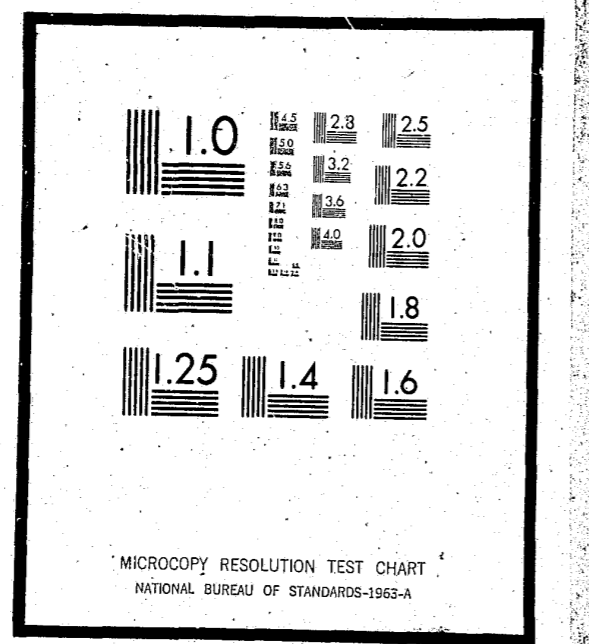


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U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed

5/6/76

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: United States Constitution

UNIT: Code of Criminal Procedure - Lesson #1

AIMS: Give student background of laws

TEACHING AIDS: Transparencies on 4th, 5th, 6th and 8th Amendments, screen, and overhead projector

I. PREPARATION (of the learner - motivation)

Put learner at ease. (Break the ice)
Introduce lesson; find out what he knows about it.

With the exception of lawyers and the courts, policemen are more likely to come into contact with the provisions of the Bill of Rights.

As officers, we must be constantly aware of the guarantees contained in the provisions which it provides.

Contrary to public opinion, the Bill of Rights did not completely originate within the minds of those gathered at the Constitutional Convention. True, some of these provisions had their origin in this country, but many had been in effect in England for many years.

The Bill of Rights, as the first 10 amendments are called, resulted from the effort to secure ratification of the Constitution by the States. Madison introduced his amendments on June 8, 1789 in the House of Representatives.

Some were changed, re-worded and consolidated, but in September twelve (12) of the amendments were agreed upon and sent to the States.

**FOURTH
AMENDMENT**

PEOPLES RIGHTS PROTECTED

NO UNREASONABLE SEARCH & SEIZURE

MUST HAVE PROBABLE CAUSE TO ARREST

**PLACE TO BE SEARCHED & PROPERTY TO
BE SEIZED MUST BE DESCRIBED**

**MUST OBTAIN WARRANT UNDER OATH OR
AFFIRMATION**

**FIFTH
AMENDMENT**

INDICTMENT OF A GRAND JURY IN FELONY

GUARDS AGAINST DOUBLE JEOPARDY

**NOT BE COMPELLED TO BE A WITNESS
AGAINST SELF**

DUE PROCESS OF LAW

**PRIVATE PROPERTY CANNOT BE TAKEN WITHOUT
JUST COMPENSATION**

**SIXTH
AMENDMENT**

RIGHT TO A SPEEDY & PUBLIC TRIAL

IMPARTIAL JURY

**INFORMED OF NATURE AND CAUSE OF
ACCUSATION**

**ENTITLED TO BE CONFRONTED WITH
WITNESSES AGAINST HIM**

ENTITLED TO COUNSEL

**EIGHTH
AMENDMENT**

EXCESSIVE BAIL SHALL NOT BE REQUIRED

EXCESSIVE FINES SHALL NOT BE IMPOSED

**CRUEL & UNUSUAL PUNISHMENT SHALL NOT
BE INFLICTED**

PREPARATION - Continued

Without an understanding of the provisions of the Bill of Rights, it would be difficult to grasp the full understanding of our laws.

