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| **TEXAS CTE LESSON PLAN**[www.txcte.org](http://www.txcte.org) |
| **Lesson Identification and TEKS Addressed** |
| **Career Cluster** | Law, Public Safety, Corrections & Security |
| **Course Name** | Correctional Services |
| **Lesson/Unit Title** | Constitutional Law/History of Crime and Corrections |
| **TEKS Student Expectations** | **§130.333(c) Knowledge and skills** (7) The student recognizes constitutional laws and laws of correctional systems. (E) The student is expected to execute protocols associated with arrest, search, and seizure using the statutes set forth by the Fourth Amendment (F) The student is expected to summarize the rights of an individual being interrogated under the Fifth Amendment(G) The student is expected to examine trial, jury, and due process rights |
| **Basic Direct Teach Lesson**(Includes Special Education Modifications/Accommodations and one English Language Proficiency Standards (ELPS) Strategy) |
| **Instructional Objectives** | The student will be able to:1. Execute protocols associated with arrest, search, and seizure, using the statutes set forth by the Fourth Amendment
2. Summarize the rights of an individual being interrogated under the Fifth Amendment
3. Examine trial, jury, and due process rights
4. Define when a person is under arrest, in constructive custody, and under restraint
5. Identify the statutory authority or other authority to affect an arrest or detain another
6. Discuss the advantages of obtaining a search warrant
7. List the major components of search warrant documentation
8. Identify essential components of an affidavit for the issuance of a search warrant
9. Explore situations in which exceptions to obtaining a search warrant exist for conducting limited searches
10. Contrast situations in which a search warrant is not necessary to obtain evidence because there is no expectation of property
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| **Rationale** | Constitutional law encompasses many different rights afforded to citizens of this state and country. Many of those same rights govern the correctional system, but only in new criminal proceedings. Students need to understand the constitutional laws regarding arrest, search, and seizure. They also need to understand the rights of individuals under the 5th, 6th, and 14th amendments. |
| **Duration of Lesson** | 8 hours |
| **Word Wall/Key Vocabulary***(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* |  |
| **Materials/Specialized Equipment Needed** | * Constitutional Law Review Game computer
* Arrest warrant sample (teacher must provide)
* Search warrant sample (teacher must provide)
* *Double Jeopardy* DVD (optional)
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| **Anticipatory Set**(May include pre-assessment for prior knowledge) | * Historical and philosophical development of criminal law

*Essential Question: What laws govern arrest, search and seizure, and guaranteed due process under law?* |
| **Direct Instruction \*** | Key Points:* 1. Fourth Amendment – “The right of the people to be secure in their persons, houses, papers and effects and 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.”
		1. Levels of knowledge chart
		2. 0% – No knowledge
		3. 10% – Gut feeling
		4. 45% – Reasonable Suspicion
		5. 51% – Probable Cause
		6. 98% – Beyond a Reasonable Doubt
	2. Probable Cause
		1. Likelihood that a crime has occurred and that the suspect is linked to the crime by some means
		2. Made of building blocks. The building blocks in and of themselves may not be enough for probable cause. It may take more than one of the building blocks to equal probable cause.
			1. Flight
			2. Furtive act or movement
			3. Hiding
			4. Attempt to destroy evidence
			5. Resistance of officers
			6. Admissions or confessions
			7. Evasive answers/conflicting stories
			8. Unreasonable explanations
			9. Physical evidence (latent/voice prints, hair, handwriting, DNA, guns)
			10. Identification of the suspect by a witness
			11. Contraband or weapons in plain view
			12. Criminal record
			13. Hearsay information (anonymous tips)
			14. Unusual or suspicious conduct
			15. Drug-detecting dogs
			16. Police radio broadcast
	3. Arrest – a person is arrested when he has been placed under restraint or taken into custody by an officer or person executing a warrant of arrest, or by a person having authority to arrest (Criminal Code of Procedure (CCP) 15.22)
		1. Elements of arrest
			1. Intent
			2. Authority
			3. Custody (Seizure or detention)
			4. Understanding of the subject
		2. When and how an arrest can occur
			1. An arrest may be made any time of the day or night (CCP 15.23)
			2. In making an arrest, all reasonable means are permitted to be used to affect it. No greater force, however, shall be resorted to than is necessary to secure the arrest and detention of the suspect (CCP 15.24)
	4. Custody
		1. Constructive Custody
		2. Confined, imprisoned, in custody
		3. Actual, corporeal and forcible detention of a person
		4. Detention within limits
		5. Restraint
	5. Control exercised over another
		1. Certain limits
			1. Subject to “general authority”
			2. Authority to arrest without a warrant
				1. CCP 14.01 – offense within view
				2. CCP 14.02 – offense within view of a magistrate
				3. CCP 14.03
	6. Felony offense
		1. Breach of peace
		2. Disorderly conduct or other chapter 42 offense
			1. Public intoxication
			2. Inchoate offense
			3. Protection (assault)
			4. Family violence (assault bodily injury)
			5. Protective Orders
			6. Prevent theft
			7. CCP 14.04 – felony offense, no time to procure a warrant because the offender is about to escape
		3. Show of force and authority
		4. Temporary Detention
			1. Reasonable suspicion
			2. Activity occurring or just occurred
			3. Person connected to an activity
			4. Limited time
			5. Florida v. Royer—this U.S. Supreme Court case that ruled an investigative stop can last no longer than necessary to complete the investigation. The scope of the detention must match the justification.
