

THE 4TH AMENDMENT

CRIMINAL JUSTICE CONVERSATIONS

4th Amendment Criminal Justice Conversations Lesson Plan

Learning objectives

Students will:

1. Explain the 4th Amendment protection against “unreasonable search and seizure.”
2. Explain how law enforcement may apply the 4th Amendment to specific situations, such as searching a vehicle during a traffic stop or taking a blood sample to test for Blood Alcohol Content.
3. Conduct conversations about controversial topics in a respectful manner.

TEKS: 7th Grade Texas History (113.19): 7.20E, 23
8th Grade U.S. History (113.20): 8.19B-C, 29E, 31
12th Grade U.S. Government (113.44): 12C

Materials Needed:

- Accompanying PowerPoint Presentation
- 4th Amendment Criminal Justice Conversations Handout (with topic outlines and discussion questions)
- 4th Amendment Teacher Notes

Relevant Vocabulary

4th Amendment	GPS (Global
Affidavit	Positioning System)
BAC (Blood Alcohol	Probable Cause
Content)	Probable Cause
DUI (Driving Under	Protocol
the Influence)	U.S. Supreme Court
DWI (Driving While	Warrant
Intoxicated)	

Estimated Time:

60 Minutes

Teaching Strategy

1. Engage students by asking them to brainstorm everything they know about the 4th Amendment. Students may recall that it protects individuals from “unreasonable search and seizure,” but you can also dig a little deeper and expand their brainstorming to things such as:
 - a. What is needed before police can conduct a search? (a warrant, evidence, reasonable suspicion, probable cause, approval from a judge, etc.)
 - b. Types of searches (home, car, fingerprinting, saliva/DNA swab, breath, blood test, cell phone, etc.)
2. Tell students that today’s activity will explore some various applications of the 4th Amendment and that they, the STUDENTS, will have to consider their opinions and discuss them with one another.
3. Use the PowerPoint slides at this point to review the text of the 4th Amendment and also to guide students through the “Philosophical Chairs” activity. The basic instructions are included in the PowerPoint. Further details are also included here for your convenience:
 - a. Students will read the statement on the slide and silently consider their opinion. Give students around 30 seconds to think, silently, and choose a “side” based on whether they AGREE or DISAGREE with the statement. No in-between!
 - b. Tell students that one side of the room is designated as the AGREE side and the other side is the DISAGREE side, and when you give the signal (or say “GO!”), students will silently move to one “side” of the room or the other, based on their own opinion. No one is allowed to stay in the middle! They have to pick a side!
 - c. As a class, briefly discuss the opinions on each side. You may want to keep this brief by calling on one or two people from each side to share out, saving more of your class time for the small group discussions which come next.
 - d. SUGGESTION: the final two statement slides (slides 15 and 16) are more complex questions and students may require more time to think and discuss. You may want to save them for an extension activity or use them as closure questions at the end of class if time allows.
4. After completing the Philosophical Chairs activity in the PowerPoint, divide students into groups of approximately 4 students per group. Group size can be adjusted based on class size.
5. Give each group a set of the Criminal Justice Conversations handouts (which include the topics and questions to discuss). You can give them the entire handout and let them work at their own pace through the questions, or you can cut the page into 6 sections, giving each topic to groups one at a time with a specified time limit for each topic.

6. Circulate around the room as students discuss to answer questions as necessary (keep the Teacher Notes handy so you can refer to them as needed).
7. Optional accountability piece: Have each group create a Shared Google Document to record their answers and submit at the end of the lesson.
8. After students have discussed the topics, reconvene as a whole class to debrief. Use the Teacher Background Info sheet to clarify some of the legal questions as necessary. If you did not use the last two “challenge” questions in the Philosophical Chairs activity (PowerPoint), use one or two of them at this time as closure questions.

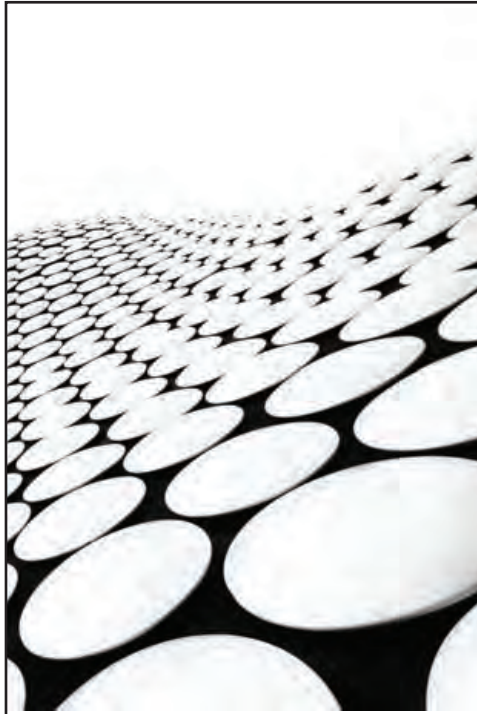
Extension for Gifted/Talented

Have students conduct a Mock Trial using The DRSR Complete Mock Trial Guide or the DRSR Mock Trial State of Texas v. Casey Bryant. To request physical copies of both, visit: <http://www.tmcec.com/drsr/materials-request-forms/drsr/>.

