1977).
- “The automobile exception has two primary elements: a ‘readily mobile’ motor vehicle and probable cause to believe the vehicle contains contraband or criminal evidence.”
- The officer may search the entire vehicle, bumper to bumper, and any containers therein in which the contraband or evidence would fit.

*See Wyoming v. Houghton, 526 US 295 (1999)*;

Open Fields Exception to the Warrant Requirement.
The Fourth Amendment does not protect open fields.
- Officers may enter and search open fields.
- An open field begins where the curtilage surrounding a dwelling ends
- Curtilage is generally considered to be that area of open space surrounding a dwelling which is so immediately adjacent to the dwelling that it is considered part of the house.

Consent Searches

- Consent to a search is considered a waiver of a constitutional protection, and as such, the waiver must be voluntary and knowing. There is no requirement of probable cause for this search.

- The person granting consent remains in control of the search and may limit the scope of the consent or revoke it entirely. The person must be in a position to revoke the consent at anytime.

- Courts will consider consent involuntary if it is obtained by duress, coercion, or is a mere acquiescence to authority claimed by the officer.
• Consent is difficult to prove at trial. Officers should obtain consent in writing when possible. If a written consent form is not available, a recording of the suspect granting consent should be preserved.

• See Schneckloth v. Bustamonte, 412 U.S. 218 (1973)

Who may give consent to search?

• Only a person with a possessory or proprietary interest in the place to be searched may give consent. Some examples of relationships that can affect consent are:
  
  o **Parent/child** – parents may usually consent to the search of a minor child’s room
  o **Spouses** – each spouse may generally consent to a search of the entire premises; however, officers should note that if both spouses are present and one says no, then the answer is no.
  o **Roommates** – their own rooms and the common area
  o **Landlord / tenant** – a landlord may not consent to a search of a dwelling that is rented
  o **Hotel / motel** – clerks may not consent to a search of a room that is paid for
  o **Employers** – generally controlled by the presence or absence of a policy putting the employee on notice of her diminished privacy expectations
  o **Schools** – school administrators operate under a less rigorous standard than do peace officers; however, officers assigned to schools do not enjoy the same lesser standard.

*See local D.A./County Attorney regarding consent to search form*

*See:*  
*U.S. v. Robinson, 414 U.S. 218(1973)*  

*California v. Acevedo, no.89-1690(1991)*  
*Payton v. New York, 100 S.Ct. 1371 (1980)*  
*Lippert v. Texas, 664 S.W.2d 712(1984)*  
*Bumper v. N. Carolina, 391 U.S. 543(1968)*

Abandoned Property

The definition of abandoned property is tied to court interpretations of the word “searches” in the Fourth Amendment. A search occurs when “an expectation of privacy that society is prepared to consider reasonable is infringed.” *United States v. Jacobsen,*
466 U.S. 109 (1984). But if a peace officer observes, examines, or inspects property whose owner has “voluntarily discarded, left behind, or otherwise relinquished his interest in the property in question so that he could no longer retain a reasonable expectation of privacy with regard to it…”, no search has occurred. United States v. Colbert, 474 F.2d 174 (5th Cir. 1973).

What determines abandonment is the intent of the person leaving behind or discarding the property. If the intent of the person was to relinquish all title, possession, or claim to that property, it will be deemed abandoned and subject to search without a warrant.

See Comer v. State, 754 SW2d 656 (Tex. Crim. App. 1986);

Exigent Circumstances
There are several categories of situations that have been identified as exigent circumstances (e.g. an emergency requiring immediate medical or police assistance, the imminent destruction of evidence that is easily lost or destroyed, the presence of dangerous weapons or instrumentalities, and the community caretaking doctrine.)

- Serious injury: officers may enter without a warrant to render emergency assistance to an occupant or protect an occupant from serious injury. Brigham City, Utah v. Stuart, 547 US___ (2006).
- Prevent a person from entering a home: officers who have probable cause to believe that a person has hidden contraband in his home may prevent that person from entering the home while they obtain a search warrant. Illinois v. McArthur, 531 US 326 (2001)

Dangerous weapons or instrumentalities: officers may enter without a warrant if they believe a dangerous weapon is present or was used and someone needs assistance. US v. Good, 780 F2d 773 (9th Circuit, 1986); US v. Lindsey, 877 F2d 777 (9th Circuit, 1989)

- Community caretaking: very similar in application to the emergency aid doctrine wherein an officer enters to render aid to a person in need. Wright v. State, 7 SW3d 148 (Tex. Crim. App. 1999).

Plain view

This exception has two prerequisites:
The officer must be lawfully present to see what they see, and;
It must be immediately apparent to the officer that what they see is contraband or somehow connected with criminal activity.


Impound and inventory

An impoundment occurs when peace officers take possession of a motor vehicle and move it to a police lot or garage for safekeeping, rather than leave the vehicle unattended. Once impounded, peace officers inventory the vehicle’s contents.

- An inventory is an administrative, caretaking procedure designed to prevent false claims of lost or damaged property being made against a police department and to safeguard the police and others from potential danger. South Dakota v. Opperman, 428 US 364 (1976).
- It is important to note that, under Texas law, before an inventory of a vehicle will be lawful, the underlying impoundment of the vehicle must be lawful.
- An impoundment of a vehicle based solely on a department policy will not be a sufficient basis for impounding the vehicle. Benavides v. State, 600 SW2d 809 (1980).
- Generally, a person who is under arrest may make alternate arrangements for his vehicle.


Exclusionary Rule: The purpose of the rule is to deter police misconduct. Therefore, any evidence obtained by peace officers using methods that violate a person’s constitutional rights (such as an unreasonable search in violation of the Fourth Amendment) cannot be used against a defendant in a criminal prosecution. See Mapp v. Ohio, 367 U.S. 643 (1961).

Note to the Instructor: Article 38.23(a) of the Code of Criminal Procedure is the Texas statute regarding the exclusion of evidence. Instructors should review the text of the statute with students.

Fruit of the Poisonous Tree Doctrine: Extends the exclusionary rule to evidence not only directly obtained as a result of unconstitutional police behavior but also to evidence indirectly obtained. See Silverthorne Lumber Co. v. United States, 251 U.S. 385 (1920).
Evidence not to be used

- In Leon, the US Supreme Court held that an officer who acts in objective good faith reliance upon a warrant issued by a neutral magistrate acts in good faith and the evidence should not be suppressed if the warrant is later found to be defective. Such is not the case in Texas.

- The Texas statute adds a requirement:
  - That the warrant be based upon probable cause.
  - In Texas, if an officer executes a warrant issued by a neutral magistrate, and it is later discovered that there was insufficient probable cause in the supporting affidavit, the fruits of the execution of the warrant will be suppressed even if the executing officer knew nothing of the deficiencies. (See State v. Daugherty, 931 SW2d 268 (Tex. Crim. App. 1996).

See United States v. Leon 468 U.S. 897 (1984);
See Massachusetts v. Sheppard 468 U.S. 981 (1984);
See Howard v. State 617 S.W.2d (1979);

Refer to IRG
How to Brief Cases

To brief a case, one has to read and digest the case in its entirety. Once the case is understood, the author of the brief will write a short synopsis of the case, outlining certain component parts. All briefs should be short and directly to the point, rarely over one page. The brief should contain the following component parts:

The Facts:
The facts of the case is a short historical review of what happened to cause the controversy. What action was complained about. What the lower courts said about the controversy as the case was propelled through the appellate process. Condense this information into a short story in your own words.

The Issues:
Here the writer lays out what the argument was about. This can be a short question posed by the writer. Example: Can the police search a person incident to a custodial arrest? Sometimes there will be multiple issues; choose the main issue, never more that two. In this course the main issues will be fourth, fifth, and sixth amendment questions.

Holding:
In this paragraph, one should report the finding of the appellate court of last review. In other words, was the case affirmed, remanded, or reversed?

Reasoning:
Detail the logic court used to support its holding. Upon what precedence was the holding supported. It is acceptable here to use direct quotes from the case. Be patient with yourself and follow these simple rules to write better briefs:

1. Read the case twice or underline certain parts for subsequent review. Above all, completely digest the case, then reduce it to writing using your own words. Just write a short, short story.
2. Isolate the issues, be brief. Pose a question if possible.
3. Give the answers given by the court, be brief.
4. In your own words using quotes from the text if applicable give the reasoning used by the magistrates to reach their decisions, above all be brief.
Sample Brief

Schmerber v California
384 U.S. 757 (1966)

Facts:

Petitioner Schmerber was arrested and charged with driving while intoxicated as the result of a traffic accident. A sample of petitioner's blood was withdrawn by a physician at the hospital at the direction of the police officer, over the objection of petitioner. Schmerber was subsequently convicted in lower courts after the analysis of the blood sample was admitted into evidence over petitioner's objection. This case was granted a hearing by the U.S. Supreme Court. Fourth and Fifth Amendment violations were claimed.

Issues:

Does the constitutional guarantee against self-incrimination apply to blood samples withdrawn over protest? Would withdrawing the blood constitute an unreasonable search and seizure under the Fourth Amendment?

Holding:

No, to both issues. The case was affirmed.

Reasoning:

The officer had probable cause to believe petitioner was intoxicated. There was a need for immediate police action which constituted exigent circumstances. Also the intrusion was minor. Blood specimen was material evidence, not some evidence relating to a communicative act or writing by petitioner. Petitioner's testimonial capacities were in no way implicated.
TOPIC 7: ARREST, SEARCH, AND SEIZURE

OBJECTIVE: 7.1.1.

INSTRUCTIONAL STRATEGY: Role-Play (in classroom)

PURPOSE: Provide students with knowledge of when a person is arrested and differences in restraint, custody, and constrictive custody.

ACTIVITY:
1. Select 1 or 2 students to participate as officers.
2. Select 2 students to participate as suspects.
3. Instruct student suspects that one of them has committed the offense of theft of a vehicle. Answer all questions directed to them by student officers except those directly related to the offense.
4. Instruct student officers that they received a call regarding suspected auto theft suspects and to go to the scene and investigate.
5. Stress to student officers to separate suspects and lead officer will interview both suspects. Instruct lead officer to state to one suspect "stay here, I'll be right back", then he walks to second suspect and questions him.
6. Divide class into groups of equal numbers. Groups designate spokesman and arrive at majority decision and report findings.
7. Is suspect being told to "stay here, I'll be right back" arrested, restrained, in custody or constrictive custody?
8. If yes, why they believe so? If no, why not?
9. Place group responses on chalk board and discuss differences, elaborating on when a person is arrested and differences in restraint, custody and constrictive custody.
TOPIC 7: ARREST, SEARCH AND SEIZURE

LEARNING OBJECTIVE: 7.1.2.

PURPOSE: Provide student with knowledge of when a warrantless arrest can occur.

ACTIVITY: Role Play (in classroom).

1. Select one student officer, one student suspect and one student complainant.

2. Instruct suspect and complainant that they are in a family fight in a bar room. The suspect is hitting the complainant with his fists. The complainant does not defend him/herself.

3. Instruct officer that he has received a disturbance call at a bar room and he must go investigate. He arrives and observes the fight.

4. Officer arrests/does not arrest.

5. Divide class into groups of equal numbers. Groups designate spokesman and arrive at majority decision and report findings.

6. Did officer make a legal arrest or not?

7. If not, why not?

8. If so, on what authority?

9. Place responses on chalk board and discuss differences. Elaborate on circumstances when a warrantless arrest can occur.
MIRANDA V. ARIZONA
Supreme Court of the United States, 1966
384 US 436

Mr. Chief Justice Warren delivered the opinion of the Court.

The cases before us raise questions which go to the roots of our concepts of American
criminal jurisprudence: the restraints society must observe consistent with the Federal
Constitution in prosecuting individuals for crime. More specifically, we deal with the
admissibility of statements obtained from an individual who is subjected to custodial police
interrogation and the necessity for procedures that assure that the individual is accorded his
privilege under the Fifth Amendment to the Constitution not to be compelled to incriminate
himself.

We dealt with certain phases of this problem recently in Escobedo v Illinois, 378 US 478
(1964). There, as in the four cases before us, law enforcement officials took the defendant into
custody and interrogated him in a police station for the purpose of obtaining a confession. The
police did not effectively advise him of his right to remain silent or of his right to consult with
his attorney. Rather, they confronted him with an alleged accomplice who accused him of
having perpetrated a murder. When the defendant denied the accusation and said, “I didn’t shoot
Manuel, you did it,” they handcuffed him and took him to an interrogation room. There, while
handcuffed and standing, he was questioned for four hours until he confessed. During this
interrogation, the police denied his request to speak to his attorney, and they prevented his
retained attorney, who had come to the police station, from consulting with him. At his trial, the
State, over his objection, introduced the confession against him. We held that the statements
thus made were constitutionally inadmissible.

We granted certiorari in these cases in order further to explore some facets of the
problems, thus exposed, of applying the privilege against self-incrimination to in-custody
interrogation, and to give concrete constitutional guidelines for law enforcement agencies and
courts to follow.

We started here, as we did in Escobedo, with the premise that our holding is not an
innovation in our jurisprudence, but is an application of principles long recognized and applied
in other settings. We have undertaken a thorough re-examination of the Escobedo decision and
the principles it announced, and we reaffirm it. That case was but an explication of basic rights
that are enshrined in our Constitution - - that “No person...shall be compelled in criminal case to
be a witness against himself,” and that “the accused shall...have the Assistance of Counsel” - -
rights which were put in jeopardy in that case through official overbearing. These precious
rights were fixed in our Constitution only after centuries of persecution and struggle. In stating
the obligation of the judiciary to apply these constitutional rights, this Court declared in Weems
v United States, 217 US 349, 373(1910):

“...our contemplation cannot be only of what has been but of what may be. Under any other rule a constitution would indeed be as easy of application as it would be deficient in efficacy and power. Its general principles would have little value and be converted by precedent into impotent and lifeless formulas. Rights declared in words might be lost in reality. And this has been recognized. The meaning and vitality of the Constitution have developed against narrow and restrictive construction.”
This was the spirit in which we delineated, in meaningful language, the manner in which the constitutional rights of the individual could be enforced against over-zealous police practices. It was necessary in Escobedo, as here, to insure that what was proclaimed in the Constitution had not become but a "form of words" in the hands of government officials. And it is in this spirit, consistent with our role as judges, that we adhere to the principles of Escobedo today.

Our holding will be spelled out with some specificity in the pages which follow but briefly stated it is this: 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. As for procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their rights of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning the person must 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 an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned.

I

The constitutional issue we decide in each of these cases is the admissibility of statements obtained from a defendant questioned while in custody or otherwise deprived of his freedom of action in any significant way. In each, 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 as well which were admitted at their trials. They all thus share salient features -- incommunicado interrogation of individuals in a police-dominated atmosphere, resulting in self-incriminating statements without full warnings of constitutional rights.

An understanding of the nature and setting of this in-custody interrogation is essential to our decisions today. The difficulty in depicting what transpires at such interrogations stems from the fact that in this country they have largely taken place incommunicado. The Commission on Civil Rights in 1961 found much evidence to indicate, "some policemen still resort to physical force to obtain confessions." The use of physical brutality and violence is not, unfortunately, relegated to the past or to any part of the country. Only recently in Kings County, New York, the police brutally beat, kicked and placed lighted cigarette butts on the back of a potential witness under interrogation for the purpose of securing a statement incriminating a third party People v Portelli, 205 N. E. 2d 857 (1965).

The examples given above are undoubtedly the exception now, but they are sufficiently widespread to be the objects of concern. Unless a proper limitation upon custodial interrogation
is achieved -- such as these decisions will advance -- there can be no assurance that practices of this nature will be eradicated in the foreseeable future.

Again we stress that the modern practice of in-custody interrogation is psychologically rather than physically oriented. As we have stated before, "Since Chambers v Florida, 309 US 227, this Court has recognized that coercion can be mental as well as physical, and that the blood of the accused is not the only hallmark of an unconstitutional inquisition." Interrogation still takes place in privacy. Privacy results in secrecy and this in turns results in a gap in our knowledge as to what in fact goes on in the interrogation rooms. A valuable source of information about present police practices, however, may be found in various police manuals and texts which document procedures employed with success in the past, and which recommend various other effective tactics. These texts are used by law enforcement agencies themselves as guides. It should be noted that these texts professedly present the most enlightened and effective means presently used to obtain statements through custodial interrogation. By considering these texts and other data, it is possible to describe procedures observed and noted around the country.

The officers are told by the manuals that the "principal psychological factor contributing to a successful interrogation is privacy - being alone with the person under interrogation."

To highlight the isolation and unfamiliar surroundings, the manuals instruct the police to display an air of confidence in the suspect’s guilt and from outward appearance to maintain only an interest in confirming certain details. The guilt of the subject is to be posited as a fact. The interrogator should direct his comments toward the reasons why the subject committed the act, rather than court failure by asking the subject whether he did it. Like other men, perhaps the subject has had a bad family life, had an unhappy childhood, had too much to drink, had an unrequited desire for women. The officers are instructed to minimize the moral seriousness of the offense, to cast blame on the victim or on society. These tactics are designed to put the subject in a psychological state where his story is but an elaboration of what the police purport to know already - that he is guilty. Explanations to the contrary are dismissed and discouraged.

The manuals suggest that the suspect be offered legal excuses for his actions in order to obtain an initial admission of guilt.

When the techniques described above prove unavailing, the texts recommend they be alternated with a show of some hostility. One ploy often used has been termed the “friendly-unfriendly or the “Mutt and Jeff” act.

The interrogators sometimes are instructed to induce a confession out of trickery. The technique here is quite effective in crimes which require identification or which run in series. In the identification situation, the interrogator may take a break in his questioning to place the subject among a group of men in a line up. "The witness or complainant (previously coached, if necessary) studies the line-up and confidently points out the subject as the guilty party." Then the questioning resumes “as though there were no doubt about the guilt of the subject.” A variation on this technique is called the "reverse line-up":

“The accused is placed in a line-up, but this time he is identified by several fictitious witnesses or victims who associated him with different offenses. It is expected that the subject will become desperate and confess to the offense under investigation in order to escape from the false accusations."

The manuals also contain instructions for police on how to handle the individual who refuses to discuss the matter entirely, or who asks for an attorney or relatives. The examiner is to concede him the right to remain silent. “This usually has a very undermining effect. First of all,
he is disappointed in his expectation of an unfavorable reaction on the part of the interrogator. Secondly, a concession of this right to remain silent impresses the subject with the apparent fairness of his interrogator.” After this psychological conditioning, however, the officer is told to point out the incriminating significance of the suspect’s refusal to talk.

From these representative samples of interrogation techniques, the setting prescribed by the manuals and observed in practice becomes clear. In essence, it is this: To be alone with the subject is essential to prevent distraction and to deprive him of any outside support. The aura of confidence in his guilt undermines his will to resist. He merely confirms the preconceived story the police seek to have him describe. Patience and persistence, at times relentless questioning, are employed. To obtain a confession, the interrogator must "patiently maneuver himself or his quarry into a position from which the desired objective may be attained.” When normal procedures fail to produce the needed result, the police may resort to deceptive stratagems such as giving false legal advise. It is important to keep the subject off balance, for example, by trading on his insecurity about himself or his surroundings. The police then persuade, trick, or cajole him out of exercising his constitutional rights.

Even without employing brutality, the “third degree” or the specific stratagems described above, the very fact of custodial interrogation exacts a heavy toll on individual liberty and trades on the weakness of individuals.

In cases before us today, given this background, we concern ourselves primarily with this interrogation atmosphere and the evils it can bring. In Miranda v Arizona, the police arrested the defendant and took him to a special interrogation room where they secured a confession. In Vignera v New York, the defendant made oral admissions to the police after interrogation in the afternoon, and then signed an inculpatory statement upon being questioned by an assistant district attorney later the same evening. In Westover v United States, the defendant was handed over to the Federal Bureau of Investigation by local authorities after they had detained and interrogated him for a lengthy period, both at night and the following morning after some two hours of questioning, the federal officers had obtained signet statements from the defendant. Lastly, California v Stewart, the local police held the defendant five days in the station and interrogated him on nine separate occasions before they secured his inculpatory statement.

In these cases, we might not find the defendants’ statements to have been involuntary in traditional terms. Our concern for adequate safeguards to protect precious Fifth Amendment rights is, of course, not lessened in the slightest. In each of the cases, the defendant was thrust into an unfamiliar atmosphere and run through menacing police interrogation procedures. The potentiality for compulsion is forcefully apparent, for example, in Miranda, where the indigent Mexican defendant was a seriously disturbed individual with pronounced sexual fantasies, and in Stewart, in which the defendant was an indigent Los Angeles Negro who had dropped out of school in the sixth grand. To be sure, the records do not evince overt physical coercion or patent psychological ploys. The fact remains that in none of these cases did the officers undertake to afford appropriate safeguards at the outset of the interrogation to insure that the statements were truly that product of free choice.

It is obvious that such an interrogation environment is created for no purpose other than to subjugate the individual to the will of his examiner. This atmosphere carries its own badge of intimidation. To be sure, this is not physical intimidation, but it is equally destructive of human dignity. The current practice of incommunicado interrogation is at odds with one of our Nation's most cherished principles -- that the individual may not be compelled to incriminate himself.
Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.

From the foregoing, we can readily perceive an intimate connection between the privilege against self-incrimination and police custodial questioning. It is fitting to turn to history and precedent underlying the Self-Incrimination Clause to determine its applicability in this situation.

II

We sometimes forget how long it has taken to establish the privilege against self-incrimination, the sources from which it came and the fervor with which it was defended. Its roots go back into ancient times. Perhaps the critical historical event shedding light on its origins and evolution was the trial of one John Lilburn, a vocal anti-Stuart Leveller, who was made to take the Star Chamber Oath in 1637. The oath would have bound him to answer to all questions posed to him on any subject. He resisted the oath and declaimed the proceedings, stating:

"Another fundamental right I then contended for, was, that no man’s conscience ought to be racked by oaths imposed, to answer to questions concerning himself in matters criminal, or pretended to be so."

On account of the Lilburn Trial, Parliament abolished the inquisitorial Court of Star Chamber and went further in giving him generous reparation. The lofty principles to which Lilburn had appealed during his trial gained popular acceptance in England. These sentiments worked their way over to the Colonies and were implanted after great struggle into the Bill of Rights. Those who framed our Constitution and the Bill of Rights were ever aware of subtle encroachments on individual liberty. They knew that "illegitimate and unconstitutional practices get their first footing...by silent approaches and slight deviations from legal modes of procedure.” The privilege was elevated to constitutional status and has always been “as broad as the mischief against which it seeks to guard.” We cannot depart from this noble heritage.

Thus we may view the historical development of the privilege as one that groped for the proper scope of governmental power over the citizen. As a "noble principle often transcends its origins," the privilege has come rightfully to be recognized in part as an individual's substantive right, “right to a private enclave where he may lead a private life. That right is the hallmark of our democracy." The constitutional foundation underlying the privilege is the respect a government - state or federal must accord to the dignity and integrity of its citizens. To maintain a “fair state-individual balance,” to require the government "to shoulder the entire load," to respect the inviolability of the human personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth. In sum, the privilege is fulfilled only when the person is guaranteed the right "to remain silent unless he chooses to speak in the unfettered exercise of his own will."

The question in these cases is whether the privilege is fully applicable during a period of custodial interrogation. In this Court, the privilege has consistently been accorded a liberal construction. We are satisfied that all the principles embodied in the privilege apply to informal compulsion exerted by law-enforcement officers during in-custody questioning. An individual swept from familiar surroundings into police custody, surrounded by antagonistic forces, and subjected to the techniques of persuasion described above cannot be otherwise than under compulsion to speak. As a practical matter, the compulsion to speak in the isolated setting of the
police station may well be greater than in courts or other official investigations, where there are often impartial observers to guard against intimidation or trickery.

In Bram v United States, 168 US 532 (1897), this court held: The rule is not that in order to render a statement admissible the proof must be adequate to establish that the particular communications contained in a statement were voluntarily made, but it must be sufficient to establish that the making of the statement was voluntary; that is to say, that from the causes, which the law treats as legally sufficient to engender in the mind of the accused hope or fear in respect to the crime charged, the accused was not involuntarily impelled to make a statement, when but for the improper influences he would have remained silent...”

The Court has adhered to this reasoning. In 1924, Mr. Justice Brandeis wrote for a unanimous Court in reversing a conviction resting on a compelled confession, Wan v United States, 266 US 1. He stated:

“In the federal courts, the requisite of voluntariness is not satisfied by establishing merely that the confession was not induced by a promise or a threat. A confession is voluntary in law if, and only if, it was, in fact, voluntarily made. A confession may have been given voluntarily, although it was made to police officers, while in custody, and in answer to an examination conducted by them. But a confession obtained by compulsion must be excluded whatever may have been the character of the compulsion, and whether the compulsion was applied in judicial proceeding or otherwise.”

In addition to the expansive historical development of the privilege and the sound policies that have nurtured its evolution, judicial precedent thus clearly establishes its application to incommunicado interrogation.

Because of the adoption by Congress of Rule 5 (a) of the Federal Rules of Criminal Procedure, and this Court’s effectuation of that Rule in McNabb v United States, 318 US 332 (1943), and Mallory v United States, 354 US 449 (1957), we have had little occasion in the past quarter century to reach the constitutional issues in dealing with federal interrogations. These supervisory rules, requiring production of an arrested person before a commissioner “without unnecessary delay” and excluding evidence obtained in default of that statutory obligation, were nonetheless responsive to the same considerations of Fifth Amendment policy that unavoidably face us now as to the States.

Our decision in Malloy v Hogan, 378 US 1 (1964), necessitates an examination of the scope of the privilege in state cases as well. In Malloy, we squarely held the privilege applicable to the States, and held that the substantive standards underlying the privilege applied with full force to state court proceedings. There, we applied the existing Fifth Amendment standards to the case before us. Aside from the holding itself, the reasoning in Malloy made clear what had already become apparent - that the substantive and procedural safeguards surrounding admissibility of confessions in state cases had become exceedingly exacting, reflecting all the policies embedded in the privilege. The voluntariness doctrine in the state cases, as Malloy indicates, encompasses all interrogation practices that are likely to exert such pressure upon an individual as to disable him from making a free and rational choice. The implications of this proposition were elaborated in our decision in Escobedo v Illinois, 378 US 478, decided one week after Malloy applied the privilege to the States.

Our holding there stressed the fact that the police had not advised the defendant of his constitutional privilege to remain silent at the outset of the interrogation, and we drew attention
to that fact at several points in the decision. This was no isolated factor, but an essential ingredient in our decision. The entire thrust of police interrogation there, as in all the cases today, was to put the defendant in such an emotional state as to impair his capacity for rational judgment. The abdication of the constitutional privilege - the choice on his part to speak to the police - was not made knowingly or competently because of the failure to apprise him of his rights, the compelling atmosphere of the in-custody interrogation, and not an independent decision on his part, caused the defendant to speak. The denial of the defendant's request for his attorney thus undermined his ability to exercise the privilege - to remain silent if he chose or to speak without any intimidation, blatant or subtle. The presence of counsel, in all the cases before us today, would be the adequate protective device necessary to make the process of police interrogation conform to the dictates of the privilege. His presence would insure that statements made in the government-established atmosphere are not the product of compulsion.

It was in this manner that Escobedo explicated another facet of the pre-trial privilege, noted in many of the Court's prior decisions: the protection of rights at trial. That counsel is present when statements are taken from an individual during interrogation obviously enhances the integrity of the fact-finding processes in court. The presence of an attorney, and the warnings delivered to the individual, enable the defendant under otherwise compelling circumstances to tell his story without fear, effectively, and in a way that eliminates the evils in the interrogation process.

Today, then, 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. We have concluded 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 not otherwise do so freely. In order to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination, the accused must be adequately apprised of his rights and the exercise of those rights must be fully honored.

We encourage Congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws. However, unless we are shown other procedures that are at least as effective in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it, the following safeguards must be observed.

At the outset, if a person in custody is to be subjected to interrogation, he must first be informed in clear and unequivocal terms that he has the right to remain silent. For those unaware of the privilege, the warning is needed simply to make them aware of it—the threshold requirement for an intelligent decision as to its exercise. More important, such a warning is an absolute prerequisite in overcoming the inherent pressures of the interrogation atmosphere. It is not just the subnormal or woefully ignorant who succumb to an interrogator's imprecations whether implied or expressly stated, that the interrogation will continue until a confession is obtained or that silence in the face of accusation is itself damning and will bode ill when presented to a jury. Further, the warning will show the individual that his interrogators are prepared to recognize his privilege should he choose to exercise it.

The Fifth Amendment privilege is so fundamental to our system of constitutional rule and the expedient of giving an adequate warning as to the availability of the privilege so simple, we
will not pause to inquire in individual cases whether the defendant was aware of his rights without a warning being given. Assessments of the knowledge the defendant possessed, based on information as to his age, education, intelligence, or prior contact with authorities, can never be more than speculation; a warning is a clear-cut fact. More important, whatever the background of the person interrogated, a warning at the time of the interrogation is indispensable to overcome its pressures and to insure that the individual knows he is free to exercise the privilege at that point in time.

The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it. It is only through an awareness of these consequences that there can be any assurance of real understanding and intelligent exercise of the privilege. Moreover, this warning may serve to make the individual more acutely aware that he is faced with a phase of the adversary system - that he is not in the presence of persons acting solely in his interest.

The circumstances surrounding in-custody interrogation can operate very quickly to overbear the will of one merely made aware of his privilege by his interrogators. Therefore, the right to have counsel present at the interrogation is indispensable to the protection of the Fifth Amendment privilege under the system we delineate today. Our aim is to assure that the individual’s right to choose between silence and speech remains unfettered throughout the interrogation process. A once-stated warning, delivered by those who will conduct the interrogation, cannot itself suffice to that end among those who most require knowledge of their rights. A mere warning given by the interrogators is not alone sufficient to accomplish that end. Prosecutors themselves claim that the admonishment of the right to remain silent without more “will benefit only the recidivist and the professional.” Even preliminary advice given to the accused by his own attorney can be swiftly overcome by the secret interrogation process. Thus, the need for counsel to protect the Fifth Amendment privilege comprehends not merely a right to consult with counsel prior to questioning, but also to have counsel present during any questioning if the defendant so desires.

The presence of counsel at the interrogation may serve several significant subsidiary functions as well. If the accused decides to talk to his interrogators, the assistance of counsel can mitigate the dangers of untrustworthiness. With a lawyer present the likelihood that the police will practice coercion is reduced, and if coercion is nevertheless exercised the lawyer can testify to it in court. The presence of a lawyer can also help to guarantee that the accused gives a fully accurate statement to the police and that the statement is rightly reported by the prosecution at trial.

An individual need not make a pre-interrogation request for a lawyer. While such request affirmatively secures his right to have one, his failure to ask for a lawyer does not constitute a waiver. No effective waiver of the right to counsel during interrogation can be recognized unless specifically made after the warnings we here delineate have been given. The accused who does not know his rights and therefore does not make a request may be the person who most needs counsel.

Accordingly we hold that an individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation under the system for protecting the privilege we delineate today. As with the warnings of the right to remain silent and that anything stated can be used in evidence against
him, this warning is an absolute prerequisite to interrogation. No amount of circumstantial evidence that the person may have been aware of this right will suffice to stand in its stead. Only through such a warning is there ascertainable assurance that the accused was aware of this right.

If an individual indicates that he wishes the assistance of counsel before any interrogation occurs, the authorities cannot rationally ignore or deny his request on the basis that the individual does not have or cannot afford a retained attorney. The financial ability of the individual has no relationship to the scope of the rights involved here. The privilege against self-incrimination secured by the Constitution applies to all individuals. The need for counsel in order to protect the privilege exists for the indigent as well as the affluent. In fact, were we to limit these constitutional rights to those who can retain an attorney, our decisions today would be of little significance. The cases before us as well as the vast majority of confession cases with which we have dealt in the past involve those unable to retain counsel. While authorities are not required to relieve the accused of his poverty, they have the obligation not to take advantage of indigence in the administration of justice.

In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him. Without this additional warning, the admonition of the right to consult with counsel would often be understood as meaning only that he can consult with a lawyer if he has one or has the funds to obtain one. As with the warning of the right to remain silent and of the general right to counsel, only by effective and express explanation to the indigent of this right can there be assurance that he was truly in a position to exercise it.

Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise. Without the right to cut off questioning, the setting of in-custody interrogation operates on the individual to overcome free choice in producing a statement after the privilege has been once invoked. If the individual states that he wants an attorney, the interrogation must cease until an attorney is present. At that time, the individual must have an opportunity to confer with the attorney and to have him present during any subsequent questioning. If the individual can not obtain an attorney and he indicates that he wants one before speaking to police, they must respect his decision to remain silent.

This does not mean, as some have suggested, that each police station must have a "station house lawyer" present at all times to advise prisoners. It does mean, however, that if police propose to interrogate a person they must make known to him that he is entitled to a lawyer and that if he cannot afford one, a lawyer will be provided for him prior to any interrogation. If authorities conclude that they will not provide counsel during a reasonable period of time in which investigation in the field is carried out, they may refrain from doing so without violating the person's Fifth Amendment privilege so long as they do not question him during that time.

If the interrogation continues without the presence of an attorney and a statement is taken, a heavy burden rests on the government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel. This Court has always set high standards of proof for the waiver of constitutional rights, and we re-assert these standards as applied to in-custody interrogation. Since the State is
responsible for establishing the isolated circumstances under which the interrogation takes place and has the only means of making available corroborated evidence of warnings given during incommunicado interrogation, the burden is rightly on its shoulders.

An express statement that the individual is willing to make a statement and does not want an attorney followed closely by a statement could constitute a waiver. But a valid waiver will not be presumed simply from the silence of the accused after warnings are given or simply from the fact that a confession was in fact eventually obtained. Moreover, where in-custody interrogation is involved, there is no room for the contention that the privilege is waived if the individual answers some questions or gives some information on his own prior to invoking his right to remain silent when interrogated.

Whatever the testimony of the authorities as to waiver of rights by an accused, the fact of lengthy interrogation or incommunicado incarceration before a statement is made is strong evidence that the accused did not validly waive his rights. In these circumstances the fact that the individual eventually made a statement is consistent with the conclusion that the compelling influence of the interrogation finally forced him to do so. Moreover, any evidence that the accused was threatened, tricked, or cajoled into a waiver will of course, show that the defendant did not voluntarily waive his privilege. The requirement of warnings and waiver of rights is a fundamental with respect to the Fifth Amendment privilege and not simply a preliminary ritual to existing methods of interrogation.

The warnings required and the waiver necessary in accordance with our opinion today are, in the absence of a fully effective equivalent, prerequisites to the admissibility of any statement made by a defendant. No distinction can be drawn between statements that are direct confessions and statements that amount to "admissions" of part of all of an offense. The privilege against self-incrimination protects the individual from being compelled to incriminate himself in any manner; it does not distinguish degrees of incrimination. Similarly for precisely the same reason, no distinction may be drawn between inculpatory statements and statements alleged to be merely "exculpatory." If a statement made were in fact truly exculpatory the prosecution would of course, never use it. In fact, statements merely intended to be exculpatory by the defendant are often used to impeach his testimony at trial or to demonstrate untruths in the statement given under interrogation and thus to prove guilt by implication. These statements are incriminating in any meaningful sense of the word and may not be used without the full warnings and effective waiver required for any other statement.

The principles announced today deal with the protection that must be given to the privilege against self-incrimination when the individual is first subjected to police interrogation while in custody at the station or otherwise deprived of his freedom of action in any significant way. It is at this point that our adversary system of criminal proceedings commences distinguishing itself at the outset from the inquisitorial system recognized in some countries. Under the system of warnings we delineate today or under any other system which may be devised and found effective, the safeguards to be erected about the privilege must come into play at this point.

Our decision is not intended to hamper the traditional function of police officers in investigating crime. When an individual is in custody on probable cause, the police may, of course, seek out evidence in the field to be used at trial against him. Such investigation may include inquiry of persons not under restraint. General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not
affected by our holding. It is an act of responsible citizenship for individuals to give whatever
information they may have to aid in law enforcement. In such situations the compelling
atmosphere inherent in the process of in-custody interrogation is not necessarily present.

In dealing with statements obtained through interrogation, we do not purport to find all
confessions inadmissible. Confessions remain a proper element in law enforcement. Any
statement given freely and voluntarily without any compelling influences is, of course,
admissible in evidence. The fundamental import of the privilege while an individual is in custody
is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but
whether he can be interrogated. There is no requirement that police stop a person who enters a
police station and states that he wishes to confess to a crime, or a person who calls the police to
offer a confession or any other statement he desires to make. The Fifth Amendment does not bar
volunteered statements of any kind and their admissibility is not affected by our holding today.

To summarize, we hold that when an individual is taken into custody or otherwise
deprived of his freedom by the authorities in any significant way and subjected to questioning,
the privilege against self-incrimination is jeopardized. Procedural safeguards must be employed
to protect the privilege, and unless other fully effective means are adopted to notify the person of
his right of silence and to assure that the exercise of the right will be scrupulously honored, the
following measures are required. He 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. Opportunity to exercise these rights
must be afforded to him throughout the interrogation. After such warnings have been given, and
such opportunity afforded him, the individual may knowingly and intelligently waive these rights
and agree to answer questions or make a statement. But unless and until the prosecution at trial
demonstrates such warnings and waiver, no evidence obtained as a result of interrogation can be
used against him.

IV

In announcing these principles, we are not unmindful of the burdens that law enforcement
officials must bear, often under trying circumstances. We also fully recognize the obligation of
all citizens to aid in enforcing the criminal laws. This Court, while protecting individual rights,
has always given ample latitude to law enforcement agencies in the legitimate exercise of their
duties. The limits we have placed on the interrogation process should not constitute an undue
interference with a proper system of law enforcement. As we have noted, our decision does not
in any way preclude police from carrying out their traditional investigatory functions. Although
confessions may play an important role in some convictions, the cases before us present graphic
effects of the overstatement of the “need” for confessions. In each case authorities conducted
interrogations ranging up to five days in duration despite the presence through standard
investigating practices, of considerable evidence against each defendant.

Custodial interrogation does not necessarily afford the innocent an opportunity to clear
him/herself. A serious consequence of the present practice of the interrogation alleged to be
beneficial for the innocent is that many arrests “for investigation” subject large numbers of
innocent persons to detention and interrogation. In one of the cases before us, California v
Stewart, police held four persons, who were in the defendant’s house at the time of the arrest, in
jail for five days until defendant confessed. At that time they were finally released Police stated
that there was “no evidence to connect them with any crime.” Available statistics on the extent of
this practice where it is condoned indicate that these four are far from alone in being subjected to arrest, prolonged detention, and interrogation without the requisite probable cause.

Over the years the Federal Bureau of investigation has compiled an exemplary record of effective law enforcement while advising any suspect or arrested person, at the outset of an interview, that he is not required to make a statement, that any statement may be used against him in court, that the individual may obtain the services of an attorney of his own choice and, more recently, that he has a right to free counsel if he is unable to pay.

The practice of the FBI an readily be emulated by state and local enforcement agencies. The argument that the FBI deals with different crimes than are dealt with by state authorities does not mitigate the significance of the FBI experience.

It is also urged upon us that we withhold decision on this issue until state legislative bodies and advisory groups have had an opportunity to deal with these problems by rule making. We have already pointed out that the Constitution does not require any specific code of procedures for protecting the privilege against self-incrimination during custodial interrogation. Congress and the States are free to develop their own safeguards for the privilege so long as they are fully as effective as those described above in informing accused persons of their right of silence and in affording a continuous opportunity to exercise it. In any event, however, the issues presented are of constitutional dimensions and must be determined by the courts. The admissibility of a statement in the face of a claim that it was obtained in violation of the defendant’s constitutional rights is an issue the resolution of which has long since been undertaken by this Court. Judicial solutions to problems of constitution dimension have evolved decade by decade. As courts have been presented with the need to enforce constitutional rights, they have found means of doing so. Where rights secured by Constitution are involved, there can be no rule making or legislation that would abrogate them.

Because of the nature of the problem and because of its recurrent significance in numerous cases, we have to this point discussed the relationship of the Fifth Amendment privilege to police interrogation without specific concentration of the facts of the cases before us. We turn now to these facts to consider the application to these cases of the constitutional principles discussed above. In each instance, we have concluded that statements were obtained from the defendant under circumstances that did not meet constitutional standards for protection of the privilege.

Miranda v Arizona

On March 13,1963, petitioner, Emesto Miranda, was arrested at his home and taken in custody to a Phoenix police station. He was there identified by the complaining witness. The police then took him to “Interrogation Room No. 2” of the detective bureau. There he was questioned by two police officers. The officers admitted at trial that Marinade was not advised that he had a right to have an attorney present. Two hours later, the officers emerged from the interrogation room with a written confession signed by Miranda. At the top of the statement was a typed paragraph stating that the confession was made voluntarily, without threats or promise of immunity and “with full knowledge of my legal rights, understanding any statement I make may be used against me.”

At his trial before a jury, the written confession was admitted into evidence over the objection of defense counsel, and the officers testified to the prior oral confession made by
Miranda during the interrogation. Miranda was found guilty of kidnapping and rape. He was sentenced to 20 to 30 years imprisonment on each count, the sentences to run concurrently. On appeal, the Supreme Court of Arizona held that Miranda’s constitutional rights were not violated in obtaining the confession and affirmed the conviction. In reaching its decision, the court emphasized heavily the fact that Miranda did not specifically request counsel.

We reverse. From the testimony of the officers and by the admission of respondent, it is clear that Miranda was not in any way apprised of his right to consult with an attorney and to have one present during the interrogation, nor was his right not to be compelled to incriminate himself effectively protected in any other manner. Without these warnings the statements were inadmissible. The mere fact that he signed a statement that contained a typed-in clause stating that he had “full knowledge” of his “legal rights” does not approach the knowing and intelligent waiver required to relinquish constitutional rights.