		5. Stops
			1. No “fit” time/place
			2. Description of wanted person
			3. Emotional, frightened, intoxicated
			4. Running/furtive movements
			5. Loitering/hanging out/lookout
			6. Crime scene area
			7. Terry v. Ohio, U.S. Supreme Court case that ruled that officers may complete a “frisk” of person’s outer clothing for safety.
	7. Unusual Conduct
		1. May be armed and dangerous
		2. Protection of self and others
		3. Suspicion of crime and weapon to be used
		4. Careful pat of outer clothing
		5. Alone and no backup
		6. Emotions or behavior of suspects
		7. Searches – prying into hidden places for that which is concealed
		8. it is not a search to observe that which is open to view
	8. 4th amendment
		1. Protection against unreasonable searches and seizures
		2. Protects people, not places
		3. By definition, a search involves an invasion of an expectation of privacy (homes, cars, schools)
		4. A warrant to search or arrest requires probable cause
	9. Search Warrant (CCP 18.01)
		1. Neutral, detached magistrate
		2. Probable cause
		3. Affidavit
		4. Must include
	10. Specific offense committed
		1. Specific property to be seized
		2. Property is at the place to be searched
	11. Beyond a search warrant
		1. Protective sweep – look everywhere to make sure there is no one hiding in the building. Any contraband in plain view during the sweep can be charged to the person
		2. Destruction of evidence – if the officers believe that someone is destroying or is about to destroy evidence, they may go into areas not included on the search warrant
		3. Additional Evidence – discovery of more or possible evidence in plain view elsewhere on property
		4. Hunt for evidence or contraband that, because of the initial search, they believe exists in another location on the property
	12. Categories of Evidence
		1. Fruits of a crime – items or materials removed from a crime scene: i.e., a TV taken from an electronics store
		2. Tools of a crime – items used in the commission of a crime: i.e., crowbar, screwdriver
			1. Contraband – anything that is illegal to possess or is used in a manner other than intended
			2. Mere evidence – items possessed that are illegal but not known by the person possessing them to be illegal
	13. Search warrant exceptions
		+ 1. Persons
			2. Vehicles
			3. Places
			4. Open fields
			5. Anything with consent
			6. Abandoned property
			7. Inventory
			8. Plain view
	14. Searches with consent can be withdrawn at any time. Must be given by one with the authority to give consent Can limit the scope of the search
	15. Searches at school
		1. Backpack searches
		2. Locker searches
		3. Vehicles searches
		4. Strip searches
		5. Use of metal detectors
		6. Use of drug dogs
	16. Consent to search
		1. To be reasonable a search must be
			1. Justified
			2. Reasonably suspected as a law or school violation
			3. Reasonably related to circumstances
			4. Conducted in a reasonable manner
	17. Those with authority to do searches
		1. Administrators must have reasonable suspicion including tips, past behavior, and student’s reaction to questions
		2. Police must have probable cause and a law violation
	18. Search incident to an arresta. The arrest must be lawfulb. The search area must be within the subject’s immediate control
	19. Immediately following an arrest
		1. To prohibit destruction of evidence
		2. The plain view doctrine – Coolidge v. New Hampshire, items in plain view can be seized and property can be searched if intrusion is lawful, discovery is inadvertent, and it is immediately apparent that the property is contraband
			1. The initial intrusion must be lawful or in proper position to view the propertyb. Discovery must be inadvertentc. Must be immediately apparent that items are evidence of a crime, contraband, or subject to seizure10. Exclusionary Rule (CCP 38.23)a. No evidence shall be admitted into a criminal trial that was obtained in violation of constitutional rightsb. Mapp v. Ohio – any evidence seized illegally can be excluded from both state and federal trials
	20. Fifth Amendment
		1. Grand Jury – an indictment must be returned by a Grand Jury
		2. Double Jeopardy – a suspect cannot be tried for the same offense twice
	21. Protections