For further extension, have students play the following games on computers or devices:

- “All Rise” game at www.texaslre.org/games; or
- “Supreme Decision” game at www.icivics.org/games





DECISION POINTS

*Criminal Justice Conversations using
"Philosophical Chairs"*

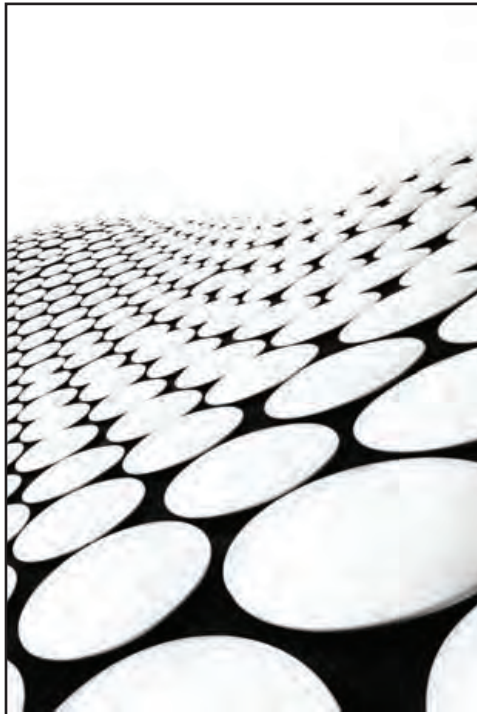
How to play Philosophical Chairs

- Read the statement and silently consider your opinion
- Choose a "side" based on whether you AGREE or DISAGREE with the statement (no in-between!)
- When given the signal, you will move to one "side" of the room or the other, based on your opinion

*Before we
begin...*

*A recap of the
4th Amendment*

“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.”



LET'S PLAY!

*Criminal Justice Conversations using
"Philosophical Chairs"*

- 
1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

Police officers should always wait for a warrant before searching someone's vehicle.

1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

Driving is a privilege, not a right.

1. *Read...*
2. *Consider...*
3. *Wait for the signal to move to your "side"*

Police officers should wear body cameras and record all interactions.

1. *Read...*
2. *Consider...*
3. *Wait for the signal to move to your "side"*

Video from police body cameras and dash-cams should be public record.

- 
1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

**Police body cameras
infringe on citizens'
right to privacy.**

1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

**Texting at a stop light
should be legal.**

- 
1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

Drivers should never be able to refuse a Blood Alcohol Content (BAC) test if they are suspected of drunk driving.

1. *Read...*
 2. *Consider...*
 3. *Wait for the signal to move to your "side"*
-

The use of drug-sniffing dogs during a routine traffic stop is unreasonable.

1. *Read...*
2. *Consider...*
3. *Wait for the signal to move to your "side"*

Monitoring a suspect's movements by attaching a GPS tracking device to their car should not require a warrant.

1. *Read...*
2. *Consider...*
3. *Wait for the signal to move to your "side"*

Public health/safety is more important than privacy.

*Final slides for a
Philosophical
Chairs
CHALLENGE!*

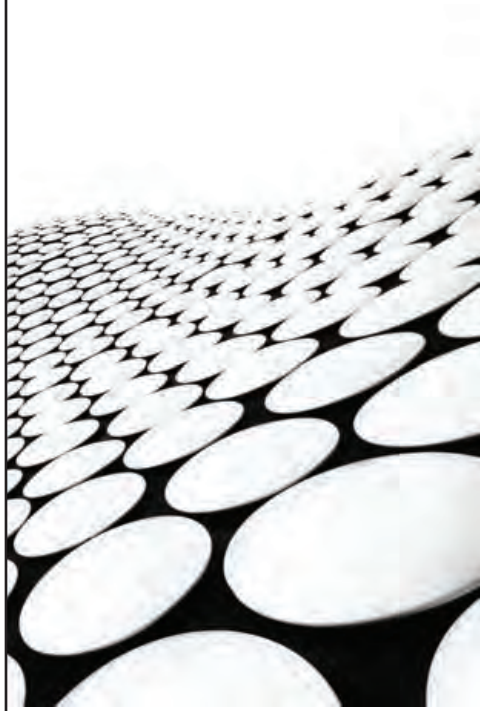
*(Might want to save these
for the end of class closure
questions.)*

**A judge should require
a police officer to
provide evidence of a
crime before issuing a
search warrant.**

*Final slides for a
Philosophical
Chairs
CHALLENGE!*

*(Might want to save these
for the end of class closure
questions.)*

**Getting a search
warrant to obtain
physical evidence is
impossible if the
evidence is required to
get approval for a
warrant.**