**Vignera v New York**

Petitioner Michael Vignera was picked up by New York police on October 14, 1960, in connection with the robbery three days earlier of a Brooklyn dress shop. They took him to the 17th Detective Squad headquarters in Manhattan. Sometime thereafter he was taken to the 66th Detective Squad. There a detective questioned Vignera with respect to the robbery. Vignera orally admitted the robbery to the detective. The detective was asked on cross-examination at trial by defense counsel whether Vignera was warned of his right to counsel before being interrogated. The prosecution objected to the question and the trial judge sustained the objection. Thus, the defense was precluded from making any showing that warnings had not been given. While at the 66th Detective Squad, Vignera was identified by the storeowner and a saleslady as the man who robbed the dress shop. At about 3 p.m. he was formally arrested. The police then transported him to still another station, the 70th Precinct in Brooklyn, “for detention.” At 11 p.m. an assistant district attorney in the presence of a hearing reporter who transcribed the questions and Vignera’s answers questioned Vignera. This verbatim account of these proceedings contains no statement of any warnings given by the assistant district attorney. At Vignera’s trial on a charge of first degree robbery, the detective testified as to the oral confession. The transcription of the statement taken was also introduced in evidence. At the conclusion of the testimony, the trial judge charged the jury in part as follows:

“The law doesn't say that the confession is void or invalidated because the police officer didn't advise the defendant as to his rights. Did you hear what I said? I am telling you what the law of the State of New York is.”

Vignera was found guilty of first degree robbery. He was subsequently adjudged a third-felony of larceny and sentenced to 30 to 60 years imprisonment The conviction was affirmed without opinion by the Appellate Division, Second Department, and by the Court of Appeals, also without opinion. In argument to the Court of Appeals, the State contended that Vignera had no constitutional right to be advised of his right to counsel or his privilege against self-incrimination.

We reverse. The foregoing indicates that Vignera was not warned of any of his rights before the questioning by the detective and by the assistant district attorney. No other steps were taken to protect these rights. Thus he was not effectively apprised of his Fifth Amendment privilege or of his right to have counsel present and his statements are inadmissible.
**Westover v United States**

At approximately 9:45 p.m. on March 20, 1963, petitioner, Carl Calvin Westover, was arrested by local police in Kansas City as a suspect in two Kansas City robberies. A report was also received from the FBI that he was wanted on a felony charge in California. The local authorities took him to a police station and placed him in a line-up on the local charges, and at about 11:45 p.m. he was booked. Kansas City police interrogated Westover on the night of his arrest He denied any knowledge of criminal activities. The next day local officers interrogated him again throughout the morning. Shortly before noon they informed the FBI that they were through interrogating Westover and that the FBI could proceed to interrogate him. There is nothing in the record to indicate that Westover was ever given any warning as to his rights by local police. At noon, three special agents of the FBI continued the interrogation in a private interview room of the Kansas City Police Department, this time with respect to the robbery of a savings and loan association and a bank in Sacramento, California. After two or two and one-half hours, Westover signed separate confessions to each of these two robberies that had been prepared by one of the agents during the interrogation. At trial one of the agents testified, and a paragraph on each of the statements states, that the agents advised Westover that he did not have to make a statement, that any statement he made could be used against him, and that he had the right to see an attorney.

Westover was tried by a jury in federal court and convicted of the California robberies. His statements were introduced at trial He was sentenced to 15 years' imprisonment on each count the sentences to run consecutively. On appeal the conviction was affirmed by the Court of Appeals for the Ninth Circuit.

We reverse. On the facts of this case we cannot find that Westover knowingly and intelligently waived his right to consult with counsel prior to the time he made the statement. At the time the FBI agents began questioning Westover, he had been in custody for over 14 hours and had been interrogated at length during that period. The FBI interrogation began immediately upon the conclusion of the interrogation by Kansas City police and was conducted in local police headquarters. Although the two law enforcement authorities are legally distinct and the crimes for which they interrogated Westover were different, the impact on him was that of a continuous period of questioning. There is no evidence of any warning given prior to the FBI interrogation nor is there any evidence of an articulated waiver of rights after the FBI commenced its interrogation. The record simply shows that the defendant did in fact confess a short time after being turned over to FBI following interrogation by local police. Despite the fact that the FBI agents gave warnings at the outset of their interview, from Westover’s point of view the warnings came at the end of the interrogation process. In these circumstances an intelligent waiver of constitutional rights cannot be assumed.

We do not suggest that law enforcement authorities are precluded from questioning any individual who has been held for a period of time by other authorities and interrogated by them without appropriate warnings. A different case would be presented if an accused were taken into custody by the second authority, removed both in time and place from its original surroundings, and the adequately advised of his rights and given an opportunity to exercise them But here the FBI interrogation was conducted immediately following the state interrogation in the same police station—in the same compelling surroundings. Thus, in obtaining a confession from Westover the federal authorities were the beneficiaries of the pressure applied by the local in-custody
interrogation. In these circumstances the giving of warnings alone was not sufficient to protect the privilege.

**California v Stewart**

In the course of investigating a series of purse-snatch robberies in which one of the victims had died of injuries inflicted by her assailant, respondent. Roy Allen Stewart, was pointed out to Los Angeles police as the endorser of dividend checks taken in one of the robberies. At about 7:15 p.m., January 31, 1963, police officers went to Stewart's house and arrested him. One of the officers asked Stewart if they could search the house, to which he replied, “Go ahead.” The search turned up various items taken from the five robbery victims. At the time of Stewart’s arrest, police also arrested Stewart's wife and three other persons who were visiting him. These four were jailed along with Stewart and were interrogated Stewart was taken to the University Station of the Los Angeles Police Department where he was placed in a cell. During the next five days, police interrogated Stewart on nine different occasions. Except during the first interrogation session, when he was confronted with an accusing witness, Stewart was isolated with his interrogators.

During the ninth interrogation session, Stewart admitted that he had robbed the deceased and stated that he had not meant to hurt her. Police then brought Stewart before a magistrate for the first time. Since there was no evidence to connect them with any crime, the police then released the other four persons arrested with him. Nothing in the record specifically indicates whether, Stewart was or was not advised of his right to remain silent or his right to counsel. In a number of instances, however, the interrogating officers were asked to recount everything that was said during the interrogations. None indicated that Stewart was ever advised of his rights.

Stewart was charged with kidnapping to commit robbery, rape, and murder. At his trial, transcripts of the first interrogation and the confession at the last interrogation were introduced in evidence. The jury found Stewart guilty of robbery and first degree murder and fixed the penalty as death. On appeal, the Supreme Court of California reversed. It held that under this Court's decision in Escobedo, Stewart should have been advised of his right to remain silent and of his right to counsel and that it would not presume in the face of a silent record that the police advised Stewart of his rights.

We affirm. In dealing with custodial interrogation, we will not presume that a defendant has been effectively apprised of his rights and that his privilege against self-incrimination has been adequately safeguarded on a record that does not show that any warnings have been given or that any effective alternative has been employed. Nor can a knowing and intelligent waiver of these rights be assumed on a silent record. Furthermore, Stewart's steadfast denial of the alleged offenses through eight of the nine interrogations over a period of five days is subject to no other construction than that he was compelled by persistent interrogation to forgo his Fifth Amendment privileges.
UNIT: ARREST, SEARCH, AND SEIZURE

LEARNING OBJECTIVE: 7.1.7.

PURPOSE: To provide the student with knowledge of the definition of frisk, purpose of a frisk and circumstances when a frisk may be permitted.

ACTIVITY: Role Play (in classroom)

1. Select two student suspects and two student officers.

2. Two suspects (known dope dealers) meet in local drug store. They are at the back of the store partially out of view of the officers. One suspect is known to carry a pistol.

3. Officers are given a call to drug store regarding two suspicious men.

4. Officers arrive at scene.

5. Suspects observe officer in presence and attempt to leave scene.

6. Officers approach suspects and stop both of them.

7. Divide class into equal number groups. Each group should select spokesman to respond to questions.

8. Can the officers legally frisk?

9. What authority?

10. What can the officers frisk for?

11. What authority?

12. List responses on chalkboard and discuss responses. Elaborate on who and what may be frisked and what may be seized.
UNIT: ARREST, SEARCH, AND SEIZURE

LEARNING OBJECTIVE: 7.1.13.

PURPOSE: To provide a brief synopsis of the most recent court case, Arizona v. Gant, 129 S.Ct. 1710 (U.S. Ariz., 2009), impacting the requirements for a Search Incidental to Arrest (SIA).

Synopsis was provided by the committee subject matter expert, Warren Spencer, City of Plano Assistant City Attorney III, warrens@plano.gov


(There are many synopsis’ available for instructor review. The synopsis provided below is brief and succinct.)

The United States Supreme Court recently handed down their opinion in Arizona v. Gant. In Gant, the Court revisited their opinion from the New York v. Belton case, which established the baseline criteria for searches of motor vehicles subsequent to the arrest of a recent occupant of the vehicle.

Belton was decided in 1981 and has been interpreted over the years to mean a police officer may search the entire passenger compartment of a motor vehicle once a recent occupant was arrested from the vehicle. This exception to the warrant requirement did not require independent probable cause to search the vehicle. It was a search that officers did simply because they could, based on Belton.

In Gant the Court pointed out that Belton had not established such an expansive search authority. Belton was based on Chimel v. California. In Chimel the Court approved the concept of a search incident to an arrest of a person. Chimel approved the search of a person and the area immediately surrounding the person incident to that person’s lawful arrest. Belton next extended that option to a motor vehicle.

The issue in Gant was the basis for the search, which originally (in Chimel) was officer safety and the preservation of evidence. In Gant the suspect had already been arrested and secured in the police car. The Court explained that there was no real danger to the officer or evidence in the car at this point, so the evidence found in the search was suppressed.

In effect, Gant has all but overruled Belton. The Court acknowledged there might be the rare case wherein an officer arrests a person from a car and the officer has a reasonable belief that evidence of the crime for which the occupant was arrested might be found inside the car. We do not yet know what “reasonable belief” means, i.e. is it less, more,
or equal to probable cause? Instructors should stress that this search option is no longer really viable. As case law develops, we may see the exception redefined and clarified.

There are still valid search warrant exceptions that apply to vehicles: consent; search based on probable cause that the vehicle is transporting contraband; frisk, and; inventory following a lawful impound.

It is strongly recommended that all instructors and law enforcement professionals review Arizona v. Gant, NO. 07-542 (4/ 21/ 2009). This synopsis does not constitute legal advice. As always, this case should be reviewed by legal counsel before any policies are changed. Internal cites have been omitted.

Another synopsis of Arizona v. Gant, 129 S.Ct. 1710, U.S. Ariz., 2009., April 21, 2009, is available from FLETC and can be retrieved from the following website.


On Tuesday, April 21, 2009, the Supreme Court decided the case of Arizona v. Gant dealing with the circumstances permitting the search of a vehicle incident to the arrest of an occupant. Below is the FLETC LGD review of the decision and its practical impact on law enforcement, authored by Jenna Solari, Senior Instructor.

Case Note – Police may search the passenger compartment of a vehicle incident to arrest of an occupant or recent occupant only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of arrest.

FACTS: Gant was arrested for driving on a suspended license. Gant was handcuffed and locked in a patrol car before officers searched the passenger compartment of his car and found a firearm and cocaine. In his motion to suppress the evidence, Gant argued that it was not possible for him to access the vehicle to gain control of a weapon or evidence, and therefore the search of his vehicle was not a reasonable “search incident to arrest.”

HELD: Police are authorized to search the passenger compartment of a vehicle incident to arrest of an occupant or recent occupant only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search. Additionally, officers may search the passenger compartment following the arrest of a recent occupant when it is reasonable to believe that evidence relevant to the crime of arrest might be found in the vehicle.

DISCUSSION:
Prior case law: Chimel, Belton, and Thornton. The Supreme Court first established the search incident to arrest (“SIA”) exception to the Fourth Amendment’s warrant requirement in Chimel v. California, 395 U.S. 752 (1969). Chimel held that police may, incident to arrest, search the arrestee’s “lunging area,” which is defined as the area from within which the arrestee might gain possession of a weapon or destructible evidence. The purposes of this exception are to protect arresting officers and safeguard evidence of the offense that an arrestee might conceal or destroy. The Court was asked to define the scope of a vehicle SIA in New York v. Belton, 453 U.S. 454 (1981). In Belton, the Court held that when an SIA of a vehicle is justified, the entire compartment and any containers therein may be searched. In Thornton v. U.S., 541 U.S. 615 (2004), the Court added that an SIA of a vehicle may be justified even if an occupant has gotten out of the vehicle, closed the door, and walked a short distance away before being arrested. The question remaining, however, was whether the Belton and Thornton rules authorized an SIA of the vehicle regardless of the arrestee’s ability to access the passenger compartment following the arrest.

Clarification: arrestee within reaching distance. The majority opinion in Arizona v. Gant has answered that question, holding that prior case law authorizes police to search a vehicle incident to arrest when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search. The Court noted that “it will be the rare case in which an officer is unable to fully effectuate an arrest so that a real possibility of access to the arrestee’s vehicle remains.” In such a rare case, however, an SIA of the passenger compartment would be reasonable under the Fourth Amendment.

An additional justification: offense-related evidence. Even if the arrestee can no longer access the vehicle’s passenger compartment, the Court held that an SIA will also be permitted “when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.” In many cases, such as arrests for traffic violations, there will be no reasonable basis to believe that the vehicle contains relevant evidence. In other cases, however, such as arrests for possession of controlled substances, the basis of the arrest will supply an acceptable rationale for searching the arrestee’s passenger compartment and any containers inside.

Other vehicle search exceptions remain available. The Court noted that other established exceptions to the search warrant requirement remain available to safeguard evidence and protect the safety of officers. If an officer has a reasonable suspicion that a passenger or recent occupant of a vehicle – whether arrested or not – is dangerous and may gain access to a weapon, he may frisk the passenger compartment for weapons. (This exception is known as a Terry frisk of the vehicle.) If the officer has probable cause that the vehicle contains evidence of criminal activity, the officer may conduct a thorough search of any area of the vehicle in which the evidence might be found. (This exception is called the “mobile conveyance exception” or the Carroll Doctrine.)

Finally, if an officer conducting an arrest reasonably suspects that a dangerous person is hiding in a nearby vehicle, he may conduct a protective sweep of the vehicle by looking in places where such a person might be concealed. Although not specifically mentioned by the Court, and not a criminal search tool, an inventory of a vehicle’s contents following a lawful impound is another exception to the search warrant requirement. This administrative exception, however, may not be used as a pretext for a criminal search. Consent remains a viable option as well.
**The bottom line.** To justify a search incident to arrest of a vehicle’s passenger compartment, an officer must articulate that either (1) the officer was unable to sufficiently restrain the arrestee during the search, so that it was reasonable to believe the arrestee might have been able to access the vehicle, or (2) there was a reasonable basis to believe that evidence of the crime for which the occupant of the vehicle was arrested might be found in the passenger compartment at the time of the search.

**APPLICATION TO FIELD OFFICERS AND AGENTS:**

*Prepare to articulate!* The Court noted that “[w]hen asked at the suppression hearing why the search was conducted, [the officer in this case] responded, ‘Because the law says we can do it.’” That answer did not – and will not – meet the government’s burden. While searches of vehicles incident to arrest have been considered “automatic” for 28 years, the holding of Gant states that more is required. Officers must be prepared to articulate facts establishing one of the permitted justifications.

*Don’t look for the loophole; it’s already closed.* Some may suggest the holding in Gant encourages an unsafe practice of leaving arrestees unsecured in a nearby area to justify a search incident to arrest. Justice Scalia, however, in his concurring opinion in Thornton v. U.S., has already anticipated and answered that argument. He wrote, “if an officer leaves a suspect unrestrained nearby just to manufacture authority to search, one could argue that the search is unreasonable precisely because the dangerous conditions justifying it existed only by virtue of the officer’s failure to follow sensible procedures.”

**Unanswered questions:**

The Court held that an SIA will also be permitted “when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.” Is this a lower standard than probable cause applicable only to evidence of the crime of arrest?

Can an officer SIA a vehicle when persons other than the already secured arrestee are in the area who might gain access to the vehicle?

Does this ruling, reemphasizing the original Chimel basis for SIA, extend beyond the context of SIA of a vehicle to apply to all SIA of “lunging areas?”

10. **Intoxicated Driver and Standardized Field Sobriety Testing (SFST)**

**Unit Goal:** 10.1. Demonstrate and apply a working knowledge of the detection, apprehension and arrest of the intoxicated driver.

10.1.1. **Successful completion of the National Highway Traffic Safety Administration (NHTSA) SFST Course.**

- Demonstrate knowledge and proficiency in administering the SFST battery.
- Complete a written examination with a passing grade.

*Note to instructor: It is highly encouraged to conduct at least one "wet lab workshop" (with actual drinking subjects).*
10.1.2 Chemical Tests

- Applicability - TC 724.002
- Consent to taking of specimen - TC 724.011
- Taking of specimen - TC 724.012
- Prohibition on taking specimen if person refuses; exception - TC 724.013
- Person incapable of refusal - TC 724.014
- Information provided by officer before requesting specimen - TC 724.015
- Breath specimen - TC 724.016
- Blood specimen - TC 724.017
- Furnishing information concerning test results - TC 724.018
- Additional analysis by request - TC 724.019
- Statement requested on refusal - TC 724.031
- Officer’s duties for license suspension; Written refusal report - TC 724.032

10.1.3 Recognize and prepare necessary forms concerning the intoxicated driver.

Intoxicated driver forms:

- DIC-23
- DIC-24
- DIC-25
- D.W.I. case report
- T.H.P.-51

*Note to the instructor:* Use the actual forms as handouts. Have the students practice completing them.

10.1.4 Identify the laws regarding allowing dangerous drivers to borrow motor vehicles and forfeiture.

Allowing dangerous driver to borrow motor vehicle - TC 705.001
Forfeiture of vehicle - TC 704.001

**Instructor Resource Guide**

**10. Intoxicated Driver and Standardized Field Sobriety Test (SFST)**

**INSERT**

**STATUTORY AUTHORIZATION – MANDATORY BLOOD SPECIMEN FORM**

Curtis v. State - Texas Court of Criminal Appeals: Reference reasonable suspicion to make traffic stop based on a vehicle weaving. The training and experience of the officer, most
specifically as it applies to DWI enforcement, was taken into account in this case and it was held that the stop for fail to maintain a single marked lane was reasonable.

**Standardized Field Sobriety Testing (SFST)**

Instructors should reference the *U.S. Department of Transportation DWI Detection and Standardized Field Sobriety Testing Instructor Manual* for the content and delivery of this course.
11. Civil Process and Liability

Unit Goal 11.1 Civil Process and Liability  The goal of this section is to give the new officer the basic knowledge of civil law procedures and document pertaining to officers and agency liability. The new officer will also become familiar with the writs involved in civil law enforcement.

11.1.1 Recognize that peace officers and the entity that employs them are liable for improper acts likely resulting in civil action.

The potential for civil liability in any action a peace officer takes has greatly increased in recent years. When an alleged civil wrong occurs, the civil action is not usually limited to just the individual officer, but also involves the agency or political sub-division that represents the commissioning authority of the officer. (Title 42 Section 1983 United States Code)

Although there are specific statutory prohibitions against these actions, agencies and officers may also be held civilly responsible.

Potential liability:
- Employing agency
- Governmental liability - 101.021 TCPRC
- Officer


Process:
- Liability for Refusal or Neglect in Performance of Official Duties - 7.001 TCPRC
- Liability regarding execution of writs - 7.003 TCPRC
- Neglecting to execute process - 2.16 CCP
- Execution of process; penalty (sheriff) - 85.021 LGC
- Failure to execute process (constable) - 86.024 LGC

11.1.2. Describe the difference between criminal and civil liability for wrongful actions taken by peace officer.

In many cases before civil action is initiated, a case may be reviewed by the Grand Jury for criminal action or charges filed for penal or statutory violations of the law. If the disposition results in a conviction and punishment are rendered, the officer(s) and his or her commissioning authority are most likely to be involved in civil action and is a totally separate action. In today’s environment, if a wrong occurs from an act performed as a peace officer, criminal action will be
reviewed and most likely will result in some sort of civil action. Also note the cost of civil actions can be extremely costly individually and to the governmental entity.

**Unit Goal: 11.2. The student will be able to describe the difference between civil and criminal law.**

- **Criminal Law**
  
  Criminal law regulates the conduct of individuals through threats of fines and imprisonment. In criminal cases, the state brings an action against an individual to punish him for breaking one of their laws. The peace officer may assume direct responsibility of the investigation and filing criminal charges against the defendant.

  Criminal judgments may result in the guilty party being assessed a fine only or a fine and period of confinement or community service when the court finds the defendant committed the illegal act, beyond a reasonable doubt.

- **Civil Law**
  
  Civil law defines the legal significance of public and private acts and regulates conduct through injunctions and the award of money damages. **Important:** This is the plaintiff’s suit. The peace officer should not assume ownership of the suit. The peace officer is required to follow the rules and the laws that govern the execution of the civil documents.

  In a civil case, a person brings a lawsuit seeking some sort of redress for an injury he claims to have suffered. The person may be an individual, partnership, corporation, or sometimes the state. The redress that the person seeks is usually in the form of money. He asks the court to order his opponent to pay him monetary compensation or an injunction to the defendant for the wrongful act.

  Civil judgments usually require the part adjudged of a wrongful act to compensate the wronged party in the form of money or the return or possession of property.

  In a civil case, a judgment is rendered in favor of the complaining party or the defendant or somewhere in between based upon the preponderance of evidence before a judge or jury.

**11.2.1 Identify the major differences between civil and criminal law.**

**Unit Goal: 11.3. The student will describe the difference between general contempt of court and constructive contempt of court.**

- **11.3.1 The student will be able to identify the penalty for general contempt.**

- **11.3.2 The student will be able to identify the penalty for constructive contempt.**

**Unit goal 11.4 The student will be able to identify how courts are established and their jurisdictions.**
11.4.1 The student will be able to identify the constitutionally created courts of Texas.

11.4.2 The student will be able to identify the legislatively created courts of Texas.
11.4.3 The student will be able to identify the general court jurisdictions of Texas.

Unit goal 11.5 The student will be able to describe civil actions, procedures and process.

11.5.1 The student will be able to identify the progress on the action into a law suit.

11.5.2 The student will be able to identify who may serve non seizure documents.

11.5.3 The student will be able to identify who may serve seizure documents.

11.5.4 The student will be able to identify procedure for service of a citation.

Unit Goal 11.6 Students will be able to describe writs available for prejudgment and post judgment and their purpose.

11.6.1 The student will be able to identify the 3 types of Attachments.

11.6.2 The student will be able to identify wages are the only thing that can be garnished under Texas law.

11.6.3 The student will be able to identify who may execute the sequestration and the purpose of the writ.

11.6.4 The student will be able to identify the purpose of the meaning of and the purpose of a Habeas Corpus.

11.6.5 The student will be able to identify what is required when served with a Temporary Restraining Order or an Injunction.

11.6.6 The student will be able to identify the function of a Writ of Mandamus.

11.6.7 The Student will be able to who executes the Writ of Execution

11.6.7.1 The student will be able to identify most execution are for money & the seizure and sale of the defendants real and personal non exempt property.

11.6.7.2 The student will be able to potential for violence when executing these writs.

Unit Goal 11.7 The student will be able to identify the documents and remedies for landlord tenant disputes.
11.7.1 The student will be able to identify the correct party to refer landlord tenant inquires to.

11.7.2 The student will be able to identify the purpose of a Writ of Restoration.

11.7.3 The student will be able to identify the purpose of a Writ of Reentry and who may issue.

11.7.4 The student will be able to identify the purpose of the eviction Writ of Possession and how it is executed.

11.7.5 The student will be able to identify the purpose of a distress warrant and the type of property it is executed on.

11.7.6 The student will be able to identify the purpose of a tax warrant.

Unit Goal 11.8 The student will be able to identify The three types of Protective Orders And their enforcement requirements

11.8.1 The student will be able to define protective order.

11.8.2 The student will be able to identify the three types of protective orders.

11.8.3 The student will be able to identify who may issue

11.8.4 The student will be able to identify how service is made on the defendant.

11.8.5 The student will be able to identify the defendant as the respondent when the order is served by the court.

11.8.6 The student will be able to identify when a protective order expires.

11.8.7 The student will be able to define a foreign protective order.

11.8.8 The student will identify the out of state protective orders are enforceable in Texas.

Reference: Black’s Law Dictionary

Definitions of Civil Process Term

- **AFFIANT** - The person who swears to an affidavit or statement.
- **AFFIDAVIT** - A written or printed statement or declaration of facts, made voluntarily and
sworn to or affirmed by an affiant before a person having authority to administer an oath or affirmation.

- **ALTERNATE SERVICE** – A court approved method of delivering a court document to an uncooperative defendant.
- **ANSWER** - A pleading in a civil matter in which one party (defendant) responds to the claim of another party (plaintiff); in an answer, the defendant will deny the allegations in the plaintiff’s complaint or agree with the facts but allege new information which should prevent the plaintiff from recovering on the facts originally presented.
- **APPEAL** - A request or complaint to a higher court to correct an injustice or error committed by a lower court; in justice court, the removal of the cause from justice court to county court for the purpose of obtaining a review and new trial.
- **ATTACHMENT** - The seizure of persons or property so that they will come under the custody and control of the court; the process occurs by virtue of a writ, summons or other judicial order.
- **CAPIAS (Latin)** - A writ similar to an arrest warrant; a judicial writ commanding a peace officer to take a person into custody to answer specific charges.
- **CITATION** – Official process by which a plaintiff gives a defendant notice of suit. The purpose is to give the court jurisdiction over the parties, to satisfy due process requirements, and to provide the defendant the opportunity to appear and defend himself.
- **COMPLAINT** - An affidavit or sworn statement made before the court which charges the commission of an offense within the jurisdiction of the court.
- **COURT OF RECORD** - A court whose proceedings are recorded by a court reporter; justice courts are not courts of record; county and district courts are courts of record.
- **DEFAULT JUDGMENT** - A judgment entered by the court upon the failure of a party to plead or appear at the appointed time.
- **DILIGENCE EFFORT** – Persistent activity, prudence or care; “diligent effort” is that which is properly expected from a reason and prudent person under the particular circumstances.
- **EXECUTION** – a writ issued by a court of competent jurisdiction, commanding an officer to collect the judgment amount and costs or to levy upon the non-exempt property of a defendant, in satisfaction of a previous judgment rendered by the issuing court.
- **EXEMPT PROPERTY** - Property specified by statute, which may not be seized or sold to satisfy an execution or attachment.
- **EX PARTE PROTECTIVE ORDER** – An order issued by a family court (district or county court) to prohibit a defendant from certain acts including further family violence, and requiring the defendant to appear in court on a specified date and time. It may include an order directing a law enforcement officer to inform a defendant to vacate a premise.
  
  **Effective January 1, 2008 a violation of a temporary ex-parte protective order is criminally enforceable under Section 25.074 of the Texas Penal Code, provided that the respondent has been served with the temporary ex-parte protective order.**
- **FORCIBLE ENTRY AND DETAINER** – *(Eviction suit)* Provide a summary, speedy, simple, and inexpensive remedy for determination of who is entitled to possession of real property and/or post due rent.
- **GARNISHMENT** - A statutory proceeding whereby a person’s property, money, or credits
of a debtor in possession or under control of or owing by another, called a garnishee, is applied to debt of the debtor.

- **GOOD FAITH** - Honesty of intention; sincerity.
- **GUARDIAN AD LITEM** - A person appointed by the court to represent a minor, an incompetent person or any other person entitled to such protection by law.
- **HABEAS CORPUS** (Latin - “You have the body of”) – Court order that commands anyone having a person in custody or their control to produce the person at the time and place named in the writ and to show why that person is being held or under restraint.
- **INDIGENT/PAUPER** – A suitor who, on account of poverty, is allowed to sue or defend without being chargeable with costs; also, an indigent criminal defendant who has a right to assigned defense counsel.
- **INJUNCTION** - Commands the person(s) to whom it is directed to desist or refrain from the commission or continuance of the act enjoined or to obey and execute such order as the court has seen proper to issue.
- **JURISDICTIONAL AMOUNT** - The money amount involved in the particular case or dispute by which the jurisdiction of the court to determine the case is measured; part of “subject matter” jurisdiction.
- **LEVY** - To collect, gather, take up, seize, or execute on monies, real, or personal property under a lawfully issued writ.
- **LIABILITY** - Being responsible for actual damages, punitive damages or possible loss.
- **MAGISTRATE** – A civil public officer invested with powers and functions, which may be judicial, executive, or legislative in nature; a justice of the peace is a magistrate.
- **MOTION** - A written or oral application for a ruling or order from the court.
- **MOVE** - To make an application to a court to rule, order, or take action in a matter.
- **NOTICE** – An order, writ, or process. An order or direction, emanating from authority to an officer, or body of officers, commanding the officer to do some act within the officer’s powers. An order in writing, sent out by a justice of the peace or other like officer, to bring a person or record before the issuing authority. Sometimes called a Precept.
- **OATH** - Any form of affirmation by which a person agrees to be is bound in conscience to perform an act faithfully and truthfully.
- **OFFICIALLY ATTESTED** - An acknowledgment of an individual acting in the individual’s official capacity bearing witness to another's signature being affixed to a document.
- **ORDER** - Every direction of a court or judge; a mandate or command.
- **PERSONAL PROPERTY** - Articles associated with a person, as opposed to real property (land).
- **PETITION** – A document filed by the plaintiff with the clerk of the court that outlines the basis of the complaint (suit) against the defendant and the relief being sought from the court.
- **PLEA** - The answer, which the defendant in a legal proceeding makes to the complaint against the defendant.
- **PLEADINGS** - Oral or written statements made to the court presenting the claims and defenses of the parties.
• **PRECEPT** - An order or direction coming from a court or other authority to an officer or body of officers, commanding the officer or officers to do some act within the scope of their powers; a rule which imposes a standard of conduct.

• **PROTECTIVE ORDER** – An order issued by a family court (district or county court) to order the protection of a family member or member of a household against further family violence. It is criminally enforceable under Section 25.074 of the Texas Penal Code.

• **REAL PROPERTY** - Land and generally whatever is built, growing upon, or affixed to it.

• **RE-ENTRY** – Allows a commercial or residential tenant to resume possession of a leased premise after an unlawful lockout.

• **REPLEVY** - In reference to a replevin action, to redeliver goods that have been seized by an officer to the original possessor of them, upon the original possessor’s giving security conditioned on prosecuting an action to determine the legality of the seizure.

• **RETURN** – The endorsement by an officer upon a process stating what, where, when, why, how, and to whom service and compliance of the commands within the process were made.

• **RULES OF CIVIL PROCEDURE** - The body of law promulgated by the Texas Supreme Court to establish the manner and means by which civil cases are determined by the courts.

• **SEQUESTRATION** – The temporary seizure or setting aside of specific property to which a party to a suit has claim of ownership. The object of Sequestration is to allow parties to protect and preserve the property during the suit.

• **SERVICE** - The delivery of a writ, notice, injunction, etc., by an authorized person, to a person who is thereby officially notified of some proceeding concerning that person.

• **SHOW CAUSE** – An order issued to a party to appear as directed and present to the court reasons or considerations why a particular order or decree should not be acted upon. Usually instituted by the plaintiff upon the defendant to show cause as to why they should not be held in contempt for failure to follow previously issued orders.

• **SUBPOENA** - Process initiated by a party commanding a witness to appear and give testimony, at a specified place and time to testify upon a certain matter.

• **SUBSTITUTED SERVICE** - Delivery of process in a method other than personal service (such as by mail or by publication).

• **SUMMONS** - An order to a person to appear in court on a specific date to answer a case filed against the person; it is a method by which the court acquires jurisdiction over a party.

• **TEMPORARY RESTRAINING ORDER** – Issued by a court to a defendant restraining them from doing or prohibiting certain acts. It is date sensitive and has a hearing date commanding appearance no more than 14 days from date of issuance. It is enforceable by the court only by a contempt proceeding.

• **TORT** – A private or civil wrong or injury, including action for bad faith breach of contract, for which the court will provide a remedy in the form of an action for damages.

• **TRIAL** - Proceedings in open court during which the ultimate issues in a case are determined, by a fact finder (judge or a jury).

• **VENUE** - The place where a case is tried.

• **WITNESS** - A person whose declaration under oath (or affirmation) is received as evidence for any purpose, whether such declaration be made on oral examination, by deposition, or by affidavit.

• **WRIT OF POSSESSION (EVICTION)** – allows a landlord who prevails in an eviction
suit to regain possession of the premises that were in dispute.

**11.4.1 WRIT OF POSSESSION (PARTICULAR PROPERTY)** - When the judgment is for personal property, and it is shown by the pleadings and evidence and the verdict, if any, that such property has an especial value to the plaintiff, the court may award a special writ for the seizure and delivery of such property to the plaintiff.

*Reference: Black’s Law Dictionary*

- **AD LITEM** (Latin) – At pleasure. • The modern term *ad-lib* (adj. & Vb.). borrowed from drama and music, is essentially the same; it means “at the performer’s pleasure,” and allows the performer discretion in innovating a part impromptu. Black’s P46. For the purposes of the suit; a *guardian ad litem* is a person appointed by the court to represent a minor, an incompetent person or any other person entitled to such protection by law.

- **DUCES TECUM** – Bring with you. Black’s P 538 Common use is a *Subpoena Duces Tecum* to secure records in a criminal case. The term was removed from civil law when the rules were revised to allow a *Subpoena* to require an individual appear in court or require records and other things to be produced in court. Subpoena Duces Tecum is still issued in criminal law cases.

- **ET AL** – *et alii or alia* And other persons <the office of Thomas Webb et al.> An abbreviation for et alii, which literally means “and others.” Black’s P 591. Commonly used to include anyone associated the named defendant in reference to the matter before the court

- **EX PARTE** – Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, any person adversely interested; or argument by, any person adversely interested; of or relating to court action taken by one party without notice to the other for temporary or emergency relief. Black’s P 616

- **IN RE** – “in the matter of a judicial proceeding” Most often seen family courts with issues involving children. Generally will indicate the service document is “In Re – Name of the child” Black’s P. 809

- **IN REM** – “against a thing” Involving or determining the status of a thing, and therefore the rights of persons generally with respect to that thing. Black’s P 809

- **NULLA BONA** – “[no goods”] A form of return by a sheriff or constable upon an execution when the judgment debtor has no sizable property within the jurisdiction. Black’s P 1098 . Note this is a form of return, therefore simply the words *Nulla Bona* do not make the return complete.

- **PRO SE** (Latin) - For self; on one’s own behalf; in person; one who does not retain a lawyer but, instead, appears on one’s own behalf in court.

- **PRIMA FACIE** – Sufficient to establish a fact or raise a presumption unless disproved or rebutted <a prima facie showing>
17. Force Options

Unit Goal: 17.1. The student will have an understanding of the legal authorities pertaining to peace officers’ use of force.

17.1.1. The student will be able to define the following terms relating to use of force.

Definitions:
- Deadly force - PC 9.01(3)
- Force - Black’s Law Dictionary
- Reasonable Force - Black’s Law Dictionary

17.1.2. The student will be able to explain the legal authorities for the use of force.

Legal authorities for use of force:
- Justification as a defense - PC 9.02
- Confinement as justifiable force - PC 9.03
- Threats as justifiable force - PC 9.04
- Reckless injury of innocent third person - PC 9.05
- Civil remedies unaffected - PC 9.06
- Arrest and search – PC 9.51

Estate of Ceballos v Bridgewater, Porras &Mull
According to the 5th Circuit Court appeals, this case on deadly force are clear; “an officer cannot use deadly force without an immediate threat to himself or others.” (Penal Code 9.51)

Milstead v Kibler, 243 F.3d 157 (4th Cir. 2001)
“…police officers performing a discretionary function enjoy an immunity that shields them from liability for civil damages unless (1) the officers’ conduct violates a federal statutory or constitutional right, and (2) the right was clearly established at the time of the conduct, such that (3) an objectively reasonable officer would have understood that the conduct violated that right. “

“Government officials who perform discretionary functions are entitled to the defense of qualified immunity, which shields them from suit as well as liability for civil damages, if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known. A defendant official must affirmatively plead the defense of qualified immunity.

Graham, a diabetic having an insulin reaction, was mistakenly believed to be intoxicated by Charlotte, North Carolina police officers. Though Graham asked officers to check his
wallet for a diabetic decal he carried and a friend attempted to get permission to give Graham orange juice, Charlotte police refused and during a struggle, four officers threw him headfirst into a police car. Graham sustained serious injuries resulting in his suit alleging violation of his constitutional rights. The lower courts directed a finding for the police officers under the 14th Amendment’s absence of malice analysis—that they did not intend to harm Graham. The U.S. Supreme Court reversed the lower courts ruling directing that the inquiry must, under the 4th Amendment, be whether the officers’ actions are objectively reasonable in light of the facts and circumstances confronting them at the time, without regard to their underlying intent or motivation.

Related cases:

- Brower v Inyo County, 489 U.S. 593 (1989)
- Saucier v Katz, 121 S. Ct. 2151 (2001)

Refer to departmental policy.

Refer to IRG

17.1.3. The student will be able to explain the justification(s) for use of force.

Justification Generally:

- Public duty – PC 9.21
- Necessity – PC 9.22

Refer to IRG: Force/Deadly force case study.

Refer to departmental policy

Protection of Persons:

- Self defense – PC 9.31
- Deadly force in defense of person – PC 9.32
- Defense of third person – PC 9.33
- Protection of life or health – PC 9.34
- Affirmative Defense – CPRC 83.001

Protection of Property:

- Protection of one’s own property - PC 9.41
- Deadly force to protect property - PC 9.42
- Protection of third persons property - PC 9.43
- Use of device to protect property - PC 9.44
Special Relationships:
- Parent-child - PC 9.61
- Educator-student - PC 9.62
- Guardian-incompetent - PC 9.63

Custody and Escape:
- Custody - PC 38.01(1)
- Escape - PC 38.01(2)
- Prevention of escape from custody - PC 9.52
- Maintaining security in correctional facility - PC 9.53

Tennessee v. Garner, 471 U.S. 1 (1985): Absent circumstances, such as exhibition of weapons or the commission of a violent felony suggesting that the suspect is likely to pose a threat of death or injury if not immediately apprehended, the 4th Amendment prohibits seizure of the suspect by the use of deadly force.

Unit Goal: 17.2. The student will have a basic understanding of the concepts regarding use of force.

17.2.1. Identify definitions relating to use of force.

Definition of the NOUN “force”:
- Strength or energy brought to bear, cause of motion or change, active power; moral or mental strength; capacity to persuade or convince.
- Violence, compulsion, or constraint exerted upon person or thing.
- The quality of conveying impressions intensely in writing or speech.

Definition of the VERB “force”:
- To do violence to.
- To compel by physical, moral, or intellectual means.
- To make or cause through natural or logical necessity.
- To achieve or win by strength in struggle or violence.
- An aggressive act committed by any person which does not amount to assault, and is necessary to accomplish an objective.
- Synonyms - compel, coerce, constrain, oblige.

“Deadly Force” - is defined as force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

“Reasonable or Necessary Force” - is the amount of lawful physical coercion sufficient to achieve a legitimate law enforcement objective and is objectively reasonable under the facts, circumstances and alternatives confronting an officer at the time action are taken.
Cases relevant to Texas:
- Brother v. Klevenhagen, 28 F. 3d 452 (5th Cir. 1994) (Use of Force)
• Morris v. Dillard Dept. Store, 277 F.3d. 743 (5th Cir. 2001) (Hog-Tie/Asphyxiation)
• Jackson v. City of Schertz, Texas, 2007 WL 4205709 (W.D.Tex. 2007) (Taser)
• City of Waco v. Williams, 209 S.W.3d 216 (Tex.App-Waco, 2006, pet. den.) (Taser)
• Hathaway v. Bazany, 2007 WL 3200413 (5th Cir. 2007) (shooting at a moving car)

Other relevant Circuit Court cases:
• Baskin v. Smith, 50 Fed Appx. 731 (6th Cir. 2002) (Handcuffing)
• Martinez v. New Mexico Dept. of Public Safety, 47 Fed. Appx. 513 (10th Cir. 2002) (Pepper Spray)
• Jennings v. Jones, 2007 WL 2339195 (1st Cir. 2007) (Pepper Spray)
• Robinson v. Solano County, 278 F.3d 1007 (9th Cir. 2002) (Seizure at Gunpoint)
• Kuha v. City of Minnetonka, 328 F. 3d 427 (8th Cir. 2003) (Use of Canine as Force)
• Robinette v. Barnes, 854 F. 2d 909 (6th Cir. 1988) (Use of Canine as Force)
• Cruz v. Laramie, 239 F.3d 1183 (10th Cir. 2001) (Hog-Tie/Hobble Tie)

Note: Instructor should discuss the different Circuit Courts and explain that Texas is in the 5th Circuit.

17.2.2. Describe psychological aspects of the use of force.

Law enforcement role in arrest:
• In physical arrest, the police role is essentially defensive
• The word defensive is defined as “serving to protect,” “devoted to resisting or preventing aggression or attack”
• It is not aggression when an officer takes the initiative to confront a law violator - the officer’s act is not one of hostility; it is one designed to defend and protect the community from criminality
• An officer’s problems may grow out of the use of force employed against a combative but unarmed law violator when reasonable alternatives to use of force are not employed.
• An officer needs a range of decision-making tools that permits use of exactly that degree of control that constitutes reasonable force

Concept of Control:
• Control is that degree of influence the officer must exert over the violator to take him or her safely into custody
• Control is a “two-way street.” An officer must be in complete self-control to be able to control a violator
• Self-control alone will be one of the greatest assets in dealing with a law violator
• Self-control results from the development of confidence in one’s skills
• Self-control is achieved through training and practice both on the job and off
• The objective of using control is to elicit cooperation from the violator
Emotions, Attitudes, Prejudices:
- Arrest can be both an emotional and physical problem for officer and arrestee
- Emotional response or reaction is directly involved in an encounter between an officer and a violator
- Attitudes or prejudices can lead to conflict
- An officer has the potential to reduce the problems and danger associated with physical arrest if s/he is firm but fair with the violator
- Emotional responses are often the direct result of uncertainty
- Uncertainty is likely to result in compensating behavior
- Compensating behavior may take one of the following forms: hesitation, verbal abuse, bluff, unnecessary force

17.2.3. Identify the deciding factors for use of force when effecting an arrest.

Use of Force Factors:
- In every arrest situation the officers must be firm and be prepared to protect themselves and others
- Force must be controlled and used wisely with a purpose
- Only the amount of force reasonably necessary to effect the arrest should be used
- An officer should consider the following factors when assessing the level of force that is reasonable under the circumstances:
  - Is the suspect submitting peacefully or resisting?
  - Is the suspect armed?
  - What is the nature of the crime?
  - Does the suspect have a previous arrest record or history showing a pattern of violence?
  - What is the number of suspects involved?
  - How much support from other officers is available?
  - What is the risk that the force chosen might cause injury to a bystander or other officers?

