

LAW ENFORCEMENT AND CRIMINAL JUSTICE



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**LAW ENFORCEMENT
AND CRIMINAL JUSTICE
CAREER AND TECHNICAL EDUCATION
STUDENT MANUAL**

UTAH STATE BOARD OF EDUCATION

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In cooperation with

UNIFIED POLICE OF GREATER SALT LAKE

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Salt Lake City, Utah

Revised 2016

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THE HISTORY OF LAW ENFORCEMENT

CHAPTER 1

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER ONE:THE HISTORY OF LAW ENFORCEMENT

INTRODUCTION

It is essential that law enforcement be understood in its proper perspective. The action and excitement normally associated with police work is overemphasized. It is only a small part of this occupation, and law enforcement is only one component of the criminal justice system. The reality of law enforcement differs from its portrayal on television and in the movies. Basic police skills are not limited to firearms, nightsticks, and high-speed pursuits. An officer should also be skilled in psychology, human relations, and the use of basic English, math, and speech skills. In addition, advancement or promotion may require the development of specialized or advanced police science skills. The law enforcement officer of tomorrow must be able to conform to high standards physically, intellectually, psychologically, socially, and ethically.

A law enforcement officer does not function in a vacuum, but must interact with numerous individuals within the criminal justice system. Knowing and understanding the responsibilities of others is essential. This manual has been written to provide the student with a comprehensive look at the entire criminal justice system. This course will provide a general educational overview of the criminal justice system and specific vocational training for those who may enter a law enforcement-related occupation.

List 12 police activities:

THE EARLY PHILOSOPHY OF LAW ENFORCEMENT

Several ideas must be discussed in order to understand the philosophy of law enforcement in America, and the beliefs on which our system of criminal justice is based. Such beliefs are based on what we as Americans believe is just and fair. Most people believe that individuals deserve to be treated in a way that is commensurate with their behavior.

The criminal justice system is the means by which our society chooses to encourage people to obey the law, and to deal with those who violate the law. We are trying to create justice when we utilize our particular system. *Justice* can be defined as doing what is right and fair. But how can we tell if we are really doing what is right and fair?

Many people believe that some Supreme Being or force exists, and that this God or law or eternal truth can be used to know what is right. Such beliefs are often helpful to individuals and religious groups in governing their activities. However, since there are many different ideas about a Supreme Being or force, a government must often use another method for deciding what is right and fair.

As people grow, they develop feelings that certain actions are right or wrong. These feelings are created by parents, school, religion, country, friends, and others. These ideas about duties and ethics

we will refer to as *morality*, although many refer to the feelings themselves as a conscience. When enough people with political power within the government agree that an action should be labeled right or wrong, and that everyone should be made to follow their decision, a law is created. Once a law has been created, violating the law becomes a crime. When a law is created, there must also be a penalty designated in order to punish someone who breaks that particular law.

Generally, when there is considerable agreement or consensus in a free society regarding moral standards, laws are created to standardize behavior. But this relationship may also work in reverse. If a large number of citizens begin to feel that a law is wrong or unfair, the law may be rescinded, or the criminal justice system may not enforce the law. Judges, prosecutors, and especially police have always had a great deal of discretion to decide whether and how laws are to be enforced. The criminal justice system would grind to a stop if this were not true. Law and policy simply do not cover all of the situations an officer may encounter in the field. Therefore, an officer must be able to make an educated decision based on experience, logic, and other factors.

“It is often said that the job of policemen, prosecutors, and judges is to enforce the laws on the books, and not decide whether a law is unjust, unwise or obsolete. If it were otherwise, we are told, we would have a government of men rather than a government of law. The problems of law enforcement are much more complicated than this simple distinction would suggest. As every public official—from policemen on the beat to the Justices of the Supreme Court—well knows, the laws are so vast in their coverage and often so complex and confusing that *a great deal of individual judgment and discretion must be applied* in deciding how and whether to apply the law in particular cases” (Joseph L. Sax, *Law and Justice*) [emphasis added].

List three laws that are not widely enforced:

Why aren't they enforced?

A BRIEF HISTORY OF LAW ENFORCEMENT

The beginning of law enforcement is obscured by the lack of written records of ancient civilizations. From historical clues, it is reasonable to assume that even during the dawn of man, the existence of rules and rule-breakers required some type of police activity. Early tribes and clans, although not having formal written laws, did enforce numerous group rules or norms. The earliest human groupings were extended families. As such, justice was the responsibility of all of the members of the group. This can be viewed as a kin police system. It is quite probable that the earliest law enforcement groups were selected warriors detailed from the ranks of tribal members to uphold early tribal laws.

The Code of Hammurabi, an elaborate and detailed set of written laws inscribed on stone, is the first set of codified laws known to have been used in a society. Dating back to 2000 B.C.E., these laws dictated everyday life in Babylon. The laws were enforced by “messengers,” the equivalent of law enforcement officers. The Code entrusted the messengers with the detection of violations, both civil and criminal, as well as the punishment of individuals found guilty of violating the Code. These penalties included branding, public whipping, and capital punishment.

Later civilizations developed similar laws and law enforcers. The Assyrian Empire, centered in Nineveh (c. 1200 B.C.), developed a court system for dealing with theft and murder, requiring police

activity. Egypt (c. 700 B.C.) developed marine and customs police due to the importance of shipping to the country. The Persian Empire (c. 400 B.C.) had a military police force entrusted with protecting the empire's widespread roads and postal system.

It is believed that the word *police* originated in Greece. Several words, such as *polis* and *politeia*, were used to describe or relate to a civil force that was organized in the Greek city-states to protect the citizens and their property. The Old Testament contains a history of the Jewish Mosaic Law and its administration by kings, high priests, and elders. Two New Testament incidents discuss the Jews utilizing police-type powers. Christ was arrested, according to the Bible, by representatives of the Jewish leaders, and according to Acts 22:4, Paul the Apostle was granted arrest powers by local Jewish administrators.

Originally, the Roman Empire maintained order through a military force. In approximately 27 B.C., the Emperor Augustus created the urban cohort. A *cohort* means one tenth of a Roman legion, and consisted of 300-600 men. These soldiers were assigned to serve as a fire brigade and maintain peace in the city of Rome and the surrounding area during the daylight hours.

The first non-military and non-mercenary police force was established in Rome. They were known as the *vigils* and augmented the daytime force of the urban cohort. This force consisted of several thousand men who patrolled the city at night, fighting fires and investigating crimes. Many of them were themselves ex-slaves or former soldiers. They lived together in stations that were a combination of jails, offices, and living quarters. These stations were located geographically throughout Rome in order to provide coverage to the entire city. Their weapons were staves (wooden clubs) and short swords, but they relied on physical strength in most of their activities.

After the collapse of the Roman Empire, the Dark Ages left Europe in a state of lawlessness. The only law was the sword, and the sole protection for the local nobleman were his serfs and any hired mercenaries. It was not until approximately 700 A.D. that any form of police began to reappear in Western Europe.

In the ninth century, King Alfred of England recognized that his people needed some form of security within their communities. He established what became known as the tithing system. The local villages were organized into groups of ten families. A group of ten families was known as a *tithing*, and its leader was the *tithingman*. It was the responsibility of the tithingman to raise the "hue and cry" to the rest of the tithing when he needed assistance, but anyone, whether it be victim or member of the tithing, was allowed to make notification of a crime that had occurred. All able-bodied freemen who had reached the age of 12 were required to be in a tithing. As the rural population grew, ten tithings were grouped together to form a hundred under the authority of a *hundredman*.

After the Norman invasion of England in 1066, a similar philosophy of communal law enforcement was instituted. The Normans put into effect the frankpledge system, which was a modification of the tithing system. In addition to all of the requirements placed on an individual to guard his own community or tithing, he also had to pledge his loyalty to the crown. The designated leader was granted police power and also served as a judge. A crime was now viewed as being committed against the state, as opposed to being committed only against the individual who was the actual victim. The villages, which were located in shires or counties, were controlled by a reeve, appointed by the king, as the chief law enforcement officer. This individual later became known as the *shire-reeve*, and was able to enlist the aid of all able-bodied men in the shire in order to form a *posse comitatus* (posse of the county) to deal with any violation of the law. The word "shire-reeve" was modified over time into *sheriff*.

During the twelfth century, a large number of officers were utilized for the purpose of game or wildlife preservation. Most of the police of this time period were foresters and rangers who were assigned to guard the king's forests. This was the era of Robin Hood, whose mythical actions were indicative of the general public discontent with such law enforcement in the face of widespread poverty and hunger.

In 1215, the English nobles forced King John to sign the Magna Carta, or Great Charter, reducing the power of the king. The signing of the Magna Carta was a significant change in the direction of law enforcement. Community-based law enforcement was again to make up the major part of the law enforcement activity. As an example of the changes, Article 45 of the Magna Carta states,

“We will not make men justices, constables, sheriffs, or bailiffs unless they are such as know the law of the realm, and are minded to observe it rightly.”

Although the sheriffs were responsible for law enforcement in England, detection and arrest were still the responsibility of the citizenry. The patrol function within a community became known as the watch and ward system. Any male between the ages of fifteen and sixty could be called and appointed to serve such duty. The “watch” was the nighttime patrol, while the “ward” was daytime patrol. This particular system was inefficient and quite ineffective at deterring crime. Sir Robert Peel, who is discussed later in this chapter, called it the “shiver and shake watch,” commenting that they spent half the night shivering from the cold and the other half of the night shaking from fear.

The Statute of Winchester, created in 1285, was the first English attempt at a systematic police system. Requirements were issued for what must be guarded and who must serve as police. This act also created bailiffs, who were required to “make Inquiry of all Persons being lodged in the Suburbs, or in foreign Places of the Towns.” The office of sergeant was also created to supervise these bailiffs. In addition, the Statute formalized the requirement of all freemen to serve within their respective communities as part of the watch and ward patrol.

During the eighteenth century, the Industrial Revolution and the urbanization that followed forced the end of traditional unpaid civilian police activity. As business districts grew in size, local businessmen could no longer rely on protection by citizens. As an alternative, commercial police took over many security activities. At the same time, citizens also began to pay others to fill in for their police service obligations. Various private organizations took to policing the merchant districts, the docks, the river, and the markets.

In 1737, the king of England allowed cities to begin taxing to pay for police services and protection. Henry Fielding, serving as magistrate of the Bow Street Court, became quite frustrated with the ineptness of the watchmen and constables who were responsible for patrolling of the Bow Street area. He took it upon himself to form the Bow Street Runners, a small contingent of officers who worked directly for the judge. Also working alongside Judge Fielding was his blind step-brother, Sir John Fielding, who took over the administration of the Bow Street Runners after Henry retired. Over several years, they initiated foot patrols, mounted patrols, police courts, and special detectives to investigate crimes. The brothers were also responsible for implementing a system for rapid communication and the issuance of descriptions of wanted persons and stolen property.

These improvements demonstrated what could be done in policing, but were limited in their scope. The Industrial Revolution continued to bring more and more individuals to the burgeoning cities, leading to enormous social and economic problems. Unemployment, economic depression, and starvation combined to bring about an incredible increase in crime. Juvenile delinquency also became a significant new social problem that would not be addressed for several more decades.

In 1829, reacting to this state of lawlessness, Sir Robert Peel, Home Secretary of England and later Prime Minister, introduced the Metropolitan Police Improvement Bill. This was arguably the most important event in the history of police reform. Peel outlined various principles designed to direct and improve the police of his day. In response to the new legislation, Peel was given eight superintendents, 20 inspectors, 88 sergeants, and 895 constables. A year later, the department numbered 17 superintendents, 68 inspectors, 323 sergeants, and 2,906 constables. During the first three years, there were 5,000 dismissals and 6,000 required resignations, a testimonial to the seriousness with which the reform was approached. The public initially opposed the new police, whom they called “peelers,” and the abuse was not limited to verbal name calling. It took almost a decade of bloodshed before the public accepted the new concept of police. The violence against the police culminated in the death of an officer in the Cold Bath Fields riot of 1833. When a jury found the killer not guilty, a public outcry against the decision finally swayed public opinion toward support of the police. Today, English police are nicknamed “bobbies” after Peel’s first name, a sign of respect and acceptance.

American law enforcement followed similar patterns of development. Many early colonial settlements used a watch and ward system patterned after England’s system. The American watchmen proved to be just as inefficient. Later, a “rattle watch” was utilized in many communities. The watchman would walk through the community shaking his rattle as he walked, notifying everyone, including the criminals, that he was coming.

Because of citizen distrust for central authority, which many Americans had fled Europe to escape, most of the law enforcement officers, such as constables and sheriffs, were elected officials. They usually stayed in office for only a short time before stepping down. This was one of the major differences between the developing American and English systems. England's system became a national agency controlled by a central headquarters, while America's focused on numerous agencies featuring federal, state, and local departments, all separately managed and controlled.

A review of the early history of law enforcement in New York City is instructive, as New York City was one of the most innovative cities in America. New York City, originally known as New Amsterdam, utilized a basic watch and ward system. As early as 1658, New York City disbanded the watch and ward system and initiated a paid rattle watch to patrol the city. Later, these watchmen started ringing bells on the hour. These watchmen wore the first American police uniforms, "a coat of ye city livery, with a badge of ye city arms, shoes, and stockings..." These watchmen became civilian rather than military police in 1700, and the first semblance of a police department consisted of one high constable and twelve subconstables.

The watch system was used in most American cities until the 1830s. Then, stimulated by Peelian reform in London, more modern police methods came into effect. Representatives from New York City were sent to London to learn of the new Metropolitan Police Department and, upon returning, helped to initiate New York City's first official police department in 1844. It appears that the first American police chief was appointed in New York in 1844, when the city created an 800-man department.

Because of the American public's continuing dislike for central authority, the police had stopped wearing uniforms and patrolled wearing a badge pinned to civilian clothes. Not until 1853 did uniforms reappear. This was based on a belief that uniforms invoked moral authority. One writer stated that, "It appeals to the love of order, of propriety, of rank and degree, which is doubtless innate in the human breast."

Philadelphia became the first city to create a merit system for police advancement and job security, a necessary step toward professionalism. Political favor had created the spoils system, but the federal Pendleton Act of 1883, enacted by Congress after the assassination of President Garfield by a disgruntled office-seeker, did much to improve police systems by the use of merit systems.

Formal training of police officers did not begin until 1853. In 1849, a riot had taken place at the Astor Theater in New York. Three hundred and twenty policemen were assigned to protect a British actor performing there. A mob of thousands stormed the theater, and thirty-one people were killed in the riot that followed. This and several other bloody riots led to the inauguration of formal training procedures for police officers.

Besides municipal city police and county sheriffs, all fifty states have some form of state police or highway patrol. The first state police agency organized in the country was the Texas Rangers, created in 1835. It became a necessity to form the Rangers due to the jurisdictional problems of small, locally based police. The Rangers dealt with cattle rustlers, Indian uprisings, Mexican bandits, and outlaws.

In 1865, Massachusetts established a state police to deal with vice that had corrupted local police departments. Connecticut followed suit in 1902, and the Pennsylvania State Police was organized in 1905 to deal with striking coal miners. Some state police are limited in their police authority, while others, such as the Utah Highway Patrol, have full police powers. The Utah Highway Patrol, commanded by a superintendent, has numerous duties. However, its primary duty is to regulate traffic and enforce state laws and regulations on state highways.

The Federal Government also employs numerous law enforcement agencies. The first federal agency was the **U.S. Marshals Office**, begun in 1789 to oversee law enforcement in the western territories of the growing United States. In 1829, postal inspectors were given limited police powers to investigate any violations involving the U.S. Mail. The Secret Service was created in 1865, with the responsibility of eliminating the counterfeiting of U.S. currency. They were later given the additional responsibility of guarding the President of the United States and other political figures.

The Federal Bureau of Investigation had its beginnings in 1870. Several investigators were hired by the U.S. Attorney General to look into the transportation of women across state lines for

immoral purposes. They were instituted as a separate department by President Theodore Roosevelt in 1908, originally called the Bureau of Investigation until the name was changed to the FBI in 1935.

Three basic functions are performed by police agencies in this country:

1. Combating criminal law violations
2. Enforcing temporary convenience laws, such as traffic control, health, etc.
3. Providing miscellaneous service functions (ambulance, civil process, jails, guards, etc.)

In addition to these functions, authoritarian-type governments frequently use police to maintain the power of the head of state or ruling party and to suppress political activity of the opposition. Often, political behavior not advantageous to the government in power is directly or indirectly treated by police as criminal action. This is called a “police state.”

WHY THE NICKNAME “COP”?

There are two commonly suggested explanations offered by historians for why American police are called “cops” or “coppers.” See if you can discover those reasons with a little research.

(1) _____

(2) _____

SIR ROBERT PEEL

Sir Robert Peel, an English aristocrat, was educated at Harrow and Oxford and, as soon as he came of age, became involved in English political life. In 1809, he became a Member of Parliament (MP), and one year later was appointed Undersecretary for War and the Colonies. Two years later, he was appointed to be Chief Secretary to Ireland. While serving in this position, he established the Irish Constabulary, who became known as “peelers.” This initial introduction to the new field of law enforcement gave him time to consider and contemplate the strengths and weaknesses of law enforcement as it was functioning at the time.

In 1822, he was named Home Secretary of England, and formed a committee to study the policing situation in the city of London. The study reviewed the working relationships involving the constables, watchmen, and Bow Street Patrols, with the goal of some sort of centralization of control. As Home Secretary, he was also responsible for the drafting and passage of the Metropolitan Police Improvement Bill, which became known as the Metropolitan Police Act. Upon passage of the legislation, he appointed Colonel Charles Rowan and Sir Richard Mayne to organize the new police department to control the criminal element within the metropolitan area of the capital city of London.

Sir Robert later served two separate terms as Prime Minister of England, 1834-35 and 1841-46. He was one of the most prominent politicians in England during the nineteenth century, being instrumental in the Catholic Emancipation movement, the passage of the Corn Laws, and the Tamworth Manifesto.

Sir Robert felt that the primary responsibility of a police officer was to serve the public. His reform movement and the principles and tenets that he developed make it clear that the officers were to be servants of the citizenry, and he would not accept anything less from his officers. He truly believed that “the police are the public and the public are the police.”

SIR ROBERT PEEL’S TENETS AND BELIEFS REGARDING LAW ENFORCEMENT

1. The police must be stable, efficient, and organized along military lines.
2. The police must be under government control.

3. The absence of crime will best prove the efficiency of police.
4. The distribution of crime news is essential.
5. The deployment of police strength both by time and area is essential.
6. No quality is more indispensable to a policeman than a perfect command of temper. A quiet, determined manner has more effect than violent action.
7. Good appearance commands respect.
8. The selection and training of proper persons is at the root of efficient law enforcement.
9. Public security demands that every police officer be given an identifying number.
10. Police headquarters should be centrally located and easily accessible to the people.
11. Policemen should be hired on a probationary basis before permanent assignment.
12. Police crime records are necessary to the best distribution of police strength.

SIR ROBERT PEEL'S NINE PRINCIPLES OF POLICING

1. The basic mission for which the police exist is to prevent crime and disorder.
2. The ability of the police to perform their duties is dependent upon public approval of police actions.
3. Police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.
4. The degree of cooperation of the public that can be secured diminishes proportionately with the necessity of the use of physical force.
5. Police seek and preserve public favor not by catering to public opinion, but by constantly demonstrating absolutely impartial service to the law.
6. Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
7. Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police—the police being the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in interests of community welfare and existence.
8. Police should always direct their action strictly towards their functions and should never appear to usurp the powers of the judiciary.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

Sir Robert Peel's principles are still valid and widely used today.

PEACE OFFICER AUTHORITY IN THE UNITED STATES

Federal

(Federal law enforcement power is usually limited to the function of the employing agency.)

Department of Justice:

- 1) Federal Bureau of Investigation (FBI)
- 2) Drug Enforcement Administration (DEA)
- 3) Immigration (includes Border Patrol)
- 4) U.S. Marshals Service

U.S. Capitol Police

Supreme Court Police

Department of the Interior:

- 1) Park Service
- 2) Indian Police

Department of the Transportation:

- 1) Sky Marshals
- 2) U.S. Coast Guard

Department of the Treasury:

- 1) Secret Service
- 2) Bureau of Alcohol, Tobacco, and Firearms (ATF)
- 3) Internal Revenue Service (IRS)
- 4) U.S. Customs Service

General Services Administration (Federal Protective Service)

U.S. Postal Service

State and Local (Utah)

Department of Public Safety (Highway Patrol, etc.)

County sheriffs

Municipal police

Town marshals

Constables

Correctional officers, Department of Corrections and county jail officers

Security departments, state institutions of higher education

State Bureau of Criminal Identification
Adult probation and parole agents, district agents
Designated Department of Natural Resources employees
School district security officers
Reserve and auxiliary officers
County/district attorney investigators
Airport security officers
Motor Vehicle Business Administration Investigators
Attorney general investigators
State Military Police

THE HISTORY OF THE BILL OF RIGHTS

“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

These words from the Declaration of Independence, signed on July 4, 1776, explain why the United States of America and the United States Constitution came into being. During the American Revolution, a congressional committee met, wrote, and proposed the Articles of Confederation to the Congress. This document, which was a precursor to the United States Constitution, was ratified on March 1, 1781. When the Articles of Confederation proved to be too weak, a Constitutional Convention was called for May 14, 1787 in Philadelphia, Pennsylvania in an attempt to improve and shore up the weaknesses in the Articles.

As the summer progressed, it became apparent to many of the representatives involved that the Articles of Confederation had to be replaced with a stronger document. The delegates to the Constitutional Convention finally hammered out a Constitution, to include the **Connecticut Compromise**, known as the Great Compromise. This compromise involves representation in the House of Representatives and the Senate. However, many of the delegates were uncomfortable taking the Constitution, as it was then drawn up, back to their respective states for ratification. The document was comprised of the Preamble and the seven Articles that explained how the government would be structured.

The weakness that concerned many of the delegates was that there was nothing in the Constitution that guaranteed the rights of individuals. The Declaration of Independence had used the lack of individual rights as one of the major reasons for explaining the need for independence from England. Many of the states had already prepared State Constitutions, which included Bills of Rights. In addition, England had produced a Bill of Rights in 1689 with which many Americans were familiar. When the Convention concluded, the draft of the new Constitution was sent to the States for ratification.

When New Hampshire became the ninth state to ratify, the Constitution went into effect. Despite a desire by many for a national Bill of Rights, the first Congress delayed action. Only after James Madison’s continual attempts to bring it up for discussion did the members of Congress begin debate. All amendments that had come out of the various State conventions were considered, a total of 124 proposed amendments. Only about 90 amendments were actually introduced, and of those, twelve

proposed amendments were submitted to the States for ratification. The States finally ratified ten of the proposed amendments, and those ten amendments became known as the Bill of Rights.

REASONS FOR THE BILL OF RIGHTS

The people of the newly formed United States of America were concerned for their individual rights, which had been neglected or usurped under the auspices of the king of England and his representatives. One of the great philosophers of the time, John Locke, had written of the “rights of the natural man,” meaning that every individual had certain rights as a human. He also wrote that a government should be required to protect those natural rights. This became a rallying cry among many when discussion began over the need for a guarantee of an individual’s rights. The people wanted to ensure that there was some form of protection from their newly formed government. This desire to have some protection written into the Constitution led to the drafting and ratification of the Bill of Rights. The ten amendments that comprise the Bill of Rights have proven to be invaluable over time in the protection of every American’s individual rights.

THE BILL OF RIGHTS

Amendment I

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

Amendment II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

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

Amendment IV

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 on probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

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

Amendment VI

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

Amendment VII

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

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments imposed.

Amendment IX

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

Amendment X

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

At this point in American history, the people were concerned with the power of the federal government. Due to this philosophy, the Bill of Rights was specifically written to guarantee individual rights in dealing with the federal government, but did not pertain to the individual states. Only after ratification of the Fourteenth Amendment did the Bill of Rights also relate to the states.

Amendment XIV

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

RIGHTS FOR CITIZENS AND POLICE

It is important to remember that all constitutional issues are resolved by the courts and not by the police. The sole responsibility of law enforcement within the criminal justice system is to enforce the law; all other aspects of the law are the responsibility of another component of the system.

1. Police cannot:
 - a) Act to promote the establishment of religion or prohibit the free exercise of religion.
 - b) Limit most freedom of speech or of the press.
 - c) Absolutely prohibit public assembly or petitioning of the government.

Police can:

- a) Prevent religious practices held to be illegal, such as polygamy, drug use, etc.
 - b) Arrest for speech that incites to violence, treason, slander or libel; constitutes an illegal threat; constitutes a conspiracy to commit a crime; is foul and abusive or constitutes "fighting words," etc.
 - c) Place reasonable limits, in the interest of public safety, on the time, place, size or conduct of assembled groups.
2. Police cannot:
 - a) Take away the right to keep and bear firearms.

Police can:

- a) Enforce laws prohibiting carrying concealed weapons; discharging firearms at certain places, times, and circumstances; or prohibiting their use in a crime or by certain people such as convicted felons, drug users, aliens, etc.
- b) Enforce laws controlling the sale, transfer or alteration of firearms and ammunition, and prohibit certain weapons to all but police and military use.
- c) Enforce laws restricting circumstances under which deadly force can be used by both law enforcement officers and private citizens.

3. Police cannot:

- a) Without proper authorization, use the belongings of citizens.

Police can:

- a) In emergency circumstances, commandeer vehicles, weapons, and other items belonging to private citizens as needed. The police do remain liable for such actions, however.

4. Police cannot:

- a) Make unreasonable searches or seizures of persons or property.
- b) Obtain a search warrant without probable cause.
- c) Obtain a search warrant that does not specify the items being looked for and the place to be searched.

Police can:

- a) Make reasonable searches, such as frisks, based on reasonable suspicion and searches required by public safety.
- b) Obtain a warrant based on the testimony of unnamed but reliable informants.
 - c) Pick the time and circumstances under which a warrant is to be served.

5. Police cannot:

- a) Charge a suspect with a felony offense without a preliminary hearing or a grand jury indictment.
- b) Charge a person for the same offense twice.
- c) Require a person to testify against himself/herself during questioning or in court (*Miranda v. Arizona*).
- d) Deprive a person of life, liberty, or property without due process of law.

Police can:

- a) Delay making an arrest while continuing to gather evidence.
- b) Advise a suspect that he or she can give up the right of not having to testify against himself/herself if he/she wishes.
- c) Make arrests and other seizures based on probable cause.

6. Police cannot:

- a) Prevent an accused person from having a speedy and public trial.
- b) Stop an accused person from demanding a jury trial.
- c) Refuse to advise an accused person of the nature and basis for a criminal charge.
- d) Decline to produce witnesses for the defense.
- e) Refuse to allow assistance of counsel at either questioning, line—ups, or trial.

Police can:

- a) Take the reasonable amount of time necessary to prepare a case for trial.
- b) Stop an accused person from delaying blood-alcohol and similar tests while waiting for an attorney.

- c) Exercise discretion as to the charge or charges made against an accused person.
 - d) Advise an accused person that the suspect can give up his or her right to a lawyer during questioning (*Miranda v. Arizona*).
7. The Seventh Amendment reaffirms the right of citizens to use civil court procedures, to have a jury in most civil trials, and to have decisions based on common law.
8. Police cannot:
- a) Request and be granted excessive bail.
 - b) Request and be granted excessive fines or cruel and unusual punishment for offenders.
- Police can:
- a) Suggest no bail on capital offenses.
 - b) Suggest bail they feel is high enough to ensure court appearance.
 - c) Suggest punishments that fit the crime, such as highway clean-up for littering offenses.
9. Police cannot infringe on citizens' rights, except as allowed by the Constitution.
10. States, and the people, retain all rights not delegated to the Federal Government or prohibited to the States by the Constitution.
11. The 14th Amendment extends the freedoms guaranteed under the Bill of Rights to all dealings with State, county, and local law enforcement agencies. Originally, these had only been interpreted as applying to situations covered under federal law or involving federal officers.



VERSION 2016

CRIME AWARENESS

CHAPTER 2

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER TWO: CRIME AWARENESS

THE UNIFORM CRIME REPORTING SYSTEM (UCRS)

The FBI's Uniform Crime Reporting System began in 1930, when Congress, through the U.S. Attorney General, authorized the collection of crime statistics. The Uniform Crime Reporting (UCR) program has become a nationwide cooperative statistical effort of approximately 16,000 city, county, and state law enforcement agencies voluntarily reporting data on crimes reported to them. The FBI administers the program and issues periodic assessments of the nature and type of crime in our nation. While the program's primary objective is to generate a reliable set of criminal statistics for use in law enforcement administration, operation, and management, its data has, over the years, become one of the country's leading social indicators. The American public looks to the UCR program for information on fluctuations in the level of crime, while criminologists, sociologists, legislators, municipal planners, the press, and other students of criminal justice use the statistics for various research and planning purposes.

The FBI is concerned with eight specific types of crime. These are known as Part I crimes and are the only crimes reported as part of the UCR reporting system. They are:

Murder (criminal homicide)	Burglary
Robbery	Motor vehicle theft
Forcible rape	Larceny—theft
Aggravated assault	Arson

The first column of four Part I crimes reflect what are known as crimes against persons, or violent crime. The second column of four crimes constitute crimes against property.

To ensure that the statistics submitted can be compared among the different police agencies and jurisdictions, a standard definition has been developed for each of the Part I crimes:

- Criminal Homicide (Murder/Negligent Homicide)—the willful (non-negligent) killing of one human being by another.
- Forcible rape—the carnal knowledge of a female forcibly and against her will.
- Robbery—taking or attempting to take anything of value from the care, custody, or control of a person by force or threat of force or violence and/or by putting the person in fear.
- Aggravated assault—an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault can be accompanied by the use of a weapon or by other means likely to produce death or great bodily harm.
- Burglary—the unlawful entry of a structure to commit a felony or a theft.
- Larceny/theft—the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.
- Motor vehicle theft—the theft or attempted theft of a motor vehicle.

- Arson—the willful or malicious burning or attempt to burn, with or without intent to defraud, of a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

All urban and most rural law enforcement agencies report crime statistics to the FBI. The numbers are normally submitted to a state agency, such as Utah's Bureau of Criminal Identification (BCI), which then submits the crime statistics from all of the state's reporting agencies. The FBI tabulates the statistics received and releases the nation's crime statistics.

UCR crime statistics are also utilized to produce what is known as the "crime rate." The crime rate is reached by comparing the number of crimes committed to the population of the geographic area being analyzed. This allows users to factor in the change in population to find out whether crime is actually rising or falling in comparison to population change. The U.S. crime rate is a comparison of total crimes committed to total population divided by 100,000 people, while Utah uses a comparison rate of 1,000 people.

Arrests and clearances are also defined by the FBI's guidelines. For UCR purposes, a crime index offense is cleared when a law enforcement agency has identified the offender, there is enough evidence to charge him (probable cause), and he is actually taken into physical custody. The arrest of one person can clear several crimes, or several persons may be arrested in the process of clearing one crime. Clearances are also recorded in exceptional circumstances when some element beyond law enforcement control precludes formal charges from being filed against the offender.

PERSONS ARRESTED

In addition to crimes committed, the UCR system also tracks the number of arrests made in the United States. Primarily a gauge of law enforcement's response to crime, arrest totals also provide valuable data concerning the age, sex, and race of perpetrators. The number of persons arrested for all violations except traffic offenses is compiled monthly and submitted by the reporting agencies. Both adult and juvenile arrests are recorded in order to compute arrest trends and volume.

CLEARANCE RATES

One measure of police effectiveness is the clearance rate. A crime is usually cleared by an arrest, but there are several other ways in which a crime can be cleared. An identified suspect may have fled the jurisdiction where the crime occurred. The suspect may have died or may be unable to stand trial. The suspect may admit to and be responsible for numerous crimes, but may only be officially charged with some of them.

This is common in the case of burglars. After a burglar is caught inside a building or by detective work, the burglar may have little to lose by admitting his or her guilt in other cases, and will often clear other burglary cases. Because of plea bargaining and other legal procedures involved, the burglar will only be charged with one or two of the actual crimes committed.

Clearance rates vary depending on the seriousness of the crime, police resources, citizen support, and department policies on clearing and closing cases. Obviously, the murder clearance rate is extremely high for a combination of reasons—the expertise of the assigned detective(s), resources assigned to such cases, and the physical evidence often available at the scene. On the other hand, burglary is a low-clearance crime, in part due to high caseloads, little or no physical evidence, and the

difficulty of identifying stolen items.

For current clearance rates see Appendix C, the Bureau of Criminal Identification.

NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS)

In 1982, the Bureau of Justice Statistics and the FBI initiated a joint study of the UCR system. The goal of the study was to improve UCR so that it would meet the needs of all concerned in the foreseeable future. The final conclusion of the completed study was that UCR was inadequate and a new system was needed. This analysis led to the introduction of the National Incident-Based Reporting System (NIBRS), which is a more comprehensive and detailed system.

The UCR system collects offense information only on the eight Part I crimes, while the NIBRS program now tracks information on 46 offenses. This new reporting system provides a more detailed, meaningful, and timely database from which to gather information and intelligence.

NIBRS is currently in the process of being instituted throughout the nation, and will replace UCR at some time in the future. The new system is being utilized by approximately 55 agencies in Utah at this time, with more agencies participating each year. This program is designed to take advantage of computer technology, and the stated goal in Utah is to have all agencies online within three years.

NOT ALL CRIME IS REPORTED

Numerous victimization studies indicate that many crimes are not reported to the police. A major survey of 200,000 people indicated that less than 50% of all crime is reported. This survey was conducted by the LEAA and the Census Bureau. Some of the reasons offered for non-reporting are fear of retaliation, feelings of police inability to solve certain crimes, and the involvement of relatives, neighbors, or close friends. The more serious the crime, the higher the reporting rate appears to be. The exception is the crime of rape, where it is estimated that only one in three to one in 10 such crimes are actually reported.

WHY CRIME GOES UP AND DOWN

Crime statistics are useful in measuring the frequency and seriousness of crime in a particular area. Crime itself is affected by many influences. A rise or fall in crime may result from hiring more police, putting more people in jail or prison, or from installing more alarm systems. Crime and crime statistics are also affected by other factors such as:

1. Changes in reporting procedures.
2. Population growth.
3. The urbanization process.
4. Changes in the law.
5. Political considerations of police administrations.
6. Changes in public opinion.

1. Community involvement in crime awareness programs such as a Neighborhood Watch Program almost always appears to be counter-productive. As the community responds to requests from law enforcement to report all crimes and suspicious circumstances, the percentage of crimes reported increases. Although the actual number of crimes committed in the specific area remains the same or possibly even goes down, it appears, statistically, that the crime rate has actually gone up.

2. Although crime statistics are officially adjusted for the increase in population that most of the nation is experiencing, many politicians take advantage of absolute statistics by using ever-increasing crime numbers out of context. Rather than using the crime rate, the total number of crimes is discussed, to the disadvantage of the political opposition.

3. There is considerable sociological evidence that the urbanization process produces social factors, such as poverty, discrimination, and countercultures that tend to be accompanied by ever-increasing crime rates. The crime problem in major urban area is often pointed out as proof of such theories.

4. For many years, larcenies (thefts) were considered by many states to be felonies if the dollar value involved exceeded \$50. This law has been changed in many states, such as Utah, where the dollar amount must now exceed \$1,000 to be a felony. Thus, one year a \$300 theft is counted as a felony, and the next year it may only be a misdemeanor. The number of crimes is unchanged, but the classification varies.

The legalization of a drug such as marijuana could have the same effect. Its use would likely stay about the same, if not increase slightly, but over a million less arrests a year would occur. This is not, in itself, an argument for legalizing marijuana. We could also eliminate a million arrests by legalizing theft. What must be evaluated are the relative costs and benefits to a society as the result of a change in a particular law.

5. Police both gather and report most crime statistics, and then are judged by them. Thus, there is ample political motivation for those statistics to be manipulated. In 1977, such a case was documented in Washington, D.C., where values on many larcenies were decreased below the felony limit (then \$50) in over 1,000 cases, thus reducing the major crime index considerably. According to the FBI, similar reporting problems occurred in 1983 in Chicago.

6. Laws themselves are changed from time to time. Elected officials continually create new laws and repeal old ones, as ideas, technology, or morals change in regard to what should or should not be illegal. As an example, many states in recent years have raised the legal drinking age from 18 or 19 to 21 years old. Due to the increasing number of young drinking drivers and juveniles who otherwise break the law while intoxicated, public opinion has caused lawmakers to increase the drinking age.

Courts may also respond to changing public opinion. A court may find that a specific law is an unconstitutional infringement on citizen rights, or a judge may refuse to apply a severe sentence to a particular law violation. Members of the criminal justice system, including the police, tend to be aware of public opinion regarding the enforcement of certain laws, and with the discretion that officers enjoy, decide individually which laws to enforce.

Other laws are left on the books, although they are not enforced. This tends to satisfy the concerns of a segment of society that opposes the particular activity. Although the law is not enforced, it is often politically unacceptable to remove such laws.

If you could create two new laws, what would they be, and why?

(A)

(B)

If you could eliminate two existing laws, which would you choose, and why?

(A)

(B)

For additional crime facts see Appendix C, the Bureau of Criminal Identification.

Practical Exercise

Answer the following questions by referring to Crime Statistics at the Bureau of Criminal Identification (BCI) and the Federal Bureau of Investigation (FBI), according to the most current data.

1. How many violent crimes occur in the United States, each year? _____
2. Which state is ranked 2nd nationally in homicide rate, in 2014? _____
3. Which city in Utah had the highest crime rate? _____
4. How many adults in Utah were arrested for DUI, in 2014? _____
5. Which age group had the highest number of robberies, in 2014? _____
6. In 2014, how many motor vehicle thefts occurred in Lubbock, Texas? _____
7. Which state is ranked number one for the crime of burglary, in 2014? _____
8. How often do index (Part I) crimes occur in Utah? _____
9. How many females were arrested in Utah for rape, in 2014? _____
10. What does UCR stand for? _____



VERSION 2016

CAUSES OF CRIME

CHAPTER 3

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER THREE: EXPLANATIONS OF CRIME

INTRODUCTION

It is best to start this unit by emphasizing that there is no single cause of crime. In addition, there is no single explanation for criminal behavior that is agreed upon by even a majority of *criminologists*, those individuals who study the causes of crime. However, it is still important to study this particular subject so that society can attempt to properly deal with the most important law enforcement task, that of crime prevention. Only by learning why certain people commit certain crimes can a society or a community act to stop them. There are reasons for all crimes, though the person who commits the crime may not know the reason. The police and the public may not know either, but if such causes can be determined through study, then prevention or rehabilitation becomes much easier to accomplish.

The following material is arranged into categories, depending on where it is generally believed that criminal behavior originates. Some of these ideas are no longer widely accepted, but are interesting examples of how crime has been explained in the past.

PSYCHOLOGICAL EXPLANATIONS

Psychological explanations for crime are based on the mind and its mental processes. Many of the explanations for criminal behavior are based on the pioneering theories of Sigmund Freud and the treatment known as psychoanalysis. Freud taught that there are three mental processes: id, ego, the super-ego. The id is the source of drives to gratify certain basic needs, such as food, sex, power, etc. The super-ego equates to a person's conscience. The ego is the integrating process that tries to find a balance between the id and the super-ego. Freud believed that there are three different interactions between id, ego, and super-ego that lead an individual to commit a crime. First, some individuals fail to develop proper super-ego controls. In other words, an individual is not taught or does not learn what parents, teachers, religious leaders, and others offer regarding what society considers right and wrong. Second, some individuals have very strong obsessive-compulsive actions, a part of the id they are unable to control. Because the individual is unable to control his or her desire for a specific gratification, he or she commits a crime to satisfy the desire. Third, Freud taught that people often have extreme mental conflicts that produce guilt. In order to rid himself or herself of the unwarranted guilty feeling, an individual may commit a criminal act so that he will be punished, thus resolving the feeling of guilt.

Harrison G. Gough, a noted applied psychologist, focused much of his research on the study of individuals' personality characteristics. He defined some criminals as psychopaths, describing them as having too much concern for immediate gratification, no concern for the rights of others, and poor planning and judgment skills, and as always blaming others for their mistakes. Gough believed that psychopaths are a result of broken homes, where there is inconsistent discipline, child abuse, and no strong male figure in the home.

American courts currently give considerable credibility to psychological theories of crime causation. The courts have been receptive to defendant claims of uncontrollable drives or mental illness. If proven, the law allows a person to be found not guilty by reason of insanity. It is the responsibility of the defense to prove that the accused was unable to differentiate between right and

wrong, and therefore did not understand the consequences of his or her actions. Sometimes all that need be proven is that the crime was the result of an irresistible impulse.

Courts will not conduct a trial if the accused is deemed to be incompetent, meaning that the accused is unable to understand the trial process. Such individuals are usually committed to an institution for the treatment of their mental disorder until they are adjudged to be sane. There is considerable evidence that individuals committed to such institutions actually spend longer in custody than those committed to prison for similar crimes.

There is much confusion in society regarding the mental illness or insanity plea. Trials such as John Hinckley's attempted assassination of President Reagan have left many people with doubts about the justice involved. Many individuals perceive that expert witnesses offer contradictory and biased testimony, and that no one really knows what goes on in another person's mind.

A recent book, *Inside the Criminal Mind* (Stanton E. Samenow, Ph.D.) argues that "...criminals choose to commit crimes. Crime resides within the person and is caused by the way he thinks, not by his environment. Criminals think differently from responsible people." Samenow rejects traditional psychological theories as excusing crime, and argues that changing criminal behavior must be accomplished by "insisting that they be treated as responsible for their behavior and held accountable."

SOCIOLOGICAL EXPLANATIONS

Sociological explanations of crime are based on the assumption that criminal activity can be produced or stimulated by a person's environment, the interaction of an individual with other individuals and groups with whom a person associates. The field of sociology examines how and why an individual develops those beliefs, attitudes, and values that are so important to the decisions that an individual chooses to make on a daily basis. Of particular concern to sociologists are the formative pre-adult years.

Emile Durkheim, whom many consider to be the father of sociology, was the first to point out that, for some individuals, crime may actually be normal. He stated that normlessness (the lack of shared standards of expected social behaviors), characterized by an absence of social values, can cause individuals to commit crime. He emphasized that crime can be caused by a breakdown in society's norms or expected social behavior because individuals do not see crime as being wrong.

Sociologists have come up with numerous other theories to explain why an individual may become involved in crime. Frank Tannenbaum, who was instrumental in developing the labeling theory, stated that individuals tend to respond to the labels that they are given. If a juvenile is labeled a delinquent, the juvenile's own self-perception may be to accept the label and to respond as defined. This particular theory receives great attention in the field of education, where teachers are continually reminded to be positive in any circumstance in which a student may feel that he is being labeled.

Travis Hirschi, author of *Causes of Delinquency*, was a major proponent of the social control theory. He suggested that individuals have a bond with society composed of four different factors: attachment, commitment, involvement, and belief. If an individual has a weakened bond with society and a lack of commitment to its rules, there is a possibility of criminal activity. Because our American society is becoming more mobile, wealthier, and less in contact with family, churches, schools, and other groups, the social bond is weakening, and breaking the law may become more acceptable and prevalent.

Edwin Sutherland, in his book *Principles of Criminology*, proposed the theory known as differential association. Sutherland stated that criminal behavior results from significant differential

association with valued sources who accept criminal behavior as a valid alternative. The key element of this theory is that criminal behavior is learned. Sutherland suggested that such learning comes from valued sources such as family, friends, and peers, and that person-to-person contacts are most important. He stated further that the importance of a contact will vary depending upon frequency, duration, priority, and intensity of the contact. The individual will then adopt acceptable or unacceptable actions based upon these valued sources.

Robert K. Merton developed another popular theory known as the strain theory. He stated that all persons are reaching for goals of success, especially in a culture like America's. However, not everyone can be successful by conforming to society's rules. Some individuals, frustrated by their lack of success in reaching the goals that they have set, consider other possible options. One of these options may be turning to criminal activity in order to attain their set objectives. They pursue the same goals as other Americans, but turn to illegal means to reach them.

INTEGRATION OF THEORIES

In a 1985 publication, *Crime and Human Nature*, James Q. Wilson and Richard J. Herrnstein offered a theory for criminal behavior based on their study of the causes of crime. Their study drew on many academic fields, including psychology, political economy, and political science, in an intentionally interdisciplinary approach. They argued that in order to establish the causes of crime, one must understand human nature, which is influenced at least in part by physique, intelligence, and personality. Their analysis of the research data suggested that inherited traits of an individual combine with environmental surroundings to produce someone who is susceptible to criminal behavior. They stated that the most important factor in turning a potential criminal from a life of crime is his family life. If the family is strong, with appropriate role models, the child is able to counter the negative factors to become a law-abiding citizen.

The theory of crime causation that they offered is based on the premise that people, when offered choices, choose a preferred course of action. Preference does not necessarily imply a totally rational thought process, however. Preferences result from reinforcers, conditioning, delay or uncertainty, equity or inequity, and context reinforcement.

“The larger the ratio of the rewards (material and nonmaterial) of non-crime to the rewards (material and nonmaterial) of crime, the weaker the tendency to commit crimes. The bite of conscience, the approval of peers, and any sense of inequity will increase or decrease the total value of crime; the opinions of family, friends, and employers are important benefits of non-crime, as is the desire to avoid the penalties that can be imposed by the criminal justice system. The strength of any reward declines with time, but people differ in the rate at which they discount the future. The strength of a given reward is also affected by the total supply of reinforcers.”

Obviously, there is no consensus on why someone becomes involved with criminal activity. It is likely that aspects of heredity, environment, and mental processes all interact to produce a criminal. The field of criminology is a fascinating endeavor that is open to many other disciplines, such as biology, psychology, psychiatry, and sociology, as the challenge to find out what causes crime continues.

TYPOLICAL THEORY

Criminologists often find it useful to talk about patterns of criminal characteristics. This particular field of study has become increasingly visible in today's society. The Federal Bureau of

Investigation (FBI) has focused on this area of expertise, and has a specialized group of agents trained to identify the type of individual who would commit a specific type of crime.

Criminal profiling focuses on a number of aspects of a specific type of criminal offense. Of major concern to the analyst is the offender's behavior. It is also important to attempt to identify the psychological motivation for the commission of the crime and the emotional needs that are met through the commission of a crime. These needs and motives can be identified in order to provide the characteristics of the individual being profiled.

Identifying these typologies makes it easier to study and investigate the causes and treatment of different types of criminals. Of particular interest are the person's social class, family background, peer group associations, and contact with the criminal justice system. The following typologies are drawn from *Society, Crime and Criminal Careers* by Don Gibbons.

Professional thief (con men, pickpockets, shoplifting rings): These criminals have group activity, an education process, their own vocabulary, and a high self-concept as "elite"; they do not associate with "lower-class" criminals, and they have pride in their criminal skills. They start at young age (schooled). They tend to be lower-middle class, place high value on money as a goal, and leave and their families when young. They associate with the criminal fringes of society, then succumb to strong peer pressure. They are seldom caught, and have no strong feelings against police. They are skilled in social interactions, which they may use to impress judge; they usually end up with a minor fine when caught.

Professional heavy (armed robbery, strong-arm robbery, burglary): These criminals are highly skilled in inducing fear, utilizing detailed planning and the element of surprise. They seldom work alone, and have specialized roles. They are proud to be criminals; all others are amateurs. Police are considered "clowns" or are to be respected, but the criminals are not necessarily hostile to them. They are urban, lower working class, and belonged to gangs as teens. They see crime all around them. Often they have suffered from parental neglect and little supervision. They "work," then return home to middle-class homes and families. They may have extensive arrest and jail records and consider themselves "tough guys," and may have learned crime while in prison.

Amateur shoplifter (adult women): These steal for personal use and work alone, usually in large stores. They consider themselves honest citizens, not thieves. They usually continue until caught and turned over to police; many have already been caught by store management several times and released without police involvement. They are lower and middle class, mostly married, with children but no peer support. The best therapy approach is to induce guilt.

Joyrider (male, 13-20): These criminals steal for short-term recreation. The majority look for keys left in a car; some hot wire vehicles. They are slightly skilled and seldom involved in other criminal activities. Joyriding is done in groups of guys casually associating. They consider themselves "cool" or "tough" and view police as stupid, since the police drive by without stopping them. They are repeat offenders who usually stop by 20 and never break the law again. They have a middle-class background with close and strict parents, but no strong father figure. Peer group pressure is strong. They have little contact with courts.

Psychopathic assaultist (violent, senseless assaults): These people don't just hit, they attempt to *hurt* people. They are "lone wolves." With a defiant chip-on-the-shoulder attitude, they are very suspicious and strike out first because they think others are out to get them. They undergo frequent arrests, long sentences, and no rehabilitation, and come from all social classes. They have a family rejection pattern, and usually come from an illegitimate or unwanted pregnancy. Most are placed in foster homes or are runaways. They avoid group associations. They have contact with many police and social service agencies, all of which are treated with hostility.

Rapist: These criminals use varying degrees of force to induce sexual activity. In some cases this results from the extension of a voluntary association where sexual demands exceed the wishes of the female (date rape). Other cases are of sexual activity deal with control and submission. They rationalize that the victim “seduced” them, “asked for it,” engaged in provocative action or dress, or “really wanted it.” They have no other criminal background. They are usually caught unless the rape is a single episode. Most serve prison time when caught and are never involved in rape again. They are lower or lower-middle class, and may consider domestic violence acceptable. They have normal family backgrounds and experience affection, but minimal commitment.

Embezzler: This type of criminal violates a position of trust, takes advantage of an opportunity to steal created by nature of his/her employment, and goes to great lengths to conceal crime. The crime seldom involves or is known to others, and the embezzler develops elaborate rationalizations when discovered. They come from relatively comfortable middle-class backgrounds, frequently from stable a family background, but may need money to maintain a desired standard of living. They have minimal contact with courts; private business losses are seldom handled criminally, although more recent emphasis on “white-collar crimes” is increasing the potential for prosecution and civil sanctions.

BIOLOGICAL THEORY

Biological explanations of criminal actions are based on the belief that the body itself is responsible for a person’s behavior. In ancient times, people who acted strangely or did things that were against society’s rules were believed to be under the control of evil spirits or fates. This belief took responsibility for acting unacceptably away from the person. We still use the phrase “I don’t know what got into me” when we are caught doing something wrong, as a way of claiming that it really isn’t our fault. In more enlightened times, this belief has become less acceptable and has been replaced with the belief that most people act rationally when deciding whether or not to commit a crime.

Cesare Beccaria, the author of *On Crimes and Punishments* (1764), believed that man is driven by what he called a social contract—that is, that all individuals have a free will and a rational manner, which leads each person to look out for his or her own best interests. He also believed in manipulability, or the idea that an individual is predictable and can be controlled and manipulated by society to live within the law, given the proper motivation. He described this motivation to obey the laws as swift associative punishment in response to the commission of a crime. The method of punishment should serve the greatest public good, rehabilitating the criminal while deterring others from committing the crime. He also focused his writing on reformation of the criminal justice system. He called for revamping the system by utilizing more humanitarian forms of punishment and equality in sentencing, and by banning torture and capital punishment. His book was well accepted and was praised by such leaders as Catherine the Great, Thomas Jefferson, John Adams, and Voltaire.