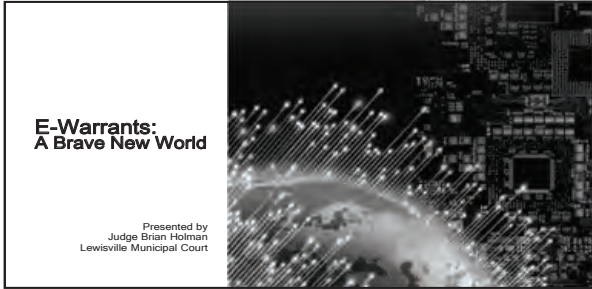


*THANKS FOR
PLAYING!*

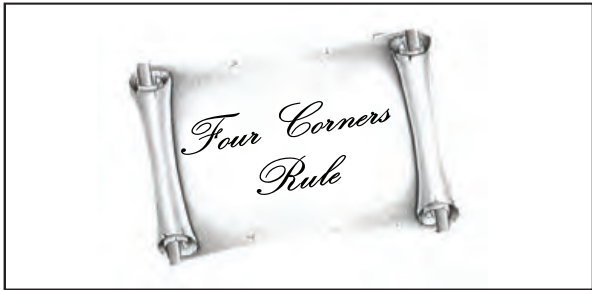
*RETURN TO
YOUR SEAT...*

*Criminal Justice Conversations using
"Philosophical Chairs"*

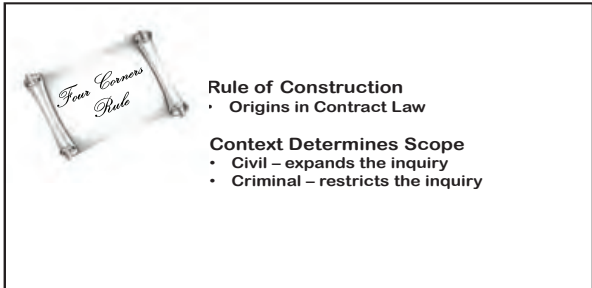




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Four Corners Rule

Adopted into Criminal Law – Search Warrants

- Art. 18.01, C.C.P. states:
“A sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance....”

Four Corners Rule (cont'd.)

Application to Arrest Warrants is Less Clear

- Art. 15.03, C.C.P. states:
“A magistrate may issue a warrant of arrest ... when any person shall make oath before the magistrate that another has committed some offense against the laws of the State”

“Rounding the Corners: Criminal Application of the Four-Corners Rule” – Mark Goodner, *The Recorder Vol. 21, Pg. 16*
“Standing In the Corner: The Shifting Role of Magistrates in the Age of E-Warrants” – Mark Goodner, *The Recorder Vol. 25, Pg. 1*

Technology Eroding the Rule...?

H.B. 1060 (2009)
Authorized the issuance of arrest warrants **“by any method”** that ensures the transmission of a duplicate of the original warrant (i.e., secure fax or other secure electronic device).

H.B. 976 (2011)
Authorized the use of an **“electronic broadcast system”** to perform Art. 15.17 hearings (Magistrations)





The Erosion continues...

“Oath by Phone”

Clay v. State 391 S.W.3d 94 (Tex.Crim.App. 2013)

“We see no compelling reason to construe the ‘sworn affidavit’ contemplated by Article 18.01(b) necessarily to require that the oath always be administered in the corporal presence of the magistrate, so long as sufficient care is taken in the individual case to preserve the same or an equivalent solemnizing function to that which corporal presence accomplishes.”

Clay v. State - Dissent

“If the legislature had meant to allow warrants to be sworn to by telephone, it would have said so.

...

“[O]nly the legislature can amend or supplement the statute to specifically regulate the process of obtaining a search warrant by electronic means.”

...and so they did.

H.B. 326 (eff. September 1, 2015)

adds “18.01(b-1)” to C.C.P.





Article 18.01(b-1), C.C.P.

- Authorizes magistrate to consider “additional testimony and exhibits” communicated by telephone or other “reliable electronic means” to determine probable cause for the issuance of a search warrant
- Requires magistrate to ensure all testimony is recorded “verbatim”, transcribed and certified as accurate, and preserved
- Authorizes magistrate to transmit warrant back to applicant or direct applicant to sign judge’s name

Federal Rules

Since 1977, Federal Rules of Criminal Procedure (Rule 41) have allowed telephonic applications for search warrants

A majority of **states** (37) allow Telephonic / Electronic Search Warrants:

- Including Alaska, Arizona, Arkansas, Alabama, California, Colorado, Delaware, Florida, Idaho, Illinois, Louisiana, Michigan, Minnesota, Montana, Nebraska, New York, New Jersey, Oklahoma, Oregon, South Dakota, Utah, Washington and Wisconsin



Pitfalls And Protocols





Pitfalls of 18.01(b-1)



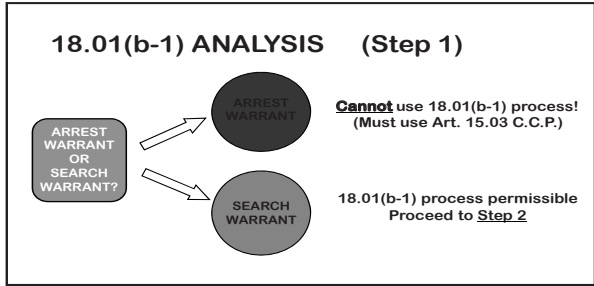
- 18.01(b-1) is permissive, not mandatory
- Practical Implications
 - Technology may be unavailable/inoperative
 - Encourages incomplete (“sloppy”) police work
 - Police may view refusal to use procedure as antagonistic or not neutral
 - Invitation to Testify