17.2.4. Identify moral considerations and forces affecting an officer's decision to use deadly force.

Moral considerations include statutory and case law and whether deadly force, justifiable, under the circumstances presented, may be avoided without risk of injury or death to the officer or others.

Administrative or departmental policy should be at least as restrictive as the law. In many cases it will be stricter than legal restrictions.

Informal organizational norms, which reflect law enforcement's informal culture, may or may not be stricter than legal or agency restrictions.

Individual choice or conscience reflects the inner controls of the officer.
Unit Goal: 17.3. The student will be aware of various force options or alternatives available to peace officers.

17.3.1. List and discuss force options available to peace officers.

Note to Instructor: Instructors are encouraged to begin using a use of force model similar to the Dynamic Resistance-Response Model (DRM).

Force Options:
- Professional presence - entering into a scene
- Verbal communications - words, language
- Weaponless strategies - takedowns, come-alongs, etc.
- Weapon strategies
  - Chemical/electrical means
17.3.2. Identify the principal considerations in applying a use of force.

Principal considerations:
- Ineffective control results when the level of force is less than the subject’s level of resistance.
- Excessive control results when the level of force is unreasonably greater than the subject's level of resistance potentially causing preventable injury.
- The force used should be no more than a reasonable officer would use under the total circumstances of the situation.
- Follow departmental policy and the law.

See PC, Chapter 9

Refer to departmental policy.

17.3.3. Discuss the impact of an officer’s professional presence.

Each scene has its own dynamics long before an officer arrives. Events change because of certain kinds of presences.

This same thing occurs when officers enter the scene; things change. This is due to the officers’ presence.

Officers must be able to think of the scene as it was before they entered it and what it becomes while they are present. People act differently under different circumstances, and officers’ entrances into a scene create new sets of circumstances. This means that officers must remain alert to the dynamics of the people present and whether elements within a group may be in the posture of assisting the officer or interfering with or hostile to the performance of duty.

Example: You are watching children at play and want to capture the moment on film. When entering the scene with a camera everything changes. The children become self-conscious and pose instead of being themselves. Whatever pictures are taken are different than they would have been had a hidden camera been used.

17.3.4. Identify the various aspects of communication strategies used when dealing with the public.

Communication is an important professional skill.

97% of an officer's duties involve verbal skills.
Only about 3% of contacts require physical force.

Elements of communication:
- Words, touch, body movement, message
- Content - actual message.
- Voice - verbal personality (how it is said).
- Non-verbals - raised eyebrows, posture, etc.

Perception of a message:
- 7% of the time a message is received due to content.
- 33% of the time a message is received due to voice.
- 60% of the time a message is received due to non-verbals (body language).

This means that approximately 93% of the time a message is received and interpreted based on how something is said rather than what is said.

Improper listening is not paying attention to what is said; such as merely waiting for the opportunity to speak as soon as someone finishes talking.

Communication is a professional skill, not just luck.

Peace officers must communicate under uniquely stressful conditions:
- To people who do not want to talk, or listen
- To emotionally charged individuals
- In dangerous circumstances
- While being watched by others
- To people who dislike and/or mistrust peace officers
- Most people respond positively to reasonable requests from a peace officer
- Frustrated people often resist
- Upset people are often incapable of acting reasonably and will not respond to appeals of reason
- Commands or orders usually meet with resistance
- An officer must trust tactics which redirect behavior
- Maintain disinterest (objectivity, free from bias, impartial, it does not mean un-interested, unconcerned, or mechanical)
- Learn to allow people to express frustration.
- Listen
- Do not take things personally

17.3.5. Identify elements that an officer must recognize and control in every encounter.

Problem:
- Analyze and identify the problem
Enables an officer to plan an approach
Problems often change as confrontation progresses

**Audience:**
- Everyone encountered is part of the audience
- How is the audience reacting? Examples: receptive, hostile, critical, etc.
- Read audience and adapt tactics appropriately
- If person has a friend in the audience you may try to enlist their help - ask the friend to help reason with and persuade the person to follow the officer's orders

**Constraints:**
Determine if there are any obstacles to effective communication and try to eliminate them if possible. Examples: time of day, weather, location, external noise, officer’s own mood, person’s values and beliefs, or the person is deaf, mentally ill, mentally retarded, intoxicated, etc.

**Ethical Presence:**
- An expression of self-control.
- Use words to state purpose, not to express personal feelings.
- Maintain professional attitude.
- Anything perceived as hasty, irrational, or unfair, makes an officer seem unethical.


**17.3.6. Identify some helpful “tools” used in redirecting someone’s behavior using verbal persuasion.**

**Listen:**
- Sort the real problem from the symptoms of the problem
- Determine priorities you must respond to
- Determine context of the event

**Empathize:**
- Understand the other person’s state of mind
- See through the eyes of the other person

**Ask:**
- Use questions to gain control by causing others to report to you
- Questions direct attention away from the problem
- Buys time
- Demonstrates concern
- Paraphrase
- Repeat what you have learned in your own words
- Forces other person to stop talking and listen
Helps to ensure that the officer understands situation
☐ Summarize
☐ Allows the officer to conclude the situation
☐ Officer provides the bottom line
☐ State the resolution clearly

Types of verbal appeals

Ethical appeal:
☐ Based upon position as a professional officer
☐ Assures other person
☐ Persuade others of your desire for a positive outcome
☐ This appeal is useful when dealing with people who are upset and highly emotional

Rational appeal:
☐ Based on use of reasoning
☐ Appeal to common sense, good judgment, or community standards
☐ Show that solution is reasonable and most likely to produce results
☐ This appeal is valuable when dealing with people having a strong sense of right and wrong

Practical appeal:
☐ Based on an urgent need to change a particular circumstance
☐ Ignores long-term consequences
☐ It is a short-term solution
☐ Adapt yourself and persuade the other person that you are like them
☐ Based on the beliefs and value system of the person

Personal appeal:
☐ Based on addressing person’s needs and desires
☐ Set aside own personal values
☐ This type of appeal works well with headstrong people who insist on getting their own way

Words are no longer working:
☐ When a person seriously threatens bodily harm to an officer or the general public, an officer’s control is compromised.
  ☐ Sometimes a person combines aggressive words and actions
  ☐ Words and gestures alone are not an attack
  ☐ Sometimes a person displays conflicting signs - words suggest one thing and actions suggest another
  ☐ A good principle to remember is: when words and actions disagree, trust actions.
Actions can also be misleading, but whenever words and actions disagree, be alert and ready to use force.

- When a suspect begins walking or running away, or when a person escapes from custody
- When an officer is forced to repeat the same words or ideas over and over, the officer should conclude that the person is not being persuaded
- When repeated refusal by a person to comply with a reasonable request constitutes a need for more than words
- When a person is unreceptive to alternatives after repeated appeals


17.3.3. Recognize criteria relating to a professional peace officer’s use of force.

A professional peace officer employs theoretical knowledge under constantly changing and unpredictable circumstances.

Criteria for assessing whether a person is acting professionally are:

- Ability to communicate effectively with those persons outside of the profession
- Ability to accurately assess the situation and define the problem
- Ability to know when to move from words to force
  - There is no clear-cut simple answer
  - As a professional, an officer’s use of force is:
    - Selective (the officer knows what kind of force and how much to use)
    - Appropriate (used in a controlled and purposeful manner)
- Ability to return to words and verbal strategies once the threat to an officer’s safety (or other’s safety) is over
- Possess the knowledge to recognize a person’s actions that indicates his/her being under the influence of some substance or having a mental or physical disorder.
- Ability to evaluate personal performance
- Capability of describing and characterizing performance to superiors
  - An officer must be consciously competent, i.e., know why you did what you did in any given situation.


17.3.8. Identify typical procedures that are followed after an officer-involved shooting.

Departmental Policy

Each department has its own procedures for investigating officer-involved shootings. Most agencies have extensive investigative procedures in such circumstances.
Note to the instructor: Emphasize that each department has its own procedures and that the officer should follow those procedures. Instructors should discuss evidentiary procedures common to use of force incidents and the involved officers’ role.

Applicable cases and codes:
- **Garrity v New Jersey**, 385 U.S. 493 (1967) ruled that evidence gathered from an employee under threat of dismissal was not admissible in a criminal trial
- Texas Government Code, Chapter 614, Sections 614.021, 614.022, and 614.023
- **Guthery v Taylor**, 112 SW3d 715 (Tex. App.-Houston [14th District] 2003, no pet.);
- City of Seagoville v. Lytle, 227 S.W.3d 401 (Tex. App.–Dallas 2007, no pet.)
- For civil service cities see Chapter 143 Local Government Code.
- Sheriff’s Civil Service see Chapter 158 Local Government Code

Internal Affairs Investigations:
Each department has its own policy and procedures concerning internal affairs investigations. Officers should be aware of these practices. Where there is the possibility of criminal charges being filed many departments will conduct separate investigations because of Garrity v. New Jersey. During an administrative investigation, officers may be compelled to answer questions, participate in a line-up, or take a polygraph examination. If the officer is warned of the possible consequences of non-cooperation, s/he may be disciplined. This information is not admissible in a criminal trial under Garrity v New Jersey. If any answer sought by the investigator (or any information derived from such answer) is intended for use in a criminal trial, the officer must be given the Miranda warning contained in Article 15.17 and 38.22 of the CCP. Texas statutes provide guidelines for investigations.

Unit Goal: 17.4. The student will understand the factors basic to unreasonable force and the possible consequences when excessive force is used.

17.4.1. Identify the possible consequences that may arise from improper or excessive use of force.

Federal Laws

Conspiracy against rights of citizens
(Conspiracy against rights of citizens-Title 18 Section 241 United States Code Annotated.)

Deprivation of rights under color of law
(Violations of the Civil Rights of Person in Custody - Article 39.04 Vernon’s Annotated Texas Penal Code.)

Deprivation of rights under color of law - Title 18 Section 242 United States Code Annotated.)
Federal civil rights complaints are investigated by the FBI:

- 10,000 to 12,000 complaints a year, one third are investigated with about 75 to 100 presented to a grand jury
- They look for clearly offensive, deliberate, and willful misconduct
- They may, if an agency is taking swift decisive action to punish misconduct, defer to that administrative process
- No good faith defense for criminal violations

17.4.2. Identify factors that the courts use to determine if unreasonable force was used in a case.

Court factors:

- Officers can be held to be personally liable for using excessive force - there are factors that may be considered in determining liability
- Reasonable force may be used to effect an arrest when an officer has probable cause for that arrest
- The 4th Amendment limits the level of force that may be used to reasonable force
- Reasonableness is based on individual facts and circumstances of the situation
- The need for force will be evaluated - the feasibility or availability of alternatives are considerations
- The extent of injury inflicted will be evaluated - minor injuries may be relegated to state court as a tort suit rather than as a Section 1983 cause

*See Civil Practice and Remedies Code, Section 101.55 Vernon's Texas Code Annotated.*

**Applicable cases:**
- Gordon v State, 707 S.W.2d 626 (Tex. Cr. App. 1986)

**Other considerations which might be used:**
- The nature of the offense in which control was lost
- Actions of third parties who were present
- An emergency situation which existed
- Behavior of the person against whom force was used
- The physical size, strength, and weaponry of the arrestee
- Known character of the arrestee

In general, an action is unreasonable if a reasonable man in similar circumstances would recognize the act as involving a risk of harm and a risk of such magnitude as to outweigh the utility of the act or the manner in which it was done. If an officer’s conduct in discharging his weapon creates a danger recognizable as such by a reasonable and similarly situated officer, They will be held accountable to others as the proximate result of his conduct.
The officer’s liability is affected by the agency's written directives.

Written directives of an agency may be used against the officer and/or the agency. Written directives of an agency may be used to support the officer and/or the agency. An officer using more force than the agency’s written directives allow is increasing his vulnerability to legal liability.

The potential for a conflict of interests arises in the legal defense of a suit in which an officer argues that he was only following agency policy and procedures in the use of force and is entitled to a good faith defense.

This argument, especially if the officer is called as a witness, could increase the local agency’s exposure to monetary liability. Some legal experts have maintained that officers and local governments should have separate attorneys for this reason. Officers should seek legal advice as to the correct course of action in this matter.

The officer’s liability is affected by not following prudent police procedures prior to the decision to use force. Failure to follow proper procedures can make a situation more dangerous. Failing to follow prudent procedures in stopping and confronting suspects may increase the risk that force be used. An officer can be found liable in his justified use of deadly force if his negligent conduct created a danger for himself or others.

An officer may face possible personal liability for failure to stop other officers from using excessive force in his presence.

A police supervisor has an affirmative duty to intervene to stop officers who are engaging in excessive force in his presence. A non-supervisory officer has an affirmative duty to intervene to stop officers and/or supervisors who are engaging in excessive force in his presence.

(CCP Art 2.13) (a) It is the duty of every peace officer to preserve the peace within the officer’s jurisdiction. To affect this purpose, the officer shall use all lawful means. (b) The officer shall: (1) in every case authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime.

A peace officer or peace officer supervisor has the duty to intervene if officers are engaging in the excessive use of force.

Applicable cases:
  • Davis v Rennie, 264 F3d 86 (lst Cir. 2001), holds that “An officer who is present at the scene and who fails to take reasonable steps to protect the victim of another officer’s use of excessive force can be held liable under 42 USC Sec. 1983 for their nonfeasance
  • Shaw v Stroud, 13 F.3d 791 (4th Cir. 1994), Supervisor may be liable for acts of
subordinate, even where supervisor has no direct involvement, if the supervisor has failed to document and take corrective action for prior similar acts of misconduct

Note to the instructor: Once students are through this and the Strategies of Defense topical areas, all techniques in these topical areas should be practiced and assessed in all scenarios, role-plays, and practical applications.
17. FORCE OPTIONS
USE OF FORCE

LEARNING OBJECTIVE: 17.1.2.

PURPOSE: Demonstrate to class the legal authorities for the use of force.

ACTIVITY: Scenario.

1. Set the scene:

   Officer confronts a suspect. As the officer approaches from approximately 30 feet, the suspect pulls a small caliber pistol and begins firing at the officer. The officer unholsters his weapon, drops to the ground and instantly notices a group of individual bystanders some distance behind the suspect.

2. Divide class into groups. Designate spokesperson and arrive at majority answer and report findings to class.

3. What force may the officer justifiably use?

4. By what authority?

5. What may be the consequences of his injuring a third party?

6. By what authority?
USE OF FORCE
LEARNING OBJECTIVE: 17.1.2.

PURPOSE: Demonstrate to class the legal authorities for the use of force.

ACTIVITY: Role play (in classroom).

1. Select one student suspect and one student officer.

2. Instruct suspect:
   - He is a suspect in a felony theft case.
   - Place his hands in his pockets and leave them during the interview.
   - He should be evasive with his responses to officers questions, particularly those regarding his whereabouts during the time the offense was committed.
   - If the officer asks him to remove his hands from his pockets, he should become argumentative.
   - Suspect should ask officer “why?” “Do you think I have a gun?”

3. Instruct officer:
   - Receive a call to investigate felony theft suspect. Only information available is that the suspect has his hands in his pockets.
   - Investigate.

4. Divide class into groups of equal number. Group designates a spokesperson and arrives at a majority answer and reports findings to class.

5. Can an officer demand suspect “take hands out of pockets?”

6. What can you do if he doesn’t?

7. What amount of force can be used to remove his hands from pockets, if any?

8. Why can force be used, if any?

9. By what authority?

10. Does an order to “take hands out of your pockets” create a risk that the officer might be injured if the suspect has a weapon in his pocket?
11. What alternatives are available to ordering a person to take his hands out of his pockets and what risks do such alternatives pose?

12. Place group responses on chalkboard and discuss differences. Elaborate on when and what force may be used.
USE OF FORCE
LEARNING OBJECTIVE: 17.1.3.

PURPOSE: Demonstrate to class the civil liabilities and legal remedies for unnecessary use of force.

ACTIVITY: Scenario.

1. Set the scene.
   - Officer is interviewing an individual and determines the individual has committed a violation and he is going to immediately place this person under arrest.
   - The officer tells the suspect he is under arrest for this particular offense.
   - The suspect is argumentative and uncooperative.
   - The suspect is not being physically aggressive.

2. Divide class into groups. Designate spokesperson and arrive at majority answer and report findings to class.

3. Is suspect legally able to respond to any physical force the officer uses to arrest him? If so, by what authority?
USE OF FORCE
LEARNING OBJECTIVE: 17.1.3.

PURPOSE: Demonstrate to class civil liability and civil remedies when unnecessary force is used.

ACTIVITY: Scenario.

1. Set to scene:

   Officer arrives at the scene of a reported shooting. He observes an individual lying face down across the threshold. The individual appears to be unconscious. He is bleeding from what appears to be a gunshot wound in his right side. You investigate and find a shotgun tied to a chair and a rope tied from the trigger device of the shotgun to the opened door. Your investigation further reveals that this was a device to deter burglaries.

2. Question(s). Group or individuals response(s).

   1. Is the owner or manager justified in using force to prevent the consequences of theft.

   2. If so, by what authority?
      If not, why not?

   3. Is the owner or manager justified in using force or the threat of force in this manner?

   4. If so, by what authority?
      If not, why not?
LAW ENFORCEMENT OFFICERS KILLED

Instructors should research current FBI statistics relating to law enforcement officers killed and assaulted

Unit Goal: 18.1. Demonstrate knowledge and skills of strategies of defense. (Use of Force is a prerequisite for this section.)

18.1.1. Identify the three basic concepts of weaponless strategies.

Three basic concepts of weaponless strategies:

- **Self-Control** - The police role in a physical arrest is essentially to protect the public and to take the violator into custody. It is important for the officer to maintain physical and emotional control to ensure the safety of the officer, the arrestee, and the public.

- **Balance** - Mental balance consists of being prepared to control your own emotional and physical self, and then to restrain the violator and, ultimately, the situation, not allowing the emotional level to overcome your self-control and balance. Physical balance is the position that allows you the ability to move while maintaining balance, strength, and advantage. Proper positioning includes staying just outside the suspect's reach but where you can view everything, with your gun side away from the suspect and with a balanced stance.

- **Awareness** - Observe the entire situation and be aware of where the suspect's hands are weapons, associates or relatives of the suspect, escape routes for the suspect, and your own footing.

*Professional Stance should be present during all demonstrations.*

*Verbal Communication should be present during all demonstrations.*

Cultural awareness and skill in verbal persuasion are also important.

**Principles of Self-defense:**

- Prevention
- Be aware of potential dangers
- Avoid overextending yourself
- Maintain the proper distance to allow yourself adequate reaction time
- If attacked, move out of the line of force rather than try to stop the force

18.1.2. Identify methods of weaponless defense.

**Weaponless Strategies:**

- touching
- joint-locking
- pressure points
- hand strikes and foot strikes
- blocks
  - hands
Weaponless strategies may be taught from standing and/or ground position.

18.1.3. Demonstrate techniques of weaponless defense.

18.1.4. Identify methods of weapon defense.

Note to the instructor: specific training is recommended for the desired weapon(s).

Handcuffs are mandatory. Other weapons are optional.

**Handcuffs (training mandatory)**

**Chemical and Electrical Devices:**
- taser
- OC pepper spray
- similar weapons

**Impact weapons:**
- straight baton
- expandable baton
- side handle baton
- similar weapons

A baton is classified as a weapon capable of inflicting serious bodily injury or death; however, impact weapons may be used in lawful situations requiring a degree of force greater than the use of weaponless strategies but less than the use of deadly weapons/force. [(Penal Code, 46.01(1), 46.15.]

Situations which may necessitate the use of a baton or impact weapon:
- When an officer is a member of a tactical squad in a crowd or riot control formation, the baton may be used to move, separate, disperse or deny a person access to a structure or through an area.
- When an officer is attacked by a suspect armed with a non-firearm type weapon, the officer may use the baton or disarm, distract, or disable the suspect, or to hold the suspect at bay until additional assistance arrives.
- When an officer is assaulted by an unarmed suspect, the baton can be used to disable the suspect or to defend against an assault.
- When the officer is confronted by several suspects who are threatening the officer, when the suspects are capable of carrying out the threats, and when they make an overt act to carry out the threats, the officer may use the baton to
fend off an attack or assault and make an arrest.

- When the officer is confronted by a suspect(s) who the officer has reasonable cause to believe committed a crime, and the suspect(s) refuses or fails to comply with the verbal commands prior to searching or handcuffing, the baton may be used to obtain compliance.

**Justification of baton use:**

- The officer has the burden to justify the use of a baton by the totality of the circumstances
- Consider the physical stature of the suspect(s) as compared to the officer
- Consider the need for immediate control of the suspect(s) or situation due to tactical determinations such as:
  - the officer’s perception of the suspect's knowledge or apparent knowledge of a fighting form
  - the assumption of an aggressive stance by the suspect
  - the suspect’s inability to be restrained by lesser means due to the influence of alcohol and/or other drugs. (Penal Code, Section 9.51)

**Guidelines for baton use:**

- Should normally be positioned between the officer and the suspect
- Maintain a good defensive position whether left- or right-handed
- Do not intentionally use a baton to strike at the head or throat

**Strike and non-strike areas:**

- Strike areas
  - center mass of arms
  - center mass of legs
  - abdomen
- Non-strike areas (see also deadly force below)
  - above plane of shoulders
  - groin
  - center of back (spine) / kidney area
  - pectoral region (chest)
- Definition would apply to whichever system is used

18.1.5. Demonstrate techniques of weapons defense.

18.1.6. Identify basic concepts of weapons retention.

18.1.7. Demonstrate techniques for weapons retention.

18.1.8. Identify the differences between deadly and non-deadly use of force.

**Use of deadly force:**
Peace officers may use deadly force to protect themselves or others when and to the degree they reasonably believe an immediate threat of death or serious bodily injury exists. - PC 9.32, 9.33.

Relate deadly force to:
- empty hand techniques
- control weapons
- chemical and electrical devices
- firearms
- vehicles
- other topics
  o Penal Code
  o units dealing with arrest

Unit Goal: 18.2. Demonstrate knowledge and skills of the physical process of arrest.

18.2.1. Identify factors influencing an officer’s discretionary authority in arrest and non-arrest situations.

Factors influencing discretionary authority:
- Officer discretion in arrest/non-arrest situation
- Ascertained likelihood of behavioral disorders
- CCP Sec. 14.06(b)

18.2.2. Identify risk factors and appropriate response.

Risk factors:
- Suspect's mental attitude/behavioral disorders
- Time and location
- Intoxication
- Spectators supportive attitude toward subject
- Officer attitude

18.2.3 Evaluate the advantages of the various methods of approaching, confronting, and interviewing the suspect.

Direct approach (on foot):
- Advantage - observe all movements
- Disadvantage - lose surprise element and vulnerable to resistance

**Rear approach (on foot):**
- Advantages - surprise; reduces probability of direct attack
- Disadvantage - may provoke physical response in defense of him/her self

**Side approach (on foot):**
- Advantage - suspect off balance
- Disadvantage - cannot observe all movement; reduces surprise

**One vs. two officers (on foot):**
- Visual contact with each other
- Approach should be spread in V formation
- Plan confrontation
- Communicate
- One officer in charge
- Side officer keep hands free, gun away from suspect, observe suspect hands

**Interviewing subject(s):**
- one officer
  - observe all of the subject’s actions
  - gun side away from subject
  - non-restricted physical position to allow movement
  - hands free of unnecessary items
- two officers
  - same as one officer
  - V position
  - one officer in command

**Physical contact - position:**
- to side or rear of subject when possible
- subject should be off balance
- keep subject verbally informed of your actions and expectations

**Frisk, if justified, for:**
- weapons
- officer and/or public safety
- one officer vs. two officers
- stress safety
- stress pat down vs. search

**Arrest:**
In clear language, advise the subject of the reason for the arrest. Subjects may resist officers simply because they don’t understand the nature of the arrest.

Utilize this information in every scenario and role-play possible to give students practice in the various methods of approaching and confronting suspects.

**18.2.4. Explain methods of applying handcuffs and other restraining devices.**

*Provide each student with a set of handcuffs and the opportunity to apply handcuffs on other students. Stress safety throughout the lessons.*

**Positions:**
- standing
- sitting
- prone
- kneeling

**One suspect:**
- hands to rear
- palms out
- keyhole up
- handcuffs double-locked
- in an emergency, apply in any manner possible

**Two suspects and one set of handcuffs:**
- right hand to right hand
- left hand to left hand
- this procedure causes them difficulty in running

**Two suspects and two sets of handcuffs:**
- hands to rear
- arms interlocking
- palms out
- keyhole up
- handcuffs double-locked

**Supplements to handcuffs:**
- tie
- belt
- shoelaces
- strips of cloth
- plastic handcuffs

Remember, handcuffs are a temporary restraining device only!
Baskin v. Smith, 50 Fed App. 731 (6th Cir. 2002): Handcuffing too tightly and failing to double-lock the handcuffs may lead to an excessive force claim when the officers have been placed on notice of a suspect’s complaints, especially if the suspect expresses a medical condition aggravated by the handcuffs.

18.2.5. Demonstrate techniques of applying handcuffs and other restraining devices.

Academy advisory boards should set minimum standards of proficiency

18.2.6. Explain methods of the physical search of suspects.

Note to the Instructor: Stress safety throughout the lessons.

Open Area Search:
- from the rear
- watch the arms
- one holding suspect’s waistband from the rear (see note below)
- search with free hand

Prone Search:
- Face down
- Arms extended outward
- Legs spread

Kneeling Search:
- On knees
- Legs crossed
- Hands behind head
- Fingers laced
- Back arched

Let your hands do the searching. Officers’ eyes should be on subject to observe movement. The advantage of holding suspect’s waistband from the rear is officer safety. Should the suspect attempt resistance, (s)he can be pulled backward or pushed forward, giving the officer an opportunity to step away.

Consult departmental policy for searching females.
Provide an opportunity for the student to practice proper procedures of searching on other students.

Wall Search

Note to the instructor: The wall search is a high-risk technique. The instructor may need to discuss wall search techniques that have been used. Information about specific procedures should be obtained from the academy’s defensive tactics instructor(s).

18.2.7. Demonstrate techniques of physical search of suspect.

18.2.8. Explain methods of escorting and transporting suspects.

Officers should consult departmental policy.

Suspect(s) are to be handcuffed at all times in every situation, as outlined below.

Escort and transport methods

Walking:
One officer, one suspect:
- officer to the rear and side of suspect with gun side away
- holding waistband or belt between cuffed hands vs. holding arm

One officer, two suspects:
- officer to rear

Two officers, one suspect:
- to rear of suspect
- one officer on either side
- one officer holding either arm

Two officers, two suspects:
- to rear of suspects
- one officer on either side of suspects
- holding waistband or belt between cuffed hands vs. holding arm

Transporting:
One officer, one suspect:
- right front seat, if no cage
- seat belt fastened
- door locked
- officer place his/her gun on left side
Two officers, one suspect:
- right rear seat, if no cage
- officer, left rear seat, if no cage
- seat belt fastened
- door locked
- officers place their guns on left side

Two officers, two suspects:
- rear right and center rear seat, if no cage
- officer left rear seat, if no cage
- door locked
- officers should place weapons on left side, if no cage

Note: Because of the danger involved for the officer, one officer should not attempt to transport more than one prisoner at a time without access to special transporting equipment.

For officer safety, a peace officer should search the seating or carrying area of his/her vehicle for weapons or contraband when going on duty and also after each prisoner transport is completed.

*Provide and opportunity for the student to practice methods of escorting and transporting procedures.*

**18.2.9. Demonstrate techniques of escorting and transporting suspects.**

**18.2.10. Demonstrate the ability to affect an arrest.**

Components:
- keeping prisoner in sight
- maintaining control
- handcuffing
- transporting

*Be sure that all students can effectively demonstrate procedures in effecting an arrest.*
22. Professional Police Driving

Unit Goal: 22.1. The student will acquire an understanding of an officer’s legal obligations and liabilities when operating a vehicle.

22.1.1. Identify the definition of “authorized emergency vehicle” and the situations in which the driver of an authorized emergency vehicle is exempt from certain provisions of the Transportation Code (TC).

“Authorized Emergency Vehicle” references:
- Definition - TC 541.201 (1)
- Operation of A. E. V. and Certain Other Vehicles – TC Chapter 546
- Permissible conduct - TC 546.001
- When conduct permissible - TC 546.002

Note to the instructor: This is not a pursuit course. Any course meeting the objectives noted herein are acceptable. It is recommended that instructors have advanced training in vehicle operations.

Review agency policy.

Simulators may be used to enhance skills. However, actual hands-on training must be done using sedan vehicles of similar type, power, and handling characteristics as are commonly used in the agency or region for law enforcement purposes.

22.1.2. Identify the exemption requirement regarding the use of red light and siren.

Red light and siren references:
- Audible or visual signals required - TC 546.003
- Exceptions to signal requirement - TC 546.004

22.1.3. Discuss the normal “rules of the road” that apply to an officer operating a law enforcement vehicle under non-emergency conditions.

“Rules of the Road” references:
- General Provisions - TC Chapter 542
- Government vehicles - TC 542.002

Note to the instructor: Failure to train is a liability issue of concern in vehicle operations training at the agency level.
22.1.4. **Identify the conditions under which an officer or law enforcement agency may be held liable for deaths, injuries, or incidents of property damage that occur while in an emergency vehicle being operated under emergency conditions.**

**Liability situations:**
- Failure to drive with due regard for the safety of others.
- An agency when it has not adopted a written policy on police pursuits.
- A negligent or wrongful act or omission by an employee of the entity.
- When not in immediate pursuit of actual or suspected violator or responding to a bonafide emergency.

See also:
- Duty of care - TC 546.005
- City of Lancaster v. Chambers, 883 S.W.2d 650 (Tex. 1994)
- County of Sacramento et al. v. Lewis, 523 U.S. 833 (1998)

**Review agency policy.**

22.1.5. **Identify the issues that are usually addressed by a law enforcement agency’s pursuit policy.**

**Issues usually addressed by pursuit policy:**
- The conditions under which a pursuit may be initiated and when it should be terminated.
- The manner in which emergency equipment (light and siren) should be used.
- Pursuit procedures.

22.1.6. **Identify the effectiveness and limitations of emergency equipment and vehicle equipment.**

**Equipment effectiveness and limitations:**
- Headlights reduce visibility of emergency lights
- Surrounding environmental conditions reduce effectiveness of lights
- As speed of vehicle increases, effectiveness of audible warning devices decreases
- Audible devices are less effective in heavy traffic
- Distractions inside motorist's vehicle reduce effectiveness of sirens
- High density urban/business structures cause siren sound deflection
Unit Goal: 22.2. The student will be able to identify the essential elements in conducting a pre-shift safety inspection.

22.2.1. Identify the three basic objectives of a pre-shift vehicle safety inspection.

The three basic objectives of a pre-shift vehicle safety inspection:

- Prevent traffic collisions due to faulty equipment
- Maintain operational efficiency of the vehicle
- Provide a sense of confidence in the vehicle

22.2.2. Identify the components of a pre-shift vehicle inspection.

Components of a pre-shift vehicle inspection:

- Mechanical check
- Interior check
- Exterior check
- Required inventory

22.2.3. Identify the techniques of proper vehicle operation.

Vehicle operation techniques:

- Seat adjustment
- Mirror adjustment
- Foot placement
- Hand placement

22.2.4. Identify the proper steering techniques for various aspects of vehicle operation.

Vehicle steering techniques:

- Hand positioning
- Shuffle steering
- Evasive steering
- Counter steering
- Unavoidable collisions
Unit Goal: 22.3. The student will acquire an understanding of the importance of the defensive driving components necessary to safely operate a law enforcement vehicle.

22.3.1. Identify the following components of “defensive driving.”

Defensive driving components:
- Driver attitude
- Driver skill
- Vehicle capability
- Driving conditions

22.3.2. Identify the factors that may contribute to traffic collisions.

Factors contributing to traffic collisions:
- Overconfidence
- Self-righteousness
- Impatience
- Preoccupation
- Peer pressure

22.3.3. Identify the following driving movements or activities most frequently contributing to law enforcement collisions.

Most frequent factors contributing to law enforcement collisions:
- Unsafe speed for conditions
- Right-of-way violations
- Left-hand turns
- Backing
- Parking

22.3.4. Identify the reasons why “fatigue” is a physiological condition which poses a threat to safe driving.

Fatigue poses a threat to safe driving because it:
- Lowers visual efficiency
- Causes longer perception time
- Causes longer decision/reaction time

22.3.5. Identify the advantages of using seat (safety) belts when driving a vehicle.
Advantages of using seat belts:
- Reduced chance of injury or death if involved in a collision
- Better vehicle control
- Compliance with applicable statutes and/or policy
- Proper placement of lap belts and head rests

Unit Goal: 22.4. The student will acquire an understanding of the basic safety factors involved in vehicle operation.

22.4.1. Identify the traffic conditions that affect safe vehicle operation.

Safe vehicle operation factors:
- Traffic density
- Speed of vehicles
- Type of vehicles
- Pedestrians
- Animals

An officer must be able to articulate alternatives to, risks and benefits of pursuit, including seriousness of the offense and must continually weigh such factors from the moment a pursuit is initiated until its termination.

City of San Antonio v. Trevino, 217 S.W.3d 591 (Tex. App. San- Antonio 2006, no pet.)
University of Houston v. Clark, 38 S.W. 3d 578 (Tex. 2000).

22.4.2. Identify the conditions which influence the overall “stopping distance” of a vehicle.

Stopping-distance factors:
- Driver
- Vehicle
- Road
- Weather
- Speed

22.4.3. Identify the effects of speed upon a turning vehicle.

Speed affects turning because:
- Turning radius increases as speed increases and decreases as speed is reduced
- Traction limits may be exceeded as speed increases
- Weight transfer increases as speed increases

22.4.4. Identify, in the proper sequence, the components of total stopping distance.

Stopping distance components (in order):
• 1 - Perception of danger
• 2 - Decision/reaction
• 3 - Braking

Unit Goal: 22.5. The student will develop proficiency and demonstrate his ability to control a vehicle under acceleration, maneuvering, and braking conditions.

22.5.1. Demonstrate proper road position, weight transfer control, throttle control, braking and steering accuracy (both forward and backward), and while performing a series of driving exercises.

22.5.2. Demonstrate the ability to rapidly displace the vehicle, left or right, or stop upon command on a marked course.

22.5.3. Demonstrate the proper techniques for efficient braking when coming to a complete stop, prior to a turning movement, and in an emergency.

22.5.4. Demonstrate the ability to regain control of a vehicle experiencing a front skid.

22.5.5. Demonstrate an ability to safely control a vehicle while operating under emergency conditions; applying proper driving techniques and avoiding potentially hazardous situations such as road obstacles, cross traffic, road dips, and other obstacles.

Note to the instructor: This course of instruction is not designed to address the special issues of skills relative to pursuit driving. The speed at which the exercises are executed will be determined by the agency conducting this block of instruction. Sufficient obstruction-free space should be utilized to prevent accidents and facilitate layout of exercises. Where obstacles are encountered, consideration should be given to the course layout so as to reduce the likelihood of collision.
24. Patrol/Consular Notification

Unit Goal: 24.1. To provide an understanding of the importance and methods of patrol function and preparation.

24.1.1. List the patrol functions.

Objectives of Patrol:
- To preserve the peace by mere presence and by proper action.
- To prevent crime by opportunity reduction; Duty to prevent.
- To suppress crime by timely response to crimes in progress and by properly investigating offenses.
- To apprehend suspects.
- To regulate non-criminal conduct by obtaining and maintaining good officer–citizen relationships to protect life and property [Refer back to Professionalism and Ethics Section, Topic # 3].

Importance of Patrol:
- Protection: prevention of crime is the soundest of all criminological theories.
- Service: to the community of which each peace officer is a part.
- Duties and powers - CCP 2.13
- Duty of peace officer as to treats - CCP 6.05
- Peace officer to prevent injury - CCP 6.06
- Conduct of peace officer - CCP 6.07

Refer to IRG

24.1.2. Identify the methods of mental and physical preparation.

Elements of shift orientation:
- Duty assignment
- Related circumstances, i.e., warrants, current stolen property/vehicle lists, hazardous situations, and special events.

Elements of beat characteristics that the officer should know early on in assignment:
- Area and its socio-economic and geographic characteristics
- Conditions
- Crime hazards
- Crimes committed in area
- Knowledge of assigned area, such as location of streets, businesses, schools, hospitals; which way street numbers run; traffic routes, i.e., main arterial streets, dead ends, overpasses, back roads, one-way streets, and alleyways.
- Increases probability of on-site arrest and officer safety

Familiarization with known offenders:
Their habits and types of crimes
TCIC/NCIC information
Increases probability of arrest

Personal hygiene

Proper uniform (according to local conditions and department policy)

Clean weapons

**Equipment Readiness Check:**
- Vehicle, weapons, radio, fire and first-aid gear, etc.
- Report or replace non-working or unsafe equipment

### 24.1.3. Identify basic safety awareness tactics.

**Knowledge of cover and concealment:**
- **Cover:** Being hidden while also being protected by some barrier that provides an adequate level of protection from danger/injury (brick walls, automobile engine, etc.)
- **Concealment:** Being hidden but without protection (shrubs, sheetrock, etc.) ..

**Knowledge of safe foot approaches**
Awareness of cover/concealment and officer-suspect approaches

**Knowledge of safe vehicle approaches**
Positioning of vehicles, lighting, etc.

Students to apply knowledge and techniques in scenarios.

*Refer to IRG*

**Unit Goal: 24.2. To provide an awareness of the hazards a peace officer may encounter when on patrol.**

#### 24.2.1. Determine the various kinds of hazards encountered while on patrol.

**Silhouetting:**
- Placing your self, others or your patrol unit in a position so as to provide the suspect(s) with a definite identifiable target.
- Provides suspect(s) with knowledge of how many officers are present, fire power, and approach.
- Allows suspect(s) to plan course of action.
- Attempt to select location for vehicle stop.
- Back-up units secure headlights, reds and ambers upon approach of primary unit.
• Hold flashlight well in front and away from body. Do not point toward other officers.
• Do not stand in doorways and hallways or peer openly through broken or otherwise open windows.

Telltale noises:
• Vehicle, engine
• Parking unit too close to scene
• Radio volume too loud
• Seat belts/pop the buckle
• Letting unit door slam shut
• Equipment, i.e. radio, keys, whistles, baton, handcuffs, portable radio

Suspects’ hands:
• Demand suspect place hands in front of him/her and turn palms up.
• Do not allow subject to put hands in pockets.
• Possibly hiding contraband (evidence) in pockets, weapon, and/or identifiable marks, scars, or tattoos.
• If hands are already in pockets, do not allow removal.
• Situational discretion needed - suspect to turn head away and/or kneel or lay on ground before checking for weapon.

Report hazards such as:
• Roadway hazards, dead animals, animals on roadway, traffic control devices, crime hazards.
• Contact appropriate authorities, depending upon the type of hazard, as soon as possible.

Students to apply knowledge and techniques in scenarios.

Refer to IRG

Unit Goal: 24.3. To provide understanding of the various concepts and different techniques of patrol.

24.3.1. Identify the two types of problem area patrols.

Preventive patrol:
• Preventive enforcement: conduct property checks, question suspicious persons, vary patrol patterns and predictability and maintain high visibility.
• Selective patrol: deals with specific problems or violations, so be aware of the problem, the location, and the time of day that the problems usually occur.

Apprehension patrol
• Low visibility and surveillance
24.3.2. Refer to IRG

24.3.3. Identify the advantages of the six different patrol modes.

Bicycle patrol:
Advantages: flexibility where use of motorized vehicles is impractical or impossible, allows for high visibility and intense patrol. Many cities and college campuses choose bicycle patrol in preventive efforts and to improve community relations.

Motorcycle patrol:
Advantages: quick response, flexibility to cover large area, can be used as escort units, and are effective in traffic law enforcement.

Foot patrol:
Advantages: immediate traffic control; person-to-person contact; good public/community relations; increased knowledge of physical beat; develop informants; increased knowledge of community needs and potential crime hazards.

Automobile patrol:
- Advantages: speed, mobility; visibility increases preventive potential; protection of officer; permits officer to carry extra equipment
- Check vehicle for mechanical defects, contraband, and weapons before beginning patrol
- Do not spend too much time in drive-ins or coffee shops; if another patrol vehicle is there, do not stop
- Conferences between patrol vehicles should be located on main thoroughfare where they can be seen; encourages preventive enforcement
- Watch driving speed and observe rules of the road
- Never leave keys in the patrol vehicle
- Remain alert and prepared for an emergency

Fixed wing and helicopter patrol:
Advantages: available in emergency situations, can cover enormous area, allows sky view of fleeing persons or vehicles, excellent apprehension tool when used with ground units.

Mounted patrol:
Advantages: Person-to-person contact, good public/community relations, better mobility in crowded areas, visibility increases in a crowd.

24.3.4. Discuss the various patrol methods.

One-officer patrol:
• Having twice as many patrol vehicles on the street doubles preventive enforcement.
• When the officer is alone, more attention is devoted to patrol functions and duties.
• An officer alone develops self-reliance, rather than depending on a partner for backup.
• A lone officer in a patrol vehicle takes fewer chances.
• Personality clashes are reduced.

Two-officer patrol:
• Greater safety factor.
• Can be used as a training aid for the correction of officer mistakes.
• Share driving duties.
• Two pairs of eyes are better than one.
• One officer can operate the radio while the other drives.

Refer to IRG

24.3.5. Discuss effective observation skills.

Skilled observer: one who is able to take in everything around a given situation and then sort out the relevant from the irrelevant.

Observation Skills:
• See everything there is to see and take it in quickly and accurately
• Look for clues in situations
• Learn own beat area
• Be aware of everything around you constantly
• Draw conclusions about what you see
• Catalog what you see for possible future use also

The other senses:
• Use the other senses whenever possible to collect information and “see” everything around you
• Smell, e.g., unusual odors, burning materials, alcoholic beverages
• Touch, e.g., feeling of hood or muffler of automobile to determine how recently it was driven; feeling texture in fabrics; detecting fire and/or vibrations by touching pliable surfaces such as a wall
• Taste - has little or no application and is extremely dangerous to the officer
• Hearing is an extremely important sense used in police work. Examples could include glass breaking, arguing, gun shots, etc.
Effective observation can contribute significantly to crime prevention and successful prosecution of crimes, and it includes protecting the public from natural or man-made hazards.

An officer must be able to accurately and meticulously describe persons and property.