II. PRESENTATION

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
First Amendment	<p>First right - freedom of religion, can be classified as fundamentally American, although the struggle for this freedom had gone on for years, forcing the persecuted minorities to come here to worship.</p> <p>Freedom of speech - had existed only to a limited degree in England, and the Colonists were deeply concerned about freedom of the press. England had only ceased to license the press in 1695.</p> <p>Right to assemble and petition the government was a freedom that had been recognized for centuries in England.</p>
Second & Third Amendments	<p>These articles were also English in origin. The right to keep and bear arms appeared in the English Bill of Rights.</p> <p>The article covering the quartering of soldiers in any house without the consent of the owner was established by Petition of Rights of 1628.</p>
Fourth Amendment	<p>Important that Police Officer understand</p> <p>(Read the law).</p> <p>The right of the people to be secure in their persons, houses, papers, property, and effects against unreasonable searches and seizures, shall not be violated; and no warrant shall be issued but upon probable cause, and supported by oath or</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Fourth Amendment (continued)	<p>affirmation, particularly describing the place to be searched and persons or things to be seized.</p> <p>This article, outlawing unreasonable searches and seizures, grew out of the use by British officials of general warrants.</p> <p>Tell of the officers who carried the warrant around in pocket.</p> <p>(Show transparencies on 4th)</p> <p>Elements of Fourth Amendment:</p> <ol style="list-style-type: none"> 1. People's Rights Protected 2. No unreasonable searches & seizures 3. Must have probable cause to arrest 4. Place to be searched and property to be seized must be particularly described 5. Must obtain warrant under oath or affirmation. <p>(Turn off overhead projector)</p>
Fifth Amendment	<p>(Read the Amendment)</p> <p>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 the militia when in actual service in time of war or public danger; nor shall any person be subjected for the same offense to be twice put in jeopardy of life or limb, nor shall he be compelled in any case to be a witness against himself; nor be deprived of life, liberty or property without due</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Fifth Amendment (continued)	<p>process of law; nor shall private property be taken for public use without just compensation.</p> <p>The Fifth Amendment covers several rules which had been long established in English common law covering proceedings against life, liberty or property.</p> <p>These rules may be summed up in the expression: "Due Process of Law".</p> <p>(Show transparency on 5th Amendment)</p> <ol style="list-style-type: none"> 1. Indictment of a grand jury in capital and felony case 2. Guards against double jeopardy 3. Not compelled to be a witness against himself 4. Due Process of Law 5. Private property cannot be taken without just compensation. <p>(Turn off Projector)</p>
Sixth Amendment	<p>(Read the Amendment)</p> <p>In all criminal prosecution, the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Sixth Amendment (continued)	<p>The Sixth Amendment covers the procedural rights of one charged with crime. Trial by jury existed before the Magna Carta, but had various forms and was many times infringed upon by the government.</p> <p>This provision sought to prevent this infringement and to create a specific provision on procedural rights.</p> <p>(Show transparency on 6th Amendment)</p> <ol style="list-style-type: none"> 1. Right to a speedy and public trial 2. Impartial jury 3. Must inform person of nature and cause of accusation 4. Entitled to be confronted with witnesses against him 5. Entitled to counsel <p>(Turn off projector)</p>
Seventh Amendment	<p>The Seventh Amendment guarantees the rights of citizens in civil trials.</p>
Eighth Amendment	<p>(Read Amendment)</p> <p>Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.</p> <p>The provisions of the Eighth Article prohibiting excessive bail, excessive fines, or unusual or cruel punishments appeared in the English Bill of Rights.</p> <p>The Supreme Court will interfere with action of State Courts if they impose fines which amount to a deprivation of property without due process of law.</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
9th through 13th Amendments	These Amendments deal with states rights, electors, abolishes slavery and are of little interest to Law Enforcement Officers in performing their duties.
Fourteenth Amendment	<p>(Read the Amendment)</p> <p>Sec. 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 within its jurisdiction, the equal protection of the laws.</p> <p>Sec. 2, 3, 4 deal with qualifications of Senators and Representatives and the validity of public debt.</p> <p>Sec. 5. Gives Congress authority to enforce by appropriate legislation.</p> <p>The Supreme Court will use this Amendment for authority to interfere with State actions.</p> <p>(Refer to 8th Amendment)</p> <p>The Supreme Court will interfere with the action of State courts if they impose fines which amount to a deprivation of property without due process of law, but will do this under the 14th Amendment.</p>
15th through 21st Amendments	Are not of material concern to the police officer in performance of his duties. They concern elections, right to vote, prohibition, repeal of prohibition and sessions of Congress.

III. APPLICATION (drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, note-taking, making sketches, participating in discussion)

AMENDMENTS MOST IMPORTANT TO LAW ENFORCEMENT OFFICERS

A. Fourth Amendment; Elements

1. People's rights protected
2. No unreasonable search & seizures
3. Must have probable cause to arrest
4. Place to be searched and property to be seized must be described
5. Must obtain warrant under oath or affirmation

B. Fifth Amendment; Elements

1. Indictment of a grand jury in felony case
2. Guards against double jeopardy
3. Not be compelled to be a witness against self
4. Due Process of Law (cannot be deprived of life, property, possessions)
5. Private property cannot be taken without just compensation

C. Sixth Amendment; Elements

1. Right to a speedy and public trial
2. Impartial jury
3. Must be informed of nature and cause of accusation
4. Entitled to be confronted with witnesses against him
5. Entitled to counsel

D. Eighth Amendment

1. Excessive bail shall not be required
2. Excessive fines shall not be imposed
3. Cruel and unusual punishment shall not be inflicted

E. Fourteenth Amendment

Prohibits the States from abridging the immunities of citizens, and from depriving any person of life, liberty, or property without due process of law, or denying any person equal protection of the law.