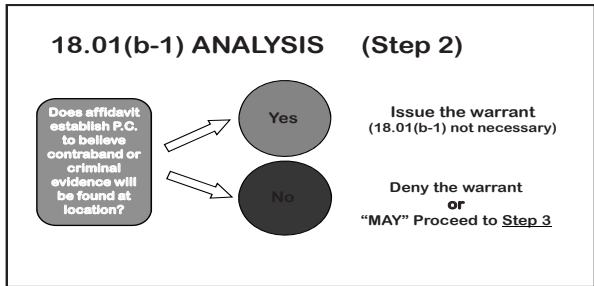
Testifying as a Magistrate

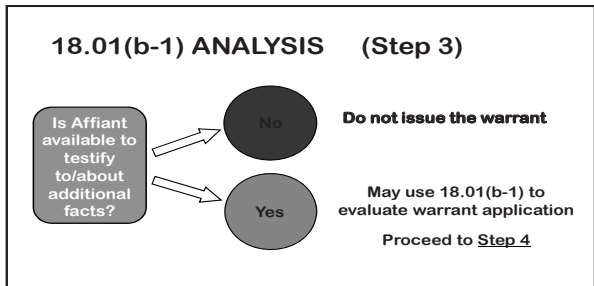
- Suppression Hearings
 - Juvenile Confessions
 - Challenges to Probable Cause Sufficiency
- Statements made during 15.17 Hearings
- Now, Art. 18.01(b-1)
 - Invitation to come to the party!

Protocols for 18.01(b-1)



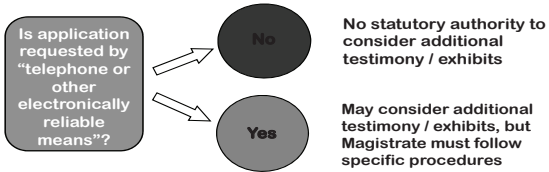








18.01(b-1) ANALYSIS (Step 4)



(Step 4)



If probable cause is based on affidavit only, Magistrate may:

- administer oath by telephone and acknowledge attestation in writing on affidavit

*** Is verbatim electronic recording required?

(Step 4 – Cont’d.)



If probable cause is based on affidavit and "additional testimony or exhibits", Magistrate shall:

- place witness(s) under oath
- record all testimony verbatim
- ensure recording is transcribed, certified as accurate and signed by magistrate
- preserve all affidavits, recordings and/or exhibits



(Step 4 – Cont’d.) 

- Original Search Warrant
- Proposed Duplicate Original Search Warrant
- Modified Original Search Warrant

(Step 4 – Cont’d.) 

If the warrant is modified, the Magistrate shall:

- transmit modified version of warrant to applicant by “reliable electronic means”; or
- file modified original and direct applicant to modify proposed duplicate original accordingly.

(Step 4 – Cont’d.) 

Finally, the Magistrate shall:

- sign original documents (affidavit and warrant)
- enter date and time of issuance on warrant



Art. 18.01(B-1) - Suppression

Evidence obtained under 18.01(b-1) is not subject to suppression on grounds it was *"unreasonable under the circumstances,"* absent a finding of bad faith

Other Considerations – Police Protocols

Agreement on:

- Standardized form of Affidavit and Warrant*
- File format
- Method of document transmission
- Method of video transmission
- Method of recording supplemental testimony

Suggested Jurat for Telephonic Search Warrants

"Information justifying the issuance of this search warrant was submitted to me by reliable electronic means, and was sworn to, signed and attested to electronically pursuant to Art. 18.01(b-1) C.C.P."

Date and time issued	Case number
City and state	Filed jurisdiction
I certify that the judge issued this warrant and was sworn to, signed and attested to electronically pursuant to Art. 18.01(b-1) C.C.P.	
Signature of judge	Signature of warrant





New Protocol for all Search Warrants



- HB 644 – Contents of Warrants (Art. 18.04)**
- Magistrate’s name must appear in “clearly legible handwriting or in typewritten form” along with signature

Protocol for Particular Search Warrants



- HB 1396 – Cell Phone Searches (Contents)**
- Only by a “judge in the judicial district”
 - *See* “Search and Seizure” Webinar by Tom Bridges (suggested search warrant form)
- HB 324 – Body Cavity Searches During Traffic Stops**
- No search without warrant

(AGENCY NAME) POLICE DEPARTMENT
AFFIDAVIT IN SUPPORT OF A TELEPHONIC SEARCH WARRANT
Search Warrant No. _____
Report No. _____

Date: _____ Officer's Name: _____ I.D.# _____

Judge: Hello?

Officer: Judge _____, this is _____, I.D.# _____ of the (Agency Name) Police Department. I am requesting a Telephonic Search Warrant. Will you swear me in, please?