Refer to IRG

Note to the instructor: Practice and evaluate observation skills throughout the course in classroom activities. Refer also to descriptive activities in "The Interpersonal Communications/Report Writing" section.

Unit Goal: 24.4. To provide an understanding of the various concepts and techniques used when confronting pedestrians and conducting field interviews.

24.4.1. Demonstrate a proper pedestrian stop.

When a pedestrian is...
- Carrying something suspicious
- Acting strangely
- Staying in the same place
- Stopping other people on the street.

Where to perform a pedestrian stop:
- Note escape routes
- Gauge number of people that could be hurt
- Place where least number of hostages possible
- Gauge officer safety
- Report location to dispatcher.

How to perform a pedestrian stop:
- Use effective verbal communications
- Approach carefully: maintain visual contact with suspicious person, approach on right side since most people are right-handed, watch for furtive movements or attempts to flee, establish early eye contact, and be aware of surroundings.

Applicable cases:
- California v Hodari, D., 111 S. Ct. 1547 (1991)
- Terry v. Ohio, 392 U.S.1 (1968)

Refer to IRG
24.4.2. Demonstrate techniques used while interviewing persons during field operations.

One officer with one person:
- Field interview position recommends the officer to place gun side away and stand approximately one arm's length or more from the person. Depending upon the situation and the size and disposition of the person, the officer may want to use discretion in positioning.
- The "gun hand" should remain free when practical
- Maintain overall observation of the person
- Be aware of surroundings

One officer with two or more persons:
- Assume the recommended field interview position and speak to the person to be interviewed - Refer to field inquiry section
- Stand in a safe position where persons can be restrained if necessary
- Maintain overall observation of persons
- Move as necessary to prevent persons from closing in or surrounding officer

Two officers with one person:
- The officer initiating the contact should exercise all the precautions noted above
- The second officer should take position to the right or left rear of the person being interviewed (avoid cross-fire situation)
- One officer should take lead in gathering information.

Two officers with two or more persons:
- The officer initiating the contact should proceed as previously described
- The second officer assumes a position, which allows maximum visibility of the persons, avoid lengthy conversations, which would detract from safety awareness, and communicate any observations of threat or hazard to the primary officer

Instructor may want to use scenarios to demonstrate techniques

24.4.3. Demonstrate the use of the field inquiry.

Field inquiry is …

Used to learn about people:
- Subject's reaction to inquiry.
- How people react to questioning by police.
- Personal contact with citizens opens relationships for future information.
- Puts officer on one-to-one basis with public.
A vital source of information:
- The people in the area personally know the officer.
- The officer learns the socio-economic make-up of the people in the area.
- The officer learns where people work and becomes aware of who the store clerks are, what time they travel to and from work, and what types of vehicle they drive.
- People observe and know many things and will tell a good officer who has developed proper rapport through field inquiry.

Used to learn about places:
- Houses, buildings and stores have specific observable characteristics.
- A light on in a building, where none has been before.
- No attendant at cash register in convenience store.
- An open or broken window of closed business or home.
- Suspicious persons in alley or other area where no one usually goes.
- Broken or missing lock on gate.
- A light out over a rear or side entrance to a closed building.
- Vehicles parked in alley or area where none is usually parked.
- Tire tracks across lawn to back of building.

Unit Goal: 24.5. To provide an understanding of the various concepts and techniques used to assess risk in vehicle stops and other responses to calls for service.

24.5.1. Identify the seven-step violator contact method.

The seven-step violator contact method:

1. Greeting and identification of the police agency:
The greeting may be accomplished in the most natural way for the officers. They may introduce themselves, or use only a “Good Morning,” “How do you do?” or other natural greeting. This is a courtesy we owe to every citizen stopped. Regardless of whether the officers are in a marked car and in uniform, they should identify themselves and name the agency. The objectives in the greeting are to employ business courtesy, to help make the subject feel at ease, and to establish a common ground free of unnatural actions, superiority, or deference. Smile and speak in a quiet voice. Remember there are many citizens and a great number may not reside in the locale and therefore do not recognize the uniforms. A greeting and identification of the agency represented are important, not only to the violator, but to the success of the contact.

2. Statement of violation committed:
The officers owe the driver the courtesy of telling him/her at once the reason s/he has been stopped. This step should emphasize the seriousness of the violation and serve to create a proper effect upon the violator. If the case is one of speeding, the officers should ascertain whether attending circumstances might morally justify such speed to a normal, prudent person. After being told of the violation for which s/he has been
stopped, the question, “Is there any reason for your excessive rate of speed?,” offers the subject an opportunity to justify his/her actions if a reason exists, and if none, places him/her in a position of admitting the violation. However, with the above exception, one should refrain from asking questions concerning the subject’s knowledge of the violation committed. Remarks made by the officer should be in the form of a statement rather than a question.

3. Identification of driver and check of conditions of violator and vehicle:
The officer should identify every violator stopped by requesting his/her driver’s license. If the subject does not have license, the officer should ask for other identification, preferably one that carries the subject's description. If the subject has none, the officer should write down a brief description of the person: age, height, weight, eyes, hair, marks, and address. The officer, after identifying the subject, should call him/her by name during the remainder of the interview. Should a violator hand an operator's license to the officer in a purse or billfold, have him/her remove the license themselves so that no accusations can be made about loss of money or important papers. A close comparison should be made between the description of the individual and the description of the subject on the driver’s license.

4. Statement of action to be taken:
The officer should make a clear statement, in a firm but calm manner that will leave no doubt as to the action planned. Example: “You will be charged with the offense of speeding in the Justice of the Peace Court in Austin. You will be given ten (10) days (Specify Procedure) in which to answer this charge. You are going to be charged with the offense of passing with insufficient clearance. You will be warned for the violation, which you have committed. A record of this violation has been made and we ask that you cooperate by driving your vehicle in compliance with traffic regulations.” Patrol officers should practice the technique of refraining from using the work “I” during the violator interview. Place the emphasis on the violator, and the violation committed, by using the word “you.” When the patrol officer states that, “I am going to...,” the action shifts from the violation committed to the action to be taken by the officer and affords the violator an opportunity to shift the blame from the offense committed to the action taken by the arresting officer. When the “you” technique is practiced, much unpleasantness is avoided.

5. Take that action:
Write the citation, take the violator into custody, or call his/her attention to the seriousness of the violation and possible consequences (warning), therefore performing the action in the manner the officer has decided.

6. Explain what the violator must do:
Explain to the violator exactly what action s/he must take. That is, (s)he must get into the patrol car, follow the patrol car, appear at a certain court by a certain time and before a certain Magistrate, or refrain from repeating the violation. A short explanation serves to dispel much uncertainty in the mind of the violator. Make the explanation clear and be sure the violator understands. Remember, s/he may not be familiar with the courts and the locations involved as you are. A little extra time here may result in more appearances on time and less warrant service.

7. Leave:
Closing the contact with the violator is awkward for many officers. It is an opportunity to create a feeling of friendliness if the proper technique is used. Gloating attitude should be avoided. An expression of real friendliness by the officer and an attitude of helpfulness and service are desired. Do not overdo it, however; the officer should never give the subject any reason to think that (s)he is sorry for giving the violator a ticket and that s/he now wishes to “oil the water.” The leave taking should be as firm and impersonal as the approach. A “Good Afternoon” or “Good Luck” spoken in a sincere, yet business-like tone is sufficient. When the violator contact has been broken, immediately return to the patrol car.

Refer to IRG: Mandatory activity

24.5.2. Identify the procedures for a high-risk vehicle stops.

Use caution in all vehicle stops - no vehicle stop is routine.

Procedures for stopping high-risk vehicles or felony stops:

- Notify dispatch of location and description of vehicle (license plate if possible) and request back up. When practical, wait for back up before signaling suspect vehicle to stop.
- Signal suspect vehicle to stop by use of horn, siren, red lights, or public address system and maintain safe distance behind.
- When suspect vehicle stops, notify dispatch of exact location.
- If possible, offset the patrol vehicle to the left of suspect vehicle giving officer more protection. If not possible to offset, position the patrol vehicle at an angle facing the right front to the suspect vehicle.
- If dark, illuminate the suspect vehicle with spotlight.
- Leave flashing lights and emergency flashers on to warn passing motorists of potential danger.
- Draw weapon to cover suspects.
- Orders given to suspects in loud, clear, steady voice:
  - to slowly exit vehicle by reaching outside of driver's window and open door from the outside with the left hand, stop, place hands in the air, walk backwards slowly toward the patrol unit, stop, lie face down, feet to patrol unit, legs spread, arms out stretched one to exit suspect vehicle unless ordered to do so;
  - All occupants to remain still and to look ahead;
o Driver to turn off ignition and drop the keys outside of suspect vehicle;
o All occupants to place and keep hands in view of controlling officer;
o Driver touched, and palms up;
o Driver not to move;
o Other occupants to follow same procedure one at a time beginning with those in the front seat.

- After all occupants are out of vehicle, check interior and be aware of the trunk, in which another suspect could be hiding.
- Handcuff and search all occupants, one at a time.
- Secure suspect vehicle per department policy.

24.5.3. Identify the procedures for safe responses to crimes in progress calls.

Prowler calls, burglary-in-progress calls, robbery-in-progress calls:
- Never a “routine” call
- Safety in approach: driving/vehicle operation policies, watching for fleeing suspects.
- Danger cues: observe layout of situation, observe suspects, awareness of suspect v. victims.
- Adhere to department policy - communicate with dispatcher.
- Communicate and cooperate with other officers - radio, verbal signals, and hand signals.
- Department policy - waiting for back up.

Refer to IRG

24.5.4. List the procedures for safe building searches.

Buildings where illegal entry is suspected:
- Notify dispatch
- Request backup
- Secure point of entry
- Secure other exits
- Request dispatcher to notify property owner to advise location of office, safe, cash register
- Leave enough officers outside to secure perimeter
- At least two officers should enter the building to make search.
- Search should be based on all knowledge available.
- Backup team covers search team as they enter the building and then guards the place of entry/exits providing any help possible
- Members of search team should be aware of other members and their location
- Search the premises using the "leap frog" techniques (one officer covering the other as they move from place to place)
• The team should stay together and search each room thoroughly before moving to
the next room. Each room searched should be secured or under observation if
possible
• In most cases, the team should leave the suspect(s) an opportunity to leave the
building - a trapped intruder may start shooting

Refer to IRG

24.5.5. Identify the procedures for safe response to incidents involving explosive
devices.

Describe safety procedures to be employed in area:
• Determine make up and population of area threatened.
• Determine if evacuation is necessary.
• Secure area, control entry of unauthorized persons.

Describe procedures for obtaining specialized assistance at scene:
• Determine what assistance is available, Fire Dept., Ambulance, Bomb Squad,
Military EOD.

Identify factors that affect decision of whether search is to be conducted:
• Determine size and location of area, and possible locations for a bomb
• Is there time for a search?
• Is time of detonation known?
• Can area be evacuated or not?

Describe proper search techniques to be employed:
• What are possible types of device-size, makeup, mechanical, electrical-may be
obtained from initial report? What to look for
• Identify common types of bombs or suspicious objects that could be bombs.
• Solicit information from individuals that would be familiar with the area and what
would be out of the ordinary/suspicious.
• Search for bomb using proper techniques-turn all radios off within 500 feet of
search area, do not touch anything that looks suspicious.
• If a device or suspicious object is found evacuate the immediate area and call
specialized assistance. Do not move the device!

Consult department policy on evacuation procedures..

24.5.6. Explain procedures for the safe response to an active shooter by the first
responders

Active shooter procedures:
• Active Shooter defined: One or more persons who participate in a random or systematic shooting or stabbing spree, demonstrating their intent to continuously harm others.

• Immediate Action defined: A plan for the immediate deployment of law enforcement personnel confronted with a homicide in progress situation, where a delayed response may result in death or serious bodily injury to innocent persons.

• HIPS: stands for Homicide in Progress School. HIPS situations involve random acts of violence committed by an active shooter, whose intent appears to be that of mass murder rather than some other criminal conduct. Furthermore, these acts are usually committed in public places, like a school or an office occupied by many unsuspecting victims.

24.5.7. Recognizing the homicide in progress.

There are several factors that appear to separate the actions from an active shooter from other mass murderers:

• The active shooter lacks a desire to conceal his crime spree or intent to escape apprehension

• The active shooter may very well be using this form of mass murder to gain final notoriety and go out with a bang

• The active shooter positions himself with access to potential victims, such as a school, office building, or restaurant

• Injured victims are present and requiring immediate medical attention

• An immediate intervention by police is required to save lives

The advantages and disadvantages of immediate action:

There are advantages and disadvantages of taking immediate action. First responders must identify the need to take action, and then follow with immediate action to achieve a tactical objective. These objectives must be based upon a system of priorities. The overall objective of our response must be to save as many lives as possible.

Priorities:

• Stopping the action of the suspect by using deadly force or isolating the suspect from potential victims

• Rescuing victims the suspect has wounded or may have access to

• Apprehending the suspect

Advantages:

• The ability to rapidly deploy officers to confront then neutralize the suspect

• To quickly contain and isolate the suspect from other potential victims

• To move in and rescue the wounded or evacuate potential victims.

Disadvantages:

• Arriving officers receive minimum information regarding the suspect’s description, actions, weapons or the environment where the situation is occurring
• Specialized weapons and ballistic protection may have to be left behind or may not even be at the scene
• Heavy radio traffic may interfere with communication
• There is minimal time for planning prior to immediate action
• If homicides have already occurred or people have been critically wounded, one is more than likely confronting a no win situation

24.5.8. Identify critical considerations in a homicide in progress

Critical homicide considerations:
• Is a homicide in progress actually occurring?
• Can the suspect be located?
• If the suspect is located, can he be positively identified?
• How many suspects are involved?
• What type of floor plan or environment is involved?
• When wounded persons or others attempting to flee and hide from the suspect are encountered how will they be handled?

Remember, if a suspect is actively shooting and wounded individuals are encountered, will you stop to assist them or evacuate them to a location where they can receive medical attention, or will you continue on? Herein lies the no win situation. If you stop to render aid, the suspect’s actions may create more victims. If you continue, the person you have passed may die.

To help in making these types of decisions consider the following assessment:
• Can you get to the suspect quickly and stop him?
• Are there other potential victims in the building?
• Are there other officers moving up in immediate action formations ahead of you or behind you

What to expect when encountering a homicide in progress

A homicide in progress call will quickly overwhelm the individual and the resources of the police, EMS and fire department no matter the size of the agency or city. When responding to an incident one can expect to encounter significant things relating to the situation, oneself and the aftermath.

Situation:
• Multiple victims with varying degrees of injuries
• Numerous people throughout the danger area and the inner perimeter
• Potential victims fleeing and hiding
• Hysteria when encountering people
• Significant auditory and visual impairment, such as screaming, radio blaring, explosions, alarms, poor lighting, etc
• Gunfire, possibly from multiple locations
• Sprinkler systems activated
• Improvised explosive devises

Self:
• Shaking, sweaty hands
• Increased rate of breathing or holding one’s breath
• Dry mouth
• Loss of peripheral vision
• Reduced auditory ability
• Loss of fine motor skills
• Fear
• Intense physical and mental duress

Aftermath:
• Self doubt about one’s action
• Grief, anguish, and anger by the survivors and relatives of the victims
• A relentless media in pursuit of blame and sensationalized stories
• Monday morning quarterbacking by many “tactical experts”

24.5.9. Establish an immediate action plan tactics.

The following instruction introduces the immediate action plan to be utilized if a first responder is confronted with a homicide in progress situation. It employs a four-officer team with a clearly identified objective prior to deployment, whether it is a contact team or a rescue team. There is no 100% safe tactics. Only some of the risk can be eliminated while most can only be reduced.

Immediate action – contact team vs. rescue team

Contact Team:
• Definition - A proactive search team dedicated to locating and eliminating the deadly conduct that is occurring.
• The mission of a contact team is:
  o Stop the deadly behavior
  o Limit the suspects movement
  o Prevent an escape
  o Continue past victims
At the first opportunity provide intelligence to other teams (i.e. intelligence on victims, explosives, suspects, weapons, etc)

**Rescue Team:**
- **Definition** - A slow moving and methodical team whose mission is to search for and recover downed citizens or officers.
- **The mission of a rescue team is:**
  - Enter and/or approach location to locate victims
  - Report suspect’s location if possible
  - Extract victims to safe area
  - Notify medical personnel if necessary
  - To gather intelligence on other hazards

If necessary, additional officers can be added to rescue teams to accommodate the number of victims. Rescue teams should coordinate their actions with the contact team. At any time during their mission they can become the contact team.

**24.5.10. Demonstrate a proper team formation of the diamond formation or linear (T) formation.**

**Point man:**
- Team leader/lead cover man
- Covers unknown threats while team enters a room to search
- Acts as a rear guard during the egress

**Contact/rescue man #1 or “left flank”:**
- Maintains radio contact or communications with other officers
- Makes room entries
- Searches for victims
- Physically carries victims out on rescue
- Covers unknown threats on left flank

**Contact/rescue man #2 or “right flank”:**
- Makes room entries
- Searches for victims
- Physically carries out victims
- Covers unknown threats on right flank

**Rear guard:**
- Provides rear security for the team
- Acts as point man on the team’s egress

**24.5.11. Define crowd management.**

**Crowd Management:**
When conditions or circumstances warrant a high level of awareness, departments should gather information and provide advanced warning for civil unrest.

**Resources for gathering intelligence should include but not limited to:**
- Civic leaders and organization
- Citizen and church groups
- Street rumors
- Arrestees, utilize information from all known offenders with criminal history in civil unrest, not just those known to patrol

Department should be aware of warning signs leading to civil unrest and take whatever action necessary to prevent or prepare for it.

**Factors to be considered when organizing for crowd management:**
- Court verdicts
- Union strikes
- Police shootings or incidents in a tense community

**24.5.12. Procedures for responding to crowd control situations.**

The first officer on the scene in response to any incident needing assessment of crowd management should consider the following objectives: officer safety first, the protection of life and property, request for any assistance from other officers or agencies and EMS/AFD if needed.

The first responder should assess the situation and advise the dispatcher as soon as possible

**Information for the dispatcher:**
- Activity of the crowd (hostile or passive)
- Size of the crowd
- Weapons or objects known
- Safest route for other officers to get to the scene
- Most practical location for a command post and parking

The first responder should also establish secure perimeters and attempt to identify leaders or agitators of the crowd

Proactive plans should be forwarded through the chain of command for any needed approval prior to implementation. After receiving approval from the departments chief or sheriff officers should then move in teams or squads to the troubled area and take the necessary steps to eliminate any problems.

**Key objectives:**
- Disperse crowds
- Arrest violators
Discuss the organization or summoning of a rapid deployment team

**Unit Goal:** 24.6. To prepare the student to maintain the peace and safeguard lives and property during situations calling for crowd management.

24.6.1. Define selected types of crowds and mobs.

**Crowds:**
A crowd is a large number of persons temporarily congregated. Generally, the members of a crowd think and act as individuals and are without organization.

Crowd classifications:
- **Casual crowd:** Has no unity of purpose and no leadership, i.e., shoppers, on-lookers, or watchers who come and go, and will usually respond to direction by police.
- **Cohesive crowd:** Usually assembles for a common purpose without leadership, i.e. spectators at sporting events, along parade routes, and other activities. They have a common interest but behave and think as individuals.
- **Expressive crowd:** Are assembled for some purpose. They have leadership and the intention of expressing an attitude for or against some person or idea, i.e., political rallies and picket lines.
- **Aggressive Crowd:** Is usually assembled for some purpose. They have positive leadership, are determined to accomplish a specific end, and move actively toward their objective. Usually high emotional tension is present. This type crowd can easily become a mob. Consequently, this type of crowd presents an acute police problem.

Refer to IRG.

Seek student input on crowds/mobs they have seen or been a part of and what the circumstances were.

**Note:** Most crowds the officer will routinely encounter include high school sporting events, music concerts, flash mobs, etc. Students should refer to local policy for specific procedures. Officers should remember that most persons in a crowd are not the “enemy.”

**Mobs:**
A crowd develops into a mob when all or most members of the crowd have been instilled with a purpose and intent to carry out their purpose, regardless of the consequences. Transformation can be made, for example, by the urgings of a forceful crowd leader, the appearance of an individual of importance to the crowd, or the accomplishment of an act of violence. A mob reaches the hot stage when acts of violence are committed.

**Mob classifications:**
- Aggressive Mob: An aggressive mob riots and terrorizes as in the case of race riots, lynching, political riots, or prison riots.
- Escape Mob: A mob in a state of panic. In their attempt to secure safety by flight, members of an escape mob may have lost their power of reasoning.
- Acquisitive Mob: A mob motivated by a desire to acquire something, i.e., food riots.

*Note to the instructor: Seek student input or use current events to emphasize these types of crowds/mobs as a part of our society.*

### 24.6.2. List the elements of the offenses relevant to crowd control.

#### Violations:
- Trespass on School Grounds - TEC 37.107
- Disruptive activities - TEC 37.123
- Exhibition of Firearms - TEC 37.125
- Disruption of classes - TEC 37.124
- Disruption of transportation - TEC 37.126 (see also Penal Code 46.03 and 46.035)
- Disorderly conduct – PC 42.01
- Riot - PC 42.02
- Obstructing highway or other passageway - PC 42.03
- Defense when conduct consists of speech or other expression - PC 42.04
- Disrupting meeting or procession - PC 42.05
- Funeral disruption – PC 42.055
- Dispersing riot- CCP 8.04
- Officer may call aid - CCP 8.05
- Means adopted to suppress - CCP 8.06
- Officer may require aid - CCP 8.01
- Officer may summon aid - CCP 2.14
- Person refusing to aid - CCP 2.15

The right of the people to peaceably assemble - U.S. Constitution

Note: Officers should refer to local ordinances.

### 24.6.3. Identify factors of responding to crowd control situations.

#### Response factors for crowd control situation:
- Agency policy concerning crowd control procedures
- Manpower, equipment and tactical alternatives usable in crowd/mob management.
- Control crowd/mob with necessary use of force. Police objectives are different from those of the military in that police officers may use only that amount of force necessary to make an arrest. And this force cannot, in any case, be disproportionate to the degree of resistance offered. See CCP 14.05, PC 9.
The front and center of the mob is usually the highest point of tension. The leaders and excited individuals who are exercising unusual influence upon the others will be located here. The show of force (if necessary) should be concentrated at this point.

- Legality of a demonstration, e.g., political rally, spectators at sporting events
- Identify leaders and agitators
- Procedures for communicating with crowd/mob

Unit Goal: 24.7. To develop an understanding of, and appreciation for, the unique opportunities available through effective public service.

24.7.1. List the goals of public service.

Goals of public service:
- To provide protection and service.
- To minimize cultural/emotional barriers separating peace officers and the public.
- To create an officer/citizen relationship that supports the best interests of society.
- To create empathetic response to citizen concerns/needs.

Refer to IRG

Note to the instructor: You may have class to prepare a general statement, accompanied by class input regarding the concepts of "protection" and "service", with examples of each.

24.7.2. Identify the consequences of public service.

Consequences of public service:
- Negative consequences of ineffective public service:
  - Lack of trust and respect
  - Reduced budgetary support for needed personnel, equipment, programs, etc.
  - Increased citizen complaints
- Positive consequences of effective public service:
  - Increased trust and respect, resulting in improved dialogue and general sense of well-being.
  - Support for budgetary requests
  - Reduction in citizen complaints

24.7.3. Identify different methods designed to enhance public service.

Visual presence:
- Vehicular
- On foot
- Other
Non-punitive interaction with the public: Talking to people

Community involvement (on-duty):
- Public speaking and participation at civic gatherings
- Civic groups
- Professional groups
- Clubs
- Other service-oriented agencies (YMCA/YWCA, Big Brother/Big Sister, Human Services, etc.)

Seeking Citizen Input:
- Informal
  - Stop and talk
  - Foot patrol conversations
- Formal
  - Questionnaire
  - Prepared questions when addressing various civic groups, clubs, etc.

Public Services Announcements Via Media - Public Relations Officer

Crime Prevention Tips

Radar Locations Announcements

Crime Stoppers

“Most wanted” Announcements

Citizen “Police Academies”
- Selection of community leaders and general representation of the community (professional, blue collar, etc.)

Overview of Policing, its needs/problems:
- Role
- Budget
- Crime trends
- Police procedures
- Legal issues

24.7.4. Identify community resources that can be used for assistance in emergencies.

Emergency community resources:
• Request assistance arising from emergency cases: ambulance for injured, fire department, patrol transportation
• Salvation Army
• Battered spouses/children
• Rape Crisis
• United Way
• Animal control officials
• City services
• Medical examiner (ME) & Justice of the Peace

Refer to IRG

Note to the instructor: Provide general information on services each entity provides, or have students obtain such information as an assignment.

Unit Goal: 24.8. Recognize the value of the crime prevention function and to perform crime prevention activities.

24.8.1. Define the role of law enforcement in providing crime prevention services to the public.

Definition of crime prevention: A proactive anticipation, recognition, and appraisal of a crime risk and the action needed to remove or reduce that risk.

The crime prevention role within law enforcement:
• An officer's primary responsibility is that of crime prevention. Every law enforcement officer is a crime prevention officer by the technical definition as well as the moral responsibilities of the job.
• The crime prevention officer must assess the crime problems in his particular area of responsibility and devise ways to prevent their further development.
• Investigation and arrest after the occurrence of a crime may help to prevent further crimes by that individual, but the procedure is reactive rather than proactive.

See the SARA technique in Problem-Solving and Critical Thinking unit

Refer to IRG

24.8.2. Identify methods to gain citizen involvement in crime prevention.

The cooperative role of law enforcement and citizens in the prevention of crime

Role of Opportunity Reduction:
• In order to prevent the occurrence of crime, the opportunity for someone to commit the crime must be eliminated or reduced
• Before opportunity can be reduced, a proper assessment must be made of the crime target
• Opportunity for different crimes may be reduced in different ways, such as citizen awareness and involvement, physical security (locks, lights, alarms, specific action for specific preventable crimes)

Assessing a crime problem:
• Gather information on crime trends in areas of responsibility using all possible resources such as, investigation bureau, crime prevention unit, investigative supplemental information sheets, crime analysis, discussion with officers from adjoining beats, citizenry
• Interpret the information gathered to determine in what areas focus is needed, such as high crime risk areas, most prominent types of crime, victims characteristics, times when the crimes are occurring

24.8.3. List the elements of a crime prevention program.

Methods of opportunity reduction:
• From a citizen awareness point of view, prevention of specific crimes requires specific action.
• It is the function of the patrol officer to spot opportunities and take steps to correct them by working with the citizens.
• The patrol officer should be aware of crime prevention practices for the most common crimes.

Security Surveys-residential/commercial:
• Fill out form/report, including who has keys to house and vehicles; makes, models and license numbers of vehicles; lights left on; animals
• Check exteriors - doors, windows, locks, and alarms
• Check perimeter - landscaping, lighting, fences, and walls
• Check interior - operation ID, security habits

Neighborhood watch/residential security:
• Neighbors getting to know each other and working together with local law enforcement in a program of mutual assistance
• Residents being trained to recognize and report suspicious activities in their neighborhoods
• Implementation of crime prevention techniques such as home security, operation ID, etc.

Note to the instructor: It is recommended that the students conduct a residential and a commercial survey.

Operation ID/property inventory:
• Citizens are encouraged to mark their personal property, e.g., cameras, stereo, appliances, etc., with their driver license number
• Many law enforcement agencies provide electric engravers for the citizen to use, as well as labels to attach to the home, indicating all valuables have been marked for identification by law enforcement
• Citizens are encouraged to make an inventory list of personal property (including manufacturer, model number, serial number, size, color, description) for insurance and stolen property reports and identification

Business crime prevention for crimes such as:
• Robbery
• Burglary/business watch
• Fraudulent checks, credit cards
• Shoplifting, internal theft
• Arson/vandalism

Personal Safety:
• Assault, robbery, purse snatch, pickpocket, fraud
• Sexual assault prevention, self-defense

Youth crime prevention:
• School resource officer program (youth-law enforcement relations)
• Junior crime prevention officer (youth trained in residential security)
• Operation stay-in-school (truancy/burglary reduction)
• Child safety/sexual assault prevention

Domestic violence/child abuse:
• Conflict resolution
• Parenting classes
• Community responsibility/reporting
• Crisis intervention and referral

Unit Goal: 24.9. The student will understand the duties and responsibilities of the officer regarding consular notification.

24.9.1. Identify the provisions of consular notification as per the Vienna Convention on Consular Notification and bilateral treaties.

Note to the instructor: Show the video – “It’s the Right Thing to Do” – U.S. Dept. of State, Bureau of Consular Affairs (see the U.S. Department of State’s website for publications and other resources: travel.state.gov)

Basic Rule – (VCCR Article 36):
• A foreign detainee must be informed of his right to have his consulate notified
• Arrestees decision should be documented
• Applies to all foreign detainees, whether in the country illegally or not

Mandatory Rule:
• Certain consulates MUST be notified regardless of the wishes of the detainee
• Refer to Consular Notification and Access handbook and Consular Notification and Access reference card

Right to Privacy:
• Does not apply to mandatory notification of foreign nationals covered by a bilateral treaty
• Privacy of citizens of VCCR countries should be respected

24.9.2. Identify the steps to be taken when a foreign national is arrested.

Steps in the arrest of a foreign national:
• Ask the detainee if (s)he is a U.S. citizen
• Check the list of mandatory notification countries - if mandatory notification is required, do so without delay (most bilateral treaties allow a maximum of 72 hours to make notification).
• If not on the list of mandatory notification, ask if they wish for their consulate to be notified of their arrest or detention
• Keep a written record of the arrestees/detainees response
• Document your notification (date, time, method of notification, and the person notified)

24.9.3. Identify the purpose of the Vienna Convention on Consular Notification treaty and bilateral treaties.

VCCR and bilateral treaties make notification an obligation:
Purpose – To ensure that a foreign national is not placed in a situation in which he cannot receive assistance from his own government.

24.9.4. Identify the forms of access a consular official may have to an arrested foreign national.

Consular official access:
• Visit
• Call
• Write
• Consuls must follow the regulations of the detention facility (security, time, place, manner of visits)
• Services of a consular officer
  o Arrange legal representation
  o Monitor progress of the case
  o Ensure a fair trial
Monitor conditions of confinement
• Provide reading material, food, medicine, other necessities

24.9.4. Identify the forms of access a consular official may have to an arrested foreign national.

• Legal reasons – Its “the law of the land”
• Policy reasons – Reciprocity
• Pragmatic reasons – To avoid investigation and litigation


Pass out Consular Notification and Access Reference cards.

Have students’ role play arrest of a foreign national and practice selecting the appropriate statement to be read to the arrestee from the card.

Have the students, through role-play of the arrest of a foreign national; determine if notification of the arrestee’s consulate is mandatory.
24. PATROL / CONSULAR NOTIFICATION
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.1.1.

INSTRUCTIONAL STRATEGY: Essay Writing (individual) homework

PURPOSE: Have the student demonstrate, in a written format, an understanding of the objectives and importance of patrol.

1. Assign students to write an essay as homework.
2. Essay should incorporate 5 objectives and 2 factors concerning importance of patrol as found in course content.
3. Length: 2 pages
4. Evaluation based upon:
   a. Report writing skills
   b. Written communication skills
5. Use essays as basis for class discussion.
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.1.2.

INSTRUCTIONAL STRATEGY: Role Play

PURPOSE: Demonstrate knowledge of the elements involved in shift orientation and beat characteristics through interaction with other students.

1. Instructor to construct briefing scenarios.
2. Individual students brief each group of students.
3. A class critique should follow the group work.
4. All elements found in the course content must be used.
5. Evaluation based upon:
   a. Accuracy
   b. Verbal communication skills
   c. Note taking and problem solving abilities

6. Use information for scenarios contained in domestic violence and investigative units of this course.
7. Develop bulletin board with information that might be found in typical briefing room (wanted vehicles, persons, etc.).
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.1.2.

INSTRUCTIONAL STRATEGY: Videos and Discussion

PURPOSE: To encourage the student to be able to identify and understand the need to be mentally and emotionally prepared for patrol, "the officer's edge", and to develop a "survival attitude". Demonstrate an understanding of basic safety awareness tactics, personal equipment check, and the need to report non-working or unsafe equipment.

1. View video or films (as chosen by instructor) in whole class.
2. Follow video/film with class discussion.
3. Have student write a brief summation of concepts presented or discussed in class. No more than one page.
4. Evaluation:
   a. Written communication skills under pressure
   b. Observation and retention
   c. Student participation in discussion
   d. Analytical skills
   e. Knowledge of what took place in class
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.1.3.

INSTRUCTIONAL STRATEGY: Reading and class discussion

PURPOSE: Provide student with knowledge of hazards encountered while on patrol.

2. Have students take notes.
3. Have a class discussion of reading material and of course content.
4. Evaluation:
   a. Reading comprehension
   b. Student participation
   c. Note taking skills
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.3.1, 24.3.2, 24.3.3.

INSTRUCTIONAL STRATEGY: Homework (write paper)

PURPOSE: Provide students with knowledge of two types of problem area patrols, five patrol patterns and the five different modes of patrol.

1. Assign (as homework) students to write a one-page paper contrasting concepts of preventive patrol vs. apprehension patrols. Give pros and cons of both.

2. Next day have class discussion of patrol patterns and when each is appropriate.

3. Evaluation:
   a. Writing skills
   b. Logic
   c. Problem solving abilities
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.3.4.

INSTRUCTIONAL STRATEGY: Reading Assignment and discussion

PURPOSE: Identify various patrol methods


2. Class discussion on one-officer patrol and two-officer patrol and advantages & disadvantages of each

3. Evaluation:
   a. Student participation
   b. Logic
   c. Communication Skills
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.3.5.

INSTRUCTIONAL STRATEGY: Role-play or video

PURPOSE: Aid the student in developing observation skills

1. Give a brief lecture on tips/techniques for developing observation skills developed from course content as basis.

2. Select several students to perform role-play (any given situation) or show a video.

3. Have students record what they see.

4. Have students report observations, discuss details and any differences among observers.

5. Evaluation:
   a. Peer evaluation
   b. Class discussion

NOTES TO INSTRUCTOR:

1. Instructor to supply students with handouts on tips/techniques for developing observations skills.
2. Mention that everybody sees things a little differently; each has his/her own observation style.
PATROL / CONSULAR NOTIFICATION
UNIT GOAL 24.4.

INSTRUCTIONAL STRATEGY: Role-play

PURPOSE: Confronting pedestrians

Role 1--Officer Jameson:

On routine patrol you observe a man, apparently drunk, sitting in a store entrance. It's after midnight. You stop to determine his condition. He is coherent but too drunk to be allowed to remain on the street.

Role 2--Phil Adams:

You are a 62-year old salesman. You have just had a night on the town. You sit down on the steps of a nearby store to rest. You live miles away in another city. You have lost your wallet, you have no money, and you realize you are stranded. You are new in the area and have no local friends. You notice a police officer approaching.

1. Select students to be in role-play.
2. Allow those students about 5 minutes to read their roles and get ready to play them.
3. The students may not look at anyone else's role. They should read their own parts carefully and play the roles conscientiously.
4. After the role-play, the "officer" will discuss with the class his reasons for taking the actions he did. The other player will describe his reactions to the "officer's" approach and the decisions he made.

The instructor or an assigned student should evaluate each role-play from the point of view of the actions taken and their appropriateness with reference to the situation. Highlights of all the role-plays should be summarized and related to conclusions practical for street-level police work.

[Source: Project STAR, Module #12, Situation 3, p. 12-41.]
PATROl / CONSULAR NOTIFICATION
UNIT GOAL: 24.4.

INSTRUCTIONAL STRATEGY: Role-Play

PURPOSE: Conducting field interviews

1. Instructor-prepared handouts: pedestrian stops, when/where/how, techniques, methods, use of field inquiry/interview
2. Group role-play simulating:
   a. One officer, one person (Source: STAR module #12, situation 3, enclosed)
   b. One officer, two or more persons (vary the above situation to fit each one of these criteria)
   c. Two officers, one person
   d. Two officers, two or more persons
3. Students use and fill out sample field inquiry (F.I.)
4. Class critique and discussion of activity and uses of F.I.
5. Evaluation:
   a. People skills
   b. Verbal communications
   c. Information on cards (peer evaluation)
   d. Student participation in class discussion
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.5.1

INSTRUCTIONAL STRATEGY: Role-play

PURPOSE: Seven-step violators contact method

1. Assign students to play role of officers and violators (vehicle operators). May wish to videotape for critique.
2. Students should use seven-step approach in role-play violator contact.
3. Role-play should simulate normal, and unusual and unforeseen circumstances (see possible scenarios below).
4. Identify, through class discussion, alternative approaches. Emphasize need for attention to danger cues and for careful, deliberate decisions involved in each individual situation.
5. Evaluation:
   a. People skills
   b. Professional bearing
   c. Communication skills
   d. Problem solving abilities
   e. Evaluation of each student's adherence to the 7-step approach and/or appropriate alternative approaches.
   f. Ability to deal with stress/anger

POSSIBLE SCENARIOS for ROLE-PLAYING:

1. Traffic violator contact for running a stop sign. Student violator is cooperative and cordial.
2. Traffic contact with belligerent, abusive, argumentative and uncooperative student violator for running red light (Traffic Signal). Be innovative!
3. Traffic contact with elderly violator for unsafe lane usage and running stop sign. Elderly violator locks vehicle doors and refuses to roll down windows more than a crack, (1 inch).
4. Suggest your own role-play involving traffic stops and need to use alternative methods. May want to use a scenario with a deaf violator.

[Source: Project STAR, Module #12, Situation 1, p. 12-39]
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE:  24.5.3.

INSTRUCTIONAL STRATEGY:  Video and discussion

PURPOSE:  Crimes in progress

1. View films of officer responding to crimes in progress, plus readings:
   a. MII training films ("Crimes in Progress")
   b. Calibre Press
   c. Other appropriate films that relate to Texas law and/or typical practice (if films are unavailable, instructor may want to build scenarios or simulation activities)

2. Have students write summation after viewing films, studying scenarios, or completing readings.

3. Class discussion of main points and safety factors.

4. Evaluation
   a. Student participation
   b. Short quiz of key points with peer evaluation.
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.5.4.

INSTRUCTIONAL STRATEGY: Field Exercise

PURPOSE: Safe building searches

1. Handouts prepared by instructor on building searches/open areas searches, search patterns, methods, techniques, and safety considerations.

2. Day field exercise: students search for planted objects and persons in:
   a. Building
   b. Field or vacant lot

3. Night field exercise: students search for planted objects and persons in:
   a. Building
   b. Field or vacant lot

4. Evaluation:
   a. Participation
   b. Cooperative skills
   c. Observation skills
   d. Note taking
   e. Problem solving skills
   f. Communication skills
   g. Success at finding objects or person
   h. Class critique
PATROL / CONSULAR NOTIFICATION
UNIT GOAL: 24.6.

INSTRUCTIONAL STRATEGIES: Handouts, discussion, written summaries

PURPOSE: Have students demonstrate knowledge of crowd management skills.

1. Handouts:
   a. Methods and techniques of crowd management
   b. Types of crowds
   c. Right of assembly.

2. Class discussion:
   a. What crowd management situations are officers most likely to be involved in?
      - sporting events, concerts, public rallies
   b. Discuss your agency's policy
   c. Ask students what types of crowds/mobs they have personally been involved in.
   d. Discuss local ordinances
   e. What are the constitutional rights to peaceably assemble (Amendment #1)?
   f. What are the recommended procedures for crowd control?

3. Written summary of discussion highlights and legal issues

4. Evaluation:
   a. Participation
   b. Peer evaluation
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.6.3.

INSTRUCTIONAL STRATEGIES:

PURPOSE: Recommended procedures

1. If an arrest is to be made, obtain an adequate number of officers to respond.
   - It may be best to ignore minor violations
   - Physical harm to any person, including peace officers, cannot be ignored
   - Enter the crowd/mob quickly and as unobtrusively as possible, affect the arrest, and exit quickly
   - Do NOT get into verbal confrontations with those assembled

2. Dispersing a crowd/mob:
   - If possible, allow the crowd/mob to drain itself of energy and disperse by itself.
   - If dispersal is necessary, consider the following:
     o Assemble an adequate number of officers
     o Approach the crowd/mob as a unified group
     o Present an inverted “V” of officers to the group, whereby the crowd can be moved to either side as officers advance, if arrests are made, those arrested are placed inside the “V”, and handed off to waiting officers.
     o Present a united line of officers placed diagonally to the crowd. As the line advances, the crowd is able to move away to either side of the line, much the same as the effect of a road grader on a dirt road
     o When approaching a crowd, ALWAYS allow its members an escape route. People who are told to move away, and then are not able to comply, will ultimately resist.
     o DO NOT give the crowd/mob an order that officers are not able to carry out. Similarly, allow the crowd adequate time to comply with orders/directions.

Note to the instructor: Re-emphasize the right of persons to peaceably, assemble, and the officer’s duty to protect such rights as well as enforce the law.
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.71. and 24.7.2.

INSTRUCTIONAL STRATEGY: Role-Play and Discussion

PURPOSE: Goals and consequences of public service

1. Handout describing the goals of public service (see course content). Star Project, President Commission on Criminal Justice Admin., The L.A. Report are other possible sources.

2. Student role-play of officer/citizen interaction in:
   a. Negative scenario
   b. Positive scenario

3. Discussion of student impressions
   a. Positive aspects
   b. Negative aspects

4. Evaluation:
   a. Student participation in discussion
   b. Short quiz on key points, peer evaluation

Notes to the instructor concerning the role-plays:

1. Select two students; one to play the officer and one to play the citizen.
2. Put one chair in front of the class to represent the police car.
3. Give students 5 minutes to read their roles and get ready to play them.
4. Let students observe the role-play.
5. Discuss how students would feel as the citizen in each role-play.
6. Compare the two role-plays.
PATROL/ CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.7.1.

INSTRUCTIONAL STRATEGY: Role-play

PURPOSE: Goals of public service

Role-Play #1
Citizen approaches officer (sitting in chair) about the theft of his car. The officer seems bored and does not bother to get up. Officer takes information in an uninterested way and treats citizen like he (citizen) is really putting the officer out. After all, this is routine to the officer. Officer tells citizen that the car will probably be stripped and that the citizen might as well get used to the idea. Let students observe and discuss observations how they would feel as the citizen.