IV. VERIFICATION AND/OR EVALUATION (final check on students' comprehension of material presented)

1. Under the Fourth Amendment, the place to be searched and the property to be seized must be described.
2. The Fourth Amendment requires that a search must be reasonable.
3. What must you have before arrest is made, according to the Fourth Amendment? (Probable Cause)
4. Under the Fifth Amendment, a man cannot be compelled to be a witness against self.
5. Under the Fifth Amendment, a man cannot be deprived of life, liberty or property without due process of law.
6. The Sixth Amendment provides for a speedy and public trial by an impartial jury.
7. Under the Sixth Amendment, a man is entitled to be confronted with the witnesses against him.
8. What 3 safeguards for individual freedom are provided through the 8th Amendment?

Excessive bail shall not be required,
Excessive fines imposed,
Nor cruel and unusual punishment inflicted.
9. What Amendment is sometimes used to interfere with state action by the Supreme Court? (The 14th Amend.)

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

To every person engaged in law enforcement, the challenge is not only to protect and preserve the freedoms guaranteed to our citizens under our form of government, but also to protect each citizen in the enjoyment of his freedom from those who seek to destroy it by criminal means. This is a real challenge, and yours is a most honorable and challenging profession--protecting the liberties and freedoms of our Nation.

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER
STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: Objects and Provisions

UNIT: Code of Criminal Procedure - Lesson #2

AIMS: Inform the students of the objects and general rights of the accused

TEACHING AIDS: Chalk board

REFERENCES: "Texas Code of Criminal Procedure"

I. PREPARATION (of the learner - motivation)

In addition to the U. S. Constitution, and the Constitution of the State of Texas, the code itself states the objectives and some rights enjoyed by the accused.

Remember, the code is the blueprint or instructions on how the law is applied. If the provisions are not followed, the case may be dismissed (or you may be punished by fine.)

It is somewhat like a boy and a model airplane--if he failed to follow instructions, he may end up with an airplane, but it may not fly.

**OBJECTS
OF THE CODE**

**ADOPT MEASURES FOR PREVENTING THE
COMMISSION OF CRIME**

**TO EXCLUDE THE OFFENDER FROM ALL
HOPE OF ESCAPE**

TO INSURE TRIAL WITH LITTLE DELAY

**TO BRING TO TRIAL ALL EVIDENCE TENDING
TO PRODUCE CONVICTION OR ACQUITTAL**

TO INSURE FAIR AND IMPARTIAL TRIAL

**THE CERTAIN EXECUTION OF THE SENTENCE
OF THE LAW WHEN DECLARED**

II. PRESENTATION

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Objects of the Code	Code is intended to embrace rules applicable to the prevention and prosecution of offenses and to make rules of procedure.
It Seeks	<ol style="list-style-type: none"> 1. Adopt measures for preventing the commission of crime 2. To exclude the offender from all hope of escape 3. To insure trial with little delay 4. To bring to trial all evidence tending to produce conviction or acquittal 5. To insure fair and impartial trial 6. The certain execution of the sentence of the law when declared.
General Provisions --	
Due Course of Law	<p>Art. 1.04--No citizen 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.</p>
Rights of Accused	<p>Art. 1.05--Accused shall have right to a speedy public trial by impartial jury, be informed of the nature and cause of accusation, not be compelled to be a witness against himself, right to be heard by himself or counsel, confronted by witnesses, have compulsory process for obtaining witnesses, held to answer for a felony unless on indictment of a grand jury.</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student to do Things for instructor to do or say
Searches and Seizures	Art. 1.06-- People shall be secure in their person, houses, papers and possessions from unreasonable searches or seizures. Warrant issued upon oath or affirmation.
Right to Bail	All prisoners shall be bailable unless for capital offense when proof is evident.
Habeas Corpus	The writ of Habeas Corpus is a writ of right and shall never be suspended.
Cruelty Forbidden	Art. 1.09-- Excessive bail, nor fines imposed nor cruel or unusual punishment inflicted.
Jeopardy	Art. 1.10-- No person for the same offense shall be twice put in jeopardy.
Acquittal a Bar	An acquittal of the defendant exempts him from a second trial for the same offense.
Right to Jury	Art. 1.12-- The right of trial by jury shall remain inviolate.
Waiver of Trial by Jury	Art. 1.13-- Defendant in a criminal prosecution may waive his right to jury trial except in a capital case.
Liberty of Speech and Press	Art. 1.16-- Every person shall be at liberty to speak, write or publish his opinion on any subject, being liable for the abuse of that privilege.
Religious Belief	Art. 1.17-- No Person shall be disqualified to give evidence in any court because of his religious belief.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Dignity of State	Style of all writs and process shall be "THE STATE OF TEXAS". All prosecutions shall be carried on in the name and by the authority of "The State of Texas", and conclude "against the peace and dignity of the State".
Public Trial	The proceeding and trials in all courts shall be public.
Common Law	If this code fails to provide a rule of procedure, the rules of common law shall be applied.

