

Unit Goal: The rights of citizens in the US Constitution, the Texas Constitution, and the Texas Code of Criminal Procedure (CCP).

Instructor Note: This module will address the rights of citizens listed in the Constitution of the United States (USC), the Texas Constitution (TX Constitution), and the Texas Code of Criminal Procedure (CCP). The module is organized to bring all references to each listed right, under a single heading using the USC as the main guide. Note that in some instances TX Constitution and CCP references may be listed in more than one USC protected right.

7.1. Discuss the provisions of the US Constitution, Bill of Rights, the Texas Constitution, and the rights set out in Chapter I of the CCP.

- USC Sec. 9 Cl. 2
 - Habeas Corpus
 - TX Constitution Art. 1 Sec. 12: Habeas Corpus
 - CCP Art. 1.08: Habeas Corpus
- USC 1st Amendment
 - Freedom of religion, speech, press, assembly, and petition
 - TX Constitution Art. 1 Sec. 4: No religious test
 - TX Constitution Art. 1 Sec. 6: Freedom of worship
 - TX Constitution Art. 1 Sec. 8: Freedom of speech and press
 - TX Constitution Art. 1 Sec. 27: Right of Assembly and Petition
 - CCP Art. 1.16: Liberty of Speech and Press
 - CCP Art. 1.17: Religious Belief
- USC 2nd Amendment
 - Right to Bear Arms
 - TX Constitution Art. 1 Sec. 23: Right to Keep and Bear Arms
- USC 3rd Amendment
 - Quartering of Soldiers
 - TX Constitution Art. 1 Sec. 25: Quartering Soldiers in Houses
- USC 4th Amendment
 - Unreasonable Searches and Seizures
 - TX Constitution Art. 1 Sec. 9: Searches and Seizures
 - CCP Art. 1.06: Searches and Seizures
- USC 5th Amendment
 - Due process of law, indictment by grand jury, double jeopardy, self-incrimination, property taken without just compensation
 - TX Constitution Art. 1 Sec. 10: Rights of Accused in Criminal Prosecutions
 - TX Constitution Art. 1. Sec. 13: Excessive Bail, Cruel and Unusual Punishment, Due Course of Law
 - TX Constitution Art. 1 Sec. 14: Double Jeopardy
 - TX Constitution Art. 1 Sec. 17: Taking Property

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- TX Constitution Art. 1 Sec. 19: Deprivation of Life, Liberty, Property, Due Course of Law
 - CCP Art. 1.04: Due Course of Law
 - CCP Art. 1.05: Rights of Accused
 - CCP Art. 1.10: Jeopardy
 - CCP Art. 1.11: Acquittal a Bar
- USC 6th Amendment
 - Speedy and public trial, impartial jury, informed of nature and cause of accusation, confronted by witnesses, compulsory process for witnesses, assistance of counsel
 - TX Constitution Art. 1 Sec. 10: Rights of Accused in Criminal Prosecutions
 - TX Constitution Art. 1 Sec. 15: Right of Trial by Jury
 - CCP Art. 1.05: Rights of Accused
 - CCP Art. 1.051: Right to Representation by Counsel
 - CCP Art. 1.12: Right to Jury
 - CCP Art. 1.15: Jury in Felony
 - CCP Art. 1.24: Public Trial
 - CCP Art. 1.25: Confronted by Witnesses
- USC 7th Amendment
 - Right to trial by jury in civil cases
- USC 8th Amendment
 - Excessive bail, cruel and unusual punishment
 - TX Constitution Art. 1 Sec. 11: Bail
 - TX Constitution Art. 1 Sec. 11a: Multiple Convictions, Denial of Bail
 - TX Constitution Art. 1. Sec. 11b: Violation of Condition of Release
 - TX Constitution Art. 1 Sec. 11c: Violation of Protective Order- Family Violence
 - TX Constitution Art. 1 Sec. 13: Excessive Bail, Cruel and Unusual Punishment, Due Course of Law
 - TX Constitution Art. 1 Sec. 20: Outlawry or Transportation
 - TX Constitution Art. 1 Sec. 21: Corruption of Blood
 - CCP Art. 1.07: Right to Bail
 - CCP Art. 1.09: Cruelty Forbidden
 - CCP Art. 1.18: Outlawry and Transportation
 - CCP Art. 1.19: Corruption of Blood
- USC 9th Amendment
 - All rights not enumerated are retained by the people
 - TX Constitution Art. 1 Sec. 2: Inherent Political Power
- USC 10th Amendment
 - Powers not delegated to the Federal government are retained by the states
 - TX Constitution Art. 1 Sec. 1: Freedom and Sovereignty of the State

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- USC 14th Amendment
 - Due process, equal protection
 - TX Constitution Art. 1 Sec. 3: Equal Rights
 - TX Constitution Art. 1. Sec 3a: Equality Under the Law

Miscellaneous Rights

- USC Sec. 9 Cl. 2
 - Bill of Attainder, Ex Post Facto Law
 - TX Constitution Art. 1 Sec. 16: Bills of Attainder, Ex Post Facto Law
- Any person may waive any right guaranteed them in court
 - CCP Art. 1.13: Waiver of Trial by Jury
 - CCP Art. 1.14: Waiver of Rights
 - CCP Art. 1.141: Waiver of Indictment for Noncapital Felony

Comprehensive Scenario: Discuss the applicability of the US Constitution and its amendments to State law. In the following scenario, the student will articulate:

- The legal basis for the stop and check
- Is there adequate information for the officer to conduct an investigative detention?
- Is there adequate probable cause for an arrest? If so, what are the facts constituting probable cause?