		1. Against a second prosecution for the same offense after an acquittal
		2. Against a second prosecution
		3. Against multiple punishments for the same offense
	22. Double Jeopardy is lawful when
		1. A person is convicted, then appeals to a higher court and the conviction is overturned
		2. A person is convicted and requests a new trial
		3. There is a hung jury
		4. The person can be tried at the federal and the state level for the same crime
		5. Self-Incrimination
	23. Brown v. Mississippi – the U.S. Supreme Court ruled that evidence from compulsory self-incrimination cannot be used at trial
		1. Facts – there was no evidence other than the confessions which were brutally obtained
		2. Procedural Problem – the confessions were extorted with violence
		3. Court holding – a violation of due process; cannot use evidence obtained from compulsory self-incrimination
	24. Examples
		1. Producing an instrument of the crime
		2. Admission of a defendant while asserting 4th amendment rights
		3. Use at trial of a defendant’s silence after Miranda
		4. Requiring the defendant to appear before the Grand Jury that indicted him
	25. Miranda v. Arizona – the U.S. Supreme Court established rights that must be presented to persons prior to interrogation
		1. Miranda Warning – the right against self-incrimination and the right to attorney representation
			1. “You have the right to remain silent. Anything you say can and will be used against you in a court of law.”
			2. “You have the right to an attorney. If you cannot afford one, one will be appointed to represent you.” “You have the right to terminate this interview at any time.”

III. Sixth Amendment* + 1. Speedy trial – Barker v. Wingo, the U.S. Supreme Court refused to adopt a strict time line test, i.e., there is no constitutional requirement to give a defendant a trial within a specified time limit
	1. Public trial
		1. Purpose – to guarantee that the defendant will be fairly and not unjustly condemned
		2. Rights
		3. Distrust of secret trials
		4. The public may not be indiscriminately excluded from the courtroom
			1. May be excluded because of misconduct or overcrowding
	2. Trial by jury
		1. Purpose
			1. Protect against corrupt or overzealous prosecutor
			2. Protect against a compliant, biased, or eccentric judge
		2. Number of Jurors and Verdict
			1. The 12-person jury is a historical accident
			2. States may have a jury of less than 12 members
			3. Federal juries have 6 members
			4. A unanimous verdict in state court is not required by the 6th Amendment
			5. A unanimous verdict is only required in federal trials and Texas
			6. a felony jury must have at least 6 jurors and the verdict must be unanimous
		3. Impartial jury
			1. No discrimination because of race, sex, creed, color, religion, or otherwise
			2. Systematic exclusion of a certain race is not impartial
			3. Trial in the state and the district where the crime occurred
			4. Notice of the nature of the accusation
		4. Confrontation of opposing witnesses
			1. Washington v. Texas
				1. The defendant wanted the co-defendant, already convicted of the same crime, to testify at trial under Texas statute
			2. U.S. Supreme Court held that the accused has a fundamental right to present his own witnesses to establish a defense
		5. Compulsory process for obtaining favorable witness
			1. Pointer v. Texas – the U.S. Supreme Court ruled that confrontation is a fundamental right and denial violates the 14th amendment’s guarantee of due process of law
			2. A dying declaration is admissible in court as true and just testimony
		6. Stenographic testimony of a witness is acceptable if the witness is dead or out of the court’s jurisdiction
			1. Must show due diligence through a bona fide actual search for a witness before evidence previously taken can be read at trial
		7. Assistance of counsel
			1. Gideon v. Wainwrighta. The U.S. Supreme Court ruled that there is a right to counsel in all federal cases
			2. The 14th amendment requires states to provide counsel to indigent defendants in all felony cases
	3. Fourteenth Amendment Procedural Due Process
		1. Fourteenth amendment – offenders are afforded due process whether it is an institutional proceeding such as a discipline hearing or a criminal proceeding