Jeremy Bentham, influenced by Beccaria and others, was a founder of the philosophy of utilitarianism. He authored *Introduction to the Principles of Morals and Legislation* (1789), which explained his ideas of psychological hedonism. Bentham believed that personal pleasure was an individual’s ultimate goal. He taught that an individual, using a rational analysis of his or her own self-interest, would appraise a situation and base his or her decision on pleasure versus pain, in addition to the conventional decision of right versus wrong. If the pleasure gained outweighed the pain involved in the punishment process, the person would be willing to commit a crime. Bentham wrote that “nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects... They govern us in all we do, in all we say, in all we think.”

A famous Italian physician and criminologist, Cesare Lombroso, had a different idea about crime. In his book *L'uomo Delinquente [Criminal Man]* (1876), he postulated that criminals were genetic throwbacks and stated that "In general, many criminals have outstanding ears, abundant hair, a sparse beard, enormous frontal sinuses and jaws, a square and protruding chin, broad cheek bones, frequent gestures." He taught that as many as 40% of society's criminals were evolutionary throwbacks who were genetically inferior to others. Lombroso developed this theory by measuring the skulls of numerous individuals, including the criminals of his time. His theory was loosely based on Charles Darwin's theory of evolution and became known as atavism, the reversion of man to evolutionarily primitive traits. His ideas today strike many as racist, but they were based on beliefs common in his society.

Franz Joseph Gall, a noted physician, physiologist, and neuroanatomist, believed that the brain, or how it was formed, was the key to a person's behavior. In his book, *The Anatomy and Physiology of the Nervous System in General, and the Brain in Particular* (1819), he wrote of the principles of cranioscopy, later to be known as phrenology. He believed that certain regions of the brain controlled various aspects of an individual's personality, morality, and mental faculties. Gall believed that the contours of the skull or cranium reflected the interior shape of the brain, and that the contours could be examined in order to diagnose the characteristics and traits of each individual. Gall was able to map out various phrenological characteristics, such as destructiveness (behind the left area), wit (above the right eye), and secretiveness (left side of head). His idea of cerebral localization was quite accurate, in that various areas of the brain do control various aspects of individual behavior, but the contours or shape of the cranium are not relevant.

Ernest A. Hooton, a noted physical anthropologist, argued that criminals were criminals because they were biologically inferior. In his treatise *The Asymmetrical Character of Human Evolution* (1923), he wrote that "Criminals as a group represent an aggregate of sociologically and biologically inferior individuals." Later in his career he conducted a twelve-year study of over 10,000 convicts in ten different states, measuring and comparing them with a group of over 3,000 non-criminal volunteers. His study conclusions reinforced what he had already stated, that the inmates were found to be physically inferior. The conduct of his study and its findings have been debated for many years since, and have been discounted by many criminologists.

William Sheldon conducted a study involving juvenile delinquents and concluded that there were three basic body types. He listed and defined them as follows:

Endomorphs: tend to be fat with short limbs and soft, smooth skin

Ectomorphs: lean, delicate body; small; fine hair

Mesomorphs: large muscles, bones, trunk, and hands

Sheldon concluded that most of the criminals in society were from the mesomorph body type, because they behave very aggressively and thus get in trouble with the law more often. The study by Sheldon and a similar study by Eleanor and Sheldon Glueck were based on examination of many juveniles in reform schools. Critics of the two studies point out that the findings may not be valid, since judges at the time resisted sending children to reform schools who did not look like they could take it.

More recently, studies have examined the XYY chromosome syndrome. Most people are either female (XX) or male (XY). The last pair of a person's 23 pairs of chromosomes determines the sex of the individual. On occasion, however, an unusual male pairing (XYY) occurs. Several studies have deduced that a male with this characteristic tends to be taller and more prone to anti-social behavior than normal. According to early studies, such persons are overrepresented in prison populations.

However, more recent studies have tended to discount the negative effects of the XYY chromosome, and further study is needed in order to draw a final conclusion.

In the 1970s, work started on examining the effect of genes on human behavior. Early studies by R. J. Moyer have led him to believe that some genes may create brain structures leading to aggression and hostility. Since genes are the building block of life and are likely to be artificially modified in future years, such research holds promise for the biologically oriented criminologist.

MENTAL ILLNESS AND CRIME

Some criminologists theorize that mental illness is directly related to violence and crime. There are studies that both support and disprove this to be the case, depending on other varying factors such as drug or alcohol abuse or exposure to traumatic events. One thing that is agreed upon by mental health professionals is that persons with mental illness have a higher probability of being victims of crimes when compared to the general public. The table below is an overview of the most common categories of mental illnesses that are likely to involve contact with law enforcement or EMS, along with descriptions of each and specific examples.

Common Mental Illness Category	General Description	Example
Anxiety disorders	Anxiety disorders manifest as fear and trepidation, as well as physical signs of uneasiness and anxiety that are characterized by increased heart rate and perspiration. Anxiety disorders are further categorized based on their triggers. A person with an anxiety disorder is unable to control his or her response to a trigger, to the degree that it interferes with his or her normal day-to-day functioning.	<p>Phobia: <i>Phobia</i> is the term used to describe an irrational and extreme fear of a situation or object. There are many types of phobias, including the fear of spiders (arachnophobia), the fear of being up high (acrophobia), and the fear of being away from home (agoraphobia).</p> <p>Obsessive compulsive disorder: People with OCD are plagued by constant thoughts or fears that cause them to perform certain “rituals” or routines. The disturbing thoughts are called obsessions, and the rituals are called compulsions. An example is a person with an unreasonable fear of germs who constantly washes his or her hands.</p>

		<p>Post-traumatic stress disorder (PTSD) is a condition that can develop following a traumatic and/or terrifying event, such as sexual or physical assault, the unexpected death of a loved one, or a natural disaster. People with PTSD often have lasting, frightening thoughts and memories of the event, and tend to be emotionally numb.</p> <p>Panic disorder is typified by frequent episodes of severe, incapacitating anxiety attacks, also known as panic attacks. These panic attacks may include symptoms such as an accelerated heartbeat, breathlessness, nausea, and an inability to think clearly. The diagnosis of panic disorder is also dependent upon the person being worried about experiencing a panic attack or worried about the panic attack being a symptom of a medical condition, such as a heart attack.</p>
Mood disorders	Mood disorders are affective disorders defined by a constant feeling of being sad or periods of extreme happiness, or by going back and forth between feeling overly happy and overly sad. Typically a person who is diagnosed with depression experiences feelings of sadness that preclude him or her from functioning normally. These feelings of sadness last longer than	Major depression: In order to be diagnosed with major depression, an individual must feel depressed for most of the day and for most days over at least a two-week time period. Additionally, he or she may experience symptoms such as changes in appetite and weight, irritability, loss of interest and motivation for his or her usual activities, hopelessness and, in some cases thoughts,

	<p>would be expected given the situation. Depressive disorders can be further subcategorized as bipolar disorder, dysthymia, or major depression.</p>	<p>plans or attempts to cause harm to himself or herself. Some women may experience depression after having a child, which is called postpartum depression. The duration of postpartum depression can vary from weeks to months.</p> <p>Bipolar disorder: In the United States, over 1% of adults, or up to 4 million people, have been diagnosed with bipolar disorder. Bipolar disorder is sometimes referred to as <i>manic depression</i>. It is characterized by extreme changes in mood, recurring depressive episodes, and at least one manic episode.</p>
<p>Behavioral disorders</p>	<p><i>Behavioral disorder</i> is the catchall term used to refer to the inability to display acceptable behavior in a given situation. One of the most commonly diagnosed behavioral disorder is attention deficit hyperactivity disorder (ADHD). Because ADHA was initially more commonly diagnosed in boys, it was thought to be a disorder exclusive to boys. However, now ADHD is also frequently diagnosed in girls. Interestingly, about half the children who are diagnosed with ADHD in childhood continue to display symptoms in adulthood. The symptoms of ADHD include the inability to pay attention, in addition</p>	<p>Attention deficit hyperactivity disorder (ADHD): Symptoms of this disorder include inattention, hyperactivity (or restlessness in adults); disruptive behavior and impulsivity are also common in ADHD. Academic difficulties are frequent in those diagnosed with ADHD, as are problems with relationships. However, it can be hard to draw a line between normal levels of inattention, hyperactivity, and impulsivity and the more significant levels that require intervention.</p> <p>Autism spectrum disorders (ASD) span many levels of diagnosis, such as high-functioning autism (or</p>

	<p>to hyperactive and impulsive behaviors.</p>	<p>Asperger’s syndrome). People who are diagnosed with autism are characterized by abnormalities of social interaction and communication that pervade the individual’s functioning, and by restricted and repetitive interests and behavior. Like other psychological development disorders, ASD begins in infancy or childhood, has a steady course without remission or relapse, and comes with impairments that result from maturation-related changes in various systems of the brain. Lack of nonverbal communication skills, limited empathy for others, physical clumsiness, obsessive repetitive routines are some possible symptoms of ASD.</p>
<p>Psychotic disorders</p>	<p>Psychotic disorders involve distorted awareness and thinking. Two of the most common symptoms of psychotic disorders are hallucination—the experience of images or sounds that are not real, such as hearing voices—and delusions, which are false fixed beliefs that the ill person accepts as true, despite evidence to the contrary.</p>	<p>Schizophrenia is a mental disorder often characterized by abnormal social behavior and failure to recognize what is real. Common symptoms include false beliefs, unclear or confused thinking, auditory hallucinations, reduced social engagement and emotional expression, and inactivity. Diagnosis is based on observed behavior and the person’s reported experiences.</p> <p>Alzheimer’s is a neurodegenerative disorder that affects the elderly. Symptoms include</p>

		disorientation, memory loss, mood swings, and difficulty with language.
Impulse control disorders	The diagnosis of impulse control disorders is used to describe the inability to resist impulses or urges and performing acts that are considered harmful to oneself or to others. People often become so wrapped up in something that they can no longer focus on anything else, neglecting their relationships and responsibilities.	Some examples of impulse control disorders are starting fires (pyromania), stealing (kleptomania), and uncontrollable gambling.

The following two considerations regarding mentally ill individuals are important for police:

Credibility. Symptoms of mental illness may cause individuals, including police officers, to perceive situations inaccurately. Officers would be wise to verify questionable information. However, assuming that a person who has mental illness is incapable of providing credible information could lead to the loss of valuable information and the neglect of persons who have been victimized.

Risk of Violence. Although persons with mental illness, particularly those who are experiencing particular psychotic symptoms and abusing drugs and alcohol, have increased rates of violent behavior, most are not violent. At the same time, police officers must assume that all citizens they encounter may be dangerous, because the price of letting down their guard is too high. Unfortunately, exaggerated perceptions of dangerousness may lead to behaviors that escalate the situation. Addressing these perceptions through education and opportunities for positive contact with persons with mental illness who are stable in the community can improve officers' comfort in approaching a person with mental illness. Skills training in the recognition of mental illness, coupled with effective communication and de-escalation strategies, will assist officers in successfully resolving situations with mentally ill persons who are in crisis.

CRISIS INTERVENTION TRAINING (CIT)

Many police departments today recognize that not all officers are equally skilled in de-escalation or with interacting with mentally ill persons in crisis. The Memphis Police developed a program that is now used by many police departments across the nation to more effectively use resources and guide law enforcement when dealing with mental illness/crisis situations. This program is known as Crisis Intervention Training (CIT).

The CIT program provides additional training for police officers that covers the different types of mental illnesses, medications, public resources, and scenario-based training that enables officers to

be certified for specialized in dealing with these cases. When patrol officers encounter situations involving individuals with mental illness, they may request a CIT officer to respond and assist with the individual or family members. Ideally, CIT officers are officers who are interested and want to specialize in this element of training. Oftentimes they know someone or have relatives who suffer from a mental illness, and therefore have an increased level of empathy or understanding with these individuals. Safety is always paramount for police, whether they are CIT trained or not.

SUICIDE PREVENTION

Law enforcement officers often deal with situations involving an individual who is suicidal. These include:

- A person is communicating a desire or intent to attempt suicide.
- A person has just made a suicide attempt.
- A person has died by suicide.

In a significant number of cases, officers receive a call that is not described as a suicidal crisis, but rather as a general disturbance, domestic violence, or similar type of situation. Upon arriving at the scene, the officers need to determine whether the situation involves someone who is suicidal.

The officer has an important role to play in all of these situations. It is generally considered to be within the scope of a law enforcement officer's duty to protect the safety of the community as a whole, as well as individuals. The officer's first responsibility is to deal with any safety issues that may affect law enforcement personnel, the person who is suicidal, or others present at the scene, especially if the person has immediate access to lethal means. The officer can also provide clarity and support to the person who is suicidal and the other people who are there. After the crisis, the role of the officer, along with EMS providers and mental health professionals if they are present, is to ensure the suicidal person receives an evaluation as soon as possible.

FACTS ABOUT SUICIDE

- Suicide touches everyone—all ages and incomes; all racial, ethnic, and religious groups, and in all parts of the country.
- Suicide takes the lives of about 38,000 Americans each year (CDC, 2010).
- About 465,000 people per year are seen in hospital emergency departments for self-injury (CDC, 2010).
- Each year, over eight million adults think seriously about taking their life, and over one million make an attempt (NSDUH, 2011). However, there is help and hope when individuals, communities, and professionals join forces to prevent suicide.

PREPARING AHEAD OF TIME

Review the protocols and standard operating procedures required by your law enforcement agency and in your state and local area for responding to a person with suicidal thoughts, a person who has made a suicide attempt, or a death by suicide.

Learn how you should deal with a suicidal person who refuses to be transported for an evaluation.

Meet with your local emergency medical services (EMS) providers to discuss how you can work together to help people who are suicidal, including those who refuse to be transported.

The following are warning signs that a person may be suicidal:

- Acting anxious or agitated; behaving recklessly
- Sleeping too little or too much
- Withdrawing or feeling isolated
- Showing rage or talking about seeking revenge
- Displaying extreme mood swings

(Adapted from National Suicide Prevention Lifeline, [n.d.])



VERSION 2016

THE LAW

CHAPTER 4

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER FOUR: THE LAW

“True freedom requires the ‘rule of law’ and justice, and a judicial system in which the rights of some are not secured by the denial of the rights of others.”

—Johnathan Sacks

INTRODUCTION

What is the law? The law is a system of rules that a community or country uses to regulate the actions of the people, and that can be enforced by applying sanctions to those who violate these rules. The United States has based its laws on English law.

English law is based upon two similar concepts, *common law* and *case law* or *precedent*. *Common law* centers on tradition or custom, sometimes known as the rules of the common man. This means that what had been done previously becomes the basis for how decisions are to be made today. *Case law* is the system by which the decision or interpretation of a judge in the original case becomes the standard by which all later identical cases will be decided.

U.S. history has seen a development of our laws, and today we have four sources of written law: the Constitution, statutory law, case law, and administrative law. Case law is the set of rulings by the courts that set precedent, or the standard by which all other lower courts must abide. Statutes are laws made by the legislature, and can originate either with the states or the federal government. Administrative laws are the rules created by a regulatory agency, such as the Department of Natural Resources, Division of Fish and Game.

In the United States of America, *statute law* is another means used to develop our laws. Article I of the United States Constitution provides that the legislative branch of government is charged with the responsibility to provide our laws through debate and majority decision. The other two branches of government, judicial and executive, through designed checks and balances, have additional responsibilities. The executive (president) has the power of veto, and the judiciary (Supreme Court) can find a law to be unconstitutional.

A law can be violated by an act of omission or by an act of commission. An act of omission signifies that an individual failed to do something that he/she was required by law to do. An example of this would be failing to shovel snow from a sidewalk during the winter months as required by statute. An act of commission means that an individual has carried out a physical act in violation of the law. An example of this would be a burglar who enters a house without the owner’s permission and takes items before departing.

UTAH LAW

In Article VI of the Utah Constitution, the Legislature, made up of the Senate and House of Representatives, is given the responsibility to “initiate any desired legislation” that is needed in our state. This power to make state laws has produced the Utah Code Annotated (UCA). This Code was produced by the Utah Legislature in 1953, and is revised each time the Legislature meets and enacts new laws. The Utah Code Annotated is the statutory law for the State of Utah, and is made up of 78 different titles ranging from cemeteries and highways to probate law and public utilities. (These laws are available to the public on the website <http://le.utah.gov>.)

The Utah Code also designates various judicial rules to be followed in trial proceedings. These rules deal with the rules of evidence, civil procedure, appellate procedure, juvenile court procedure, and rules of practice in district and justice courts. The Utah Supreme Court is responsible for revising these sections of the Utah Code.

Each title designates the laws of the state of Utah regarding a specific subject area. The following titles are those that most often affect law enforcement officers in the normal conduct of their duties:

Title 23—Wildlife Resources

Title 32A—Alcoholic Beverages

Title 41—Motor Vehicles Code

Title 53—Public Safety (Driver’s License, Concealed Weapons)

Title 53A—State System of Public Education

Title 58—Occupational and Professional Licensing (Controlled Substances Act)

Title 76—Criminal Code

Title 77—Criminal Procedure

Title 78—Judicial Code

In order to delineate specific laws within the Utah Code, a numbering system was adopted. The system identifies the specific title, chapter, and section where a statute can be located. For instance, the number 76-6-301 signifies that you will find the particular statute in Title 76 (The Criminal Code), Chapter 6 (Offenses against Property), Section 301 (Robbery).

The remainder of this chapter of the manual will focus on one particular title within the Utah Code. Law enforcement officers must be familiar with the Criminal Code (Title 76) in order to carry out their assigned duties as an officer. Utah’s Criminal Code is composed of 10 separate chapters. The first four chapters explain various aspects of the Criminal Code, while the last six chapters list the individual laws and accompanying penalties.

Chapter 1—General Provisions

Chapter 2—Principles of Criminal Responsibility

Chapter 3—Punishments

Chapter 4—Inchoate Offenses

Chapter 5—Offenses Against the Person

Chapter 5b—Sexual Exploitation Act

Chapter 6—Offenses Against Property

Chapter 7—Offenses Against the Family

Chapter 8—Offenses Against the Administration of Government

Chapter 9—Offenses Against Public Order and Decency

Chapter 10—Offenses Against Public Health, Safety, Welfare, and Morals

TITLE 76 / CHAPTER 1—GENERAL PROVISIONS

Also among the general provisions of this chapter are guidelines for decisions and questions that involve *jurisdiction* (76-1-201) and *venue* (76-1-202.) *Jurisdiction* is the right or authority of a government entity (city, county, or state) within the state to hear a case or conduct other court proceedings. *Venue* is the right of a county or district to prosecute a criminal action (i.e., to determine the proper location for a trial). Most offenses will be tried in the district/county/precinct where they occurred.

Another provision is the limitation of actions known commonly throughout the nation as the *statute of limitations*. By statute, time limitations are placed on how long the prosecution has to begin judicial proceedings after a crime has been committed. The limitations are as follows:

Statute of Limitations	Crime Classification
1 year	Infraction
2 years	Misdemeanor
4 years	Felony (with some exceptions)
Prosecution can start at any time	Embezzling from the government or falsifying public records; also capital offenses punishable by a life sentence or death (e.g., homicide, rape, child sex offenses)

In felony cases such as criminal homicide and sex offenses where DNA samples have been collected but the suspect is unknown, prosecution can begin anytime once a suspect has been identified and a DNA comparison made.

Prosecution begins when an *information* is filed, not when a trial or appeal begins. An *information* is a legal document filed with the appropriate court specifying what law a defendant has allegedly violated and what proof exists. Time that a suspect has spent out of the state of Utah after having committed a crime does not count toward the limitation of actions. Special extensions to the limitation of actions are available when certain sexual offenses against children are involved.

The right to be free from double jeopardy is also defined and clarified in the General Provisions, in conformity with the Fifth Amendment to the United States Constitution. This provision limits the circumstances under which an individual may be twice tried for the same offense.

TITLE 76 / CHAPTER 2—PRINCIPLES OF CRIMINAL RESPONSIBILITY

The prosecution must prove that the required culpable mental state for the offense was present in order to obtain a *conviction*. (If the required mental state cannot be proven then the prosecutor must find another statute that will meet the test of culpability.) In cases requiring an intentional or knowing culpable mental state, the prosecution must prove that the defendant possessed a guilty mind, which is called *mens rea*. Included with the guilty mind, the court will also require a guilty act, or *actus reus*.

The criminal homicide statute is an example of the four categories of criminal states of mind, or culpable mental states. The criminal homicide statute includes the crimes of aggravated murder,

murder, manslaughter, negligent homicide, and automobile homicide. The first two criminal acts, aggravated murder and murder, require a mental state that is knowing or intentional, meaning that the perpetrator knew what the outcome of his actions would be and took the life of another consciously and with premeditation. In addition to other aspects of the case, the prosecution would also have to prove that the defendant had a guilty mind (*mens rea*) and had committed a guilty act (*actus reus*). Manslaughter requires a mental state of recklessness, implying that the person took another's life without malice aforethought (meaning that there was no premeditation). Negligent homicide requires the person to have been *negligent* in his actions, causing the death of another through failure to exercise the proper care that a reasonable person would use under the same circumstances.

Most laws found outside of the Criminal Code (known as street liability crimes) do not require a culpable mental state for a law to be violated. An example of this would be a motor vehicle traffic violation. An officer who has issued a traffic citation need not prove that the violator intended to run a red light. When testifying in court, he need only prove that the violator did run the light.

ELEMENTS OF A CRIME

Each statute is composed of *elements*, all of which must be proven in order for the defendant to be found guilty. Several elements are always present in any criminal case, including the unlawful act(s), the issue of court jurisdiction, and the culpable mental state required of the defendant. All elements must be shown to be present in order for the prosecutor to get a conviction.

TITLE 76 / CHAPTER 3—PUNISHMENT

Criminal acts, under Utah law, are classified by the seriousness of the crime and the extent of the punishment which may be given to the defendant if he/she is found guilty of the offense. Three categories have been established by the legislature to allow for consistency and uniformity in the sentencing of convicted individuals. These classifications, listed in descending order by severity, are *felony*, *misdemeanor*, and *infraction*. The punishments may include, but are not limited to, a sentence of confinement in the Utah State Prison System (for a felony) or one of the various county jails (for a misdemeanor), and/or a fine payable to the specific court in which the case was tried and the government entity that brought the charges against the defendant.

A felony is an offense punishable by a prison sentence; a *capital felony* may be punished by a sentence of death or by life imprisonment. For both types of felonies, two separate hearings take place, one to determine guilt or innocence and the other to determine what penalty should be imposed.

Classification	Maximum Punishment	Examples
Capital felony	Life imprisonment/death	➤ Aggravated murder
First degree felony	5 years to life imprisonment Up to \$10,000 fine	➤ Murder ➤ Aggravated burglary ➤ Aggravated robbery ➤ Aggravated kidnapping ➤ Rape

Second degree felony	One to 15 years imprisonment Up to \$10,000 fine	<ul style="list-style-type: none"> ➤ Manslaughter ➤ Kidnapping ➤ Burglary of residence ➤ Forcible sexual abuse ➤ Robbery ➤ Theft of items in excess of \$5,000
Third degree felony	0 to 5 years imprisonment Up to a \$5,000 fine	<ul style="list-style-type: none"> ➤ Arson/insurance fraud ➤ Aggravated assault ➤ Vehicle theft ➤ Damaging jails ➤ Possession of stolen credit card ➤ Child neglect ➤ Retaliation against a witness, victim, or informant ➤ Theft of items valued at \$1,500 but less than \$4,999
Class A misdemeanor	Up to one year in jail Up to \$2,500 fine	<ul style="list-style-type: none"> ➤ Assault with injury ➤ DUI with injury/with passenger < 18 ➤ Assault—police/EMT/teacher/pregnant ➤ Sexual battery ➤ Criminal trespass (in a dwelling) ➤ Failure to stop at command of police ➤ Theft of items valued at \$500 to \$1499
Class B misdemeanor	Up to 6 months in jail Up to \$1,000 fine	<ul style="list-style-type: none"> ➤ Assault ➤ Criminal trespass (posted/warning given) ➤ Lewdness ➤ Harassment ➤ Possession of drug paraphernalia ➤ DUI ➤ Theft of items valued at \$1-\$499
Class C misdemeanor	Up to 3 months in jail Up to \$750 fine	<ul style="list-style-type: none"> ➤ Criminal trespass (no warning given) ➤ Disorderly conduct (warning given) ➤ Intoxication ➤ Littering ➤ Public urination ➤ Most traffic violations
Infraction	No jail sentence Up to \$750 fine	<ul style="list-style-type: none"> ➤ Disorderly conduct (no warning given) ➤ Jaywalking ➤ Parking violations ➤ Equipment violations (e.g., tail light out)

TITLE 76 / CHAPTER 4—INCHOATE OFFENSES

An *inchoate* offense is an offense that is not completed or finished. The two types of inchoate offenses in Utah are an *attempt* and *conspiracy*. Inchoate offenses are punishable in the category one degree less than if the crime had been completed. For example, burglary is a second degree felony. Therefore, an attempt or conspiracy to commit burglary would be punished as a third degree felony.

An **attempted crime (76-4-101)** is when a person began the crime but was unable to complete it. If someone were to attempt to break into a business but was caught prior to entry due to an alarm system, this would be an attempt. In order to show that an attempt has been made, the prosecution would need to produce evidence that the defendant had engaged in conduct that constituted a substantial step toward commission of the offense. The actions taken by the defendant must clearly indicate intent to commit an illegal act.

Conspiracy (76-4-201) is an agreement with one or more other persons to commit a crime. One of those involved in the agreement must then commit an overt act that would further the conspiracy. For example, if three friends decide to rob a store and one of them purchases three ski masks to conceal their identities, a conspiracy to commit robbery has occurred.

The following information is taken from chapters five through ten of the Criminal Code. It is impossible to list all of the laws within each chapter; therefore, a random selection of statutes is listed. The comments following each statute suggest areas on which law enforcement officers should focus with regard to investigation and preparation for report writing activities.

TITLE 76 / CHAPTER 5—CRIMES AGAINST PERSONS

Major categories under this heading include assault, criminal homicide, kidnapping, and sexual offenses.

Criminal homicide (76-5-201): A person commits criminal homicide if he intentionally, knowingly, recklessly, with criminal negligence, causes the death of another human being, including an unborn child. There are five different categories of criminal homicide within the statute. They are aggravated murder, murder, manslaughter, child abuse murder, negligent homicide, homicide by assault, and automobile homicide.

Aggravated murder is intentionally or knowingly causing the death of another under any of the following circumstances:

- The defendant was a jail prisoner or prison inmate.
- Two or more persons were killed, or the defendant attempted to kill one or more other persons.
- The defendant created a great risk of death to another person.
- The defendant was committing a forcible felony.
- The victim is a peace officer attempting to arrest or prevent the escape of the defendant or another, or any public official carrying out his/her duties.
- The defendant was avoiding/preventing an arrest by a peace officer while trying to escape.
- The defendant committed the crime for money, or the murder was committed for personal gain, such as a contract killing.
- The defendant was previously convicted of another murder.
- The murder was committed to stop a person from testifying in court or aiding an investigation.

To secure a murder conviction, it must be demonstrated that death resulted from any of the following:

- The defendant intentionally or knowingly caused the death of another.
- The defendant, intending to cause serious bodily injury, committed an act that caused the death of another.
- The defendant acted recklessly, indifferent to the safety of others.
- While committing a forcible felony, the defendant caused the death of a victim or bystander who was not involved.
- The defendant recklessly caused the death of a peace officer, by an assault or by interfering with an officer making a lawful arrest.

A manslaughter conviction can be obtained if a death results from the following:

- Recklessness.
- Extreme mental or emotional disturbance for which there is a reasonable explanation.
- The defendant has a reasonable belief that he/she had a legal right to take such action, although the conduct is not legally justifiable.

While looking for evidence of who committed a criminal homicide, police must also secure evidence as to the motivation and circumstances surrounding the incident. However, it is a judge or a jury that will decide what type of criminal homicide has occurred.

Kidnapping (76-5-301): A person commits kidnapping when he intentionally or knowingly, without authority of law, and against the will of the victim:

- Detains or restrains another for any substantial period.
- Detains or restrains a minor without consent of its parents or guardian.

Police must prove the time period involved; otherwise, the charge could be Unlawful detention, which is a class B misdemeanor. Police must also be able to prove that the victim went unwillingly. Minors cannot legally consent. However, the age of the victim may be considered. Specifics must be obtained as to how the victim was restrained or detained (e.g., force, ropes, locked doors, verbal threats, etc.).

Rape (76-5-402): A person commits rape when he has sexual intercourse with another person without the victim's consent. It is essential that medical and laboratory evidence be secured to prove that penetration occurred. Otherwise, forcible sexual abuse or another less serious crime may have to be charged. This places time restrictions on the victim and on law enforcement. Circumstances surrounding the incident must be investigated to show whether consent was present. In Utah, anyone under 14 years of age cannot consent as a matter of law. This also applies to individuals who are married.

Assault (76-5-102): An attempt to do bodily injury to another; a threat, with unlawful force or violence, to do injury to another; or an act committed with unlawful force or violence that causes or creates a substantial risk of bodily injury to another. Note that the police are not required to prove that the victim was actually struck or injured. They must, however, be able to prove the intent of the suspect to do bodily harm by a show of immediate force or violence. If the officer can show that serious bodily injury resulted, or that a deadly weapon or extreme force was used, the charge would be aggravated

assault. If the offender knows the victim in the assault is a police officer, school employee, health care employee, military, pregnant, or the assault caused bodily injury, the classification is raised from a class B to a class A misdemeanor.

TITLE 76 / CHAPTER 6—CRIMES AGAINST PROPERTY

Major categories of crimes against property include criminal mischief, burglary, criminal trespass, robbery, theft, and fraud.

Arson (76-6-102): A person is guilty of arson if, by means of fire or explosives, he unlawfully and intentionally damages any property with intention of defrauding an insurer, or the property of another.

Besides linking the suspect to the crime, the officer must establish the ownership of the property involved. If insurance fraud is involved, the officer should obtain copies of all related police reports, claim forms, statements, etc.

Criminal mischief (76-6-106): This crime is commonly known as vandalism. A person commits criminal mischief if he/she:

- Intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life.
- Recklessly causes or threatens a substantial interruption or impairment of any public utility service.
- Intentionally damages, defaces, or destroys the property of another.

The criminal charge will depend on the value of the damage, which the officer must establish through estimates, insurance payments, replacement costs, etc. The dollar value of the damage is identical to the theft statute in deciding the classification of the crime. Photographs are an appropriate form of evidence in many of these cases.

Burglary (76-6-202): A person is guilty of burglary if he/she enters or remains unlawfully in a building or any portion of a building with intent to commit a felony or theft, or to commit an assault on any person.

Vehicle burglary (76-6-204): A person is guilty of burglary of a vehicle if or she enters unlawfully in a vehicle with intent to commit a felony or theft.

Police must obtain evidence that the suspect **did not have permission** to be in the building or vehicle. The officer must prove that any part of the suspect's body entered the building or vehicle. The officer must also secure evidence of the intent to commit a felony, assault, theft, or one of the sexual or related crimes after entering the building. Otherwise, the crime is criminal trespass. If the officer can show that the building involved is a dwelling, then the penalty is increased from a third degree felony to a second degree felony. If a suspect successfully enters the building and removes property, the suspect can be charged with burglary and theft when apprehended.

Criminal trespass (76-6-206): A person is guilty of criminal trespass if he/she:

- Enters or remains unlawfully on property and intends to cause annoyance or injury to any person or damage to any property.
- Intends to commit any crime other than theft or a felony.
- Is reckless as to whether his/her presence will cause fear for the safety of another.

- Knowing his entry or presence is unlawful, enters or remains on property as to which notice against entering is given by:
 - Personal communication to the suspect by the owner or someone with apparent authority to act for the owner.
 - Fencing or other enclosure obviously designed to exclude intruders.
 - Posting of signs reasonably likely to come to the attention of intruders.

If any of the last three situations exist, evidence of the communication of the owner or the owner's agents should be obtained, and the location and description of signs and other warning devices should be made. Photographs would be appropriate evidence.

Robbery (76-6-301): Robbery is the unlawful and intentional taking of personal property in the possession of another, from his person or immediate presence, against his will, accomplished by means of force or fear.

The officer must prove that the suspect did not have a lawful right to the object(s) taken. The officer need not prove ownership, however—simply that the victim was in possession of the object(s). The officer must secure evidence that property possession was actually accomplished by the suspect, against the victim's will. Most importantly, the officer must be able to establish that force or fear was used, either by evidencing the use of weapons or the creation of fear through physical intimidation, threats, etc. (Note: A weapon is not needed, if threats or fear are used.)

Theft (76-6-404): A person commits theft if he/she obtains or exercises unauthorized control over the property of another with intent to deprive him or her thereof.

The officer must secure evidence of the value of the property taken through receipts, market value, replacement cost, etc. The value will determine the classification of the crime. Unauthorized control may be proven by the officer through evidence of outright taking, failing to return property as required, embezzlement, disposal of property authorization, etc.

Proving the intent to deprive the owner of his property can be done by producing evidence that the suspect did not intend to return the property, such as hiding it, demanding payment for its return, or sale of the property so that the owner is unlikely to recover it.

Victims and merchants can also sue in civil court for three times the amount stolen, court costs, and attorney's fees, regardless of whether the property was recovered or not. A third conviction for misdemeanor theft can be enhanced to a third degree felony.

TITLE 76 / CHAPTER 7—OFFENSES AGAINST THE FAMILY

Major categories include marital violations, bigamy, incest, adultery, non-support (failure to pay child support) the sale of children, and abortion.

TITLE 76 / CHAPTER 8—OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT

Major categories include corrupt practices, abuse of office, obstructing governmental operations, offenses against public property, falsification in official matters, abuse of process, colleges and universities, syndicalism, sabotage, and habitual criminals.

Interfering with an arrest (76-8-305): A person is guilty of a class B misdemeanor if he/she has knowledge, or by the exercise of reasonable care should have knowledge, that a peace officer is

seeking to effect a lawful arrest or detention of himself or another, and interferes with such arrest or detention by the use of force or by the use of any weapon.

Obstructing justice (76-8-306): A person is guilty of an offense if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he/she:

- Knowingly conceals the commission of an offense from a magistrate.
- Harbors or conceals the offender.
- Provides the offender with a weapon, transportation, disguise, or other means for avoiding discovery or apprehension.
- Warns the offender of impending discovery or apprehension.
- Conceals, destroys, or alters any physical evidence that might aid the discovery, apprehension, or conviction of the offender.
- Obstructs, by force, intimidation, or deception, anyone from performing an act that might aid in the discovery, apprehension, prosecution, or conviction of the offender.

Obstructing justice is a class B misdemeanors unless the actor knows that the offender has committed a capital offense or a felony of the first degree; then it is a felony of the second degree.

Escape (76-8-309): A person is guilty of escape if he/she leaves official custody without authorization. Aggravated escape is a first degree felony, escape from a state prison is a second degree felony, and all other escape is a third degree felony. “Official custody” means arrest with or without a warrant; confinement in a state prison, jail, a secure institution for confinement of juvenile offenders; or other confinement pursuant to an order of the court.

False report of a crime (76-8-506): A person is guilty of a class B misdemeanor if he/she:

- Knowingly gives or causes to be given false information to any police officer with the purpose of inducing the officer to believe that another has committed an offense.
- Knowingly gives or causes to be given to any peace officer information concerning the commission of an offense, knowing that the offense did not occur, or knowing that he/she has no information relating to the offense or danger.

Giving false personal information to a peace officer (76-8-507): A person commits a class C misdemeanor if, with intent of misleading a peace officer as to his identity, birthdate, or place of residence, he/she knowingly gives a false name, birthdate, or address to a peace officer in the lawful discharge of his/her official duties.

TITLE 76 / CHAPTER 9—OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Major categories include breaches of the peace, telephone abuse, cruelty to animals, offenses against privacy, libel and slander, and offenses against the flag.

Disorderly conduct (76-9-102): A person is guilty of disorderly conduct if he/she:

- Refuses to comply with the lawful order of the police to move from a public place.
- Knowingly creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

- Engages in fighting or in violent, tumultuous, or threatening behavior intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof.
- Makes unreasonable noises in a public place.
- Makes unreasonable noise in a private place that can be heard in a public place.

For the purpose of this section, “Public place,” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and common areas of schools, hospitals, apartments, office buildings, transport facilities, and shops. Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist; otherwise it is an infraction.

Electronic communication harassment (76-9-201): A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if, with intent to annoy, offend, abuse, threaten, harass, frighten or disrupt the electronic communication of another, the person:

- Makes repeated contact by means of electronic communication, whether or not a conversation ensues, or after having been told not to contact.
- Makes contact by electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response.
- Makes electronic communication and uses any lewd or profane language or suggests any lewd or lascivious act.
- Makes electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person.
- Electronic communication harassment is a class B misdemeanor unless committed against a minor; then, it is a class A if committed by another minor against a minor, or a third degree felony if committed by and adult against a minor.

Intoxication (76-9-701): A person is guilty of intoxication if he/she is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors to a degree that the person may endanger himself or herself or another in a public place, or in a private place where he/she unreasonably disturbs other persons.

A peace officer or a magistrate may release from custody an individual arrested under this section if he/she believes imprisonment is unnecessary for the protection of the individual or another; or a peace officer may take the arrested person to a detoxification center or other special facility. Intoxication is a class C misdemeanor.

Lewdness (76-9-702): A person is guilty of lewdness if the person exposes his/her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area; masturbates; or engages in sexual intercourse in a public place, under circumstances which the person should know will likely cause affront or alarm to another. Lewdness is a class B misdemeanor.

Sexual battery (76-9-702.2): A person is guilty of sexual battery if the person intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor’s conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the person touched. Sexual battery is a class A misdemeanor.

Public urination (76-9-702.3): A person is guilty of public urination if the person urinates or defecates in a public place, other than a public rest room, under circumstances which the person should know will likely cause affront of alarm to another. Public urination is a class C misdemeanor.

TITLE 76 / CHAPTER 10—OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE, AND MORALS

Included in this chapter are laws that deal with cigarettes, tobacco, public water explosives, weapons, firearms, gambling, pornographic and harmful materials, littering and prostitution.

Definition of a firearm (76-10-501(9)(a): “Firearm” means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

When a weapon is deemed loaded (76-10-502): Any pistol, revolver, shotgun, rifle or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position, and the unexpended cartridge, shell, or projectile is in such a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell or projectile to be fired.

Restrictions on possession of a firearm (76-10-503): Any person who is not a citizen of the United States, or any person who has been convicted of any crime of violence under the laws of the United States, the State of Utah, or any other state government or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent, shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class A misdemeanor, and if the dangerous weapon is a firearm or sawed-off shotgun, he or shall be guilty of a felony of the third degree.

Possession of a dangerous weapon by a minor (76-10-509): A minor under eighteen years of age may not possess a dangerous weapon **unless he/she has the permission of his parent or guardian** to have the weapon, **or is accompanied by parent or guardian** while he/she has the weapon in his/her possession. Any minor under 14 years of age in possession of a dangerous weapon shall be accompanied by a responsible adult. A first violation is a class B misdemeanor; any subsequent violation is a class A misdemeanor.

Carrying a loaded firearm in a vehicle or on the street (76-10-505): Unless otherwise authorized by law (i.e., a peace officer or a valid concealed carry permit holder), a person may not carry a loaded firearm in or on a vehicle (unless he/she is the owner of the vehicle or has the vehicle owner’s permission to carry the loaded firearm, and is not restricted by law) on any public street, or in a posted prohibited area. A person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle. Violation of this section is a class B misdemeanor.

Threatening with or using a dangerous weapon in a fight or quarrel (76-10-506): Any person who, not in necessary self-defense and in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner, or unlawfully uses the same in any fight or quarrel, is guilty of a class A misdemeanor.

CONTROLLED SUBSTANCES

Possession of a controlled substance (58-37-8(2)(a)(i)): It is unlawful for any person to knowingly and intentionally possess or use a controlled substance. (The penalty varies by type and quantity of the controlled substance). There are enhancements for distribution (i.e., drug dealing).

ALCOHOL-RELATED OFFENSES

Unlawful purchase, possession, or consumption by a minor (32B-4-409): It is unlawful for any person under the age of 21 years to purchase, attempt to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or product. It is also unlawful for any person under the age of 21 to misrepresent his/her age, or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor.

When a person who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, the provisions regarding the suspension of the driver's license apply to the violation.

Liability for injuries resulting from distribution of alcohol beverages (32B-15-201): A person is liable for any resulting injuries if the person directly gives, sells, or otherwise provides an alcohol beverage, and those actions cause the intoxication of any individual under the age of 21 years; also, any individual who is apparently under the influence of intoxicating alcoholic beverages or drugs is liable for an injury in person, property, or means of support to any third person, or the heir of that third person or for the death of the third person.

LOCAL LAWS AND ORDINANCES

In addition to federal laws and state laws, there are also laws written at the local level by various cities and counties through mayors, councils, and commissions which dictate how the local governments will be run. Examples of a county ordinance is given below:

Unlawful acts about schools, colleges, or universities (Salt Lake County Ordinance 10.32.010): It is unlawful for any person to annoy, disturb or otherwise prevent the orderly conduct of the activities, administration or classes of any school, college or university.

It is unlawful for any person to annoy, disturb, assault or molest any student or employee of any school, college or university while in or on such school, college, or university building, or on the grounds thereof.

It is unlawful for any person to loiter, idle, wander, stroll, or play in, about or on any school, college or university grounds, or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout, or in connection with such school, college or university, or the employees thereof.

It is unlawful for any person to conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in, about or on any school, college or university building or grounds.

It is unlawful for any person to park or move a vehicle in the immediate vicinity of or on the grounds of any school, college or university for the purpose of annoying or molesting the students or employees thereof; or in an effort to induce, entice or invite students or employees into or on the vehicle for immoral purposes.

16-year-old curfew (Salt Lake County Ordinance 10.60): It is unlawful for any minor under the age of sixteen years to remain or loiter upon any of the sidewalks, streets, alleys or public places in the county between the hours of eleven p.m. and five a.m. the following morning.

18-year-old curfew (Salt Lake County Ordinance 10.60): It is unlawful for any minor under the age of eighteen years to remain or loiter upon any of the sidewalks, streets, alleys or public places in the county between the hours of one a.m. and five a.m.

EXPUNGEMENT

Expungement is the sealing of a court record, including records of the investigation, arrest, detention, or conviction of the petitioner. Expungement can be utilized for both adult and juvenile records. The petitioner must be 18 or older.

A person convicted of a crime can petition the court for expungement of the record of conviction. The court requires a certificate of eligibility. If the courts find the petitioner is eligible for relief, no filing fees or other fees will be assessed. A petition must be filed for each conviction that the petitioner wishes to have expunged. Any victims of the petitioner must be notified, can submit a written request for notice of expungement, and may address the court on the issue.

Type of Offense	Expungement May Be Considered After:
Capital felony	No expungement
First or second degree felony/any sex act against a minor	No Expungement
Third degree felony	7 years
Alcohol-related traffic offenses	6 years
Class A misdemeanor	5 years
Class B or C misdemeanors and infractions	3 or 4 years
Multiple misdemeanor offenses	12 years

VCAE Expungement Requirements, 77-40-105, refer to the Utah State Legislature for more information, Appendix C.

The time period listed does not begin until all confinement and probation has been completed. If the petitioner has previously had his/her record expunged and is then convicted of another offense, he cannot have his record expunged again. If a proceeding involving a crime is being initiated by any jurisdiction, the petition will be denied. If the petitioner has been convicted of two or more felonies, regardless of the jurisdiction, the petition will be denied.



VERSION 2016

THE CRIMINAL JUSTICE SYSTEM

CHAPTER 5

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER FIVE: THE CRIMINAL JUSTICE SYSTEM

COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM

When someone talks about the criminal justice system, the first people who come to mind are usually law enforcement officers. More thought will suggest lawyers, judges, prison guards, and possibly others. But the criminal justice system is far larger than even these participants. It is composed of three distinct components: police, courts, and corrections. In 2007, the various governmental bodies in the U.S. spent \$228 billion to finance criminal justice activities—\$37 billion at the federal level, and \$191 billion at the state and local levels.

Under the concept of separation of powers, responsibility for the administration of justice is divided among the three branches of the government, which are the executive, legislative, and judicial. Laws are enacted or created by the legislative branch of government, which is composed of the U.S. Congress, state legislatures, and county and city governments. Laws are then enforced by various law enforcement agencies, which are part of the executive branch of government. The executive branch is also responsible for the corrections system, which must deal with those persons who have been found guilty of the crime. The role of the judicial branch, composed of the various courts, is to determine the guilt of, and appropriate punishment for, individuals who have been charged with a violation of the law. The judicial branch is also given the responsibility for verifying the constitutionality of the laws enacted by the legislative branch.

CRIME

We have previously examined the number of crimes committed each year in the United States. The odds that an individual will be the victim of a crime depend on factors such as age, race, occupation, nature of employment, activities, and location of work and residence.

Think for a moment as you answer the following questions:

1. Have you been the victim of any crime in the past year?
2. Has a relative been the victim of a crime in the past year?
3. Do you know of a friend, neighbor, or relative who has been burglarized in the past year?
4. Do you think people in general have changed their activities in the past few years because they are afraid of crime?

When the last question was asked of over 15 million individuals, 87% said that yes, they had changed their activities due to their fear of crime. Here is a list of some changes:

1. Added or improved locks in home.
2. Had neighbors check house while on vacation.
3. Avoided certain areas of town.
4. Had parents tell them not to associate with certain individuals.

5. Had a neighborhood watch program set up in their neighborhood.
6. Attended a speech on crime prevention, rape prevention, etc.
7. Engraved social security number or driver's license number or valuables.
8. Started checking whether car doors were locked.
9. Carried less money in purse or wallet.
10. Stopped leaving valuables in school locker.

The obvious way to reduce costs within the criminal justice system is to reduce crime. Of course, only the crimes reported to police or other law enforcement agencies are processed by the criminal justice system. In the past, law enforcement has shouldered most of the responsibility for the security of the public. However, two trends are changing this picture significantly.

First, public concern over the increase in crime has caused increased citizen participation in crime prevention. Such activities include neighborhood watch programs designed to have each neighbor look for and report suspicious activities in the neighborhood. Other neighborhood groups, particularly in urban areas, have initiated civilian patrols armed with cell phones, and other organizations sponsor fundraising activities in order to purchase equipment for police departments. While areas using such programs often show a decline in property crimes, unless the program covers a large enough area, criminals may simply move or be displaced to other, less resistant locations.

The second trend is the rapidly growing private security sector, which protects businesses, homes, and people. Private security activities include private investigators, armored car services, alarm companies, couriers, bodyguards, private security guards, and polygraph services. The primary functions of the private security sector include investigation of crimes against businesses; protection of goods, employees, and trade secrets; recovering lost or stolen property; investigation of fraud and false insurance claims; and risk reduction by investigating the credit ratings of individuals. All of these activities in the private sector provide numerous job opportunities for interested applicants, with job requirements ranging from minimal qualifications to highly specialized skills and educational attainment. Most of these activities are regulated or controlled by government, as in the state of Utah. In 1979, the Security Licensing Act was passed, requiring training of private security employees, to regulate the private security business. Expenses accrued by a business for private security are passed on to the consumer through higher prices. When losses due to theft, security devices, employee training, and the cost of security guards are totaled, they often represents three to five percent of each consumer dollar spent.

COURTS

Courts have the responsibility of deciding what the law means, whether the law has been violated, and what should be done with those who violate it. A court must act impartially, without favor or bias to either side. Justice requires that society can demand that people obey the law, but the rights of the accused must also be protected by the courts. Any decisions regarding punishment after guilt has been established must not only involve the likely effects on the criminal, but also on victims, relatives, and society in general. The court system is designed to remove these types of decisions from the influence of public opinion, bias, and extreme emotion.

Utah's courts are classified as limited, general, or appellate courts. A limited court is only allowed to hear specific classifications of criminal cases. A Justice Court can only hear criminal cases that are classified as a class B misdemeanor or below. Utah's limited courts are the justice and juvenile courts. Utah's general court, District Court, can hear all criminal cases. These courts are all trial courts, which are courts of original jurisdiction.

The decision or *judgment* of these trial courts can be appealed to a higher court. An appellate court is a court that will only hear cases on appeal from a lower court. An appeal can be submitted by either side, prosecution or defense, if it is felt that there has been an error in the proceedings. The appellate court will then determine whether the trial court was fair and impartial. The appellate courts in the state of Utah are the Court of Appeals and the Supreme Court. State cases can only be appealed to the federal system when there are federal constitutional issues raised. Other questions relating to an appeal must go through the Utah appellate court system.

Before a trial can be held, the judge must ensure that the court has jurisdiction to hear the case. The question of jurisdiction is based on geographic area as well as the type of crime that was committed. *Original jurisdiction* refers to the court in which the trial will be first heard. *Exclusive jurisdiction* signifies that there is only one type of court in which the trial can be initiated. For example, felony involving an adult cannot be heard in a Justice Court. Therefore, the District Court in this instance would be the only court in which the trial could be held. *Concurrent jurisdiction* means that two or more types of courts can hear a specific case. A juvenile cited for a traffic violation could be tried in juvenile court or Justice Court.

Federal courts try cases that involve a violation of federal law, cases where the United States is a party, cases in which citizens of different states are parties, or cases involving ships at sea. Special federal courts exist to deal with certain kinds of cases, such as lawsuits against the government, federal taxes, and patent cases. The federal court system includes magistrates, 89 Federal District Courts, 13 Federal Circuit Courts of Appeals, and the U.S. Supreme Court. The highest court in the land is the U.S. Supreme Court, which is composed of nine justices. Their decisions are the final word on a point of law and must be obeyed by all other courts. Not all petitioners can have a case heard before the Supreme Court, because the Court receives so many petitions. Because of the number of requests made to the Court, normally the Supreme Court chooses to hear cases which will significantly affect many people or resolve important constitutional issues.

JUDGE SELECTION AND RETENTION

A judge is a public servant holding an office of high public trust, and so should answer to the public. However, the obligation of a judge is to resolve disputes impartially and to base decisions solely upon the facts of the case and the law as written. Therefore, judges tend to be insulated from public pressure to ensure that they can remain unbiased and neutral in all of the decisions that must be made.

Merit selection of judges in Utah was developed in 1985 as an alternative to requiring judges to run in contested elections. There are four steps in the Utah merit selection plan: nomination, appointment, confirmation and a retention election. The nomination of judges is by a committee of lawyers and non-lawyers selected by the governor. The Judicial Nominating Commission nominates between three and five of the best qualified candidates from among all applicants. The governor reviews and appoints one of the nominees. The name of the nominee is submitted to the Utah State Senate, which must then confirm the nomination. Justice Court judges are the exception. They are appointed by local county commissions or city councils and mayors. All judges except Justice Court judges must be graduates of law school and members of the Utah State Bar. They must retire at 70, and can be removed from office by impeachment, a two-thirds vote of the Legislature, upon

recommendation of the Judicial Qualification Commission, or by a retention election vote by the citizens of Utah.

Under the Utah Constitution, judges must stand for retention election at the end of each term of office. The term of office for Justice Court judges is four years, while the term of office for District Court judges is six years. Judges for the Court of Appeals also have a renewable six-year term, while the Supreme Court justices have a ten-year renewable term. When a judge is listed on the ballot, the public has the opportunity to vote on whether or not to retain the judge for another term. Before a judge stands for retention election, he/she is evaluated by the Judicial Council. The Utah Judicial Council is established by the Utah Constitution as the policymaking body for the judicial branch of government. It is required by its own rules and by statute to evaluate the performance of all judges. As a result of the evaluation, the Judicial Council certifies whether the judge is qualified for retention election. The results of the individual evaluations are published in a voter information pamphlet printed by the lieutenant governor of Utah.