Judge: (Judge swears you in)

Officer: This is _____ of the (agency name) Police Department, I am calling you on (Date & Time) _____ at _____ hours with (name) _____ standing as a witness. I am calling for a telephonic search warrant, pursuant to Art. 18.01 of the Texas Code of Criminal Procedure, and have probable cause to believe that there is now in the blood/body fluids of (name) _____, whose date of birth is _____ and who is currently detained by the (agency name) Police Department and physically located at _____,

the following substances, to-wit: alcohol drugs combination of alcohol and drugs DNA together with other evidence of the crime of:

- driving while intoxicated
- actual physical control of a vehicle while intoxicated
- _____.

As set forth in this affidavit, I, _____, your Affiant, am a peace officer in the State of Texas employed by the City of (agency name). I have been a sworn peace officer for _____ years and have the following training and experience: TCOLE (agency name) Police Academy NTCOG _____.

My training included identifying driver impairment due to alcohol or drugs. My duty assignments have included traffic, criminal and DWI investigations. I have specialized training in:

- Field Sobriety tests H.G.N. (Horizontal Gaze Nystagmus) Phlebotomy
- D.R.E. (Drug Recognition Expert) DWI investigation and apprehension
- _____

I am investigating the offense of: DWI Aggravated DWI Aggravated Assault Intoxication Manslaughter Homicide _____

Which I believe has/have been committed on the _____ day of _____, 20____, at the time of _____ hours at the location of _____ in the territorial limits of the City of _____, Texas, based on the following reasons and circumstances:

- Collision (describe location and circumstances): _____
- Driving behavior (list violations or physical control): _____



(AGENCY NAME) POLICE DEPARTMENT
AFFIDAVIT IN SUPPORT OF A TELEPHONIC SEARCH WARRANT
Search Warrant No. _____
Report No. _____

The driver license status of (Defendant) _____ is _____. In addition, the following observations of symptoms of consumption and/or impairment of the defendant were made by _____ of the:

ODORS OF ALCOHOL

- faint
- moderate
- strong
- Other _____

FACE

- dazed expression
- flushed
- pale
- Other _____

ATTITUDE

- antagonistic
- combative
- mood swings
- Other _____

PUPILS

- equal
- slow reaction
- dilated/constricted
- Other _____

SPEECH

- slurred
- incoherent
- profanity
- Other _____

BALANCE

- swaying
- lost balance/fell down
- staggering
- Other _____

EYES

- watery
- bloodshot
- Other _____

CLOTHING

- orderly
- soiled
- disarranged
- Other _____

UNUSUAL ACTIONS

- belching
- vomiting
- urinated on self
- Other _____

In addition:

I believe that the property, substances and behavior that I have described in this affidavit is/are evidence of driving or being in actual physical control of a vehicle while intoxicated by alcohol, drugs, or a combination of both.

NIGHTTIME SEARCH WARRANT

I believe that it is necessary to obtain this evidence after 10:00 pm and before 6:00 am for the reason that it is now _____ hours. Therefore, I cannot effectively serve and execute the warrant during daytime hours. The evidence requested is of a perishable nature and a time delay would render it useless.

Based on the preceding facts, I, _____, I.D. # _____, request that a telephonic nighttime daytime search warrant be issued. This concludes my affidavit, Your Honor.

Judge: (await his/her reply)

Officer: I will now read to you verbatim the Duplicate Original Search Warrant

Affiant's Signature: _____

Witness' Signature: _____



Small Group Discussion Topics TEACHER NOTES

Teacher notes are underlined and in RED. These notes are designed to help you answer questions and add context during class conversation.

TOPIC 1: E-Warrants, BAC, & “No Refusal Weekends”

Texas has one of the highest rates in the country for alcohol-related motor vehicle crashes and deaths. In order to prevent impaired driving, Texas has implemented many “No Refusal Weekends,” during which police officers may apply for an expedited warrant to test a driver’s Blood Alcohol Content (or BAC), even when a driver refuses such a search. Typical “No Refusal Weekend” dates include Memorial Day, July 4th, Super Bowl Sunday, Thanksgiving through New Year’s, Labor Day, and other holidays. Texas applies the legal concept of “implied consent” to these searches because driving is a “privilege,” not a “right.” Driving on Texas roads implies one’s consent to reasonable searches to protect public safety. Given advancements in technology, an officer may also now apply for a search warrant by phone and send “additional testimony and exhibits” to a judge/magistrate by electronic means to secure a warrant. Article 18.01(b-1), C.C.P. How do we weigh public safety factors against a person’s right to be free from “unreasonable searches?”

1. Does the use of cell phone technology in transmitting “testimony and exhibits” make it more or less likely for a judge to grant/sign a warrant? Why/Why not?
2. Does the speed and ease of applying for a warrant affect the accuracy of the evidence? Judges are required to ensure all testimony is recorded “verbatim” and preserved. Article 18.01(b-1)(2)(A). If yes, how so?
3. Should the application for an arrest warrant be held to a higher scrutiny than a search warrant? In theory and practice, arrest warrants are typically more difficult to obtain because while a search warrant may take one’s personal property, an arrest warrant takes one’s LIBERTY.
4. Should “No Refusal Weekends” be advertised? Even though they are often mentioned in local media news reports, many people are still unaware that “No Refusal Weekends” exist.
5. Should the protocol for “No Refusal Weekends” be used all the time?