III. APPLICATION (drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, note-taking, making sketches, participating in discussion)

and

IV. VERIFICATION AND/OR EVALUATION (final check on students' comprehension of material presented)

1. Article 1.06. No warrant to search any place or to seize any person or thing shall be issued without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.
2. All prosecutions shall be carried on in the name and by authority of "The State of Texas".
3. A defendant may waive his right to trial by Jury. True or false?
4. Habeas Corpus may be suspended only by the governor. True or false?

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

Well, it seems the Constitution is not the only place these freedoms are protected. Our Code of Criminal Procedure guarantees these same freedoms. The people have to be careful to safeguard these freedoms; and when you consider that many have died to secure them and keep them, it becomes easier to understand why.

The only thing separating this country from Nazi Germany and other countries of like nature is these little bits of paper and the feelings of the people. If we don't protect these rights, who will?

Suggested Reading for Student:

Next Lesson is:

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER
STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: Duties of Officers

UNIT: Code of Criminal Procedure - Lesson #3

AIMS: To inform officers who are magistrates and peace officers

REFERENCE: Code of Criminal Procedure

I. PREPARATION

Put learner at ease.

Introduce lesson; find out what he knows about it.

At this point, we will discuss Magistrates and Peace Officers. As you go through the Code of Criminal Procedure, the terms "magistrate", "officer" and "peace officers" will appear numerous times.

MAGISTRATES

JUDGES OF SUPREME COURT
JUDGES OF COURT OF CRIMINAL APPEALS
JUDGES OF DISTRICT COURT
THE COUNTY JUDGES
JUDGES OF COUNTY COURTS OF LAW
JUDGES OF COUNTY CRIMINAL COURTS
JUSTICES OF THE PEACE
MAYORS & RECORDERS & JUDGES OF THE CITY
COURTS OF INCORPORATED CITIES, TOWNS

PEACE OFFICERS

SHERIFF & HIS DEPUTIES
CONSTABLES & DEPUTY CONSTABLES
MARSHAL OR POLICE OFFICER OF CITY
RANGERS & OFFICERS COMMISSIONED BY THE
PUBLIC SAFETY COMMISSION & THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY
INVESTIGATORS OF THE DISTRICT ATTORNEY,
CRIMINAL DISTRICT ATTORNEY, COUNTY ATTORNEY
EACH MEMBER OF AN ARSON INVESTIGATING
UNIT OF A CITY, COUNTY OR STATE
LAW ENFORCEMENT AGENTS OF THE TEXAS
LIQUOR CONTROL BOARD
ANY PERSON ESPECIALLY APPOINTED TO
EXECUTE CRIMINAL PROCESS

II. PRESENTATION

Instructional Topics and
Teaching Points

Things for student to do
Things for instructor to do or say

DUTIES OF OFFICERS

Who are magistrates?

Article 2.09

Each of the following officers is a magistrate within the meaning of this code:

1. The judges of the Supreme Court
2. The judges of the Court of Criminal Appeals
3. The judges of the District Court
4. The County Judges
5. The judges of the County Courts of Law
6. Judges of the County Criminal Courts
7. The Justices of the Peace
8. The mayors and recorders and the judges of the city courts of incorporated cities or towns.

Who are peace officers?

Article 2.12

The following are peace officers:

1. The sheriff and his deputies
2. Constables and deputy constables
3. Marshal or police officers of an incorporated city, town or village
4. Rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety
5. Investigators of the District Attorney, Criminal District Attorneys and County Attorneys' offices.
6. Each member of an arson investigating unit of a city, county or the state
7. Law Enforcement Agents of the Texas Liquor Control Board
8. Any private person especially appointed to execute criminal process

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
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Duties of Officers - Continued

Duties & Powers

Article 2. 13

It is the duty of every peace officer to preserve the peace within his jurisdiction. To effect this purpose,

He shall use all lawful means.

He shall in every case where he is authorized by the provisions of this code, interfere without warrant to prevent or suppress crime.

He shall execute all lawful process issued to him by any magistrate or court.

He shall give notice to some magistrate of all offenses committed within his jurisdiction where he has good reason to believe there has been a violation of the penal law.

He shall arrest offenders without warrant in every case where he is authorized by law in order that they may be taken before the proper magistrate or court to be tried.