A frequent concern of judges is the pay. Although it is adequate in comparison to other members of the criminal justice system, most lawyers can earn far more in private practice than they would as judges. It is often argued that raising the salaries of our judges will thus increase the quality of justice by encouraging the best lawyers to become judges.

The biggest problem facing the courts today is an excessive workload. Although the U.S. Constitution guarantees a speedy trial, occasionally a defendant may wait months before he/she appears in court. This affects the quality of justice as well, for the need to clear up a case backlog may take priority over protecting the rights of society. Many times, however, a case may be delayed due to a continuance requested by the attorneys involved in the trial.

APPELLATE COURTS

UTAH SUPREME COURT

The Supreme Court is the court of last resort in Utah. The court is composed of five justices who serve ten-year renewable terms. The justices elect a chief justice by majority vote who serves for four years, and an associate chief justice, who serves for two years. The Supreme Court has original jurisdiction to answer questions of state law certified from Federal Courts and to issue extraordinary writs. The court has appellate jurisdiction to hear first degree and capital felony convictions from the district court and civil judgments other than domestic or divorce cases. It also reviews formal administrative proceedings of other state agencies such as the Public Service Commission, Tax Commission, School and Institutional Trust Lands Board of Trustees, etc. It has jurisdiction over judgments of the Court of Appeals by writ of certiorari, proceedings of the Judicial Conduct Commission, and both constitutional and election questions.

The Supreme Court adopts rules of civil and criminal procedure and rules of evidence for use in the state lower courts, as well as managing the appellate process. The court also governs the practice of law, including admission to the Utah State Bar and the conduct and discipline of the state's practicing attorneys. The court conducts sessions regularly at the Matheson Courthouse in Salt Lake City.

UTAH COURT OF APPEALS

The Utah Court of Appeals, created in 1987, consists of seven judges who serve six-year renewable terms. A presiding judge is elected by majority vote to serve for two years. The jurisdiction of the Appeals Court is complementary to that of the Supreme Court. The Court of Appeals hears all appeals from the Juvenile and District Courts, except those from the small claims department of a District Court. It determines appeals from District Court involving domestic relations cases, including divorce, annulment, property division, child custody, support, visitation, adoption and paternity, and criminal matters of less than a first degree or capital felony. It also has jurisdiction to hear cases transferred to it by the Supreme Court.

Court of Appeals sessions usually are conducted in Salt Lake City, but the court travels several times per year, holding court in different geographical regions of the state. The court sits and renders judgment in rotating panels of three judges. It is prohibited by statute from sitting *en banc*. The panels hear oral arguments in cases during the third and fourth weeks of each month.

TRIAL COURTS

DISTRICT COURT

District Court is the general jurisdiction trial court. There are currently 71 full-time district judges serving in the state's eight judicial districts. A District Court has original jurisdiction to try civil cases, all criminal felonies, and misdemeanors in certain circumstances. Another important part of the District Court caseload is domestic relations cases such as divorce, child custody and support, adoption, and probate. District judges have the power to issue an extraordinary writ, which is a writ of special assistance. The court additionally serves as an appellate court to review various informal adjudicative proceedings from administrative agencies. District Court is defined as a *court of record*, meaning that there is a court reporter or an electronic recording device used to maintain a verbatim record of all court proceedings. All courts in Utah other than the Justice Court serve as courts of record. Some courts also use videotape to document all action that occurs in a courtroom, which is the case at the Matheson Courthouse in Salt Lake City.

In more populous districts, court commissioners have been appointed to assist the district judges by conducting pretrial hearings, pursuing settlements, and making recommendations to the judges in domestic relations cases. Commissioners can also accept pleas in misdemeanor cases and, with the consent of the parties, conduct misdemeanor trials. If a party disagrees with the court commissioner's recommendation, a rehearing may be requested before a judge. Court referees have also been appointed to assist in the resolution of traffic cases.

Other than those involving a criminal conviction of a first degree or capital felony, criminal appeals from the District Court are heard in the Court of Appeals. These appeals go directly to and are heard by the Supreme Court. All civil appeals from the District Court are heard in the Supreme Court, except for domestic relations cases, which are heard in the Court of Appeals.

Small Claims Court

The District Courts have a small claims department, which covers disputes under \$5,000. A District Court judge may hear small claims cases, but in some areas of the state, the Supreme Court will appoint a lawyer as a judge *pro tempore* to hear the cases. In areas where a judge *pro tempore* has not been assigned, the district judge may transfer the case to a Justice Court.

Any individual or business may use Small Claims Court. Most litigants appear without an attorney, although an attorney may represent someone in small claims. However, attorneys are discouraged from involvement or attending court. Both the plaintiff and the defendant present the events, witnesses, and evidence that they feel is appropriate to support their claim. Each side has the right to cross examine the opposing side. Both the plaintiff and the defendant can appeal the court's judgment. Small Claims Court is not a court of record, and there is no verbatim record kept of the proceedings.

Drug Court

In 1996, the first Drug Court in Utah was established in the Third District Court in Salt Lake City. This court is designed as an alternative for nonviolent drug offenders, and provides intensive drug treatment and monitoring as opposed to traditional sentencing and incarceration. Drug Court participants are required to meet with the judge weekly to report the results of systematic drug testing and treatment progress. Participants who fail to make their court appearances or complete the requisite drug testing are dropped from the program and transferred to the regular District Court calendar.

During 1997, the Third District's Drug Court began to see the fruits of its labor with the first graduates of the program. According to the U.S. Department of Justice, the recidivism rate of drug offenders sent to prison can be more than 60 percent. However, the recidivism rate among Drug Court participants ranges currently from five to 28 percent. Third District Juvenile Court also operates a Drug Court specifically for first-time juvenile drug offenders.

Domestic Violence Court (Under District Court)

In 2009, Utah courts handled approximately 14,919 domestic violence cases. The number of domestic violence cases is high, and the damage it causes is serious. Studies have shown that domestic violence left untreated in one generation will often appear in the next generation. To address both the volume of calendared cases and the damage inflicted by domestic violence, a court designed to focus specifically on domestic violence cases was launched as a pilot project in 1997.

Domestic Violence Court provides a unified approach to domestic violence cases. Once a plea of guilty is entered or the defendant is found guilty by the court, a perpetrator is given a choice between treatment intervention and incarceration. If intervention is chosen by the defendant, the court then orders the perpetrator to actively participate in, pay for, and complete treatment during the specific probationary period. Perpetrators are monitored during this probationary period through monthly reports that are submitted to the court. These reports remind the perpetrator of his/her accountability and allow the court to indirectly monitor the treatment process.

JUSTICE COURT

A Justice Court is a limited court that can be established by a county or municipality and has the authority to deal with class B and class C misdemeanors, infractions, county or city ordinance violations, and any small claims committed within their territorial jurisdiction where the claim is \$5,000 or less. Many Justice Courts may also perform marriages. The geographical jurisdiction of a Justice Court is determined by the boundaries of local government entities such as cities and counties.

Justice Court judges are normally appointed by a county commission or council or by a city council or mayor, and stand for retention election every four years. Some judges serve as both the

county and the municipal judge in rural areas. They may hear cases every day, or may set limited court hours each week, depending upon their specific caseload within the jurisdiction.

Unlike all other judges in the State of Utah, a Justice Court judge is not required to have graduated from law school. However, by state law, he/she must receive extensive and continuing legal training in order to serve as a Justice Court judge. All Justice Court judges must attend 30 hours of continuing judicial education each year to remain certified. Currently, 128 Justice Court judges serve in 147 county and municipal courts.

The Justice Court shares concurrent jurisdiction with the Juvenile Court involving minors 16 or 17 years of age who are charged with certain traffic offenses. Automobile homicide, alcohol- or drug-related traffic offenses, reckless driving, fleeing an officer, and driving on a suspended license are exceptions. Those charges are only handled through Juvenile Court.

Jury trials in Justice Court consist of four jurors. A city attorney will prosecute municipal and state law violations in a municipal justice court. A county or district attorney will prosecute violations of county ordinances and state law in a county court. Defendants often appear without an attorney in Justice Courts. Any person not satisfied with a judgment rendered in a Justice Court is entitled to a new trial in District Court. A Justice Court is not a court of record and does not keep a verbatim record of court proceedings, but written records of case outcomes are maintained.

JUVENILE COURT

Juvenile Court is also a component of the Utah State Court system. Juvenile laws and the courts will be discussed in Chapter 8.

PRE-TRIAL PROCESSING

For many years it was deemed appropriate for any person accused of a crime to be placed in jail. This process, known as booking, includes identification of the arrestee, a search to ensure jail security, fingerprinting, and the taking of a picture or mugshot for law enforcement purposes. But after many hundreds of years, society has come to the realization that serious problems result from the practice of keeping people in jail until they can be tried. Of utmost concern is that the jailed individual may, in fact, be found not guilty after a lengthy jail stay. This would unfairly punish an innocent citizen. Other concerns include the following:

- the cost to the taxpayer
- the inability of the jailed person to provide for his/her family
- the costs of consulting with a lawyer, arranging for a defense, etc.
- the loss of employment, reputation, etc.
- jail overcrowding

These concerns resulted in a constitutional right to bail in the United States. Arrested persons are allowed to post bail in order to get out of jail until the time of the trial. Bail is money or property posted with the court as a promise that the defendant will show up for trial. The actual amount of bail required is determined by a judge, and depends on the seriousness of the crime and the likelihood of the defendant's appearance. This decision is based on such things as the strength of community ties, such as family, employment, and whether the defendant has a prior criminal record.

The major purpose of bail is to ensure court appearance of a defendant while allowing a defendant to remain free until trial. Government employees could defeat the purpose of bail if they were allowed to set bail at any level they wanted. To protect against such practices, the Eighth Amendment to the U.S. Constitution states that “excessive bail shall not be required.”

The Supreme Court, in *Stack v. Boyle* stated that “This traditional right to freedom before conviction permits the defendant preparation of a defense, and serves to prevent the infliction of punishment prior to conviction... Bail set at a figure higher than amount reasonably calculated to fulfill this purpose is ‘excessive.’”

If you were arrested right now, how much bail could you come up with?

Money in your pockets, purse, or wallet \$ _____

Money in savings accounts, etc. \$ _____

Money that relatives would be willing to put up for you \$ _____

Money that friends would be willing to put up for you \$ _____

If the defendant appears in court as required, then bail is returned. If not, the bail is forfeited and used to help pay the cost of locating and bringing the defendant to court. Bail is available for almost all crimes except for a crime where execution is a possible sentence. It is felt that no amount of bail would be sufficient to ensure a court appearance by a guilty defendant on such a charge. However, bail may be set in capital cases at the judge’s discretion.

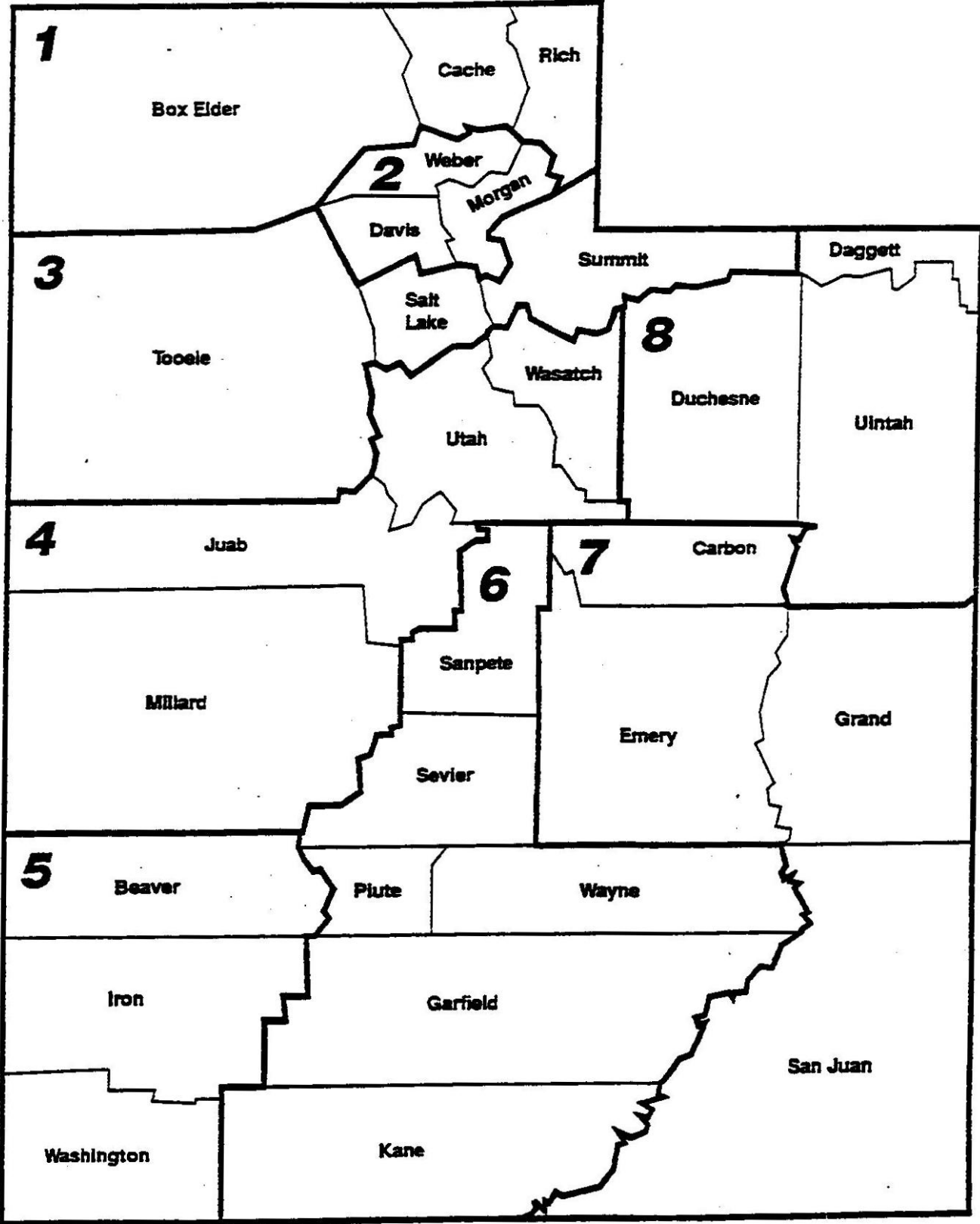
There are two basic methods for posting bail. First, the individual can use his/her own money or that of relatives, friends, or associates willing to believe the defendant will appear in court. When the defendant appears in court, the bail amount is released to the defendant. If the defendant does not appear in court, the bail is forfeited to the court.

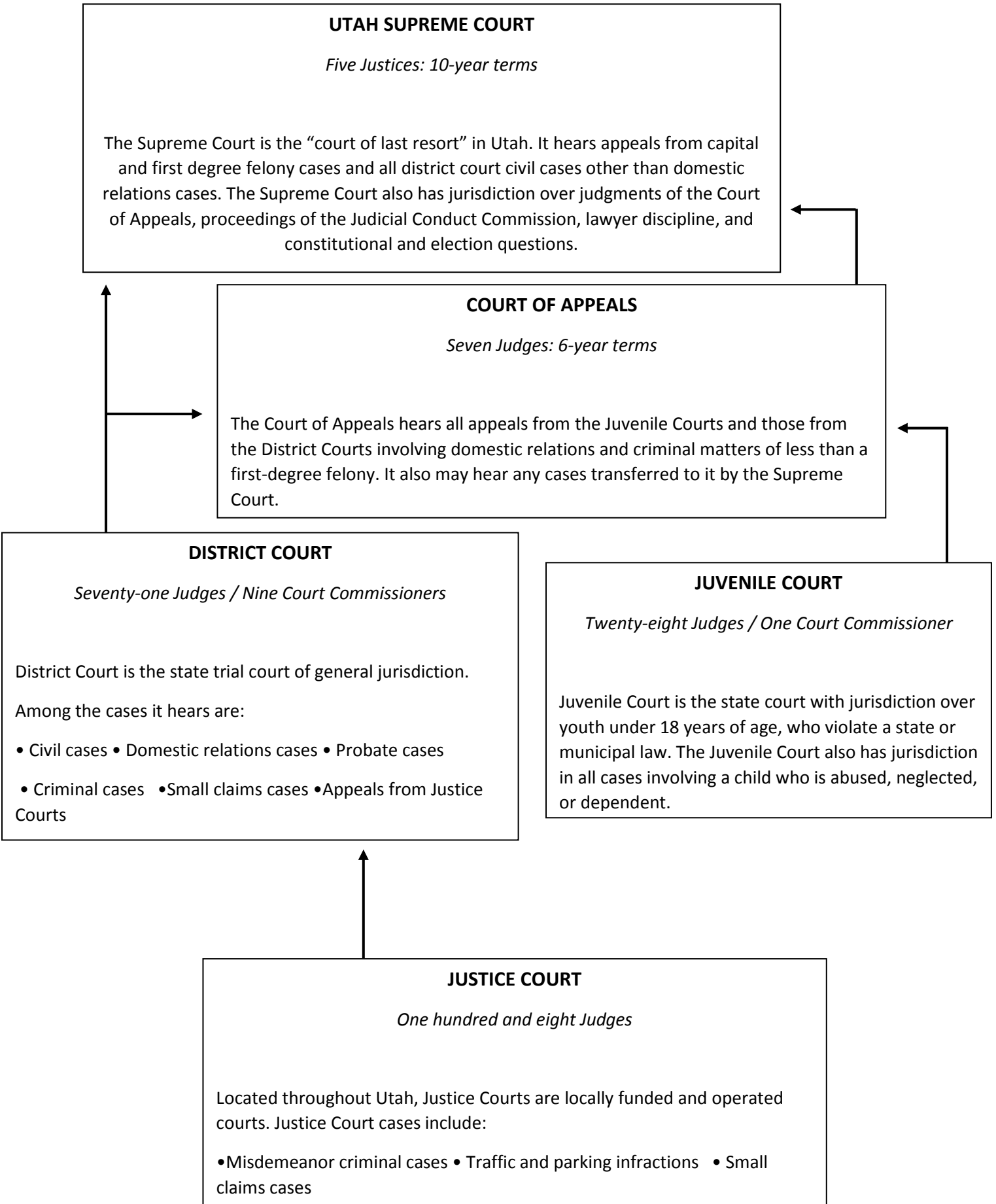
The other method involves the utilization of a bail bondsman. The bail bondsman may be used for convenience, or become the defendant may not be able to pay the full amount of the bail. The fee for the bondsman to post bail for the defendant is 10 percent. If the defendant fails to appear, the bail bondsman forfeits his/her money. When the defendant appears in court as scheduled, the bail amount is returned to the bondsman. However, the defendant does not have his/her money returned because this is the cost of securing the bail bondsman’s service. If an individual fails to show for trial, the bail bondsman or his/her employees have the legal right to take the person into custody and return him or her to the court for trial.

In recent years, several alternatives have been developed in an effort to reform the traditional bail system. The most common alternative is called an own recognizance (O.R.) release. Such a pre-trial program uses a screening sheet to assess the defendant’s suitability for release. Those who are found to have sufficient community ties are released O.R. and are not required to post bail.

A defendant who does not qualify for an O.R. release may qualify for a supervised release (S.R.). Such as individual is placed under the supervision of a pre-trial service counselor who will monitor the case, ensuring that the court knows how to contact the defendant and that the defendant is aware of court times, locations, etc. The release agreement on the following page demonstrates some of the restrictions commonly placed on those released by pre-trial services.

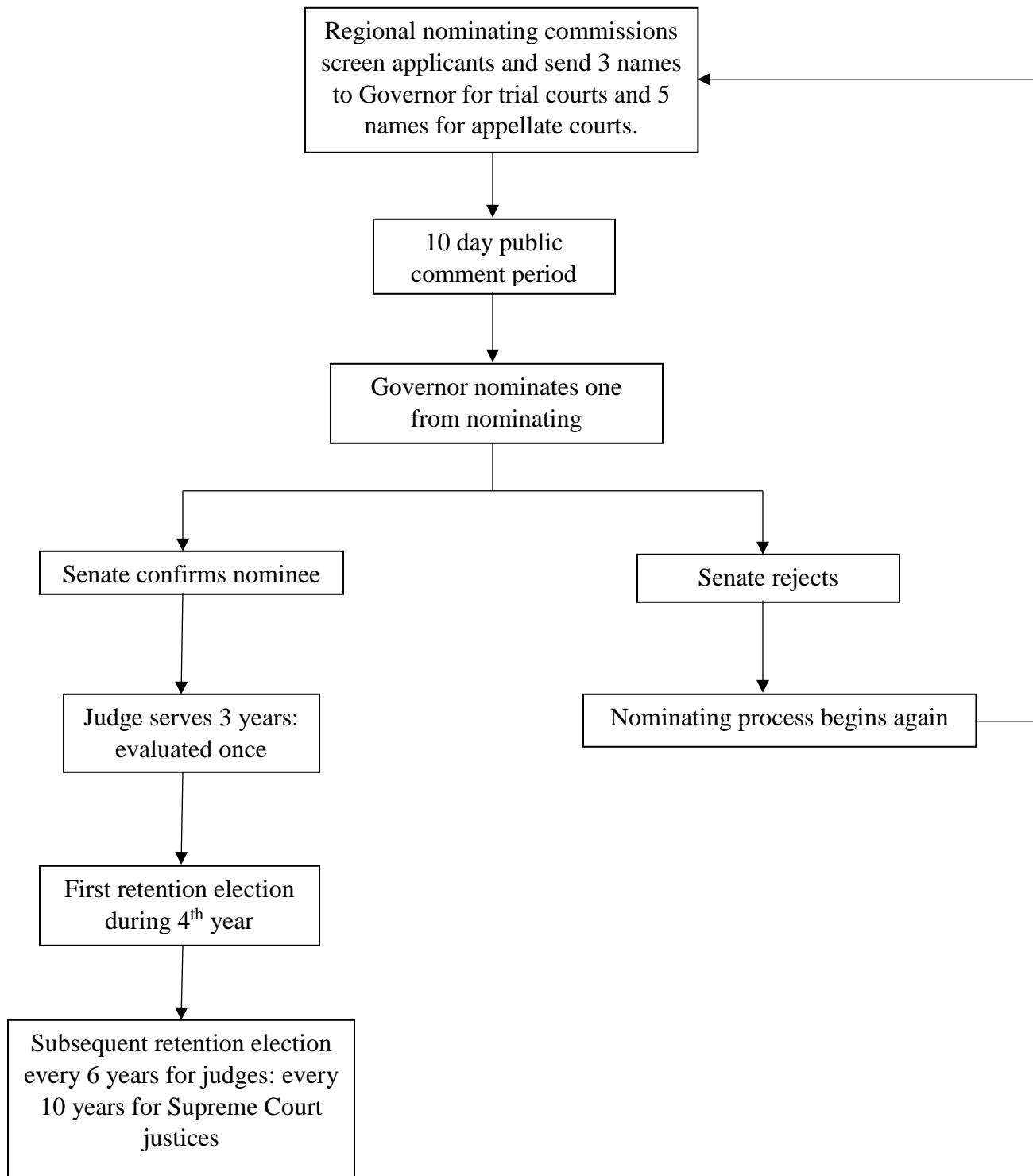
STATE OF UTAH JUDICIAL DISTRICTS





Appointment and Retention of Utah Judges

(Four courts of record only)



CITATION ARREST

Many law enforcement agencies allow officers to make misdemeanor *citation releases* as an alternative to the entire booking process. Much like the traffic ticket process, the defendant is given a citation that requires appearance before the assigned court within 14 days. A citation arrest is utilized for a minor crime, such as shoplifting or possession of alcohol by a minor. This can be an effective way of utilizing the time of a law enforcement officer as well as minimizing the costs to society and the individual. Rather than having to book a person into jail, the officer is able to issue a citation and release the individual, returning back to his/her assigned duties much more quickly. With clear policy guidelines and good officer judgment, the rate of appearance is very high, usually 95-96 percent. This is comparable to the rate of appearance for individuals who are booked into jail.

SUMMONS

Another alternative to booking an individual in jail is the summons process. After a judge has been presented with an information or complaint accusing a person of violating a specific law, the judge may decide that it is not necessary for the defendant to be booked into jail prior to trial. In such cases, a constable or a peace officer will officially serve the defendant with a summons requiring a court appearance at a certain time, date, and place. The summons process may be utilized in some felony cases. Failure to appear for trial as required by a summons is considered to be contempt of court and is punishable as a separate offense, without regard to the defendant's guilt or innocence on the original charge. In such cases, a bench warrant is issued that can result in a jail booking.

CORRECTIONS

At the end of 2009, there were more than 7.2 million adults in the United States under some form of federal, state, or local correctional supervision. There were 4,203,967 individuals on probation, 819,308 on parole, 1,613,740 in prison, and 760,400 sentenced to jail.

The corrections system nationwide involves the employment of many individuals and large expenditures of public funds. In 2007, over \$74 billion was spent on correctional activities. This includes salaries for over 755,236 employees. In Utah, the cost to the taxpayers was \$170,000,000, with 5,439 individuals employed. Correctional functions within our state are handled by such agencies as the Department of Corrections, the Board of Pardons and Parole, Adult Probation and Parole, the Department of Social Services, Sheriff's Office jail staffs, and juvenile probation units. In addition, there are private correctional facilities where juveniles can be placed voluntarily by parents.

CORRECTIONS HISTORY

Early man dealt with situations on his own when he felt wronged. Assuming that he was strong enough, he could inflict any punishment that he wished on another. Revenge was the goal, but it is easy to see how such punishment could get out of hand. One intent of the biblical Law of Moses, "an eye for an eye, and a tooth for a tooth," was to limit the amount of punishment that could be given to a lawbreaker, in the interests of justice.

In our western culture, as society organized under the feudal system of kings and nobles, communities stopped individuals from punishing criminals themselves. Instead, that responsibility was

taken over by rulers on behalf of the people. Of course, the powerful wanted laws protecting their interests, so many unfair laws were created to protect these individuals.

As governments took over punishment of the lawbreakers, the penalties remained harsh and criminals were frequently executed. Other common punishments included being burned at the stake, boiled in oil, the use of stocks and pillory, public whippings, and various forms of physical mutilation. Torture was common when questioning a suspect, which obviously led to many questionable admissions. Such severe penalties were believed to discourage others from committing the same crimes, a theory known as deterrence.

In England during the 1800s, over 300 crimes were punishable by death, and children as young as eight were executed. But in both England and the United States, there was increased public concern over the severity of such punishments. By the 1800s, prisons and jails were common in the United States as an alternative to other forms of physical punishment.

As the number of prisoners grew, community resources failed to keep up. A typical jail of the early 1800s was no more than a giant dormitory, with men, women, and children housed together. There was little concern for privacy, health, or age. Guards were not held responsible for their conduct or the misuse of prisoners. Some even made extra money on the side by operating jail liquor stores or through other profitable methods.

As a result of the influence of the Philadelphia Society for Alleviating the Miseries of Public Prisons, prisons began to adopt a goal, at least on paper, of reforming rather than punishing a prisoner. Many such jails and prisons were known as reformatories. Solitary confinement was one such suggestion for reforming or rehabilitation of a prisoner. It was believed that if a prisoner was locked in a small cell with a Bible, that he would be motivated to read it, learn its truths, and reform himself. Such confinement is now used in a limited fashion as a punishment due to court orders based on the belief that withdrawing prisoners from social contacts is psychologically damaging to the individual.

Community opinion later shifted to a belief that prisoners should be required to work while in jail or prison. First, it was felt that work would counter the evil of idleness, and secondly, it would help pay back the government for the cost of imprisoning them. Under the Pennsylvania Plan, each prisoner lived and worked silently in his own cell, without contact with other prisoners. Under the Auburn Plan, prisoners worked as a group, again under a strict rule of silence.

Prior to 1931, some states allowed prisoners to be legally leased. Companies, and even individuals, could lease prisoners to use in factories, for building roads, or housework. Prisoners had no choice in the matter, and their wages were given directly to the state, or sometimes to the warden as part of his salary. There were physical abuses, few concerns for prisoner safety, and many scandals. One can imagine the fairness of appearing before a judge who owned stock in a local factory that depended on prisoners as workers.

The official goal of corrections today is rehabilitation. The government attempts to provide programs and training that will solve the problems that led an individual to criminal activity, thus allowing him or her to return to the community as productive citizens. There are a variety of such programs to assist an individual with rehabilitation, three of which are probation, parole, and pre-release programs.

PROBATION

Probation is an alternative to being put in prison or jail. After conviction, a judge may decide that there is minimal risk to society that the likelihood of reform or rehabilitation is sufficient to allow the defendant to remain in the community. The judge therefore suspends the imposition of confinement and places the defendant under the control of a probation officer. For a designated period of time, the probationer must live according to a set of rules and report in to the probation officer regularly, and he/she is often required to participate in some type of treatment program. Failure to complete the list of requirements may result in the sentencing judge imposing the original sentence.

The rules of probation vary from state to state and among individuals being tracked. The following probation rules from the Federal Sentencing Guidelines are a good example of the types of conduct regulated by a probation officer:

- The defendant shall not leave the judicial district or other specified geographic area without the permission of the court or probation officer.
- The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- The defendant shall support his dependents and meet other family responsibilities.
- The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered, or other places specified by the court.
- The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- The defendant shall permit a probation officer to visit him at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

PAROLE

In Utah, parole of a convicted felon who has been sent to prison is handled by the Utah Board of Pardons and Parole. Parole is a system for releasing prisoners from custody before their prison term has been completed. Much like probation, the prisoner is required to abide by certain rules. Its members review each prisoner's file after the individual has become eligible for parole. If the Board feels that the individual has made satisfactory progress toward rehabilitation while in prison and would be able to succeed in the community, he/she may be paroled. The rules and procedures are much like those of probation, and many of the same officers are used for supervision of the parolees. As with probation, if the parolee fails to meet the parole requirements, he/she may be returned to prison to finish the original sentence.

PRE-RELEASE PROGRAMS

In order to start reintegrating inmates into the community, a number of pre-release programs are currently in use throughout the country. Most common is work-release, where jobs in the community are found for inmates. They work during the day and return to prison at night and on weekends. Similar programs are used to allow prisoners to go to school or on recreational outings. This also allows the inmate to have an income and to support his/her family.

Another program is the furlough, where a prisoner may visit home and family for a weekend or a longer period of time. This is particularly useful in keeping inmate families together. Some states allow conjugal visits, where inmates can spend time within the prison with his/her spouse in a completely private area.

A halfway house is another program to an inmate back into society. This could be a set of apartments or a house within the community. The inmates work, associate with neighbors, and participate in recreation with other community members, but return to the halfway house to sleep. The value of such a program must be weighed against the increased security risk and the possibility that participating inmates will commit crimes while involved in the program. However, it appears that when an inmate goes through a slower assimilation back into society prior to release, he/she stands a better chance of success.

INDETERMINATE SENTENCE

Given an official goal of rehabilitation, the practice of sentencing to a fixed term has been replaced by many states with what is known as an *indeterminate* or *unfixed sentence*. Under this system, the inmate is to be released when rehabilitation has occurred. In effect, the sentencing function is shifted from the courts to other government officials. Some critics of this type of sentence feel that it creates problems. The first is the elimination of what is known as *good time*. Under fixed-term sentencing, an inmate knows exactly how long his/her sentence will be. As an incentive to behave according to the rules of the facility, good time is given for good behavior. For example, an inmate may reduce his/her sentence by five days for every month of good behavior.

There is also a concern that the uncertainty of indeterminate sentencing can lead to certain psychological problems, such as severe depression and low morale. Perhaps of even greater concern is the wide discretion given to prison and other government officials in deciding when an individual is to be released. Individuals in very similar situations may be released years apart. Certainly, an indeterminate sentence can be abused by officials and used for a purpose other than that for which it was intended.

Suppose you were an inmate convicted of burglary and had been given a choice of five years in prison with good time of five days per month of good behavior, or an indeterminate sentence of up to 10 years, but with eligibility for release upon being found rehabilitated.

Which option would you choose?

How does one determine when an individual is rehabilitated?

DIVERSION

Some states, including Utah, have initiated a program known as *diversion*. This is much like probation except that it occurs before trial, at the discretion of the prosecutor, and with the approval of the court. Such a program must be entered into voluntarily by the person charged with a crime. If the diversion program is successfully completed, then no prosecution occurs, saving the defendant a possible conviction record and saving the government the cost of a trial.

There is no guarantee that individuals in a similar situation will be afforded equal access to diversion. It is possible that an arrestee who retains counsel is more likely to be placed in such a program. It is also possible that an innocent arrestee would participate in such a program in order to avoid the costs of trial, such as publicity, lawyers' fees, etc.

A diversion program can result in an increased use of community resources, which are paid for by taxpayers. It will be interesting to examine public opinion as diversion is utilized more frequently.

Do you feel the majority of the public will favor or oppose diversion? Why?

RECIDIVISM

Recidivism is the rate of return of paroled or released individuals back to prison. This could occur for several reasons. First, the individual may have committed another criminal act. Secondly, he/she may have violated one of the rules placed on him or her as a result of parole, causing his/her parole to be revoked. The key question regarding corrections' goal of rehabilitation is whether it works. Related questions are which programs work the best and what variables affect a prisoner's likelihood of rehabilitation or returning to criminal activity.

To answer these and other questions, recidivism rates are used. Such rates indicate what percentage of treated individuals return to prison. Examination of recidivism rates can assist criminologists and others to determine the success of various programs. However, there is no way to determine whether the reason a person has given up crime is due to a treatment program or to incarceration.

FORFEITURE

Forfeiture is government seizure of property derived from or used in criminal activity. Its use as a sanction aims to strip racketeers and drug traffickers of economic power gained through criminal activity. Forfeiture was devised as an additional penalty because the traditional sanctions of imprisonment and fines had been found inadequate to deter or punish enormously profitable crimes. Seizure of assets aims not only to reduce the profitability of illegal activity, but to curtail the financial ability of crime organizations to continue illegal operations. The two types of forfeiture are civil and criminal.

CIVIL FORFEITURE

Civil forfeiture is a proceeding involving property used in a criminal activity. Property subject to civil forfeiture often includes vehicles used to transport contraband, cash used in illegal transactions, equipment used to manufacture illegal drugs, and property purchased with the proceeds of the crime. No finding of criminal guilt is required in such proceedings. The government is required to post a notice of the proceedings so that any party who has an interest in the property may contest the forfeiture.

CRIMINAL FORFEITURE

Criminal forfeiture is a part of the criminal action taken against a defendant accused of racketeering or drug trafficking. The forfeiture is a sanction imposed upon conviction that requires the defendant to forfeit various property rights and interests related to the violation. In 1970, Congress revived this sanction, which had been dormant in American law since the American Revolution.

Originally, most forfeiture provisions were designed to cover the seizure of contraband, modes of transportation, or any other property utilized to facilitate distribution of such materials. Since the 1970s, the property that can be forfeited has been expanded to include assets, cash, securities, negotiable instruments, real property (including houses or other real estate), and proceeds traceable directly or indirectly to the violation of certain laws. Provisions permit seizure of conveyances such as airplanes, boats, and cars; raw materials, products, and equipment used in manufacturing, trafficking, or cultivation of illegal drugs; and drug paraphernalia.

The disposition of forfeited property is controlled by statute or, in some states, by the state constitution. In many cases, the seizing agency is permitted to place an asset in official use once it has been declared forfeit by the court. Such assets are usually cars, trucks, boats, or planes used during the crime or purchased with proceeds of the crime.



VERSION 2016

TRIALS

CHAPTER 6

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER SIX: TRIALS

COURTS

Our nation has a dual court system with two independent levels, state and federal courts. Federal courts hear cases where a violation of federal law has occurred, while the various state courts hear cases regarding violations of the state's laws. Thus, we have 52 different state courts but only one federal court system. Each state court has jurisdiction for its individual state, while the federal court has jurisdiction in all states. Each system consists of a general jurisdiction trial court, an appellate court, and individual supreme courts. The appellant and supreme courts are considered courts of review, in that they do not hear evidence but review the actions of the courts below them. The State Supreme Court is considered to be the highest court for that state. The U.S. Supreme Court is the court of last resort and has the definitive power to make the final decision on all cases they review. A very small percentage of cases are accepted to be reviewed by the U.S. Supreme Court. The U.S. Supreme Court also has a second power known as judicial review. This is a policymaking action where the Court can interpret the law and make decisions on whether an action is constitutional or not. The Court can also review the actions of other branches of the government to decide on the constitutionality of actions.

Each state has two courts where trials occur. The first is the trial court, known as the district court, which is the fact-finding body for all crimes committed within its jurisdiction; it focuses mainly on felony-level cases within its geographical area. An important part of the Utah district courts' caseloads is domestic relations. These are cases that deal with divorces, child custody and support, adoption, and probate matters.

The second state court is known as a court of limited jurisdiction. It has a geographical boundary on cases it can hear, similar to the district court, but is limited in the types or subject matter of the cases it can hear. In Utah these are known as Justice Courts. They have authority to only hear class B and C misdemeanors, violations of ordinances, small claims and infractions that occur within in their geographical jurisdiction.

When a person is arrested and directed to answer to the Justice Court, he/she can immediately enter a plea and have his/her case settled, or enter a plea of not guilty, in which a case trial will occur. If the person commits a felony-level crime and is sent to the District Court, he/she can enter a plea and have his/her case settled. If he/she enters a plea of not guilty, his/her case will be set for a preliminary hearing before a trial can occur. The preliminary hearing is similar to a trial, but is heard by the judge only (no jury), and the judge will decide whether probable cause exists for the case to proceed to a trial.

PRINCIPLES OF CRIMINAL RESPONSIBILITY

Chapter 2 of the Utah Criminal Code defines criminal responsibility, or culpability. The statutes or laws within the Criminal Code require a culpable mental state or state of mind to be present in order for a specific law to be violated. The four levels of responsibility or culpability, as defined by the Utah Code, are *intentional*, *knowing*, *reckless*, and *negligent*. The culpable mental state required in a statute may determine the seriousness or classification of the crime. For instance, if an intoxicated individual walks into your residence accidentally, he could not be charged with burglary since the act was not done intentionally. However, the individual could be charged with criminal trespass, which requires a culpable mental state of recklessness.

The prosecution must prove that the required culpable mental state for the offense was present in order to obtain a conviction. (If the required mental state cannot be proven, then the prosecutor must find another statute that will meet the test of culpability.) In cases requiring an intentional or knowing culpable mental state, the prosecution must prove that the defendant possessed a guilty mind, which is called *mens rea*. Along with the guilty mind (*mens rea*), the court will also require a guilty act, or *actus reus*.

The criminal homicide statute is an example of the four categories of criminal states of mind or culpable mental states. The criminal homicide statute includes the crimes of aggravated murder, murder, manslaughter, negligent homicide, and automobile homicide. The first two criminal acts, aggravated murder and murder, require a mental state of *knowing* or *intentional*, meaning that the perpetrator knew what the outcome of his actions would be and took the life of another consciously and with *premeditation*. In addition to other aspects of the case, the prosecution would also have to prove that the defendant had a guilty mind (*mens rea*) and had committed a guilty act (*actus reus*). Manslaughter requires a mental state of recklessness, inferring that the person took another's life without malice aforethought, meaning that there was no premeditation. Negligent homicide requires that the person was *negligent* in his actions, causing the death of another through failure to exercise the proper care that a reasonable person would use under the same circumstances.

Most laws found outside of the Criminal Code do not require a culpable mental state for a law to be violated; these are known as street liability crimes. An example of this would be a motor vehicle traffic violation. An officer, having issued a traffic citation, need not prove that the violator *intended* to run a red light. When testifying in court, he need only prove that the violator *did* run the light.

LAWYERS

A *trial* is the process of resolving a dispute between two or more parties. There are two types of trials, civil and criminal. In a criminal trial, the state, a county, or a city brings a charge(s) against one or more defendants. A prosecutor represents the state, county, or city and presents the evidence in an attempt to prove beyond a reasonable doubt that the defendant is guilty as charged. The prosecution has the burden of proof to show that a crime has occurred and that the defendant has committed it.

A criminal trial in the United States utilizes the adversary system. This means that both sides can use skilled advocates to present their case. These chosen advocates present the best points of their own side of a case and point out the weaknesses of the other side. This adversary process is designed to aid the judge or jury in determining the truth.

Because the United States Constitution deems the assistance of counsel to be a necessary part of the criminal trial process, a defendant is allowed to retain an attorney at government expense. Although the right to counsel is provided for in the Sixth Amendment to the U.S. Constitution, this particular right was not guaranteed until 1963 (*Gideon v. Wainwright*). The need for an attorney usually begins long before a trial; therefore, the right to an attorney is an element of the Miranda warning which an officer reads to a suspect prior to questioning. This right to counsel prior to questioning by an officer came about due to *Escobedo v. Illinois* and *Miranda v. Arizona*.

If an individual cannot afford an attorney, a judge will assign the case to the Legal Defender Service. A public defender, who is a defense attorney under contract to the government to provide defense services, is then assigned to the case. On occasion, such as in a major felony case or a complex trial, a judge may appoint a private practice defense attorney to provide the defense.

A defendant may conduct his/her own defense if qualified, as determined by the trial judge. The defendant also has the right not to have counsel, although this is seldom a wise practice. Even if a defendant is guilty, an attorney has a familiarity with the system and can assist in ensuring that the defendant is treated fairly. A lawyer may also be able to arrange a plea bargain, an acceptable probation, a reduced sentence, etc.

A defense attorney works for the defendant and may know that his/her client is guilty, but such information is privileged, meaning that the attorney may not reveal it, even in court. Many citizens do not understand why a defense attorney would or should defend someone known to be guilty. However, it is the responsibility of the judge or jury to determine guilt. The role of the defense attorney is to act in the client's best interest. Without proper representation, the adversary system would not function properly, because only one side would be heard. If the prosecutor's claims and arguments were essentially unchallenged, due process would not be served.

It is impossible to list all of the functions of a criminal attorney. However, the following list indicates the primary functions of both the prosecutor and the defense attorney in a trial process. Remember that less than 10% of all cases go to trial. The other 90% are handled in a variety of ways involving numerous other lawyer interactions.

ROLES OF THE PROSECUTOR AND DEFENSE ATTORNEY

PROSECUTOR

1. Determine whether, and what, law violation has occurred.
2. Determine whether a case should be taken to court.
3. Determine what evidence and witnesses are needed for trial.
4. Prepare appropriate legal papers—information, summons, subpoenas, etc.
5. Negotiate a plea bargain, if appropriate.
6. Prepare witnesses and secure evidence for trial.
7. Present the prosecution's case in court.
8. Argue for specific rulings by the judge.
9. Present information with regard to how to appropriately punish the guilty.
10. Appeal rulings that have a questionable legal basis.

DEFENSE ATTORNEY

1. Gain the confidence of the client.
2. Act in the client's best interest, regardless of apparent or admitted guilt.
3. Become familiar with the case.
4. Seek release from jail or bail reduction.
5. Plea bargain or enter a guilty plea if this is in best interests of the client, with client's permission.

6. Determine what type of defense to use.
7. Locate witnesses and/or evidence that will aid the client.
8. Counter the case of the prosecution.
9. Argue for specific rulings.
10. Present information with regard to minimizing the penalty to the client if found guilty.
11. Appeal the decision at the request of the client or in the interest of justice.

PLEA BARGAINING

A *plea bargain* occurs when a judge allows a defendant to plead guilty to a lesser offense or to fewer charges, or to arrange a lesser penalty in exchange for a guilty plea. This works to the advantage of a guilty defendant by minimizing the penalty. The major advantage for the prosecution, the court, and society is the savings in time and money that would otherwise be consumed if the case went to trial. Plea bargaining can also be used to get a guilty plea when evidence is not strong, or when police conduct may have made certain evidence unavailable for court use.

A plea bargain is usually worked out between the defense attorney and the prosecutor. It must then be approved by the judge, who is the final authority. It is the responsibility of the judge to ensure fairness for all involved. Often, the investigating officer is allowed input as well, offering such information as the attitude of the defendant, the severity of the crime, and prior criminal activity. With increasing interest in victims' rights, many victims are being allowed to address the court with regard to appropriate punishment for the defendant.

PLEA BARGAIN ROLE PLAYING ACTIVITY

The role-playing activity that follows will simulate the roles of those involved in a typical plea bargain. Each participant will bargain based on the suggested concerns and goals of the individuals listed below.

The investigating officer has solid physical evidence that the defendant burglarized the residence of the victim. However, none of the property that was taken from the house has been recovered up to this point. The defendant has been incarcerated in jail for eight months awaiting trial. The time spent in jail awaiting trial may be counted toward any sentence imposed by the judge. The court now has a backlog of thirty felony cases on the calendar, which may take as long as six months to clear.

Victim

You lost \$2,000 worth of belongings in the burglary. Your insurance company only reimbursed you in the amount of \$1,500. One of the missing items was an irreplaceable charm bracelet given to you by your deceased mother. You find that you no longer sleep comfortably at night due to the fear that someone else might break into your home.

Goals:

- Recover the \$500 net loss that you sustained.
- Recover the charm bracelet.
- See that the criminal is severely punished for the crime.
- Receive counseling in order to regain peace of mind.

Defense Attorney

Goals:

- Have your client found not guilty.
- If a not guilty verdict cannot be achieved, minimize the punishment as much as possible.
- Make a favorable impression on colleagues and future clients.

Prosecutor

Goals:

- Obtain a conviction, make a favorable impression on colleagues and supervisor, and contribute toward a high conviction rate.
- Accept a guilty plea for a lesser crime if needed to gain a conviction.
- Help the victim feel that the defendant was punished appropriately.

Judge

Goals:

- Administer a judgment that ensures justice is served.
- Ensure that innocent defendants escape punishment.
- Ensure that the guilty are found guilty and punished.
- Clear the backlog of cases.
- Look good to your peers and to your superiors if you can clear the calendar.
- Avoid having a trial to save time and money if the defendant will plead guilty, even to a lesser charge, as long as justice is served.

Defendant You are guilty of a burglary, and the detective has a good case against you. You have already spent eight months locked up in jail awaiting trial.

Goal:

- Get off with as little additional punishment as possible.

COSTS OF CONVICTION

The following are various potential costs that a defendant could incur upon being convicted of a criminal offense.

1. Jail or prison
2. Fine and/or restitution cost

3. Other court ordered penalties such as *forfeiture*, counseling, community service, etc.
4. Cost of legal counsel
5. Loss of reputation
6. Loss of certain civil rights, such as the right to vote or hold certain jobs
7. Effect on education and employment opportunities

THE TRIAL PROCESS

It is impossible to describe all of the legal processes that could be involved in a criminal trial. The following pages highlight significant steps in a felony criminal trial. Misdemeanor trials do not involve all of the steps, but the basic process is the same.

It is important to remember three crucial elements of the American criminal justice process. A basic understanding of these tenets helps to explain why the trial process operates the way that it does.

1. A defendant is presumed innocent until proven guilty.
2. The burden of proof is on the prosecution.
3. The trial activity itself must be fair (due process).

INFORMATION

The prosecuting attorney prepares an *information* after the defendant has been arrested without a warrant, or in order for the investigating officer to have an arrest warrant or summons issued. The information is a legal statement specifying what law it is alleged that the defendant has violated and the details of the offense, such as the time, date, and location involved. This statement must be sworn to under oath by an officer or a citizen who has been able to demonstrate that there is probable cause to believe that the defendant committed the alleged offense. This serves as notice to the defendant and his/her attorney of the charges that have been filed against him or her.

PRELIMINARY HEARING

A defendant is entitled to a hearing where the prosecution is required to present sufficient evidence before the judge to establish that there is probable cause to believe that a crime has been committed and that the defendant committed it. A defense attorney will often use this hearing to see what kind of case the prosecution has. The defendant does not have to testify, nor does the defense present its case. If there is sufficient evidence presented, the judge will bind over the defendant for trial. If not, the charge is dropped and the defendant freed.

The standard for admitting evidence may be different at a preliminary hearing, and in some cases hearsay evidence is admissible. Since most testimony is recorded, the defense attorney will verify testimony given at the preliminary hearing to ensure that prosecution witnesses do not change their testimony during the trial. After a strong prosecution presentation at the preliminary hearing, a defense attorney may be persuaded to attempt a plea bargain. A defendant will waive his/her right to a preliminary hearing in approximately 50 percent of all cases.

To ensure that witnesses do not alter their testimony as other witnesses testify, only the witness actually testifying is allowed to remain in the courtroom. There is also a growing tendency for judges to attempt to limit pre-trial publicity by restricting media coverage, a practice found legal in some circumstances by the Supreme Court.

ARRAIGNMENT

At the arraignment, the defendant is given a chance to enter a plea after being fully advised of the charges. If the defendant pleads not guilty, a trial date is set. If a guilty plea is offered, the judge will question the defendant to make sure he/she understands the consequences of such actions. In some states, a defendant can plead *nolo contendere*, or no contest. This plea means that the defendant does not wish to contest the action. It is the same as a guilty plea, except that a conviction cannot be used as evidence against a defendant in a civil proceeding.

DISCOVERY

In *Jencks v. U.S.*, the Supreme Court stated that the prosecution must provide information regarding its case in order for the trial to meet the due process standard. In order to ensure fairness, the defense attorney can request copies of prosecution documents and reports, examine evidence, etc. This allows the defendant a chance to locate rebuttal evidence or secure expert witnesses with different opinions. Officer reports are routinely reviewed by defense attorneys.

Since *discovery* can be misused if witnesses can be persuaded to commit perjury, notice of an alibi defense is usually required in states having liberal discovery laws. Prior to trial, the defense must indicate the alibi to the prosecution. This allows the prosecution time to investigate the alibi prior to the start of the trial.

SUPPRESSION HEARING

If there is a question of legality regarding admissible evidence at a trial, the defense may request a suppression hearing. A judge will then review how the evidence was obtained. If it was not obtained legally, it is excluded as required by the *exclusionary rule*, meaning it cannot be used or even mentioned in the trial. The exclusionary rule was developed by the Supreme Court in response to improper search and seizure by law enforcement officers in the cases of *Weeks v. U.S.* (federal) and *Mapp v. Ohio* (state). A suppression hearing commonly hears challenges to a confession and/or the probable cause for arrests and searches and seizures.

A suppression hearing is frequently requested in cases such as narcotics possession or distribution or a criminal homicide case, where the entire case may hinge on acquired evidence. If a package of drugs is illegally seized by officers and is later excluded, the entire case against a defendant could be dismissed due to the exclusion.

The burden of proof at a suppression hearing is on the prosecution. However, the defendant must have the *standing*, or legal right, to object to certain evidence. If a defendant is charged with possession of marijuana based on the search of a stolen car that he was driving, he has no right to object to such evidence being introduced because the vehicle was not his.

THE JURY

The jury system as we know it probably originated in Spain. As it evolved in England, the jury was selected from a defendant's friends and neighbors, who were considered to be the defendant's peers. It was believed that this would allow the jury members to accurately discern who was telling the truth, based on their knowledge of the character and reputation of the defendant and witnesses.

From the middle ages in England, a jury has traditionally been made up of 12 members. In a criminal case, the jury members are required to reach a unanimous decision, although several state legislatures have discussed the possibility of changing or modifying this particular requirement. In a civil case, the decision or *verdict* does not need to be unanimous, requiring only a three-fourths vote.

The nature of the jury has changed considerably over time. Although it is still designed to allow a defendant the opportunity to be judged by peers, anyone knowing or related to any trial participant is not allowed to serve on the jury. This ensures that there will be a fair trial, with no bias for or against the defendant. To allow for those who would not be permitted to serve for this or other reasons, a larger number of prospective jurors are initially summoned into court.