A call is received from a homeowner reporting a suspicious vehicle. According to the owner, she came home from work around 7 pm. A car was parked in her driveway that she had never seen before. As she walked up to her front door she saw a male Hispanic driver in the car, engine running and another Hispanic male, 5'7", slim build with a goatee standing at her front door. When the man saw her, he stepped back from the door and asked if "Midget" was home. She told him there was no one by that name living there. The man was nervous, apologized and went back to the car, got in and it drove away. She noticed her door lock broken. The car was described as a dark green 4 door sedan with New Mexico plates on it. The windows were tinted. A report was taken for "Criminal Attempt Burglary" and the woman said she would prosecute.

It is now 11:30 pm and the graveyard shift is on. A unit is driving past the carwash. The coin operated mechanisms have been burglarized three times that week. The business closed at 10 pm. The officer notices a car parked in the wash rack and a man is outside the car near the coin machine. The officer pulls in and blocks the car, approaching the man after calling for back-up. The officer has the driver get out of the car and the other man walked in front of the car. The description matches that of the earlier call involving an attempted burglary.

The officer separates the two after noticing several bandanas in the front seat, each filled with jewelry, watches, and loose change. One man says the items belong to him. The other man reports the items belong to his mother. The two men are brothers and give the same address in New Mexico.

Comprehensive Scenario: Racial profiling

In the following scenario, the student will identify:

- The purpose of the stop?
- Was this a lawful detention?
- Did the officer have a right to conduct a search of the backpack? Why or why not?
- Was the officer engaged in racial profiling?
- If this was racial profiling, what repercussions could the officer face?

It's 10:00 a.m. on a Saturday morning and James, an African American teenager, is walking down the sidewalk in a predominantly Caucasian residential neighborhood. There are families out playing with their children and walking their dogs. Officer Jones observes James, stops him, and demands an explanation as to what he is up to. James relates to the officer that he walking to his friend's house to work on a science project for school. James then asks the officer why he was stopped and starts to walk away. The officer appearing agitated forcibly blocks James's path and removes the backpack he is wearing and searches it. The officer discovers that it contains science books and manuals. The officer then tells James, "There's been a number of burglaries in the area. Now, get out of here before I arrest you." James left immediately and later told his parents of the incident. The officer completed his log and sheet and justified the stop as a "suspicious subject."

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

- Law Enforcement – function and role of:
 - City
 - County
 - State
 - Federal
- Courts – function and role of:
 - Municipal
 - County
 - State
 - Federal
- Correctional system – function and role of:
 - Municipal Fines
 - County Jail
 - State Prison
 - Probation
 - Parole

Comprehensive Scenarios: Outline the structure and role of the Criminal Justice System Law Enforcement – function and role of:

Based on the hierarchy of law and prevailing authorities, which agency has jurisdiction in this case?

- A major four lane highway is the scene of a single car traffic fatality, the car was traveling westbound when the driver lost control. The car spun several times then rolled over, throwing the driver out of the vehicle. They landed off the roadway. The car's final resting position was on the roadway. Investigation reveals the body landed on federal military reservation. The car's skid marks began inside the city limits, but its final resting point is outside the city limits in the county. Units from the Department of Public Safety, Sheriff's Office, Military Police, and the police department arrive.

Under prevailing federal, state, and local laws explain who has jurisdiction for the investigation.

- A body is found floating in the Rio Grande River. It is near a small unused bridge connecting Texas to Mexico. A member of the Border Patrol pulled the body from the water. The body now lies along the cement levee on the U.S. side. At this location, the river is considered an international boundary.

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

- Effects of criminal justice component interaction:
 - Increased arrests cause increase in court dockets.
 - Court dispositions increase correctional populations.
 - Correctional releases (parole & time complete) often impact police functions if correctional system fails.

Lecture Scenario: 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.

7.4. Identify the differences between civil and 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

Instructor Note: Refer to Black's Law Dictionary.

Comprehensive Scenario: Identify the differences between civil and criminal law
In the following scenario, the student will identify:

- Is this a civil or criminal matter? Why?
- If criminal, what crime is defined? What level of offense would this be?

The officer is dispatched to a child custody dispute. Upon arrival the officer meets with a female who relates that her ex-husband has not followed the court order directing him to provide monetary support to her and their five-year old son. She further advised that he has not given her any money for the past six months.

The officer is dispatched to a child custody dispute. Upon arrival the officer meets with a female who that she and her husband are separated and thinking of getting a divorce. The female advises the officer that her husband agreed to help her financially during the separation, but he hasn't provided any support, to date. The female would like to press charges.

7.5. Identify the civil/criminal courts and their jurisdiction.

- 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 & 4.08
- 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

Comprehensive Scenario: Identify the civil/criminal courts and their jurisdiction. In the following scenario, the student will identify:

- In the event a conviction is rendered, what court in the judicial hierarchy would hear the appeal?
- Under the state judicial system, how high could this case be appealed?
- Under what circumstances should the case be transferred to the federal court system?
- What are the criteria for a case to go into the federal system?

An individual is arrested and charged with Murder under Chapter 19 of the Penal Code. Based on the seriousness of this crime, which state court will have original jurisdiction?

In the following scenario, the student will identify:

- Which courts these men will be expected to make appearances in based on the offenses given.

Two men are found in a city park after it has closed. One man is issued a class C citation for the violation. The other man is also cited but then placed under arrest for being in possession of a set of brass knuckles.

7.6. Identify who are magistrates and their duties.

- Who are magistrates - CCP 2.09
- Duty of magistrates - CCP 2.10
- Examining court - CCP 2.11