Role-Play #2
Citizen approaches officer (sitting in chair) about the theft of his car. The officer gets out of the chair, really acts concerned about the situation, and take the report while standing up. Officer is cordial, interested, and immediately makes a broadcast of stolen vehicle information. Officer is helpful; advises citizen about contacting insurance officers to contact someone to provide citizen with transportation. The officer has a positive attitude, shows genuine concern, and is helpful and informative.

*Note to the instructor: incorporate the four goals of public service into the second scenario.*
PATROL / CONSULAR NOTIFICATION

LEARNING OBJECTIVE: 24.7.3.

INSTRUCTIONAL STRATEGIES: Lecture, handouts, student speaking presentations, panel discussion.

PURPOSE: Different methods to enhance public service

1. Lecture 20 minutes on importance of public opinion, use and effectiveness of foot and vehicle patrol


3. Student impromptu speech (3 min) each to class on: (use handouts) - (Allow 10-15 minutes preparation)
   a. Crime prevention tips
   b. Citizen police academies
   c. Importance of public opinion
   d. Public service

4. Panel discussion involving representatives of media, law enforcement, prosecuting and defense attorneys, citizens groups. Topics should evolve around public opinion, media relations, public service (pros and cons), and police needs/problems.

5. Evaluations:
   a. Public speaking/oral communications
   b. Demeanor
   c. Presentation content
   d. Participation in class discussions.
PATROL / CONSULAR NOTIFICATION

LEARNING OBJECTIVE: 24.7.4.

INSTRUCTIONAL STRATEGY: Panel and Student Research

PURPOSE: Have the student identify community resources.

1. Describe and list helping/emergency organizations
   Examples
   a. Ambulance
   b. Fire
   c. Other law enforcement
   d. Red Cross
   e. Salvation Army
   f. Rape crisis
   g. Battered spouses/children

2. PANEL ACTIVITY: See Project Star Module #13 (attached)

3. Student's assignment: Committee

   Survey local community to identify, list and provide description of community
   resources for dealing with emergency situations for use as referrals.
   SURVEY FORM: from Project Star Module #7 (see attached)

4. Class involvement in developing list of resources on chalkboard or chart

5. Evaluation:
   a. Student participation in class list.
   b. Investigative skills
   c. Quiz, peer evaluation
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE:  24.7.4.

INSTRUCTIONAL STRATEGY:  Panel

PURPOSE:  Community Resources as a Deterrent

This activity focuses on community resources that can be used by law enforcement personnel in crime prevention activities.

Invite three members of the community to participate in a panel discussion on "The Use of Community Resources as a Deterrent to Crime." Participants might be a:
   Service club member
   Member of the Chamber of Commerce
   Security patrol officer
   News or TV reporter
   Teacher
   Transportation employee.

Contact the panel members asking them to think about ways they can work with the community to deter crime, ways they can observe and report situations or conditions that might cause crime or involve criminal activity, and ways law enforcement personnel can better use community resources.

Meet with the panel 15 minutes before the session to discuss the procedure of the meeting and to answer any questions.

Ask the students to be prepared with questions and comments regarding the following:

   What community resources or agencies can be used by law enforcement personnel?

   What might be done to increase the willingness of citizens to become involved?

Have each panel member make a short statement (not more than 10 minutes) before the exchange of ideas and comments begin.

Students should discuss the main points with the instructor and list practical conclusions relative to the use of community resources by police officers.

[Source:  Project STAR, Module #13, p. 13-31.]
PATROL / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.7.4.

INSTRUCTIONAL STRATEGY: committee

PURPOSE: Learning about Community and Agency Resources

With some clients, the best and only help you will be able to give is to put them into the hands of someone who can do more for them. In this sense, you function as a mobile community referral service—if you know where to refer people.

This activity will help the student locate community and agency sources of help, will provide information about them and a procedure for obtaining such information.

Instructions:

In advance of this activity, identify four or five community or agency resources such as drug rehabilitation centers, mental health centers, the welfare department, or Alcoholics Anonymous, to which operational police officers can refer people with specific problems.

Students should be organized into small teams and arrangements should be made through channels for each team to meet with a knowledgeable staff member at the agency. Have the team collect the following information on a resource information form:

- Resource name
- Address and phone numbers
- Availability of services
- Persons to contact
- Services provided
- Eligibility requirements
- Special information for police
- Other information.

General feelings of the class about the benefits of the trip and its possible use for them in getting acquainted with community resources should be briefly summarized when the class reassembles.

[Source: Project STAR, Module #7, p. 7-28.]
PATROU / CONSULAR NOTIFICATION
LEARNING OBJECTIVE: 24.8.3.

INSTRUCTIONAL STRATEGY: Handouts, research, presentation

PURPOSE: Have students identify and articulate knowledge of crime prevention programs.

1. Handouts to be prepared by instructor on: definition of crime prevention, role of law enforcement in crime prevention, opportunity reduction, and security surveys residential/commercial, crime prevention programs. (Texas Crime Prevention Institute, San Marcos).

2. Student assignment conducts research into citizen/police involvement in community crime prevention. Bring articles, publications to class. Resources:
   a. Newspapers
   b. Magazine articles
   c. Books
   d. Research papers
   e. Commission Reports
   f. Ride Along: from Project Star Module 13 (see attached)

3. Students to submit research papers on results of their study.

4. Student presentation of summary of research, 3-5 minutes.

5. Evaluation:
   a. Oral communication skills
   b. Research skills
   c. Writing skills
   d. Student participation
PATROL / CONSULAR NOTIFICATION
UNIT GOAL: 24.8.

INSTRUCTIONAL STRATEGY: Ride-Along

PURPOSE: Perform crime prevention activities

1. Divide the class into two-officer teams.

2. Arrange with authorities to have each team accompany a uniformed officer or patrol at night to observe activities and situations that contribute to crime such as:

   People congregating in parks and school grounds
   Groups on street corners in poorly lighted areas
   People walking through alleys
   Juveniles out at late hours.

3. If any of these situations are observed, students (under the supervision of the uniformed officer) should:

   Interview the people
   Inform them of the potential danger
   Determine their identities, what they are doing, and why they are in the area
   Inform them of the limitations of police authority to tell them what to do
   Advise them of an appropriate course of action
   Continue observing the activities of the person, when possible, until they are safely removed from the situation.

Upon completion of the activity, all student groups should share their experiences with the class and list conclusions applicable to their own performance in the future.

[Source: Project STAR, Module #13, p.13-30.]
PATROL / CONSULAR NOTIFICATION
UNIT GOAL: 24.9.

INSTRUCTIONAL STRATEGY: Role play

PURPOSE: Consular Notification & Access

SITUATION: You have arrested Johnny Chin for assault. What are the steps following Johnny’s arrest?

Ask if he is a U.S. citizen
Johnny says no, that he is a citizen of Japan

Read him statement #1 of the pocket card (Why statement #1?)
He says he does not want his consulate notified

Record his response

Take no further action

SITUATION: You have arrested Maria Garcia for prostitution. What are the steps following Maria’s arrest?

Ask her if she is a U.S. citizen
She says no, that she is a citizen of Belize

Read her statement #2 of the pocket card (Why statement #2?)
She says she acknowledges that her consulate will be notified

Record her response

Notify the Belize consulate ‘without delay’.
Record date, time, method of notification, & party contacted

SITUATION: You have arrested Bobby Chung for theft. What are the steps following Bobby’s arrest?

Ask him if he is a U.S. citizen
He says no, that he is a citizen of Singapore.

Read him statement #2 of the pocket card. (Why statement #2?)
He says that he does not want his consulate notified
Record his response

Proceed with notification of his consulate “without delay”
   Record date, time, method of notification, & party contacted

Ask him if he is a U.S. citizen
   He says no, that he is a citizen of Mexico, but is in the U.S. illegally

Read him statement #1 of the pocket card. (Why statement #1?)
   He says that he does want his consulate notified

Record his response

Proceed with contacting the Mexican consulate
   Record date, time, method of notification, and party contacted

The U.S. Department of State has a Consular Notification and Access outreach program for federal, state and local officials. Booklets, pocket cards and training videos are available to all corrections officials free of charge. Training is also available upon request from the Department of State to your agency. Booklets can be downloaded from their web site. The website is www.travel.state.gov/consul_notify.html to request and download this information. A fax request is available for this information at (202) 647-4415.
Unit Goal: 25.1. Increase understanding of the psychological, social, and economic impact of crime on the victims.

25.1.1. Identify the elements of a crisis reaction.

The crisis reaction
The normal human response to TRAUMA follows a similar pattern called the crisis reaction. It occurs in all of us.

Physical response
The physical response to TRAUMA is based on our animal instincts. It includes physical shock, disorientation, and numbness: “frozen fright.”

"Fight-or-flight" reaction:
- Adrenaline begins to pump through body
- Body may relieve itself of excess materials, like ingested food
- Physical senses, one or more, may become very acute while others "shut down"
- Heart rate increases
- Hyperventilation, sweating, etc.

Exhaustion:
Physical arousal associated with fight or flight cannot be prolonged indefinitely. Eventually, it will result in exhaustion.

The mind’s response
The mind’s response parallels the physical response.

Stage one: Shock, Disbelief, and Denial
“Denial” in this sense means truly believing something did not happen, or that it was not as "bad" as it actually was. This is a psychological defense mechanism that kicks in to protect a person from the full impact of what has happened.

Stage two: Cataclysm of emotions
Anger/RAGE, fear/TERROR, grief/SORROW, confusion/FRUSTRATION, guilt/SELF-BLAME, and violation/VULNERABILITY

Stage three: Reconstruction of equilibrium
Emotional roller coaster that eventually becomes balanced

The Range of the Crisis Reaction:
- Shock
- Depression and loneliness
- Panic
• Hostility and resentment
• Hope
• Emotion
• Physical symptoms of distress
• Guilt
• Inability to resume normal activities
• Affirming reality

Trauma is accompanied by a multitude of losses:
• Control over one's life
• Sense of fairness or justice
• A sense of immortality and invulnerability
• Trust in God or in other people
• Personally-significant property, self, or loved ones
• Future

Because of the losses, trauma response involves grief and bereavement

Trauma and regression
Trauma can be so overwhelming that it causes a person to revert or “regress” to childhood-mentally and physically.

Individuals may feel very childlike, for example:
• Feeling very “little”
• Wanting “mommy” or “daddy” to come and take care of you
• Feeling very “weak”
• Feeling like you did when you were a child and something went terribly wrong

Individuals may do things that seem very childish later, for example:
• Singing nursery rhymes
• Assuming a fetal position or crawling instead of walking
• Calling a law enforcement officer or other authority figure “mommy” or “daddy”


Discuss relevance of the crisis reaction to personal experiences.

Recovery from immediate trauma
Many people live through a trauma and are able to reconstruct their lives without outside help. This assumes, however, that they get a lot of informal support and assistance from friends, co-workers, peers, etc. in talking about what happened, in re-experiencing the emotions it triggered and in trying to make sense of what happened.
Most people find some type of benign outside intervention useful in dealing with trauma.

**Recovery from immediate trauma is often affected by:**
- Severity of crisis reaction
- Ability to understand in retrospect what happened
- Stability of victim/survivor equilibrium after event
- Supportive environment
- Validation of experience (e.g., it was terrible; the feelings/thoughts you are having are natural and understandable given what you've been through, etc.)

**Intensity continuum**
- Crime-specific
- Victim-specific
- Cultural differences

**Note:** It is important here to convey that while not every trauma victim requires formal counseling, every victim/survivor needs to go through the stages of healing. They need to have somewhere to talk about it, to feel about it and to try to make sense of it. This is true and natural for all humans - not a sign of weakness.

**Possible Discussion:** What factors might keep an individual from getting the support and assistance she/he needs after a traumatic incident? How might the absence of a chance to work through stages of recovery affect a victim's ability to serve as an effective witness?

**Recovery issues for survivors include:**
- Getting control of event in victim/survivor’s mind
- Working out an understanding of event and, as needed, a redefinition of values
- Re-establishing a new equilibrium/life
- Re-establishing trust
- Re-establishing a future
- Re-establishing meaning

**Long-term crisis reactions**
Not all victim/survivors suffer from long-term stress reactions. Many victims may continue to re-experience crisis reactions over long periods of time. Such crisis reactions are normally in response to "trigger events" that remind the victim of the trauma.

"Trigger events" will vary with different victims, but may include:
- Identification of the assailant
- Sensing (seeing, hearing touching, smelling, tasting) something similar to something that one was acutely aware of during the trauma
- “Anniversaries” of the event
• The proximity of holidays or significant “life events”
• Hearings, trials, appeals or other critical phases of the criminal justice proceeding
• Media articles about a similar event

The intensity of long-term stress reactions usually decreases over time, as does the frequency of the re-experienced crisis.

Even survivors of trauma who reconstruct new lives and who have achieved a degree of normalcy and happiness in their lives -- and who can honestly say they prefer the new, "sadder-but-wiser" person they have become -- will find that new life events will trigger the memories and reactions to the trauma in the future.

Long-term stress reactions may involve Post-traumatic Stress Disorder. The following is the description of that disorder in "DSM-III-R":

Post-Traumatic Stress Disorder

People who survive severely traumatic events often have Posttraumatic Stress Disorder (PTSD). Survivors of combat are the most frequent victims, but it is also encountered in people who have survived other disasters, both natural and man-made. These include rape, floods, abductions, and airplane crashes, as well as the threats that may be posed by a kidnapping or hostage situation. Children can have PTSD as a result of inappropriate sexual experience, whether or not there is actual injury. PTSD can be diagnosed even in those who have learned about severe trauma (or its threat) suffered by someone to whom they are close – children, spouses, other close relatives. Implicitly excluded from the definition are ordinary life experiences such as bereavement, divorce, and serious illness; however, a spouse’s sudden, unexpected death or a child’s life-threatening illness could qualify as a traumatic event.

After some delay (symptoms to not usually develop immediately after the trauma), the person in some way relives the traumatic event and tries to avoid thinking about it. There are also symptoms of physiological hyper-arousal, such as an exaggerated startle response. PTSD patients often feel guilt or personal responsibility (“I should have prevented it”).

In general, the worse or more enduring the trauma, the greater the likelihood of developing PTSD. The risk runs to one-quarter of the survivors of heavy combat and two-thirds of former prisoners of war. Those who have experienced natural disasters such as fires or floods are generally less likely to develop symptoms. Older adults are less likely to develop symptoms than are younger ones. About half the patients recover within a few months; others can experience years of incapacity.

Criteria for Posttraumatic Stress Disorder:
• The patient has experienced or witnessed or was confronted with an unusually traumatic event that has both of these elements:
The event involved actual or threatened death or serious physical injury to the patient or to others
The patient felt intense fear, horror, or helplessness

- The patient repeatedly relives the event in at least one of these ways:
  - Intrusive, distressing recollections (thoughts, images)
  - Repeated, distressing dreams
  - Through flashbacks, hallucinations, or illusions, feeling or acting as if the event were recurring (includes experiences that occur when intoxicated or awakening)
  - Marked mental distress in reaction to internal or external cues that symbolize or resemble some part of the event
  - Physiological reactions (such as rapid heart beat, elevated blood pressure) in response to these cues.

- The patient repeatedly avoids trauma-related stimuli and has numbing of general responsiveness (absent before the traumatic event), as shown by three or more of these:
  - Tries to avoid feelings, thoughts, or conversations concerned with the event
  - Tries to avoid activities, people, or places that recall the event
  - Cannot recall an important feature of the event
  - Experiences marked loss of interest or participation in activities important to the patient
  - Feels detached or isolated from other people
  - Experiences restriction in ability to love or feel other strong emotions
  - Feels life will be brief or unfulfilled (lack of marriage, job, children)

- The patient has at least two of the following symptoms or hyper-arousal that were not present before the traumatic event:
  - Insomnia (initial or interval)
  - Angry outbursts or irritability
  - Poor concentration
  - Excessive vigilance
  - Increased startle response

- The symptoms above have lasted longer than one month
- These symptoms cause clinically important distress or impair work, social, or personal functioning

Reference: DSM-IV Made Easy, 2001

Apply PTSD to behavior of a battered woman to help explain why she may react the way she does: (ex.) advanced denial as protective mechanism; "tunnel vision" regarding just surviving each day (see persistent avoidance of stimuli); "hysterical" see "persistent symptoms of increased arousal."

25.1.2. Identify phases of a victim’s reaction to crime.

The phases include:
• Impact
• Recoil
• Reorganization

25.1.3. Discuss the ripple effect of crime victimization.

The “ripple effect” progresses as follows:
• Immediate victim
• Secondary victims: Family and friends
• Service providers, EMS, police

Refer to IRG (“A personal crisis”)

25.1.4. Discuss elements of crisis intervention.

Elements include:
• Discuss feelings
• Need for stress management

How to help victims:
• Victim safety
• Listening/ventilation
• Direction
• Avoid second-guessing
• Help them deal with guilt
• Anger
• Rescue fantasy

Interviewing:
• Sensitive to feelings of victim
• Be aware of personal biases
• Professionalism

Listening

Stereotyping of victims

Refer to IRG (“What Do Victims Need?” and “Things to Say”)

25.1.5. Discuss the potential for secondary victimization by the criminal justice system and how to avoid it.
Long-term stress or crisis reactions may be exacerbated or mitigated by the actions of others. When such reactions are sensed to be negative, whether or not they were intentional, the actions of others are called the “secondary assault” and the feelings are often described as a “secondary injury”.

Sources of the “secondary victimization” may include:

- The criminal justice system
- The media
- Family, friends or acquaintances
- Clergy
- Hospital and emergency-room personnel
- Health and mental health professionals
- Social service workers
- Victim service workers
- Schools or educators

If possible arrange for a presentation by a victim(s) of both positive response by law enforcement and the criminal justice system and of the negative response of secondary victimization.

Refer to IRG (“What Do Victims Need?” and ””Things to Say””)

25.1.6. Identify the elements of an appropriate death notification.

Recommended Procedures For Notification of Death:

- Notification should occur as soon as the deceased’s identity has been established.
- Get all the medical information possible about the person(s) to be informed of the death.
- Go. Don't call!
- At least one person should be in uniform.
- Talk about your feelings with your partner.
- If a child answers the door, request to speak to his or her parents.
- Present your credentials and ask to come in.
- Sit down. Don't be stiff and formal.
- Convey the information simply and directly.
- Ask parents or spouse if they want to tell the children or if they want you to tell them.
- Don’t discount feelings -- theirs or yours.
- Be prepared if the bereaved goes into shock.
- Empathize with the survivors in their grief.
- Answer questions honestly.
• Provide information without jeopardizing a criminal investigation.
• Offer to make calls.
• Survivors should be informed that it might be necessary for them to identify the deceased.
• Explain why an autopsy is necessary and how to obtain a copy of the report.
• Tell hospital personnel what information the family has been given.
• Survivors should be informed that law enforcement officials might need to question them at a later time.
• Don’t leave the survivor(s) alone!
• Stay with the survivor(s) if they wish and help with decisions.
• Provide the survivor(s) with the officer’s names and telephone numbers.
• The law enforcement officers should contact appropriate agencies in other jurisdictions to notify additional surviving family members.
• Preserve and label the package containing the deceased’s clothing and personal effects.
• Allow hospitals adequate time to prepare the body for identification.
• Provide survivors with sufficient time with the deceased.
• Talk to the media only if the family has given permission.
• Give the survivor(s) an information sheet with pertinent information.
• Next day -- call!
• Let the survivors know you care.

Note:  Recommended procedures by M.A.D.D.

Resource for training or death notification 214-744-MADD

Unit Goal:  25.2. The student will be able to recognize statutory responsibilities relating to victims’ rights.

25.2.1. Identify the legal basis of law enforcement’s responsibilities to victims’ rights.

Crime victims’ rights - CCP 56.02

25.2.2. Identify crime victim liaisons and their duties.

Applicable codes:
• Victim Assistance Coordinator - CCP 56.04 (c) & (d)
• Presence of advocate or representative during forensic medical examination - CCP 56.045

25.2.3. Summarize legal requirement for providing victims written notice.

Applicable codes:
• Definitions - CCP 56.01
• Notification - CCP 17.29
• Notice of release of family violence offenders - CCP 42.21
• Notification - CCP 56.07

25.2.4. **Explain rights granted to victims of crime.**

**Applicable codes:**
• Rights of Crime Victims - Texas Constitution Article 1, Section 30
• Crime victims’ rights - CCP 56.02
• Victim’s rights - FC 57.002
• Victim’s right to privacy - CCP 56.09
• Compensation - CCP 56.02
• Confidentiality of Identifying Information of Sex Offense Victims - CCP 57
• Definitions - CCP 57.01
• Confidentiality of files and records - CCP 57.02

25.2.5. **Identify the value to law enforcement of effective assistance to victims.**
INSTRUCTOR RESOURCE GUIDE MATERIAL

25. VICTIMS OF CRIME
VICTIMS OF CRIME
LEARNING OBJECTIVE: 25.1.3.

INSTRUCTIONAL STRATEGY: A Personal Crisis

PURPOSE OF ACTIVITY: to increase the student's self-awareness, awareness of effective and ineffective crisis intervention approaches, and sensitivity to people in crisis.

SUGGESTED USES: individual work, small group discussion, and large group wrap up.

ACTIVITY:

1. Share purpose of activity.

2. Allow individuals to complete the form either as homework or during class.

3. Assign to small groups of two to five people for discussion and sharing.

4. Ask for a spokesperson from each group or volunteers to share in the whole class some of their experiences, learning, etc.

5. Make the connection between their experiences and some of the personal crisis's they will be expected to play the role of helper and some of the personal crisis's they may experience in police work.

Notes to the Instructor: This exercise has been known to trigger some reactions in people who may have unresolved issues related to their crisis. Instructor should be prepared to assist or refer those people.
VICTIMS OF CRIME
A PERSONAL CRISIS

Write down briefly for your own benefit responses to the following statements. You can choose how much, if any, of the following information to disclose.

- I am thinking of a crisis in my life.

- Three emotions I felt when it occurred were:

- The person I remember helping me the most in dealing with my crisis was:

- The most important thing that person did for me was:

- And the way that they did that was (how?):

- The worst thing another person said or did was:

- The help I wish I had but found to be missing was:

- My feelings about my crisis now are:
VICTIMS OF CRIME
WHAT DO VICTIMS NEED ... AND WHAT CAN THEY DO WITHOUT?

The best antidote for hurtful actions of one person is the compassionate and helpful actions of others. The “bad” action of the criminal can be countered by the “good” action of the responding officers and victim assistance personnel as well as family members, neighbors and others.

What victims need:

Safety: Assurance that the victim will no longer be harmed, “You are safe now” is a simple yet important statement when there has been a physical attack or the treat of an attack.

Listening - Ventilation: Victims should be allowed to vent their feelings. These will range from expressions of rage to denial and disbelief. Victims may ask “Why me?” It can be helpful to say “I’m glad you’re all right” or “I’m sorry this happened to you” and “You did nothing wrong.” Offenders not victims are blame worthy.

Watch for signs of:

Anger: A normal means of expression used by victims that may be directed at the helper or anyone else. Giving full rein to these expressions can often have a therapeutic on helping the victim to refocus this energy and assist the justice system to hold offenders accountable for criminal acts.

What victims don’t need:

Second Guessing: Helpers should avoid making judgmental statements relative to the victim’s actions or lack of them. Questions such as “Why didn’t you fight back?” or “Why didn’t you scream?” or “Why were you out on the street at that time of night alone?” may lead to the victim having inappropriate feelings of guilt. The helper should understand that such feelings of guilt are normal and usually temporary. These feelings arise not because of the victim’s complicity in the crime but because of a need for the victim to be able to explain or understand or rationalize what happened.

Watch out for Rescue fantasy: The victim can see “helpers” as “rescuers” and the victim may count on responders for long-term assistance. Don’t encourage this. Provide on-site assistance and refer victim to appropriate service for follow up.

Help victims find Direction: Helplessness and feelings of disorientation often accompany the impact of a criminal event. Helpful actions include a quiet yet firm suggestion as to actions that should be taken without doing so in a moral tone.

Let victims make a few decisions - where to talk, getting some water, to help them regain control.
Timely and helpful actions can reduce the pain and trauma that may come in the wake of a crime. Effective crisis intervention can do much to reduce the need for mental health professional intervention at a later date.
VICTIMS OF CRIME
THINGS TO SAY AND THING TO NOT SAY

DON’T
Ask blaming questions
Tell them everything is all right if it’s not
Answer questions you don’t know
Make promises you can’t deliver
Use jargon (PR bond, CBW, DHS, TDC, PD, SO, etc.)
Force details
Use emotionally charged words
Make demands
Insist on talking - silence is okay
Impose your religious beliefs or personal philosophy
Don’t judge
Say “It’s God will”
Say “You’re so strong, I know you can handle this”
Say “Tell me what I should do”
Say “I understand”
Say “I know how you feel” (unless you’ve been through the exact same thing)
Say “He’s with God now and at peace …”
Say “It was a blessing that …”
Say “You’ll get over this”
Say “Remember to be strong for the children (parents, etc.)”
Say “You should be thankful that …”
Say “You’re lucky that …”
Say “He probably didn’t know what hit him …”

DO
Say “I’m so sorry that this has happened”
Say “I can’t imagine how difficult this must be for you”
Say “I’d like to be with you for a while if you don’t mind”
Say “Would you like me to help you with …”
Say “It’s not your fault”
**VICTIMS OF CRIME - PHASES OF VICTIM REACTIONS**

**Impact**
- Shock
- Disorientation
- Disbelief
- Numb
- Physically immobilized
- Feelings of vulnerability
- Helplessness
- Loneliness
- Dependent
- Feels abandoned
- Inability to recall details
- Confused
- Notes insensitivity of others
- Despair
- Violation of trust
- Fear

**Needs**
- Physical presence
- Explanations of incident
- Supportive person
- No expectations
- Provide safety
- Provide security
- Understanding
- Physical presence
- Fulfill dependency needs
- Arrange for companion
- No demands
- Supportive explanations
- Sensitivity
- Assurances
- Keep promises
- Reality testing

**Recoil**
- Denial
- Irrational fears
- ANGER
- Sadness
- Self-pity
- Guilt
- Tiredness
- Emotionally detached
- Diminished interest
- Hyperactivity
- Re-experience feelings
- Intrusion of thoughts
- Shame
- Moody
- Anxiety
- Nightmares

**Needs**
- Listen; ask questions
- Listen; reality testing
- Express it; fantasize
- Physical presence
- Listen; ventilate
- Listen; ask questions
- Restrict demands
- Physical presence non-intrusive
- Supportive
- Encourage slow down
- Listen; ventilate
- Express thinking
- Reality testing
- Understanding
- Encourage to focus
- Write out

**Recovery/Reorganization**
- Emotional energy returns
- Balanced
- Suffering lessens
- Regains sense of trust
- Appreciation of life
- May become active in organizations to help similar victims
- Ability to sleep/eat normal

**Needs**
- Supportive environment
- Do not rush or make
- Unrealistic demands
- Non judgmental
- Acceptance of victim
- Simply be there in mind, body and spirit throughout the ordeal.

*Source: “Psychological Impact of Personal Crime,” Morton Bard, PhD*
VICTIMS OF CRIME
CRISIS CHECKLIST

1. Life, death, injury
2. Safety
3. Calm and comfort
4. Give back control
5. Ventilation and validation
6. Reassurance and response
7. The insurmountable problem
8. Finding a solution
9. Predict and prepare
10. Saying goodbye

Source: Austin Police Department, Victim Services Department
VICTIMS OF CRIME
HELPING TECHNIQUES

NONVERBAL

Eye Contact
Body Posture
Distance
Touching
Vocalization

VERBAL

Active Listening
Clarification
Summarization
Allowing Silence

AVOID

Stating the Obvious
Personalized Statements
Mind Reading
Sharing Feelings
Asking Sex Questions

Source: Austin Police Department, Victims Services Department
27. Crisis Intervention Training (CIT)

Unit Goal: 27.1. To develop a basic understanding and respect for the fundamental rights of and a proficiency in interacting with people with mental illness.

Opening Statement:
With increasing frequency, law enforcement is being called upon to respond to individuals in serious mental health crises. It is necessary for the law enforcement personnel to understand mental illness, and the tactics and techniques that have been proven to work most effectively when responding to individuals in these situations. These tactics and techniques are different than those routinely taught to officers to control conflict which, due to the underlying elements behind the behavior, is usually not of a criminal or malicious intent. This information can help keep the officer safe, keep the mental health consumer safe, and greatly reduce liability on the part of the officer and the agency.

Mental Health Statistics:
About 22.1% of the U.S. adult population (about 1 in 5 adults) suffers from a diagnosable mental disorder in a given year. This is an understatement of the number of persons with mental health problems, as many people do not seek treatment. Some studies indicate that 32% of U.S. adults suffer from some sort of mental illness within their lifetime.

Reference: National Institute of Mental Health (http://www.nimh.nih.gov)

27.1.1 Discuss the impetus for crisis intervention training and why it is so important to the law enforcement community.

Importance of crisis intervention training:
- Program inception in Memphis TN., after shooting of a 26-year-old mentally ill person.
  - “In September 1987, white Memphis police officers answered a 911 call. A young African-American man with a history of mental illness was cutting himself with a knife and threatening suicide. Police officers are trained to respond with deadly force when they perceive their lives are in danger. At the outset of the incident, it appeared that the only life in danger was the young man’s from self-inflicted wounds. As they were trained to do at the time, officers at the scene confronted the man and demanded he drop his weapon. At this, he became more upset and ran at the officers who, in fear for their own safety, opened fire and killed him.”
  - “Although the welfare of both officers and the mentally ill in situations of confrontation had been a concern for some time, this death, with its racial overtones, was the catalyst that resulted in the creation of CIT a year later.” (Practitioner Perspectives, July 2000)
- Magazine article in Police Magazine (March 2000)
  - “The essential difference between suspect encounter training, that officers traditionally receive, and how to approach the mentally ill is the need to be
non-confrontational. Such a requirement to, in effect, shift gears is diametrically opposed to the way officers are routinely expected to control conflict. The same command techniques that are employed to take a criminal suspect into custody can only serve to escalate a contact with the mentally ill into violence.”

- National Law Enforcement Policy Center statement:
  - “It is helpful for officers to understand the symptomatic behavior of persons who are afflicted with a form of mental illness. In this way, officers are in a better position to formulate appropriate strategies for gaining the individual’s compliance.”
  - “Officers should first take time, if possible, to survey the situation in order to gather necessary information and avoid hasty and potentially counterproductive decisions and actions.”
  - “Officers should avoid approaching the subject until a degree of rapport has been developed.”
  - “All attempts should be used to communicate with the person first by allowing him to vent.”

- Police Executive Research Forum statement:
  - “Do not rush the person or crowd his personal space. Any attempt to force an issue may quickly backfire in the form of violence.”
  - “He may be waving his fists, or a knife, or yelling. If the situation is secure, and if no one can be accidentally harmed by the individual, you should adopt a non-threatening, non-confrontive stance with the subject.”
  - “Excessively emotional or even violent outbursts by the mentally ill are often of short duration. It is better to let the outburst dissipate rather than wrestle with a person who is under extreme emotional stress. Bizarre behavior alone is not reason for physical force.”
  - “Increased adrenaline (causes) insensitivity to pain.”
  - “What works best and what is most beneficial is patience and communication.”

27.1.2. Recognize the community mindset as it relates to the mentally ill’s relationship with law enforcement personnel.

Individuals with mental illness are traditionally not hardened criminals. Law enforcement is highly scrutinized by the public and private sectors when force is utilized in these cases, even when provocation is evident.

No matter what the situation, the public views these individuals as ill, not criminal. If force is used - especially deadly force - the officer’s actions will be put under a microscope. The public expects law enforcement personnel to do everything in their power to help, not hurt.

“If police perform their role effectively, our society benefits immeasurably; if the police perform their role poorly, the damage to public confidence and democratic principles can be irreparable.”(Louis/Resendz, 1997)
An analysis of 1,439 CIT calls by the Houston Police Department in 2004 revealed that only 1% of the individuals in a mental health crisis were arrested. In the remaining 99% of the incidents, no crime was reportedly committed; or, a petty class C crime was committed but was not filed. Response to individuals in a mental health crisis constitutes a more refined usage of the officer’s expertise in communication.

27.1.3. Illustrate the paradox of Crisis Intervention Training for the law enforcement officer.

- Control paradox: by using a less physical, less authoritative, less confrontational, less controlling approach you end up having more control and authority over the person in a mental health crisis.
- Law enforcement involvement in this training is greatly increasing even though at first response departments found it diametrically opposite of the traditional training model.
- However, mental health funding in Texas is continually decreasing, and Texas continues as one of the lowest (currently 47th in the nation) in funding for mental health.

Reference: “Interface” MHMR Authority of Harris County
(http://www.mhmraofharriscounty.org)

Note to the instructor: Use “Top Cop” video (of the San Jose incident)

27.1.4. Explain Crisis Intervention’s role in Officer Safety.

Crisis Intervention Training is foremost an officer safety training. It will assist in keeping the officer, mental health consumer, and community safer in difficult and potentially volatile situations. It is simply taking a different approach to the process of subduing a suspect, adding another tool to your belt and skill to your repertoire of skills. Phoenix, Arizona reported that CIT training increased their safety by 70 percent.

FBI statistics state that individuals with mental illness are no more prone to violence than the average population. HOWEVER, the variables (mental instability, high emotions, possible paranoia/delusions and substance abuse etc.) can be very dangerous if not handled appropriately. The person in a mental health crisis is usually excited, alarmed, confused, and feeling a lack of control. When a person feels cornered, especially if he is psychotic, chances are he will respond with sudden violence. In crisis, reason takes a back seat to emotion, even when one does not have a mental illness.

“The essential difference between suspect encounter training, that officers traditionally receive, and how to approach the mentally ill is the need to be non-confrontational. Such a requirement to, in effect, shift gears is dramatically opposed to the way officers are routinely expected to control conflict. The same command techniques that are employed to take a criminal into custody can only serve to escalate a contact with the mentally ill into violence.” (Police Magazine, March 2000)
The Treatment Advocacy Center in Washington, D.C. reports that “people with psychiatric disabilities are four times more likely to die in encounters with police than members of the general population.” Crisis Intervention Training is proven to be effective in helping you de-escalate the situation so that you are not placed in the position of having to use force. As with all crises, a situation can quickly escalate to violence if not handled appropriately, and officers may find themselves in a situation requiring the use of force.

27.1.5. Identify the parameters of an officer’s qualification after receiving this training.

Crisis intervention programs are designed to educate law enforcement officers in the basic elements of mental illness and prepare them to utilize practical applications of de-escalation techniques. This will assist the officer in being able to recognize the signs and symptoms of mental illness and to respond effectively, appropriately, and professionally.

Identification of signs and possible symptoms of mental illness and the process and levels of a crisis situation are primary in preventing or de-escalating violent behavior and keeping the officer, consumer, and community safe. Safely transporting a consumer to the proper referral resources will then begin the process of diagnosis by health professionals.

Unit Goal: 27.2. To sensitize the student to the adversity of mental illness.

27.2.1. Define the term “mental illness.”

General Definition:
“Illness, disease, or condition that either substantially impacts a person’s thought, perception of reality, emotional process, or judgment, or grossly impairs a person’s behavior, as manifested by recent disturbance behavior.”

Professional Definition of Mental Illness:
Mental illness is diagnosed based on behaviors and thinking as evaluated by a psychiatrist, psychologist, licensed professional counselor, licensed social worker, or other qualified professionals using a tool known as the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, most commonly called the DSM-IV. (American Psychiatric Association, Updated, 1999)

Insanity (Legal Term):
Insanity is considered “a diminished capacity and inability to tell right from wrong.” This is not a psychological term. The definition varies from state to state. It is generally used by the court with regard to an individual’s competency to stand trial.

Abnormal Versus Normal Behavior:
A sharp dividing line between “normal” and “abnormal” behavior does not exist. Adjustment seems to follow what is called a “normal distribution,” with most people clustered around the center and the rest spreading out toward the extremes.

27.2.2. List four prominent categories of mental illness.

- Personality Disorders
- Mood Disorders
- Psychosis
- Developmental Disorders

27.2.3. Discuss Personality Disorders as they relate to officer contact.

Many individuals who are functioning well in their lives may display characteristics of what are known as personality disorders. Individuals experiencing these disorders show personality traits that are inflexible, maladaptive, or inappropriate for the situation, and this causes significant problems in their lives.

Those individuals who have personality disorders usually have very little insight that they have a problem, and tend to believe that the problems are caused by other people, the “system,” or the world at large. These traits are often accompanied by some form of depression and may also be seen in those with chemical dependency problems.

Persons with personality disorders are not usually treated like those with other mental illnesses, but are taught a variety of communication and coping skills, or treated for other problems such as chemical dependency or depression.

Causes:
Although the causes for these disorders may not seem relevant for the officer dealing with these individuals, their backgrounds are significant. It is believed that most personality disorders are caused by a family history - usually beginning at a young age - of physical or emotional abuse, lack of structure and responsibility, poor relationships with one or both parents, and alcohol or drug abuse.

Common personality disorders that may be encountered by peace officers include paranoid personality disorder, antisocial personality disorder, and borderline personality disorder.

27.2.4. List the three most common personality disorders encountered by law enforcement officers.

1. Paranoid:
   - Tendency to interpret the actions of others as deliberately threatening or demeaning
   - Foresee being in position to be used or harmed by others
   - Perceive dismissiveness from other people
2. **Antisocial:**

   - Most commonly recognized in males
   - A pattern of irresponsible and antisocial behavior diagnosed at or after age 18
   - May have one or more of the following:
     - History of truancy as a child or adolescent, may have run away from home
     - Starting fights
     - Using weapons
     - Physically abusing animals or other people
     - Deliberately destroying others’ property
     - Lying
     - Stealing
     - Other illegal behavior
   - As adults, these people often have trouble with authority and are reluctant or unwilling to conform to society’s expectations of family and work
   - These individuals know that what they are doing is wrong, but do it anyway

3. **Borderline:**

   - Most commonly recognized in females
   - May have one or more of the following:
     - unstable and intense personal relationships
     - impulsiveness with relationships, spending, food, drugs, sex
     - intense anger or lack of control of anger
     - recurrent suicidal threats
     - chronic feelings of emptiness or boredom
     - feelings of abandonment

27.2.5. **Identify prevalent behaviors associated with personality disorders.**

People with personality disorders usually will not seek treatment because they don’t think they have a problem. They may end up in the criminal justice system because their disorder may lead them to break laws and come to the attention of law enforcement (i.e., by theft, hot-check writing, fraud, etc.). They may use alcohol and illegal substances as a form of self-medication, due to the stress and the consequences of their behaviors. They often need treatment for chemical dependency or depression.

27.2.6. **Discuss Mood Disorders as they relate to officer contact.**

A mood disorder is another type of mental illness demonstrated by disturbances in one’s emotional reactions and feelings. Severe depression and bipolar disorder, also known as manic depression, are referred to as mood disorders. Recognizable behaviors that associate with mood disorders could include: lack of interest and pleasure in activities, extreme and rapid mood swings, impaired judgment, explosive temper, increased spending and delusions.
Causes: Researchers (see SAMHSA in references) believe that a complex imbalance in the brain’s chemical activity plays a prominent role in mental illness selectivity in the individual. Environmental factors can also be a trigger or buffer against the onset.

27.2.7. List the two most common mood disorders encountered by law enforcement officers.

1. Depression:
   - Depression is a common, widespread disorder.
   - Most people have experienced some form of depression in their lifetime or even had repeated bouts with depression.
   - Depression is a natural reaction to trauma, loss, death, or change.
   - Major depression is not just a bad mood or feeling “blue” but a disorder that affects thinking and behavior not caused by any other physical or mental disorder.
   - A major depressive syndrome is defined as a depressed mood or loss of interest of at least two weeks duration accompanied by symptoms such as weight loss/gain and difficulty concentrating. Five or more symptoms are generally present during the same two-week period and are represented by a change from previous functioning. Depressed mood or loss of interest must also be included as a symptom.
   - Other symptoms of depression:
     - Prolonged feelings of hopelessness or excessive guilt
     - Loss of interest in usual activities
     - Difficulty concentrating or making decisions
     - Low energy/fatigue
     - Changes in activity level
     - An inability to enjoy usual activities
     - Changes in eating habits leading to weight gain or loss
     - Changes in sleeping habits (sleeping more or less; an inability to fall asleep, or waking up early in the morning and not being able to go back to sleep).
   - Depression and suicide: The single most common factor in suicidal behavior or death by suicide is that the individual is experiencing depression. (See section goal 1.3, concerning Suicide)
   - Treatment for Depression: A number of non-addictive medications are used in treating depression, if needed. It is recommended that persons taking medications for depression not use alcohol. Alcohol can interact with the medications and increase alcohol’s effects or create problems in reaction time and judgment.
   - Many people self medicate their depression with alcohol or other non-prescribed drugs that may give them temporary relief but tends to only increase the depressive symptoms. (See objective 1.2.11. on Substance Abuse Disorder)

2. Bipolar Disorder:
   - A mental illness involving mania (an intense enthusiasm) and depression (see above)
   - Mania Phase may include:
- Abnormally high, expansive or irritated mood
- Inflated self-esteem
- Decreased need for sleep
- More talkative than usual
- Flight of ideas or feeling of thoughts racing
- Excessive risk-taking

- **Depressive Phase may include:**
  - Prolonged feelings of sadness or hopelessness
  - Feelings of guilt and worthlessness
  - Difficulty concentrating or deciding
  - Lack of interest
  - Low energy
  - Changes in activity level
  - Inability to enjoy usual activities
  - Fatigue

- An individual may quickly swing from the manic phase to the depressed stage.
- An individual cannot maintain the level of activity normally associated with mania for a long period of time.

### 27.2.8. Discuss **Psychosis** and how it relates to officer contact

**Definition of Psychosis:**
“A group of serious and often debilitating mental disorders that may be of organic or psychological origin and are characterized by some or all of the following symptoms: impaired thinking and reasoning ability, perceptual distortions, inappropriate emotional responses, inappropriate affect, regressive behavior, reduced impulse control and impaired reasoning of reality.” (Social Work Dictionary, 2nd Edition, by Robert L. Baker)

Psychosis is an illness involving a distortion of reality that may be accompanied by delusions and/or hallucinations. The person may be hearing voices, he may look at a person and see a demon, he may think people are after him, or he may believe himself to be Jesus Christ. To the person, these hallucinations and delusions are real. These are most commonly seen in persons with schizophrenia, bipolar disorder, severe depression or drug induced disorders. Physical circumstances can also induce a psychotic state. Potential conditions include: organic brain disorders (brain injury or infections to the brain), electrolyte disorder, pain syndromes, and drug withdrawal.