With the exception of Juvenile Court, a defendant in a trial may choose to have the case decided by the judge or a jury. In either case, the judge will decide all issues of law, such as what evidence will be admissible. In a jury trial, it is the responsibility of the jury to decide the single issue of guilt. This is done by judging or determining which witnesses are more credible, how much weight to give to presented evidence, and what inferences can be drawn from the facts shown in the trial. In some states, the jury may also be called upon to recommend a sentence for those individuals who have been found guilty.

One of the responsibilities imposed on all citizens is that of serving on jury duty when called upon to do so. For many years, Utah jurors were selected from voter registration lists, requiring a juror to be a U.S. citizen, 18 years of age, and registered to vote. This particular system of jury selection was criticized in the mid-1980s because a growing portion of the citizenry was failing to register to vote. Those individuals who were failing to register were, generally, younger people. After some deliberation, the courts added a second selection process for determining prospective juror names. Effective January 1988, Utah began using both driver license and voter registration lists for potential jurors.

The following methods for selecting prospective juror names have been or are being utilized in other states throughout the nation. Think of an advantage and disadvantage for each of these additional methods.

ADVANTAGE

DISADVANTAGE

Property Tax Lists:

State Income Tax Lists:

Utility Customers:

Telephone Directories:

Upon appearing in court, the judge will address the prospective jurors. The judge may immediately excuse some prospective jurors. Any prospective jurors familiar with the case or any of the participants will be dismissed immediately. Some professionals, such as doctors, may be excused because it is believed that they can serve the community more efficiently through their occupation. If the trial may be lengthy and the jury is going to be sequestered or housed in a place away from public contact, some jurors, such as mothers with young children, may be excused.

After the judge has spoken with the prospective jurors as a whole, each prospective juror is questioned by the defense and prosecuting attorneys. The final jury is then selected by a process involving preliminary examination and peremptory challenges, as well as the decisions of both the prosecutor and the defense attorney regarding each prospective juror.

Utah, like other states, sometimes utilizes juries numbering less than 12 members. A Justice Court will use a jury of as few as four members. A juror may be called for one specific trial, or for several trials over a specific period of time. Jury members are paid for their service as jurors, but not as much as most individuals would make at their place of employment. Many employers make allowances for jury duty so that the employee does not lose money as he/she serves the community.

Because of the requirement that a jury consist of the defendant's peers, it is illegal for the government to select jurors in such a way as to discriminate against the defendant. If, for example, the population of a city is 50 percent black, and black defendants are consistently being judged by juries that composed almost entirely of whites, a conviction could be appealed on that basis.

Some people dislike the responsibility of jury duty and do not wish to serve. Others believe that judges are fairer and less expensive to the community.

JURY SELECTION

The defendant, with input from his attorney, chooses whether the trial is to be heard by a judge or a jury. A majority of the criminal trials in the United States are heard by a jury. There are advantages for a defendant in either case. If the crime is particularly sensational, has received extensive media attention, or encompasses complex legal issues, it may be preferable to request that a trial heard by the judge. On the other hand, since a jury decision must be unanimous, having a jury hear the case requires that only one of the jurors be convinced of the defendant's innocence.

The judge will address the prospective jurors with regard to general questions, and will grant dismissal for reasonable requests. Lawyers for each side will then question each juror. Questioning of prospective jurors is known as *voir dire* examination. If the judge or either attorney feels that a juror is not qualified to hear the case, the juror is excused for cause. There is no limit to the number of challenges for cause that an attorney may present to the judge. Both attorneys are also entitled to a certain number of *peremptory challenges*, which allow them to excuse prospective jurors without stating a reason. Possible questions asked of a prospective juror might be:

- Are you familiar with anyone involved with this case?
- Have you been exposed to any pre-trial publicity?
- Would you believe an officer's testimony over a citizen's?
- Are you prejudiced against minorities?
- Do you believe in capital punishment in a homicide case?

After a jury is sworn in, its members are prohibited from discussing the case with anyone other than other jurors until the case is decided. In high-profile cases, a judge may sequester a jury if there is a danger that the jury may be tainted by outside influences or media coverage.

OPENING STATEMENTS

The actual trial begins with opening statements by both attorneys. Through his/her presentation, each attorney informs the court and jurors of the nature of the case, the evidence that will be presented, and the facts he/she expects to prove. The prosecution goes first, followed by the defense attorney—who may elect to wait to make an opening statement until after the prosecution has rested, or may choose not to make one.

PROSECUTION PRESENTATION

The job of the prosecutor is to present the state's case regarding the allegations against the defendant. Since a defendant is presumed innocent until proven guilty, the burden of proving or demonstrating guilt beyond a reasonable doubt rests with the prosecutor. The prosecutor calls his/her witnesses for direct examination to state what they know of the alleged crime or injury. Physical evidence such as documents, pictures, and other exhibits are also introduced.

RULES OF EVIDENCE

In preparing for the trial, both the prosecution and the defense must review the evidence available and how it will be presented. Relevance is the first concern. Attorneys may decide that some evidence that has been gathered is irrelevant and does not relate to the case at hand. The prosecutor will be interested in evidence that will incriminate the defendant, while the defense will attempt to locate evidence that will validate the defense position.

There are a number of categories of evidence. Demonstrative evidence includes exhibits actually used in the commission of a crime or photos of the crime scene. The judge must decide which evidence has probative value in assisting the jury in reaching a verdict and which evidence will only prejudice the jury against the defendant. Black-and-white photos of a murder victim may be used rather than color photos to ensure that the jurors do not become overly emotional.

Another example is *circumstantial evidence*, which is indirect evidence from which the jury is to make a logical inference. A witness may have heard something not directly linked to the crime, but which is meant to lead the jury to conclude that there is a correlation with the case. Another example is *corroborating evidence*, which is evidence that confirms or verifies other previously introduced evidence or testimony.

Not all evidence will be admissible. To ensure that the evidence presented is reliable, there are many rules of evidence that the court must follow. An objection may be raised by either attorney with regard to a specific piece of evidence or line of questioning. The judge may agree with the objection and sustain it, thus disallowing the evidence. If the judge disagrees with the objection, he/she will overrule the objection and allow the evidence to be admitted.

Law enforcement officers and other witnesses are allowed to refer to notes and reports that they have written about a specific criminal investigation. This is particularly useful in ensuring accuracy when a trial takes place months or even years after the crime. This allowance reinforces the importance of an investigating officer writing a thorough and accurate report.

Most witnesses are not allowed to express an opinion. The normal witness is called to testify about facts relating to his/her five senses (sight, smell, touch, taste, and hearing). Only an expert witness can offer an opinion as to evidence, and only in the area in which he/she is considered an

expert. Although an officer has sufficient training to make a legal arrest of a suspect using an alleged controlled substance, only an expert witness can establish that fact in court.

Hearsay evidence is not normally allowed in a trial. There are some exceptions, however, such as confessions, dying declarations, recorded testimony from a prior trial, official statements of public officials, and day-to-day business transaction records.

CROSS-EXAMINATION

The Sixth Amendment states that the defendant has the right to *cross-examine* a witness against him or her. After a witness has been questioned by the lawyer who called him or her to the stand to testify, the opposing lawyer can then ask him or her questions. This is a significant element of the adversary system, and is designed to ensure that all the facts come out. The opposing attorney will try to discredit the witness, or clarify facts in a way favorable to his case.

Cross-examination must be limited to questions about topics that were raised during direct examination. Judges, in the interest of justice, may also cross-examine a witness. After cross-examination, the lawyer who originally called a witness may conduct *re-direct examination*, asking further questions to clarify any points that the opposing attorney may have raised.

DEFENSE PRESENTATION

After the prosecution rests, the defense has the opportunity to present its case. There are a number of standard defenses that can be used, depending on type of case, legal considerations, guilt or innocence, and the wishes of the defendant. If the prosecution's case is believed to be weak, the defense may focus on the credibility of the witnesses. Since guilt must be proven beyond a reasonable doubt, a defense attorney may present alternative explanations of the evidence that leave some questions in the minds of the judge or jury as to the defendant's guilt.

The defense attorney may attempt to prove that the defendant did not commit the crime charged. The argument could be that the defendant is on trial due to poor police investigation, coincidence, or mistaken identity.

Since every crime must legally be proven by establishing all of its elements, the defense attorney may attempt to show that no crime was committed. For example, a defense attorney may present evidence that a defendant who is charged with a burglary never entered the premises in question.

In an *alibi defense*, the defense attorney will attempt to prove that his/her client is not guilty by introducing evidence that the client was at another location when the crime was supposed to have occurred. This could be substantiated by producing witnesses to testify that the defendant was elsewhere at the time the crime was committed.

Self-defense can be claimed in the case of an assault or homicide; the defense does not deny that the action took place, but instead focuses on the provocation. The defense will attempt to show that the victim provoked or forced the defendant into defending himself/herself or others from threats and attacks. It then becomes a task for the jury to decide who to believe and what level of force was reasonable and lawful under the circumstances.

The defense of *entrapment* is common with drug arrests. A defense attorney will attempt to show that police conduct induced the defendant to commit a crime he/she would not have committed

otherwise. It is not illegal for an officer to lie about who he/she is when working undercover, nor is he/she prohibited from buying or selling drugs and other contraband. However, there are two main restrictions on police conduct. Police cannot use tactics deemed to be inherently unfair, nor can an officer offer incentives to induce criminal conduct which would lead a normal person to commit a crime. (For example, if an undercover narcotics officer offers to buy marijuana at the going price—say \$100 an ounce—that is not entrapment. But if he/she were to offer \$1,000 for an ounce of marijuana, then even a normally law abiding citizen might be motivated to sell to the officer.)

In order to succeed with the insanity defense, the defense must show that at the time of the crime the defendant was not able to distinguish right from wrong due to some mental illness. This type of defense relies heavily on the testimony of expert witnesses. Although a person may be found not guilty by reason of insanity, it does not mean the defendant will be set free. He/she is usually committed to an institution for the mentally ill in order to protect society. Release is then based on the opinion of staff psychologists that the individual's mental condition is no longer a danger to the community. Studies indicate that persons committed to mental institutions are often kept in custody longer than persons convicted of the criminal offense.

Sometimes a defense of diminished responsibility is presented. By introducing evidence that the defendant was intoxicated, under the influence of drugs, or otherwise not in full control of his or her actions, the defense attorney hopes to persuade the judge or jury to excuse the illegal behavior.

JURY INSTRUCTIONS

It is the responsibility of the judge to instruct the jury in its specific duties. The judge will explain to the jury what evidence it may consider, what must be proven by the state in order to get a conviction, and what choices the jury has. For example, in a homicide case, the jury must examine the evidence to decide whether the defendant actually killed the victim, then decide whether it was murder, manslaughter, or justifiable homicide.

The key point in the instructions will be the requirement that the jury find the defendant guilty beyond a reasonable doubt. This means that there is no rational doubt in a juror's mind as to the defendant's guilt. This standard requires more evidence than probable cause, which is the standard required to justify an arrest. There must be a logical explanation in a juror's mind for a perceived doubt.

Imagine that you are on a jury and are hearing a parking ticket case. The defendant claims that he should not have received the ticket because his mother drove his car that day and parked it illegally. Is this a possibility that could arouse a reasonable doubt in your mind?

Suppose the defendant claimed that his previous girlfriend was angry with him for dating her best friend. He claims that he left his car legally parked, but she rented a helicopter and had his car picked up and moved to the place where it was ticketed. Would this be plausible? What if evidence were introduced at the trial that her current boyfriend is a helicopter pilot?

CLOSING ARGUMENTS

If it is deemed necessary, the prosecutor can present rebuttal evidence at the conclusion of the defense case, but this is not common. The prosecution will normally present a summary closing statement, reviewing the evidence presented and calling on the judge or jury to find the defendant guilty. The defense will then present its own closing statement, pointing out to the judge or jury why the defendant should be found not guilty. Emphasis will be placed on the weak points of the

prosecution's case. The prosecution can then offer a final concluding statement, since the government bears the burden of proof.

During the trial, if a mistake or error is made, the judge may be forced to declare a mistrial. The trial would be terminated at this point, and the jury would be released. The prosecution would then have to examine the circumstances and decide whether further prosecution would be justified.

JURY DELIBERATIONS

After summation, the judge orders the jury to retire to the jury room for deliberation. While making their decision, the jury is not allowed to contact anybody except the judge. The jury will normally select a foreperson, who will control the discussion and voting. Several votes are required in order to reach a unanimous verdict. If, after a lengthy period of time, a jury cannot make a unanimous decision, it becomes a hung jury, and a mistrial is declared by the judge. At this point, the prosecution must decide whether to request another trial with a different jury.

VERDICT

Upon returning to the courtroom, the foreperson will read the verdict. Each individual juror may be asked whether he/she concurs with the verdict. If acquitted of all charges, the defendant is freed. Otherwise, the defendant is scheduled for a sentencing hearing. In criminal cases, a verdict must be unanimous and must be given in open court with the defendant present, unless he or she chooses not to be. There are four possible verdicts in Utah:

- Guilty: The jury must find that the state has proven the elements of the offense beyond a reasonable doubt and that the defendant committed the offense.
- Not guilty: The jurors find that the state has not convinced them beyond a reasonable doubt that the defendant committed the offense.
- Not guilty by reason of insanity: The jury or the judge must determine that the defendant, because of mental disease or defect, could not form the intent to commit the offense.
- Guilty and mentally ill: The court or jury finds that the defendant was mentally ill, but was able to form intent to commit the offense.

SENTENCING

After a conviction or a plea of guilty, the defendant has the right to be sentenced within no fewer than two days nor more than 30 days following conviction. If the defendant chooses, he/she may waive that time and may be sentenced the same day that he/she is convicted. Most judges order a pre-sentence report to be prepared by Adult Probation and Parole (AP&P). This confidential report may contain the defendant's adult and juvenile record, defendant's statements, drug and alcohol history, family history, and probation history. AP&P may also make a sentencing recommendation, which the judge considers when sentencing the defendant. In more serious cases, such an evaluation may take place at the prison or other institution. This is known as a 90-day evaluation, and goes into much more detail regarding the defendant.

At the sentencing hearing, the defense and prosecution will be allowed to present any aggravating or mitigating information with regard to an appropriate sentence. The victim(s) are also allowed to be present and make comments as to the sentence. The rules of evidence are not applicable during a sentencing hearing, and evidence that may have been suppressed during the trial will be

admissible during sentencing. The judge, using his/her discretionary powers, will then impose a sentence that may involve jail or prison, probation, fine, restitution, or a combination of these penalties. The sentence given by the judge cannot normally be appealed.

In capital cases, the counsel for the defense introduces evidence that attempts to show that mitigating circumstances outweigh any aggravating circumstances, thereby justifying a life sentence rather than the death penalty. The state introduces evidence attempting to prove that aggravating circumstances outweigh mitigating circumstances, thereby justifying the death penalty. The jury or judge then deliberates whether the person should be given the death penalty or a life sentence.

The following excerpt from a Supreme Court case explains what a sentencing judge should consider prior to sentencing an individual.

The most serious question deals with the severity of the sentence. In determining whether probation shall be granted and, if a sentence is to be imposed, its severity, there are many factors to be considered. The primary function of the criminal law is to protect individuals and society from the depredations of the criminally bent. In furtherance of this purpose, it is deemed necessary to mete out punishment as a deterrent to others and to lock up incorrigible criminals. On the other hand, the rehabilitation of criminals is one of society's major safeguards. Among factors meriting consideration are the family ties, age, mentality, education, experience, and social and cultural background of the convicted individual; his willingness to work at honest labor; his past criminal record or law abiding conduct; the motivation for the offense, the nature of the offense, and the amount of violence, if any, circumstances aggravating or mitigating the offense; community attitudes toward the offense; and the individual's potentialities for reform or recidivism (*State v. Etchison*, 188 Neb 134, 195 N.W. 24 498, [1972]).

WHO HAS TO TESTIFY

In order to ensure that the defendant receives due process, the court will issue subpoenas requiring the appearance of witnesses for the defense. A witness must appear in court as required or be charged with failure to appear, which is punishable by the court. Once a witness is under oath, he/she is required to truthfully and completely answer all questions except those which may incriminate himself/herself personally.

There are several other exceptions to this rule. One spouse cannot be required to testify against the other, and the defendant's conversations with his/her attorney, doctor, or clergy (e.g., priest, minister, bishop) cannot be used in court. Another exception to the rule is the identity of a confidential informant used by law enforcement.

Why do you think each of these exceptions is made?

Husband/wife:

Doctor:

Priest/church member:

APPEAL

A convicted defendant has the right to ask a higher court to review his/her case. The appeal must be filed within 30 days after the entry of judgment. This does not require a new trial. Most courts are a court of record, and a record of the proceedings will be forwarded to the specific appellate court of review. The appellate court will review the written proceedings of the previous trial and verify the legality of the trial proceedings. If there was a significant error, such as the use of evidence that was illegally obtained, then the conviction will be overturned and the case will be remanded or returned to the lower court. A new trial is held, correcting the error previously made.

The prosecution may also appeal a case in limited circumstances. This appeal is generally handled by the State Attorney General's Office. On occasion, an appellate court, usually the U.S. Supreme Court, will find a law unconstitutional. When this occurs, the law is no longer enforced, and no one can be convicted for violation of that particular law.

TESTIFYING IN COURT

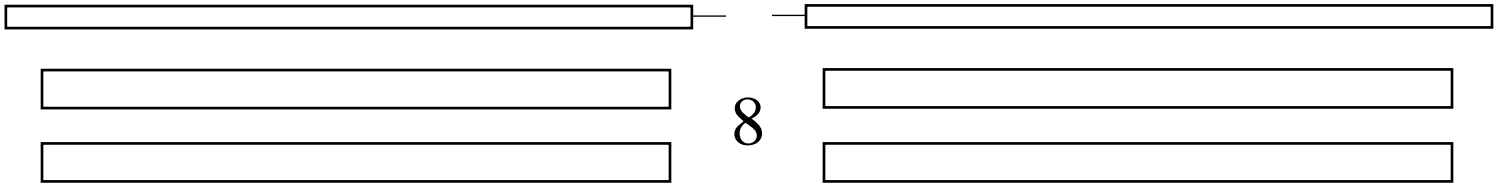
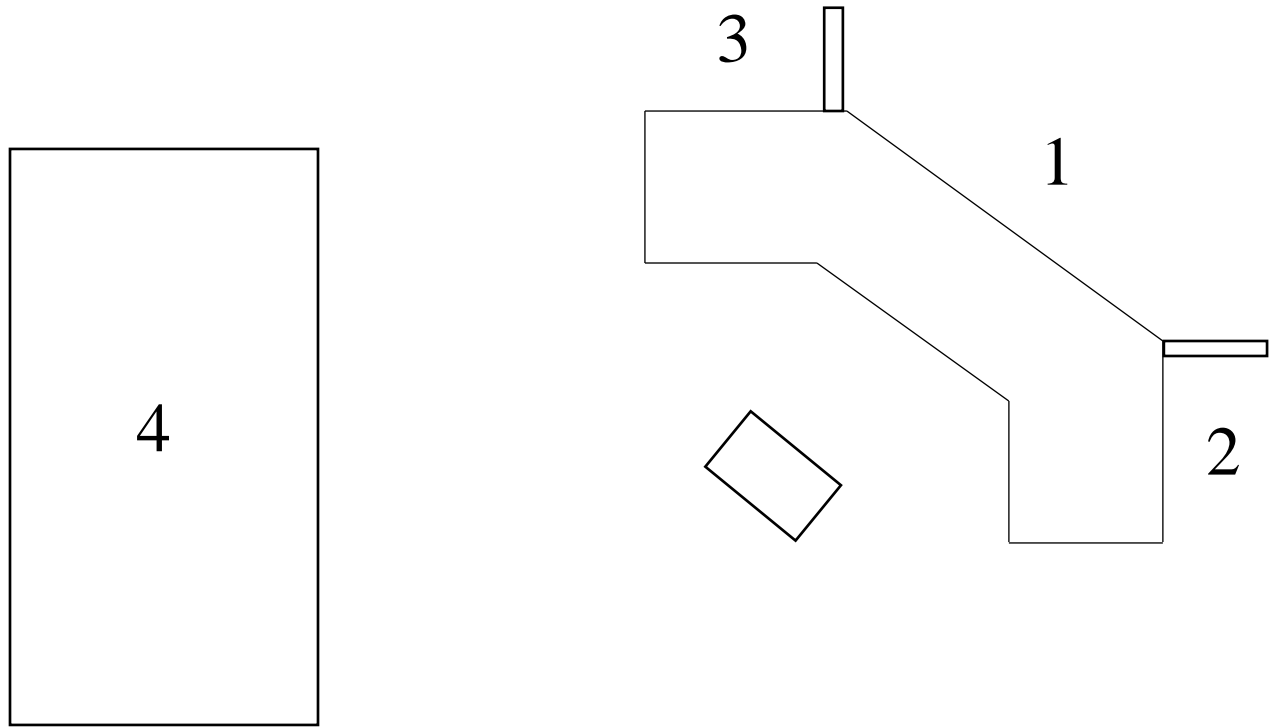
The testimony of every witness in a courtroom must be evaluated by the judge, or by every member of the jury. The credibility of a witness is crucial for a juror, who must decide whether the person on the witness stand is honest and telling the truth. Conduct, actions, appearance, and behavior will influence the jurors as they decide whether or not to believe the testimony of each witness.

An officer who is called to testify may be questioned about what he or she saw, what he or she did, or what he/she heard other people say. An officer might also be called to testify as an expert in a specific field in which he/she is qualified. Regardless of the type of testimony, if it is given in an unprofessional manner, it will weaken the case against the defendant.

An officer will be called to court many times in a typical career. The judge and jury, as well as the public, expect an officer's courtroom demeanor to be totally professional. The following suggestions indicate the professional courtroom demeanor that would be expected of an officer on the witness stand.

- Discuss the case with the prosecutor prior to trial, outside the courtroom.
- Arrive at to the trial on time, or early if possible.
- Have a good physical appearance. (Dress neatly and conservatively.)
- Do not laugh or joke while in the courtroom.
- Review notes before entering the courtroom.
- Keep notes where they can easily be found when needed during trial.
- When actually testifying:
 - Speak loudly and clearly.
 - Do not use slang or police lingo.
 - Make sure a question is understood before answering.
 - Do not volunteer information.
 - Address the judge or jury.
 - Do not argue with the defense attorney.
 - Do not show approval or disapproval of court proceedings or the judge's decision.
 - If a case is lost, have the prosecutor explain why so that future cases are better prepared.

Criminal Trial Court



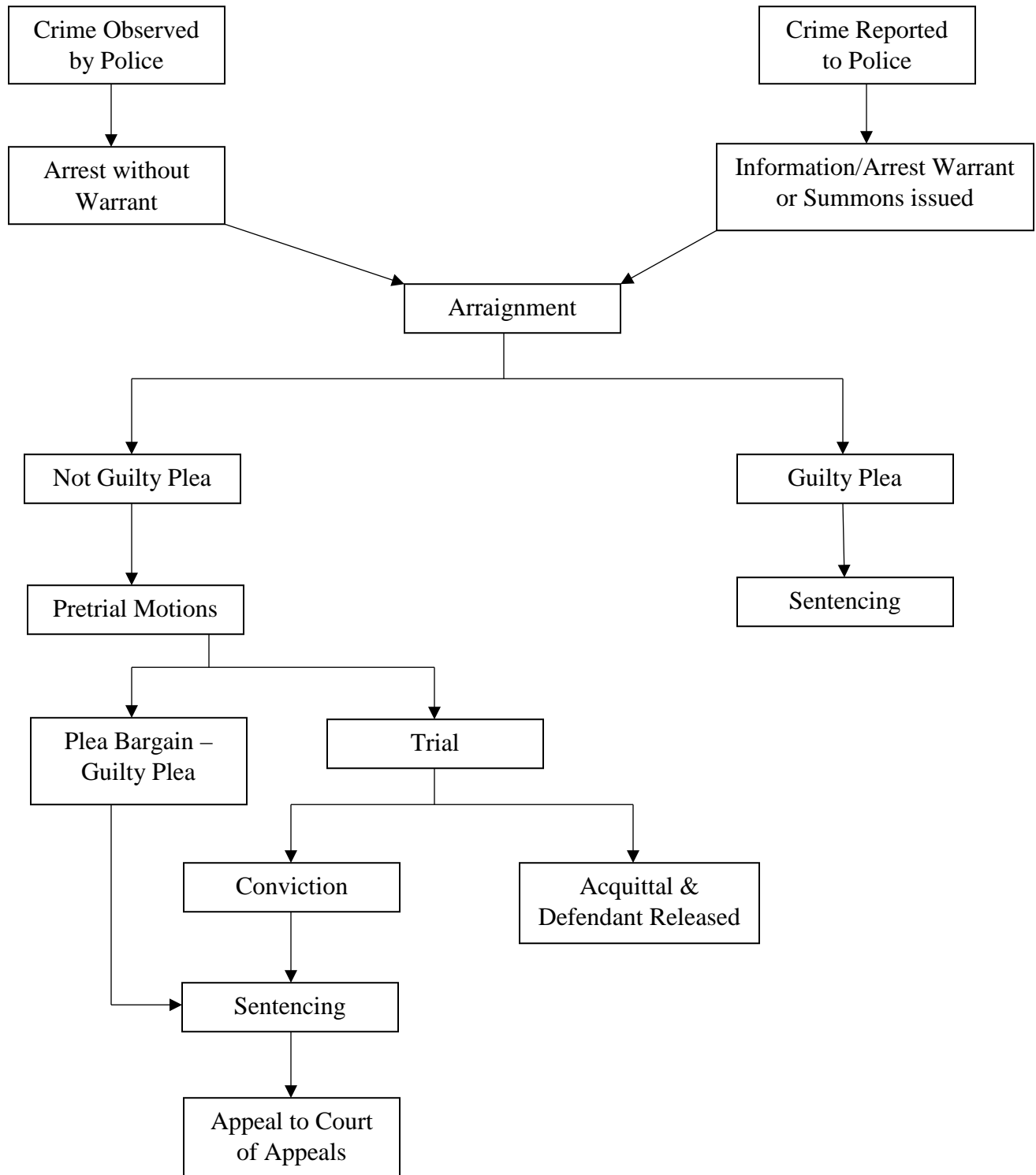
Personnel:

Audience
 Defendant
 Defense Counsel
 Judge

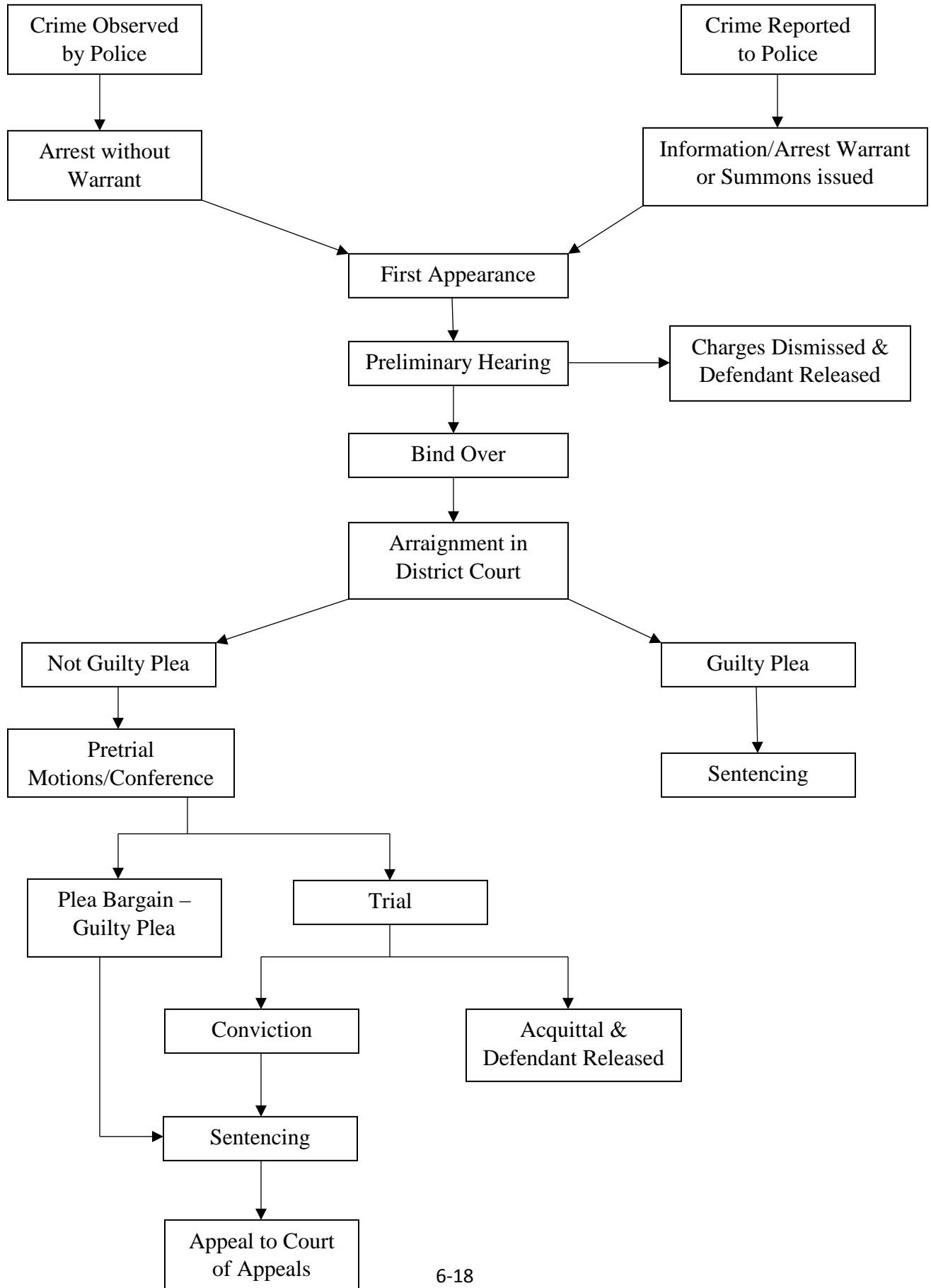
Judge's Clerk
 Jury
 Prosecutor
 Witness

- | | |
|---|---|
| <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> | <p>5. _____</p> <p>6. _____</p> <p>7. _____</p> <p>8. _____</p> |
|---|---|

Misdemeanor Case Process



Felony Case Process



VERSION 2016

CORRECTIONS

CHAPTER 7

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER SEVEN: CORRECTIONS

GOALS OF CORRECTIONS

Corrections, like the judicial system, is a dual structure including federal and state entities. Corrections is much more than just jails or prisons, even though they probably make up the largest part. Corrections involves the incarceration of those awaiting trial, usually in a county jail, and those who have been convicted of a felony, usually in the state prison. It also involves the community supervision of those individuals on probation or paroled from the prison.

Jails make up the oldest component of the corrections system, dating back to the twelfth century when the first *goal*, as they were known, was ordered built by King Henry II. These were initially used to hold individuals awaiting trial.

The first prison in the American colonies was built in Philadelphia in 1733. A group of Quakers had decided that they needed a more humane method to punish and reform the prisoners. They took a wing of the Walnut Street Jail and used the individual cells to house inmates as punishment for their crimes. The prisoners initially were held in an environment where they were alone and not allowed to talk with any other inmates. The purpose of prison is somewhat different from jail, since they were established to house inmates convicted of felonies.

Utah's first prison was built in the Sugar House area of Salt Lake City in 1855, and consisted of 16 cells dug into the ground with bars on top. A more suitable building was built, and the prison was moved to its present location at the Point of the Mountain, Draper in 1951.

After a person has been found guilty of a crime, society assesses a penalty. The type of punishment will vary depending upon the goal of the particular punishment. There are four basic goals for which a correctional institution such as a jail, prison, or other correctional program is created.

The goal of *retribution* is to inflict some type of revenge. Society, individuals, and victims may demand "an eye for an eye." Those who support this goal feel that people who break the law do so on purpose and deserve to be punished. This type of punishment was common among early societies, and is still supported by portions of society today.

The goal of *deterrence* is to punish the guilty party so severely that he/she and others in society will be discouraged from the commission of a crime in the future. The penalty should exceed the true value of the crime in order to show people that crime does not pay.

The primary goal of corrections in the United States since the 1960s has been *rehabilitation*. The purpose of this is to change the guilty party or his or her environment so that he/she no longer wishes or needs to commit criminal acts. This is considered to be the most humane policy; however, studies have indicated that rehabilitation may not be any more successful than other programs. Some prisoners have even filed lawsuits to stop the government from trying to treat them.

The fourth goal of corrections is *custodial*. It is argued that in order to protect society, it is necessary to lock up some criminals. This goal is not concerned with the cause of the crime, nor is there an effort to change the criminal. The only concern is to allow society to function more smoothly by locking up criminals so that they cannot commit any more crimes against the public.

Consider the following crimes. Beside each corrections goal, suggest a punishment that would be consistent with that goal.

1. A drunk driver runs over and kills a two-year old child.

RETRIBUTION:

DETERRENCE:

REHABILITATION:

CUSTODY:

What sentence would you give if you were the judge?

2. A person eats a \$5.00 meal at a restaurant and then leaves without paying.

RETRIBUTION:

DETERRENCE:

REHABILITATION:

CUSTODY:

What sentence would you give if you were the judge?

3. A person breaks into your vehicle and steals your brand new CD player, causing damage to your dashboard.

RETRIBUTION:

DETERRENCE:

REHABILITATION:

CUSTODY:

What sentence would you give if you were the judge?

CORRECTIONS MISSION

The mission of the Department of Corrections is as follows: *“Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education and positive reinforcement within a safe environment.”*

THE UTAH DEPARTMENT OF CORRECTIONS

Once an individual has been arrested, tried, convicted, and sentenced, he or she is often transferred to the care and custody of the Utah Department of Corrections. The Department supervises the Utah prison system, the Division of Adult Probation and Parole, the Board of Pardons and Parole, and the other components of the corrections system.

ADULT PROBATION AND PAROLE

The Department of Adult Probation and Parole (AP&P) was created to supervise individuals who have been found guilty of a criminal offense and have either been placed on probation or have been confined in the prison system and released on parole. AP&P plays a key role in ensuring that the public is safe in today’s rapidly changing society by providing both the courts and the Board of Pardons & Parole with creative solutions to sentencing. The main goal of AP&P is to ensure the safety of Utah’s citizens by carrying out the various orders of the courts and the Board of Pardons & Parole. This is done through the variety of duties imposed upon AP&P by the state legislature.

The duty that most people are aware of is the supervision of individuals who have been placed on parole or probation. Many of the individuals under supervision have very little contact with AP&P because of the requirements placed on the probationer. As an example, an individual who has been convicted of intoxication may be advised by the judge that he/she cannot commit any alcohol-related offenses for six months. AP&P would check at the completion of the six-month period to verify that there are no additional charges. If there are none, the judge will be advised that the defendant’s probation is completed. However, other individuals on intensive parole are monitored on a daily basis. These high-risk parolees take a great deal of time to ensure that they complete parole requirements.

Another responsibility assigned to AP&P is to provide pre-sentence reports to the court when a defendant is awaiting sentencing. AP&P is accountable to a sentencing judge to check into the history of the defendant and provide an evaluation and assessment for the court. AP&P is also responsible for providing an evaluation to the Board of Pardons and Parole prior to the inmate coming up for a parole hearing.

THE UTAH BOARD OF PARDONS AND PAROLE

The Utah Board of Pardons was created in 1886 by Utah Constitution. The Board was initially comprised of the governor, the justices of the Utah Supreme Court, and the state attorney general. It has evolved into a five-person board composed of individuals appointed by the governor. The board now consists of five full-time members and three *pro tempore* members who serve for staggered five-year terms, except for the chairperson, who is appointed for an indefinite term. In 1993, the board was given its current title, the Board of Pardons and Parole.

The board is required to conduct an initial hearing, known as a parole grant hearing, after an offender has been committed to prison. Within six months of his or her initial confinement, the offender must be given notice of the month and year in which he/she will be eligible for the hearing. An inmate serving a sentence of up to fifteen years will be eligible for a hearing after nine months. An inmate

servicing a sentence of up to five years will be eligible for a hearing after ninety days. This rule does not apply for sex offenders or second and third degree felony offenders in cases where a life has been taken.

Upon scheduling the original parole grant hearing, the board must notify any of the offender's victims of the date and time of the hearing. Any victim who would like to is allowed to address the board. Each victim is given five minutes to testify before the board. The victims will also be notified with regard to any rehearings or parole violation and rescission hearings that may be scheduled.

A rehearing may be given to an inmate after the parole grant hearing if the inmate is not given a parole date. The inmate will be given the month and year of his or her next hearing, and the rehearing will be conducted in much the same way as the initial hearing, including the notification of victims who may wish to address the board.

If an inmate has received a parole or a rehearing date and the inmate violates prison rules and regulations or is convicted of new criminal acts, the board may schedule a rescission hearing to review that decision. The outcome may be to postpone the release date or the date of the rehearing. Rescission hearings are conducted by a hearing officer who makes the decision in each case.

A parole violation hearing will be held when an offender violates the terms and conditions of his or her parole. The hearing is conducted by a board member or a hearing officer. The person conducting the hearing will hear from the parole officer as well as the offender, and will then render an interim decision. The interim decision is reviewed by the board and becomes final upon receiving a majority of concurring votes.

THE UTAH STATE PRISON SYSTEM

The Utah State Prison is composed of two main facilities: the Utah State Prison, located in Draper, and Central Utah Correctional Facility, located in Gunnison. The primary mission of these two facilities is "to provide a continuum of confinement to control committed offenders so that they may function in a manner which will not be harmful to themselves, staff, other offenders, or society." They also attempt to "provide offenders with the tools necessary to be competitive and enhance the prospects of success in the free world." This is done through educational opportunities, counseling, treatment, and work training and experience.

PRISON LIFE

A key element of the prison experience is the classification of the incoming inmates. Inmates are processed by establishing a program of treatment, and by indicating privileges to be allowed and restrictions to be imposed. Upon entering the prison, the inmate will be tested and diagnosed in terms of his or her social, medical, psychological, educational, and vocational standing. Concern is also shown for any religious and recreational preferences. An individualized treatment program is then developed. Of key concern is the inmate's assigned security risk level. There are five different classification levels at the Utah State Prison, varying from Level 1, which is maximum security, through Level 5, for the offender who is considered to be a low-risk inmate.

Level 1—Intensive Custody (death sentence inmates)

Highly structured and supervised environment; typically confined to cell 23 hours a day and restrained in the presence of non-inmate personnel

Level 2—Close Custody

Typically confined to cell 21 hours a day; when leaving unit, must be escorted by an officer

Level 3—Inside Compound

Must remain inside perimeter fence

Level 4—On Property

Must stay on prison property; may go outside the fence on supervised work details

Level 5—Off Property

May, on approval, leave prison property (home visit, work release, etc.)

Level 6—Housed Off Property

Housed at community correction center

(Source: Utah UDC Inmate Orientation Handbook)

As part of the reception process, inmates are familiarized with the buildings, the personnel, and the rules of the institution. There is usually a physical reception area separate from the main prison population area where new inmates are kept in isolation until it can be determined whether they have any communicable diseases. (A contagious infection would spread rapidly in a confined institution such as a prison.)

After being introduced into the regular prison population, an inmate is assigned to a cell or dormitory and settles into a regular routine. Most inmates are given a job in the prison and are paid a small amount in wages. However, inmates are not allowed to have money in prison, and are given an account which the prison administration oversees. Inmates can purchase items such as toiletries and candy from the prison commissary. The cost of the items is then deducted from their individual accounts. All eligible inmates are required to work or be productive in some way during their time out of the cell. Inmates refusing to work may receive a disciplinary report and be referred to the Offender Management Review team. Depending on an inmate's treatment program, some inmates may leave the institution for work, recreation, or school. Inmates are also required to clean their cells, hallways, and other prison buildings.

In order to maintain security and keep the system going, the prison routine is extremely repetitious. Inmates will be up at a certain hour, eat at specified times, and be in their cells at certain times of the day, and lights will be put out at a set time. There is also time set aside for most inmates to participate in recreation and religious meetings. Recreation may range from weightlifting to outdoor sports to television, depending upon the available facilities, weather conditions, and individual inmate behavior. An inmate may lose access to these facilities and privileges if he/she violates prison rules and regulations.

Visits may be allowed several times per week, depending upon the security classification and behavior of the inmate. Visitation is considered to be a privilege which can be disallowed or limited if needed. The nature of the visit is limited by the security needs of the prison. Visits range from face-to-face visits to barrier visits, again depending upon the classification of the inmate. Visitors and inmates must follow certain rules, such as a modest dress policy, individual search upon reasonable suspicion, etc. The Utah State Prison places an invisible hand stamp on all visitors and monitors them when leaving the facility.

Guards who are stationed inside the prison facility are usually not armed. Guards operate the prison, but much of the day-to-day operation is handled by inmate trusties. Discipline is handled on the basis of write-ups, which are written reports to the prison administration by guards about inmate violations of prison rules. Penalties, which are given after a hearing, can range from withdrawal of privileges to solitary confinement. On the other hand, good behavior is rewarded by a clean file that will be considered at the Board of Pardons and Parole hearing.

Prisons are not ideal places for meeting an inmate's needs. Violence and homosexuality are not uncommon. Riots at places such as Attica, the New Mexico Penitentiary and throughout the Texas prison system have demonstrated the fragile balance of control that exists in many institutions. Administrations sometimes rely on the internal power structure of inmates themselves to keep the system going.

Many individuals are also concerned about the prison as a crime school. Inmates who are not rehabilitated often learn or teach different and better techniques for committing crimes and avoiding arrest and conviction. Release from prison may allow the now more skilled criminal to be an increased risk to society.

PRISON RULES

The following are examples of rules and regulations imposed on inmates housed within the Utah State Prison System:

1. Male inmates may grow a mustache or beard or both, as long as it is maintained.
2. Inmates shall meet the following sanitation and grooming standards:
 - a. Bathe thoroughly with soap and water, at least three times per week
 - b. Wash hair at least weekly
 - c. Keep hair combed and tidy
 - d. Launder clothing and bedding at least weekly
 - e. Brush teeth daily
3. Tattooing is prohibited.
4. Except for members of the inmate's immediate family, married persons visiting inmates of the opposite sex shall be accompanied by one or more of the following, who must remain with the married visitor for the duration of the visit:
 - a. Visitor's spouse
 - b. Inmate's spouse
 - c. Inmate's parent
5. Inmates, while out of their housing unit, shall keep their shirts tucked in and completely buttoned.
6. Clothing shall not be altered.
7. Inmates shall not be allowed to alter or change their natural hair color.
8. Male inmates shall not be allowed to keep or use cosmetics.
9. The following are examples of contraband:
 - a. Batteries
 - b. Currency
 - c. Gum
 - d. Metal hair rakes
 - e. Incense
 - f. Lighters
 - g. Tattoo equipment and inks
10. Inmates and their property may be searched at any time, under any condition, with or without the inmate's presence (this is known as a "shakedown").

TRENDS IN CORRECTIONS

It is impossible to predict the direction that corrections will take in the future with absolute certainty. Listed below are some trends within our country and other countries that may be adopted into our system.

Monitoring. A variety of electronic monitoring devices are now being marketed to allow an individual's activities to be limited. The monitor is usually an armband or ankle band that alerts the monitoring agency if the restricted person leaves a specified area, such as more than 150 feet from his or her home.

Community Service. Providing service to the community has become an accepted form of punishment for many offenders. Judges in both the adult and juvenile systems are using this as an avenue for offenders to repay the community in some way for the problems generated by the offender. In the past, this has often been limited to ideas such as litter pickup and school crossing guard service. However, many white-collar criminals are now being assigned to use their minds and business talents for government groups, community organizations, and nonprofit organizations. Also, celebrities and sports figures are being required to use their popularity and exposure to attack drug abuse and other community problems.

Day-Fines. An idea in use in the Scandinavian countries, this is designed to ensure that both rich and poor offenders are treated equally. An individual who has received a fine must pay an amount proportionate to a specific portion of his wages. He could be fined the equivalent of an hour's, a day's, or a week's wages.

Size of Correctional Institutions. Future jails and prisons will probably be much smaller. The riots and turmoil of today's larger institutions clearly point out their inability to do more than house large groups of inmates.

Location of Correctional Institutions. The trend appears to be that community-based corrections will come back to the cities and suburbs. Most prisons in previous years were built in rural areas for security reasons. If the goal is rehabilitation, then the institution must be moved back into the inmate's community, where the inmate can locate a job, find recreation and schooling, and maintain family ties. The community will no longer be able to divorce itself from dealing with and being part of the correctional process.

Improved Probation Services. New and innovative programs need to be created to help keep the offender out of traditional institutions. More youth hostels, sheltered workshops, and group homes will likely be built. Job placement and psychiatric services will be improved. Treatment will be expanded to include the entire family unit.

Restoration of Offender Rights. There is rising concern that the goal of rehabilitation is not consistent with the practice of limiting offender rights upon successful completion of prison, parole, and/or probation requirements. The conviction record of most ex-convicts makes it hard to get any job, let alone enter a licensed profession, the military, or other government positions. Loss of voting privileges brings a stigma to community members, while the bar on running for public office may limit one's political future. Some states are already restoring civil rights to ex-offenders, as are some courts. It is likely that in the future, the restoration of an offender's rights will be granted automatically by statute at some point after his or her sentence is completed.

PRISONER RIGHTS

In 1871 the court case of *Ruffin v. The Commonwealth of Virginia* set a precedent that prisoners' rights and confinement conditions had no judicial oversight. For almost 100 years after that case, the courts refused to hear any case filed by an inmate for unfair or inhumane conditions. Judges believed that the inmates forfeited their rights when they were committed to prison and, after all, corrections administrators were the experts on how to handle inmates, and the courts should not intervene. In 1964, the case of *Cooper v. Pate* was filed alleging the inmates' freedom of religion had been compromised. The courts finally agreed to look at the case and agreed that the inmates' ability to practice their religion was being compromised by corrections' rules. This opened the door for inmates to begin filing complaints regarding their treatment and conditions under which they lived.

Traditionally, courts have adopted a hands-off policy toward prisoners who have been sentenced and turned over to correctional officials. Complaints about abuse of authority and unfair treatment were considered to be the natural result of being in prison. Since prisons are run by the executive branch of government, the courts felt for many years that such complaints should be handled administratively within the executive branch.

In the 1970s, however, the courts began to listen to the complaints of individuals who were confined in correctional facilities. The basic argument raised by the prisoners and their attorneys was that they, like other citizens, are entitled to due process and constitutional rights, and that these could not be guaranteed without the courts becoming involved in the entire process.

The courts have attacked the problems issue by issue. The key issue in almost all cases is whether one of these two questions can reasonably be answered in the affirmative: (1) Does the restriction placed on a prisoner serve a legitimate purpose of the State, such as rehabilitation? (2) Does the activity present a clear and present danger to the security of the institution?

Indicate how you think the courts would respond to each of the following questions with regard to due process and constitutional rights, and provide an explanation for your decision.

1. Can an inmate send a letter to a government official, without being censored, claiming illegal conduct by prison personnel?
2. Can prison officials open letters addressed to an inmate's lawyer?
3. Can prison officials prohibit magazines that detail how to smuggle contraband into prison?
4. Can prisoners organize a "National Prisoner's Reform Association"?
5. Can media officials interview prisoners with their permission?
6. Can a prison be required to feed black Muslims separately, with special food conforming to their religious beliefs?
7. Can an inmate be prohibited from having long hair?
8. Can a cell be searched only with a search warrant, like a house?
9. Can a government be required to pay prisoners minimum wage?
10. Can a prisoner be whipped or strapped as punishment?
11. Could an entire prison system be considered "cruel and unusual punishment"?
12. Must jails and prisons be desegregated?
13. Are prisoners being disciplined entitled to due process?
14. Do prisoners have the right of access to legal materials?
15. Should prisoners be free to refuse treatment designed for rehabilitation? (See below.)

This last question has recently been answered by the courts. The courts have said that an inmate cannot be forced into a rehabilitation program. Most treatment programs, in order to be successful, must be entered into voluntarily. Many inmates who are treated are not actually rehabilitated, because the treatment programs are based on community standards that are not shared by many minority groups. The courts have said that failure to complete a treatment program should not alter the required sentence because this penalizes non-conformity or punishes the inmate for the failure of the treatment personnel.

The courts have also ruled that psychiatric medication cannot be forced upon an individual. In 1997, a Utah State Prison inmate died while being restrained in a behavior modification chair for sixteen hours. This inmate was mentally ill and refused to take his medications. The prison staff was unable to control him, and he was placed in the chair. Other methods, such as straitjackets and padded cells, have also come under fire as inappropriate methods to control mentally ill inmates. This type of situation places the prison staff in a predicament. When a prisoner is out of control and cannot be forcibly medicated, what options are available to them? This question has not been answered.

THE DEATH PENALTY (CAPITAL PUNISHMENT)

Between 1930 and 2010, 5,093 people were executed in the United States. As of 2010, 35 states and the federal government authorize capital punishment. At the end of 2010, 35 states and the federal government held 3,260 prisoners under penalty of death. In 2010, 46 persons in 12 states were executed. Of those executed, 34 were white and 12 were black, 45 were male and one was female. Executions have been carried out by a variety of methods, including firing squad, hanging, gas chamber, and electrocution. Most states have now approved injections of lethal poisons as a more humane method of execution. Of those executed in 2010, lethal injection was utilized for 44 of the executions, one was carried out by electrocution, and one was by firing squad.

Nearly two-thirds of inmates under sentence of death at the end of 2010 had previous felony convictions, including nine percent with at least one prior homicide conviction. Forty-two percent of those on death row had an active criminal justice status at the time of their capital offense (i.e., on parole or probation, or escaped from prison or jail).

Between 1977 and 1997, there were 5,796 inmates on death row. Of those, only eight percent were executed. Since the death penalty was reinstated by the United States Supreme Court in 1976, Caucasian inmates have made up the majority of those under sentence of death.