TOPIC 2: BODY CAMERAS

Policing is a dangerous job. Officers respond to calls without knowing what danger awaits them. Recent police actions resulting in controversial deaths (some of which have been recorded by cellphones), have sparked nationwide discussion on difficult topics, including what police and civilian interaction should look like. In 2016, the Texas Legislature passed SB 158 requiring law enforcement agencies to adopt policies for the use of body cameras and providing grant money to agencies that need help purchasing body cameras. Most of the protocols for how and when the body cameras are to be used have been left to the local law enforcement agencies to decide.

1. Should police body cams be on all the time? Would this affect the privacy of people in the community?
2. What should be the protocol for an officer deciding when to turn it on or off? Should it be at the officer's discretion?
3. Who should bear the expense of purchasing body cameras for different law enforcement agencies that may already have a stretched budget?
4. Do body cameras change the behavior of civilians when they interact with law enforcement? Does it change the officer's behavior? Should officers warn people that they are being recorded?
5. Should an officer be able to view the body cam footage BEFORE making his/her statement after an officer-involved shooting? Texas law requires that an officer be allowed to view the video of a critical incident (such as a shooting) BEFORE making his/her statement on the incident. Texas Occupations Code §1701.655
6. Should police body cam footage be made public? Under what circumstances?

TOPIC 3: Car Searches

People have protection against “unreasonable searches and seizure” of their property. But is this 4th Amendment protection different for a person's car than it would be for their house?

In Carroll v. United States, 267 U.S. 132 (1925), the U.S. Supreme Court established the “vehicle exception” to the Fourth Amendment warrant requirement. Law enforcement officers may search a car without a warrant if they have “probable cause” because evidence can be moved and destroyed more quickly. In California v. Acevedo, 500 US 565 (1991), the Court clarified this further by stating, “The police may search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained.”

TOPIC 3 (continued)

1. What do you think gives rise to “probable cause” for an officer to search someone’s car?
2. Is a drug-sniffing dog being walked around your car a “search?” Is it an “unreasonable search?” In Illinois v. Caballes, 543 US 405 (2005), the U.S. Supreme Court confirmed that using drug-sniffing dogs in an otherwise lawful stop is not a 4th Amendment violation as long as the stop isn’t unreasonably prolonged.
3. Should law enforcement officers be allowed to attach a GPS tracking device to a suspect’s car to track their movement during an investigation? If so, should there be limits? In United States v. Jones, 565 US 400 (2012), the U.S. Supreme Court ruled that attaching a GPS tracking device to a suspect’s car, without a warrant, is a violation of the Fourth Amendment.
4. Most cars today are equipped with Event Data Recorders (EDR) that record speed, direction, etc. In what situations or investigations should law enforcement be able to access the information stored in these systems? Should car manufacturers be able to track or store this data?
5. How should the 4th Amendment be applied to one’s private car when it is driving on public roads? Does one have an expectation of privacy on the highway? For interesting debate of this topic, listen to the oral arguments in U.S. v. Jones (cited above). Oral arguments are available at <https://www.oyez.org/cases/2011/10-1259>

TOPIC 4: Searches of Persons

All kinds of things affect one’s ability to drive a car safely. So, where do we draw the line between a person’s right to refuse a personal search and society’s right to be safe on the roads that we share?

1. Should law enforcement officers be able to access cell-phone records in the course of a crash investigation? The U.S. Supreme Court decided, in Riley v. California, 573 US 373 (2014), that law enforcement officers need a warrant to search a person’s cell phone.
2. When do law enforcement officers need to read someone their rights? What do you think is the difference between an “investigative detention,” being “in custody,” and being “arrested?” See Miranda v. Arizona, 384 US 436 (1966), which established that suspects must be read their rights when they are “in custody” and being interrogated. Courts have looked at the “totality of the circumstances” to determine if a situation meets this criteria. There are some exceptions to the Miranda rule.
3. If a car is stopped for suspicion of driving while intoxicated, should the driver have the right to refuse a breathalyzer test for blood alcohol content (BAC)? Should they have the right to refuse a blood draw (blood test) to test for BAC? In the case of Birchfield v. North Dakota, 136 S.Ct. 2160 (2016), the U.S. Supreme Court distinguished between blood and breath tests and found blood tests to be more invasive and thus, more protected. A person may be subject to civil penalties (such

TOPIC 4: Searches of Persons (continued)

as loss of license) and criminal charges for refusing a breath test, but they cannot be subject to criminal charges for refusing a blood test without a warrant. A person may still face civil penalties for refusing a blood test and drivers can still be arrested for drunk driving, even in the absence of either of these tests.

4. Should there be consequences for refusing these kinds of tests? If so, what should they be? Should there be a criminal charge, a fine, an arrest, etc? See notes for “3” above.
5. Should a warrant be required for these kinds of searches? Would the loss of time that it takes to get a warrant affect the accuracy of the test? See notes for “3” above.