May Summon Aid

Article 2. 14

Whenever a peace officer meets with resistance in discharging any duty imposed upon him by law,

He shall summon a sufficient number of citizens of his county to overcome the resistance; and all persons summoned are bound to obey.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Person Refusing to Aid	<p>Article 2. 15</p> <p>The peace officer who has summoned any person to assist him in performing any duty</p> <p>Shall report such person,</p> <p>if he refuses to obey, to the proper district or county attorney, in order that he may be prosecuted for the offense.</p>
Neglecting to Execute Process	<p>Article 2. 16</p> <p>If any sheriff or other officer shall</p> <p>willfully refuse, or fail from neglect,</p> <p>to execute any summons, subpoena or attachment for a witness, or any other legal process which is made his duty by law to execute, he shall be liable to a fine for contempt for not less than ten nor more than two hundred dollars, at the discretion of the court. The payment of such fine shall be enforced in the same manner as fines for contempt in civil cases.</p>
Identification of Witnesses	<p>Article 2. 24</p> <p>Whenever a peace officer has reasonable grounds to believe that a crime has been committed,</p> <p>he may stop</p> <p>any person whom he reasonably believes was present and may</p> <p>demand of him</p> <p>his name and address.</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Identification of Witnesses - Cont'd.	<p>If such person fails, or refuses, to identify himself to the satisfaction of the magistrate, the latter may</p> <p>require him to furnish bond, or may</p> <p>commit him to jail until he so identifies himself.</p>
III. APPLICATION (drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, notetaking, making sketches, participating in discussion)	

DISCUSSION

1. Suppose an officer meets resistance attempting to serve a warrant of arrest. What can he do?
2. If he calls upon a citizen of his county to aid him, and this person refuses, What can he do?
3. What can happen to a peace officer who makes no attempt to execute a summons or subpoena?
4. You are investigating a robbery and two people are present. The victim tells you they were present during the robbery, yet both witnesses refuse to talk with you and will not identify themselves because they don't want to become involved. What action can you take to learn their identity?

IV. VERIFICATION AND/OR EVALUATION

(Final check on students' comprehension of material presented)

TEST

1. Is the judge of a city court a magistrate?
2. Are deputy constables considered peace officers?
3. Can a peace officer summon aid when he meets with resistance?
4. If a witness refuses to identify himself, what action can the officer take?
5. What action can the magistrate take?

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

The general term "officers" includes both magistrates and peace officers. However, it is important to the police officer that he knows who is a magistrate. County commissioners at one time were magistrates but are not now. The laws on witnesses and persons to give aid are both important tools in the officer's kit.

The more you know, the better equipped you become.

Suggested Reading for Student:

The Next Lesson is:

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER
STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: Courts and Criminal Jurisdiction

UNIT: Code of Criminal Procedure - Lesson #4

AIMS: Inform the student of the jurisdiction of the different courts

TEACHING AIDS: Overhead projector, screen

MATERIALS: Projection transparency--outline for handout

REFERENCES: "Code of Criminal Procedure"

I. PREPARATION (of the learner - motivation)

This lesson will acquaint you with the courts and their jurisdictions. Just knowing the law isn't enough. You must learn the penalty of the offense, then what court the case should be tried in. Remember that if the court does not have jurisdiction in the case, the defendant could go free.

COURT OF CRIMINAL APPEALS

DISTRICT COURT

COUNTY COURTS

JUSTICE COURT

CORPORATION COURT

II. PRESENTATION

Instructional Topics and Teaching Points

Things for student to do
Things for instructor to do or say

COURTS AND CRIMINAL JURISDICTION

What Courts Have Criminal Jurisdiction

Article 4.01

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals
2. The district courts
3. The criminal district courts
4. Courts of domestic relations where they have criminal jurisdiction by legislative enactment
5. The county courts
6. All county courts at law with criminal jurisdiction
7. County criminal courts
8. Justice courts
9. Corporation courts.

Court of Criminal Appeals

Article 4.03 (53)

The Court of Criminal Appeals shall have appellate jurisdiction

coextensive with the limits of the State in all criminal cases.

This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed by the county court, the county criminal court or county court at law shall not exceed one hundred dollars.

Explain: The county courts
have
final jurisdiction

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Courts and Criminal Jurisdiction: Court of Criminal Appeals (contd.)	on a case where fine was less than \$100; ie: appeal of \$10 fine for speeding from a corporation court to county court--final hearing.
Jurisdiction of District Courts	Article 4.05 (54) District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, and of all misdemeanors involving offi- cial misconduct.
Jurisdiction of County Courts	Article 4.07 (56) The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed two hundred dollars.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
Courts and Criminal Jurisdiction (continued)	
Appellate Jurisdiction of County Courts	Article 4.08 The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.
Jurisdiction of Justice Courts	Article 4.11 (60) Justices of the peace shall have jurisdiction in criminal cases where the fine to be imposed by law may not exceed two hun- dred dollars.
Misdemeanor Cases	Article 4.12 (60a) <u>Misdemeanor cases; precinct in which defendant to be tried in justice court.</u> A misdemeanor case to be tried in justice court

PRESENTATION - Continued

Instructional Topics and Teaching points	Things for student to do Things for instructor to do or say
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Courts and Criminal Jurisdiction (contd.)