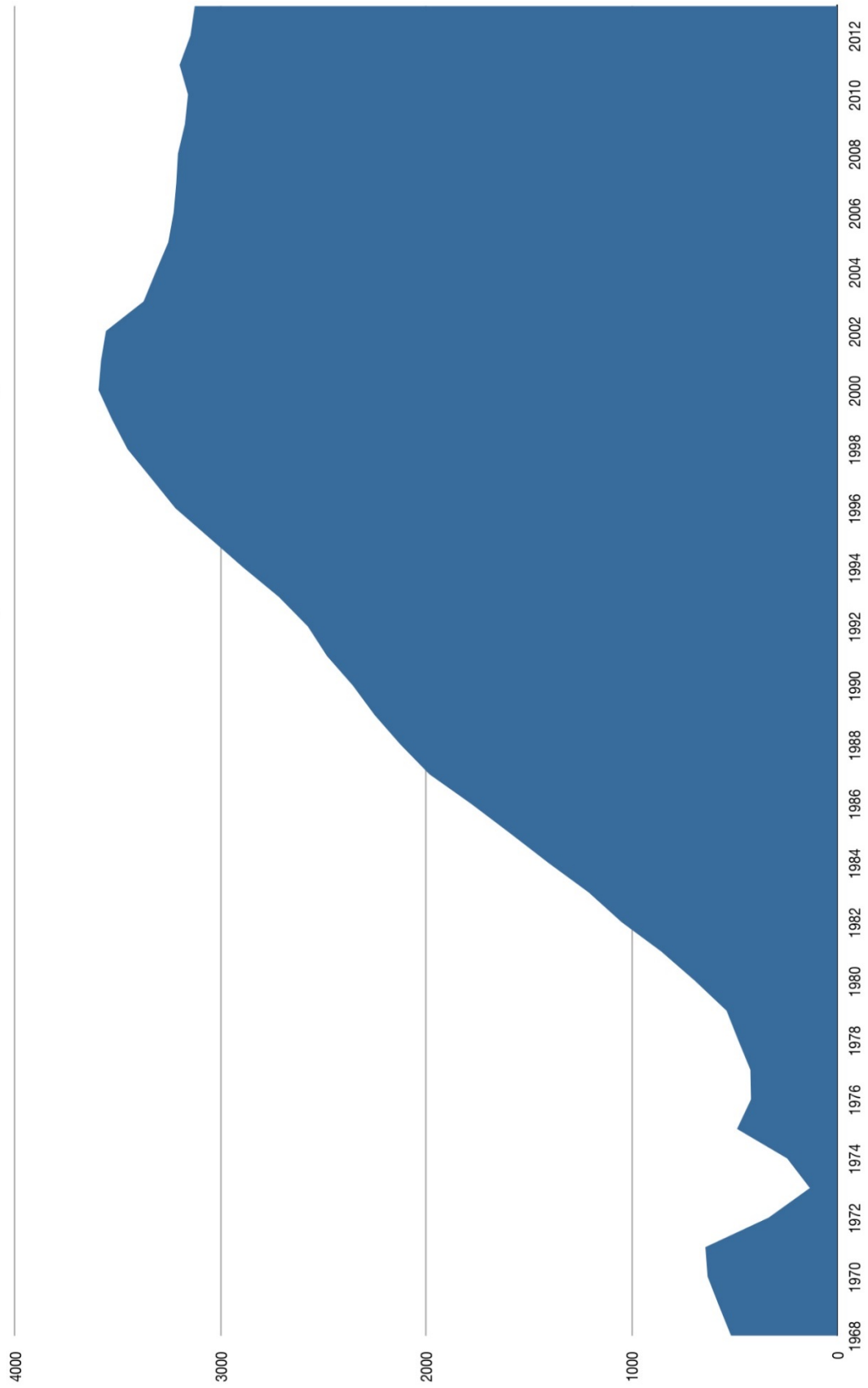
The death penalty has existed for many centuries, but has been abolished by many countries and some states during the last century. The death penalty has been challenged many times, and several important court decisions have resulted. The most significant decision was reached in *Furman v. Georgia* (1976), in which the U.S. Supreme Court found that the death penalty, as it was then being implemented, was unconstitutional.

The opinion of the court held that since too much discretion was granted to judges, statutes that were currently in effect were no longer valid. Since the time of that decision, several other court decisions have established that a separate sentencing hearing is required after the trial in order to consider whether the death penalty is appropriate in each individual case. Nor can the death penalty be imposed for crimes such as rape and armed robbery, as it had been in the past.

Listed below is some information about the death penalty and its implementation, as well as a number of arguments for and against the death penalty. Some of the arguments are based on fact, while others are based on opinion. As you participate in the discussion over whether the death penalty should be kept, make notes about each argument. The chapter test will ask for your opinion on this hotly debated issue, and why you feel the way you do.

1. The murderer will not commit any more crimes.
2. The state will save money.
3. Other people will be deterred from committing similar crimes.
4. It satisfies the public needs for justice.
5. Public opinion (for or against).
6. Stops parole boards from releasing murderers.
7. Discriminatory against minorities.
8. The state should not have the authority to kill.
9. The convicted person may be innocent (no margin for error).

Death Row Inmate Population By Year



SIZE OF DEATH ROW BY YEAR (1968-PRESENT)

1968	517	1982	1,050	1996	3,219	2010	3,158
1969	575	1983	1,209	1997	3,335	2011	3,082
1970	631	1984	1,405	1998	3,452	2012	3,033
1971	642	1985	1,591	1999	3,527	2013	3,088
1972	334	1986	1,781	2000	3,593	2014	3,070
1973	134	1987	1,984	2001	3,581		
1974	244	1988	2,124	2002	3,557		
1975	488	1989	2,250	2003	3,374		
1976	420	1990	2,356	2004	3,315		
1977	423	1991	2,482	2005	3,254		
1978	482	1992	2,575	2006	3,228		
1979	539	1993	2,716	2007	3,215		
1980	691	1994	2,890	2008	3,207		
1981	856	1995	3,054	2009	3,173		

Sources: Bureau of Justice Statistics: [Capital Punishment](#) for the years 1968-2012;
 NAACP Legal Defense and Educational Fund, Inc. [Death Row USA](#) for years 2013 and 2014.

Number of Persons Executed in the United States, 1930-2014

<u>Year</u>	<u>Executions</u>	<u>Year</u>	<u>Executions</u>	<u>Year</u>	<u>Executions</u>
1930	155	1968	0	2008	37
1931	153	1969	0	2009	52
1932	140	1970	0	2010	46
1933	160	1971	0	2011	43
1934	168	1972	0	2012	43
1935	199	1973	0	2013	39
1936	195	1974	0	2014	35
1937	147	1975	0		
1938	190	1976	0		
1939	160	1977	1		
1940	124	1978	0		
1941	123	1979	2		
1942	147	1980	0		
1943	131	1983	5		
1944	120	1984	21		
1945	117	1985	18		
1946	131	1986	18		
1947	153	1987	25		
1948	119	1988	11		
1949	119	1989	16		
1950	82	1990	23		
1951	105	1991	14		
1952	83	1992	31		
1953	62	1993	38		
1954	81	1994	31		
1955	76	1995	56		
1956	65	1996	45		
1957	65	1997	74		
1958	49	1998	68		
1959	49	1999	98		
1960	56	2000	85		
1961	42	2001	66		
1962	47	2002	71		
1963	21	2003	65		
1964	15	2004	59		
1965	7	2005	60		
1966	1	2006	53		
1967	2	2007	42		

Table 3. Method of Execution, by State, 2001

	<u>Lethal Injection</u>	<u>Electrocution</u>	<u>Lethal Gas</u>	<u>Hanging</u>	<u>Firing Squad</u>
Arizona	Nevada	Alabama	Arizona	Delaware	Idaho
Arkansas	New Hampshire	Arkansas	California	New	Oklahoma
California	New Jersey	Florida	Missouri	Hampshire	Utah
Colorado	New Mexico	Kentucky	Wyoming	Washington	
Connecticut	New York	Nebraska			
Delaware	North Carolina	Oklahoma			
Florida	Ohio	South Carolina			
Georgia	Oklahoma	Tennessee			
Idaho	Oregon	Virginia			
Illinois	Pennsylvania				
Indiana	South Carolina				
Kansas	South Dakota				
Kentucky	Tennessee				
Louisiana	Texas				
Maryland	Utah				
Mississippi	Virginia				
Missouri	Washington				
Montana	Wyoming				

Note: The method of execution of Federal prisoners is lethal injection, pursuant to 28 CFR, Part 26. For offenses under the Violent Crime Control and Law Endorsement Act of 1994, the method is that of the State in which the conviction took place, pursuant to 18 U.S.C. 3596.

^a Authorizes 2 methods of execution.

^b Arizona authorizes lethal injection for persons whose capital sentence was received after 11/15/92; for those sentenced before that date, the condemned may select lethal injection or lethal gas.

^c Delaware authorizes lethal injection for those whose capital offense occurred after 6/13/86; for those whose offense occurred before that date, the condemned may select lethal injection or hanging.

^d Arkansas authorizes lethal injection for those whose capital offense occurred on or after 7/4/83; for those whose offense occurred before that date, the condemned may select lethal injection or electrocution.

^e New Hampshire authorizes hanging only if lethal injection cannot be given.

^f Oklahoma authorizes electrocution if lethal injection is ever held to be unconstitutional, and firing squad if both lethal injection and electrocution are held unconstitutional.

^g Kentucky authorizes lethal injection for persons whose capital sentence was received on or after 3/31/98; for those sentenced before that date, the condemned may select lethal injection or electrocution.

^h Wyoming authorizes lethal gas if lethal injection is ever held to be constitutional.

ⁱ Tennessee authorizes lethal injection for those whose capital offense occurred after 12/3/98; those whose offense occurred before that date may select electrocution.

COUNTY JAILS

The Constitution of the State of Utah requires that each county within the state must provide a jail or confinement facility that will be operated by the elected sheriff of that county. Several of the counties within the state, due to population and monetary restrictions, do not actually operate a county jail, but have a working agreement with an adjacent county to provide the required custodial facilities.

The original purpose of a jail was to hold in individual awaiting court proceeding. Today that has changed.

In the past two decades, many Utah counties have built new jails, including rural counties such as Sanpete, Carbon, Emery, and Grand. The need for additional jail space has resulted from growing populations and antiquated buildings that no longer pass inspection. Many counties have built new jails that are larger than the county actually needs to accommodate state inmates under contract from the Utah Department of Corrections. The current contract cost for housing a state inmate in a county jail is approximately \$48 per day, while the daily cost to house an inmate at the state prison is about \$78. Presently 21 county jails have contracts with the prison, with all but one actually housing inmates.

County jails typically do not have the programs or services that the prison would; this is mainly due to inadequate county budgets and that fact that inmates in county jails spend shorter times incarcerated.

The population of a county jail is composed of two basic types of inmates. The first type of inmate has been booked into the jail temporarily and is awaiting trial or some type of pre-trial release. This person is only in jail for a short period of time. The second type of inmate has been convicted in a court of law and has been sentenced to jail for a specific period of time. Such a person will not be released until he/she has served the specified amount of time given him/her by the judge.

Salt Lake County has recently completed the building of a new Adult Detention Center. Phase I of the project, which opened in the latter half of 1999, consists of four pods able to house 2,080 inmates. There are 1,068 cells in Phase I, each measuring 10' x 7' feet and designed for double bunking. The facility carries a maximum security classification, and was built at the cost of approximately \$132,379,674. Other counties, including Davis, Weber, and Utah Counties, have built or are in the process of building upgraded facilities to match the growing needs of their communities.

As we are seeing in Utah, the process to move or build a new prison is a slow and tedious one. Sites are selected and points assigned based on the following criteria:

- Proximity: 35 points
- Land and Environment: 15 points
- Infrastructure: 15 points
- Community Services: 10 points
- Development Costs: 10 points
- Community Acceptance: 15 points

Some communities see a new prison as an increase in their tax revenue base and more employment for their community, while others do not want a facility of this type constructed in their community. Corrections can no longer simply find a site and build a new facility; the public has a great deal of input into the process.

The Utah Department of Probation, Adult Probation and Parole handles all the community supervision aspects often known as community-based corrections. Such programs are not the same across the nation. Some states have the probation function handled by individual counties, while parole is a state function. Utah is divided into five regions, with each region tied to specific court jurisdictions. There has been a strong emphasis on improving the services and programs available to assist offenders in rehabilitation. The goal is first to protect the public from new crimes committed by those under supervision, and then to provide the tools necessary for the offenders to return to being a contributing part of the community. Some of those advancements have included specific drug offender caseloads for probation and parolees who receive more treatment and less incarceration. A women-only caseload has been created, where probation/parole agents have a better understanding of gender differences when it comes to supervision. Also, corrections has set up parole stabilization centers to assist inmates' transition from prison back to communities. These are called as community correctional centers, but have been known as "halfway houses" in the past. Presently, there are four centers on the Wasatch Front; three are in Salt Lake County and one is in Weber County. Others are being considered in rural parts of the state to assist in providing more options than incarceration for offenders.

In an effort to reduce recidivism, Corrections has created a parole violation center where inmates have a chance to reestablish themselves in the community before being returned to the prison. The Fortitude Treatment Center enables struggling parolees to remain in the community under parole supervision rather than returning to prison. When a parolee violates the technical conditions of his or her parole agreement (e.g., something that is not a new crime, but still violates certain restrictions such as curfew, possessing alcohol, dirty urinalysis tests, associating with other known parolees, etc.), Adult Probation & Parole agents can offer an "alternative event" by placing a parolee in this halfway house.

VERSION 2016

JUVENILE JUSTICE

CHAPTER 8

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER EIGHT: JUVENILE JUSTICE

THE JUVENILE JUSTICE SYSTEM

The juvenile justice system is designed to deal with the problems of *delinquency*. In Utah, as in most states, acts are delinquent if they are committed by persons under the age of eighteen. Delinquent acts are of two distinct types. The first type involves an action that, if committed by an adult, would be a criminal offense. This involves the range of crimes from murder to vandalism. The second type of delinquent act involves a *status offense*, behavior that is prohibited for minors but not for those over a certain age. These include curfew violations, alcohol and tobacco consumption, running away, truancy, and being ungovernable. These violations are handled by the juvenile justice system because of a traditional viewpoint that such activities are behaviors that indicate anti-social tendencies that may later manifest themselves in criminal behaviors. It is believed that such juveniles must be protected from their own weaknesses by the government.

As former Los Angeles Police Chief Edward M. Davis has pointed out, traditionally “The system was devoted almost exclusively to the rehabilitation of children who had in some way failed to maintain a standard of development that permitted proper maturation into productive adulthood.” We can see that major changes have taken place over time in society’s ideas about how to deal with juveniles. As far back as the Roman Justinian Code, it has been held that children below a certain age are not able to distinguish between right and wrong and thus are not responsible for any criminal act they may commit. However, when a child reached a specified age—often eight or nine years old—he/she was automatically judged as an adult for any wrongdoing. Little consideration was given to the individual’s level of moral development.

The assumption was made that physical maturity meant moral maturity, and that some form of punishment, usually retribution, was the suitable response to a criminal act. In the 1700s, in countries such as England, it was not unheard of for juveniles to be executed for stealing food. In fact, the laws of that time included over 170 offenses punishable by the death penalty. In addition, many other punishments were extremely cruel and harsh, such as whipping, branding, and mutilation. The severity of these punishments, and their frequent use on children, finally led to a change in the philosophy of how juveniles should be treated within a humane justice system.

In the 1880s, social reformers were able to gain support for a new philosophy that rejected such severe punishments for juveniles. Instead, supporters advanced a new philosophy of corrective justice, under which the acts of juveniles were viewed as delinquent, rather than criminal. Punishment was to be replaced with the rehabilitation of the child. In order to accommodate this significant change in the philosophy of juvenile justice, a separate court for juveniles was created.

The first juvenile court in the United States was created in Cook County, Illinois, in 1899. By 1910, twenty states had separate juvenile court laws, and by 1945, all the states had incorporated a juvenile court system. In keeping with the philosophy of corrective justice, these courts attempted to treat rather than punish offenders, using a wider variety of discretionary procedures than the more limited adult courts. Because of this change in philosophy, the main focus was placed on why a crime had been committed, rather than on proving the criminal act.

The old English philosophy of *parens patrie* (“parents for the state”) was adopted by the juvenile court system in order to justify court involvement in non-criminal juvenile matters. In the United States, the Juvenile Court works under the philosophy of *in loco parentis* (“in the place of

parents”) to protect the juvenile. Proceeding under this philosophy, juveniles are not seen as having their freedom taken away; rather, the court exercises its right to act as a good parent in correcting the unacceptable behavior of a child.

Because of this philosophy of the Juvenile Court judge acting in the role of a parent, juveniles were not viewed as needing any constitutional rights. Since the judge was fulfilling the role of an all-knowing, all-wise parent, it was assumed that he/she would always act in the best interests of the child, and that constitutional safeguards would not be needed. Rather than using the adult adversary system, Juvenile Court hearings were seen as civil matters, even though a criminal act was involved. In order to emphasize the differences between adult and juvenile courts, the juvenile courts created new terms to represent criminal trial equivalents. An arrest became a “referral,” a conviction became an “adjudication,” and the juvenile jail became a “detention center.”

The emphasis of the system was placed on rehabilitation rather than on issues of guilt. This is not to say that large numbers of innocent juveniles were improperly dealt with by the courts; however, with increasing concerns for due process in adult criminal courts, the Supreme Court in 1966 acted to change the philosophy of the juvenile justice system.

In *Kent v. U.S.*, the Supreme Court emphasized that Juvenile Courts must meet certain standards. The doctrine of *parens patrie* was abandoned, because “while there can be no doubt of the laudable purpose of Juvenile Courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purposes to make tolerable the immunity of the process from the reach of constitutional guaranties applicable to adults. There is much evidence that some Juvenile Courts... lack the personnel, facilities, and techniques to perform adequately as representatives of the state in a *parens patrie* capacity...”

In 1967, the case of *In re Gault* changed the philosophy of juvenile justice forever. The Supreme Court stated that the Juvenile Courts could no longer ignore the constitutional rights of juveniles. In the future, juveniles appearing in court were to have the following constitutional rights:

- Access to a lawyer
- Adequate notice of charges
- Privileges against self-incrimination
- Opportunities to confront and cross-examine witnesses

In 1970, the case of *In re Winship* further abandoned the civil nature of juvenile justice by replacing the civil court standard of preponderance of the evidence with the adult court standard of “beyond a reasonable doubt” in determining the guilt of a juvenile. Juveniles had now gained all of constitutional rights afforded to adults, with one notable exception: juveniles are not allowed a trial by jury, as specified in the case of *McKeiver v. Pennsylvania*.

The current operation of the juvenile justice system is two-fold, a combination of criminal prosecution under due process and corrective justice involving rehabilitation and treatment. In other words, a juvenile is entitled to have the case against him/her proven legally before the court attempts to treat or rehabilitate him/her.

In Utah, although the rules of evidence are criminal, all convictions except for traffic offenses are considered to be civil proceedings and need not be reported as arrests and convictions. In any case, a record can be sealed after a juvenile turns eighteen, a process which is known as *expungement*.

EXPUNGEMENT

The process of expungement (or the sealing of court records) is available to all citizens, including juveniles, although it is dependent upon factors such as the severity of the Juvenile Court record. In order to get a juvenile record expunged, the following minimum requirements must be met:

- Be 18 years or older
- Petition the court for an expungement hearing
- Pay a processing fee
- Have no convictions for a specified period of time

JURISDICTION

The Juvenile Court's jurisdiction embraces criminal law violations by juveniles, including status offenses such as truancy, curfew violations, and ungovernability. It also addresses the issues of the dependency of children, determination of their custody, permanent termination of the parent-child relationship, judicial consent for marriage or employment when required by law, support obligations by parents, and resolution of custody disputes involving children under the continuing jurisdiction of the court. In addition, the Juvenile Court shares concurrent jurisdiction with other courts over traffic offenses committed by juveniles and over adults who have committed specific offenses against children, such as neglect, abuse, or parents contributing to juvenile delinquency.

COMMISSIONERS

The Juvenile Court Act provides that the judges may appoint qualified persons to serve as commissioners to assist with the legal processing of Juvenile Court cases. Commissioners must be graduates of an accredited law school. Two commissioners serve in the more populated areas of the State of Utah; they hear all traffic cases and minor delinquency matters.

INTERSTATE COMPACT

In 1954, the Council of State Governments, with the assistance of many other national and state social services organizations, designed and implemented a compact of procedures that would facilitate and permit the return of runaway children and youth to the state of their residence. Two years later, in 1956, the state of Utah joined with other states in the compact when the Utah State Legislature voted to adopt the Interstate Compact Agreement for the return of runaway juveniles. Following this action, the governor of the state of Utah appointed the administrator of the Utah Juvenile Court to serve concurrently as administrator of the Interstate Compact Agreement.

As a member of the Interstate Compact on Juveniles, the court also accepts supervision of juveniles who move to Utah from another state, but who were under court supervision prior to moving. In turn, the court often requests supervision for juveniles residing in Utah under court supervision, but who are contemplating a move to another state. Compact supervision has proven to be a valuable service on behalf of juveniles.

THE SERIOUS HABITUAL OFFENDER COMPREHENSIVE ACTION PROGRAM (SHOCAP)

SHOCAP is a comprehensive information and case management process for prosecutors, law enforcement officers, schools, probation, judicial, corrections, social service, and community after-care services. It enables the juvenile justice system to focus additional attention on juveniles who repeatedly commit serious crimes, with particular attention given to providing relevant and complete case information for more appropriate intervention, supervision, and sentencing decisions.

SHO youth criteria are as follows:

- Three felony episodes (two must be first or second degree, or third degree against persons), or
- Four felony episodes, or
- One felony episode using a firearm, or
- Two felony episodes against persons, or
- Multiple adjudicated probation violations

SERIOUS YOUTH OFFENDER LAW

In response to rising violent crime committed by juveniles, the Utah State Legislature passed the Serious Youth Offender Act in 1995. The Serious Youth Offender Act creates a procedure that automatically transfers certain juvenile offenders to the adult justice system. The offender must be at least 16 years old and must meet one of the following criteria:

1. Charged with aggravated murder or murder
2. Charged with a felony offense after placement in a Youth Corrections secure facility
3. Charged with one of the following offenses:
 - Aggravated arson
 - Aggravated assault
 - Aggravated kidnapping
 - Aggravated burglary
 - Aggravated robbery
 - Aggravated sexual assault
 - Discharge of a firearm from a vehicle
 - Attempted murder
 - A felony offense involving the use of a dangerous weapon, where the juvenile had previously been convicted of a felony offense involving the use of a dangerous weapon

If the juvenile meets the above-listed criteria, he/she will automatically be transferred into the adult court system unless he/she can show that he/she would be better served in the juvenile court system.

The other method for transferring a juvenile to adult District Court is known as *certification*. The prosecution has to prove that the juvenile cannot be appropriately served within the Juvenile Court system and has to request that the juvenile be transferred to the adult system. After the petition is received, the court will conduct a hearing, listening to arguments. If the judge concurs, the juvenile can be transferred to adult court system.

DIVISION OF YOUTH SERVICES

The Division of Youth Services is a government agency responsible for providing services for runaway juveniles, homeless and ungovernable youth, and children who have been abused, abandoned, or neglected. The division is responsible for numerous programs, two of which are of major concern for youth: the Juvenile Receiving Center (JRC) and the Truancy Prevention Program.

The division provides 24-hour reception; crisis intervention and counseling; a time-out facility to prevent the escalation of personal or family crisis; protective services and safe shelter for children who are victims of abuse or neglect; diversion for status offenders; and specialized treatment services for troubled youth.

JUVENILE RECEIVING CENTER

The Juvenile Receiving Center provides a 24-hour reception center for the screening, evaluation, and referral of juvenile offenders who do not qualify for a secure detention facility. The center greatly improves the timeliness of needed services to troubled or delinquent youth. It can be used for detaining individuals such as runaways, ungovernable juveniles, and children who have committed a crime and are to be referred to Juvenile Court, but whose parent or guardian the officer cannot locate.

TRUANCY PREVENTION PROGRAM

The program is based on research that has found that truancy can be curtailed by immediate intervention, parent involvement, firm sanctions with consistent consequences, law enforcement involvement, and meaningful incentives for responsibility, counseling, and truancy education. The program is linked to the education system and coordinated with the various school districts.

DETENTION CENTER

A detention center is a secure facility able to hold juveniles who are deemed to be a risk to society in some manner. A juvenile can be placed in a detention facility if he/she commits certain offense(s) and is considered to be a danger to himself/herself, others, or property. Specific guidelines list the types of offenses that will be considered sufficient reason for a juvenile to be placed in a detention center.

If probable cause exists, the admissions staff of the detention center will review the charges and verify that the juvenile can be admitted under the Statewide Detention Admission Guidelines. This set of guidelines is promulgated by state statute and Juvenile Court Rules of Practice and Procedure and is strictly adhered to with regard to admission.

When a juvenile is placed into a detention center, the juvenile can only be held for a 48-hour period (not including weekends and holidays) before he/she must appear before a Juvenile Court judge. If the juvenile has not been seen by a judge within the specified time period, the juvenile must be released. When a juvenile is placed into the detention center, the staff will advise him/her of the following:

- Charges that he/she is alleged to have committed
- His/her right to make two approved telephone calls
- His/her current status with Juvenile Court

- The date, time, and reason for a detention/probable cause hearing
- His/her right to medical services

Once the juvenile has been advised of his/her individual rights, he/she will receive an orientation at which the staff will explain the rules of the confinement facility. This will include information on the following:

- The daily facility schedule
- Quiet time
- Allowable personal items
- Visitation rights
- Searches
- Telephone calls
- Clergy representatives
- The right to legal counsel
- Medical services available
- The grievance procedure
- Mail call
- School requirements

High School Seniors and Drugs

Report-2015 – Lifetime use

31% drank alcohol

23% smoked marijuana

7.5% used stimulants

3.5% used cocaine

4.7% used hallucinogens

4.5% used inhalants

0.9% used heroin



VERSION 2016

LAWS OF ARREST AND SEARCH AND SEIZURE

CHAPTER 9

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER NINE: LAWS OF ARREST AND SEARCH AND SEIZURE

LAWS OF ARREST

Detention is when a person is detained—the person is not free to go, but is not in custody or under arrest. A person may be detained by policy for questioning if the officer has a reasonable suspicion that the person being detained is involved in or a witness to a crime. “Reasonable suspicion” means that if a reasonable person were in the same circumstances, he/she would suspect a crime has been, is being, or is about to be committed.

An officer is allowed to stop and detain a person for the purpose of questioning a suspect or witness of conducting a reasonable investigation. A person who has been detained by an officer is not under arrest, and will be released as soon as the investigation is completed. If, during the investigation, probable cause develops, the individual could be arrested at that time.

An *arrest* is the actual restraint or submission to custody of the person arrested. The person shall not be subjected to any more restraint than is necessary for his/her arrest and detention. An arrest may be made by a peace officer or by a private person (77-7-1, UCA).

The key element of arrest is intent. A person, by law, is under arrest when another person gives notice, usually verbal, that he/she is taking such action, and then assumes custody. Physical restraint alone is not an arrest. An arrest involves four elements:

1. Intent to arrest.
2. Authority to arrest.
3. Subjection to the arrest.
4. Understanding, by the arrestee, that an arrest has been effected.

The person making the arrest shall inform the person being arrested of his/her intention, cause and authority (77-7-6, UCA). This is not required when the person to be arrested is actually engaged in the commission of, or an attempt to commit an offense, or is pursued immediately after its commission or after an escape.

Any person who has committed a crime, regardless of age or mental ability, can be arrested. The determination of culpability or the required culpable mental state is not made by the police, but rather by a prosecutor or a court.

In making an arrest, a peace officer may orally summon as many persons as needed to assist in making the arrest. If an individual refuses to aid an officer, he/she has violated the law. A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him or her as such, he/she unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

The Federal Constitution, the Utah Constitution and the Utah Code Annotated (UCA) grant that some individuals are given certain privileges of immunity from arrest. This includes congressmen, legislators, and National Guard personnel while in the performance of their official duties. These individuals may, however, be arrested for “treason, felony, or breach of peace.” Breach of the peace could be liberally interpreted to include most misdemeanors.

Diplomatic or consular immunity is granted by federal law to certain representatives of foreign governments. This immunity is based on the practice of national governments of avoiding situations that could be interpreted as political harassment, and to protect their own representatives.

ARREST WITH A WARRANT

When practical, an arrest with a warrant inserts a neutral official (i.e., a judge), between the power of law enforcement to arrest someone and the citizen being arrested. This allows a judge to screen out arrests that would be legally faulty and restricts potential abuses. A public preference for warrant arrests aids both public relations and the actual ease of arrest.

A signed information must be presented and sworn to before a judge having jurisdiction over the place where the alleged crime occurred. Probable cause must be established to the satisfaction of the judge. In unusual circumstances, a warrant may be issued for a "John Doe," if the person but not his/her identity is known. In Utah, the warrant must have the prior approval of a prosecutor if the offense is a felony or a class B misdemeanor, except in limited emergency circumstances.

Warrants are addressed to all peace officers in the state. They can be served by any peace officer, but cannot be served by citizens. Warrants for felonies can be served at any time, but a misdemeanor warrant can only be served in the daytime. The issuing judge can endorse the warrant for night service, or for service if the person named in the warrant is encountered in a public place for another legitimate police purpose.

Once a warrant is signed by the judge, in most cases the warrant is entered to the State computer system and is accessible throughout the state. Electronic or computer-memory warrants are stored in one of two ways. The first way is entry into an index system that indicates that a written warrant is in existence, although all warrants are not necessarily kept in one central storage area. The second storage method storage in a computer's memory system. This latter type can be printed out when the arrestee is brought in to jail.

Arrest on the basis of such electronic memories is a warrant arrest in a legal sense. Obviously, an electronic warrant cannot be produced at the time of the arrest. However, according to state law, any peace officer who has knowledge of an outstanding warrant of arrest may arrest a person he reasonably believes to be the person described in the warrant, without the peace officer having physical possession of the warrant (77-7-11, UCA).

ARREST WITHOUT A WARRANT

There are several circumstances under which a peace officer can make an arrest without a warrant having been issued. They are:

- For a public offense committed or attempted in his presence.
- When he has reasonable (probable) cause to believe a felony has been committed and has reasonable cause to believe that the person arrested has committed it.
- When he has reasonable (probable) cause for believing the person to have committed a public offense, and there is reasonable (probable) cause for believing that such a person may:
 - Flee the jurisdiction or conceal himself to avoid arrest,
 - Destroy or conceal evidence of the commission of the offense, or
 - Injure another person or damage property belonging to another person.

In addition to the listed circumstances, the Utah Legislature allows officers to make an arrest without meeting those requirements upon violation of several specific laws.

- The Utah Retail Theft law allows a peace officer, merchant, or merchant's employee who has reasonable grounds to believe that goods may have been taken to detain the suspect in a reasonable manner for a reasonable length of time.
- The Library Theft law states that a peace officer or employee of a library may detain a person if there are reasonable grounds to believe the person has violated laws against library theft.
- A peace officer may make a drunk driving arrest without a warrant at the scene of a traffic accident even though he did not observe the violation, if reasonable cause exists through the testimony of witnesses.

ARREST BY A PRIVATE PERSON

Utah law allows an individual to make a *citizen's arrest*. However, most departments prefer that a citizen not attempt to make an arrest due to the hazards that may be encountered. The preferred method is to observe the situation and report to an officer what was observed, with the citizen available later as a witness to the occurrence.

A private person may arrest another:

- For a public offense committed or attempted in his presence, or
- When a felony has been committed and he has reasonable cause to believe the person arrested has committed it.

ARREST DISPOSITION

If an individual is arrested with a warrant, the arrested person must either be immediately booked into jail or brought before the magistrate or judge, in accordance with written instructions on the arrest warrant.

If an individual is arrested without a warrant, by a peace officer or private person, the person arrested shall be taken without unnecessary delay to the magistrate in the district court, precinct of the county, or the municipality in which the offense occurred. An information stating the charge against the person shall be made before the magistrate. If the Justice Court judge of the precinct or municipality or the District Court is not available, the arrested person shall be taken before the available magistrate within the same county who is nearest to the scene of the alleged offense (77-7-23, UCA).

As an alternative to taking the individual before a magistrate, an arrestee may be booked into jail and then released on bail or through pre-trial services on his/her own recognizance (O.R.) or through a supervised release (S.R.).

Another alternative is for the individual to be released on a citation if it is a misdemeanor violation. A peace officer, in lieu of taking a person into custody, may issue and deliver a citation requiring any person subject to arrest or prosecution on a misdemeanor or infraction charge to appear at the court of the magistrate before whom the person should be taken pursuant to law if the person had been arrested (77-7-18, UCA).

- Persons receiving misdemeanor citations shall appear before the magistrate designated in the citation on or before the time and date specified in the citation.
- A citation may not require a person to appear sooner than five days or later than 14 days following its issuance.

- A person who receives a citation and who fails to comply on or before the time and date and at the court specified is subject to arrest. The magistrate may issue a warrant of arrest (77-7-19, UCA).
- A citation must contain:
 - The name and address of the involved court.
 - The name of the person cited.
 - A description of the charge.
 - The date, time, and place the offense occurred.
 - The date the citation was issued.
 - The name of the officer issuing the citation (and the citizen's name in case of a citizen's arrest).
 - The appearance deadline (77-7-20 (2), UCA).

The use of citations is normal for most traffic offenses, but also has great practical value in other misdemeanor situations. The citation process avoids costly jail administrative costs, as well as subjecting fewer persons to the degrading booking process.

The key to releasing an individual on a citation release is the likelihood of his/her appearance in court. It may be necessary to book some offenders in order to ensure their appearance on the charge. Statistics show, however, that with proper screening, well over 90% of all citations issued are properly disposed of before the legal deadline.

This is a discretionary power of the arresting officer and he should consider such factors as the severity of the violation, community ties, occupation, employment, school attendance, relatives in the area, positive identification (picture ID), etc. Many agencies, by policy, establish citation release guidelines.

SUMMONS

Another alternative available to a peace officer is a summons. A judge may issue a written summons to a person requiring that person answer to a criminal charge within a certain time period. This is not a warrant of arrest, and is often delivered by a constable who works for the court. It is a discretionary action by the judge, again based on the likelihood of appearance. Failure to appear by the defendant is punishable as contempt of court, for which the judge may issue an arrest warrant.

USE OF FORCE IN MAKING AN ARREST

The key to the use of force is the standard that no more force than is necessary is used to effect the arrest and provide for the safety of all involved. If more force than is reasonable is used, the party making the arrest can be liable for both civil and criminal charges.

Any person is justified in using any force, except deadly force, which he reasonably believes to be necessary to effect an arrest, or to defend himself or another from bodily harm while making an arrest (76-2-403, UCA).

If a person is being arrested and flees or forcibly resists after being informed of the intention to make the arrest, the person arresting may use reasonable force to effect the arrest. Deadly force may be used only as provided in Section 76-2-404 (77-7-7 UCA).

In some limited situations, forced entry may be made without warning, such as when the officer's life would be placed in jeopardy or evidence hidden or destroyed. In fresh pursuit cases, the peace officer may legally break open doors, windows, etc., to maintain pursuit in order to re-capture or effect an arrest.

To make an arrest, a private person (if the offense is a felony) or a peace officer (in all cases) may break the door or window of the building where the person to be arrested is, or in which there are reasonable grounds for believing him to be. Before making the break, the person shall demand admission and explain the purpose for which admission is desired (77-7-8, UCA).

USE OF DEADLY FORCE BY A PEACE OFFICER

A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

- The officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death.
- The officer is effecting an arrest, or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape, and
 - The officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or
 - The officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed.
- The officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

If feasible, a verbal warning should be given by the officer prior to any use of deadly force, as provided under subsection (1)(b) or (1)(c) of 76-2-404 (UCA).

It is important to note that these are legal requirements as to when deadly force can and cannot be used. Decisions must be made based on agency policies, personal judgment, and moral considerations. The law does not distinguish between juvenile and adult suspects in this matter.

Practical Exercise

Define the following:

1. a. Arrest: _____

b. "John Doe" warrant: _____

c. Citation release: _____

d. Probable cause: _____

2. Can a private citizen use deadly force to make an arrest? _____

3. What are the four elements of an arrest? _____

4. Can an officer make a warrant arrest without the warrant in his possession? _____

5. Can a citizen arrest for a misdemeanor not committed in the citizen's presence? _____

SEARCH AND SEIZURE

Search and seizure is the area of law enforcement that is most confusing to the officer on the street. The Fourth Amendment to the Constitution guarantees that citizens will be free from unreasonable search and seizure, but does not define what “unreasonable” means. The unreasonableness of a search has been defined by appellate courts, and specifically the U.S. Supreme Court, in numerous decisions over the years. But the courts, due to changes in their composition, have frequently changed their collective mind in regard to various aspects of search and seizure. This debate over the unreasonableness of a search can be very confusing for everyone involved in the criminal justice system, because it seems that everyone involved, including the officer on the street, has his/her own opinion of what is reasonable.

SEARCH WARRANT

A search warrant is an order issued by a magistrate in the name of the state and directed to a peace officer, describing with particularity the thing, place or person to be searched and the property or evidence to be seized by him and brought before the magistrate (77-23-201, UCA).

The law enforcement officer who must obtain a search warrant is required to contact a magistrate having jurisdiction over the geographic area concerned. The officer submits an affidavit, which must specify the premises to be searched and the property to be seized. This information about premises and property must describe both with particularity, meaning in great detail. The affidavit must be based on probable cause and sworn to under oath.

In executing the warrant, any officer can serve the search warrant. The search warrant is valid for a 10-day period and can only be served during daylight hours, unless the judge specifies that it can be served at night.

When serving the search warrant, entry may be made in one of two ways. In most cases, the judge will require an announced entry, where the officer knocks on the door, announces his purpose and authority, and produces the warrant for scrutiny by the citizen. If entry is denied, forced entry may be made. The other option, which the judge must authorize, is the no-knock entry. In this situation, the officers do not announce entry but make an immediate forced entry. This type of entry may be used when there is the possibility that evidence may be destroyed or hidden, or when there is physical risk to any person, including the officers.

There are limitations and stipulations placed on law enforcement officers when executing a search warrant. The courts require that the areas searched and the time spent must be reasonable. The reasonableness standard means that the issuing court will decide after the fact whether the time spent was reasonable, and also whether the officers limited their search to areas in which the items could have reasonably been concealed.

Officers cannot search persons on the premises unless it is specified in the warrant that individuals may be searched. Officers are allowed to do a frisk for weapons if they can explain that they reasonably believe themselves or others may be in danger.

Officers can seize evidence and contraband other than what is listed in the search warrant under what the U.S. Supreme Court has defined as the “plain view” doctrine. If, during the execution of a valid search warrant, the officers see other evidence or contraband in plain view, they are allowed to seize it.

If any items are seized, the officer must provide a receipt for the items taken and leave a copy of the search warrant. The receipt and search warrant are to be left with the person from whom the property was seized, or in whose possession it was found. The officer must promptly return the warrant to the issuing judge with a written inventory of items seized.

SEARCH OF PREMISES WITHOUT A WARRANT

Only under specific circumstances are law enforcement officers allowed to search a building or residence without a search warrant. The courts have allowed that if exigent circumstances are present, a search can occur without the benefit of a court-ordered search warrant. An “exigent circumstance” is to a situation in which an immediate response or prompt action is required in order to alleviate a problem. The following is a list of circumstances in which the courts have stated that, if time were taken to acquire a search warrant, the effort would be futile.

- Emergencies and life-or-death situations
- Hot pursuit (i.e., a suspect is ready to escape or is actually escaping)
- Evidence is about to be destroyed; this is incident to arrest and limited to the immediate area within reach of arrestee in order to:
 - Protect the officer
 - Prevent escape
 - Prevent evidence from being destroyed

SEARCH OF A PERSON

As with the search of a premises, acquiring a search warrant before searching an individual is the preferred method. The acquisition of the search warrant is identical to what was described previously and allows a judge to verify that there is probable cause for the search. Upon execution of the warrant, the individual can be forcibly detained if necessary. If a skin search is required, it should only be done in a private place. If a body cavity search is required, the search should be conducted by appropriate medical personnel.

The courts have held that searches done incident to an arrest are valid in order to protect the officer, prevent a possible escape, and preserve evidence. The courts have allowed that the officer can search for weapons, contraband, evidence, fruits of the crime, and instruments used in the commission of the crime.

The officer, or any officer who assumes custody of the arrestee, can search the individual. The search will be conducted irrespective of the gender of the arrestee. Departments train officers on how to search an individual of the opposite sex, and an officer is expected to conduct a thorough search of a suspect or arrestee. An injured arrestee, receiving medical attention, can also be searched. Items or areas that can be searched include the following:

- Items in hands
- Clothing
- Suitcase or purse
- Hair
- The immediate area
- Body cavities, with specific reason to search (preferable to obtain a warrant)

SEARCH OF A VEHICLE

When an individual in a vehicle has been arrested, the vehicle can be searched incident to the arrest. The area within reach of the arrestee, known as “lunging distance,” may be searched for weapons or evidence. If the vehicle is being seized under the laws allowing forfeiture, the entire vehicle can be searched, and may be transported to another location to be searched at a more convenient time. Normally, a vehicle would be seized under forfeiture laws involving narcotics, federal offenses such as contraband liquor, or illegal weapon possession.

An officer is normally required by department policy to do an inventory search on an impounded vehicle (held for its owner, incident to arrest) or a state tax impound. This inventory search is completed in order to safeguard the property of the owner and for the protection of the officer against invalid claims.

The U.S. Supreme Court, due to exigent circumstances involving a moveable vehicle, has allowed law enforcement officers to search a vehicle when certain requirements are met. In *Carroll v. U.S.* and *Ross v. U.S.* (not included), the Supreme Court found that, due to the mobility of a vehicle, law enforcement officers could not be expected to acquire a search warrant and then find the vehicle waiting for them when they returned. The Supreme Court, in its opinion, stated:

Police officers who have legitimately stopped an automobile and who have probable cause to believe that contraband is concealed somewhere within it may conduct a warrantless search of the vehicle that is as thorough as a magistrate could authorize by warrant.

With regard to the search of a vehicle, certain situations are not considered to be a search in the legal sense and are not restricted by the Fourth Amendment. They are:

- Checking the vehicle identification (VIN) number on the dashboard.
- Stopping a vehicle to give the driver a citation.
- Shining a flashlight around the interior of a vehicle at night.
- Looking at the outside of a vehicle parked in a public place.

CONSENT SEARCH

The courts have allowed that a citizen can consent to authorize a search by law enforcement officers. There are a number of elements that must be present in order for the consent to be valid. They are:

- The person who has given consent must have the authority to permit the search.
- The consent must be voluntary.
- The consent must be positive. Silence is not consent.

There are some restrictions involving consent searches:

- The person cannot be tricked into allowing consent.
- Consent given by an individual may be limited to a specific place.
- Consent to enter a house is not consent to search.
- Consent can be revoked at any time.

The person authorizing the search by consent must be the person with the primary right to occupy the premise. If a joint right exists, such as in a shared apartment, either of the parties can consent, unless one has already refused consent. However, if a joint right exists, the consenting party can only authorize the search of his/her property and any common area, but not the property of the other. In the case of a vehicle, the driver can consent to a search even though he/she is not the owner of the vehicle.

STOP AND FRISK LAW

Utah's Stop and Frisk law is a legal recognition of the right of police to stop and question suspicious persons, and to check for weapons when the officer believes he/she may be in danger. It is based on the U.S. Supreme Court case of *Terry v. Ohio*:

Where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous... he is entitled, for the protection of himself and others in the area, to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him.

A peace officer may stop any person in a public place when he/she has reasonable suspicion to believe the person has committed, is in the act of committing, or is attempting to commit a public offense, and may demand the person's name, address, and an explanation of his/her actions (77-7-15, UCA).

A peace officer who has stopped a person temporarily for questioning may frisk the person for a dangerous weapon if he/she reasonably believes that he/she or any other person is in danger (77-7-16, UCA).

EXCLUSIONARY RULE

The *exclusionary rule* is a rule generated by the U.S. Supreme Court requiring that any evidence or testimony that law enforcement officers gain through improper means be excluded from court. The development of the exclusionary rule came about because of two cases, *Weeks v. U.S.* in 1914 (which only pertained to federal cases), and *Mapp v. Ohio* in 1961, which made the rule applicable in all cases nationwide.

PROBABLE CAUSE, THE ARREST STANDARD

The grounds for obtaining a warrant or for making an arrest are a function of reasoning. At the time the warrant is issued or the arrest is made, the arresting person must be in possession of knowledge that would lead a reasonable and prudent person in the same position to believe that the crime has been committed and that the arrestee committed it. An arrest without probable cause creates liability. The arrested person may prove or be found innocent, but as long as probable cause existed at the time of the arrest, the arrest itself was legal.

Probable cause can be based on any sensory information available to the person making the arrest. The key is the reasonableness of the conclusions drawn from such information. Examples of such information include:

- Sensory observations.
- The nature of the crime.
- Modus operandi (method of operation).
- Personal knowledge of suspect and victim backgrounds (character, past record, reputation).
- Information received from victims, other suspects, other peace officers.
- Reliable informants.
- Electronic communications.
- Computer memory.



VERSION 2016

AGENCY POLICIES AND PROFESSIONAL ETHICS

CHAPTER 10

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER TEN: AGENCY POLICIES AND PROFESSIONAL ETHICS

LAW, POLICY, AND ETHICS

Three factors influence the choices that an officer must make in his/her position as a law enforcement officer. These factors are the law (federal, state, and local), department policies, and an individual's own ethics. Each of these factors can be involved in the various choices that an officer must make.

The law can allow or restrict an officer's activities and is enforceable through the threat of punishment. The officer who disregards laws concerning his/her conduct is subject to criminal prosecution and/or civil penalties. *Restrictive* laws place restrictions on the use of deadly force, require certain standards of conduct when involved in emergency driving, and dictate when someone can be searched. However, not all laws are restrictive. In certain circumstances, officers are allowed to disregard some traffic laws, break into a house, or impound a car. Not only can an officer do these things, but sometimes he/she is legally obligated to do so. In such cases, the law creates a duty to act in a specified manner.

Policy consists of the procedures set up by a specific law enforcement agency to control the actions of its members. Policies are designed so that an officer's actions are consistent and fair, and officers can be held responsible for their actions. Policy is also used to reduce the number of individual decisions that have to be made by an individual officer. It protects the officer by placing the officer in a position where his/her actions meet an acceptable standard of conduct prescribed by his/her department. Violation of policy is handled within the agency's own command structure. An agency may take disciplinary action ranging from a reprimand to suspension or possibly even termination.

Ethics involves individual decisions based on the officer's own moral values of what is right and wrong. Ethical values are a factor in many decisions that an officer must make on a daily basis. Although each peace officer has his/her own code of moral behavior, there is also a moral obligation to uphold the law and policies of the agency. This obligation is created by taking an oath of office appointment to the police force.

UTAH LAWS ON DUTY, OBLIGATIONS, AND ETHICAL STANDARDS OF POLICE

The following Utah laws apply specifically to police officers and other public servants.

Official Misconduct—Unauthorized Acts or Failure of Duty (76-8-201, UCA): A public servant is guilty of a class B misdemeanor if, with intent to benefit himself/herself or another, or to harm another, he/she knowingly commits an unauthorized act that purports to be an act of his/her office, or knowingly refrains from performing duty imposed upon him/her by law or that is clearly inherent in the nature of his/her office.

Receiving or Soliciting Bribes or Bribery by a Public Servant (76-8-105): A person is guilty of receiving or soliciting a bribe if that person asks for, solicits, accepts, or receives, directly or indirectly, any benefit with the understanding or agreement that the purpose or intent is to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter.

Receiving or soliciting a bribe is a third degree felony when the value of the benefit asked for is \$1,000 or less, and a second degree felony when the value of the benefit asked for exceeds \$1,000.

Improperly Disclosing or Using Private, Controlled, or Protected Information (67-16-4 UCA): A public officer, public employee, or legislator may not accept employment or engage in any business or professional activity that he/she might reasonably expect would require or induce him/her to improperly disclose confidential information that he/she has gained by reason of his/her official position, or disclose or improperly use controlled, private, or protected information acquired by reason of his/her official position. He/she may also not attempt to use his/her official position to further substantially his/her personal economic interest or secure special privileges or exemptions for himself/herself or others, or accept other employment that he/she might expect would interfere with his/her independence of judgment in the ethical performance of his/her public duties.

DISCRETION

Discretion is the power or authority to decide or act in accordance to an individual's own knowledge and judgment. Although obligated to act when discovering a criminal violation, an officer can exercise considerable discretion or choice over how to handle a situation. A speeding violation is a good example of this. The officer has the discretion to verbally warn the offender, issue a warning citation, issue a regular citation, book the driver in jail, and/or request re-testing of the driver by the Driver License Division. Discretion allows an officer to judge each violation or case on its own merits and decide what is appropriate.

In-Class Discussion Exercise

Indicate whether the following actions are illegal, against department policy, and/or individually unethical. Discuss why you believe that the officer involved might commit the act or take such actions.

1. Accept free coffee while in uniform.
2. Accept half-price meals while in uniform.
3. Pick up uniform from cleaners while on-duty.
4. Ask a traffic violator for a date.
5. Shoot a juvenile fleeing forcible felony.
6. Hit a prisoner who attempted to hit him/her but missed.
7. Hit a prisoner who succeeded in hitting him/her.
8. Steal candy while arresting a shoplifter.
9. Investigate a new neighbor on the computer to see if the neighbor has ever been arrested.
10. Drive a drunk driver home in his/her patrol car, rather than arresting the drunk driver.

CIVIL LIABILITY

Civil liability occurs when a person can prove that another person, such as a police officer, has failed to fulfill his/her required duty to that person. Such a case is referred to as a *tort*, defined as a civil wrong committed against an individual for which the injured party is entitled to compensation. Judgment in this type of case is handled in a civil court proceeding. The standard for deciding who is in the wrong in a civil case is not the criminal standard of reasonable doubt, but signifies instead a preponderance of evidence.

The person accusing an officer of a tort must show that the officer was obligated to do, or not to do, certain acts, and that the victim has suffered in some way because of the officer's failure to carry out these obligations. In a successful civil suit, the agency and the officer committing the misconduct may be liable to pay damages to the person harmed, as well as attorney fees.

Some of the major categories or types of civil liability claims are:

- False arrest where there was no probable cause.
- False imprisonment or illegal detainment.
- Malicious prosecution (i.e., a person was prosecuted with no probable cause).
- Negligence or demonstrating improper care towards others.
- Lack of training (i.e., the failure of an agency or other supervisors to properly train members).
- Negligent supervision (i.e., the failure to properly supervise members of the police force).

1983 ACTIONS

Title 42 of the U.S. Code 1983 reads as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

This law allows federal courts to hear cases involving issues such as:

- A violation of the right to consult an attorney.
- The privilege against self-incrimination.
- The right to assemble.
- A reasonable bail to be set and posted.
- Receive a prompt arraignment.
- The right to a fair trial.
- Receiving medical care while a prisoner.
- Access to the courts while incarcerated.
- Free to attend religious services while in jail.
- Free from physical abuse by corrections officers.
- Freedom from illegal search and seizure.
- Free from coercion to obtain a confession.
- Freedom from malicious prosecution.
- Free from false imprisonment.

THE LAW ENFORCEMENT CODE OF ETHICS

All law enforcement officers must be fully aware of the ethical responsibilities of their position, and must strive constantly to live up to the highest possible standards of professional policing. It is important that police offices have clear advice and counsel available to help them perform their duties consistent with these standards. The following ethical mandates are guidelines to meet this end:

- **Primary responsibilities of police officer:** A police officer acts as an official representative of the government, and is required and trusted to work within the law. The officer's powers and duties are conferred by statute. The fundamental duties of a police officer include serving the community, safeguarding lives and property, keeping the peace, and ensuring the rights of all to liberty, equality and justice.
- **Performance of the duties of a police officer:** A police officer performs all duties impartially, without favor, affection or ill will and without regard to status, sex, race, religion, political belief, or aspiration. All citizens are treated equally, with courtesy, consideration and dignity. Officers never allow personal feelings, animosities, or friendships to influence official conduct. Laws are enforced appropriately and courteously and, in carrying out these responsibilities, officers strive to obtain maximum cooperation from the public. They conduct themselves, in appearance and deportment, in a way that inspires confidence and respect for the position of public trust they hold.
- **Discretion:** A police officer uses responsibly, and within the law, the discretion vested in the position. The principle of reasonableness guides the officer's conclusion, and the officer considers all surrounding circumstances in determining whether any legal action will be taken. Consistent and wise use of discretion, based on professional policing competence, does much to preserve good relationships and retain the confidence of the public. It can be difficult to choose between conflicting courses of action; however, it is important to remember that a timely word of advice, rather than arrest (which may be correct in appropriate circumstances), can be a more effective means of achieving a desired end.
- **Use of force:** A police officer never employs unnecessary force or violence, and uses only such force in the discharge of duty as is reasonable in all circumstances. Force is used only with greatest restraint, and only after discussion, negotiation, and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer refrains from the unnecessary infliction of pain or suffering, and never engages in cruel, degrading or inhuman treatment of any person.
- **Confidentiality:** Whatever a police officer sees, hears, or learns of, which is of confidential nature, is kept secret unless the performance of duty or legal provision requires otherwise. The public has a right to security and privacy, and information obtained about members of the public must not be improperly divulged.
- **Integrity:** A police officer does not engage in acts of corruption or bribery, nor does an officer condone such acts by other police officers. The public demands that the integrity of police officers be above reproach. Police officers must, therefore, avoid any conduct that might compromise their integrity or that undercuts the public confidence in a law enforcement agency. Officers refuse to accept any gifts, presents, subscriptions, favors, gratuities, or promises that could be interpreted as seeking to cause the officer to refrain from performing official responsibilities honestly and within the law. Police officers must not receive private or special advantages from their official status. Respect from the public cannot be bought; it can only be earned and cultivated.
- **Cooperation with other offices and agencies:** Police officers cooperate with all legally authorized agencies and their representatives in the pursuit of justice. An officer or agency may be one among many organizations that provide law enforcement services to a jurisdiction. It is essential that a police officer help colleagues fully and completely, with respect and consideration.