TOPIC 5: Traffic Laws & Criminal Justice

Distracted Driving: Car technology seeks to increase traffic safety. However, motor-vehicle related deaths are on the rise. Complex problems, such as distracted driver behaviors, make improving public safety a difficult task. How do we maintain our personal liberty while preserving public safety? One in five car crashes involve distracted driving. Cell phones are one of the biggest distractions.

1. Texas passed a law which made texting while driving illegal. Should handheld talking on the phone also be illegal?
2. Should texting at a stop light be illegal? What are the dangers? The statewide ban is primarily on electronic messaging “while operating a motor vehicle unless the vehicle is stopped.” (TTC Sec. 545.4251) However, many Texas cities have passed stricter laws regarding cell phone use while driving. ALL cell phone use in a school zone is prohibited. (TTC Sec. 545.4252) Drivers under the age of 18 are forbidden from making calls or sending messages while driving (even if the call is “hands-free”).
3. Should officers be allowed to check your phone if you are pulled over for suspected texting while driving?
4. What should the fine or penalty be for distracted driving? Should it be more for repeat-offenders?
5. Should hands-free phone calls and texting be permitted? Is all hands-free phone use risk-free? For an extension activity: see the Expository Writing Handout that includes this question with a detailed infographic.
6. What will it take to truly change dangerous driver behaviors such as texting and driving?

TOPIC 6: The Cost of the Crime

Breaking traffic safety laws can be extremely expensive. From citations and fines, to court costs, to paying for an attorney...the bills add up. [For more on the costs of breaking traffic safety laws, see various information sheets from The Texas Municipal Courts Education Center and Driving on the Right Side of the Road:](http://www.tmcec.com/drsr/educators/lessons-and-curriculum/publications/)
<http://www.tmcec.com/drsr/educators/lessons-and-curriculum/publications/>

1. Should the fines or punishments be different for drowsy driving than it is for drunk driving (even in circumstances where the result is the same...injury or death)?
2. Should the driving infractions of minors go on their permanent record? Does the seriousness of the offense matter?
3. Should parents be forced to pay the fines for their child's speeding ticket? If one cannot afford to pay a fine, what should be the consequence?
4. For what offenses should someone lose their license for 1 year? 2 years? Permanently?
5. Review the chart below. What costs were you unaware of? If people knew this, would it change their behavior? In what instances would it change behavior and what instances would it not? What do you imagine are the added "costs" of a charge of Vehicular Manslaughter?

[Chart on next page and further info available at
\[http://www.tmcec.com/files/6013/9577/3696/How_Much_a_DWI_Costs.pdf\]\(http://www.tmcec.com/files/6013/9577/3696/How_Much_a_DWI_Costs.pdf\)](http://www.tmcec.com/files/6013/9577/3696/How_Much_a_DWI_Costs.pdf)

Cost of a DWI Arrest and Conviction

Punishment	<p>First Offense</p> <ul style="list-style-type: none"> • A fine of up to \$2,000 • Up to 180 days in jail • Loss of driver's license for not less than 90 days or more than one year <p>Second Offense*</p> <ul style="list-style-type: none"> • A fine of up to \$4,000 • Up to one year in jail • Loss of driver's license for one year <p>Third Offense*</p> <ul style="list-style-type: none"> • A fine of up to \$10,000 • Two to ten years in prison • Loss of driver's license for not less than 180 days or more than two years, unless the court has ordered an ignition interlock device, in which case, suspension becomes for not less than one year or more than two years <p>*After two or more DWI convictions in five years, installation of a special ignition switch that prevents a vehicle from being operated if the driver has been drinking is required. This costs \$54-\$150 to install and \$600-\$2,800 in monthly fees.</p>
Bail	\$185 - \$5000
Attorney's Fees	\$275 - \$10,000
Court Costs	\$25 - \$1500
Court-ordered classes	\$25 - \$185
Vehicle towing and impoundment	\$30 - \$350
Hearing to regain driver's license	\$125 - \$1,937 (includes attorney fees)
SR-22 Insurance	\$75 - \$2,400
Ankle monitor	Up to \$4,500 (\$375 per month for 12 months)
Alcohol Education Course	\$25 - \$185
Texas Department of Public Safety Driver Responsibility Program Surcharge	<p>Drivers who receive a conviction will pay an automatic annual surcharge for a period of three years from the date of conviction.</p> <p>First DWI offense</p> <ul style="list-style-type: none"> • \$1000 per year for three years <p>Subsequent DWIs</p> <ul style="list-style-type: none"> • \$1,500 per year for three years <p>DWI with blood alcohol concentration of 0.16 or more</p> <ul style="list-style-type: none"> • \$2,000 per year for three years

Small Group Discussion Topics

Instructions:

Your group should discuss each of the questions below. Everyone must participate respectfully in accordance with our class expectations.