**Definition of Delusion:**
False beliefs not based on factual information. The person may overreact to the situations or may appear to have what is called a “flat affect,” where he shows no emotion or does not seem to care about what is going on around him. (e.g., social isolation, inappropriate emotions, odd beliefs, magical thinking)

**Definition of Hallucinations:**
Distortions in the senses, causing the individual to experience hearing or seeing something that is not there
There is poor processing of information and illogical thinking that can result in disorganized and rambling speech and/or delusions. It is not uncommon for a person hearing voices to hear two or more at a time. If you approach the person and start yelling at him, you are only adding to his confusion. Imagine having two or three people shouting at you all at once while an officer is trying to give you directions.

27.2.9. Briefly illustrate a psychotic episode from a consumer’s perspective.

The voices are almost always negative, command voices telling the person things like “Die, die, die,” “Kill yourself,” “You’re no good,” or “They are going to get you.” These voices are real to the person experiencing this episode. Researchers have conducted brain scans on persons hearing voices during a psychotic episode. The part of the brain that is firing when hearing these voices is the same part of your brain that is firing when you are listening to the instructor’s voice.

Common delusions experienced by persons during a psychotic episode:
- Hearing voices
- Feelings of paranoia
- Visual hallucinations
- Heightening of the senses

27.2.10. Inventory the behavioral/emotional cues a person displays when experiencing a psychotic episode.

Behavioral cues of persons with a psychosis:
- Inappropriate or bizarre dress
- Body movements are lethargic or sluggish
- Impulsive or repetitious body movements
- Responding to hallucinations
- Causing injury to self
- Home environment:
  - strange decorations (e.g., aluminum on windows)
  - pictures turned over
  - waste matter/trash on floors and walls
- Unusual attachment to childish objects or toys

Emotional cues of persons with a psychosis:
- Lack of emotional response
- Extreme or inappropriate sadness
- Inappropriate emotional reactions

27.2.11. Explain how substance abuse and cognitive disorders relate to psychosis.

Substance and cognitive disorders (drug related disorders included) - symptoms include:
- A major loss of contact with reality
• A gross interference with the ability to meet life’s demands
• May have possible delusions and hallucinations
• Alteration of mood
• Defects in perception, language, memory, and cognition

**Substance Abuse Disorder:**
Prolonged abuse of any drug (alcohol, prescription medications, or “street” drugs) will cause chemical dependency or addiction. This has an effect on consciousness, and if used long enough or in large dosages, may cause permanent damage to the central nervous system. This may cause a wide range of psychological reactions that can be classified as disorders. Smoking a stimulant like crack cocaine can cause paranoid symptoms, as prolonged alcohol use can produce depressive symptoms. A person who is physically dependent on heroin will show anxious behavior if usage is discontinued.

Illegal drug and alcohol usage is also a primary concern for individuals with a mental illness. These substances can have an adverse effect when used in combination with prescribed medications as well as having a *masking effect* on more severe symptoms. Use of illegal drugs and alcohol in a self-medicating way can also create a dependency as well as a roller coaster effect due to lack of consistency and medical monitoring.

Substance abuse treatment is a critical element in a comprehensive system of care. Research conducted over the last decade has shown that the most successful models of treatment for people with co-occurring disorders provide integrated mental health and substance abuse services.

*Instructor Note: Refer to IRG regarding Tartive Dyskensia.*

**27.2.12. Discuss schizophrenia as it relates to psychosis**

**Schizophrenia:**
Schizophrenia consists of a group of psychotic disorders characterized by changes in perception. These disorders cause oversensitivity to sounds and visions characterized by hallucination and/or impaired distorted thinking. It is considered the most chronic and disabling of severe mental illnesses, typically emerging in teenagers and young people.

**Statistical Facts:**
• In the U.S., approximately 2.2 million adults, age 18 and older in a given year have schizophrenia.
• Worldwide statistics remain fairly consistent with U.S. figures.
• Ranks among the top 10 causes of disability in developed countries worldwide.
• Higher risk of suicide - approximately 10% of people with schizophrenia commit suicide.

**Distorted thinking results in:**
• Hallucinations
• Poor processing of information / attention deficit
Illogical thinking that can result in disorganized and rambling speech, and/or delusions.

**Changes in Emotion:**
- May overreact to situations
- “Flat affect” (i.e., decreased emotional expressiveness, diminished facial expression and apathetic appearance)
- Anhedonia (i.e., lacking pleasure or interest in activities that were once enjoyable)
- Person is withdrawn – the media tends to portray this as violent, but it is rarely the case

*Note to the instructor: See ABC News Home Video “Schizophrenia,” a 20/20 episode from 2/25/00*

### 27.2.13. Discuss Alzheimer’s disease and its involvement with psychosis

**Alzheimer’s disease:**
The most common organic mental disorder of older people is Alzheimer’s disease. An individual experiencing this disease may get lost easily, have poor memory, and become easily agitated. It is estimated that 2-3 million Americans are afflicted with Alzheimer’s, and that over 11,000 die from it each year.

**Additional Facts:**
- Alzheimer’s is a form of dementia
- It is not considered a mental illness, and most mental health facilities will not admit Alzheimer’s patients
- Drugs can help the progression of the disease, but there is no cure.
- It is now being diagnosed in persons considerably younger than 65.


**27.2.14. Demonstrate the communicative approach an officer should take when confronting a person in a psychotic episode.**

The officer should always be cautious. He should never startle the person. He should be patient and try to learn the person’s name and use it. The officer should talk in a calm, soft tone of voice. He should allow the person to verbally ventilate. He should not crowd the person’s space. The officer should introduce himself and assure the person the officers are there to help, not hurt him. The officer may have to repeat himself several times.

**27.2.15. Appraise personal impressions of mental illness after viewing the consumer presentation.**
Instructors are encouraged to provide a mental health consumer to speak to the officers about their experiences with psychosis. The goal is to sensitize the officer to the lives, feelings and thoughts of a person with psychotic tendencies.

27.2.16. List the two most common developmental disorders that relate to officer contact

Autism:
A developmental disorder, affecting 1 to 2 in 1,000 Americans, usually appearing before age three, characterized by impaired non-verbal communication (including abnormal speech patterns or loss of speech), lack of eye contact, a restricted range of interest, resistance to change of any kind, obsessive repetitive body movements, a lack of awareness of the existence or feelings of others, and social isolation. Symptoms vary from child to child and can range from mild to severe. “The child may act as if unaware of the coming and going of others, or physically attack and injure others without provocation (NIMH, Unraveling Autism, 2001). Although autism is diagnosed 3-4 times more in males, females with autism tend to have more severe symptoms and cognitive impairment. Treatment is experimental, and few autistic children show significant remission of symptoms.

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Persons with Autism suffer from sensory disorders that keep them from effectively filtering and blocking painful sensations. Their sensory disorders can cause extreme pain from loud noises and bright light that can move them toward frustration and acts of aggression. Officers in contact with these individuals will notice certain behaviors such as fear of touch, repetitive behavior, insistence on routine, anxiousness in new situations, and a tendency to become confused easily. When interviewing, be patient, calm, and detached, which tends to help prevent agitation in questioning process. Illustrative materials, repetition of previous statements, praise, encouragement, and attentive listening will assist in the exchange process.

Social Behaviors:
- Lack of awareness of social rules
- Reluctance to make eye contact
- Inappropriate laughter or crying
- Unusual facial responses
- Ritualistic, habitual behaviors
- Extreme distress for no apparent reason
- Attachment to particular objects
- Deliberate soiling of clothes
- Uneven motor skills
- Self stimulating behaviors

Communication Behaviors:
• May be verbally limited
• May repeat what is said
• Abnormal pitch, rate, or volume when speaking
• Difficulty expressing ideas or needs
• Reversal of pronouns or other parts of speech
• Difficulty with abstract concepts and terms

Other Behaviors:
• Matching, pairing, and ordering objects
• Blinking compulsively
• Switching lights on and off
• Dropping things repetitively
• Jumping, rocking and clapping
• Chin-tapping, head-banging, spinning
• Fascination with colorful and shiny objects

Mental Retardation:
Mental Retardation (MR) refers to a range of substantial limitations in mental functioning manifested in persons before the age of 18. Characteristics of MR are a below-level intellectual capacity plus limitations in two or more adaptive skill areas such as communication, self-care, home living, social skills, health, safety, academic functioning, and work.

Degrees of mental retardation:
• Mild: IQ 69-55
• Moderate: IQ 54-40
• Severe: IQ 39-25
• Profound: Below 25

Questioning methods:
• Be patient for a reply
• Repeat question as needed
• Ask short, simple questions using simple language
• Speak slowly
• Ask open-ended rather than “yes/no” questions

Strategies to use during officer contact in determining possible mental retardation
• Criminal Activity
  1. noticeably older than others involved in offense
  2. follower
  3. readiness to confess
  4. remained at the scene while others ran
  5. previous criminal activity patterns
• Educational History
  1. Below usual grade level
2. ID states mental impairments
3. Check MHMR records
- Physical Appearance
  - Inappropriately dressed for season
  - Unusual physical structure
  - Awkwardness of movement or poor motor coordination in walking
  - Difficulty writing or other fine motor skills
- Speech/Language
  - Obvious speech defects
  - Limited response or understanding
  - Inattentiveness
  - Vocabulary or grammatical skills lacking
  - Difficulty describing facts in detail
- Social Behavior
  - Adult associating with children or early adolescents
  - Eager to please
  - Ignorance of personal space
  - Non-age appropriate behavior
  - Easily influenced by others
  - Easily frustrated or aggressive in response to direct questioning
- Performance Tasks to utilize to help determine if problem exists
  - Read/write simple phrases
  - Identify telephone number in book
  - Give directions to their home
  - Tell time
  - Count to 100 by multiples of five
  - Define abstract terms (such as emotions or feeling terms)
  - Explain how to make change from a dollar

Note: When performance tasks are used, one should be cognizant of the person’s dignity. The officer needs to realize that failing a performance task could cause the person humiliation, especially in public. This humiliation could then turn quickly to aggression.

Guidelines for law enforcement contact with mentally retarded persons
- Speak directly to the person in slow, clear, simple language and phrasing
- When possible, move to a less disruptive location to assist with focusing
- Be highly aware of questioning techniques
- Patient, calm, non-threatening, but firm and persistent manner

What are the significant differences between Mental Illness and Mental Retardation?

Mental Illness vs. Mental Retardation: 3% of the American population is considered retarded (sub-average score of 69 or less on Wechler Intelligence Scale or Stanford Binet IQ test), while 22.1% is diagnosed with a mental illness.
Differences between mental illness and mental retardation include:

- Mental illness is unrelated to intelligence, while mental retardation is below-average intellectual functioning.
- Mental illness develops at any point in one’s life, while mental retardation occurs before the age of 18.
- There is no cure for mental illness, but medications can help. Mental retardation involves permanent intellectual impairment. No medications can help.
- Behavior is less predictable with a mentally ill individual, while a mentally retarded individual’s behavior is consistent to a very specific functional level.

27.2.17. Discuss developmental disorders as they relate to officer contact

The Developmental Disabilities Assistance and Bill of Rights Act of 1990 defines a developmental disability as a severe, chronic disability of a person five years of age or older.

Such a disability:

- Is attributable to a mental or physical impairment, or a combination of the two
- Is manifested before a person attains the age of twenty-two
- Is likely to continue indefinitely
- Is manifested in substantial limitation of three or more specified life activities (self-care, language, learning, mobility, self-direction, independent living, and economic self-sufficiency)
- Reflects the person’s need for lifelong or extended care, treatment, or other services which are planned and coordinated according to that person’s needs.

Infants and young children (newborn to age 5) with developmental disabilities have substantially delayed development or specific congenital or acquired conditions, and are likely to suffer developmental disabilities if services are not provided to them.

Instructor Note:

Put more simply, a DD is a condition that an individual may have had since birth or childhood which has prevented them from full social or vocational independence in adulthood, and which continues on into old age. The four kinds of life skills that are normally mastered during this time and could be affected are gross motor, fine motor, communication, and social skills.

The number of persons with developmental disabilities who commit crimes cannot be reported accurately due to lack of identification prior to conviction, sentencing, or incarceration.

27.2.18. Identify behaviors associated with developmental disorders as they relate to officer contact.
An officer should consider the following points when approaching an individual with a developmental disorder. The individual:

- May be overwhelmed by police presence
- May attempt to run out of fear of uniform
- May confess to a crime to please the officer or end the line of questioning
- Is usually a concrete thinker - speak slowly and clearly utilizing concrete words and concepts
- Needs visual cues to assist in understanding
- May need a more in depth explanation of their rights and an advocate to verify understanding
- May be sensitive to touch, creating a “fight or flight” reaction - always explain any tactile intentions prior to action

Unit Goal: 27.3. To develop a knowledge base concerning suicide and the evaluation of danger levels.

The Mental Health Association of Texas reports:

- Half of all Americans will experience a mental disorder at some point in their lives
- 4.3 million Texans (3.1 million adults and 1.2 children) had some form of diagnosable mental health disorder in 2002 (20%) 
- There are 1.5 times more suicides than homicides, with an average of 6 deaths each day by suicide in Texas
- Latest statistics reported in 2001 states that 121 more people committed suicide in 2001 than in 2000. This is a six percent increase in one year. The gender breakdown was reported at 1,772 males vs. 442 females (i.e., about 4 men for each woman)
- Highest rates of suicide are in the 45-54 age group (15.2 per 100,000), with the second being the 75-year-and-older age group (18 per 100,000)

27.3.1. Verbalize commonly stated myths about suicide.

MYTH: People who talk about suicide won’t commit suicide.

MYTH: People who commit suicide are “crazy.”

MYTH: Once the person begins to improve, the risk has ended.

MYTH: Prior unsuccessful suicide means there will never be a successful suicide.

“There is no typical suicide victim. It happens to young and old, rich and poor.”

- American Association of Suicidology

27.3.2. Discuss suicide and its relationship with mental illness.

- 90% of suicides are reportedly related to untreated or under-treated mental illness with the most common being depression.
• Nearly 20% of people diagnosed with bipolar disorder and 15% diagnosed with schizophrenia die from suicide.

27.3.3. Explain the phrase “suicide by cop.”

From a recent briefing paper from the Treatment Advocacy Center (02/20/05):

“People with severe mental illness are killed by police in justifiable homicides at a rate nearly four times greater than the general public.”

“One study…found that incidents determined to be suicide by cop accounted for 11 percent of all police shootings and 13 percent of all fatal shootings. The study found that suspects involved in such cases intended to commit suicide, specifically wanted to be shot by police…provoking law enforcement officers into shooting them.”

“In 1997, M.P. was driving erratically on the Long Island Expressway. When the police pulled him over, he brandished what turned out to be a toy gun he had purchased earlier that day and advanced on them, despite warnings to stop. The police shot and killed him. They found 10 letters in his car, including one addressed “to the officer who shot me”. It said: “Officer, it was a plan. I’m sorry to get you involved. I just needed to die. Please send my letters and break the news slowly to my family and let them know I had to do this. And that I love them very much. I’m sorry for getting you involved. Please remember that this was my doing. You had no way of knowing.”

27.3.4. Record questions that will assist in evaluating an individual’s current level of suicidal danger.

Evaluating the Levels of Danger:
• Symptoms?
• Nature of current stressor?
• Method and degree?
• Prior attempt?
• Acute vs. chronic?
• Medical status?
• Chance for rescue?
• Social resources?

Danger to themselves:
• Intent (actions/words)
• Gross neglect for personal safety
• Specific plan (action/words)
• Plans/means available

Danger to others:
Intent (actions/words)
Specific person identified
Agitated, angry, explosive
Irrational, impulsive, reckless (intent/actual)

Unit Goal: 27.4. Discuss psychopharmacology as it relates to medications prescribed and prominent side effects in persons with a mental illness.

Medications can be an effective treatment for mental illness. While it is not a cure, they are used to control symptoms and improve coping skills, which can then help reduce the severity of the mental illness. Most individuals who are on psychiatric medications for mental illness will continue taking them for the rest of their lives.

27.4.1. Name four categories of medications utilized in controlling the symptoms of mental Illness.

Categories of drugs:
- Anti-psychotic (Thorazine, Mellaril, Haldol) controls hallucinations (e.g., schizophrenia)
- Antidepressants (Elavil, Prozac, Zoloft) control feelings of sadness, feelings of hopelessness, and suicidal thoughts (e.g., depression)
- Mood stabilizers (Tegratol, Lithium, Depakote) control mood swings (e.g., bipolar disorder)
- Anti-anxiety drugs (Xanax, Valium, Buspar)
- Old vs. new drugs - new drugs have significantly fewer side effects, but old drugs are still used today, especially with the indigent (due to lower costs)

27.4.2. List possible side effects with the use of psychotropic medications.

Side effects:
- Can be uncomfortable
- Can be dehumanizing
- Are often irreversible, which may cause person to refuse to take them as directed
- Examples: muscle spasms, protruding tongue, eyes rolled back, constant leg movement, tremors, uncoordinated movements, impotence, nausea, headache, blurred vision, weight gain, fatigue, liver toxicity

As noted, some of these side effects are permanent, even after the medications have been stopped, due to the medications tendency to effect neurological damage. Many of these medications are also lethal when taken in excess. Careful monitoring is necessary due to many mentally ill consumer symptoms include disorganization and difficulty remembering.

Refer to IRG on Tartive Dyskensia

27.4.3. Discuss ‘old’ vs. ‘new’ medications.
There is an “old” class of drugs, such as Haldol, that have some very negative side effects, such as severe sedation, possible impotence, etc. There is also a “new” class of drugs that treat the disease much better and have fewer side effects. The “older” drugs are still in use today. It is important to be familiar with the older medications, due to their more prevalent usage with the indigent and jail populations. The newer antipsychotic medications are more costly.

27.4.4. Recognize three primary reasons why consumers do not take their medications as prescribed.

A continuous problem for law enforcement is mental health consumers not adhering to their medication regimen. This deviation is the primary cause of crisis concerns.

Common reasons for deviating from a drug schedule:
- Nasty side effects
- The stigma associated with being mentally ill, i.e., they don’t want people to know they have a mental illness
- They start feeling better and think they no longer need the medications

Instructor Note: Right to Refuse Treatment - A person may not administer a psychoactive medication to a patient who refuses to take the medication voluntarily unless the patient is in need of a medication related to an emergency, or the patient is under an order authorizing the administration of the medication regardless of the patient’s refusal.

Instructor Note/Class Discussion: Would you want to take these medications? Is the treatment worse than the illness?

Unit Goal: 27.5. To orient students to a variety of advanced modes of communication

27.5.1. List the components of the “first three minute assessment.”

Elements of Evaluation:
- Appearance and behavior (neat, clean, dirty, disheveled, attitude toward officer, nervous mannerisms)
- Stream of talk (easy, difficult-reluctant, one-track conversation, silent, confused, inappropriate response)
- Thought content (preoccupations or obsessions, delusions, suspicions, paranoia, suicidal ideations, rational vs. nonsensical thought)
- Perceptual abnormalities (visual, mental, tactile, auditory, olfactory-hallucinations, depersonalized perceptual unrealities)
- Affect-prevailing emotional tone (happiness, elation, sadness, depression, irritability, anger, confusion, suspicion, fear, anxiety, lack of expression, inappropriate laughing or crying)
• Concentration (ability to recite either the months of the year or the days of the week in reverse; ability to subtract 7s serially)
• Cognitive-intellectual functions (alert, dull, drowsy, confused, ability to name U.S. presidents, ability to judge distances, memory of events)

**Intellectual Functioning:**
• Clear/alert vs. foggy/confused
• Understands easily or difficulty in understanding (is it due to low IQ or language difficulty?)
• Stream of mental activity is disordered (talks in jingles, repetitive)
• Over-productive (runs on and on, rambles)
• Delusions/hallucinations

**Behavioral Reactions:**
• Attitude (cooperative, helpful, interested, uncooperative, resistant, indifferent)
• Controlled behavior?
• Coordination and gait (normal or disturbed?)
• Distrusting/withdraws/isolates self
• Shy/meek/introverted

**Emotional Reactions:**
• Low (depressed/sad)
• Violative (quickly springs from one emotion to another)
• Helpful/motivated/caring
• Suspicious
• Irritable/annoyed/angry
• Bitter
• Bullying

27.5.2 **Summarize the usage of the L.E.A.P.S. concept of interaction.**

Listen, empathize, ask, paraphrase and summarize (“L-E-A-P-S”)

*Reference: Houston Police Department “Crisis Intervention Team 40-Hour Curriculum Student Manual Year 2000”*

27.5.3. **Demonstrate the process of modeling.**

• Learning through observation
• Characteristics that contribute to or interfere with communication: age, gender, ethnicity, affect, language and actions
• Intervention/Communication strategies: establish credibility, diffusion and calming techniques
27.5.4. Discuss the characteristics that contribute to a positive communication experience.

**Introduction of officer to subject/suspect:**
- Identify yourself as a police officer
- Use identifying statements
  - “I am (name), I am a police officer with the (location) Police Department, and I want to help you.”
  - “This is (name) with the (location) Police Department. I would like to talk to you about what happened today. I understand that there is a problem, and I would like to help you.”

**Opening Statements - the initial contact does several things:**
- Establishes a leadership role in the conversation
- Identifies the ultimate goal— to resolve the situation with minimal harm to any person
- Allows the subject/suspect to respond with his immediate thoughts structuring a dialogue
  - “I want to help you resolve whatever concerns you have, and I want to understand what you need.”
  - “I understand what has been done and I want to help you in minimizing your consequences. Together, we should be able to find some alternatives to your problem.” (for criminals caught in the act)

**Reflecting Statements:**
- Encourage communication
- Neutral responses to statements made by the subject/suspect to encourage him to continue talking
- Examples:
  - “I see…”
  - “Tell me about it…”
  - “That would be one option…”
  - “What other options do you have?”

**Methods for gaining trust:**
- Honesty and sincerity are essential for maintaining trust, for current and future consumer/officer contact
- Very simple tasks assigned to yourself on which you can follow through immediately reflect honesty
- Make sure that you validate the positive things that the subject/suspect has done
- Gain confidence by forewarning that certain things may take place
  - “I’m not going to lie to you. You will probably be going to jail.”
  - “You have been very straightforward with me and I am going to be straightforward with you. You are going to have to be handcuffed when you ride in the car.”
Communication to defuse - calming techniques:

- Show understanding/empathy - attempt to calm an agitated subject/suspect by showing an understanding of his feelings
- Use modeling - attempt to calm by displaying your own calmness, and speak slowly and evenly
- Reassure - calm the agitated subject/suspect by easing his fears; assure subject/suspect of safety
- Allow ventilation - attempt to calm an agitated subject/suspect by encouraging communications, and allow a person to unload (but don’t get so caught up that you forget to be solution-oriented)

Level of Communication:

- Communicate on a level that is easy for the subject/suspect to understand and respond
- Use similar words
- Don’t talk over the subject’s/suspect’s head, keep it simple
- Example: Rather than saying “At this time, you are required to exit the vehicle” use “I need for you to step out of the car.”

27.5.5. List barriers to active communication.

Lack of Active Listening:

- Arguing - avoid creating a conflict
- Criticizing - avoid making the person feel worse
- Jumping to conclusions - don’t tell the person what you think the problem is
- Pacifying - don’t belittle the situation
- Derailing - don’t change the subject too abruptly unless there’s a need to distract
- Moralizing - avoid using moral obligations to manipulate the situation
- Name-calling - putting the person down will make the matters worse
- Ordering - an authoritative approach may create resistance

27.5.6. Discuss the three levels of active listening.

Listening – 3 levels:

- Listening to words
- Listening to whole message (content, feelings, reason)
- Reflecting the whole message
  - “You seem to be feeling ____ when ____ is happening because ____.”
  - “You seem to be feeling frustrated when you hear these voices because the medications don’t seem to be helping you.”

27.5.7. Briefly explain the techniques of repeating, paraphrasing, and reflection of feelings as they relate to active listening.
Techniques of active listening:

- **Repeating** - Simply restate what the subject/suspect has said in his words. This helps ensure that you heard what you believe you heard. If possible, use less provocative language to minimize the danger. Such as, “Blowing someone away” becomes “Harming somebody.”

- **Re-wording** - Use this to determine whether your meaning for a word or phrase is the same as the subject’s/suspect’s. Redefine the situation to create the option you want. Don’t be afraid to say “I don’t know what you mean by that.”

- **Paraphrasing** - Go beyond what was stated in an attempt to understand the meaning behind the words. (Be careful not to put in your own feelings) “It sounds like you are really worried about money right now.”

- **Reflection of feeling** - Express awareness of the other person’s feelings. “You sound depressed.”

- **Minimal Encouragers** - Words like “uh-hunh,” “yes,” “I understand,” etc. encourages communication and reinforces that you are listening. A mixture of these words and silence also invites an individual to continue in a dialogue.

27.5.8. Verbally illustrate examples of ‘You’ vs. ‘I’ statements.

- **“I” statements** instead of “You” statements
  - “You” statements point a verbal finger of accusation at the message receiver. They are not conducive to effective communication Example: “You are not being taken over by an alien force.”
  - “I” statements, in contrast, establish a non-blaming tone. Example: “I understand you are hurting - I can remember when I was depressed and hurting.”

**Unit Goal: 27.6. To internalize the crisis intervention skills involved with communicating with individuals with a mental illness.**

27.6.1. List the basic strategies that are necessary when communicating in crisis situations.

- Stay calm - breathe deeply to become calmer
- Be patient - avoid “crowding” the individual, give them time to calm down
- Double-check information by restating what you hear
- Use the individual’s name in talking to them
- Give instructions or directives one at a time, and allow time for the person to comply
- The size and age of a person with mental illness has little to do with whether a back-up officer should be called
- Remember that a person with a mental illness may exhibit extraordinary strength
- Engagement is pivotal - keep trying
- Don’t underestimate the power of hallucinations or delusions - they are real from the individual’s point of view and can be very frightening, so try to be understanding
• Never argue about a delusion, since arguing only solidifies the conviction - simply accept and move on
• Ask about treatment in the past - sometimes that can help with offering potential solutions to the current situation
• Remember that psychiatric medications have side effects that make them hard to take
• Don’t express disapproval
• Persons in mental health crisis need more personal space - watch for cues

27.6.2 Describe at least four effective communication/interaction skills used when dealing with persons with a mental illness.

1. Safety - Your personal safety comes first. Control the surroundings. Remove harmful obstacles from the surroundings.
2. Crisis facts - The person in distress is usually excited, alarmed, or confused. Control is very important to persons in crisis. When people feel cornered, which translates to lack of control, they may respond with sudden violence.
3. Language - Use the person’s name. Talk quietly. Speak firmly. Use a calm tone of voice. Avoid direct confrontation. Avoid labels and acronyms. Limit the number of instructions, and give them one at a time. Be patient and consistent. Reactions and verbal responses may be slower than you expect.
4. Movements - Be aware of body movements. People in crisis often need more physical space. If possible, position yourself at or below the individual’s eye level. Keep all movements slow and deliberate.

Helpful Hints:
Ask the person about available supports, e.g. clergy, family, therapist, doctor. Don’t be afraid to reveal your own emotions, e.g. “Mr. Smith, you’re making me nervous.” Introduce yourself clearly. You may need to re-introduce yourself, as well. Try to find ways to establish trust. Keep your own emotions under control. Allow ventilation. Reassure, but be realistic, don’t lie. Listen actively.

27.6.3. Apply knowledge obtained in coursework to class exercises and scenarios for role play.

Note to Instructor: Achieve the above objective through role play, scenarios and/or video.

Unit Goal: 27.7. Develop an increased understanding of the legal process; evaluation and techniques for appropriateness of apprehension.

27.7.1. List the process in evaluating the appropriateness of a warrantless apprehension.

“Least restrictive alternative” is the treatment that:
• is available
• provides the consumer with the greatest possibility of improvement
• is no more restrictive of consumer’s physical or social liberties than is necessary to provide the consumer with the most effective treatment and to protect adequately against any danger the patient poses to himself or others.

*Reference: Texas Health and Safety Code, Sec. 571.004

*Reference: Texas Health and Safety Code, Sec. 574.103

27.7.2. Describe the step by step process for obtaining an emergency detention order.

Application for emergency detention:
• A statement that the officer has reason to believe that the risk of harm is imminent unless restrained. This information may be obtained from a credible party. The officer does not have to witness the behavior personally.
• A statement that the officer’s beliefs are derived from specific recent behavior, overt acts, attempts or threats that were observed or reliably reported.
• A detailed description of the specific behavior, acts, attempts, or threats. The individuals name and relationship to the apprehended person who reported observing the behavior. List who, what, where, when, why, and how.

Emergency Detention Order:
• Serves as a magistrate’s order for emergency apprehension and detention
• Is a civil court order issued by a magistrate
• Provides for emergency apprehension and transportation for evaluation (not guaranteed admission).

*Reference: Texas Health and Safety Code, Sec. 573.011

Instructor’s Note: Try to obtain emergency detention order paperwork from various jurisdictions for student to practice completion.

27.7.3. Explain the criteria an officer must meet in order to take a person with a mental illness who has committed no crime into custody involuntarily for emergency mental health evaluation.

A peace officer, without a warrant, may take a person into custody if the officer believes that the person is mentally ill and that, because of that mental illness, there is a substantial risk of serious harm to the person or others unless the person is immediately restrained; and believes there is not sufficient time to obtain a warrant.

27.7.4. Propose justifications in assessing proper use of force option.

Use of Force:
• Keep the situation in perspective
The officer may use force comparable to any other legal duty when a person is resisting arrest
The force must be reasonable
Goal is to obtain care and treatment for the mentally ill person

Reference: Texas Penal Code, Sec.9.51

Changes in the behavior intensity level are also indicators of an individual heading toward violence:
- Agitated Behavior - trying to keep feelings inside but begin displaying such behaviors as pacing, hand wringing, hair pulling, etc.
- Disruptive Behavior - outward displays of behavior to include shouting, swearing, and refusal to comply with requests
- Destructive Behavior - begins to damage items in the environment. Physical force will probably be needed to intervene depending on circumstances
- Out of Control - individual is a danger to himself and others. The individual is out-of-control psychologically and is being threatening. Deadly force may be an option.

27.7.5 Explain an officer’s limitation of liability.

Limitation of liability:
People acting in good faith, reasonably and without negligence are not civilly or criminally liable.

Reference: Texas Health and Safety Code, Sec. 571.019(a)

Confidentiality:
- Communication between a patient and a professional, as well as records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, is confidential.
- Exceptions include:
  o Disclosure to medical or law enforcement personnel if there is a probability of imminent physical injury by the patient or others, or there is a probability of immediate mental or emotional injury to the patient
  o When the patient consents
  o To health care personnel of a jail if it is for the sole purpose of providing health care
  o “Memorandum of Understanding” (refer to the definition section of the IRG)

Reference: Texas Health and Safety Code, Sec. 611.002, 611.004

27.7.6 Identify factors to be considered in determining whether assistance should be requested during approach.
**Assistance request factors:**

- Size and age of a person with mental illness has very little to do with whether a back-up officer should be called
- Like any other person under stress, a person with a mental illness may exhibit extraordinary strength. Persons with a mental illness may, but not always, be unpredictable and irrational. Behavior is very individualized.
- Request assistance as needed. Backup may be needed for the safety of the officer, the individual, or others.
- Contact the local Mental Health Mental Retardation (MHMR) Center for assistance, education, and referrals to appropriate resources.
- Identify behaviors and signs associated with excited delirium syndrome (ExDS).

  - Violent behavior
  - Bizarre behavior
  - Aggression towards inanimate objects
  - Running in traffic
  - Naked or inappropriately dressed (underwear only)
  - Profuse sweating (hyperthermia)
  - Intense paranoia
  - Extreme agitation
  - Rapid emotional changes
  - Disoriented
  - Hallucinations
  - Delusional
  - Easily distracted
  - Screaming or yelling for no apparent reason
  - Grunting or guttural sounds
  - Irrational speech
  - Mumbling
  - Reduced reaction to pain
  - Superhuman strength
  - Unlimited endurance

**ExDS** – A descriptive phrase used when delirium becomes combative or violent in nature. ExDS is a medical emergency requiring a police intervention followed by medical treatment to reduce the risk of a sudden death. A person experiencing an ExDS event may initially present similar to a crisis intervention. First and foremost, ExDS is always a medical emergency, whereas the typical crisis intervention may or may not require medical treatment. Due to an increased risk of the patient dying if not treated when ExDS is suspected time is no longer on your side. Someone experiencing an ExDS episode is in need of medical intervention ASAP. A person suffering from ExDS should be considered dangerous and requires a different approach than the typical crisis intervention explained in this course. Experts suggest five to six trained first responders to safely handle someone suffering from an ExDS episode. Overwhelming force is needed to keep the physical struggle as short as possible and limit the risks to the first responders as well as the patient. The above list of behavior and signs is not all inclusive. Not every patient will display every sign. Look for clusters of the above conditions, the more behaviors present the more likely it is ExDS. When in doubt as to which condition the patient is suffering, the medical emergency takes precedence over the mental health issues.
27.7.7. Research departmental policies in requesting assistance.

Instructor Note: Departmental policies and procedures should be followed. Review policy for your agency or refer student to appropriate resource.

27.7.8. Identify factors considered in determining appropriate method of transporting consumer.

Determining appropriate method of transport:
- Follow departmental policy and procedure
- Be aware of the distance to an approved medical facility for examination or admission
- Evaluate the behavior or physical condition of person:
  - Violent
  - Comatose
  - Ambulatory-non-ambulatory
  - Sedated

Unit Goal: 27.8. To explore the world of the mentally ill through discussion of legal and societal concerns and perspectives.

27.8.1 Discuss the mentally ill person in the situation of being homeless.

On any given night approximately 600,000 Americans are homeless, and more than 2 million people are homeless throughout the year. According to conservative estimates, one-third of people who are homeless have a serious mental illness, and more than one-half also have a substance abuse disorder. (NCH Fact Sheet #5)

Vast increases in homelessness seem to have occurred in the 1980s when incomes and housing options for lower incomes became an issue. Today however, a new wave of homeless mentally ill persons has emerged due to deinstitutionalization combined with denial of services due to funding cuts, and premature discharge due to managed care.

Homeless persons with mental disorders remain homeless longer due to isolation from family and friends, barriers to employment or low income status, poor physical health and more contact with the legal system.

27.8.2. Discuss the mentally ill individual as a victim of crime.

“People with mental illness are more likely to be victims than perpetrators of violence”
Why then is … thirteen times more research compiled concerning the mentally ill as perpetrators of violent acts rather than as victims of violent acts? (see the Archives of General Psychiatry, August 2005)

Statistics:
- 4-13% are perpetrators of crime
- They are 140 times more likely to be victim of theft
- 3 million are estimated to be victimized each year
- In a year, more than one-quarter of mentally ill persons say they are victimized
- There is an 11-times-higher risk for them than for the general population

The public tends to be surprised by these findings, due to the stereotype that people with a mental illness are dangerous. Violence among this population is caused by many of the same factors that produce violence in the rest of us. People become violent when they feel threatened, when they feel out of control, or with the excessive usage of mind-altering substances.

“We don’t think about their vulnerability to victimization.”
- Alison McCook, Reuters Health

People with mental illness are more vulnerable to crime than others. They often live in poor communities, areas with higher crime rates. They can be unable to make safe decisions, such as avoiding an empty, dark street.
- North Western University

The effect of crime is also more destabilizing with a person with mental illness.
- Dr. Linda A. Teplin

Tips for responding to a victim's needs:
- Victim’s Need to Feel Safe - people feel helpless, vulnerable and afraid by the trauma of their victimization.
- As a law enforcement officer, you are usually the first to approach the victim - how the officer responds to the victim is very important
- Victim’s Need to Express His/Her Emotions - victims need to air their emotions and tell their story after the trauma of a crime, and they need to have their feelings accepted and their story heard non-judgmentally
- Victim’s Need to Know What Comes Next - the officer can help relieve some of the anxiety by telling victims what to expect in the aftermath of the crime, which will help prepare them for the upcoming investigation process

Crimes people with mental illness are commonly victims of:
- Children with mental illness may be molested or abused. They are often unable to identify the suspect.
• Adults with a mental illness may be easily robbed or become a victim of a con artist.
• A person with a mental illness has the same chance of being victimized as the general public, but they reportedly have less chance of a successful prosecution.

Mentally retarded victims of crime will need special consideration upon approach. This population may not even know they have been victimized, due to their naiveté and lack of ability to discriminate between good and bad social situations. Mentally retarded victims are also easily fooled and become easily vulnerable. These victims, just as with mentally ill victims, will need to be treated with extreme patience and respect.

27.8.3. Evaluate the stigma and societal discrimination that exists toward persons who are mentally ill.

Stigma is a mark of disgrace or shame. It is made up of various components, including:
• Labeling someone with a condition
• Stereotyping people with that condition
• Creating a division (i.e., a superior “us” and a denigrated “them”)
• Discriminating against someone on the basis of their label

Stigmas encourage inaccurate perceptions. The term mental illness in itself alludes to false information. “Mental” suggests an illegitimate medical condition that is “all in your head,” and therefore a sign of weakness. The term “mental” suggests a separation from a physical illness, when in fact they are entwined. Studies reported at MayoClinic.com show that there is in fact a physical change in the brain associated with mental illness, suggesting that a biological basis exists.

It is also a common stereotype that persons with a mental illness are dangerous and unpredictable, although statistics do not substantiate the idea. It continues to be believed that they are somehow less competent, that they are not able to work, and that they need to be institutionalized to “get better.”

These stigmas perpetuate a negative portrayal of people with mental illness that fuels fear and mistrust and reinforces distorted perceptions, leading to further stigma. It can lead to devastating consequences. Some people refuse treatment for fear of being “labeled.” The stigma can lead to social distancing due to shame and embarrassment. Discrimination in the workplace reportedly continues, even with the American with Disabilities Act in place. Victims may lose jobs through the stress of coworker gossip and lack of promotion. The stigma even extends to the medical community, where health insurance coverage is more limited for mental illnesses than for physical illnesses.

Dispelling prominent myths regarding mental illness can reduce undeserved stigma.

Consider the following:

Myth: Mental illness does not affect the average person.
Reality: No one is immune to mental illness. More hospital beds are filled by individuals with mental illness than those with cancer, heart, and lung disease combined.

Myth: Mental illness is an indication of a weakness of character.
Reality: A combination of factors contributes to mental illness, including malfunction of neurotransmitters, heredity, stress, and recreational drug usage.

Myth: A person with a mental illness is also mentally retarded.
Reality: There are some persons with a dual diagnosis, but the conditions are fundamentally different.

Myth: If you have a mental illness, you are “crazy” all the time.
Reality: Mental illness is often temporary. People suffering from even the most severe mental illness are in touch with reality as often as they are actively psychotic.

Myth: If people with other disabilities can cope on their own, people with mental illness should be able to do so as well.
Reality: Most people who have a disabling illness need help to return to normal functioning. Physical therapy fills this role for a physical illness just as therapeutic rehabilitation is needed for mental illness.

Myth: Most people who struggle with mental illness live on the streets or are in mental hospitals.
Reality: About two-thirds of Americans who have a mental illness live in community settings.

27.8.4. Discuss legal and societal concerns from a mental health consumer’s vantage point.

Instructors are encouraged to provide a mental health consumer to speak to the officers about their experiences with the legal and mental health systems. The goal of this section is to sensitize the officer to the lives, feelings, and thoughts of a person with a mental illness and their perspective on communication with law enforcement.

**If speaker resources are unavailable, contact the local office of the National Alliance for the Mentally Ill (NAMI).**

27.8.5. Participate in a discussion of the family member perspective on mental illness.

Instructors are encouraged to invite family members of mental health consumers to speak on their experiences with mental illness and the “system.” The goal is to acquaint the officer to the experiences and difficulties families face on a daily basis. Speakers can be obtained by contacting your local office of the Alliance for the Mentally Ill (AMI), or by contacting the National Alliance for the Mentally Ill.
**In lieu of speakers a video could be used. A resource for obtaining subject matter videos is The Mental Illness Education Project at www.miepvideos.org.**

**Unit Goal: 27.9. Gain an understanding of mental health referrals/resources in the student’s community.**

The quality and availability of mental health programs vary depending on community mindset and budgeting restraints. Even within a community, services available depend on timing, resources, and program eligibility criteria. Too often, community mental health resources are just in short supply. High costs of prescription drugs and formulary limitations also sometimes make it impossible for an indigent person to get access to needed medications.

In addition to the previously mentioned resource challenges, there is also an impasse with the willingness of mental health providers to participate in criminal justice initiated programs. Just like society’s stigmas and discriminations against mentally ill individuals, mental health system often discriminates against people who have been arrested or incarcerated due to stereotypical concerns about criminal behavior and lack of experience working with this population.

**27.9.1. List the mental health facilities in your area that can be utilized as a resource when encountering a subject/suspect you identify as having possible mental health issues.**

*Instructor Note: Use MHMR or comparable entity for state referral sources per region.*

**27.9.2. Investigate possible referral/treatment challenges in your community.**

Once you have the individual in crisis under control, you may need to take him to a facility for emergency psychiatric evaluation. Depending on the resources in your area, this may be a time-consuming process. There may be a lack of services. Be aware of this potential challenge, but don’t let it detract you from your goal of responding professionally and appropriately to the situation.

**Unit Goal: 27.10 To understand how CIT techniques apply to all areas of crisis communication.**

**What constitutes a crisis?**

- “… an unstable or crucial time or state of affairs whose outcome will make a decisive difference for better or worse”
- “…takes people out of their comfort zones and normal coping patterns.”
- “Often a crisis is precipitated by a loss of some sort, or a situation that threatens normalcy or expectations. The greater the threat, the more severe the crisis will be.”
- “…the crisis is the instability and threat the event produces. A person’s response to the upheaval will determine, in large part, the outcome of it.”
Discussion Questions:

- Is it the event itself that is the crisis, or the person’s response to the situation?
- What can turn the issue into a crisis?
- What makes an issue, loss, tragedy or stress seem like a crisis to one person, but not to another person?

For some persons with a mental illness, life as they know it can virtually stop when a crisis situation presents itself to them. While for other people even in a crisis situation, they will continue to function as normal.