Misdemeanor Cases

Article 4.12 (60a) - Continued

shall be tried
in the precinct in
which the
offense was committed,
or in which the
defendant
or any of the
defendants reside,
or, with the
written consent
of the State and each
defendant
or his
attorney,

in any other precinct within the county;
provided that in any misdemeanor case in
which the offense was committed in a pre-
cinct where there is no qualified justice
precinct court, then trial shall be had in
the next adjacent precinct in the same
county which may have a duly qualified
justice precinct court, or in the precinct
in which the defendant may reside; pro-
vided that in any such misdemeanor case,
upon disqualification for any reason of all
justices of the peace in the precinct where
the offense was committed, such case may
be tried in the next adjoining precinct in
the same county, having a duly qualified
justice of the peace.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
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Courts and Criminal Jurisdiction (contd.)

Concurrent Jurisdiction

Article 4.16 (64)

When two or more courts have concurrent jurisdiction of any criminal offense, the court in which an indictment or a complaint shall first be filed shall retain jurisdiction except as provided in Article 4.12.

III. APPLICATION (drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, notetaking, making sketches, participating in discussion)

DISCUSSION

Court of Criminal Appeals

Review the record of trial from lower courts.

District Courts

Original jurisdiction in criminal cases of the grade of felony--(time in penitentiary may be given).

County Criminal Court
County Court at Law

Original jurisdiction in Misdemeanors where a fine can be over \$200, or where a jail term can be imposed.

Justice Court

City Corporation Court

Have original jurisdiction in misdemeanors, punishable by fine, only not to exceed \$200. Such misdemeanors arising within their jurisdiction.

IV. VERIFICATION AND/OR EVALUATION
(Final check on students' comprehension of material presented)

TEST

1. What is the maximum fine a Corporation Court can assess?
2. In a D. W. I. case, the punishment is, for first offense, not less than three days nor more than two (2) years. What court would have jurisdiction?
3. A defendant is dissatisfied with the judgment of a \$50.00 fine in Corporation Court. What court would have appellate jurisdiction?
4. A felony is tried in what court?

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

As said at the outset, just knowing the law is not enough--you must also know how it is to be applied. We have mentioned briefly the courts and their jurisdiction. It is important that you know this, otherwise it could ruin a good case.

After the arrest is made, what judge will you take the offender before after you, the officer, must make this determination?

Review the jurisdiction of each court.

Suggested Reading for Student:

The Next Lesson is:

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER
STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: Preventing Offenses

UNIT: Code of Criminal Procedure - Lesson #5

AIMS: To inform student of action that may be taken in preventing offenses

MATERIALS: Outline for hand-out

REFERENCE: Code of Criminal Procedure

I. PREPARATION

In addition to describing the duties of peace officers, the Code sets forth some further duties in certain cases where a peace officer is to take action.

As a policeman on the street, you may easily be confronted with such a situation and need to be at least familiar with your authority in these matters.

II. PRESENTATION

Instructional Topics and Teaching Points	Things for student to do Things for instructor to do or say
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PREVENTING OFFENSES

Preventing Offenses by Act of a Private Person

Article 5.01

Article 5.02

Article 5.03

Article 5.04

Article 5.05:

Excessive force. If the person about to be injured, in respect either to his person or property, uses a greater amount of force to resist such injury than is necessary to repel the aggressor and protect his own person or property, he is himself guilty of an illegal act, according to the nature and degree of the force which he has used.

Article 5.06 (70):

Other person may prevent. Any person other than the party about to be injured may also, by the use of necessary means, prevent the commission of the offense.

Article 5.07 (71):

Defense of another. The same rules which regulate the conduct of the person about to be injured, in repelling the aggression, are also applicable to the conduct of him who interferes in behalf of such person. He may use a degree of force proportioned to the injury about to be inflicted, and no greater.

The officer should note that only that degree of force necessary is lawful. In fact, if excessive force is used, then it becomes a criminal offense.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student to do Things for Instructor to do or say
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Preventing Offenses - (contd.)

Preventing Offenses by the Act of Magistrates

Article 6.01 (72):

When magistrate hears threat. It is the duty of every magistrate, when he may

have heard, in any manner, that

a threat has been made

by one person to do

some injury to himself or the

person or property of another,

immediately to

give notice to some

peace officer,

in order that such peace officer may use lawful means to prevent the injury.