TOPIC 1: E-Warrants, BAC, & “No Refusal Weekends”

Texas has one of the highest rates in the country for alcohol-related motor vehicle crashes and deaths. In order to prevent impaired driving, Texas has implemented many “No Refusal Weekends,” during which police officers may apply for an expedited warrant to test a driver’s Blood Alcohol Content (or BAC), even when a driver refuses such a search. Given advancements in technology, an officer may also now apply for a search warrant by phone and send “additional testimony and exhibits” to a judge/magistrate by electronic means to secure a warrant. How do we weigh public safety factors against a person’s right to be free from “unreasonable searches?”

1. Does the use of cell phone technology in transmitting “testimony and exhibits” make it more or less likely for a judge to grant/sign a warrant? Why/Why not?
2. Does the speed and ease of applying for a warrant affect the accuracy of the evidence? If yes, how so?
3. Should the application for an arrest warrant be held to a higher scrutiny than a search warrant?
4. Should “No Refusal Weekends” be advertised?
5. Should the protocol for “No Refusal Weekends” be used all the time?

TOPIC 2: BODY CAMERAS

Policing is a dangerous job. Officers respond to calls without knowing what danger awaits them. Recent police actions resulting in controversial deaths (some of which have been recorded by cellphones), have sparked nationwide discussion on difficult topics, including what police and civilian interaction should look like.

1. Should police body cams be on all the time? Would this affect the privacy of people in the community?
2. What should be the protocol for an officer deciding when to turn it on or off? Should it be at the officer’s discretion?
3. Who should bear the expense of purchasing body cameras for different law enforcement agencies that may already have a stretched budget?
4. Do body cameras change the behavior of civilians when they interact with law enforcement? Does it change the officer’s behavior? Should officers warn people that they are being recorded?
5. Should an officer be able to view the body cam footage BEFORE making his/her statement after an officer-involved shooting?
6. Should police body cam footage be made public? Under what circumstances?

TOPIC 3: Car Searches

People have protection against “unreasonable searches and seizure” of their property. But is this 4th Amendment protection different for a person’s car than it would be for their house?

1. What do you think gives rise to “probable cause” for an officer to search someone’s car?
2. Is a drug-sniffing dog being walked around your car a “search?” Is it an “unreasonable search?”
3. Should law enforcement officers be allowed to attach a GPS tracking device to a suspect’s car to track their movement during an investigation? If so, should there be limits?
4. Most cars today are equipped with Event Data Recorders (EDR) that record speed, direction, etc. In what situations or investigations should law enforcement be able to access the information stored in these systems? Should car manufacturers be able to track or store this data?
5. How should the 4th Amendment be applied to one’s private car when it is driving on public roads? Does one have an expectation of privacy on the highway?

TOPIC 4: Searches of Persons

All kinds of things affect one’s ability to drive a car safely. So, where do we draw the line between a person’s right to refuse a personal search and society’s right to be safe on the roads that we share?

1. Should law enforcement officers be able to access cell-phone records in the course of a crash investigation?
2. When do law enforcement officers need to read someone their rights? What do you think is the difference between an “investigative detention,” being “in custody,” and being “arrested?”
3. If a car is stopped for suspicion of driving while intoxicated, should the driver have the right to refuse a breathalyzer test for blood alcohol content (BAC)? Should they have the right to refuse a blood draw (blood test) to test for BAC?
4. Should there be consequences for refusing these kinds of tests? If so, what should they be? Should there be a criminal charge, a fine, an arrest, etc?
5. Should a warrant be required for these kinds of searches? Would the loss of time that it takes to get a warrant affect the accuracy of the test?

TOPIC 5: Traffic Laws & Criminal Justice

Distracted Driving: Car technology seeks to increase traffic safety. However, motor-vehicle related deaths are on the rise. Complex problems, such as distracted driver behaviors, make improving public safety a difficult task. How do we maintain our personal liberty while preserving public safety?

1. Texas passed a law which made texting while driving illegal. Should handheld talking on the phone also be illegal?
2. Should texting at a stop light be illegal? What are the dangers?
3. Should officers be allowed to check your phone if you are pulled over for suspected texting while driving?
4. What should the fine or penalty be for distracted driving? Should it be more for repeat-offenders?
5. Should hands-free phone calls and texting be permitted? Is all hands-free phone use risk-free?
6. What will it take to truly change dangerous driver behaviors such as texting and driving?

TOPIC 6: The Cost of the Crime

Breaking traffic safety laws can be extremely expensive. From citations and fines, to court costs, to paying for an attorney...the bills add up.

1. Should the fines or punishments be different for drowsy driving than it is for drunk driving (even in circumstances where the result is the same...injury or death)?
2. Should the driving infractions of minors go on their permanent record? Does the seriousness of the offense matter?
3. Should parents be forced to pay the fines for their child's speeding ticket? If one cannot afford to pay a fine, what should be the consequence?
4. For what offenses should someone lose their license for 1 year? 2 years? Permanently?
5. Review the Cost of a DWI Arrest and Conviction chart. What costs were you unaware of? If people knew this, would it change their behavior? In what instances would it change behavior and what instances would it not? What do you imagine are the added "costs" of a charge of Vehicular Manslaughter?