Many intensifying factors can contribute to how a person responds to crisis:

- Negative personality traits
- Unrealistic expectations
- Faulty sense of identity
- Disconnectedness
- Poor coping mechanisms due to background
- Faulty belief system

Discussion Question:
Do you have to have a mental illness to possess the above factors?

How can the officer assist?

- Acknowledge their feelings
- Avoid being judgmental
- Attempt to assist the individual in maintaining a realistic view of the situation
- Investigate available referral sources
- Assist the individual in focusing on the positive of what can be changed, instead of the negative of what can’t
- Be solution-oriented and guide the individual in developing a realistic plan

27.10.1. Define Crisis Behavior and its relevance to CIT Training

Crisis Behavior:

- A person suffering from a temporary breakdown in coping skills that includes perception, decision-making ability, and problem solving ability is experiencing crisis behavior.
- Crisis behavior can be different depending on individual response. Anyone can suffer from a crisis and its effects can vary with time, place, and person.
- Examples of situations involving crisis: being locked out of the house, losing a job, being a victim of a crime, having a divorce, being involved in a traffic stop or accident

27.10.2. Demonstrate how Crisis Intervention Techniques can be utilized in domestic disturbance situations.
Instructor Note: Show the video on Domestic Disturbances. Upon completion, discuss the tactics and techniques that can be used effectively in domestic disturbance situations based on the scenario shown on video.

27.10.3. Dramatize how an intensified traffic stop could be better controlled by the utilization of crisis communication techniques.

Instructor Note: use role-play to accomplish this objective, with all participants in the exercise.

Unit Goal: 27.11. Discuss jail/court related alternatives and referrals for persons with a mental illness.

Our nation’s system of jails and prisons has now become the largest facility for persons with mental illness. Police have become the “first responder” to persons in a crisis situation. Judges, law enforcement personnel, and mental health experts struggle with trying to find a solution to the increasing numbers passing through the legal system. The Mental Health Association of Texas states that “deinstitutionalization without adequate community supports (such as supported housing and employment) contributes to an increase of people with mental illness in prisons.” There is an overrepresentation of people in our prison system. While only 3% of violent behavior is attributable to mental disorder, an estimated 16% of prisoners have mental illness, and 50% of the young people under the Texas Youth Commission have a mental disorder. TYC further reports that in 2002, 21% of its institutional population was on psychotropics.

There has been a rise in the number of persons with mental illness or co-occurring disorders who are appearing before the court system. Many alternatives to the “traditional” court model are being initiated, including drug courts, mental health courts, domestic violence courts, and community courts. Programs such as the Jail Diversion Program are also being implemented in many states, including Texas (see HB 2292). These courts/programs have been implemented to address the underlying issues that brought the consumer to court in the first place. The aim is to link consumers to community-based services.

Persons with mental illnesses are reportedly arrested at a disproportionately higher rate than other individuals (Lamb and Weinberger, 1998). Over 11 million adults are booked each year into U.S. jails (Steadman et al., 1999).

27.11.1. Discuss the concept of mental health courts.

According to a collaborative survey conducted by NAMI, the GAINS Center, and the Council on State Governments, at least 94 communities across the U.S. have established mental health courts as of June 2004.
Portland state researcher Heidi Hendricks followed 368 people who were diverted to the Clark County Mental Health Court from the traditional court system. Her results are as follows:

- In one year after being diverted, those in the group were arrested a total of 713 times
- One year after completing the mental health court program, 199 of the group (54%) had no new arrests
- For that same period, there were only 178 arrests for the entire group - a 75% reduction at a time when there was no longer court oversight
- Probation violations dropped by 62%
- The percentage of those in the group with three or more arrests dropped from 26% to 3% (an 88% decline)

Eighteen months after introducing a mental health court, Oklahoma County officials assert that the county saved as much as $15,000 per year by putting an offender in treatment instead of jail.

27.11.2. Describe the State of Texas Jail Diversion Ideal.

_Instructor Note: The following information is taken from the ‘Public Safety Net’ publication titled "Psychiatric Crisis System-Jail Diversion." Refer to it for expanded information._

**Elements of the Texas Jail Diversion Ideal:**

- Education and training of law enforcement personnel and the courts
- The development and utilization of crisis intervention teams (CIT)
- Development of centralized location for mental health assessment without arrest for individuals with non-violent criminal conduct
- Development of holding facilities providing structured treatment in lieu of arrest
- Development of linking services
- Development of timely and effective screening process
- Development of required community support
- Development of an identified method for addressing housing and needed support services

H.B. 2292 states that “the department shall require each local mental health authority to incorporate jail diversion strategies into the authority’s disease management practices for managing adults with schizophrenia and bi-polar disorder to reduce the involvement of those clients with the criminal justice system.”

27.11.3 List two approaches to jail diversion.

Pre-booking diversion occurs at first contact with law enforcement, prior to any formal charges. Most communities that use this system have specialized training for their officers and a 24-hour crisis center with a no-refusal policy. The Crisis Intervention Team process is an example of this approach.
Post-booking diversion is the most used program. This process is to identify and divert consumers after they have been booked. A plan is then created to implement upon release.

27.11.4. List two facts associated with the jail diversion concept.

Jail Diversion Concept Facts:
- Nationally, nearly half of the inmates in prison with a mental illness were incarcerated for committing a non-violent offense
- Some 150,000 former patients of TDMHMR now find themselves caught up in the criminal justice system, mainly because there is no other place for them
- Calls for police service in which mental illness is a factor make up between 7% and 10% of all police contacts, and continue to pose significant operational problems for the police
- National analyses have demonstrated that diverted clients had significantly lower criminal justice costs than non-diverted clients

27.11.5. List the benefits of jail diversion.

Jail Diversion Benefits:
- Decriminalization of persons with mental illness
- The problem of overrepresentation of people with mental illness in the criminal justice system is addressed
- Reduced hospitalization
- Increased public safety
- Reduction of inappropriate incarceration of persons with mental illness
- Length of stay in jails shortened in lieu of increased access to treatment
- Violence and victimization is reduced
- Costs incurred by taxpayers when a person with mental illness is arrested, incarcerated, and/or hospitalized are addressed

Instructor Note: refer to www.solutionfortexas.info/id257.html for an example of a jail diversion model. See also the PowerPoint presentation titled “Bexar County Jail Diversion-Bridging the Gaps in Mental Health” and “Diversion Components of Harris County” By Monalisa Jiles, M.Ed., NCC, LPC, LNFT, SWA.

Instructor Note: Refer to “The Scope of Mental Illness and Criminal Justice Involvement in Texas” By Dave Wanser, Ph.D., Deputy Commissioner for behavioral and Community Health Services. See also “Austin Travis County Mental Health and Mental Retardation Center, Executive Summary for Jail Diversion Initiative,” prepared by Susan Stone and Associates, in conjunction with ATCMHMR Jail Diversion Workgroup and Community Forum Participants.

The complex issue of criminalization is in need of a formidable solution. This reality has multiple causes and requires community-wide participation to create and implement a
uniform standard. Collaboration among all involved parties is necessary to successfully achieve the process of diverting persons with mental illness from unnecessary arrest and confinement to appropriate treatment resources.


27.12.1. List four components utilized in evaluating success rates.

Components for evaluating success rates:
- Reduction of criminal recidivism
- Improved relationship between law enforcement and mental health professionals
- Reduced percentage of referrals to hospital in crisis
- Reduced percentage of consumers needing emergency psychiatric care
- Reduced rates of officer injury
Instructor Resource Guide (IRG)
# INTERNET RESOURCES

## Mental Health - Government Sites

<table>
<thead>
<tr>
<th>Resource</th>
<th>Internet Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Americans With Disabilities Act Home Page</td>
<td><a href="http://www.usdoj.gov/crt/ada">www.usdoj.gov/crt/ada</a></td>
</tr>
<tr>
<td>Arizona Peace Officer and Training Board</td>
<td>azpost.state.az.us</td>
</tr>
<tr>
<td>Houston Police Department</td>
<td>houstontx.gov</td>
</tr>
<tr>
<td>Ohio Criminal Justice Coordinating Center of Excellence</td>
<td><a href="http://www.neoucom.edu">www.neoucom.edu</a></td>
</tr>
<tr>
<td>San Antonio Police Department</td>
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By Mayo Clinic staff

MH00039

March 10, 2005

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Instructor Resource Guide (IRG)
# Internet Resources

## Mental Health - Government Sites

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29. Criminal Investigation

Unit Goal: 29.1. The student will have a working knowledge of the goals and objectives of criminal investigation.

29.1.1. Define Criminal Investigation.

A criminal investigation is the process of legally gathering evidence of a crime that has been or is being committed.


Relevant terms and definitions significant to the criminal investigation process:

- **Bias**: A highly personal and unreasoned distortion of judgment.
- **Crime**: An act or omission forbidden by law and punishable by a fine, imprisonment, or even death. Crimes and their penalties are established and defined by state and federal statutes and local ordinances.
- **Circumstantial Evidence**: Not based on actual personal knowledge or observation of the facts in controversy, but of other facts from which deductions are drawn, showing indirectly the facts sought to be proved.
- **Complainant**: Person requesting an investigation or that action is taken. Is often the victim of a crime.
- **Corpus delicti**: Literally means the body or substance of the crime. In law the term refers to proof establishing that a crime has occurred; the necessary elements that constitute a crime.
- **Elements of a crime**: Conditions that must occur for an act to be called a specific kind of crime.
- **Evidence**: Anything to be offered in court to prove the truth or falsity of a fact in issue.
- **Fact**: Something known to be true.
- **Fence**: One who receives and disposes of stolen property on a regular basis.
- **Field Identification**: On-the-scene identification of a suspect by the victim of or witness to a crime, conducted within minutes of the commission of a crime.
• **Prejudice**: An opinion or leaning adverse to anything without just grounds or before obtaining sufficient knowledge.

• **Modus Operandi (MO)**: A criminal’s characteristic method of operation.

• **Proof beyond a reasonable doubt**: Level of proof required to obtain a conviction in a criminal trial.

• **Probable Cause**: Evidence that warrants a person of reasonable caution in the belief that a crime has been committed or is being committed.

• **Rapport**: A feeling of ease and harmony in a contact or relationship between people.

• **Reasonable Doubt**: The level of certainty a juror must have to find a defendant guilty of a crime.

• **Statement**: A legal narrative description of events related to a crime.

• **Suspect**: A person considered to be directly or indirectly connected with a crime, either by overt act or by planning and/or directing it.

• **Witness**: A person who saw a crime or some part of it being committed or who has relevant information.

• **Victim**: The person injured by a crime.

### 29.1.2. Identify the tools of the criminal investigator.

The tools available to a criminal investigator have increased and will continue to increase in number and sophistication; however the fundamentals of criminal investigation remain the same.

**Criminal investigation tools:**

• **Information**: The knowledge a criminal investigator gathers from other persons (victims, witnesses, suspects) and other legitimate sources (records, reports, etc.)

• **Instrumentation or forensic science**: The techniques that help in the solution of the crime. Consists of fingerprints, serology, ballistics, and DNA analysis, etc.

• **Interviewing**: The questioning of victims, witnesses, or suspects in a criminal investigation.

• **Laws of arrest, search and seizure**: Provides guidance on what investigative techniques are acceptable. Mastery and knowledge of criminal procedures and
the rules of evidence enable the investigator to gather evidence against a suspect
that can withstand court challenges.

29.1.3. List the goals of a criminal investigator.

The ultimate goal of any criminal investigation is to determine, to the extent possible, the
truth about how a crime occurred. The goals are:

- To determine if a crime has been committed.
- To legally obtain information and evidence to identify the person(s) responsible
  for committing the crime.
- To legally arrest the suspect(s).
- To recover stolen property.
- To present the best case possible to the prosecutor.

The criminal investigator must be mindful that the basic task of a criminal investigation is
to determine the truth. This requires the investigator to gather all the information that
tends to prove or disprove a person’s involvement in a criminal act or omission.

Not all crimes are solvable.

Reference: Criminal Investigation: Law and Practice, 2nd ed., Michael F. Brown,

Paul: West Publishing Company.

29.1.4. Define corpus delicti and discuss its significance in the criminal investigative
process.

Literally means the body or substance of the crime. In law the term refers to proof
establishing that a crime has occurred; the necessary elements that constitute a crime. It
is essential to prove the corpus delicti as well as the elements of the offense in order to
bring the matter before a court to prove the guilt or innocence of the accused.


29.1.5. Discuss the legal significance of evidence.

The legal significance of evidence rests in its influence on the judge or juror.

Reference: O'Hara, op cit, p. 627; Weston and Wells, op cit p. 12.
29.1.6. Discuss the significance of proof beyond a reasonable doubt in criminal cases.

The level of certainty a juror must have to find a defendant guilty of a crime. A real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence, or lack of evidence, in a case.

It is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

The investigator shall collect corroborating evidence of an accused person's guilt in order to negate the defenses claims.


29.1.7. List the characteristics of an investigator.

Knowledge of the basic fundamentals, methods, and techniques of investigation are essential for anyone conducting a criminal investigation.

Criminal investigators must strive for objectivity when conducting any investigation. The actions of an investigator, or lack thereof, can affect the lives of all those involved, both guilty and innocent.

Characteristics of a criminal investigator:

- **Suspicious** – takes nothing for granted. Investigators may find that victims and witnesses, as well as suspects, may be motivated by various physiological, psychological, and sociological needs that may “color” the information they give. Gathers information, but verifies it credibility.

- **Curious** – desires to investigate and learn the facts and truth about people, places or objects. This means being habitually curious of such things as spontaneous statements by suspects, an unusual amount of money in the possession of a person of modest means, etc.

- **Observant** – investigators should be trained observers. They should develop the ability to take accurate notice of, keep in view and give attention to, that which is present in their five senses.

- **Unbiased and Unprejudiced** – an investigator must possess an unbiased and unprejudiced mind. Allowing either attitude to be involved in a case will result in a sloppy investigation, incorrect conclusions and unfairness to victims and suspects.

- **Develops rapport through interpersonal communication skills** – establishing rapport with victims and witnesses is one of the prime facilitators of an investigation. Accomplished by being patient,
courteous, and sympathetic with persons contacted during an investigation.

Criminal investigators must not attempt to exhibit expertise in all fields of law enforcement, nor discuss case details with anyone outside of police or other authorized circles. This practice can be prejudicial and compromising to both the prosecution and defense.


Unit Goal: 29.2. The student will have a working knowledge of crimes against property and persons and characteristics of these crimes.

29.2.1. Discuss various types of property offenses and characteristics of these types of crimes.

Professional Criminal(s):

Thief:
- PC 31.03
- Profit motive
- Operate so as to minimize chances of observation
- Lack of eyewitnesses.
- May be traced when stolen property is recovered.
- This type requires planning, direction, and operating skills.
- The type of property stolen may be an important clue.
- Often work in conjunction with criminal receivers (fences).

Professional "heavy" criminal - PC 30.01, 30.02, 30.03, 30.04
The term “Professional heavy criminal” is defined as an individual who commits the crime or crimes of burglary, white collar crimes, larceny, vehicle theft, agricultural crimes and arson, all of which may result in heavy or lengthy sentences depending on the criminal history of the accused.

Semi-professional (unskilled) thief:
- Profit still underlying motive, but this type may be more interested in getting money for drugs
- Targets are determined more by opportunity (cruising robber)
- Less involved in planning or preparation
- More likely to resort to violence against victim
- Presents a special danger when interrupted and cornered
- More prone to violence to try to effect escape
- Less rational than "professional" counterpart

Burglar:
• Same motivation as professional thief
• Has ability to gain entry to premises by stealth or defeating locks, alarms
• Ability to plan, direct, and execute an operation
• Has business sense - ability to distinguish between valuable and worthless items during burglary
• Connections to dispose of fruits of the crime
• Type of burglary committed may give a clue to suspect identity
  • residential premises
  • safe burglary
  • commercial premises
  • vehicle

Robber:
• PC 29.02, 29.03
• Indicates a tendency to use violence on a stranger
• Bolder type personality - sacrifices secrecy through confrontation with victim
• Generally classed according to style
  • ambush - least planned; based on element of surprise
  • planned operation - carefully structured; robbery group examines all aspects of the situation and plans for foreseeable contingencies. May engage in "dry runs" in preparation for robbery or "casing" of the robbery scene
• May specialize in specific targets i.e., banks, jewelry stores, home invasion.
• "Signature" aspects of robbery (modus operandi) may help in typing a person or group to a series of robberies
• Use of "backup" creates a special hazard to officers responding to robbery in progress

Note: an accomplished thief not only completes the crime but successfully disposes of the property. The “Achilles’ Heel” (weakness) of property crime is the disposal of the stolen property.

Identity Theft - PC 32.51
• The assumption of another person’s identity for the use in fraudulent transactions that result in a loss to the victim resulting in the acquisition of something of value by the offender(s)
• Accompanied by acquiring personal information about the victim
  o Date of birth
  o Address
  o Credit card numbers
  o Drivers license number
  o Social Security number
Types of identity crimes include identity theft, credit card/access device fraud ("skimming"), check fraud, bank fraud, false identification fraud, and passport/visa fraud.
Con Artists and Con Games or Schemes:
- PC 32.44, 31.03
- Based on promises of unusual return i.e. something for nothing, double your money, etc. Often use victims own greed, assuring them risks are minimal
- Often use props in carrying out schemes
- Frequently work with partner(s)
- Often prey on elderly
- Generally very mobile
- Tend to be non-violent

White Collar Criminal:
- PC 31.03, 32.42, 32.43, 32.45, 32.48, 33.02, 33.03
- Frequently involved in consumer and business frauds.
- Consumer frauds generally classed as:
  - Bait and switch
  - Repair fraud
- Business frauds may take many forms:
  - Ponzi scheme, or kiting
  - Securities fraud
  - Land fraud schemes
  - Advanced fee frauds
  - Home improvement frauds
  - Bankruptcy fraud
  - Insurance fraud
  - Embezzlement
  - Computer fraud
- Motivated generally by profit.
- Embezzlers often think they will be able to replace funds before being discovered.
- Monetary losses from white-collar crime are astronomical, rivaled only by drug trafficking.
- Tend to be non-violent

Reference: Weston and Wells, op cit, pp. 324 - 325

Forgery and Credit Card Abuse:
- PC 32.21, 32.31, 32.41
- Least violent of offenders
- Four steps in check fraud
- Forging
- Use of false or stolen identification cards
- Use of a presentation that overcomes a merchant's reluctance to cash a check upon minimal identification
- Con artist's sense of right time, place, and victim
- Credit cards often used as alternative to check writing
• Contemporary computer software allows forger to create checks, credit cards and currency

Auto Theft:
• PC 31.03, 31.07, 31.11
• Comprised of both amateurs and professionals.
• Generally fall into one of five categories:
  o Unauthorized Use of a Motor Vehicle offender(s) - Joy-riding juvenile; usually host to several other juveniles. Abandons vehicle when it runs out of gas or they tire of it. Transportation thief - "borrows" car for transportation. Abandons vehicle when it has served its purpose.
  o Use-in-crime thief - steals a car for sole purpose of using it in the commission of another crime.
  o Insurance fraud swindlers - owner abandons vehicle in area where he knows vehicle will be stripped. May burn vehicle or have it dismantled in junkyard.
  o Strippers and dismantlers: Strippers attack parked vehicle and remove parts that can be readily disposed of. Dismantlers steal vehicle and tow or drive it to a "chop shop"
  o Professional auto thief - steals late model vehicles and resells them. May ship vehicles and resells them. May ship vehicle out of country (Mexico or South America).

Reference: Weston and Wells, op cit, pp. 393-394
Texas Dept. of Public Safety "Stolen Vehicle Recognition and Apprehension Reference Manual for Patrol Officers"

29.2.2. Identify the characteristics of a street thief.

Street Thieves
Uniformed officers encounter "street" thieves more often than the truly professional car thief. Street thieves often carry weapons and take reckless chances to avoid apprehension. Street thieves are usually stealing for trading material to procure narcotics or alcohol. Street thieves are the most dangerous auto thieves. The truly professional thief will rarely be armed since he would get more time for a weapon charge than the theft charge. He will try to use his mind to outwit his captor. The better an officer becomes at questioning a suspect and catching him in a lie, the better that officer's chances are he will catch a professional car thief.
29.2.3. Identify what is meant by the term “gray market vehicle.”

Gray Market Vehicles
Gray market vehicles are foreign made vehicles not produced for sale in the United States but which have been imported by individuals or companies into the U.S. Most of these cars are Mercedes-Benz. To be operated in the U.S., they must meet certain Department of Transportation and Environmental Protection Agency requirements. The public VINS on these vehicles will appear to be different from vehicles made for the U.S. and officers should be cautious about seizing these vehicles for altered VINS. These types of vehicles should be documented and turned over to people specializing in auto theft detection.

29.2.4. Explain what a “salvage switch” is and how it works.

Salvage Switch
A salvage switch is described as the altering of a vehicle's identity by placing the serial number of a total loss car (total loss vehicles are cheaper to buy and still get a title) onto a stolen car. When the serial plate of the stolen car is removed and replaced with the serial plate of the wrecked car, a thief is then able to sell a stolen car as if it was legal. The degree of VIN switching varies with the degree of expertise of the thief. Some switches are very primitive and others are so good that they are almost undetectable.

Many times officers will run a VIN or license plate and receive a return with “junk” salvage title issued on a certain date under the remarks section. This return indicates that Austin MVD computer records show the vehicle as a non-operating vehicle that should not be on the road. It is a registration violation to operate a vehicle on a salvage title.

If the license plate is obviously just issued (not reported by county) the driver may have just repaired the vehicle to running condition and surrendered his salvage title to a tax or MVD office to get his new blue title. In this case the driver is legal and no enforcement action should be taken.

When a salvage switcher changes VIN plates, it is easy to distort or damage the rivets and plate. Close examination of VIN plates and rivets should be made.

Obviously, when a VIN is changed the MVI certificate, which contains a repeat of the VIN, must be changed. To avoid having an inspector write down his information from the back of the old MVI certificate, the thief will tear it off. The newly installed MVI certificate will contain "none" in the space for previous MVI certificate.

29.2.5. Identify some common problems of dealership inventory control.

Dealership Problems
One problem that is common in large cities with big auto dealerships is inventory control. A dealer may do an inventory at 30, 60, or 90 days. If a thief has an inside contact who knows when an inventory is conducted, he can arrange to steal a car off a dealer's lot and it won't be missed for up to three months. To combat this problem, officers must look at
car dealer decals when they receive "not reported by county" on a registration request. Also examine the MVI certificate for the station number to identify the dealership and give them a call.

29.2.6. Identify some problems with car rental agencies (civil vs. criminal violations).

Rental Cars
Many times officers will stop a vehicle that is obviously a rental car. (It is registered to a rental company and displays small stickers in the rear window or in the center of the license plate.) The vehicle is not reported stolen through the computer. A check of the rental contract in the vehicle may reveal that none of the occupants rented the car and the car is not supposed to be out of the state it was rented in. If you have stopped a carload of hitchhikers in a California rental car is two months overdue, you have a civil case, not a criminal case unless the rental company is willing to prosecute.

Many rental companies have trouble keeping track of the large inventory of vehicles they rent. A vehicle may be missing from inventory for months before it is reported stolen. Before any enforcement action is taken, a theft report should be secured by the rental agency. If the agency is reluctant to prosecute, the best work an officer can do is document the occupants of the vehicle and the VIN of the car for possible future prosecution.

29.2.7. Identify some conditions of a vehicle that might lead an officer to suspect it to be stolen.

Analysis of vehicle that may have been stolen:

- Is there broken glass on the vehicle where primitive entry was made? (Is there a window down on a very cold day?)
- Does the license plate match the VIN by a registration? (Use the last six characters of the VIN to save radio time.)
- Is one plate being displayed in a two-plate state?
- Does the vehicle display a current registration sticker located in the appropriate place on the windshield?
- Does the vehicle display a MVI sticker from one state and license plates from another state? (Clever thieves sometimes change plates often to confuse traffic officers.)
- Does a clean vehicle display dirty license plates or does a dirty vehicle display clean license plates?
- Does the vehicle display license plates that are capable of being quickly changed? (Are the license plates held onto the car with wire or heavy magnets?)
- Does the vehicle display license plates from different states on the front and back?
29.2.8. Identify some indicators that lead an officer to believe the vehicle is stolen after it has been stopped and observed.

Analysis of vehicle that may have been stolen:

- Has the steering column been broken to defeat the ignition system?
- Is the steering column covered by a towel or piece of tape large enough to conceal a break in the steering column?
- Does the key actually work the ignition or has the ignition system been defeated and the key is there just a disguise? (Does the driver refuse to turn off the vehicle during a contact?)
- What position is the ignition key in while the engine is running?
- Do the door lock holes show teeth marks from vice grips used to turn the entire keyhole to open a locked door? (This method of theft is primarily used on GM products and the most common door attacked is on the passenger side.)
- Is the vehicle identification plate securely fastened to the vehicle with the proper rivets?

Note to the Instructor: Additional indicators are listed in Texas DPS “Stolen Vehicle Recognition and Apprehension Manual for Patrol Officers.”

Obtain as complete a description as possible of any property stolen by suspect - detail of item, color, model, make, serial number, place of purchase, value, significant characteristics or marks.

Estimate property values of stolen or recovered goods:

The officer should obtain the victim’s estimate of property value.

29.2.9. Describe procedures for determining whether a vehicle has been impounded or repossessed in reported auto theft cases.

Determine whether recovered property is linked with a previous crime by checking stolen reports, NCIC/TCIC, teletypes from other jurisdictions.

Determine time and date that vehicle was found to be missing or stolen.

Check with dispatcher to determine if vehicle was impounded in by an agency.

Check with any lien holder of vehicle to determine if vehicle was repossessed.
29.2.10. Identify the various types of offenses against persons and the characteristics of these type crimes.

Crimes Against Persons

- Homicide - PC 19.02, 19.03, 19.04, 19.05

Criminal homicides generally fall into nine categories:

- Revenge or jealousy killing - history of involvement between perpetrator and victim.
- Triangle killing - husband or wife kills spouse who has involved himself/herself with another lover.
- Killing for profit - the elimination of another because it would result in profit for the murderer.
- Random killing - seemingly motive-less. Most difficult to solve.
- Drive-by shootings as a result of gang activity
- Murder-suicide-actor kills another, then self. Not uncommon among elderly and mentally distraught.
- Sex and Sadism - marked by unusual violence. May follow rape, acts of sexual perversion, or sadistic acts.
- Felony murder - death results from injuries received during the commission of some other felony.

Some crossover in patterns may be evident, as in serial killings or mass murders.

In the majority of cases, the victim knows the perpetrator.

All suspicious deaths should be treated as homicide until proven otherwise.

Reference: Weston and Wells, pp cit. pp. 276-277

Sex Crimes:

- Of the prison population in the United States, one in seven offenders are serving time for a sexual offense (Henderson, 1995)
- There are an estimated 22,000 sex offenders on probation in Texas
- CCP Chapter 62. Sex Offender Registration Program
- 62.02 Registration - (a) The person shall satisfy the requirements of this subsection not later than the seventh day after the person’s arrival in the municipality or county

For more information:
Council on Sex Offender Treatment
205 W. 14th St.
Sexual Assaults:
- PC 22.011, 22.021
- Sexual Assaults are acts of violence
- The perpetrator's purpose is to exercise power over victim
- These are not crimes of sexual desire
- Means of control is of importance in the classification of the offense
- Force or threat of the use of force
- Administering of drugs (includes alcohol)
- Incapacity of victim to consent (physical or mental condition)
- It is extremely difficult to achieve full cooperation of victim due to psychological trauma.
- Officer's attitude has a significant bearing on the victim's ability to deal with crime and assist law enforcement.

Dating violence is increasing, and should be treated as forcible rape - (FC 71.0021)

Four methods of gaining sexual access to a person:
- Consent
- Pressure
- Force
- Drug-Facilitated Sexual Assault

Note to the instructor: Use Commission Course #3202, Sexual Assault, as a resource.

Adult sex offenders generally fall into one of the following categories:
- Opportunistic rapist
  - Takes advantage of the situation during commission
  - Typically has been drinking or doing drugs
  - Uses minimal force or threat
  - Typically not a repeat offender
- Sadistic rapist
  - Aggression and violence are eroticized
  - Act is symbolic of destruction/elimination
  - Victim is symbolic of a person the offender wants to destroy
  - Assault is calculated and pre-planned. Offender brings weapons
  - Assault is ritualistic, involves torture, bondage, and bizarre sex acts
  - Offender is verbally commanding and degrading
  - Assault is of extended duration with repeated assaults.
  - Injuries are inflicted to sexual areas of the body
  - Victim may be murdered and mutilated
  - Offenders usually in 30s
  - Obsessed with sadism and masochism
- Collects sexual devices and brings them to the assault

- **Anger rapist**
  - Wants to assert masculinity, or punish and degrade
  - Uses blitz approach
  - Offender's mood is angry or depressed
  - Language is abusive and obscene
  - Assault is of relatively short duration
  - Victim is selected for availability, usually strangers
  - Offender is frequently impotent and may use devices
  - Assaults are spontaneous and sporadic

- **Power rapist**
  - Wants to prove his masculinity
  - Assault is an attempt to control and sexually possess the victim to feel adequate
  - Uses con or suspense approach
  - Uses force or threat to overcome resistance
  - Offender's mood is anxious
  - Language is inquisitive and instructional
  - May ask victim for praise or reassurance
  - Assault may be of extended duration
  - Victim is selected for specific characteristics and availability
  - Assault is premeditated
  - Offenses are obsessive and repetitive
  - Frequently commits date and acquaintance rapes
  - Often apologizes after assault

**Pedophilia:**

Pedophilia is defined as an individual who has fantasies, urges or behaviors that involve illegal sexual activity with a prepubescent child or children (generally age 13 years or younger). Pedophilic behavior includes undressing the child, encouraging the child to watch the abuser masturbate, touching or fondling the child's genitals and forcefully performing sexual acts on the child.

**Categories of pedophiles:**

Pedophiles are subdivided into several classifications. One of the first distinctions made when classifying pedophiles is to determine whether they are “exclusively” attracted to children (exclusive pedophile) or attracted to adults as well as children (nonexclusive pedophile).

**Two main types of pedophiles:**
Situational:
- Don’t have a true sexual interest in children.
- Will experiment with children when stress is introduced into life – seen as a victim of circumstance.
- Has the fewest number of victims.
- Will not limit victims to just children, but will also prey on the elderly, sick, or mentally impaired.

Several subtypes:

Regressed:
- This pedophile has a situational occurrence that impels him to turn to children. This turn is only temporary and will revert back.
- Traditionally involved with adults. For example, being married and having a family.
- When life stress gets to a regressed offender the children become an outlet. They usually feel more comfortable with children.
- Also, they are geographically stable, employed, and may have some substance abuse, and also may have low-self-esteem.

Morally indiscriminate:
- An abuser of all available persons. Children are simply included, but not the overall goal.
- Experiments’ sexually, “try-sexual,” that is willing to try or do anything. Such as bondage, tyndarianism (mate-swapping), and triolism (3-partner relationships).
- Can involve biological children or children by marriage in the sexual experiments because of their convenience.

Naïve or inadequate:
- Usually suffer from mental disorder that renders them unable to make the distinction between right and wrong. Examples: retardation or senility.
- Known throughout the neighborhood for being bizarre or strange.
- Loners, not by choice, but because they are not capable of establishing personal relationships with others.
- Doesn’t harm children, experiments with holding, fondling, kissing, licking, but not sexual intercourse, oral or anal sex.
- Views children as non-threatening and easier to deal with than adults, so they prefer children.
- Has a collection of pornography; however, it is not child porn.

Preferential child molesters:
• Prefer children as the providers of personal and sexual gratification
• Seek out children for their needs and wants

Subtypes:
• Mysoped child molester and killer:
  o Sadist; has made the connection between sexual gratification and personal violence
  o Usually male
  o Typically the victim is a stranger to the aggressor
  o May stalk the child rather than use a form of seduction; may take victim by force using his size as an advantage.
  o Abducts children from playgrounds, schools, shopping centers, and other places children gather.
  o Has no “love” for children; only interested in causing harm and eventual death to a vulnerable victim.
  o Crime is premeditated and ritualized.

• Fixated child molester
  o Has little or no activity with people his own age, and is usually single and considered immature; uncomfortable around adults.
  o Offender is childlike himself in his lifestyle and behaviors.
  o Likes children for their less demanding ways, easily dominated, and less critical mentalities.
  o “Loves” children and doesn’t want to harm them; courts them and buys gifts as a seduction ploy and slowly becomes intimate with the child.
  o Oral-genital sex is the norm and actual intercourse develops only after a very long period of time has passed.

Three important factors to look at when profiling molesters:

1. Victimization ritual
2. Method of selection
3. Abducting process

Common psychological defense patterns in pedophiles:
• denial (eg, “Is it wrong to give a child a hug?”)
• minimization (“It only happened once”)
• justification (eg, “I am a boy lover, not a child molester”)
• fabrication (activities were research for a scholarly project)
• attack (character attacks on child, prosecutors, or police, as well as potential for physical violence).

Mayo Clinic Proceedings, April 2007, Profile of Pedophilia.

The motivation for collecting child pornography or erotica appears to be a necessary validation for their behavior and souvenirs of their relationships, since in pictures the individual always stays a child.

**Assaults:**
- PC 22.01, 22.02
- In many cases the victim knows assailant.
- Aggravated assaults are often failed
- Murder attempts.
- Victim often changes mind on issue of prosecution.
- Assaults where victim does not know perpetrator are conducted more like homicide investigations.

**Abused and Sexually Exploited Children:**
- Officer's approach to investigation similar to sexual assault cases.
- Involvement with medical practitioners, social workers, counselors, or psychologist is necessary for successful investigation of these cases.

See: PC 22.04, PC 22.041, PC 22.10, PC 25.02, PC 25.04, PC 25.06, PC 25.08, PC 25.09, PC 25.10, PC 22.011, PC 22.021, PC.21.11

Generational cycle: accept violence as normal; have no concept of a healthy, happy home or relationship; accepts violent parents as role models; 85% of prisoners come from violent homes.

**Children's reaction to violence:**
- Fear
- Shock
- dreams about violence
- bed-wetting
- guilt
- usually ill
- low self-esteem
- aggressive
- confused
- tearful
- anxious about separation
- regression to a safer time
- isolating
- temper tantrums
3-6 year olds: most affected by violence; two dimensional thinking; usually able to say who did it and show what happened; usually unable to give a complete narrative of the incident.

6-11 year olds: feel responsible; model dad's behavior toward mom; confused about parents; usually able to give a detailed account of the incident; usually unable to give exact date or understand why he/she is not to blame.

Adolescents/teens: Teen problems magnified by family violence. Usually able to give complete narrative of incident and understands the implications of revealing the secret. Usually unable to understand “why” and unable to forgive the mother.

Reference: CCP 38.071 (1) (2), 38.072

Testimony of child who is victim of offense.

The CCP has set out specific guidelines for allowing child victims to testify without being present in the courtroom to face the defendant.

Hearsay statement of child abuse victim.

The first statement of a child (12 and under who is the victim of a sexual or assaultive offense) made to a person 18 years of age or older is an exception to the hearsay rule and that person (known as the outcry) can testify directly in court as to what the child revealed to them.

Do not lie to children or make promises that you cannot keep. Children take things literally. They are thinking about the abuse, give them a chance to talk about it.

**Typical Characteristics of Abusive Parents:**
- Seem unconcerned about the child
- See the child as bad, evil, monster, witch, etc.
- Offer illogical, unconvincing, contradictory explanations or have no explanation of the child's injury
- Attempt to conceal injury
- Routinely employ harsh, unreasonable discipline that is inappropriate to the child's age, transgressions, and condition
- Were often expected to meet high demands of their parents
- Were often unable to depend on their parents for love and nurturance
- Expect their children to fill their emotional needs
- Expect rejection and have low self-esteem, and a poor self-image
- Are emotionally immature
- Are isolated, have no support system and poor relationships with others
- May abuse drugs/alcohol
- Verbally threaten to injure child
• May have a chaotic home life
• Have inadequate coping skills

Typical Characteristics of the Mother Whose Child is the Victim of Family Sexual Abuse:
• Is frequently cognizant of the sexual abuse but subconsciously denies it
• May hesitate to report for fear of destroying the marriage and being left on her own
• May see sexual activity within the family as preferable

Does the child need protective custody?:
• Determine probable cause for abuse. Look for signs of injuries, prior history, and abandonment.

Examination without consent of abuse or neglect of child - Family Code 32.005

Elder Abuse:
• PC 22.04
• Three major types of elder abuse are:
  o Neglect
  o Abuse
  o Exploitation
• Over half the cases involve self-neglect, the failure of a person to provide for themselves the goods and services necessary to avoid physical harm, mental anguish or mental illness, unreasonable confinement or cruel punishment
• Elder abuse cases are difficult to investigate because of the diminished capacity of many victims
• Many elder abuse cases involve caretaker neglect by nursing facilities or family
• Elder abuse often involves physical abuse by family members (willful infliction of injury, unreasonable confinement, intimidation or cruel punishment)

Hate Crime:
A criminal offense against a person or property which is motivated, in whole or in part, by the offender's bias against race, religion, ethnic/national origin group, or sexual orientation group. (CCP 42.014 (a))

Penalty if offense committed because of bias or prejudice (enhancement) - PC 12.47

Note to Instructor: Instructor should emphasize that hate crime is not a specific offense.

Responding officer’s responsibilities (hate crime):
• Basic response is same as for other crimes
• Officer must be sensitive to the needs of the victim
• Officer must be knowledgeable of the elements of hate crimes
• Is the motivation of the offender known?
• Was the incident known to have been motivated by racial, religious, ethnic, or sexual orientation bias?
• Does the victim perceive action of the offender to have been motivated by bias?
• Is there no clear other motivation for the incident?
• Were any racial, ethnic, or sexual orientation bias remarks made by the offender?
• Were there any offensive symbols, words, or acts which are known to represent a hate group or other evidence of bias against the victim’s group?
• Did the incident occur on a holiday or other day of significance to the victim’s group or the offender’s group?
• What do the demographics of the area tell you about the incident?

Discuss utilization of Second Level Judgement Officer/Unit

Discuss UCR reporting procedures


Unit Goal: 29.3. The student will obtain a working knowledge of basic preliminary investigatory procedures associated with various crimes.

29.3.1. Discuss the general procedures for conducting field identifications (show-ups) at the time of initial investigations. (Revised 2-2009, new section inserted for 29.3.1)

Purpose of this objective: When circumstances require the prompt display of a single suspect to a witness, challenges to the inherent suggestiveness of the encounter can be minimized through the use of procedural safeguards.

• Determine and document, prior to the show-up, the witness’ description of the perpetrator.
• Consider transporting the witness to the location of the detained suspect to limit the legal impact of the suspect’s detention.
• Confirm that the witness understands the identification process.
• Avoid doing or saying anything that might be suggestive or influence the witness.
• When multiple witnesses are involved:
  a. Separate witnesses and instruct them to avoid discussing details of the incident with the other witnesses.
  b. If a positive identification is obtained from one witness, consider using other identification procedures (e.g., lineup, photo array) for remaining witnesses.
• Caution the witness that the person they are looking at may or may not be the perpetrator. It is just as important to clear innocent parties; a non-identification can help to refocus the investigation.
• Obtain and document, in the witness’ own words, a statement of certainty for both identification and non-identifications.
• Document the time and location of the show-up.
• Encourage the witness to carefully consider their comments to media contacts.
• The use of a show-up can provide investigative information at an early stage, but the careful use of procedural safeguards can mitigate the inherent suggestiveness of a showup.


29.3.2. Discuss general preliminary investigatory procedures to be followed when dealing with crimes against property. (Revised 2-2009 – this section was previously 29.3.1)

Officer duties:
• Establish whether a crime has been committed. Arrest the perpetrator. Determine the type of crime by category and, if possible, by specific classification.
• In eyewitness cases, secure a description of the perpetrator, vehicle (if any), direction of flight, and transmit information to dispatcher for broadcast to other units.
• Locate and interview the victim and witnesses. Record stories and take statements. Secure and accurately record identity, addresses, and other necessary data for future contacts.
• Protect the crime scene. Search for and collect objects and traces that are obviously evidence or likely to be evidence. Mark evidence for identification and protect it from change, loss, damage, or contamination. Safeguard it to protect its integrity by maintaining control from the time evidence is found until trial.
• Determine how the crime was committed, the extent of personal injuries and the nature and value of property taken.
• Record in field notes and sketches all data about the crime, the stories of the various participants and witnesses, the crime-scene search and evidence collected and its disposition, measurements taken at the scene and other pertinent information. Arrange for a photographic summary of the crime scene and major items of evidence, make required reports.

Reference: Weston and Wells, Criminal Investigation, Basic Perspectives, pp. 5-8.

29.3.3. Discuss general preliminary investigatory procedures to be followed when dealing with crimes against persons. (Revised 2-2009 – this section was previously 29.3.2)

Homicide:
• CCP 49.04, 49.25
• Care for injured persons.
• Protect the integrity of the crime scene.
• Determine what offense, as near as possible, has been committed.
• Record the scene.
• Seal the scene.
• Identify the victim.
• Develop tentative crime theory
• Obtain names, addresses, etc. of all living victims and witnesses.
• Interview witnesses and living victims.
• Determine time of death.
• Determine place of death (if different from scene of discovery).
• Determine cause of death.
• Determine means of death.
• Ascertain background and activities of victim.
• Determine motive.
• Prepare preliminary report.

Many of the activities noted may be handled by crime scene search unit and criminal investigators. The officer conducting a preliminary investigation needs to be familiar with and adhere to departmental policy.

Assaults:
• Care for injured, record injuries
• Process scene
• Determine type of dispute (origin, place, time, participants, witnesses)
• Identify weapon or weapons
• Interview participants and witnesses
• Prepare preliminary report

Sexual Assault:
• Aid the victim (includes care for injuries as well as emotional support)
• Preserve evidence (at scene as well as victim and clothing)
• Document injuries
• Photograph or videotape area
• Interview witnesses (if any)
• Interview victim
• Prepare preliminary report

Note to the instructor: There is mandatory training (3232 Special Investigative Topics) for the documentation of injuries by photograph or videotape in the Occupations Code 1701.352.

Child Abuse and Exploitation:
• Reconstruct the event or events.
• Determine if a crime has been committed.
• Identify person or persons responsible.
• Take appropriate action to protect child.
• Prepare preliminary report.