Article 6.02 (73):

Threat to take life. If, within the

hearing of

a magistrate,

one person shall threaten to take the life of another or himself,

the magistrate shall

issue a warrant

for the arrest of the person making the threat, or in case of

emergency, he may

himself immediately

arrest such person.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Preventing Offenses - Continued	
Preventing Offenses by the Act of Magistrates (contd.)	Article 6.03 (74): <u>On attempt to injure.</u> Whenever, in the presence or within the observation of a magistrate, an attempt is made by one person to inflict an injury upon himself or to the person or property of another, it is his duty to use all lawful means to prevent the injury. This may be done, either by verbal order to a peace officer to interfere and prevent the injury, or by the issuance of an order of arrest against the offender, or by arresting the offender, for which purpose he may call upon all persons present to assist in making the arrest.
Preventing Offenses by the Act of Peace Officer	Article 6.05 (76): <u>Duty of peace officer as to threats.</u> It is the duty of every peace officer, when he may have been informed in any manner that a threat has been made by one person to do some injury to himself or to

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Preventing Offenses by the Act of Peace Officer (contd.)	Article 6.05 - continued the person or property of another, to prevent the threatened injury, if within his power; and, in order to do this, he may call in aid any number of citizens in his county. He may take such measures as the person about to be injured might for the prevention of the offense. Article 6.06 (77): <u>Peace officer to prevent injury.</u> Whenever, in the presence of a peace officer, or within his view, one person is about to commit an offense against the person or property of another or injure himself, it is his duty to prevent it; and, for this purpose the peace officer may summon any number of the citizens of his county to his aid. The peace officer must use the amount of force necessary to prevent the commission of the offense, and no greater.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Preventing Offenses by the Act of Peace Officer (contd.)	<p>Article 6.07 (78):</p> <p><u>Conduct of peace officer.</u> The conduct of peace officers, in preventing offenses about to be committed in their presence, or within their view, is to be regulated by the same rules as are prescribed to the action of the person about to be injured. They may use</p> <p style="padding-left: 40px;">all force necessary to repel the aggression.</p> <p>Officers should note that</p> <p style="padding-left: 40px;">only the amount of force necessary can be used.</p> <p>These statutes now give an officer clear-cut authority to use force in preventing a person from committing suicide.</p>
Proceedings Before Magistrates to Prevent Offenses	<p>Article 7.01 (79)</p> <p><u>Shall issue warrant.</u> Whenever a</p> <p style="padding-left: 40px;">magistrate is informed upon oath</p> <p style="padding-left: 40px;">that an offense is about to be committed</p> <p>against the person or property</p> <p>of the informant, or of another, or that</p>

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Proceedings Before Magistrates to Prevent Offense (contd)	<p>Article 7.01 - Continued:</p> <p style="padding-left: 40px;">any person has threatened to commit an offense, the magistrate shall immediately issue a warrant for the arrest of the accused, that he may be brought before such magistrate or before some other named in the warrant.</p> <p>Article 7.03 (80)</p> <p><u>Accused brought before magistrate.</u> When the accused has been brought before the magistrate,</p> <p style="padding-left: 40px;">he shall hear proof as to the accusation and if he be satisfied that there is just reason to apprehend, that the</p> <p style="padding-left: 40px;">offense was intended to be committed, or that the threat was seriously made, he shall make an order that the accused enter into bond in such sum as he may in his discretion require, conditioned that he will not commit such offense, and that he will keep the peace toward the person threatened or about to be injured, and toward all others named in the bond for any period of time, not to exceed one year from the date of the bond.</p>

III. APPLICATION (Drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, notetaking, making sketches, participating in discussion)

and

IV. VERIFICATION AND/OR EVALUATION
(Final check on students' comprehension of material presented)

DISCUSSION AND TEST

1. What if a magistrate orders a peace officer to prevent injury?
2. What about possibility of a civil suit for false arrest? Probably no such hazard if officer acted with probable cause.
3. What would the officer do with a person whom he arrested to prevent a suicide since suicide is not a crime?

In such a case, he should bring the subject before a magistrate who could then issue the proper warrant ordering the commitment of the subject to the State Hospital.

4. How much force can be used by the officer engaged in suppressing a riot?
5. What about an Unlawful Assembly?

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

Keep in mind the Big Picture in enforcing the law. The Act giving the peace officer authority to use force in preventing the commission of suicide is new.

Keep in mind that in preventing offenses such as were described, probable cause still plays a big part. This is in keeping with the Constitution.

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION

INSTRUCTOR'S LESSON PLAN

Subject: Limitation and Venue

UNIT: Code of Criminal Procedure - Lesson #6

AIMS: To inform the student what articles apply to Limitation and Venue

TEACHING AIDS: Overhead projector and screen

MATERIALS: Projection transparency

REFERENCES: Code of Criminal Procedure, Chapter 12

I. PREPARATION

The peace officer will be called upon to investigate many types of crimes involving unusual circumstances. The crime may begin in one county and end in another.