- **Personal/professional capabilities:** Police officers are responsible for maintaining a high standard of professionalism, and should take every reasonable opportunity to enhance and improve their level of knowledge and competence. Through study and experiences, a police officer can acquire the high level of knowledge and competence that is essential for efficient and effective performance. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.
- **Private life:** Police officers will behave in a manner that does not bring discredit to their agencies or themselves. A police officer's character and conduct while off duty must always be exemplary, thus maintaining a position of respect in the community in which he/she lives and serves. The officer's personal behavior must be beyond reproach.

These ethics are summed up in the following first-person statement:

“As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

“I will keep my private life unsullied, as an example to all, and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear that is of a confidential nature, or that is confided to me in my official capacity, will be kept ever secret unless revelation is necessary to the performance of my duty.

“I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

“I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police services. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

“I know that I alone am responsible for my own standard of professional performance, and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

“I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession of law enforcement.”

LAW ENFORCEMENT DISCIPLINARY ACTION

Almost all large law enforcement agencies have a special unit assigned to investigate allegations of misconduct by officers. This unit, which is often called Internal Affairs, is usually composed of high-ranking officers. Their job is much like that of any other investigator—to uncover the facts of an allegation of misconduct. After the investigation is completed, the matter is turned over to the agency head, who decides the type of action to take.

Citizens may contact Internal Affairs for a variety of reasons. Many are upset because they have received a citation or been arrested, or they feel that an officer did not take the action that the citizen wanted him to take. The type of misconduct alleged may range from rudeness to police brutality or the unlawful use of deadly force. Most complaints are for minor misconduct, and one survey showed that many people filing a complaint would be satisfied with an apology from the agency involved.

Officers who violate policy and laws are subjected to a variety of punishments. The most familiar is a suspension or days off without pay. This costs an officer a part of his/her salary and seniority. Less serious discipline involves oral and written reprimands, which may be reviewed as part of an annual merit raise or promotion process. Repeat offenses or failure to change as required by such reprimands can lead to a suspension. More serious discipline measures include demotion, being placed on probation, remedial training, or termination.

Many progressive departments are concerned that such discipline alone does not eliminate the causes of officer misconduct. They emphasize that an officer's misconduct can be the failure of his/her supervisor, the failure of department training programs, or the application of negative sanctions that work in reverse of the desired effect. Just as with any other education process, police need to be rewarded for acceptable conduct. Supervisory officers need to be rewarded for solving problems, rather than being punished when their subordinates perform poorly. These rewards can be monetary, or other forms of recognition such as praise.

Practical Exercise

1. Do all laws tell police only what they cannot do? Yes No

2. Moral obligations to uphold the law and policies of the agency are created by taking an oath of office when appointed. True False

3. Official misconduct is what classification of crime? _____

4. Define "discretion" in one sentence: _____

5. What is a tort? _____

6. What are three factors that influence the choices that officers make? _____

7. Which unit within a law enforcement agency investigates allegations of police misconduct?

8. List four kinds of discipline that could result from the violation of laws or agency policies:

9. Does the Law Enforcement Code of Ethics apply to off-duty conduct? Yes No

10. Does the Law Enforcement Code of Ethics prohibit accepting gratuities? Yes No



VERSION 2016

BASIC LAW ENFORCEMENT ACTIVITIES

CHAPTER 11

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER ELEVEN: BASIC LAW ENFORCEMENT ACTIVITIES

REPORT WRITING

FIELD NOTES

Field notes are intended to be an aid to memory. With the numerous names, addresses, descriptions, license plates, and other types of information directed at each officer in the course of a single day, there is a need to take frequent and organized field notes.

Although field notes are not a final or official report, they can be useful in a variety of circumstances. They can be used to aid an investigation before the final report is ready. They can be used to develop leads on information not contained in the final report. They can be used to aid courtroom testimony, or as evidence that a statement or action occurred that was immediately recorded.

It is obvious that note-taking is a priority as a police activity. Good field notes lead to good reports and more complete investigations. Note-taking is important and requires some advance training. Field notes should be made within the following guidelines:

- Notes should be made in a regularly used notebook, not on odd scraps of paper.
- Notes should be referenced so that information can be located easily, such as by date and/or case number.
- Field notes should be legible to all readers, not just the writer.
- Notes should be made as soon after an event occurs as practical.
- Quotes should be noted as such.
- Notes should contain all the information and detail needed for the official report.
- Field notes should be in a clearly understandable format.
- Field notes should be written in ink.
- Irrelevant material, such as personal notes or doodles, should not be included.
- Old notebooks should be retained and filed for possible later use.

REPORT FORMS

Almost all law enforcement agencies provide forms that indicate what information is needed and in what format the information is presented. Although these forms simplify the process, certain guidelines should be followed:

- Use the correct form.
- Fill out completely and legibly. Most of these forms are available to the public and are the basis of many judgments about police ability.
- Confidential reports should be noted as such at the beginning of the report.
- If space is not included for all of the relevant information available, include it on the back or on an attached form.

REPORT FORMAT

All reports should include the following information:

- Case number
- Date of occurrence and date of report

- Status of the case: active, inactive, cleared, complete, unfounded, etc.
- Name, rank, and identification or badge number of the investigating officer
- Crime or activity classification
- Persons involved: victim(s), complainant(s), witness(es), suspect(s), arrestee(s). (Include identifying data such as date of birth, address, phone, school/work, description.)
- Narration/details of the investigation
- Official action taken, recommendations, and final status of the report
- Distribution

Report Organization

There are several purposes for a law enforcement report to be written—to preserve information, record official actions taken, justify those actions that were taken, and aid in any further investigation that may be needed. No peace officer can be considered effective until he/she has developed the skills needed to prepare an accurate and professional report. Reports should be accurate, brief, and complete.

In order to meet these criteria, a report must contain all of the relevant information written in a clear and understandable format. To help officers organize a report, the POWER system of effective writing is recommended.

- Plan the report:** Understand why the report is being written, who will use it, and who will read it. Gather all facts possible before going on to the next step.
- Organize the material:** The organization of a report should be logical, and normally in chronological order. Make sure *who*, *what*, *when*, *where*, *how*, and *why* are included.
- Write the report:** Write so that the reader can fully understand the events and actions. Facts, opinions and conclusions should be distinguished from one another. Fundamental English writing skills are a must. Spelling, grammar, and sentence structure can affect the content of the report. An easy-to-remember rule is “Write the way you speak.”
- Evaluate:** Does the report say what it is supposed to say?
- Rewrite:** If the report is not as effective as it could be, it should be rewritten.

It is important to remember that an officer is often judged by superiors from the reports that he/she writes. Performance on a report can be just as important as performance of other assigned duties.

USE OF EMERGENCY EQUIPMENT

The use of emergency equipment on vehicles, including lights and siren, is referred to as “running code three.” The use of blue lights is restricted by law to emergency vehicles only, while red and white lights are also utilized by emergency vehicles. Officers can only use emergency lights and siren under limited circumstances dictated by the Utah Code. Code three driving is restricted to situations that dictate that law enforcement must arrive at an emergency scene as soon as possible. Such circumstances are usually outlined by agency policy. The following situations dictate code three driving in most agencies:

1. Assisting other peace officers in trouble
2. Situations in which lives are endangered, such as natural catastrophes, explosions, etc.
3. Ambulance calls for serious injuries or medical emergencies, such as a choking baby, or in which criminal activity may be involved, such as a shooting
4. Injury accidents
5. Crimes in progress
6. Pursuit driving

Code three driving exempts the peace officer from traffic laws if the decision to use emergency equipment is based on a reasonable assessment of a situation. The use of emergency equipment must also comply with a legal standard of safety. Liability is created if the officer fails to show due regard for the safety of others.

- The operator of an authorized emergency vehicle may exercise the privileges under this section when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to (but not upon returning from) a fire alarm.
- The operator of an authorized emergency vehicle may (1) park or stand, irrespective of the provisions of this chapter; (2) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; (3) exceed the maximum speed limits; or (4) disregard regulations governing direction of movement or turning in specified directions.
- Privileges granted under this section to the operator of an authorized emergency vehicle that is not involved in a vehicle pursuit apply only when the operator of the vehicle sounds an audible signal or uses a visual signal visible from in front of the vehicle (41-6a-212, UCA).

The officer running code three must concentrate on his/her driving in addition to where he/she is going. Code three driving should be done on multi-lane, major roads as much as practical. In the interest of safety, the policy of many agencies places restrictions on code three driving, such as:

- A maximum speed of 15 mph over the posted speed limit except during pursuits.
- Full stops are required at red lights and stop signs; wait until all traffic has yielded before entering the intersection.
- All passing will be done on the left, unless no other alternative is available.

Other drivers are required to yield the right of way to emergency vehicles running code three:

Upon the immediate approach of an authorized emergency vehicle using audible or visual signals, or of a peace officer vehicle lawfully using an audible or visual signal, the operator of every other vehicle shall yield the right of way and immediately move to a position parallel to, and as close as possible to, the right hand edge or curb of the highway, clear of any intersection and shall stop and remain there until the authorized emergency vehicle has passed, unless otherwise directed by a peace officer (41-6a-904, UCA).

During emergency driving, the right of way should not be taken or assumed. Although the officer may have the right of way legally, safety dictates that the officer's driving actions should be limited by the actions of other road users, regardless of whether they are obeying the law. It is important to remember that visibility may be poor, or that the noise of radios and air conditioners may delay other drivers' reactions to emergency equipment.

PURSUIT DRIVING

The pursuit of a criminal or traffic offender is referred to as pursuit driving. The following procedures should be utilized by the pursuing officer:

1. Notify the dispatcher immediately. Give a complete vehicle description, reason for the chase number of occupants, and information about location, speed, and direction of travel.
2. Keep dispatch advised of changes in location and direction.
3. A supervisor should coordinate the pursuit.

The types of action used to stop a suspect vehicle will depend on the nature and seriousness of the crime or violation involved the possibility of weapons being used, and agency policy. All pursuit driving should be done with the aim of minimizing risk to the safety of the officer, other road users, and the individual being stopped. Such methods as a road block, tire spikes, or a PIT maneuver may be used to terminate the pursuit.

An officer should use his/her knowledge of the area and driving skills to remove any advantage the other driver may have, such as a superior vehicle. A chase should be abandoned when the hazard to the officer and the public becomes unreasonably high due to road conditions, the weather, etc. An officer needs to remember that as many officers are killed in traffic-related accidents as in the other activities in which the police are involved.

COMMAND STRUCTURE

Almost all law enforcement agencies are organized along military lines. In addition to military rank, the military chain of command is also used. Each officer is directly responsible to his/her immediate supervisor. Orders and communication must proceed in a prescribed manner within the chain of command, including obedience to orders given by a superior. This is essential when dealing with emergency situations. The disobedience of a direct order given by a superior officer is grounds for disciplinary action or even dismissal. The only order that can be disobeyed is an illegal one, such as an order from a supervisor to assault a prisoner in custody. The individual supervisor—not the

subordinate who carries them out—is responsible for his/her orders. In a situation where there is no ranking officer or supervisor present, seniority is normally used to determine who will act as the temporary superior.

A law enforcement agency is divided into multiple divisions or bureaus, each with its own assigned responsibilities within the department. Assigning each division a specific function guarantees that all the responsibilities a department has are carried out, so that the command element will be able to track the department's efficiency. This also prevents duplication of services within a department, with everyone involved knowing who handles a specific case or activity. The use of divisions also allows for the development of specialized training, skills, and expertise. The organizational chart on the following page is an example of command structure, chain of command, and development of specialized divisions.

Salt Lake County Sheriff's Office



SHERIFF
AARON D. KENNARD
 SALT LAKE COUNTY SHERIFF

Linda Taylor
 Sheriff's
 Secretary



UNDERSHERIFF
L. JEFF CARR

LAW ENFORCEMENT BUREAU
 Chief Deputy
Milan Buhler

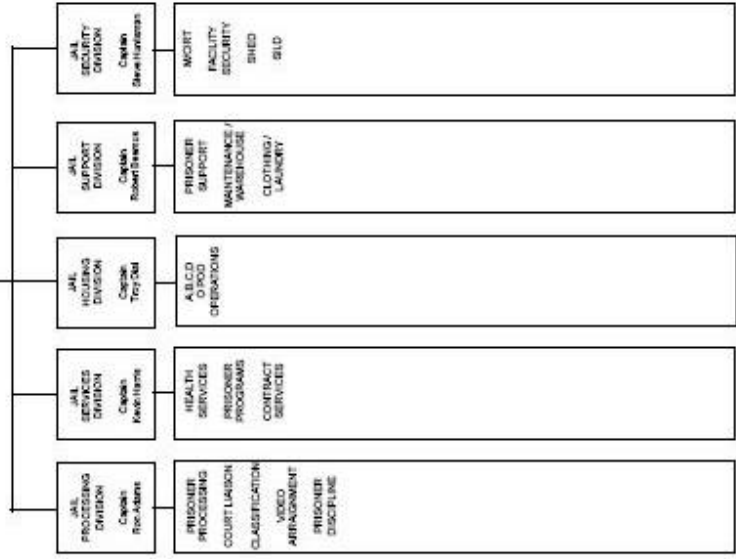
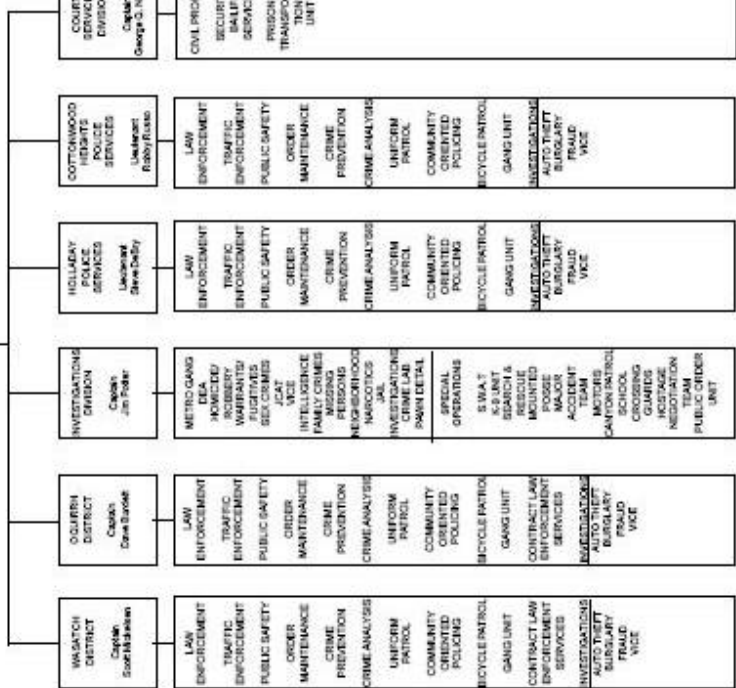
STAFF SUPPORT BUREAU
 Undersheriff **L. Jeff Carr**

CORRECTIONS BUREAU
 Chief Deputy
Rollin Cook

Watch
 Command

Watch
 Command

Watch
 Command



Effective: July 1, 2005

RADIO PROCEDURE

Radio procedures are governed by both department policy and common sense. The radio is used to transmit and receive information; it is not intended for personal communications or lengthy discussions. The following general practices apply to all radio communications:

1. Decide what you are going to say before you pick up the microphone.
2. Listen briefly to make sure no one else is using the airways.
3. Transmit the unit number you want to communicate with first, then state your call number and wait for a response (e.g., “Twenty-nine, Salt Lake.” “Salt Lake—go ahead”).
4. If there is an emergency, always wait until you are sure that all necessary traffic on the emergency channel has been completed prior to your transmission.
5. Unnecessary and superfluous transmissions are not allowed.
6. Remember to speak clearly and concisely.
7. When transmitting a message that must be logged or recorded, speak slowly and clearly so that the message will be accurate and complete.
8. Speak in a normal voice.
9. Become conversant with the ten-code (see the chart on the next page).
10. Be sure that your music radio is turned down or off before using your two-way radio.
11. Do not use profanity.
12. Periodically check your radio to see whether the red light is on. This red light indicates that you are transmitting.

Many of the new family of communication systems now being introduced around the country use nonverbal teletyped messages, scrambled verbal messages, or computer terminal screens that guarantee security and privacy.

It should be remembered that another officer may have emergency traffic and cannot wait for extra dialogue by an officer or dispatch may need to dispatch an emergency call. Some information, such as personal and street names, should be spelled out using the phonetic alphabet below in order to ensure accuracy.

Phonetic Alphabet:

A—ALPHA	H—HOTEL	O—OSCAR	U—UNIFORM
B—BRAVO	I—INDIA	P—PAPA	V—VICTOR
C—CHARLIE	J—JULIET	Q—QUEBEC	W—WHISKEY
D—DELTA	K—KILO	R—ROMEO	X—X-RAY
E—ECHO	L—LIMA	S—SIERRA	Y—YANKEE
F—FOXTROT	M—MIKE	T—TANGO	Z—ZULU
G—GOLF	N—NOVEMBER		

Special broadcasts are often preceded by some form of audible warning, such as beeps or warbles, in order to alert the officers. One beep may indicate that dispatch is busy and will receive emergency transmissions only, while a warble may indicate an attempt to locate (ATL) or general information broadcast. Three or more beeps usually indicate some type of emergency broadcast. Some limited code or procedure may also be utilized to advise the officer of danger, outstanding warrants, etc., without drawing the attention of the suspect.

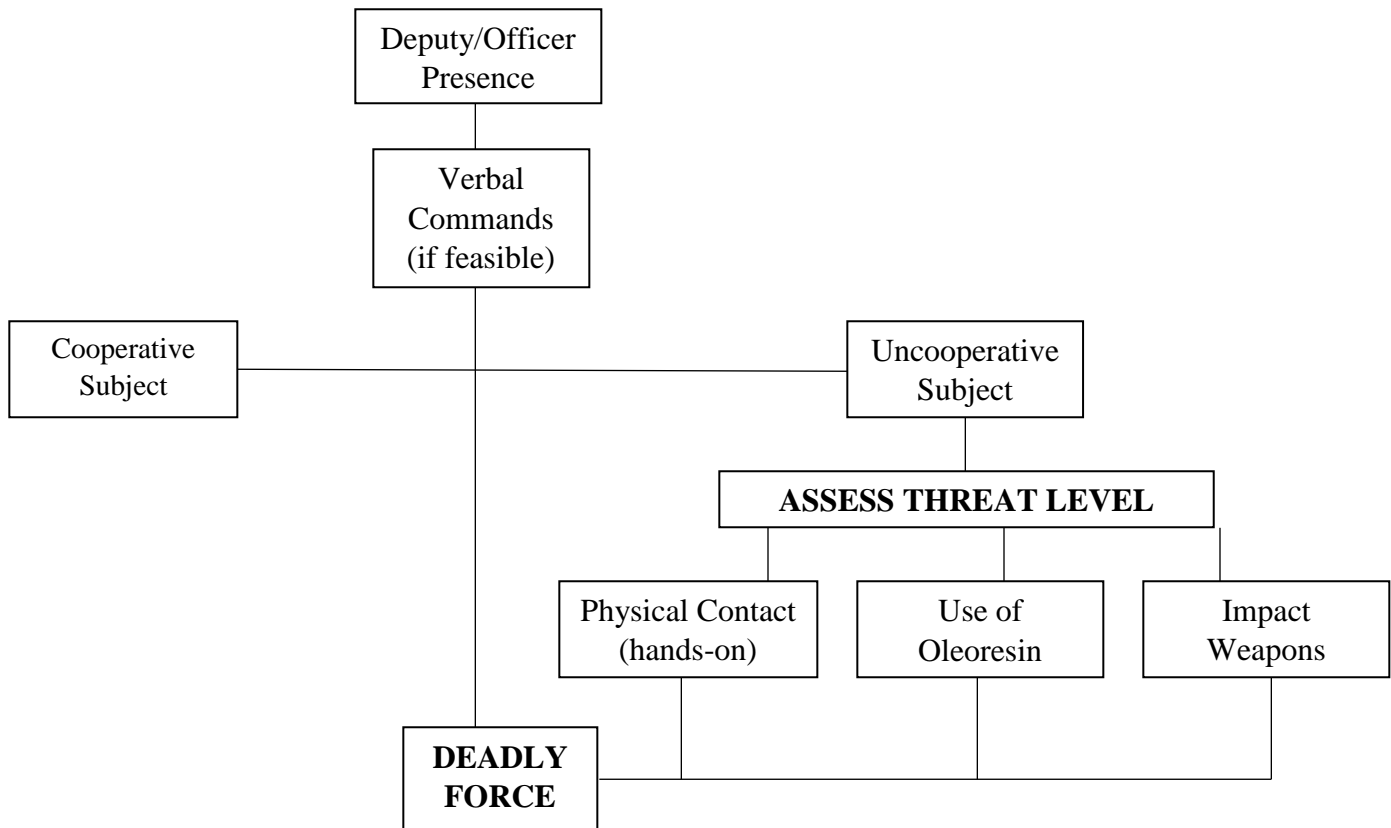
OFFICIAL COMMUNICATIONS “TEN CODE”

10-0	Hold Surveillance	10-51	Wrecker Needed
10-1	Radio Signal Weak	10-52	Ambulance Needed
10-2	Radio Signal Good	10-53	D.O.A.
10-3	Stop Transmitting	10-54	Traffic Control
10-4	Acknowledgement	10-55	Intoxicated
10-5	Relay	10-56	Traffic Problem
10-6	Busy-Unless Urgent	10-57	Hit & Run Accident (PI AUTO PED)
10-7	Out of Service	10-58	Follow-Up
10-8	In Service	10-59	Reckless Driver
10-9	Repeat Transmission	10-60	Out on Violator
10-10	Negative	10-61	Motor Inspection
10-11	_____ On Duty	10-62	Stolen Vehicle
10-12	Stand By	10-63	Vehicle Burglary
10-13	Existing Conditions	10-64	Vandalism
10-14	Information	10-65	Juvenile Problem
10-15	Message Delivered	10-66	Prepare to Copy Broadcast
10-16	Reply to Message	10-67	Make Phone Call Yourself
10-17	Enroute	10-68	Runaway Juvenile
10-18	Urgent	10-69	Milling Person
10-19	In Contact	10-70	Unnecessary Use of Radio
10-20	Location	10-71	Fight in Progress
10-21	Phone or Contact _____	10-72	Indecent Exposure
10-22	Cancel	10-73	Rape
10-23	Arrived	10-74	Civil Disturbance
10-24	Assignment Completed	10-75	Domestic Problem
10-25	Meet or Report to _____	10-76	Meet Complainant _____
10-26	Estimated Time of Arrival	10-77	Return to _____
10-27	Driver’s License Information	10-78	Back Up Units Needed at:
10-28	Vehicle Registration Information	10-79	Stolen Bicycle
10-29	Warrants Information	10-80	Chase in Progress
10-30	Danger/Caution	10-81	Shoplifting Case
10-31	Pick Up _____	10-82	Prisoner in Custody
10-32	_____ Units needed	10-83	Confidential Information
10-33	Help Me Quick – OFFICER NEEDS HELP	10-84	Visitors Present
10-34	Correct Time	10-85	Victims Conditions
10-35	Reserved		A. Fair B. Critical
10-36	Reserved		C. Poor D. Possible Fatal
10-37	Reserved		E. Obvious Fatal
10-38	Reserved	10-86	Crime in Progress
10-39	URGENT! Use Lights & Siren	10-87	Abandon Vehicle
10-40	Silent Run: No Lights & Siren	10-88	Man with a Gun
10-41	Beginning Tour of Duty	10-89	Bomb Threat
10-42	Ending Tour of Duty	10-90	Alarm
10-43	Shuttle	10-91	Burglary
10-44	Permission to: _____	1092	Theft
10-45	Animal Problem	10-93	Armed Robbery
10-46	Motorist Assist	10-94	Switch to Frequency _____
10-47	Investigate Suspicious Vehicle	10-95	Out at Home
10-48	Disturbing the Peace	10-96	Mental Subject
10-49	Assault	10-97	Shooting in Area
10-50	Traffic Accident (P PI PD F)	10-98	S.O. Check
		10-99	Wanted or Stolen Indicated

USE OF FORCE

Rules governing the use of force in making an arrest are set forth in State law. The use of force must be reasonable at all times; however, a heated societal debate surrounds the attempt to define what is reasonable, and what some citizens define as reasonable may not be reasonable for others. Many law enforcement agencies have added options to the “use of force” continuum, including various types of sprays, batons, and other impact weapons, the use of which would be dictated by policy and training.

Law enforcement agencies should have an outline of the different levels of force that are available in the department policy manual. This should include levels from an officer’s physical presence and use of verbal commands to the final decision involving the use of deadly force. An example of such an outline for a department that utilizes pepper (OC) spray and batons (ASP) would be as follows:



Many types of force are not included in the above chart. For instance, the use of a K-9 unit would constitute the use of force just short of deadly force, and using a road block without an escape would also be considered deadly force. Any time that force is used, it should be documented in an incident report, along with the circumstances surrounding the incident and the actions taken after the incident was under control.

USE OF FIREARMS

Police carry firearms so that they can protect themselves and the community. They may only be used under a very specific set of circumstances outlined by law. Under Utah law, deadly force may only be used under the following circumstances:

1. Carrying out a lawful execution.
2. To protect self or others.
3. To make an arrest or stop escape of someone when there is probable cause to believe that a significant threat of death or serious physical injury exists.
4. To prevent the escape of a prisoner.

An officer must carry a firearm authorized by his/her own department. Each department will choose firearms that meet the needs of that particular agency. In the past, most agencies authorized the use of the .38 caliber and .357 magnum revolvers. However, departments have now transitioned over to semi-automatic firearms such as 9mm, .40 cal. and .45 cal. handguns. This provides the officer with a larger ammunition capacity and greater ease in reloading in a combat situation than the revolver. The make and model of the firearm is also regulated by agency policy to ensure that the department can provide proper maintenance and factory representation in the event of a lawsuit.

On-duty firearms are often furnished by the agency. Each officer is required to maintain a specified proficiency in marksmanship, requalifying at various intervals. The courts have recommended that agencies require the following firearm re-certification courses at least once a year:

- PPC (Pistol Proficiency Course): a timed and scored shoot performed on a known distance course.
- Stress: a course set up with various situations to closely simulate various law enforcement combat situations. It is not usually scored or timed.
- Night or Low Light: a stress or PPC shoot held at night or in low light conditions that may be used as one of the above.
- FATS (Firearms Training Simulator): a computerized training simulator that measures reaction time, accuracy, judgment, and actions in a variety of situations.

One or more of these courses should include the use of a shotgun or rifle, and a PPC should be done on each firearm that an officer carries on or off duty. In addition, officers are authorized by law, and usually required by agency policy, to have a readily available off-duty weapon on hand at all times.

Many law enforcement agencies, as part of department policy, have rules regulating the use of firearms, such as the following:

- The firearm will not be removed from the holster except when required for use, inspection, or storage.
- The firearm will not be aimed at any person or object unless required in the performance of the officer's duty.
- The firearm will not be cocked except when actually firing the weapon.

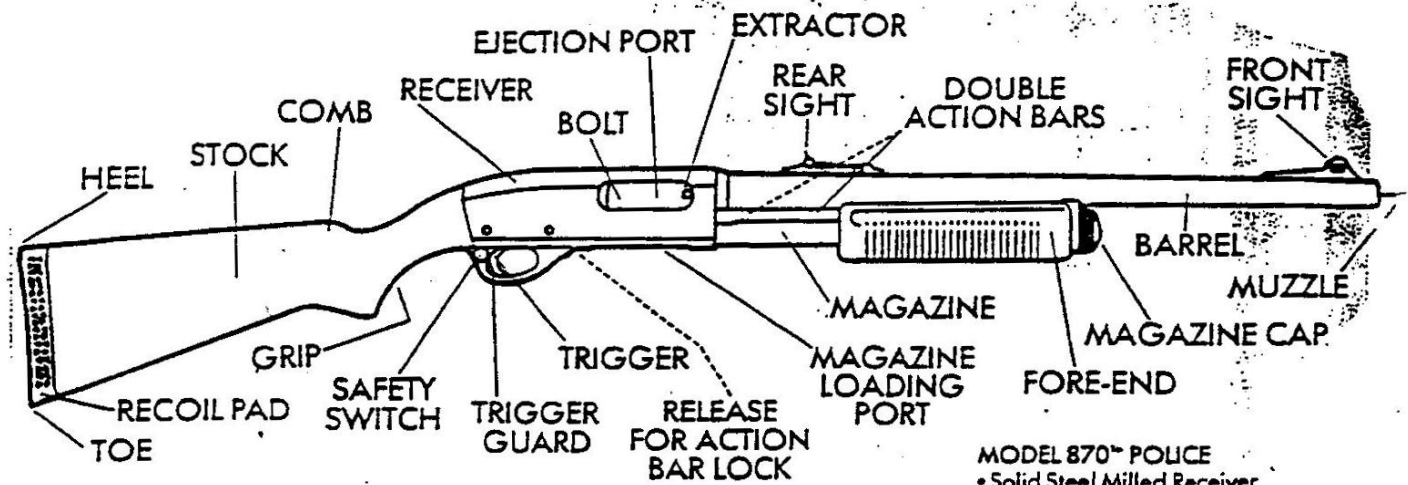
Any discharge of a firearm must be reported in writing to the department, whether it is fired in the line of duty or whether there is an accidental discharge. A shooting review board or the agency's authorized representative will determine whether the incident occurred within agency guidelines. If the weapon was fired at an individual, the County/District Attorney's Office with jurisdiction will also review the discharge to determine whether the use of deadly force was legal.

COMBAT SHOOTING

Combat shooting is the firing of a weapon from a protective position or cover. The following procedures should be utilized when an officer is involved in a situation that requires combat shooting.

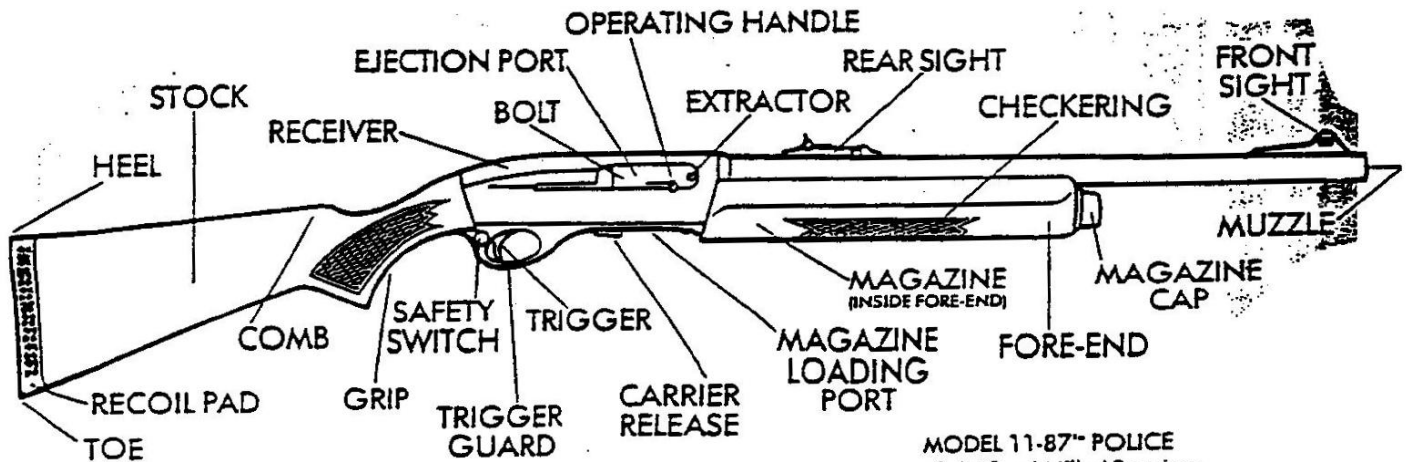
- Drawing:
 - Drag the weapon from the holster rather than lifting it out.
 - Push the weapon forward and away from the body.
 - Keep finger out of the trigger guard until ready to actually fire the weapon.
- Grip:
 - Hold the weapon as tightly as possible.
 - Bring the support hand up and grip weapon over shooting hand.
 - Drop the support hand's elbow downward, pulling the weapon toward your body, while your shooting hand pushes outward.
 - The trigger is pulled by the part of the finger between the first and second joint.
- Stance:
 - Be as protective as possible, exposing only the areas of your body that are protected by body armor. If you are not wearing body armor, the minimal area of your body should be exposed.
 - Which stance is assumed will depend on the time available, the accuracy needed, the distance to the suspect, etc.
- Cover:
 - Attempt to locate cover.
 - Move toward cover if possible.
- Breathing: When practical, take a deep breath before firing.
- Sighting:
 - Combat shooting usually does not involve the use of the gun sights.
 - Sighting involves keeping your eyes on the suspect.
 - The weapon is gripped so that it is an extension of the body.
 - Move your body, not the weapon.
- Trigger-pull:
 - Apply firm pressure, squeezing the trigger.
 - Only the trigger finger should move.
- Scan the area after firing, looking for additional threats.

PUMP ACTION SHOTGUN

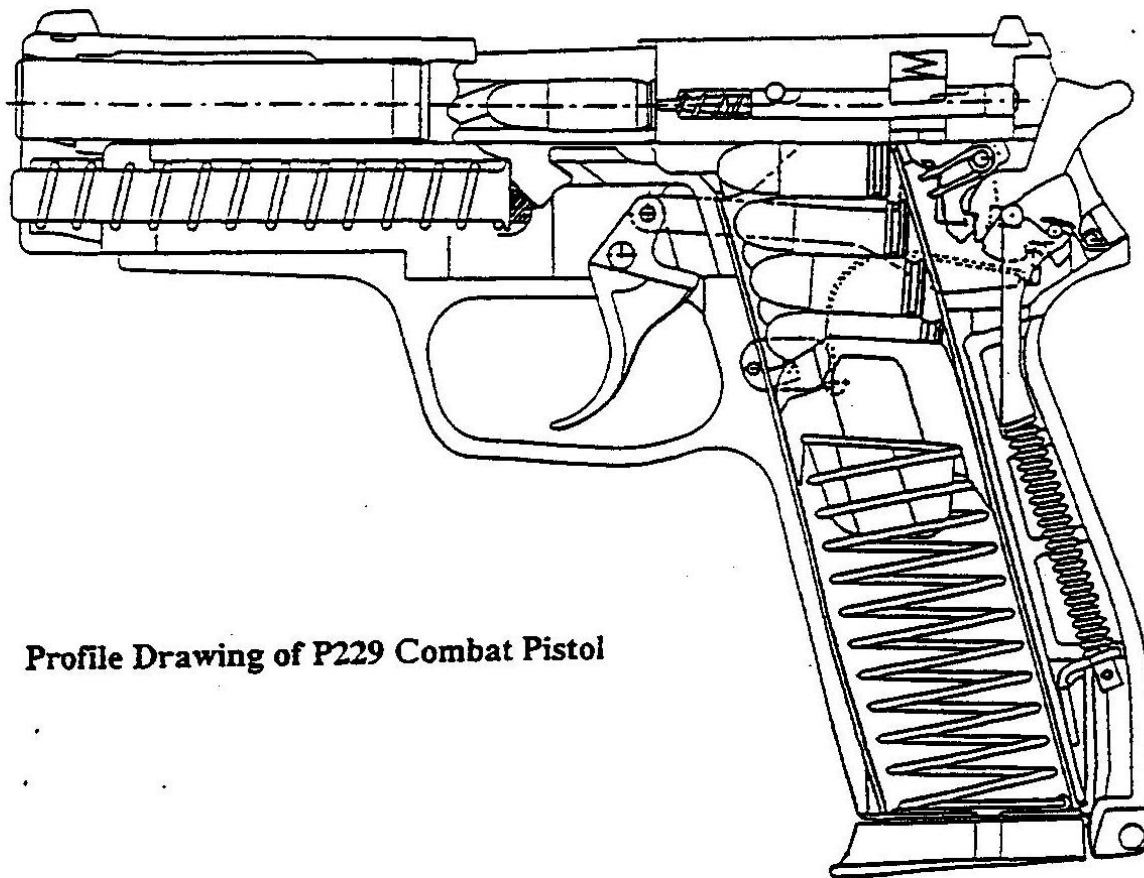


MODEL 870™ POLICE
 • Solid Steel Milled Receiver
 • Barrel Length and Sight Options
 • Flexitab Feeding System

AUTOLOADING SHOTGUN

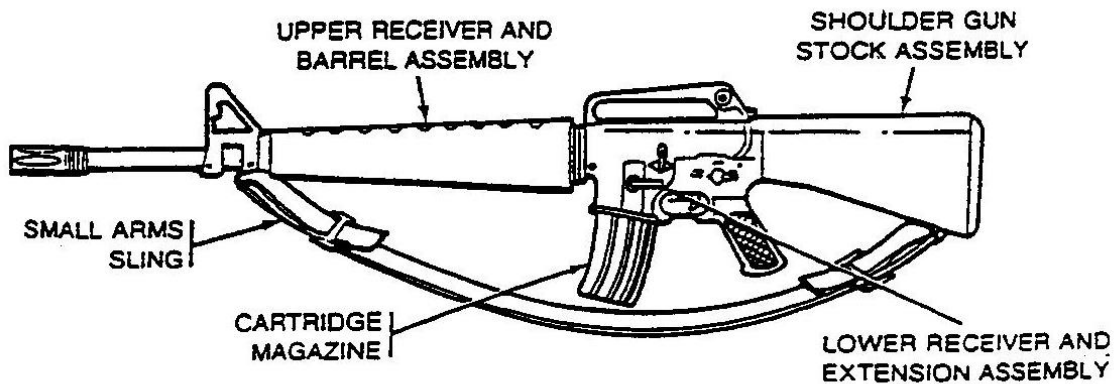
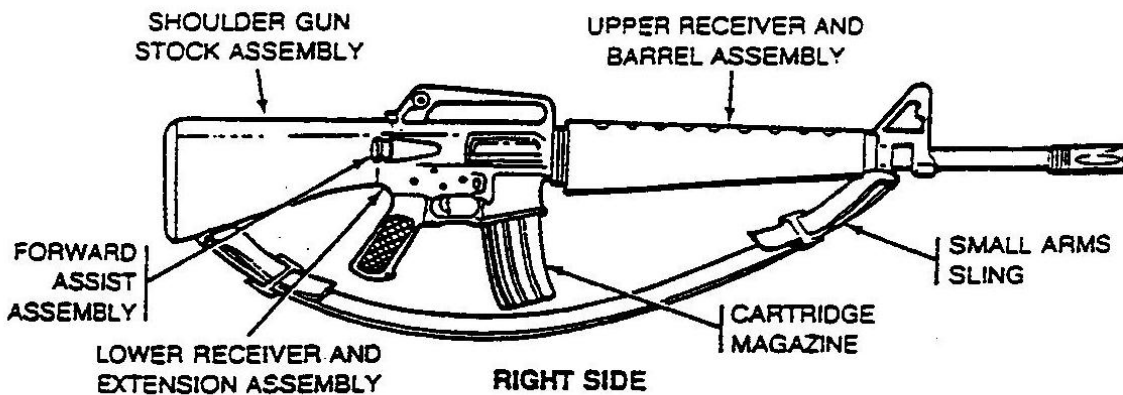


MODEL 11-87™ POLICE
 • Solid Steel Milled Receiver
 • Stainless Steel Magazine Tube
 • Self-Regulating Gas Metering System



Profile Drawing of P229 Combat Pistol

EXTERNAL VIEW OF 5.56-MM RIFLE M16A1





VERSION 2016

TRAFFIC INVESTIGATIONS

CHAPTER 12

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER TWELVE: TRAFFIC INVESTIGATIONS

TRAFFIC LAWS

Traffic laws have their origin in the common law principle of keeping to the right. With the advent of automobiles, it was necessary to create a special set of laws dealing specifically with traffic. An early Kansas law, for example, limited speed to four miles per hour. In addition, a flagman, or at night a lantern carrier, was required to precede a vehicle within city limits. In 1924, a uniform traffic code was proposed for all the states. Presently the traffic laws of most states run into dozens of pages.

Most crimes require that intent be proved. This is not true in the case of most traffic laws. A driver does not have to intentionally drive through a red light in order to be given a citation and be found guilty. A traffic violation is simply committing an act prohibited by law, or failing to act as required by law.

Traffic laws apply only on public roadways and some other designated areas, such as the campuses of state institutions of higher learning. Traffic laws may also be enforced on local school district property, if such an ordinance is in effect in the county or city of occurrence. In Utah, only five traffic laws can be enforced on private property, regardless of location:

1. Driving under the influence (41-6a-502, UCA)
2. Reckless driving (41-6a-528, UCA)
3. Leaving the scene of an accident (41-6a-401, UCA)
4. Negligent homicide (76-5-206, UCA)
5. Automobile homicide (76-5-207, UCA)

At the request of individuals involved in a private property accident, or if there is injury or total damage in excess of \$1,000, Utah law enforcement officers will respond to the accident. A citation can only be issued if the violation occurred on public property, unless one of the five above listed violations occurred. For example, the running of a shopping mall stop sign that leads to an accident cannot result in a citation, but may be used to establish civil responsibility and fault for insurance purposes.

Most traffic law violations are class C misdemeanors. However, driving under the influence (DUI) is a class A or B misdemeanor or a third degree felony, depending on whether there is an accident or injury involved. It will also depend upon whether there are prior convictions for DUI. Intentionally using a vehicle to do damage or injury is not classified as an accident. It would be charged as a violation of the Criminal Code, with several options available.

The following is a list of general traffic laws taken from Title 41 (Motor Vehicle Code):

MOVING VIOLATIONS

Leaving the scene of an accident (41-6a-401, UCA): The driver of any vehicle involved in an accident must remain at the scene, render assistance to the injured, and produce his/her driver's license and registration.

Reckless driving (41-6a-528, UCA): Willful or wanton disregard for the safety of persons or property. Recklessness indicates indifference and utter disregard for consequences. What is essential is that it be shown beyond a reasonable doubt that the defendant drove in a manner that he knew, or should have known, was dangerous to others, and that he/she did so intentionally or heedlessly, with a careless indifference to the consequences.

Speeding (41-6a-601, UCA): Traveling in excess of the posted speed limit, or at a speed that is not reasonable and prudent under the circumstances. A driver must be able to control his/her vehicle at all times and avoid collisions.

Exhibition driving (41-6a-606, UCA): A speed contest or race. The drivers do not actually have to exceed the speed limit.

Improper passing (41-6a-704, UCA): A driver must pass safely and return to his/her lane before coming within 200 feet of oncoming traffic.

Following too close (41-6a-711, UCA): A driver is required to keep a safe stopping distance between himself and the vehicle he is following.

Turn signals (41-6a-804, UCA): A driver must signal all turns and lane changes, with the signal having been activated for at least two seconds prior to the maneuver.

Right of way (41-6a-902, 41-6a-903, 41-6a-904, UCA): The car on the right has the right of way at an open intersection. A driver must yield to emergency vehicles or to pedestrians in or entering a crosswalk; when entering a roadway from a parking lot; etc.

Bicycles subject to traffic laws (41-6a-1102, UCA): Most traffic laws, such as stopping for a red light, apply to bicyclists.

Flashing lights on a school bus (41-6a-1302, UCA): A driver is not permitted to pass a school bus when the bus's red lights are flashing.

NON-MOVING AND EQUIPMENT VIOLATIONS

Stopping, standing, or parking (41-6a-1401, UCA): Prohibitions include blocking a driveway; parking within 30 feet of a traffic control device, on a bridge, or where posted; etc.

Muffler violations (41-6a-1626, UCA): An exhaust system is required to limit both excessive noise and smoke or other contaminants.

Unsafe vehicle (41-6a-1601, UCA): A vehicle must be in safe mechanical condition.

Vehicle registration (41-1a-1303, UCA): A vehicle must be currently registered to the actual owner. The registration must be in the vehicle at all times, and a valid registration sticker must be affixed to the rear license plate.

Blue lights authorized for emergency vehicles only (41-6a-1616, UCA): Only emergency vehicles may display a blue light.

License plate location and position (41-1a-404, UCA): License plates issued for a vehicle other than a motorcycle, trailer, or semi-trailer will be attached to both the front and rear of the vehicle. The license plate for a motorcycle, trailer, or semi-trailer will be attached to the rear of the vehicle. License plates will be securely fastened in a horizontal position not less than twelve (12) inches from the ground, clearly visible, free from foreign materials, and clearly legible.

TRAFFIC STOP PROCEDURES

1. Observation of a violation—determine who is the driver, how many occupants are in the vehicle.
2. Plan the stop. Consider officer safety, number of passengers, lighting, and road conditions.
3. Radio in your location and the plate number of the violating vehicle. Give a vehicle description if the license plate is not legible, is missing, or if you have any reason to believe that the license plate does not belong to the vehicle being stopped.
4. Use your emergency light(s) to draw the attention of the driver. Use the siren only if necessary. Use turn signals or flashers to protect yourself from other traffic.
5. Position your vehicle to protect yourself.
6. Request back-up if needed. Have your hand on or near your handgun. Never have your flashlight in your gun hand.
7. If you are working with a partner, the partner should approach the suspect vehicle from the other side of the vehicle, making his/her presence known to the occupants. Your partner should watch the hands of the occupants. If a serious violation is involved, have the driver turn off the vehicle, remove the keys from the ignition, and place them on the roof of the vehicle.
8. Request driver license, registration, and proof of insurance. Watch the visor and glove compartment area carefully. After examining documents, explain the violation to the driver. Verify the correct address, get phone number. Have the occupants remain in the vehicle.
9. Return to your vehicle.
 - Do not turn your back on the other vehicle's occupants.
 - Verify license and registration and check for warrants.
 - Fill out citation while glancing occasionally at the vehicle.
 - Verify court jurisdiction and violation code number.
 - Fill in the description of the driver, insuring that it fits the driver.
10. Return to the violator vehicle. Return the license, registration, and proof of insurance, and ensure that the driver acknowledges them being returned.
11. Explain the citation, including the following information:
 - The location of the court to which the driver is assigned
 - When to appear
 - The violation(s) charged
 - An explanation that the signature is not an admission of guilt, just a promise to appear
12. Give the “violator copy” of the citation to the driver.
13. Return to your vehicle, but do not let your guard down.

Remember that the demeanor and professional manner the officer displays during the conduct of a traffic stop has a direct bearing on how often the officer will receive a subpoena to appear in court.

ACCIDENT INVESTIGATION

Reasons for officers to conduct traffic investigations include the following:

- To render first aid and other emergency assistance
- To restore traffic flow
- To provide information for establishing responsibility (civil, insurance, etc.)
- To determine whether criminal violations have occurred
- To provide statistical and other data for use in selective enforcement, traffic engineering, and vehicle related improvements. This is related to the three E's of highway safety, which are enforcement, education, and engineering.

When evaluating highway safety, three elements that are looked upon as essential in providing the safest road system possible for society.

Enforcement: Law enforcement officers are responsible for citing a driver who is driving haphazardly. For the safety of others sharing the highway, such an individual needs to be dealt with.

Education: Numerous agencies are involved in educating drivers about the various hazards to be encountered while driving on the highways.

Engineering: Engineers are responsible for correcting faults in the physical construction of our highways. They ensure that construction of our roads meets with the laws of physics.

There are five levels of accident investigation:

1. Reporting
2. On-scene investigation
3. Technical preparation
4. Professional reconstruction
5. Cause analysis

A law enforcement response is normally limited to the first two levels in most cases. This is because of a need for expediency, a general lack of expertise in the final three steps, and the nature of the normally investigated accident. If the accident is minor, there is little cause for the final three steps.

Some of the larger departments in the state have a major accident team which utilizes a team of experienced investigators to investigate accidents involving serious injuries or death. These teams use high tech equipment to measure and reconstruct the accident scene.

PROCEDURE FOR ACCIDENT INVESTIGATION

1. Get to the accident scene safely, utilizing knowledge of road networks and traffic congestion and flow patterns
2. Get as much information as possible while enroute.
3. Upon arrival, place your vehicle to protect the accident scene without contributing to the traffic flow problems that already exist.
4. Care for any injured.
5. Deal with any possibility of fire, electrical wires, etc.
6. Arrange for traffic control, instructing any volunteers willing to assist.
7. Look for skid marks.
8. Request driver license, registration, and proof of insurance from each driver.

9. Remove the vehicles from the roadway as soon as possible if no measurements or detailed diagrams are to be taken.
10. Locate witnesses and take statements in writing, thanking them for their cooperation.
11. Determine any additional service needs, such as tow trucks, the fire department for any spills, the road department to fix or replace lights or signs, etc.
12. Conduct the on-scene investigation.
13. Advise the drivers of the actions they will be required to take, such as contacting insurance companies, appearance on a citation, etc.
14. Arrange for debris to be removed from the roadway.

ACCIDENT REPORT WRITING

The objective of the accident report is to record all of the pertinent information that relates to the accident. Measurements and diagrams will aid in determining what occurred and will show others the positions and relationships of objects and individuals involved.

The following accidents require measurements:

- Fatalities
- Accidents in which the vehicle runs off a curve
- Serious accidents involving injury (code 3 response)
- Accidents with view obstructions
- Freak accidents
- Accidents that cannot be readily explained

Measurements to be taken include the following:

- Final positions
- Indications of possible point of impact
- Indications of evasive action
- Skids and other road marks
- Debris (vehicle parts, fluid, etc.)
- Distances and relationships

Basic measurements can be taken by either of two methods. The triangulation method means that triangles are used to plot the location of objects recorded in a diagram. Two fixed objects are located and the distance between them recorded. The legs of the triangle are the distance from each fixed object to the object being located.

Another method involves using one fixed object to locate baselines. The object being located is then referenced in regards to the distance from both of the baselines.

TERMS TO KNOW

Possible point of impact: The location where the investigating officer feels that initial contact with vehicles, persons, or objects occurred.

Travel path: The path the vehicle traveled prior to impact.

Evasive action: Any action other than braking taken by either driver in an attempt to avoid impact.

Perception point: The point at which either driver observed the other vehicle prior to the accident.

Key event: Any event that had an effect on the accident.

Perception time: The elapsed time from the perception point to the point where the driver realizes that a hazard exists.