		2. Notice of proceedings
			1. Opportunity to prepare for a hearing
			2. Opportunity to be heard both in presenting one’s claim and in combating the claim of the opponent
		3. A fair hearing
		4. The hearing to be before an impartial tribunal.
		5. Substantive Due Process
			1. There must be a proper purpose of the statute
			2. There must be no substantial impairment of constitutional rights
			3. The means used must be released to the object sought
			4. There must be no conflict with valid federal legislation
			5. A criminal statute must be clear so that a person will know what is required of him
	4. Correctional System
		1. Fourth amendment – offenders and their property are subject to search at any time. Rules regarding search and seizure do not apply to offenders in a correctional setting
		2. Offenders are already in custody and therefore cannot be arrested
		3. No warrant is necessary to search offenders and their property
			1. Seizure of anything that is contraband
			2. May be charged criminally
			3. No right to privacy
			4. Fifth amendment
			5. Offenders are afforded the same rights regarding self-incrimination and double jeopardy as defendants not incarcerated
		4. Offenders do not have access to Grand Juries unless they are charged with a new crime
		5. Officers are not required to give the Miranda warning prior to interrogation. It is only necessary for additional charges
		6. Offenders are given due process in all forms of discipline and criminal proceedings
	5. Sixth amendment
		1. Offenders are given the same opportunity for a speedy and public trial as someone awaiting trial
		2. Offenders are afforded a jury in any criminal proceedings
		3. Offenders are notified of charges against themselves in both criminal and discipline proceedings
		4. Offenders have the right to confront witnesses and present witnesses on their behalf
		5. Right to counsel
			1. Offenders are given the opportunity for counsel if they cannot afford it during felony criminal proceedings
			2. Offenders do not have the right to counsel during institutional proceedings such as discipline hearings or parole hearings

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Guided Practice \*** | Double Jeopardy. Show scene selection #14 video clip from the movie Double Jeopardy (a similar scene from a different movie may be used instead). Have students discuss how double jeopardy applies in this case. They should be able to give a working definition of double jeopardy based on the clip. Use the Discussion Rubric for assessment. |
| **Independent Practice/Laboratory****Experience****Differentiated Activities \*** | Constitutional Law Review Game. Divide the students into two teams. Allow one student at a time to answer from the selected team. The teammates may not help during the first phase. If the student gets the answer wrong or does not know the answer, then the question goes to the other team. Give them ten seconds to collaborate and then a spokesperson must answer the question. If the second team does not know the answer, then neither team gets the points. The team with the most points at the end of the game wins. Use the Outline to create questions and answers. *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*For reinforcement, students can make flash cards to help them remember the rights of each of the amendments. The numbers 4, 5, 6, and 14 should be on one set of cards. Then write each of the rights covered under these amendments separately on another card. Flip through the rights and have students hold up the flashcard with the correct amendment. Use the Individual Work Rubric for assessment. |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \***  | * Constitutional Law Exam and Key
* Discussion Rubric
* Individual Work Rubric
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| **References/Resources/****Teacher Preparation** | * ISBN 082052669X, *Constitutional Law*, Bernard Schwartz, John Attanasio, and Norman Redlich, 1996.
* *Double Jeopardy* video clip
* Sample warrants
* Arlington Police Department training
* Texas Commission on Law Enforcement, <https://www.tcole.texas.gov/>
* Texas Penal Code
* The U.S. Constitution and the Bill of Rights
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| **Additional Required Components** |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** | English/Language Arts IV. Listening A. Apply listening skills as an individual and as a member of a group in a variety of settings. 3. Use a variety of strategies to enhance listening comprehension. |
| **Recommended Strategies** |
| **Reading Strategies** |  |
| **Quotes** |  |
| **Multimedia/Visual Strategy****Presentation Slides + One Additional Technology Connection** |  |
| **Graphic Organizers/Handout** |  |
| **Writing Strategies****Journal Entries + 1 Additional Writing Strategy** |  |
| **Communication****90 Second Speech Topics** |  |
| **Other Essential Lesson Components** |
| **Enrichment Activity**(e.g., homework assignment) | For enrichment, give the students a crime scenario, including a picture of a house or apartment building. Have students review all the requirements of a search warrant and arrest warrant. Let them review the attached copies of a search and arrest warrant. Have the students write a search warrant or arrest warrant based on the scenario information given. Use the Individual Work Rubric for assessment. |
| **Family/Community Connection** |  |
| **CTSO connection(s)** | SkillsUSA |
| **Service Learning Projects** |  |
| **Lesson Notes** |  |

1. Visit the Texas College and Career Readiness Standards at <http://www.thecb.state.tx.us/collegereadiness/CRS.pdf>, Texas Higher Education Coordinating Board (THECB), 2009. [↑](#footnote-ref-1)