The officer who understands the limitation and venue is better prepared to make the investigation, and his actions become much more effective.

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II. PRESENTATION

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Limitation	Article 12. 01
Treason, Forgery	An indictment for the following offenses may be presented within ten (10) years from time of the commission of the offense, and not afterward: <ol style="list-style-type: none">1. Treason2. Theft or conversion of any estate3. Forgery or uttering, using or passing a forged instrument.
Rape	Article 12. 02 An indictment for rape may be presented within one year.
BRACKT	Article 12. 03 An indictment for Burglary, Robbery, Arson, Counterfeiting and felony Theft may be presented within 5 years.
Other Felonies	Article 12. 04 An indictment for any other felony may be presented within three years, not afterward, <p style="text-align: center;">except</p> for murder-- no limit.
Misdemeanor	Article 12. 05 An indictment or information for misdemeanor may be presented within two (2) years.
Computation	The day on which the offense was committed, <p style="text-align: center;">and</p> the day on which the indictment or information is presented,

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Computation (contd.)	shall be excluded from the computation of time.
Absent from State	<ol style="list-style-type: none"> 1. The time during which the accused is absent from State shall not be computed. 2. The time during the pendency of an indictment, information or complainant shall not be computed. 3. "During the pendency" means that period of time beginning with the day the indictment or information or complaint is filed in a court of competent jurisdiction.
Defined	<p>An indictment is presented when it has been duly acted upon by the grand jury and received by the court.</p> <p>An information is presented when it has been filed by the proper officer in the proper court.</p>
Venue	<p>Prosecutions for offenses committed wholly or in part without, and made punishable by law within, this State may be begun and carried on in any county in which the offender is found.</p>
Offense Not Committed in the State	<p>May be prosecuted in county where the written instrument was forged</p> <p>or</p> <p>where same was used or passed, or attempted to be used or passed</p> <p>or</p> <p>deposited with another person, firm, association, corporation either for collection</p>
Forgery	

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Forgery - Continued	or credit for the account of any person.
Counterfeiting	<p>May be prosecuted in county where the offense was committed</p> <p>or</p> <p>where the counterfeit coin was passed or attempted to be passed.</p>
Boundary of Two Counties	Offense committed on boundary of two counties, or within 400 yards thereof, may be prosecuted in either county.
Injured in One County, Dying in Another	Offender may be prosecuted in county where injury was inflicted-- county where person dies-- county where body is found.
Theft	<p>Offender may be prosecuted in county where theft occurred</p> <p>or</p> <p>any county through, or into which, he carried the property.</p>
Vessels	An offense committed aboard a vessel which at the time was on a navigable water within this State, may be prosecuted in any county through which the vessel is navigated in the course of her voyage.
False Imprisonment, Kidnapping, Abduction	Venue belongs to the county in which the offense was committed; any county through, into, or out of which the victim may have been carried.
Jurisdiction in Different Counties	Where different counties have jurisdiction, acquittal or conviction in county is a bar to any further prosecution.

PRESENTATION - Continued

Instructional Topics and Teaching Points	Things for Student To Do Things for Instructor To Do or Say
Proof of Venue	To sustain the allegation of venue, it shall be necessary to prove only that by reason of the facts in the case, the county where prosecution is carried on has jurisdiction.
Other Offenses	If venue is not specifically stated, the proper county for the prosecution is that in which the offense was committed.

III. APPLICATION (Drill, illustrations, analogies, oral questions or assignments, making investigations or experiments, notetaking, making sketches, participating in discussion)

DISCUSSION

1. Suppose you are investigating a crime and the limitation is three years. You learn the identity of the culprit after the limitation has just run out, but you are informed that he worked in another state for one and one-half years. Why should you follow up this information?
2. You are assigned to work a case where the robbery took place on the county line. The authorities of the next county are also working the case when the arrest is made. Which county will have jurisdiction if you started your investigation first?
3. In the above case, the defendant was tried and found not guilty in the next county. Can you arrest him and prosecute him in your county?

IV. VERIFICATION AND/OR EVALUATION
(Final check on students' comprehension of material presented)

TEST

1. What is the limitation on murder? None
2. What is the limitation on misdemeanors? 2 years
3. What is the limitation on burglary? 5 years
4. When an auto is stolen in one county and taken into another, who has venue?

V. SUMMARY (Give a brief account of each topic re-emphasizing the important points. This summary may be given at any place in the lesson the teacher feels will be profitable to the students.)

After the limitations have run out, no indictment can be returned against him for the offense. However, if the defendant should flee the state, the time of absence does not count. Limitations are in effect up to the indictment or presentation.

A case can be tried only in those courts having venue.

Suggested Reading for Student:

The Next Lesson is:

END