Reaction time: The elapsed time from when the hazard is realized to where action is taken. Average reaction time is three-fourths of one second.

Final position: The position at which all vehicles, persons, or objects come to rest in an accident, as shown in a traffic diagram.

SKIDMARKS IN ACCIDENT INVESTIGATION

The use of skid marks to determine speed is an application of physics to law enforcement traffic investigation. Skid marks are produced by the process of friction. The locking of vehicle brakes causes tires to stop rotation. This produces heat between the tires and the road surface. As the heat increases, rubber from the tires begins to smear onto the road. On some road surfaces, tar in the paved surface is involved in forming the smear. The former occurs on a concrete roadway and the latter occurs on asphalt roads. Skid marks demonstrate the minimum speed of the vehicles involved.

Skid marks only indicate the speed used up by the decelerating while the brakes are actually locked and the tires are in contact with the road. Skid marks are measured, and the total length of all tires producing skid marks is then added together. This number is divided by the total number of tires producing skid marks to calculate the average distance.

Often only two skids appear, due to the rear tires following the same travel path as the front tires. If this occurs, measure to the rear tires and then average the two together. This will correct the measurements for the vehicle wheelbase.

The formula for determining minimum speed from skid marks is as follows:

$$S = \sqrt{30DF} \quad \text{where} \quad \begin{array}{l} S = \text{speed} \\ D = \text{distance} \\ F = \text{drag factor} \end{array}$$

In most accidents, the distance is readily available. To determine the drag factor, experimental skids must be made. One method is to use a vehicle similar to the one involved in the investigation and run three skidding tests. On each of these, since the speed of the vehicle when the brakes are applied is known and the stopping distance can be measured, the drag factor can be determined from the following formula:

$$F = S^2 \times .035 / D$$

Most clear Utah asphalt roads have a drag factor of .60 to .75.

Once the drag factor has been determined by averaging the three tests, enough information is available to determine the minimum speed of the vehicle being investigated. To save the effort of working through a number of math formulas, most officers use a special speed nomograph for preliminary investigations.

UTAH STATE ACCIDENT REPORT (DI-9)

Each driver must fill out a driver exchange form for every other driver who was involved. This information will assist the drivers in completing insurance forms and /or submitting insurance claims.

The form on the following page is used by all Utah law enforcement officers in completing reportable accidents. An accident is reportable when there is an injury or total damage exceeds \$1,000. The agency case number should also be included on the form. As a matter of practice, the vehicle at fault is listed as vehicle #1.

1. Fill out the form completely and legibly.
2. If one vehicle is a hit-and-run vehicle, indicate in the appropriate section.
3. Do not list the name of a driver if the vehicle is parked and unoccupied.
4. Include addresses of all passengers.
5. Add phone numbers of drivers.
6. Keep vehicle numbers consistent throughout the report.
7. Include information on non-contact vehicles, if available.
8. Verify current addresses, do not rely on registration or license.
9. Diagram should be a sketch only, it is not required to include any measurements.
10. If the investigation is continuing, submit the initial report, and indicate that a supplementary report will be sent in later to amend the original report.

Note: Most agencies use DI-9 software, which is downloaded in Police Vehicle Mobile Computers.

The following traffic accident forms are included to give an idea of the types of information required for a formal accident report. You may wish to practice filling out these or similar incident forms, using scenarios such as the Practical Exercise that follows the forms.

FRONT SIDE OF DI-9 REPORT FORM

D1-9 Rev. 03/08 DI 9 STATE OF UTAH INVESTIGATING OFFICER'S REPORT OF TRAFFIC CRASH DI 9 Page ____ of ____											
1	TIME	Date of Crash: Month / Day / Year Day of Week: 1 2 3 4 5 6 7 Military Time: _____ DLD Number: _____									
2	LOCATION	PLACE WHERE CRASH OCCURRED: _____ COUNTY CODE _____ City or Town of Jurisdiction _____ If crash was outside city limits indicate distance from city limits or nearest town _____ Miles <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> of _____ City or Town _____ ROAD, STREET, HWY CRASH OCCURRED: _____ Street Name or Highway Number _____ UDOT USE ONLY _____ 1. AT THE INTERSECTION WITH _____ 2. IF NOT AT INTERSECTION _____ Feet <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> of _____ Nearest intersection, street, house no., landmark _____ _____ N S E W _____ N S E W _____ Tenth of a mile <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> of Mile Post _____ Be sure to complete if road has mile post								Case Number _____ Latitude _____ Longitude _____ REPORTABLE CRASH <input type="checkbox"/> YES <input type="checkbox"/> NO UDOT USE	
3	VEH # (ONE)	VIN # _____ PLATE NUMBER _____ STATE _____ EXP DATE _____ COLOR _____ MODEL _____ MODEL _____ YEAR _____ OCCUPANT(S) _____ FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____									
4	DRIVER	STATE NUMBER CLASS ENDORSEMENT(S) RESTRICTION(S) DATE OF BIRTH AGE CHARGES CITATION # mm / dd / yyy _____									
4	DRIVER LICENSE	FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
5	OWNER	FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
5	CARRIER	COMMERCIAL VEHICLE INFO NAME STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
5	VEH # (ONE)	US DOT # _____ CVSA INSPECTION # _____ GVWR / GVWR (check one) <input type="checkbox"/> 10,001 - 26,000 lbs <input type="checkbox"/> MORE THAN 26,000 lbs HAZ MAT RELEASED <input type="checkbox"/> YES <input type="checkbox"/> NO HAZ MAT PLACARD # or NAME - CLASS _____ CARGO CODE _____ <input type="checkbox"/> 10,001 lbs or LESS <input type="checkbox"/> INTERSTATE <input type="checkbox"/> INTRASTATE									
6	VEH # (ONE)	1ST TRAILER LICENSE PLATE # STATE EXP DATE LENGTH 2ND TRAILER LICENSE PLATE # STATE EXP DATE LENGTH 3RD TRAILER LICENSE PLATE # STATE EXP DATE LENGTH mm / yy _____									
6	VEH # (ONE)	SPEED POSTED POSTED ADVISORY EST TRAVEL EST IMPACT ESTIMATED BY: <input type="checkbox"/> Officer <input type="checkbox"/> Witness <input type="checkbox"/> Driver SEQUENCE OF EVENTS (Codes 01, 69 - 96) FIRST EVENT SECOND EVENT THIRD EVENT FOURTH EVENT MOST HARMFUL EVENT For VEHICLE (Use codes 00, 07 - 69)									
7	VEH # (ONE)	VEHICLE DAMAGE <input type="checkbox"/> NO DAMAGE <input type="checkbox"/> \$1 - \$999 <input type="checkbox"/> \$1,000 or MORE INSURANCE COMPANY _____ EFFECTIVE DATE _____ EXPIRATION DATE _____ POLICY NUMBER _____ INSURANCE APPEARS VALID <input type="checkbox"/> YES <input type="checkbox"/> NO AGENCY/AGENT THAT SOLD POLICY _____ ADDRESS _____ PHONE () _____									
8	VEH # (ONE)	VIN # _____ PLATE NUMBER _____ STATE _____ EXP DATE _____ COLOR _____ MODEL _____ MODEL _____ YEAR _____ OCCUPANT(S) _____ FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____									
8	DRIVER	STATE NUMBER CLASS ENDORSEMENT(S) RESTRICTION(S) DATE OF BIRTH AGE CHARGES CITATION # mm / dd / yyy _____									
9	DRIVER LICENSE	FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
9	OWNER	FIRST INITIAL LAST STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
9	CARRIER	COMMERCIAL VEHICLE INFO NAME STREET, CITY, STATE, ZIP PHONE () _____ <input type="checkbox"/> Same as Driver									
10	VEH # (ONE)	US DOT # _____ CVSA INSPECTION # _____ GVWR / GVWR (check one) <input type="checkbox"/> 10,001 - 26,000 lbs <input type="checkbox"/> MORE THAN 26,000 lbs HAZ MAT RELEASED <input type="checkbox"/> YES <input type="checkbox"/> NO HAZ MAT PLACARD # or NAME - CLASS _____ CARGO CODE _____ <input type="checkbox"/> 10,001 lbs or LESS <input type="checkbox"/> INTERSTATE <input type="checkbox"/> INTRASTATE									
10	VEH # (ONE)	1ST TRAILER LICENSE PLATE # STATE EXP DATE LENGTH 2ND TRAILER LICENSE PLATE # STATE EXP DATE LENGTH 3RD TRAILER LICENSE PLATE # STATE EXP DATE LENGTH mm / yy _____									
10	VEH # (ONE)	SPEED POSTED POSTED ADVISORY EST TRAVEL EST IMPACT ESTIMATED BY: <input type="checkbox"/> Officer <input type="checkbox"/> Witness <input type="checkbox"/> Driver SEQUENCE OF EVENTS (Codes 01, 69 - 96) FIRST EVENT SECOND EVENT THIRD EVENT FOURTH EVENT MOST HARMFUL EVENT For VEHICLE (Use codes 00, 07 - 69)									
11	VEH # (ONE)	VEHICLE DAMAGE <input type="checkbox"/> NO DAMAGE <input type="checkbox"/> \$1 - \$999 <input type="checkbox"/> \$1,000 or MORE INSURANCE COMPANY _____ EFFECTIVE DATE _____ EXPIRATION DATE _____ POLICY NUMBER _____ INSURANCE APPEARS VALID <input type="checkbox"/> YES <input type="checkbox"/> NO AGENCY/AGENT THAT SOLD POLICY _____ ADDRESS _____ PHONE () _____									
12	WITNESSES	Work Zone? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Total # of Lanes on Roadway _____ Damage to Property Other than Vehicles (Name object and state nature) _____ Workers Present? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown # Vehicles Involved _____ Name and Address of Owner of Object Struck _____ Phone () _____ PROPERTY DAMAGE ESTIMATE <input type="checkbox"/> \$1,000 OR MORE <input type="checkbox"/> LESS THAN \$1,000									
13	WITNESSES	Name _____ Address _____ Phone () _____ Name _____ Address _____ Phone () _____ Law Enforcement Activity Time Notified of Crash _____ Arrived at Scene _____ Date Notified of Crash _____ Investigation Completed _____ Use Military Time mm dd yy mm dd yy									
Field Diagram <input type="checkbox"/> Yes <input type="checkbox"/> No Video <input type="checkbox"/> Yes <input type="checkbox"/> No Photo(s) <input type="checkbox"/> Yes <input type="checkbox"/> No Digital <input type="checkbox"/> Yes <input type="checkbox"/> No Film <input type="checkbox"/> Yes <input type="checkbox"/> No											
<input type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> ADDITIONAL PERSONS REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT <input type="checkbox"/> AMENDED REPORT State Law Requires a Reportable Crash Report to be Forwarded to Dept. of Public Safety Within 10 Days Following Completion of Investigation. Mail ORIGINAL REPORT TO: Driver License Division, 4501 South 2700 West, P.O. Box 144501, Salt Lake City, Utah 84114-4501											

BACK SIDE OF DI-9 REPORT FORM

	SEATING POSITION 11 - Motorcycle Driver 50 - Sleeper Section of Cab (Truck) 57 - Right Side Driver 21 - Motorcycle Passenger 51 - Enclosed Cargo Area 60 - Non-Motorist 18 - Front Row Other 52 - Unenclosed Cargo Area 69 - Other* 28 - Second Row Other 54 - Trailing Unit 97 - Unknown 38 - Third Row Other 55 - Riding on Vehicle Exterior 48 - Fourth Row Other 56 - Seating Position 11, Not Driver																											
EMS Time Called: _____ EMS Time Arrived: _____	Disposition of Vehicle # _____ TOWED BY: _____ Disposition of Vehicle # _____ TOWED BY: _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">Person Type</th> <th style="width: 10%;">Seating Position</th> <th style="width: 10%;">Sex</th> <th style="width: 10%;">Level</th> <th style="width: 10%;">Area</th> <th style="width: 10%;">Cause</th> <th style="width: 10%;">Transported By</th> <th style="width: 10%;">Safety Equipment</th> <th style="width: 10%;">Used Property</th> <th style="width: 10%;">Air Bag</th> <th style="width: 10%;">Ejection</th> <th style="width: 10%;">Ejection Path</th> <th style="width: 10%;">Extrication</th> </tr> <tr> <td colspan="13" style="text-align: center;">INJURY</td> </tr> </table>	Person Type	Seating Position	Sex	Level	Area	Cause	Transported By	Safety Equipment	Used Property	Air Bag	Ejection	Ejection Path	Extrication	INJURY												
Person Type	Seating Position	Sex	Level	Area	Cause	Transported By	Safety Equipment	Used Property	Air Bag	Ejection	Ejection Path	Extrication																
INJURY																												

PERSON(S) INVOLVED	VEH #	DRIVER	Transported to: _____		BAC	
	VEH #	DRIVER	Transported to: _____		BAC	
	VEH #	Name	DOB	Age	Transported to: _____	BAC
		Address	Phone ()			
	VEH #	Name	DOB	Age	Transported to: _____	BAC
		Address	Phone ()			
24	VEH #	Name	DOB	Age	Transported to: _____	BAC
	Address	Phone ()				
24	VEH #	Name	DOB	Age	Transported to: _____	BAC
	Address	Phone ()				

28 **DIAGRAM of CRASH** NO DIAGRAM - Reason: _____ 1. Officer not at scene 2. Vehicle moved 3. Other _____ DLD# _____

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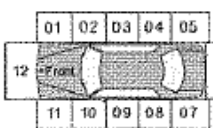
36

37 **DESCRIBE WHAT HAPPENED**
(Refer to Vehicle by Number)

PRINT

OFFICER'S RANK AND NAME	I.D. #	DEPARTMENT	CASE NUMBER	SUPERVISOR'S APPROVAL	DATE OF REPORT
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FRONT SIDE OF DI-9 OVERLAY

1	1 Crash Severity 01 No Injury/POD 02 Possible Injury 03 Non-Incapacitating Injury 04 Incapacitating Injury 05 Fatal	2 Motor Vehicle Body Type 01 Passenger Car (2 door) 02 Passenger Car (4 door) 03 Station Wagon 04 Pickup 05 Sport Utility Vehicle 06 Van or Mini Van 07 Single Unit Truck (2 axles, 5 tires) 08 Single Unit Truck (3 or more axles)	09 Truck/Tractor 10 Truck/Trailer 11 Heavy Truck Other (trailer only) 12 Motorcycle 13 School Bus 14 Bus/Motorcoach (not school) 15 Farm Equipment (combine, etc.) 16 Motorized Scooter/Moped, etc. 17 Off Road Vehicle (snowmobile, ATV, etc.)	Counties (location section) 01 Beaver 03 Box Elder 05 Cache 07 Carbon 09 Daggett 11 Davis 13 Duchesne 15 Emery 17 Garfield 19 Grand 21 Iron 23 Juab	35 Salt Lake 37 San Juan 39 Sanpete 41 Sevier 43 Summit 45 Tooele 47 Uintah 49 Utah 51 Wasatch 53 Washington 55 Wayne 57 Weber
2-Odd Veh.	3 Trailing Unit(s) 00 No Trailer/Attachment 01 Utility Trailer 02 Boat Trailer 03 Camping Trailer 04 Horse Trailer 05 Towed Motor Vehicle 06 Combination - 2 or More 07 Semi-Trailer - Single 08 Semi-Trailer - Doubles 09 Semi-Trailer - Triples 10 Mobile Home 11 Farm Equipment/Trailer 12 Other* 99 Unknown		14 Direction of Vehicle Travel 01 Northbound 02 Southbound 03 Eastbound 04 Westbound 05 Not on Roadway (also for parked motor vehicle)		
2-Even Veh.	4 Cargo Body Type 00 Not Applicable 01 Van/Enclosed Box 02 Hopper (grain, gravel, etc.) 03 Bus/Van (seats for 9 - 15 people, including driver) 04 Bus (seats more than 15 people, including driver) 05 Intermodal Container Chassis 06 Auto Transporter 07 Concrete Mixer 08 Garbage/Refuse 09 Flatbed 10 Cargo Tank 11 Pole 12 Log Truck 13 Dump 14 Other* 99 Unknown		15 Vehicle Contributing Circumstances 00 None 01 Brakes 02 Steering 03 Power Train 04 Suspension 05 Tires 06 Exhaust 07 Headlights 08 Signal Lights 09 Tail Lights 10 Horn 11 Windows/Windshield 12 Wheels 13 Trailer Hitch 14 Cargo 15 Fuel System 16 Mirrors 17 Wipers 18 Body, Doors, Hood 19 Other* 99 Unknown		
3-Odd Veh.	5 Special Function of Motor Vehicle 00 None 01 Law Enforcement - Emer 02 Law Enforcement - Non-Emer 03 Ambulance - Emer 04 Ambulance - Non-Emer 05 Fire - Emer 06 Fire - Non-Emer 07 Snowplow - in Use 08 Tow Truck - in Use 09 Construction - in Use 99 Unknown		16 Driver Condition 01 Appearing Normal 02 Illness / Medical 03 Fatigue/Asleep 04 Exceeded HOS Limits 05 Under the Influence of Alcohol/Drugs/Medications 06 Emotional/ Prior to 07 Other* 99 Unknown		
3-Even Veh.	6 Area of Initial Impact  00 Impact, No Damage 13 Top (roof) 14 Undercarriage 15 Damage, No Impact 16 No Impact, No Damage 99 Unknown		17 Driver Contributing Circumstances 00 None 01 Exceeded Posted Speed Limit 02 Too Fast for Conditions 03 Failed to Yield Right-of-Way 04 Failed to Keep in Proper Lane 05 Improper Lane Change 06 Over-Correcting/Over-Steering 07 Disregard Traffic Signs 08 Disregard Traffic Signals 09 Disregard Road Markings 10 Swerved or Evasive Action 11 Followed too Closely 12 Reckless/Aggressive 13 Wrong Side/Wrong Way 14 Improper Parking/Stopping 15 Ran Off Road 16 Improper Backing 17 Improper Signal 18 Improper Passing 19 Improper Turn 20 Hit and Run 21 Street Racing 97 Other* 99 Unknown		
4-Odd Veh.	7 Most Damaged Area 01 Front 02 Front 03 Front 04 Front 05 Front 06 Front 07 Front 08 Front 09 Front 10 Front 11 Front 12 Front		18 Vehicle Maneuver 01 Straight Ahead 02 Backing 03 Changing Lanes 04 Overtaking/Passing 05 Turning Right 06 Turning Left 07 Making U-turn 08 Leaving Traffic Lane 09 Entering Traffic Lane 10 Stopped in Traffic Lane 11 Stopping in Traffic Lane 12 Immobile From Previous Crash 13 Parked 14 Parking Maneuvers 97 Other* 99 Unknown		
4-Even Veh.	8 Vehicle Deformity for Most Damaged Area 00 None 01 Minor 02 Moderate 03 Severe 99 Unknown		19 Driver Distraction 00 None 01 Cell Phone 02 Radio/CD/DVD etc. 03 Other Electronic Device 04 Passengers 05 Texting 06 TV Monitor 07 Other Inside 08 Other External 99 Unknown		
5-Odd Veh.	9 Alcohol/Drug Use Suspected 00 None 01 Alcohol 02 Drugs 03 Both 99 Unknown		20 Traffic Control Device 00 None 01 Traffic Control Signal 02 Flashing Traffic Control Signal 03 Stop Sign 04 Yield Sign 05 Warning Sign 06 Flagger or Officer 07 HOV Lane 08 Ramp Metering - Active 09 School Zone 10 School Zone Reduced Speed - Active 11 Railroad Crossing-No Signal 12 Railroad Crossing-Signal/Gate 97 Other* 99 Unknown		
5-Even Veh.	10 Alcohol/Drug Test 00 Not Given 01 Refused 02 Alcohol 03 Drug 04 Both 05 Talked to M.E. 97 Other*		21 Roadway Description 01 Two-Way, Not Divided 02 Two-Way, Not Divided With a Continuous Left Turn Lane 03 Two-Way, Divided, Unprotected Median 04 Two-Way, Divided, Positive Median Barrier 05 One-Way 99 Unknown		
6-Odd Veh.	11 Test Results 00 Not Applicable / No Test 01 Alcohol-Pos. 02 Drug-Pos. 03 Both-Pos. 04 Negative 05 Pending		22 Manner of Collision (two or more motor vehicles) 00 Not Applicable / Single Veh. 01 Angle 02 Front to Rear 03 Head On (front-to-front) 04 Sideswipe Same Direction 05 Sideswipe Opposite Direction 06 Parked Vehicle 07 Rear to Rear 08 Rear to Side 99 Unknown		
6-Even Veh.	12 Work Zone Type 00 Not Applicable / No Work Zone 01 Lane Closure 02 Lane Shift/Crossover 03 Work on Shoulder or Median 04 Intermittent or Moving Work 97 Other* 99 Unknown		23 Roadway Contributing Circumstances 00 None 01 Debris 02 Rut, Hole, Bump 03 Road Surface Condition (wet, icy, snow, slush, etc.) 04 Work Zone (construction/maintenance/utility) 05 Worn, Travel-Polished Surface 06 Traffic Control Device (nonoperative, missing, or obscured) 07 Shoulder (none, low, soft, high) 08 Animal Caused Evasive Action 09 Non-Motorist Caused Evasive Action 10 Non-Contact Vehicle Caused Evasive Action 11 Obstruction from Previous Crash		
7-Odd Veh.	13 Work Zone Location 00 Not Applicable / No Work Zone 01 Before the First Work Zone Warning Sign 02 Advance Warning Area (after the first warning sign, but before the work area) 03 Transition Area (where lanes are shifted or tapered for lane closure) 04 Activity Area (adjacent to actual work area, whether workers and equipment were present or not) 05 Termination Area (after the activity area, but before traffic resumes normal conditions) 99 Unknown		ONLY ONE CODE per BOX		
7-Even Veh.	8 Description of Cargo (front page, each vehicle) 00 None 01 Agriculture/Farm Supplies 02 Beverages 03 Building Materials 04 Chemicals 05 Coal, Coke 06 Commodities, Dry Bulk 07 Concrete 08 Construction 09 Drive-Away, Tow-Away 10 Fresh Produce 11 Garbage, Refuse, Trash 12 General Freight 13 Grain, Feed, Hay 14 Household Goods 15 Intermodal Containers 16 Liquids/Gases 17 Livestock 18 Livestock Containers 19 Logs, Poles, Beams, Lumber 20 Machinery, Large Objects 21 Meat 22 Metal 23 Mobile Home 24 Motor Vehicles 25 Oilfield Equipment 26 Ore 27 Paper Products 28 Passengers 29 Radioactive 30 Refrigerated Food 31 Rock, Sand, Gravel 32 Salt 33 US Mail 34 Utilities 35 Water Well 97 Other*		Explain in Narrative		
8-Odd Veh.	9 Area of Initial Impact 01 Front 02 Front 03 Front 04 Front 05 Front 06 Front 07 Front 08 Front 09 Front 10 Front 11 Front 12 Front		24 Other 99 Unknown		
8-Even Veh.	10 Alcohol/Drug Test 00 Not Given 01 Refused 02 Alcohol 03 Drug 04 Both 05 Talked to M.E. 97 Other*		25 Other 99 Unknown		
9-Odd Veh.	11 Test Results 00 Not Applicable / No Test 01 Alcohol-Pos. 02 Drug-Pos. 03 Both-Pos. 04 Negative 05 Pending		26 Other 99 Unknown		
9-Even Veh.	12 Work Zone Type 00 Not Applicable / No Work Zone 01 Lane Closure 02 Lane Shift/Crossover 03 Work on Shoulder or Median 04 Intermittent or Moving Work 97 Other* 99 Unknown		27 Other 99 Unknown		
10-Odd Veh.	13 Work Zone Location 00 Not Applicable / No Work Zone 01 Before the First Work Zone Warning Sign 02 Advance Warning Area (after the first warning sign, but before the work area) 03 Transition Area (where lanes are shifted or tapered for lane closure) 04 Activity Area (adjacent to actual work area, whether workers and equipment were present or not) 05 Termination Area (after the activity area, but before traffic resumes normal conditions) 99 Unknown		28 Other 99 Unknown		
10-Even Veh.	14 Direction of Vehicle Travel 01 Northbound 02 Southbound 03 Eastbound 04 Westbound 05 Not on Roadway (also for parked motor vehicle)		29 Other 99 Unknown		
11-Odd Veh.	15 Vehicle Contributing Circumstances 00 None 01 Brakes 02 Steering 03 Power Train 04 Suspension 05 Tires 06 Exhaust 07 Headlights 08 Signal Lights 09 Tail Lights 10 Horn 11 Windows/Windshield 12 Wheels 13 Trailer Hitch 14 Cargo 15 Fuel System 16 Mirrors 17 Wipers 18 Body, Doors, Hood 19 Other* 99 Unknown		30 Other 99 Unknown		
11-Even Veh.	16 Driver Condition 01 Appearing Normal 02 Illness / Medical 03 Fatigue/Asleep 04 Exceeded HOS Limits 05 Under the Influence of Alcohol/Drugs/Medications 06 Emotional/ Prior to 07 Other* 99 Unknown		31 Other 99 Unknown		

Overlay Rev. 11/10

BACK SIDE OF DI-9 OVERLAY

DRIVER(S) AND PERSON(S) INVOLVED INFORMATION (Back Page, Upper Right)				
Person Type 01 Driver 02 Passenger 03 Pedestrian	04 Pedalcyclist 05 Scooter/Skater 97 Other* 99 Unknown	Sex M Male F Female U Unknown	Transport By 01 Not Transported 02 Ambulance 03 Helicopter	04 Law Enforcement 05 Private Vehicle 97 Other* 99 Unknown
Injury Level 01 No Injury 02 Possible Injury 03 Non-Incapacitating Injury 04 Incapacitating Injury 05 Fatal	Injury Area 00 None 01 Head 02 Face 03 Neck 04 Chest	05 Abdomen/Pelvis 06 Spine 07 Upper Extremity 08 Lower Extremity 99 Unknown	Safety Equipment Used 00 None 01 Lap & Shoulder Belt 02 Shoulder Belt Only 03 Lap Belt Only 04 Child Restraint - Forward Facing 05 Child Restraint - Rear Facing	06 Booster Seat 07 Helmet 08 Helmet Plus Other 97 Other* 99 Unknown
Injury Cause 00 None 01 Steering Wheel 02 Dash/Windshield 03 Airbag 04 Seatbelt 05 Roof	Other Interior 06 Vehicle Exterior 07 External Object 97 Other* 99 Unknown	Disposition of Vehicle 01 Retained by Driver 02 Towed/Disabled 03 Towed/Impounded 04 Towed Other 05 Hit and Run	Used Properly 01 Yes 02 No 99 Unknown	Ejection 00 Not Ejected 01 Totally Ejected 02 Partially Ejected 96 Not Applicable (motorcycle, snowmobile, pedestrian, pedalcyclist, etc.) 98 Unknown
24 Visual Contributing Circumstances 00 None 01 Weather Condition 02 Physical Obstruction 03 Windshield or Other Window Obscured 04 Trees, Crops, Bushes, Other Vegetation 05 Parked Vehicle(s) 06 Signs, Billboards, etc.	07 Moving Vehicle(s) 08 Building 09 Guardrail/Barrier 10 Glare 11 Smoke 97 Other* 98 Unknown	30 Non-Motorist Action 96 Not Applicable 01 Entering or Crossing Road 02 Walking, Running, Jogging, Playing, etc. 03 Approaching or Leaving Motor Vehicle 04 Standing, Lying, Sitting	05 Cycling 06 Working 07 Working on Vehicle 08 Pushing Motor Vehicle 09 Alcohol/Drugs	97 Other* 99 Unknown
25 Weather Condition 01 Clear 02 Cloudy 03 Rain	04 Snowing 05 Blowing Snow 06 Sleet, Hail	07 Fog, Smog 08 Severe Crosswinds 09 Blowing Sand, Soil, Dirt	31 Non-Motorist Contributing Circumstances 96 Not Applicable 01 Improper Crossing 02 Overtaking 03 Wrong Side of Road 04 Not Visible	05 Inattentive 06 Failure to Obey Traffic Signs, Signals, or Officer 07 Failure to Yield Right-of-Way 08 In Roadway (standing, on knees, lying, etc.) 97 Other* 98 Unknown
26 Light Condition 01 Daylight 02 Dark - Lighted 03 Dark - Not Lighted	04 Dark - Unknown Lighting 05 Dawn 06 Dusk	99 Unknown	32 Non-Motorist Location 96 Not Applicable 01 Marked Crosswalk at Intersection 02 Unmarked Crosswalk at Intersection 03 Mid-Block Crosswalk 04 School Crosswalk at Intersection 05 Mid-Block School Crosswalk 06 In Roadway (no crosswalk or intersection) 07 Median (not on shoulder)	08 Shoulder 09 Island 10 Sidewalk 11 Roadside 12 Dedicated Blue Path/Lane 13 Shared Use Path/Trail 14 Outside Right-of-Way 15 Inside Building
27 Roadway Surface Condition 01 Dry 02 Wet 03 Snow 04 Slush 05 Ice 06 Water (standing, moving)	07 Mud 08 Sand, Dirt, Gravel 09 Oil 97 Other* 99 Unknown	28 Roadway/Junction Feature Non-Intersection 01 No Special Feature/Junction 02 Bridge (overpass/underpass) 03 Railroad Crossing 04 Business Drive 05 Farm/Residential Drive 06 Alley 07 Crossover in Median 08 On-Ramp Merge Area 09 Off-Ramp Diverge Area 10 On-Ramp 11 Off-Ramp	33 Horizontal Alignment 01 Straight 02 Curve 99 Unknown	34 Vertical Alignment 01 Level 02 Grade 03 Hillcrest 04 Sag (bottom)
29 Road Jurisdiction 01 State (I, US, SR) 02 County 03 City 04 Federal (NP, BLM, FS, etc.)	05 Private Property 97 Other* 99 Unknown	Intersection 20 4-Leg Intersection 21 T-Intersection 22 Y-Intersection 23 5-Leg or More Intersection 24 Roundabout 25 Ramp Intersection With Crossroad 26 Bike/Ped Path Intersection 97 Other* 99 Unknown	35 Pavement Type 01 Concrete 02 Asphalt (blacktop) 03 Gravel, Stone	04 Dirt 97 Other* 99 Unknown
Sequence of Events (codes 01 - 96 only) Most Harmful Event (codes 00, 07 - 69 only)		36 Location of First Harmful Event 01 On Roadway 02 Shoulder 03 Median 04 Gore 05 Roadside (outside of shoulder)		37 First Harmful Event (codes 07 - 69 only)
Non-Collision: 00 No Damage or Injury, This Vehicle 01 Ran Off Road Right 02 Ran Off Road Left 03 Crossed Median/Centerline 04 Equipment Failure (tire, brakes, etc.) 05 Separation of Units 06 Downhill Runaway 07 Overturn/Rollover 08 Cargo/Equipment Loss or Shift 09 Jackknife 10 Fire/Explosion 11 Immersion 12 Fell/Jumped From Motor Vehicle 19 Other Non-Collision*	Collision With Person, Vehicle, or Non-Fixed Object: 20 Other Motor Vehicle in Transport 21 Parked Motor Vehicle (off roadway) 22 Pedestrian 23 Pedalcycle 24 Skates, Scooters, Skateboards 25 Animal - Wild 26 Animal - Domestic 27 Work Zone/Maintenance Equipment 28 Freight Rail 29 Light Rail 30 Passenger Heavy Rail 31 Thrown or Fallen Object 39 Other Non-Fixed Object*	Collision With Fixed Object: 40 Guardrail 41 Concrete Barrier 42 Cable Barrier 43 Crash Cushion 44 Guardrail End Section 45 Concrete Sloped End Section 46 Cable Barrier End Section 47 Access Control Cable 48 Bridge Rail 49 Bridge Pier or Support 50 Bridge Overhead Structure 51 Traffic Sign Support 52 Dehtneator Post 53 Other Post, Pole or Support	54 Utility Pole/Light Support 55 Traffic Signal Support 56 Culvert 57 Ditch 58 Embankment 59 Snow Bank 60 Tree/Shrubbery 61 Mailbox/Fire Hydrant 62 Fence 63 Curb 99 Other Fixed Object* 96 Not Applicable (used only to fill unused boxes)	

BACK SIDE

ONLY ONE CODE per BOX

*Explain in Narrative

Practical Exercise

After reviewing the material on skid marks, use the accident form to investigate the following accident problem. Determine from the skid marks whether any speed violations occurred. Report these and any other violations evident from the worksheet on the accident forms.

Case # 03-56680

Vehicle #1: 1997 Chev. Nova (red), Utah plates FEC822, Serial #215H158F9475. **Driver:** Joseph A. Montoya, Sr., DOB: 9-1-67, Utah driver's license 1394876, no restrictions. **Address:** 2271 W. Zions Dr. Taylorsville, UT 84118; 555-9019. Owns the vehicle he was driving. Not wearing seat belts, no injuries, no ejection, no other occupants.

Vehicle #2: 1999 Cadillac Deville (black), Utah plates ZIT906, Serial #9H35C76483995. **Driver:** Phillip Smith, DOB: 8-29-73, Utah driver's license 12811943, must wear glasses. **Address:** 3640 E. Supernal WY. SLC, UT 84121; 555-0354. Also owns the vehicle. Was not wearing seat belts, was bleeding from head, but was not ejected. **Occupant:** Darla Jones, age 23, sitting in right front, no seat belts, no ejection. Had bruises and was limping. **Address:** 43 So. Oak St. Midvale, UT 84047; no phone.

Injured treated at scene by ambulance #580.

Witness: John Smith, 4320 So. Gordon Ln. Apartment #23, Murray, UT 84107; 555-8596.

Accident occurred: Inside southbound lane, 5400 So. Redwood Rd, September 22, 2003 (Monday) 4:50 p.m., road condition: dry, good weather.

Vehicle #1 southbound on Redwood Rd., vehicle #2 eastbound on 5400 South. Both drivers attempting to go straight ahead.

When light facing eastbound traffic on 5400 South turned green, according to driver #2 and witness who was driving the car immediately behind him, vehicle #1 skidded into the intersection, colliding with #2 vehicle as he entered the intersection.

Neither vehicle overturned. Estimated speed for vehicle #2 was 10/mph.

Damage to #1 vehicle: \$960.00 to right front

Damage to #2 vehicle: \$1900.00 to left front corner

Both vehicles retained by owners.

Skid marks, vehicle #1.

230'

190'

Average length test skids:

35 mph 52'

35 mph 50'

35 mph 60'

(SHOW YOUR WORK)

EMS Number: 34908 and 34909

Police activity: Notified 5:00 p.m. on day of accident.
Completed 7:00 p.m. the same day
Called in by driver #2.

Both drivers insured by “All Nation Insurance Co.”; neither has information in vehicle.

UTAH LAW REGARDING DRIVING UNDER THE INFLUENCE (DUI)

Because of the frequency and severity of driving under the influence (DUI) cases, the officer must be especially careful to follow recommended procedures. Many DUI cases go to court because of the likelihood that the arrestee will lose his/her driver’s license and be seriously punished.

(2)(a) A person may not operate or be in actual physical control of a vehicle within this state if the person:

- (i) has the blood or breath alcohol concentration of .08 grams or greater as shown by a chemical test given within two hours after the alleged operation or physical control; or
- (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle.

(b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.

(c) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3)(a) A person convicted the first or second time of a violation of subsection (2) is guilty of a:

- (i) class B misdemeanor; or
- (ii) class A misdemeanor if the person:
 - (A) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner; or
 - (B) had a passenger under 16 years of age in the vehicle at the time of the offense.

(b) A person convicted of a violation of Subsection (2) is guilty of a third degree felony if the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.

(4)(a) As part of any sentence imposed by the court shall, upon a first conviction, impose a mandatory jail sentence of not less than 48 consecutive hours.

(b) The court may, as an alternative to all or part of a jail sentence, require the person to work in a compensatory-service work program for not less than 24 hours.

(c) In addition to the jail sentence or compensatory-service work program, the court shall:

- (i) order the person to participate in an assessment and educational series at a licensed alcohol or drug dependency rehabilitation facility, as appropriate; and

(ii) impose a fine of not less than \$700.

(d) If a person is convicted after July 1, 1993, the court may order the person to obtain treatment at an alcohol or drug dependency facility.

(5)(a) If a person is convicted under Subsection (2) within six years of a prior conviction under this section, the court shall as part of any sentence impose a mandatory jail sentence of not less than 240 consecutive hours. (41-6-44, UCA)

DUI PROCEDURES

1. Make observations: You must demonstrate impaired driving to validate a traffic stop. Signs of impaired driving include the following:
 - Turning opposite of signals given
 - Hitting brakes frequently
 - Window rolled down in cold weather
 - Cutting back in lane too soon after passing
 - Headlights off, interior lights on
 - Weaves in lane or across lanes
 - Drives extremely slowly
 - Reacts slowly to other vehicles, light changes, etc.
 - Reaction to being pulled over

2. Conduct a traffic stop:
 - Observe the driver's speech, eyes, and general appearance.
 - Be alert for the odor of alcoholic beverages.
 - Note the condition of the vehicle and the road, as these could explain the driving pattern.
 - Ask for the driver's registration and license, observing the driver's coordination and dexterity. (However, consider the effect of fear or trepidation.)
 - Ask about any illness, medication taken, the condition of the vehicle, etc., that might explain the driving pattern.

3. Conduct field sobriety tests:
 - Guard the safety of the suspect; use a well-lit, level, protected location.
 - Explain and demonstrate the tests in detail.
 - Use tests such as the following:
 - Gaze nystagmus
 - Heel-to-toe walk
 - Finger-to-nose balance
 - Finger-counting coordination
 - Hand clap
 - Reciting the ABCs
 - One-legged stand and count

4. If necessary, perform an arrest:
 - Make a final sobriety test having suspect put hands behind back or head and handcuff, advising suspect that he/she is under arrest for DUI.
 - Check mouth and note time.
 - Place inside your vehicle.

5. Explain the Implied Consent law:
 - Read the law to the suspect.
 - Obtain consent for a test.
 - Request the type of test or tests that are desired. The standard test is breath.

6. Conduct chemical tests:
 - Blood, breath or urine. All of the tests can be given if needed.
 - Record test results and advise the arrestee of the results.

7. Give Miranda warning and conduct questioning:
 - Read Miranda rights to the arrestee.
 - Conduct the interview if rights are waived.

8. Conduct booking/citation release as per agency policy and arrestee's demeanor.

9. Complete the State DUI Report Form:
 - Fill in all information.
 - Issue the temporary driver's license.
 - Explain the right to a driver's license hearing.
 - Seize the arrestee's Utah driver license.

Samples DUI forms and other information is included on the following pages.

DUI SUMMONS AND CITATION	ISSUING ENFORCEMENT AGENCY	CASE NO.	CITATION NO. D303572
STATE OF UTAH	NAME (Last) (First) (Middle) DOB		
<input type="checkbox"/> COUNTY OF _____	ADDRESS (City) (State)		Zip
<input type="checkbox"/> CITY OF _____	Driver License No.	Class	Expires
THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN:	State	Restriction	Social Security No.
	Motorcycle <input type="checkbox"/> Yes <input type="checkbox"/> No		
THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN:	Height	Weight	Eyes
	Sex	Vehicle License No.	State
THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN:	Vehicle Make	Vehicle Type	Year
	Color	Accident	Comm. Vehicle
THE DEFENDANT IS HEREBY GIVEN NOTICE TO APPEAR IN:	Expire	Dir. of Travel	Dir. of Travel
	<input type="checkbox"/> UTAH CODE <input type="checkbox"/> COUNTY CODE <input type="checkbox"/> CITY CODE NO.: _____ ON THE _____ DAY OF _____ 19____ MILITARY TIME _____ LOCATION _____ MILE POST NO. _____ VIOLATION(S): _____		
FOR COURT USE ONLY	WITHOUT ADMITTING GUILT I PROMISE TO APPEAR AS DIRECTED HEREIN		
DATE OF CONVICTION _____	SIGNATURE _____		
FINE _____ SUSPENDED _____	I CERTIFY THAT A COPY OF THIS SUMMONS AND CITATION WAS DULY SERVED UPON THE DEFENDANT ACCORDING TO LAW ON THE ABOVE DATE AND I KNOW OR BELIEVE AND SO ALLEGE THAT THE ABOVE NAMED DEFENDANT DID COMMIT THE OFFENSE HEREIN SET FORTH CONTRARY TO LAW. I FURTHER CERTIFY THAT THE COURT TO WHICH THE DEFENDANT HAS BEEN DIRECTED TO APPEAR IS THE PROPER COURT PURSUANT TO SECTION 77-7-19, U.C.A.		
JAIL _____ SUSPENDED _____			
DISPOSITION			
<input type="checkbox"/> Plea Guilty <input type="checkbox"/> No Contest <input type="checkbox"/> Trial Guilty <input type="checkbox"/> Not Guilty			
Final Charge _____	OFFICER _____	BADGE NO. _____	
Prosecuting Agency _____	COMPLAINANT _____	DATE OF CITATION _____	
DLD _____	COURT COPY ONE		DOCKET NO. _____

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation. IF YOU FAIL TO APPEAR AN INFORMATION WILL BE FILED AND THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

NOTICE OF INTENT TO DENY, SUSPEND, REVOKE, OR DISQUALIFY

YOU ARE HEREBY NOTIFIED THAT THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE YOUR DRIVING PRIVILEGE IN THE STATE OF UTAH WILL BE:

- (ARREST UNDER 41-6-44 OR 41-6-44.6 UCA) suspended pursuant to 53-3-223 UCA for ninety (90) days for a first offense or for one (1) year for subsequent offenses. In addition, commercial drivers in commercial vehicles, your commercial privilege will be disqualified for one (1) year for a first offense and a minimum of ten (10) years for a subsequent offense.
- ARREST UNDER 32A-12-209 UCA - UNDER 21 YEARS OF AGE denied pursuant to 53-3-231 UCA for ninety (90) days for a first offense, or suspended for one (1) year for a subsequent offense within three (3) years, or denied for one (1) year or until age seventeen (17), whichever is longer, if you have not been issued an original operator license. COMPLETION OF AUTHORIZED SUBSTANCE ABUSE PROGRAM REQUIRED FOR REINSTATEMENT.
- (REFUSAL TO SUBMIT UNDER 41-6-44.10 UCA) revoked for one (1) year for a first refusal to submit to a chemical test or for eighteen (18) months if it is a second or subsequent license withdrawal for an alcohol or drug related driving offense.
- (COMMERCIAL DISQUALIFICATION 53-3-418 UCA) disqualified, for driving a commercial vehicle, pursuant to 53-3-414 UCA for one (1) year for a first offense and a minimum of ten (10) years for subsequent offense. If you refuse the chemical test the same sanctions apply.

RIGHT TO HEARING: This Division will grant you opportunity for a hearing only if you submit a WRITTEN REQUEST within TEN (10) DAYS of your arrest to Driver License Division, PO Box 30560, Salt Lake City, Utah 84130-0560 (ATTN: DUI Section). Upon your timely request you will be notified of the time and place of the hearing. The hearing is not for the purpose of granting a limited license but only to determine if your driving privilege is to be denied, suspended, revoked or disqualified. The administrative hearing is civil in nature and does not satisfy the requirement for you to appear in court when required. FAILURE TO REQUEST A HEARING OR FAILURE TO APPEAR FOR A HEARING may result in your driving privilege being denied, suspended, revoked or disqualified.

This is VALID NOT VALID as a temporary license for up to thirty (30) days from the date of this notice.

OPERATOR COMMERCIAL CLASS _____ RESTRICTIONS _____ ENDORSEMENTS _____

Reason for not issuing temporary license: _____

DUI REPORT FORM

I. CASE IDENTIFICATION:

Date _____ Day _____ Accident _____ Case # _____ Time Prepared _____
Subject's Name _____ Address _____
Place of Employment _____ Address _____
Home Telephone Number _____ Work Telephone Number _____
DOB _____ Driver License Number _____ Time of Arrest _____
Place of Arrest _____ Charges _____
Arresting Officer _____ Arresting Agency _____
Assisting Officers _____

II. VEHICLE

Year _____ Color _____ Make _____ Model _____
License # and State _____ Disposition _____
Registered Owner _____ Address _____

III. WITNESSES: (If passengers, indicate specifically)

	Name	Address	Telephone Number	Age/DOB
1.				
2.				
3.				
4.				
5.				

IV. ACTUAL PHYSICAL CONTROL:

The facts establishing the subject's actual physical control of a motor vehicle are: _____

V. DRIVING PATTERN:

Subject's location when first observed _____
The facts observed regarding driving pattern: _____

VI. PRE-ARREST STATEMENTS OF SUBJECT:

VII. PHYSICAL CHARACTERISTICS:

Odor of alcoholic beverage _____
Speech _____
Balance _____
Signs or complaints of injury or illness _____
Other physical characteristics _____

VIII. FIELD SOBRIETY TESTS: (Describe subject's actions)

1. _____
2. _____
3. _____
4. _____
5. _____

Were tests demonstrated by officer? _____ Subject's ability to follow instructions _____

IX. SEARCHES

A. Vehicle:

Was subject's vehicle searched? _____ Where? _____

When? _____ Evidence _____

Person who performed the search _____

X. CHEMICAL TESTS:

Mr. or Ms. _____, do you understand that you are under arrest for:

Driving under the influence of alcohol and/or drugs or with a measurable amount of a controlled substance or metabolite in your body? (41-6-44, 41-6-44.6 UCA)

An alcohol offense under 21 years of age in violation of 32A-12-209 UCA?

Response (if any) _____

I hereby request that you submit to a chemical test to determine the alcohol (drug) content of your blood/breath.

I request that you take a _____ test.

(blood - breath - urine)

The following admonition was given by me to the subject before the chemical test was administered:

Test results indicating an unlawful amount of alcohol or a controlled substance or its metabolite in your breath/blood/urine in violation of Utah Law, or the presence of alcohol and/or drugs sufficient to render you incapable of safely driving a motor vehicle may, result in denial, suspension, or disqualification of your driving privilege or refusal to issue you a license.

What is your response to my request that you submit to a chemical test? Response: _____

Did subject submit to a chemical test? _____ Type of test _____

Test Administered by _____ Where? _____

Time: _____ Results _____ Was subject notified of results? _____

Serial No. of test instrument _____

(if the subject refuses the test, read the following)

The following admonition was given by me to the subject:

If you refuse the test or fail to follow my instructions, the test will not be given. However, I must warn you that your driving privilege may be revoked for one year for a first refusal or 18 months for a subsequent refusal after July 1, 1993, with no provision for limited driving. After you have taken the test, you will be permitted to have a physician of your own choice administer a test at your own expense, in addition to the one I have requested, so long as it does not delay the test or tests requested by me. I will make the test results available to you, if you take the test.

Unless you immediately request a test, the test cannot be given. Response, if any _____

(if the subject claims the right to remain silent or the right to counsel, read the following)

The following admonition was given by me to the subject:

Your right to remain silent and your right to counsel do not apply to the implied consent law which is civil in nature and separate from the criminal charges. Your right to remain silent does not give you the right to refuse to take the test. You do not have the right to have counsel during the test procedure. Unless you submit to the test I am requesting, I will consider that you have refused to take the test. I warn you that if you refuse to take the test, your driver's license can be revoked for one year with no provision for a limited license.

XI. INTERVIEW

Was subject advised of the following rights? _____ When? _____
By Whom _____ Where? _____

- ____ 1. You have the right to remain silent.
- ____ 2. Anything you say can and will be used against you in a court of law.
- ____ 3. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.
- ____ 4. If you decide to answer questions now without having counsel present, you may stop answering questions at any time. Also, you may request counsel at any time during questioning.

Were the following waiver questions asked?

- ____ 1. Do you understand each of these rights I have explained to you?
Response _____
- ____ 2. Having these rights in mind, do you wish to talk to us now?
Response _____

Were you operating vehicle? _____
Where were you going? _____
What street or highway were you on? _____
Direction of travel? _____
Where did you start from? _____
When? _____ What time is it now? _____
What is today's date? _____ Day of week? _____
(Actual time _____ Date _____ Day of Week? _____)
What city or county are you in now? _____
What were you doing during the last three hours? _____

Have you been drinking? _____
What? _____ How much? _____
Where? _____
When did you have your first drink? _____ Last drink? _____
Are you under the influence of an alcoholic beverage (drugs) now? _____

Are you taking tranquilizers, pills, medicines or drugs of any kind? _____
(What kind? Get sample) _____
When did you have the last dose? _____
Are you ill? _____
(if subject was in an accident, ask these questions:)
Were you involved in an accident today? _____
Have you had any alcoholic beverage or drugs since the accident? _____
If so, what? _____ When? _____
How much? _____

XII. OTHER OCCURRENCES OR FACTS:

XIII. ATTACHED DOCUMENTS:

I have attached the following documents to this report:

- 1. Copy of citation/temporary license
- 2. Subject's Utah driver's license or driver's permit
- 3. Traffic accident report
- 4. Other documents (specify) _____

I hereby certify that I am a sworn Utah Peace Officer, Special Function Officer, or Port-of-Entry Agent and that the information contained above in this report form and attached documents is true and correct to my knowledge and belief and that this report form was prepared in the regular course of my duties. It is my belief the subject was in violation of Section 41-6-44, 53-3-231, 41-6-44.6, 32A-12-209, or 53-3-418 UCA at the time, and place specified in this report. My signature includes acknowledgment that I personally served upon the driver, notice of the Department's intent to deny, suspend, revoke, or disqualify his/her driving privilege.

Signature of Officer or Agent
Agency: _____
Date: _____ Time: _____

The original of this form and the Driver License copy of the Citation must be sent within five (5) days of the arrest of the subject to:

DRIVER LICENSE DIVISION
PO BOX 30560
SALT LAKE CITY UT 84130-0560

INTOXILYZER 5000 OPERATIONAL CHECKLIST

THIS SIDE UP. THIS EDGE IN. FORM NUMBER 016010

SUBJECT _____ DATE _____
 INSTRUMENT # _____ LOCATION _____
 OPERATOR _____ AGENCY _____

- 1. RED POWER SWITCH ON, INSTRUMENT READS "PUSH BUTTON TO START TEST--TIME--" ETC.
- 2. PUSH GREEN START BUTTON
- 3. INSERT CARD. (INSTRUMENT WILL AUTOMATICALLY GO THROUGH AIRBLANK, 3 INTERNAL CALIBRATIONS, AND ANOTHER AIRBLANK).
- 4. INSERT STERILE MOUTHPIECE INTO BREATH-HOSE, INSTRUMENT WILL READ "PLEASE BLOW/R INTO MOUTHPIECE UNTIL TONE STOPS, PLEASE BLOW/R".
- 5. OBTAIN BREATH SAMPLE, HAVE SUBJECT BLOW INTO MOUTHPIECE/BREATH-HOSE.
- 6. REMOVE MOUTHPIECE, RETURN BREATH-HOSE TO BRACKET. (INSTRUMENT WILL GO THROUGH AUTOMATIC AIRBLANK, AND PRINT RESULTS ON TEST RECORD CARD).
- 7. RETRIEVE CARD UPON COMPLETION OF PRINTOUT.
- 8. TURN OFF INSTRUMENT--RECORD TIME OF "SUBJECT TEST":

_____ (TIME)

END OF TEST

HPT-21 P. 221

SALT LAKE COUNTY S.O. - SPL. OPS.
 INTOXILYZER - ALCOHOL AIRBLANK
 UT MODEL 5000 SN 68-06763
 07/02/1999

TEST	G/2191	TIME
AIR BLANK	.000	12:1400T
INTERNAL STD	OK	12:1400T
AIR BLANK	.000	12:1400T
SUBJECT TEST	.000	12:1500T
BREATH VOL.	01.60 LITERS	
AIR BLANK	.000	12:1500T

SUBJECT NAME

INSTRUMENT LOCATION

OPERATOR

ADDITIONAL INFORMATION AND/OR REMARKS

Case #: _____

SALT LAKE COUNTY SHERIFF'S OFFICE
Blood Alcohol Chart

This chart shows the estimated grams of alcohol in the blood, by the number of drinks consumed, in relation to body weight.