29.3.4 Identify the elements of the continuing or follow-up investigation, to include the introduction of various line-ups. (Revised 2-2009 –parts of this section were previously located in 29.3.3. New material regarding line-ups was inserted into the section)

Elements of a continuing investigation:
• Follow up the preliminary investigation and initiate or continue inquiries among basic investigative leads to the identification and arrest of the perpetrator and associates, if any.
• Develop and revise a scheme of the crime.
• Analyze the legal significance of information and evidence.
• Continue the search for witnesses, the liaison with witnesses interviewed during the preliminary investigation, the interviews with new witnesses, and the necessary re-interviews with original witnesses.
• Prepare appropriate line-ups.
  o When conducting the line-up procedure, explain to students the distinction between a simultaneous and a sequential identification procedure.
  o Sequential identification procedure can be utilized in both live and photo line-ups.
• When conducting line-ups instruct the witness that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
• Instruct the witness that the individuals shown or depicted in the line-up may appear different than they did on the date of the incident.
• Instruct the witness that the person who committed the crime may or may not be present in the line-up.
• Assure the witness that regardless of whether identification is made, the police will continue to investigate the incident.
• Establish liaison with laboratory technicians and assess the reports of their analyses of physical evidence.
• Identify the perpetrator and accomplices, if any.
• Locate and arrest the perpetrator and accomplices, if any, prepare wanted notices for perpetrators and accomplices, if any.
• Conduct appropriate surveillance and interrogation.
• Prepare the case and confer with the prosecutor.

Reference: Weston and Wells, Criminal Investigation Basic Perspectives, pp. 8-9.
Unit Goal: 29.4. The student will obtain a working knowledge of forensic procedures and terminology related to homicide investigation.

29.4.1. Discuss the definition of “autopsy” and autopsy’s value in homicide investigations.

Autopsy:
A postmortem examination of the body of a person, including X-rays and examination of the internal organs and structures after dissection, to determine the cause of death or nature of any pathological changes that may have contributed to the death. CCP 49.01 (1)

The autopsy report usually provides the investigator with the following data:

- Time of death
- Nature of the injuries resulting in death
- Any other injuries found or evidence of chronic illness or disease
- The weapon or substance causing death
- Whether the body was moved after death
- Amount of blood alcohol
- Contents of the stomach - indicates interval between victim's last meal and his or her death and what was eaten
- Any indications of virginity, sexual activity, rape, or pregnancy in female victims; or of sexual deviancy in male victims
- Any evidence of blood, hair, or other traces not the victim’s

In addition, evidence developed by medicological experts may include bullets removed from victim, comparison of fatal wounds with a suspect weapon, identification of the poison causing death, identification of trace material from under the victim's nails or from victim's clothing, comparison of dental impressions to wounds on victim.

Reference: Black's Law Dictionary
Weston and Wells, op cit, pp. 37-38.

29.4.2. Discuss the significance of homicide investigation terms.

Post mortem lividity - dark blue discoloration observable on the parts of the body that are nearest the ground. Appears about two hours subsequent to death. May provide a clue as to whether the body was moved after death.

Reference: O'Hara, op cit, p. 534.

Rigor Mortis - because of chemical changes occurring in body tissues, the muscles stiffen after death. This stiffening starts at the neck and lower jaw and spreads downward.
Onset of rigor mortis may start from 15 minutes to 15 hours after death, but as a general rule, it starts 5 to 6 hours after death. The upper part is affected within about 12 hours and the whole body within about 18 hours. Rigor mortis usually disappears within thirty-six hours, again beginning at the head and neck and extending to the lower parts of the body. This latter process may take from 8 to 10 hours. Presence of absence of stiffening may help in establishing time of death.

**Body temperature** - the temperature of the body is normally 98.6 F. The rate of cooling is dependent on the temperature of the air, the manner in which the body is clothed, and the size of the person. Body temperature may help in determining time of death.

**Putrefaction** - the decomposition of body tissues. Onset and rate are influenced by the temperature of the environment. Principal changes involve bloating of the body by gas, darkening of the skin in suspended parts of body, green discoloration of the abdominal area, and the formation of blisters filled with fluid or gas, may help in approximating time of death.

**Cadaveric Spasm** - when there is severe injury to the central nervous system or when there was great tension at the time of death, sometimes stiffening occurs immediately. This gives strong presumptive evidence of suicide if the hand is clutching the weapon.

**Unit Goal: 29.5. The student will obtain a working knowledge of laboratory and other procedures of value in the criminal investigative process.**

29.5.1. **Identify typical laboratory procedures and other procedures useful in furthering criminal investigations.**

**Atomic Absorption test** - determines quantitative and proportional concentrations of specific elements in materials through the analysis of a vaporized sample.

**Laser examination** – may still be used in some jurisdictions for the detection of fingerprints and examination of questioned documents.

**DNA (Dioxyribonucleic acid) fingerprinting** - useful in examining blood stains, hair roots, semen, vaginal fluid. Useful in the association or elimination of suspects through chromosome coding. Advances in technology have allowed DNA testing to become an established part of criminal justice procedures. In a 1996 survey, almost half of the more than 2,300 prosecuting officers indicated that they had used DNA evidence either in plea bargaining or in the trial of felony cases. (Swanson p. 250)

**Luminal** - a chemical method of detecting latent blood.

Unit Goal: 29.6. To increase the student’s understanding of, respect for, and actual application of the tasks required in conducting a criminal investigation.

29.6.1. Describe procedures to be taken upon arrival at the scene.

Determine upon arrival:
- If suspect(s) are at, or near, scene by observing unusual activity, persons, vehicles
- Appropriate tactical action if suspect is at scene and offense is in progress and weapon(s) involved
- Number of suspects
- Is a backup request appropriate?

Search perimeter of building for open doors and/or windows

Locate the victim, witness, complainant, and the person who reported offense.

Solicit information from persons in immediate area; appear through media; find and develop informants. Separate witnesses so they don't influence others.

Obtain identification:
- Name
- D.O.B.
- Address
- Home/work phone number
- Place of employment.
- Other data to ID later
  - Driver’s license number
  - License plate number

29.6.2. Describe procedures for identifying victim in case of serious injury or death.

ID – Serious Bodily Injury:
If person is alive and conscious, obtain identification and information about next of kin.

ID – Death:
Officers should obtain permission from the medical examiner or justice of the peace to move or disturb the body prior to any attempt to locate sources of identification such as driver’s license, military ID, social security card, tattoo, amputation or unusual scars, etc..

See CCP 49.25 (8), CCP 49.05

29.6.3. Identify the available special units which may be called to the scene.

Special units:
- EMS for injuries
• Medical Examiner/J.P. for homicides.
• bomb squad
• fire department
• military
• narcotics investigators / task force officers
• other L.E. agencies for assistance
• technicians
• supervisors
• detectives

29.6.4. Identify information that should be made known to other officers.

Identify any known information describing suspect and suspect’s clothing; involved vehicles; weapons; direction of travel; fruits of the crime.

29.6.5. Discuss the legal authority to protect the crime scene and establish the perimeters.

Legal authority for crime scene:
• Peace officer to prevent injury - CCP 6.06
• Conduct of peace officer - CCP 6.07
• Duties performed by medical examiner - CCP 49.25
• Removal of body & property from place of death - CCP 49.05
• Sealing premises of deceased by medical examiner - CCP 49.22

Establish crime scene perimeter. Officers should keep in mind that the scene may include multiple locations.

29.6.6. Describe procedures for securing the crime scene.

Protect the crime scene from contamination and the removal of evidence. Possible methods include the use rope or tape, officers, other personnel or barricades to guard the perimeter. If at all possible, obtain permission from the property owner to prevent entry by unauthorized persons.

Responsibilities of the officer in charge: consult local departmental policy for specific procedures.

See PC 30.05, 37.09, 38.15, CCP 49.05, and 49.06
Unit Goal: 29.7. To increase the understanding of, and actual application of, protecting and searching the crime scene.

29.7.1. Discuss the objectives in conducting a crime scene search.

- Officers must determine if a search warrant is required or if the search will meet the requirements for search without a warrant (cf. Unit Seven).
- A planned and coordinated legal search of a crime scene to locate physical evidence or witnesses to the crime under investigation.
- Determine what crime has been committed and establish elements of offense.
- Was a crime committed?
- Determine who, how, when, and why the crime was committed.

29.7.2. Identify the potential problems in conducting a crime scene search.

Evaluate physical characteristics of area to be searched -- size, landscape, density, indoors, outdoors.

Evaluate hazards of area to be searched and what safety measures may be necessary.

Evaluate potential of recovering any evidence.

29.7.3. Demonstrate the selection and use of crime scene search methods.

Consider the size and type of area to be covered.

Consider the personnel and equipment necessary and available.

Consider the degree of thoroughness required depending on the type of crime committed, type of physical evidence sought and the purpose of the search.

Methods of Crime Scene Search

Point-to-point search:

- This method can be used as a preliminary step in evaluating the scene.
- Some of the disadvantages of this method are:
  - It is often disorganized
  - Trace of evidence may be overlooked.
  - Others at the scene may feel that when this method of search is completed, they are then free to invade the scene.
- Description:
  - Move in order of appearance of evidence, as follows:
First item of evidence at the scene to second item.
Second item of evidence at the scene to the third item.
Move like this until all evidence is covered.

Strip search (thorough):
This method, in both the double and single form, is among the most effective for outside searches. Stakes and lines are useful in setting up lanes. Natural landmarks may be used as borders.

Quadrant (or Sector) Search:
This type of search is effective for indoor and outdoor scenes that have regular patterns or defined borders. This type of search also permits different types of searches in the different sectors.

Circular (Spiral or Concentric) Search:
This type of search is useful when an item is missing from the center and the search must be conducted rapidly. The search may begin in the inside or the outside as the circumstances dictate.

Area Search:
This search uses any technique which will be effective in examining specific and small areas with defined borders, such as landscaped areas, bushes, paths, and sidewalks.

Aerial Search:
This search may employ infrared film for discovery of such things as gravesites.

Note to the Instructor: Use this information in every scenario and role-play possible to give students practice in search methods.

29.7.4. Describe procedures involved in implementing a crime scene search.

Implementation procedures:
- Determining the starting point of the search based on priorities in the central scene, but if it is not possible to protect evidence, may begin outside of central scene
- Establish a headquarters and assemble personnel outside of area to be searched
- Conduct a briefing of searchers and give pertinent information
  - basic information about the offenses
  - the type of evidence being sought and why
  - the search method to be used
- Discuss and establish the speed at which the search is to be conducted - a slow search for trace evidence, and a fast search for a missing person in a field
- Assign areas of responsibility to each person in search group
- Maintain communications with all searchers
- An effective procedure for rechecking is to alternate searchers from one area to another area
29.7.5. Determine circumstances under which additional investigative and technical personnel should be called to conduct a crime scene search and when officers may vacate the scene.

Summoning Assistance:
- When physical characteristics of area make it impractical for one person to search.
- When the amount of damage or evidence to be searched for makes it impractical for one person to search.
- When expertise is needed beyond that of those present.
- Consider what personnel are available
- Consider the degree of thoroughness required

Leaving the scene:
- When released from responsibility
- When not needed
- When directed to do so

29.7.6. Identify when evidence may and may not be used.

Evidence in Criminal Actions:
- Statement - CCP 38.21
- When Statements May be Used - CCP 38.22
- Evidence Not to be Used - CCP 38.23
- Photographic evidence in theft cases - CCP 38.34

29.7.7. Identify the procedures to be followed in photographing a crime scene.

Note to Instructor: Instructor should discuss current trends and latest technology.

Elements and procedures of crime scene photography:
- Preparation
  - Type of film
  - Camera setting
  - Flash
- Take first photo of card identifying photographer, date, location, and case number
- Maintain a log of photos
- Photograph starting with exterior to interior, or with a landmark to locate evidence; then work to detail from farthest relevant point
- Photograph specifics of crime, evidence, victims, weapons, etc.
- Identify roll(s) of film with officer’s name, date, location and case number
- Maintain custody during processing of film
- Special documentation requirements: sexual assault, child abuse, family violence
**Note to the instructor:** There is mandatory training for the documentation involving family violence, sexual assault and child abuse/exploitation in the Occupations Code 1701.352

29.7.8. **Discuss the value of crime scene sketches.**

A sketch is a drawing which represents the crime scene and serves to supplement photography by providing accurate information concerning the distance between various points in the scene.

**Note to the instructor:** Utilize this information in every scenario and role play possible to give students practice in sketching crime scenes.

Sketches are helpful in reconstructing the crime scene.

Sketches record the exact locations and relationships of pieces of evidence and surroundings of the crime scene.

29.7.9. **Describe the proper procedures for crime scene documentation.**

**Documentation procedures:**

- Two methods of measurement
  - In the **triangulation** method measurements are made from two or more fixed points to intersect at the location of the object
  - In the **rectangulation** method, objects are located using two perpendicular lines.
- When taking accurate measurements, officers should use a standard, acceptable measuring device
- In taking measurements, obtain sufficient measurements to accurately locate objects in the crime scene
- Record measurements in crime scene using permanent reference points

29.7.10. **Demonstrate methods for preparing a crime scene sketch.**

**Preparing a crime scene sketch:**

- Make a rough drawing at the crime scene on paper
- The rough drawing needs to be accurate but does not need to be drawn to scale
- The rough drawing needs to be a representation of the crime scene showing objects and measurements
- Use an arrow to show north and orient north to the top of the sketch
- Draw lines to show where measurements are taken from
- In making a completed crime scene sketch determine a scale to use and locate all objects on drawing to scale
- Show scale on final crime scene sketch
- Use a legend to explain any symbols used on the crime scene sketch.
• Avoid excessive lettering on sketch by using numerical designations
• A title or identifier should appear on the drawing and should contain name of person who sketched the scene, location of sketch and time and date of sketch
• The sketcher should always have control of taking and observing measurements

29.7.11. Identify types of crime scene sketches.

**Perspective sketch - three dimensional**
Objects are drawn in such a way as to show them as they appear to the eye with reference to relative distance or depth. This sketch is useful when no camera is available or the condition of the scene is such that a photograph would not be illustrative.

**Projection sketch**
This type is the most frequently used. It is employed when it becomes desirable to portray three dimensions to allow better correlation of the evidential facts of the scene. All places and objects are drawn in one plane, as seen from above. A cross-projection drawing is one where the walls and ceiling of a room are seen as folded out into the same plane as the floor. This type of drawing is employed to illustrate the interrelationships between objects in different planes, such as bullet holes and blood stains.

**Schematic sketch**
Employed when it is desirable to represent an orderly combination of events which have occurred. Examples would be tracing the path of a fired bullet through glass, flesh, walls, etc., and tracing the path of a skidding automobile.

**Detailed sketch**
Employed when it is desired to describe a small area which is not illustrated due to the scale chosen for the rough or finished drawing. Examples of such areas would be bullet holes, tool marks, blood spots or patterns, and the location or orientation of a latent fingerprint. Another example would be a drawing of the placement of ammunition in a revolver cylinder. It is also useful when small items of evidence must be illustrated prior to their removal from immovable objects.

29.7.12. Explain chain of custody.

Chain of Custody is the process which records transactions of evidence from person to person since its acquisition by a law enforcement agency.

Chain of custody maintains exactly what happened to evidence from the time it was found until presented in court.

Chain of custody accounts for: who found the item; where it was found; who took custody and marked it; who transported it; and where it is being stored.

29.7.13. Use procedures for establishing chain of custody.
General considerations in handling evidence are to preserve its integrity, preserve its value to owner and mark as evidence if possible.

Evidence is located and identified - the person doing this marks on evidence or attaches a tag on evidence showing name of person, date, offense, location found (if possible) and case number if available.

If evidence is too small to mark on, or if marking on will alter or damage, then evidence may be placed in an envelope or container that shows necessary identification.

29.7.14. Categorize the type of evidence to be collected for the type of offense committed.

- Fruits of the crime
- Tools of the crime
- Contraband
- Mere evidence

29.7.15. Demonstrate safe methods for preserving evidence in original condition.

Packaging:
- The purpose of proper packaging is to prevent breaking, spoiling, loss, and contamination
- Use paper instead of plastic bags to reduce contamination and spoiling.
- Containers should fit tightly
- Each different item should be packaged separately
- Items from different places should be packaged separately
- Wet evidence, such as bloodstains, semen stains, mud and such, must be allowed to dry before packaging to prevent rotting
- Liquid blood must be refrigerated

Safety Precautions:
- Use disposable latex gloves
- Upon completion, dispose of gloves properly
- Wash hands
- Avoid contact with any other body fluids
- Use extreme caution when handling HIV body fluids

Firearms:
- Physical appearance of a weapon before it is moved
- Note the position of slide or bolt
- Position of exposed hammer, firing pin and safety
- Lift weapon
- Unload weapon
- Do not clean or strip weapon
- Never place an object inside of barrel
- Note the location of cylinder and position of fired and unfired cartridges.

**Collecting paint evidence:**
- If practical, submit the item bearing the questioned paint
- Obtain paint samples from all damaged areas on a vehicle
- Sketch the location from which the paint sample was taken

Protect the working surfaces of tools from mechanical damage, rust and corrosion.

**29.7.16. Apply procedures for obtaining information from victims, complainants and witnesses.**

**Information-getting procedures:**
- Gather information as to description of the complainant, suspect, witnesses, and any other related investigative facts
- Obtain and record all pertinent information regarding the offense - time, date, location where they were when offense occurred, what was seen, what was heard
- Allow complainant and witnesses to tell own story, then ask pertinent, direct questions
- Ask questions without supplying an answer
- Record any information you receive and denote if the information is from personal observation or heard from someone else.
- Obtain written statement from witnesses or complainant, whenever necessary
- Property victims just as traumatized as injury/homicide victims - officer should treat all with dignity and respect
- Obtain as complete a description of suspect as possible - race, sex, height, weight, clothing, facial features, weapon and direction of travel
- Obtain as complete a description of any vehicle used by suspect - license plates, make, model, color, significant damage or features & direction of travel

**Note to the instructor:** Use this information in every scenario and role-play possible to give students practice in obtaining information from victims, complainants, and witnesses.

**Unit Goal: 29.8. To recognize the components of and the differences between interviewing complainants/witnesses, victims and suspects.**

**29.8.1. Explain the legal requirements for conducting interviews.**

**Interviews:**
- Interviews should be conducted individually and outside the presence of others.
• *Miranda* warnings not necessary until the suspect is subjected to custodial interrogation

**Interview suspects:**
- Applies to the questioning of one suspected of a crime
- Duty of officers: must warn suspect, who is in custody, of his rights prior to obtaining a statement

*See Miranda vs. Arizona* 384 U.S. 436 (1966) and CCP 15.17, 38.21, 38.22

**Note to the instructor:** Role-play in class - observe and critique

**29.8.2. Practice the techniques used in conducting an interview.**

**Separating persons to interview:**
- Separate persons so that their statements reflect their own opinions and observations
- Allows interviewer to locate discrepancies in statement and establish validity of statement
- Confront subject with any discrepancies and allow subject to explain or retract

**Locations for interviews:**
- Obtain facts and as much pertinent information as is necessary at the scene
- Conduct more in-depth interview where the environment can be controlled by the interviewer
- Allow no distractions for the subject being interviewed
- One officer should conduct interview depending on the interview technique
- A private office is an ideal location
- Lighting and temperature should be comfortable

**Constitutional Rights:**
- Whenever a person is in custody, reading of rights is necessary prior to interviewing
- If in the course of interviewing a person becomes suspect and is taken into custody, stop the interview and advise that person of his/her rights

**Techniques:**
- Prior to any custodial interview, the person should be advised of his/her rights
- Eliminate any physical barriers or distractions
- Know what information you have and know what information you need to obtain from the suspect
- Establish a rapport with suspect by asking questions unrelated to the case and keep suspect talking and allow him/her to tell his/her own story
- Direct questions toward establishing the validity of witness/suspect statement
• Direct questions toward establishing the facts of the incident
• Confront suspect with discrepancies and falsehoods with known facts
• Avoid questions that can be answered with just a yes or no and have suspect explain his/her answers.
• Avoid leading or suggestive questions.
• Avoid rapid fire questions, allow suspect the opportunity to answer, avoiding confusion.
• Interviewer should control his/her emotions and be patient with suspect or pass the interview to another officer.
• Allow complete narrative:
  o Keeps person from becoming confused.
  o Gives interviewer opportunity to review what person knows of the incident, locate discrepancies, and confront him/her about discrepancies.

Preparing written statements:
• Record information obtained from person involved
• Make notes of information received during interview
• Review notes and correct discrepancies
• Write or type statements in the person's own words
• Have person sign the statement and initial any changes made in content
• Enter statements as evidence.

Unit Goal: 29.9. To develop a basic understanding of the officer’s responsibility in the booking process.

29.9.1. List the reasons and procedures for search during booking.

Reasons for Search:
• Safety
• Eliminate suicide risk and prevent death in custody
• Attorney General's procedures for reporting (see Commission on Jail Standards) - suicide screening for all prisoners being booked to check emotional stability
• Security of Facility
• Safeguard of prisoners' personal property

See CCP 49.18, 42.13 (5); PC 9.53

Procedures:
• Perform a search of the prisoner
• Officer should empty pockets; remove coat, hat, tie, (if applicable); remove shoes, and remove belt. Note: Observe the property being removed by the prisoner for any contraband or articles that pose a threat, and remove the article from the immediate reach of the prisoner.
• Tell prisoner to lower head and run a comb or fingers through hair.
• Run your fingers under collar, crushing the fabric
- Using both of your hands, run them down each arm, feeling for items that might be attached to the arm or inner sleeve, crushing the cuffs of the shirt, if any
- Starting from the armpit, run hands down both sides of the prisoner to the belt line
- Starting from the collar, run your hands down the front of the prisoner, crushing pockets and button areas, to the waist line
- Starting from the shoulders, run your hands down back of prisoner
- At the belt line, check waistband of pants, crushing the reinforcement fabric
- Crush each belt loop
- Starting at the waist, proceed down the buttock, crushing the back pockets and checking hips down into the groin area
- With both of your hands, check each leg by placing hands where legs and hips join; run hands all the way into groin area
- Crush front pockets (remove any items that may be detected)
- Crush zipper area (pant's fly)
- Check coat for contraband
- Visually inspect shoes for contraband
- Flex shoes (bend in several directions)
- Hold shoe by toe, strike floor with heel to break open a false heel or loosen contraband that may be in inner sole
- Inspect belt for contraband visually and by rolling it up
- Tug on belt buckle
- Inspect the belt seams by twisting the belt to see if it separates
- Inspect hat or other headgear by running fingers around crown. Note: Watch for razor blades or pins.
- Inspect sweatband of headgear for contraband by turning it down or out
- Remove and inspect wig
- Inspect tie for contraband by pulling and crushing
- Inspect cigarette packages by emptying them and looking into or flattening package, (return cigarettes to package)
- Inspect Tobacco packages or pouches
- Inspect matchboxes or match books
- Hold handkerchief by one corner and shake it out
- Visually inspect comb
- Use other applicable techniques

Female searches are generally the same but include:
  - Search brassiere.
  - If a female is wearing a dress, it must be raised so that waistband of undergarments can be searched.

Except in a case of an emergency, a male officer searches a male prisoner, and a female officer searches a female prisoner. A search should be conducted out of view of the opposite sex.

Strip Search is regulated by TCJS:
29.9.2. Practice proper manner of detailed recording and securing of prisoner’s property.

Correct form to use in recording and interviewing (Departmental policy)
Let the form guide the questioning.

Problem situations:
- If needed, request the assistance of another officer to deal with uncooperative prisoner
- Maintain control over emotions and prejudices
- Control reactions to prisoners you find objectionable
- Avoid making offensive and abusive remarks to the prisoner

Recording and securing property:
- Verbally describe in the presence of the prisoner, using the correct form
- Common articles to be inventoried: money, billfold or wallet, watch, jewelry, knife, keys, credit cards
- List and describe all articles of clothing as well as other property the prisoner possessed when arrested
- Describe property as specifically as possible, i.e., color, shape, size, identifying characteristics, serial number, visible damage, emblems, design, inscription. Be sure to use appropriate descriptors, such as “yellow in color” instead of “gold.”
- Describe the articles of clothing in detail, including whether men's, women's, children's, or infant's clothing; color or pattern; size; maker's label; laundry or cleaner's marks; kind of material; type and design; and general condition
- Check for impounded vehicle
- Upon completing the inventory and recording of the prisoner's property have the prisoner sign the form to acknowledge that the inventory is true and correct

29.9.3. Practice proper procedure to record all necessary booking data on a prisoner and vehicle impound information.

Common/standard information on most departmental forms

Personal Data:
- Name
- Nickname(s)
- Alias'
- Race
- Sex
- Age
- Date of birth
- Place of birth
- Height
- Weight
- Color of hair
- Color of eyes
- Complexion
- Tattoos, scars, marks, and/or deformities
- Residence address
- City and state of residence
- Driver's license number and issuing state
- Social security number
- Name and address of person to contact in case of emergency
- Occupation
- Place of employment
- Marital status and name of spouse
- Name(s) of person(s) arrested with and/or known associates

**Note to the instructor:** provide students with various sample booking forms and allow them the opportunity to practice filling them in.

**Vehicle Data:**
- Color
- Year of manufacture
- Make
- Body style
- Registration information: state and year; license plate number and/or letters
- Location of vehicle

**Arrest Data:**
- Charge (include any warrant numbers)
- Place of arrest
- Date and time of arrest
- Name(s) of arresting officer(s)
- Name of booking officer
- Time booked into jail
- Name and address of complainant (include business and residence phone numbers)
- Facts of arrest
- Names, addresses and phone numbers of witnesses
- Amount of bond
- If Miranda warning has been given
• Phone calls granted and to whom
• Name of prisoner’s attorney

29.9.4. Identify the processes by which stolen and wanted information may be retrieved.

Warrants, stolen property, etc. - Other jurisdictions:
• Agency’s SOP
• Is prisoner wanted by another agency?
• Does prisoner possess stolen property?
• TCIC/NCIC system contains a database with ten files:
  o Article
  o Boat
  o Canadian warrant
  o Computerized Criminal History (CCH)
  o Gun
  o License plate
  o Missing person
  o Securities
  o Vehicle
  o Wanted person

Violent Crime Apprehension Program (VICAP)

Other data may be required by agency policy and procedure and/or by the Texas Commission on Jail Standards (for county correctional facilities).

29.9.5. Identify procedures to follow when a prisoner and/or officer may have suffered bodily injury.

Procedures for prisoner with bodily injury:
• Call for medical assistance for treatment
• Photograph offender
• Photograph officer
• Write proper report if injury occurs in jail facility

29.9.6. Identify results of a proper booking process.

Booking process:
• Complete and accurate records
• Contraband will not be introduced into facility
• Additional charges may be filed if contraband is found
• Other agencies are notified when outstanding warrants against a prisoner are discovered
• The safety of the prisoner, arresting officer, and persons already in jail is protected by all reasonable means
• The personal property of the prisoner is correctly inventoried, recorded on the proper form, and safeguarded until the person is released from jail

Booking procedures may vary from one jurisdiction to another. Officers should confer with local administration for appropriate policy in their agency.

*Note to the instructor:* You may want to practice fingerprinting.

**Unit Goal: 29.10. To prepare the student to be an effective courtroom witness.**

**29.10.1. Discuss the benefits of professional courtroom demeanor and appearance.**

**Benefits of professionalism in a courtroom:**
- The precautions officers take at a crime scene, the handling of evidence, interviews, complete and accurate reports and detailed case preparation culminate in a trial
- The reputation of the officers and the department may be enhanced or diminished by the demeanor and appearance of the officers in court
- A positive outcome is achieved when the appearance meets the trial objectives, public relations are improved, and the officers are satisfied
- Officers who do not prepare for court appearances risk personal humiliation through unacceptable personal appearances and/or poorly expressing themselves while testifying
- Courtroom testimony represents a challenge to officers and is a test of true abilities, such as self-control, tact, obedience, personal conduct, bearing, and verbal communication

**29.10.2. Employ the steps used to refresh memory in preparation for testimony.**

**Elements of preparation for testimony:**
- Vital to every criminal prosecution is the officers’ preparation to testify
- Anticipation of logical questions allows for refreshing memory on important information
- Have ready a full history of the officers' participation in the case, with any relevant evidence and facts
- Conduct a careful study of reports, interviews, photos, evidence, and notes
- Failure to do so will often result in misstatements, omissions, and contradictions

**Using notes during testimony:**
- The decision to use notes in court must be based on a determination as to whether or not the information can be remembered without the notes
Some officers believe that jurors trust officers’ notes more than their memory and are favorably impressed when notes are used.

If the witness/officer had firsthand knowledge of the preparation of the notes and the notes were prepared contemporaneously to the investigation, the notes may be used by the witness to refresh memory.

However, once the notes are used by the witness/officer, they are subject to cross-examination and admission into evidence.

Mode and order of interrogation and presentation - TRE 611

29.10.3. **Demonstrate proper demeanor when called to testify.**

**Giving First Impression:**
- Proper courtroom attire:
  - Uniformed officers in appropriate dress uniform
  - Plain clothes officer in professional business attire
- Approach the court confidently
- Walk directly to the witness stand or clerk's desk and prepare to take the oath
- Do not look at the accused, the jury, or the judges
- Follow the prosecutor's direction

**Taking the Oath:**
- While taking the oath, look at the person administering it
- Keep right hand at shoulder level, with fingers extended, until the oath is completed
- The prosecutor will then begin by directing the officer to be seated and then asking for name, occupation, and department

29.10.4. **Describe methods of court procedure.**

The initial phase of the trial during which the prosecution presents the evidence demonstrating the guilt of the defendant is usually when the officer is first called to testify.

**Direct Examination:**
- The prosecutor elicits facts from the officer
- Direct testimony to the jury, or to the judge in the absence of a jury, when answering prosecutor's questions
- In the event that defense counsel objects to a question, remain silent until the court has ruled on the objection
- The judge will rule on the objection in one of two ways
  - "Sustained" (the officer may not answer)
  - "Overruled" (the officer may answer the question)

**Cross Examination:**
The defense counsel will begin the questioning after the prosecution has finished with the witness.

Redirect Examination:
Following the cross examination by the defense attorney, the prosecutor may question the witness to clarify statements or answers given during the cross-examination.

Recross Examination:
The defense attorney may further question a witness after redirect examination by the prosecutor.

29.10.5. Use techniques for presenting effective testimony.

A juror’s impressions are strongly affected by the manner in which an officer/witness informs the court of the facts discovered during the course of an investigation.

The Principles of Witnessmanship:

- **Honesty**: present a modest demeanor and display a sincere interest in the accuracy and truth of statements.
- **Brevity**: most witnesses do not get flustered, confused, or embarrassed as long as they confine their statements to answering the questions. Be brief and to the point. Do not volunteer information, argue with the attorney, or make spontaneous, unneeded comments.
- **Clarity**: errors, inconsistencies, and confusion undermine credibility with the jury.
- **Objectivity**: present an impartial and conscientious picture of a public servant working for the interests of justice. Be courteous, answer directly, and remain poised. The defense counsel will often endeavor to portray the officers as prejudicial and interested to accuse the first person of whom they become suspicious, so remain the objective public servant during testimony.
- **Emotional Control**: ignore insults, badgering, and innuendoes. A display of anger loses credibility.

29.10.6. Demonstrate responses to questions within the limits of known information without speculation.

Officers should answer only the questions they are qualified to answer.

"I don't know": does not mean ignorance, only that the facts were not observed directly. This statement closes examination on a point about which the attorney may need to ask additional questions concerning forgotten facts. "That is all I can recall" may be an appropriate statement.

"I don't remember": witness is unsure.
Avoid irritation, anger, being misled, or trapped. Stay with the facts of the case to avoid distortion of statements and conflicting testimony.

Opinion evidence should always be based upon facts. Make clear the distinction between opinion and facts. Represent only facts as fact.

29.10.7. Explain the procedure for exclusion of witnesses from the courtroom.

Applicable codes:
- Exclusion of witnesses - TRE 614
- Invocation of rule - CCP 36.03
- Not to hear testimony - CCP 36.05
- Instructed by the court - CCP 36.06

Officer/witness to leave courtroom, stay close to courtroom, not discuss the case with other witnesses or jurors, and after testifying leave the courtroom again. ("under the rule")

Staying in the courtroom when witnesses have been excluded may render the officer ineligible to testify, thereby threatening the outcome of the case. The result is usually prejudicial to the state’s case.

29.10.8. Give examples of courtroom tactics used by defense attorneys.

Many times the defense counsel realizes the prosecution has an extensive case against the defendant so the only logical defense must be based on challenging the credibility of the prosecution's witnesses.

Defense Tactics:
- **Offensive**: rapid-fire questioning is intended to confuse the witness and procure inconsistent answers. When faced with such a situation, take time to consider each question, be deliberate in answering, and ask to have the question repeated. Remain calm.
- **Condescending**: defense counsel will be ultra benevolent in approach to the point of ridicule in an effort to give the impression that the witness is inept. When faced with such a situation, ask for the question to be repeated if it was improperly phrased and then answer in a firm and decisive manner.
- **Friendly**: defense counsel may be overly courteous in an effort to lull the witness into a false sense of security where answers may be given in favor of the defense. When faced with such a situation, stay alert and bear in mind that the defense counsel is attempting to diminish the effect of the testimony.
- **Badgering / Belligerent**: intended to provoke to lose emotional control and, therefore, credibility with the jury. When faced with such a situation, ignore the defense counsel's actions, stay calm, speak in a deliberate voice, and give the prosecutor time to make the appropriate objections.
29.10.9. Demonstrate the ability to testify effectively and to critique the testimony of others.

Since the witness testimony is what the verdict is based upon, follow closely the questions of the attorney, avoid extraneous material, and allow time for objections.

Objections are to keep improper evidence out of the case. When the defense attorney asks a question, pause long enough to give the prosecutor time to object. If an objection is made, remain silent until the judge rules on the objection.

Treat both attorneys in the same courteous manner, showing respect and an unbiased attitude.

Note to the Instructor: It is mandatory that students engage in a mock trial. Refer to example in IRG.

Unit Goal: 29.11. To develop proficiency in the case management process.

29.11.1. Describe the reasons for case management.

Reasons for case management:
- To have an organized, easily understood, factual, and thorough account of the investigation.
- To identify serious weaknesses in case
- To help to assure failure to prosecute is not due to lack of preparation or mistakes on officer's behalf

29.11.2. Discuss the value of a properly prepared case folder.

Value of a properly prepare case folder:
- To prevent duplication of work
- To prove efficiency on the part of the officer and dept
- To be useful for review by prosecutor and grand jury

29.11.3. Prepare the type of documentary information included in a case folder and in a prosecution summary.

Items included in a case folder:
- Offense and supplemental reports
- Witness and victim statements
- Voluntary confessions
- Fingerprint cards and comparison report form expert
- Other pertinent reports
Items included in a summary:
- Case facts
- Legality of arrest and seizure of evidence
- Names of witnesses and nature of testimony

29.11.4. Identify the necessity of properly prepared case files.

Reasons for properly prepared case files:
- Assist in prosecution
- Review details with prosecution when filing charges
- Review details with witnesses
- Allow prosecutor knowledge of officer's knowledge of the case
INSTRUCTOR RESOURCE GUIDE MATERIAL

29. CRIMINAL INVESTIGATION


COURTROOM DEMEANOR AND TESTIMONY (as wrap-up for Criminal Investigation)

LEARNING OBJECTIVE: 29.10 Criminal Investigation – practical application.

PURPOSE: To provide student opportunity to demonstrate his knowledge, abilities and skills as it applies to the criminal investigation process and to testifying in a mock trial.

ACTIVITY: Role play

1. Select student, instructor, and/or officer to participate as suspect, witness, and complainant.

2. Select suitable site for location of crime. If no site is available use the attached floor plan and indicate points of entry and exit.

3. Instruct class that they are to apply all their learned skills, and knowledge to investigate the crime.

4. Provide specific instruction to players.

5. Divide class into teams.

6. Have them investigate, write report, file appropriate charge(s) and prepare case for presentation.

Note to the instructor: It is suggested that these exercises be used following completion of the criminal investigation section.
Offense: Burglary

Witness: You are a neighbor residing across the street from a house that is being burglarized. You noticed a suspicious vehicle backed into the driveway of your neighbor’s house and you called the police. After calling the police you noticed a white male dressed in blue jeans, white T-shirt exiting the house from the front door. He was carrying some type of large item that appeared to be a box. He got into the vehicle on the passenger side. A late model Chevrolet Camaro, dark blue, damage to left front side, decal “Hot” on rear window. Texas PKP 709. Vehicle occupied by at least one other unknown suspect. Vehicle left scene headed west.

When officers arrive do not volunteer any information until asked and then respond only to direct questions.

If officers ask what you saw – limit your response with general statements: EXAMPLE: “This guy broke in and took something out of the house. They were in a blue Chevy.”

Complainant: Left home at 7:30 AM en route to work. Returned home 5:30 PM. Noticed front door had been pried open. Checked house and found silverware missing.

Description of property: 12 place setting, Oneida Silverware, Classic Rose pattern. Carrying case, brown leather, size 24” x 18” x 6”. Valued $1,200.00.

Appear to be traumatized because your home and property has been violated.

If officers ask, respond with all known information. Be cooperative.

Officers: Give student officers the call to investigate a suspicious car at location.
Offense: Family disturbance

Neighbor: You are a next-door neighbor to a couple that has family fights most every weekend. You have reported disturbances at your neighbor’s house on several occasions over the past 6 months. Approximately 4 months ago, you reported a disturbance at your neighbors and following the police investigation; you notice they had the husband arrested and took him off in the patrol car. You report a disturbance again and meet officer in the front yard and tell them all you know about the situation.

Complainant: You are the wife of a man who for the past 6 months on most every weekend gets drunk. He usually starts a verbal attack against you for little or no reason. The verbal attacks progresses to the point where he physically assaults you by pushing you around and has on two previous occasions hit you in the face. You filed charges on him for assault one time, but the case was dismissed for unknown reasons.

It’s a weekend, he’s drunk and physically abusing you. He hit your in the face, your jaw is sore. He as told you he’ll beat you, if you call the police. You don’t, your neighbor has called.

When the police arrive, be reluctant to answer any questions about the offense. You’re afraid your husband will beat you again. You have considered leaving your husband, but you have nowhere to go, have no income and two small children to raise. If the officers presume questioning, tell them what all has happened in the past.

Officers: You receive a call to a disturbance. Investigate, write report and prepare your case.
Offense: Robbery

Complainant: You are a grocery store manager leaving your shore after closing. You have your daily receipts in a zipper type bag with the Bank 2 logo printed on the side. The bag contains $900.00 bills, 1-$50. Bill, 15-$20 bills, 300 - $1 bills, $50.00 in silver and other coins. As you remove the key from the lock on back door a white male dressed in dark clothing and white tennis shoes sticks an object, you believe to be pistol in your ribs and says “Give me the money.” He pulls the bank bag from under your arm and runs to a vehicle parked at the curb, gets in the passenger side and the vehicle speeds away. You run to where the vehicle was parked and recognize the vehicle as a late model Chevrolet, light color bearing Texas license plate with prefix numbers 323. He was headed north on South Avenue. You didn’t see the driver.

Witness: You are standing on the corner Main and South Avenue near the front of the grocery store. You hear a vehicle spin the tires, as you turn to see the vehicle, you notice it headed toward you north on South Avenue. It is occupied by two white males. You recognize the driver, Bill Smith, parts man at the local auto parts store.

Bystander: You are standing on the corner with your friend the witness. You didn’t see anything and furthermore don’t want to get involved.

Suspect(s) Vehicle driver, Bill: If police interview you, don’t admit to anything about the offense. If officers pursue with questioning tell them your friend was out partying the night of the crime. If they pursue, tell them his name. If they continue questioning about your being stopped at location of offense, tell them your friend wanted you to stop so he could urinate. You knew nothing about the robbery until he got back in the car and told you to “Get out of here, quick.” You are afraid of going to jail.

Robbery Suspect: Don’t confess to anything. Demand a lawyer.

Officers: Investigate, write report, and prepare for case.
Offense: Murder/Suicide

Suspect: Older woman approximately 65 years old is in living room of residence. She is on her knees, bending forward coving her face with both hands and crying. There is a slight trace of blood on her right hand. She is bleeding from a gunshot wound to her right cheek.

Victim: Younger woman in back bedroom, lying in bed. She has blood, some partially dried, that has come from her mouth, and run down her left cheek and partially dried blood in her left ear. She appears to be dead.

There is a .22 caliber revolver lying on the floor near the foot end of the bed. The pistol has two spent cartridges in the cylinder, the second in rotation is under the hammer.

Should officers continue questioning Jane? They will find Jane found a pistol under Mary’s pillow and they struggled over the weapon. They will find that Jane’s health is failing to the point where she can no longer take care of Mary. She stated to neighbors across the street “Nobody will take care of Mary.” The pistol has Mary and Jane’s fingerprints and some smudged prints. Jane shot Mary and then attempted suicide, but failed.

Bystanders: After officers arrive at the scene, a man and woman walk up in the front yard and begin discussing what could be going on inside the house.

If officer interview them, they will tell officers they are neighbors from across the street and have known the two women for years. They can identify the woman as Jane Doe and her daughter Mary who both reside at this house. If asked, they can tell officers that they have helped her take care for Mary. Mary was physically handicapped, totally dependent on her mother since birth and has been bedridden for the past 10 years. She had to support her and her daughter on her deceased husband’s social security benefits.

Witness: Next-door neighbor is sitting in his back yard swing, hears what he believes are two gunshots. They are approximately one minute apart. He thought it came from the house next door where his friend (Mary) lives. He investigates. As he approaches the back door he is able to hear screaming and crying. Upon checking further, he finds Mary lying in bed, bleeding and appears to be dead. Hearing another scream, he immediately returns home and
calls the police. He tells the dispatcher that he heard gunshots and it sounded like it came from next door. During the call he tells the dispatcher his name and address.
If officer questions next-door neighbor witness, they will determine that he and Mary were friends for the past several years. He knew that Mary was mentally sound; however, she has been depressed because her mother has to physically take care of her, with her mothers failing health, she is not able to do what she has in the past. Mary exists without regular meals, clean clothing and other necessities of life, on a regular basis. Jane does not like Mary’s friend sneaking in the back door, talking to Mary because he complains that Mary is not being treated with dignity. Mary has complained to friend that unknown individuals try to get in the house and asked friend to buy her a small pistol to protect herself. He did buy a .22 caliber revolver and gave it to Mary.