Count your drinks (1 drink equals 1 ounce of 100 proof liquor, or about 1.12 ounces of beer).

Body Weight	<u>DRINKS</u>									
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>
100#	.038	.075	.113	.150	.188	.225	.263	.300	.338	.375
110#	.034	.066	.103	.137	.172	.207	.241	.275	.309	.344
120#	.031	.063	.094	.125	.156	.188	.219	.250	.281	.313
130#	.029	.058	.087	.116	.145	.175	.203	.232	.261	.290
140#	.027	.054	.080	.107	.134	.161	.188	.214	.241	.268
150#	.025	.050	.075	.100	.125	.151	.176	.201	.226	.251
160#	.023	.047	.070	.094	.117	.141	.164	.188	.211	.234
170#	.022	.045	.066	.088	.110	.132	.155	.178	.200	.221
180#	.021	.042	.063	.083	.104	.125	.146	.167	.188	.208
190#	.020	.040	.059	.079	.099	.119	.138	.158	.179	.198
200#	.019	.038	.056	.075	.094	.113	.131	.150	.169	.188
210#	.018	.036	.053	.071	.090	.107	.125	.143	.161	.179
220#	.017	.034	.051	.068	.085	.102	.119	.136	.153	.170
230#	.016	.032	.049	.065	.081	.098	.115	.130	.147	.163
240#	.016	.031	.047	.063	.078	.094	.099	.125	.141	.156

INVESTIGATOR: _____ DATE: _____ MIS: _____

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VERSION 2016

EVIDENCE HANDLING

CHAPTER 13

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER THIRTEEN: EVIDENCE HANDLING

PHYSICAL EVIDENCE

Physical evidence is any object, regardless of size, that can connect a suspect to a crime or a crime scene. The perpetration of a criminal act often involves the transfer of matter; there may be fingerprints left at the scene, pry marks on a door where entry was made, or the suspect's blood on the victim's clothing. Evidence may come from the clumsy dropping of a wallet with the suspect's identification left at the crime scene, or the transfer of one hair from the suspect to the victim. Regardless of the specific type of physical evidence involved, the peace officer must be concerned with three different responsibilities. First, the officer must locate and collect the physical evidence left at the scene; second, the evidence must be analyzed by a qualified technician to establish its usefulness in the case; and third, the integrity of the physical evidence must be maintained at all times. The officer must also remember that what is *missing* from the crime scene may also be regarded as evidence.

THE CHAIN OF EVIDENCE

Elaborate procedures must be followed when police deal with physical evidence in order to meet court-imposed standards for the admissibility of evidence. In basic terms, an officer must be able to show the court:

- How, when, and where the evidence was obtained.
- How the evidence helps to establish the guilt of a suspect.
- Who has handled the evidence and for what purposes.
- Where the evidence has been stored.
- That the evidence produced in court is the same evidence that was originally located and analyzed.
- That the evidence has not been altered in any way.

The chain of evidence is really a chain of possession. From the time physical evidence is located until the time it is produced in the trial court, it must be accounted for. If the officer cannot show that he/she has maintained the chain of evidence from the time the evidence is located until it is produced in court, it will not be admissible. Many larger departments now employ civilian technicians whose responsibility it is to gather evidence and maintain the department's evidence room.

In order to maintain the chain of evidence, the officer should:

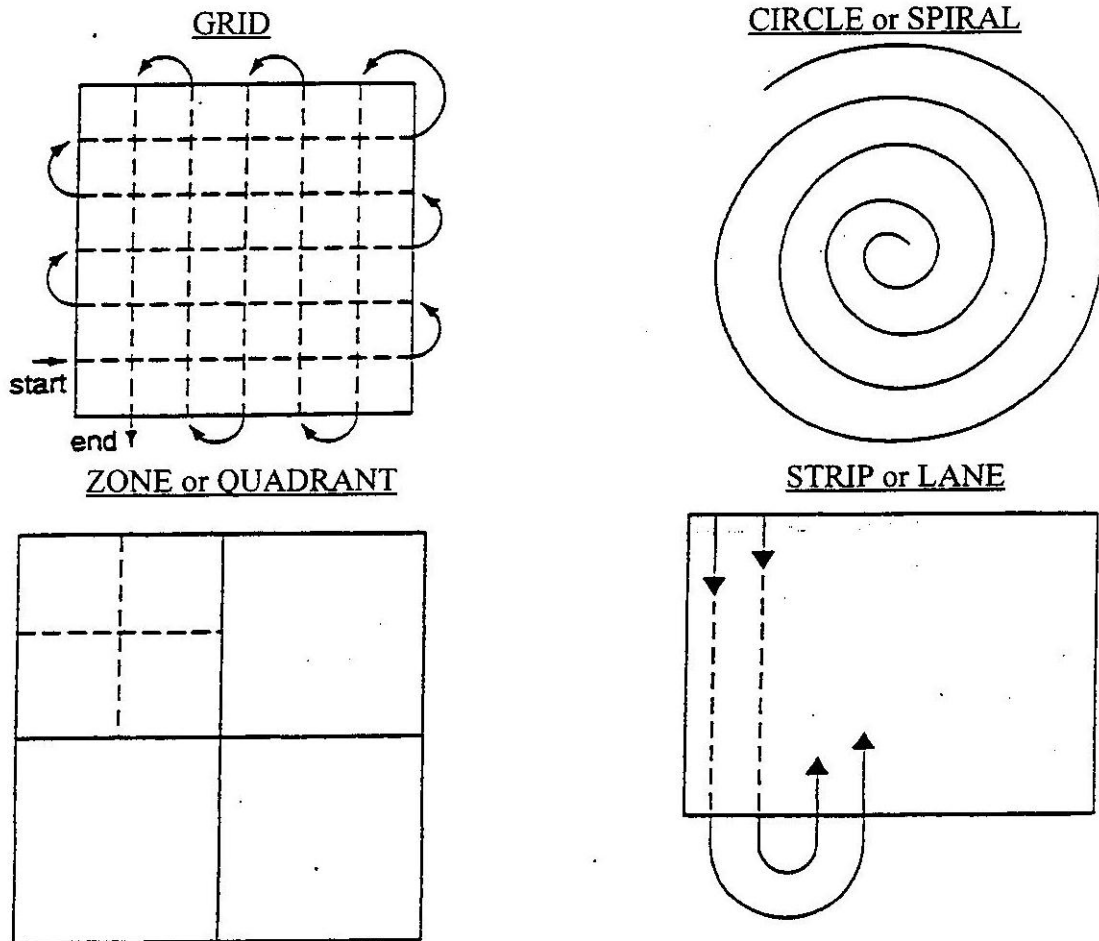
- Limit the number of individuals who handle the evidence.
- Get written receipts from those who assume possession of the evidence. This should include date and time as well as the purpose for having the evidence.
- Keep evidence in properly sealed and secured containers.
- Store evidence containers in an evidence room or locker that is tamper-proof.

LOCATING AND COLLECTING EVIDENCE

All officers at the scene of a crime have a responsibility to protect and secure the crime scene. This means that the scene must be kept in the same condition as it is found. No one, including other

officers, should be allowed to touch, move, or disturb anything at the scene unless required by emergency circumstances, such as giving medical attention to an injured victim. The area of the crime scene should be determined, depending on the nature of the crime and other circumstances. This area should be blocked off and entry allowed only to officers actually conducting the crime scene investigation.

After the crime scene is secured, the entire area should be photographed and sketched. Then, as each piece of evidence is located, it should again be photographed and its location measured and noted before the item is touched, removed, or analyzed. A survey search for fingerprints and other easily destroyed evidence should be completed first. After this type of evidence is obtained, a detailed search must be conducted. There are several recommended search patterns, such as the strip, grid, circle, and zone methods. Regardless of which search pattern is used, each area should be searched at least twice and by at least two different individuals. Several search patterns are shown as examples below.



The officers conducting the search should look for any physical evidence that could produce investigative leads, not just what could be used in court later. After the crime scene itself has been searched, the same techniques should be applied to the paths of approach and flight. These are determined by trying to logically deduce how the suspect(s) entered and exited the crime scene.

Anything that will aid in determining the facts of the case, identifying the suspect(s) or aiding in convicting the suspect(s) should be noted in writing as it is discovered. After being photographed and marked into the sketch, the evidence should be marked for identification as it is removed from its original location. To avoid problems in court, a single officer should be assigned as evidence custodian.

He/she is responsible for all evidence collection and custody, and will personally mark it. Badge numbers or initials are commonly used for marking evidence. Some items should be marked on their surfaces, such as metal objects, containers, clothing, and documents. Evidence which cannot be marked on the surface should be sealed in an appropriate container and the container marked for identification. All evidence should be identified by date and time secured as well as the agency case number. The evidence should be sealed in such a way that it can be established whether or not the container has been opened at any time.

It should be remembered that the laws governing search and seizure are not suspended during a crime scene search. Many situations require immediate searches to preserve evidence, but in some cases a search warrant may be required. This requirement is usually imposed when searches are not made immediately after police respond to a crime scene.

To assist in evidence collection, crime scene kits should be available to all officers. These crime scene kits can be carried by the officer or by having available specially trained evidence technicians. These kits should include the below listed items. As you review the items below, list what each particular item could be used for in the process of gathering physical evidence.

Paper bags:

Ziploc bags:

Plastic and glass vials:

Small brush:

Masking tape:

Gloves:

Tweezers:

Dusting powder:

Envelopes:

Paper and pencils:

Department-issued camera:

In addition to the evidence gathering, handling, and processing materials that a department has at its disposal, there are other, more sophisticated tools available through both the State and various federal crime labs. These are available upon request.

EVIDENCE ANALYSIS

The following list discusses some scientific devices available to aid in a law enforcement investigation and how they can be utilized.

Photography: This can be used to record crime scene appearance and the location of evidence, especially items that may not remain the same over time. It is used in the booking process to aid in prisoner identification, as well as for photographs to show witnesses for identification purposes. It can also be used to record crimes in progress, such as bank robbery attempts, or to take pictures of persons using credit cards reported stolen at bank automatic teller machines.

Emission spectrograph: This machine analyzes the composition of evidence by vaporizing a tiny amount of a substance, measuring and graphing the resulting radiation wave lengths, and comparing this chart with charts of known elements and materials. Spectrographs can be used to establish the identity of unknown substances found in an investigation, link evidence with similar materials, analyze the composition of drugs, etc.

Microscope: This tool's ability to magnify objects can be used to compare bullets, determine whether a certain tool produced specific marks found at a crime scene, see whether separated pieces of an item fit together, analyze handwriting, compare hair and fiber samples, and do numerous other things.

Gas chromatograph: This instrument is used to identify different types of gas and gaseous substances. It can be utilized in an arson case to determine whether the fire was started intentionally, identify the brand of gasoline or lighter fluid used, etc.

Intoxilyzer: This tool is used extensively in DUI cases. The suspect provides a breath sample, and the machine determines blood alcohol content. If a sample is taken at the appropriate time, it can also be used by police to determine whether a suspect was intoxicated during the commission of a crime.

Videotape: This can be used to record DUI field sobriety tests and interviews, to record the sale and/or purchase of drugs and stolen property, or for jail surveillance. It has also been used to record thefts, robberies, and bribery attempts, as well as the crime scenes of homicides and other major felonies.

Identikit or computer programs: An identikit is used to develop a picture of a suspect from victim or witness descriptions. It is gradually being replaced by computer programs that allow for greater variety and are much faster.

Polygraph: Sometimes called a lie detector, this machine can assist in determining whether a suspect is telling the truth. Polygraph results are not usually admissible in court, because they are not 100 percent accurate. Proponents of its use believe that, with proper use, it is from 90 to 95 percent accurate. The polygraph is attached to the person taking the test, and measures changes in blood pressure, breathing, and skin electrical resistance. The polygraph operates on the theory that, when

telling a lie, a subject's body will produce measurable reactions to the fear of the lie being detected. A polygraph examination requires questions with known answers be asked to determine the subject's normal body reactions. Yes/no questions related to the crime under investigation are then asked. Polygraph results are most often used to eliminate suspects.

Laser: These may be used to detect fingerprints on certain kinds of surfaces, as well as to locate hairs, fibers, bodily fluids, and drugs.

DNA profiling: Cells from blood, semen, tissue, hair, saliva or urine are analyzed to determine the order and sequence of nucleotides in deoxyribonucleic acid (DNA), the organic substance found in those body cells.

The following list suggests some of the findings that can be made from certain kinds of evidence through scientific evidence analysis:

- Blood—analysis can determine whether it is human or animal, specific blood type (there are thirteen types beyond A, B, and O); DNA profiling can also be completed.
- Saliva, sweat, urine, semen—blood type determination and DNA profiling can be done from these.
- Explosive and arson debris—analysis can determine the method of detonation, composition, and other elements. Timers, blasting caps, batteries and fuses can also be identified by manufacturer and type.
- Fabric—color, pattern, thickness, weave, type of material, and manufacturer can be determined.
- Gunshot residue (GSR)—a test can determine whether the victim or suspect has discharged a firearm recently.
- Serial numbers—numbers can be recovered through acid-etch, x-ray, or magnaflux techniques.
- Bullets, cartridge casings—it can be determined whether a bullet was fired from a specific firearm other than a shotgun.
- Glass—it can be determined whether fragments came from a particular broken object, the type of object involved, the type of glass, and the direction of the force applied.
- Hair—determination can be made regarding race; the part of the body involved; whether the hair was dyed, cut off, or forcibly removed; a person's eating and drinking habits and long-term drug use; and possible DNA matching.
- Tool marks—whether suspected tool(s) left the marks in question.
- Ink—brand name, type, date of production, establishment of document age.
- Paint chips—number of layers and type, whether they match other samples; if from a vehicle, type, color, and year of manufacture.
- Paper—year of manufacture, erasures, alterations, or secret writing.
- Teeth marks—can be matched against a suspect's bite pattern.
- Footprints—can be matched to feet or shoes of suspect with better than one in 5,000 odds.

AUTOPSY

An autopsy is a medical procedure performed by a doctor in which a body is examined to determine the contributing manner, mode and cause of death. As required by law in the Utah Code Annotated (26-4-7), if a peace officer handles a case where death occurs under any of the following circumstances, the state medical examiner must perform an autopsy:

- Death by violence, gunshot, suicide, or accident (except highway accidents)
- Sudden death while in apparent good health
- Unattended death

- Death under suspicious or unusual circumstances
- Death resulting from poisoning or overdose of drugs
- Death resulting from diseases that may constitute a threat to the public health
- Death resulting from disease, injury, toxic effects, or unusual exertion incurred within the scope of the deceased's employment
- Death due to a sudden infant death syndrome (SIDS)
- Death resulting while the deceased was in prison, jail, in police custody, in the state hospital, or in a detention or medical facility operated for the treatment of the mentally ill or emotionally disturbed or delinquent persons
- Death associated with diagnostic and therapeutic procedures

The autopsy may indicate to investigating officers the physical cause of the death and the mode of death, whether it be natural, accidental, suicide, or homicide. It may also be used to establish the identity of the victim if this is unknown. Among other things, the autopsy can determine whether a body was moved before or after death has occurred, whether the victim was sexually assaulted, whether hair or blood found on the victim belongs to a possible suspect, how far from the body a weapon was when fired, etc.

FINGERPRINTING

Each individual has a unique set of skin ridges that appear on his/her fingers, hands, feet, and toes. (Several examples appear on the following pages.) These ridges aid humans in gripping by increasing friction. Fingerprints develop on a fetus during the third or fourth month of pregnancy and remain until the body begins to decompose after death.

It appears that humans have been aware of the uniqueness of fingerprints for thousands of years. Ancient Chinese business contracts were sealed with thumbprints. A Persian physician in the fourteenth century appears to have been the first person to record his observation that no two individuals have the same fingerprints. Although others made the same observation through the years, it was not until 1858 that fingerprints were used on a large scale to identify individuals.

Sir William Herschel was a British administrator in India. In order to impress the natives, he required them to impress their fingerprints, along with their signatures, on contracts. As time passed, he began to realize that the fingerprints were unique to each individual. He suggested that fingerprints be used to identify prisoners, but the idea was turned down by the government.

At his hospital in Tokyo, Dr. Henry Faulds (1843-1930) began working on the same idea, and in 1880 he showed, from a greasy fingerprint, who had been improperly drinking from a container in his science lab. In 1892, Argentine police used fingerprints left in blood at the scene of a crime to convict a woman of killing her own children, the first recorded use of fingerprints to solve a crime.

Fingerprints were officially used for identification purposes for the first time in America because of the widespread cheating on civil service tests in New York in 1902. College students were being hired to take job tests for less qualified applicants. Fingerprints were used to verify the actual identity of the test takers. Within five years, prison systems and the military adopted fingerprinting for identification. To provide a central storage facility, Congress established the Identification Division of the FBI in 1924. By 1974, the FBI had 160,000 sets of fingerprints on file.

Police will find various types of fingerprints to be both visible (such as would be seen in blood or grease) and *latent*, or invisible. Latent fingerprints are formed when body oils and sweat, or other fluids touched, contact a surface and leave a print of the person's ridge pattern. Prints are most likely

to be found on smooth, non-porous surfaces such as glass or metal. Improvement in technique has made it possible to lift prints from other surfaces, such as dead bodies and paper. Fingerprints will remain for some time, but are affected by temperature, humidity, type of surface, and other factors.

Fingerprints are classified by pattern. The three basic patterns are the arch, the loop, and the whorl.

Loops: Sixty percent of the population has loop patterns. A loop has a delta, a core, and re-occurring lines. If the loop opens towards the little finger, the loop is *ulnar*. If it opens away from the little finger, it is a *radial loop*. There is also the double loop and the central pocket loop. A delta occurs when the ridge pattern splits into two directions. It has the appearance of a triangle.

Whorls: Thirty-five percent of the population has whorl patterns. A whorl usually consists of two deltas and an enclosed core. The accidental looks like a whorl at first, but when examined closely it reveals a loop.

Arches: Only five percent of the population has arches. In this type, the ridges do not double back or form a loop. A plain arch is like a hill, while a tented arch is more peak shaped. (A tented arch is shown at middle right).

Fingerprints are usually obtained at a crime scene by photography or by coating surfaces with a dusting powder that makes latent prints visible. Adhesive tape is then used to lift the dust, retaining the print pattern and transferring it to a card (see card example below). Fingerprints are compared with the prints of known suspects with similar print classification patterns. If sufficient points of identification match, then the identity of the suspect can be determined.

It is important to remember that attempting to match prints is a tedious and time-consuming process. It is often necessary to use other types of police investigation to indicate possible suspects before fingerprint analysis will be fruitful. One of the great advances in police science during the 1980s was the increasing use of computers to search fingerprint files at high speed. Automated Fingerprint Identification System (AFIS) networks have been set up in some areas to use computers to efficiency and quickly search fingerprint files.

Utah is part of the Western Identification Network (WIN), which consists of nine western states plus the U.S. Citizenship and Immigration Services (USCIS). It is the second largest network in the country, second only to the FBI. This system is able to run a fingerprint and receive an answer in less than two hours. AFIS is utilized often in the identification of prisoners using an alias or a false name when being booked into jail.

Using an inkpad and the fingerprint card included, determine which fingerprint pattern best describes your own fingerprints.



PERSONAL IDENTIFICATION

SEE REVERSE SIDE FOR FURTHER INSTRUCTIONS

SIGNATURE OF PERSON FINGERPRINTED _____

RESIDENCE OF PERSON FINGERPRINTED _____

PERSON TO BE NOTIFIED IN CASE OF EMERGENCY _____

NAME _____

ADDRESS _____

FINGERPRINTED BY _____

LAST NAME NAME FIRST NAME MIDDLE NAME

FINGERPRINTS SUBMITTED BY _____

DATE FINGERPRINTED _____

SOCIAL SECURITY NO _____

MISCELLANEOUS NO _____

SCARS AND MARKS _____

FBI LEAVE BLANK

DATE OF BIRTH DOB
Month Day Year

SEX RACE HGT WGT EYES HAIR PLACE OF BIRTH POB

LEAVE BLANK

CLASS _____

REF _____

1. R. THUMB

2. R. INDEX

3. R. MIDDLE

4. R. RING

5. R. LITTLE

6. L. THUMB

7. L. INDEX

8. L. MIDDLE

9. L. RING

10. L. LITTLE



VERSION 2016

PATROL TACTICS

CHAPTER 14

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER FOURTEEN: PATROL TACTICS

THE GOALS OF PATROLLING

Police on patrol pursue three goals. The first is prevention—the use of patrol patterns, officer observations, and citizen help to stop crime before it occurs. The second is deterrence, which involves using patrol patterns and techniques in a highly visible manner in order to suggest to the criminal element that criminal activity would not be profitable. The third goal, apprehension, refers to an attempt to catch criminals before, during, or immediately after the commission of a law violation.

Each law enforcement agency places differing degrees of emphasis on these goals, as reflected in its basic patrol tactics or style. The *service style* of patrol focuses interest on community relations and citizen awareness programs. Many non-crime-related services are provided by the police, such as ambulances, animal control, school crossing guards, etc. The *watchman style* uses foot patrols, marked cars, and saturation techniques to create an impression of a large, invincible police force. This style is aimed primarily at deterrence. The *legalistic style* of patrol is geared toward the apprehension of criminals. It is characterized by the extensive use of intelligence collection, tactical squads, and unmarked surveillance units. The style that a police agency utilizes is largely determined by the wishes of the community it serves and the preference of key political figures, including the agency head.

A classic study of patrol tactics took place in Kansas City in 1975. A large area of the city was broken down into 15 matched patrol districts. Five of the districts were not patrolled by marked cars; patrol cars only responded in the area when required for emergencies and report taking. The second group of five districts had the regular patrol assignment of one marked car per district. The five remaining districts were assigned four or five marked patrol cars rather than the normal one car assigned to a district. At the end of one year, there was no significant difference between the areas so far as crime rates were concerned. On the basis of this study, one writer suggested that “Perhaps patrolmen, instead of constantly driving around in their cars [when not answering dispatched calls], should spend most of their time gathering intelligence, talking to people, advising businesses how to prevent crimes before they occur, and investigating.”

Such suggestions may serve as a starting place; however, several other factors should also be considered. A patrol officer may be proactive or reactive. A reactive officer reacts to what occurs by answering calls; a proactive officer prepares for, intervenes in, and controls his/her area by learning as much as possible about the day-to-day activities that occur there.

Law enforcement officers should be able to respond in less than three minutes to any emergency. FBI studies indicate that the longer it takes for an officer to arrive at the scene of a serious crime, the less chance there is of solving the crime; two-thirds of crimes would be solved if an officer arrived at the crime scene in less than two minutes. If it takes more than five minutes to arrive, only one out of five crimes will be solved. Even though the nature of patrol tactics is largely determined by the law enforcement agency, the individual officer can be more effective by developing certain patrol tactics.

The material that follows will suggest some things that a proactive peace officer should be doing when he/she is not responding to calls.

1. Be mentally prepared. Focus on suspicious occurrences. Leave family problems at home.
2. Have the proper equipment for various weather conditions and for the types of assignments to be fulfilled during the shift.
3. Check to verify that the patrol unit's emergency equipment is operational. Search for hidden evidence and weapons at the start of each shift and after having a prisoner in your car.
4. Learn your patrol area, including traffic patterns; the safest roads to use in emergencies; and the locations of parks, schools, canals, troublesome addresses, and other potentially dangerous areas.
5. Learn about the people—who lives and works in the area, hangouts for various groups, the cultural backgrounds of the residents, criminally active individuals, etc.
6. Make contacts among residents, school administrators, employers and employees, and other possible informants.
7. Look for anything suspicious, especially what your law enforcement experience leads to you perceive doesn't fit or is out of place.
8. Record suspicious activity using field cards or notes.

Suspicious means that a thing appears to be unusual or out of place. As an officer learns more about his/her assigned area, his/her observations will result in certain circumstances being perceived as suspicious. A good officer should not be embarrassed or afraid to inquire into situations that appear suspicious. This is part of the job that the community has entrusted to him/her.

The following list suggests some situations that a proactive patrol officer might consider suspicious. Add other examples of activities that you, as a patrol officer, would find suspicious and investigate further.

Cars (e.g., backed up to a building in the middle of the night):

1) _____

2) _____

3) _____

4) _____

Buildings (e.g., lights on late at night):

1) _____

2) _____

3) _____

4) _____

People (e.g., welfare recipient driving an expensive car):

1) _____

2) _____

3) _____

4) _____

One study indicates that police on patrol spend their time in the following ways:

Law enforcement	10.3%
Administrative duties	22.1%
Service provisions	37.5%
Order maintenance	<u>30.1%</u>
	100.0%

FIELD INTERVIEWS

Field interviews are used to inquire into the identity and activities of suspicious individuals. Field interviews can be used to determine whether the individual is wanted, discourage criminal activity by making a suspicious person's identity known, and establish who was in the area when a crime occurred. Most agencies utilize some form of field card, which is filled out when conducting a field interview (see the example below). Field cards document an interviewee's personal information, as well as information on the associates and vehicles of the individual interviewed. When filled out properly, field cards can be quite useful.

Salt Lake County Sheriff's Office - Field Interview Card (12/89)

DATE:		TIME OF OCC:	LOCATION OF OCCURRENCE:				
NAME: (Last, First, Middle)		Sex:					
RESIDENCE ADDRESS:	<input type="checkbox"/> Temp. <input type="checkbox"/> Perm.	CITY:	STATE:	PHONE:			
SEX: M F	RACE:	AGE:	D.O.B.:	HAIR: Blk Brn Blk Blk Blk Blk Blk	EYES: Blu Grn Bru Blk Blk Blk Blk Blk	HT: 5' 0" 5' 1" 5' 2" 5' 3" 5' 4" 5' 5" 5' 6" 5' 7" 5' 8" 5' 9" 5' 10" 5' 11" 6' 0"	WEIG:
ADDITIONAL DESCRIPTION/PERSONAL NOTES:							
CLOTHING:							
SCARS, SCALP, TATTOOS:							
ID: <input type="checkbox"/> D.L. <input type="checkbox"/> SOCIAL SECURITY # <input type="checkbox"/> OTHER							
BUSINESS OR SCHOOL:							

EYES:	COLOR:	HAIR:	SEX:	HEIGHT:	WEIGHT:	DOB:
	BODY DAMAGE: <input type="checkbox"/> Finger <input type="checkbox"/> Nose <input type="checkbox"/> Head or Neck _____ <input type="checkbox"/> Wrist _____ <input type="checkbox"/> Shoulder _____ <input type="checkbox"/> Broken Wrist _____ SEC. COLOR: _____ <input type="checkbox"/> Skin <input type="checkbox"/> Eyes <input type="checkbox"/> Lost Arm/Hand _____ <input type="checkbox"/> Chest _____ <input type="checkbox"/> Broken Bone _____					
PC AND SUSPECT INFO:	<input type="checkbox"/> Traffic Stop <input type="checkbox"/> Stop <input type="checkbox"/> Pull <input type="checkbox"/> Pull Over <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Traffic Stop	<input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull <input type="checkbox"/> Pull	<input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F)	<input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F)	<input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F)	<input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F)
ADDITIONAL INFORMATION: <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F) <input type="checkbox"/> Driver (M) <input type="checkbox"/> Driver (F)						
DISPOSITION OF INTERVIEW: <input type="checkbox"/> Criminal W.A. C.I. <input type="checkbox"/> Inf <input type="checkbox"/> Min. Citation <input type="checkbox"/> D.L. <input type="checkbox"/> None <input type="checkbox"/> Released <input type="checkbox"/> Computer with Case <input type="checkbox"/> Book <input type="checkbox"/> Traffic Citation <input type="checkbox"/> V.S. <input type="checkbox"/> None <input type="checkbox"/> _____						
DEPUTY REPORTING:						ISSUE NUMBER:

DOMESTIC DISTURBANCES

Domestic disturbance calls are very unpopular among officers. Although police are often called to the residence by a family member, seldom do the victims wish to file criminal charges or testify against a spouse or other family members, and it is not unheard of for participants to turn on the officers whose presence they requested. Each year, officers are killed or injured responding to this type of call.

Utah, like many other states, has attempted to deal with a growing awareness of spouse abuse by providing legal mechanisms for resolving domestic violence situations. Protective court orders can now be issued that authorize officers to arrest, if necessary, a cohabitant found to be in violation of the order.

Domestic violence refers to any criminal offense involving violence or physical harm, or the threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. Domestic violence is also defined as the commission of or attempt to commit any of the following offenses by one cohabitant against another:

- aggravated assault
- assault
- criminal homicide
- harassment
- telephone harassment
- kidnapping, child kidnapping, or aggravated kidnapping
- mayhem
- sexual offenses
- stalking
- unlawful detention
- violation of protective order or *ex parte* protective order
- any offense against property
- possession of a deadly weapon with intent to assault
- discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle (77-36-1, UCA).

In domestic violence cases, most peace officer discretion has been removed due to the domestic violence statute. Utah law states:

A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including:

- (a) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family of household member;
- (b) confiscating the weapon or weapons involved in the alleged domestic violence;
- (c) making arrangements for the victim and any child to obtain emergency housing or shelter;
- (d) providing protection for the victim while he or she removes essential personal effects;
- (e) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; and

(f) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (2) (77-36-2.1, UCA).

In 1998, the Utah Legislature passed the following law regarding children present during a domestic violence situation:

Commission of domestic violence in the presence of a child (76-5-109.1, UCA).

(1) As used in this section:

(a) Domestic violence means the same as that term is defined in Section 77-36-1.

(b) In the presence of child means:

(i) in the physical presence of a child; or

(ii) having knowledge that a child is present and may see or hear an act of domestic violence.

(2) A person is guilty of child abuse if he:

(a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a cohabitant in the presence of a child; or

(b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon, as defined in Section 76-1-601, or other means likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or

(c) under the circumstances not amounting to a violation of Subsection (2)(a) or (b), commits an act of domestic violence in the presence of a child after having committed:

(i) a violation of Subsection (2)(a) or (b) on one or more prior occasions; or

(ii) an act of domestic violence in the presence of a child, not amounting to a violation of Subsection (2)(a) or (b), on one or more prior occasions.

(3) (a) A person who violates Subsection (2)(a) or (b) is guilty of a third degree felony.

(b) A person who violates Subsection (2)(c) is guilty of a class A misdemeanor.

DOMESTIC VIOLENCE NO-CONTACT AGREEMENT

I, _____, the arrestee, agree to the following conditions if I am released from jail by bail or own recognizance:

1. I will have no contact with _____, the alleged victim by any means including telephone, written, or third party.
2. I agree not to threaten or harass the above named victim .
3. I will not knowingly enter the premises of the above named victim at:

4. I will not knowingly enter any premise occupied by the victim.

This agreement is effective until modified by the Court or the close of the next Court day. I acknowledge that by violating any of the terms of this agreement I will be subject to prosecution on further misdemeanor or felony charges.

DATE: _____

ARRESTEE'S SIGNATURE: _____

SCREENER: _____

WHITE - (Booking Sgt.)

CANARY -(Screeener)

PINK - (Court)

GOLD - (Arrestee)

The following are general procedures for handling a domestic disturbance:

1. Secure backup. Never handle a domestic disturbance call alone.
2. Check area to ensure your safety.
3. Stabilize the situation by stopping property destruction, assaults, abusive language, etc.
4. Determine which officer will take the lead.
5. Introduce yourself.
6. Indicate that you are there because you were called. This will help the participants realize that this is not an arbitrary intrusion into their residence.
7. Determine whether any medical help is needed.
8. Separate the participants and question them individually.
9. Make a determination about whether domestic violence is involved.
10. Gather information, showing empathy for the feelings of those involved.
11. Determine whether there are any children involved or present.
12. Offer the services of available social agencies; if possible, establish such contact while still at the scene:
 - Division of Child and Family Services
 - Local mental health center
 - Local clergy
 - Marriage counselors
 - Alcoholics Anonymous and similar self-help programs

Make an arrest, if necessary, or arrive at a temporary solution within agency guidelines. This could involve one party agreeing to leave for the night, or a member of the clergy or a relative staying in the house for a specified period of time. If domestic violence is involved, inform the victim of how to obtain a protective order, and provide information on other resources available. If the suspect is present, arrest him/her and book him/her into jail. Explain to the victim that the suspect can have no contact until a full court work day has been completed, which would be 5:00 p.m. of the next work day (Monday thru Friday), excluding holidays.

If the suspect is arrested and booked into jail on a domestic violence charge, he/she cannot be released from jail unless a Domestic Violence No-Contact Agreement (see example on the previous page) is signed through Pre-Trial Services.

Make a record of the nature of the problem, a tendency toward violence by either party, alcohol or drug involvement, access to any weapons, and other relevant information for future reference. If future problems are possible, have the Dispatch office flag the address and note the possible hazards that may occur if officers have to respond in the future. Information should also be provided to the victim that reviews the various stages of domestic violence and whatever resources may be available.

CIVIL PROBLEMS

One of the most difficult aspects of the job of a peace officer is the necessity of responding to matters that are in essence civil in nature rather than criminal in nature. Law enforcement officers are constantly being called to the scenes of disputes between parties asserting rights to some type of property, who then request that the officer settle the matter.

The responsibility of the peace officer called to a civil problem is to keep the peace. The officer should not volunteer information regarding the situation. As long as no criminal law has been violated,

the officer should point both parties in the direction of attorneys and civil courts, including small claims court.

The following types of civil matters will provide information on specific situations that may be encountered by an officer during the normal conduct of his/her duties:

REPOSSESSION

Conditional Sales Contracts and the Rights of Secured Parties

When a person buys property on a time agreement, he/she usually signs a conditional sales contract. This contract contains the conditions of the sale to which both the seller and the buyer agree. In most cases, the said conditions indicate that title of ownership rests with the seller until the final payment is made. The buyer may be in possession of the merchandise, but he/she does not own it until it is fully paid for.

Similarly, a person who obtains a loan for a particular piece of property may be required to pledge that property as security for the payment of the loan. In such instance, the person buying is in physical possession, but the lender retains title to the property.

Such agreements provide that the seller may recover the property if the buyer becomes delinquent in payments. This is the part of the civil contract that generates a law enforcement response.

When Payments Become Delinquent

When a buyer becomes delinquent in his/her payments, the seller or security holder may attempt to recover the property by repossession. There are some limitations placed on what the reposessor is allowed to do in an attempt to repossess, but the right of the seller or lien holder to repossess is generally accepted. There are essentially three categories of individuals who have the right of repossession:

- The seller or his/her agent.
- The seller's successor in interest. This is a person who may buy the contract from the seller and thus becomes the lien holder or new owner of the property.
- A licensed collection agency acting on behalf of the seller.

The Repossessor's Rights

It is generally accepted that the repossession must be made in a peaceful manner and that the reposessor must not commit an assault or cause a disturbance. However, an authorized reposessor may recover property anywhere he/she can find it, provided that he/she does not break and enter any enclosure to effect the repossession. He/she does not need the permission of the buyer, because the buyer is not the legal owner of the property. The reposessor may enter the private property of the buyer for this purpose. However, the reposessor cannot enter a house to recover property without the permission of the occupant, and he/she cannot break into a locked garage to repossess a car without a court order.

The Buyer's Rights

The general rule is that the property in possession of the buyer cannot be physically taken from him/her against his/her expressed objections. If the reposessor can repossess the property peacefully, he/she may do so. However, if the buyer objects, it is the duty of the seller or reposessor to resort to legal process to enforce his/her rights of repossession. The reposessor can be found guilty of assault or disturbing the peace if he/she uses force or creates a disturbance.

The right of the buyer to object may be transferred to any third party in possession. For instance, if the buyer has loaned his/her car to another or has otherwise transferred the buyer's rights to another person who possesses the property with the buyer's consent, the property cannot be repossessed if the third person protests. However, the fact that the property has been transferred to a third person does not affect the reposessor's right to repossess the property if he/she can do so peacefully.

Settling Disputes

When responding to a civil problem involving a property repossession, the officer should keep the following in mind:

- The officer should first inquire about the reposessor's right to take the property, satisfying himself/herself that the reposessor is not a thief. This can be done by examining the contract, a company identification card, and/or a description of the property, along with the authorization of the seller to repossess it.
- The officer should inquire of the buyer whether he/she objects to the repossession. If the buyer does object, then the reposessor should be advised that he/she should pursue legal remedies for the obtaining of a civil court order for repossession.
- This is all the legal advice that an officer should give. He/she should not take sides with either party or attempt to assist the buyer in resisting the efforts of the reposessor to take the property. The officer's responsibility is strictly to keep the peace, and if the parties refuse to heed his/her advice, they should be advised that they may be committing a breach of the peace for which one or both may be arrested.
- If a breach of the peace has already occurred, it will be necessary for the officer to determine the reciprocal rights of the parties so that an arrest may be made by the officer if appropriate. The buyer may also have the right to make a citizen's arrest. The officer should provide the buyer with the advice that if he/she feels that he/she has been wronged, he/she may pursue a remedy in court.

LANDLORD/TENANT DISPUTE

The Tenancy Agreement

Many tenancy agreements are oral and may contain no conditions other than pay periods and cleaning deposits. There are, however, a considerable number of instances where the legal rights of the landlord and tenant are specified in writing, and the duties and responsibilities of the parties are governed by this document. Also, the rights of the landlord and tenant with regard to evictions are statutory in nature and are contained in Title 78, Chapter 36 of the Utah Code.

Eviction

When a person in possession of property pursuant to a rental agreement breaches one of the terms or conditions of the agreement, such as non-payment of rent, staying on the property after the expiration of the rental agreement, or damaging the premises, he/she may be evicted. Eviction is not a summary procedure; it can only be done after certain required notices have been posted and, if necessary, legal proceedings completed to remove the parties from the premises. Without such prerequisites, the landlord has no right to physically evict or lock out the tenant.

A tenant can be in unlawful possession of the property in one of four ways:

1. The tenant continues in possession after the expiration of an agreed term.
2. The landlord has given 15-day notice prior to the expiration of the rental term and the tenant continues in possession.
3. The tenant is in default of the rental payments and, after a notice in writing is served upon him/her, continues in possession.
4. The tenant violates the contract for the premises, either by subletting or damaging it or by the conduct of unlawful business, and remains in possession after service upon him/her of a three-day notice.

As can be seen, the notice requirement is essential in order to commence the eviction process. A landlord can give notice to leave for any reason as long as the notice is served 15 days prior to the expiration of the rental term. That is, if the rent is payable on the first of the month, notice must be served before the fifteenth of the month preceding the date the rent is due. If the eviction is for non-payment of rent or other reasons as specified, the eviction is commenced by the filing of a three-day notice to pay the rent, cease the offensive conduct, or leave the premises.

Once the time specified in either notice is up and the tenant remains in possession, the landlord may not, by his/her own means, enter, remove the tenant, or lock him/her out, but must commence a proceeding in court culminating in a formal eviction by the sheriff.

In order for a person to be physically evicted from a premise, the county sheriff must be in possession of the necessary civil court order issued by the appropriate court. The required document is called a *writ of restitution*.

Advising the Parties

With the above matters in mind, a peace officer other than the sheriff who is in possession of a lawful court order should never assist a landlord in evicting a tenant. He/she should avoid taking sides in the dispute, simply referring the parties to their respective lawyers and being present solely for the purpose of preventing a breach of the peace.

Seizure of the Tenant's Property by the Landlord

A peace officer should never assist the landlord in the physical seizure of a tenant's property. The landlord has no right to do this unless he has complied with the statutory procedures for the obtaining of a landlord's lien. When confronted with such a problem, an officer should advise the landlord that he/she should contact an attorney and commence the appropriate legal action to attach the personal property and/or evict the tenant.

The landlord should be firmly advised that he/she should take no overt action that may result in a breach of the peace, and that if he/she does so, he/she may be subject to arrest in actions both civil and criminal by the tenant. The tenant, if present, should also be advised that he/she has a reciprocal duty to pay the rent that is due and owing and to cause no harm or waste to the premises, and that he/she should take no overt action that may result in a breach of the peace.

DOMESTIC DISPUTES

The Rights of the Parties Pursuant to a Decree of Divorce

Divorce proceedings are civil in nature. The divorce decree sets forth the rights, duties, and obligations of each party to the divorce, and provides the obligation of support to the non-custodial parent as well as visitation rights, if any. These rights, however, cannot be enforced without an appropriate order of the court, which is a separate proceeding and document from the decree of divorce itself.

When either party to a divorce breaches one of the terms in the decree, the offended party must apply through his/her attorney to the court for an order to show cause. This document is then served upon the offending party, requiring him to appear before the court to show cause why he/she should not be held in contempt of court for disobedience of the court decree. This is the only method by which the rights and obligations of the parties to a divorce decree can be enforced. There is no procedure that allows a peace officer to intervene by order of the court in such a dispute.

Restraining Orders

A restraining order can only be sought if a civil action is pending in court, and is a common action in many divorce actions. It is a court order restraining one of the parties from either possession of property or personal contact with the other party or parties in the case. This order is enforceable only by an order to show cause and subsequent determination by the court as to the punishment for the person who disobeys the court order.

If, after being served with an order to show cause, the party fails to appear before the court on the ordered day, the judge may issue a bench warrant that allows any peace officer to arrest the individual and bring him before the court. Ordinarily, civil bench warrants, unless the court indicates on the warrant itself when executed, should not result in the booking of the arrested party. Rather, he/she should be brought before the judge, or another judge of that court if the ordering judge is not available.

Child Custody

The decree of divorce will also contain a custody provision. One of the parties will be given legal and physical custody of the children, subject to visitation rights of the other party. An officer should interfere only rarely in such matters. These frequently arise when one party has kidnapped the children or refuses to return the children as provided in the decree. In such a case, the problem may become criminal in nature. An investigation must determine why the children are being withheld for the custodial parent. If there is good reason for the safety or welfare of the children, than it may be advisable to take the children into protective custody and have a judge decide the matter. If there is no good reason, or the children have been taken to another state, Custodial Interference (76-5-303, UCA) can be charged.

If there is a problem with the custodial parent giving visitation to the non-custodial parent, then the non-custodial parent should be directed to the court. A *writ of habeas corpus* can be obtained from the court, and the sheriff can enforce the custody rights. This order will give the sheriff the right to enforce the custody decree by removing the child or children from the offending party. The minimum schedules for visitation for children five to 18 years of age and under five years of age is delineated in 30-3-35 and 30-3-35.5 (UCA). The peace officer can refer to this code if other sources are not available. Most divorce decrees will refer to this code or be modeled on it. A copy of the code may also be included within the decree.

Advising the Parties

As with all civil disputes, the parties should be advised that the officer has no authority to enforce the orders pursuant to a decree of divorce, restraining order, orders to show cause, etc.

There are rare occasions on which peace officers may be given authority to enforce certain property rights, but only when in possession of a court order called a *writ of assistance*. The officer should simply advise the parties that this is not a police problem and that their individual attorneys should be contacted to have the matter determined by the court, and should then stand by to prevent a breach of the peace as appropriate.

MISCELLANEOUS CIVIL PROBLEMS

The Sheriff's Duties

In most instances where a peace officer is allowed to take official action with respect to property rights, these rights are clearly set forth by statute. These instances are, by and large, related to the duties of the sheriff as specified in the Utah Code Annotated. Because these duties are very specialized, they will not be dealt with in any detail. Basically, they include the service of various civil papers and the enforcement of civil judgments by attachment, garnishment, replevin, execution, etc. Even when in possession of orders dealing with the rights of the parties, the sheriff may not forcibly enter the premises of another without the court's specific permission (i.e., a writ of assistance). This is not a statutory provision in Utah, but is common practice by most of the courts in this area. Evictions, as previously discussed, are the duty of the sheriff and are accomplished by means of a writ of restitution.

Private Parking Lots and Towing of Cars Unlawfully Parked Thereon

An increasingly common practice is that of vehicles that are improperly parked on private property being towed to a private impound lot. Many times the peace officer will respond to a situation where a towing company is about to tow away a car and a very irate owner is attempting to halt the action.

If called to a private property impound problem, the officer should verify the authority of the towing company. If verification cannot be determined, advise the tow truck operator to release the vehicle.

If the vehicle owner(s) is present and objects to the vehicle being removed, the officer should first determine whether there is evidence of proper authority. Regardless of authority, if the vehicle is attached to the tow truck, but has not yet been removed from the premises, the tow truck operator must

release the vehicle under Utah law. Advise all parties that the situation is a civil matter that you cannot resolve. Keep the peace and encourage a good exchange of information between the parties.

If evidence of proper authority has been verified, the vehicle is attached to the tow truck, and the vehicle has been removed from the premises, the tow truck operator has lawfully removed said vehicle and may proceed with a possessory lien. Once the possessory lien has attached, the tow truck operator's right to possess the vehicle is superior to the owner's. However, when the lien has been discharged by payment of fees to the tow truck operator or otherwise as required by the court order or other authority, the owner's right to possess the vehicle is restored immediately.

If the tow truck operator demands payment as a condition of releasing the vehicle, advise the tow truck operator that the vehicle owner becomes responsible for the charges only after the vehicle has been lawfully removed and a possessory lien is in effect.

WRITS OF HABEAS CORPUS

A writ of habeas corpus is granted when a court finds reason to believe that a person is being unjustly imprisoned or otherwise has his/her liberty restrained. It is often used in child custody cases. The writ is addressed to a defendant, who is believed to have custody of the individual of concern.

If the defendant cannot be found, or if he/she does not have such person in custody, the writ and any other process issued may be served upon any one having such person in custody, in the same manner and with the same effect as if he/she had been made defendant in the action.

If the defendant conceals himself/herself or refuses admittance to the person attempting to serve the writ, or if he/she attempts wrongfully to carry the person imprisoned or restrained out of the service area, the officer shall immediately arrest the defendant, or other person so resisting, and bring him/her, together with the person designated in the writ, forthwith before the court before which the writ is made returnable.

CONCLUSION

The preceding are the most common civil problems encountered by peace officers. Each officer should remember that his/her job is not to provide legal advice or to settle civil disputes. Rather, his/her job is to prevent a breach of the peace, and he/she should do everything in his/her power to assure that this does not occur. It is important that the peace officer do whatever is necessary to prevent a volatile situation from escalating into a situation far beyond the initial expectations of the parties. If a peace officer has questions about his/her rights and obligations, he/she should contact his/her local county or district attorney or sheriff's office for advice on how to proceed.

Practical Exercise

REPOSSESSION

Wheeling & Dealing Loan Company calls dispatch for assistance in repossessing a vehicle. The payments are overdue by three months. You are dispatched to the scene to assist them.

1. You should contact the person from whom the property is being repossessed and tell him you are picking up his vehicle for the loan company because he is delinquent in his payments.

TRUE _____

FALSE _____

2. The car is sitting in the driveway, unlocked, with the keys inside. The loan officer attempted to contact the owner, but no one would come to the door. The loan officer gets into the car and drives it away. This is a legal repossession, and you leave the scene with your job completed.

TRUE _____

FALSE _____

3. When the loan officer starts to get into the car, the owner comes out of the house and tells him to get off his property. As the officer on the scene, you should:

- a. arrest the owner for making threats.
- b. tell the owner that you are picking up the car under your badge of authority.
- c. advise the loan officer to leave the property and contact his attorney to get the proper court papers.
- d. None of the above.

LANDLORD-TENANT PROBLEM

SITUATION A

You are dispatched to contact a landlord concerning a problem with a tenant. She informs you that the Sheriff's Office served the tenant with a 15-day notice to move 16 days ago. She shows you the paper, with the sheriff's return of service attached. The tenant is refusing to move out.

4. The proper action to take is to advise the landlord to turn off the power, gas, and water so that when the tenant moves out, the landlord can change the locks.

TRUE _____ FALSE _____

5. You should tell the landlord that it is all right to go in and take whatever property she wants to in order to recoup the payment for back rent.

TRUE _____ FALSE _____

6. You should tell the landlord that she needs an order from the court to enter or evict the tenant, and refer her to her attorney.

TRUE _____ FALSE _____

SITUATION B

You arrive at an apartment where the tenant is standing outside. He tells you that the landlord has locked him out because he owes rent, but he is only one day late.

7. You should contact the landlord and tell him to unlock the door because he hasn't followed the proper procedure and needs a court order.

TRUE _____ FALSE _____

8. You should advise the tenant to break the door open and go in, because the landlord didn't use a court order to remove him.

TRUE _____ FALSE _____

9. You should advise the tenant to contact an attorney, and that you can do nothing.

TRUE _____ FALSE _____

DOMESTIC DISPUTE

SITUATION A

You are sent to a house to contact a woman who is having problems with her ex-husband. The husband is there to pick up the children for his regular visit. The woman is very upset because he owes her child support; she will not allow the children to go, and wants him off the property. She shows you a restraining order signed by a judge prohibiting him from coming onto the property.

10. You should tell the ex-husband that he is in contempt of court, and that if he does not leave you will have to arrest him.

TRUE _____ FALSE _____

11. You should advise the ex-husband to leave, contact his attorney, and get a court order stating his visitation rights.

TRUE _____ FALSE _____

12. You should have the wife sign a complaint for trespassing with the judge who signed the restraining order, and inform her that you will arrest the ex-husband if the court so orders.

TRUE _____ FALSE _____

SITUATION B

You are dispatched to meet a woman at her home. Upon arrival, she advises you that her ex-husband has picked up the children for visitation. They were due back several hours ago, but when she called his house, he stated that he was not going to give the children back to her. She shows you the divorce decree, and you verify that she has full custody. She asks you to go get the children. You contact the ex-husband, and he states that he is not going to give back the children because she won't let him see them very often.

13. You should take the children from the ex-husband and give them back to their mother.

TRUE _____ FALSE _____

14. You should advise the ex-husband that a complaint of custodial interference could be signed against him if he does not return the children.

TRUE _____ FALSE _____

15. You should tell the ex-wife to contact her attorney and get a writ of habeas corpus.

TRUE _____

FALSE _____

SITUATION C

A father and his attorney show up at the office and pay the service fee for a writ of habeas corpus. They request that you retrieve the child in question from the mother as per the court order. You contact the mother and serve the order, but she refuses to turn over the child.

16. You can arrest her and take her and the child before the court.

TRUE _____

FALSE _____

You make contact with the woman and she tells you that she doesn't have the child. She explains that her sister currently has the child. You go to the sister's house and serve her with the paper. She won't let you into the house, but tells you that she does have the child. She won't give you the child because her name is not on the court order. She tells you she is leaving for California and taking the child, and that she will not bring the child back for any court hearings.

17. The proper course is to place the sister under arrest and take her and the child before the court.

TRUE _____

FALSE _____



VERSION 2016

INVESTIGATIONS

CHAPTER 15

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER FIFTEEN: INVESTIGATIONS

INVESTIGATIVE TECHNIQUES

Rather than detail the numerous procedures followed during the investigations of specific crimes, this chapter will present some of the techniques and patterns utilized in investigations. Most on-view arrests are made by uniformed officers, while most investigations are conducted by detectives or investigators, many of whom work in specialized areas such as homicide, robbery, burglary, and fraud.

An investigation involves taking what is known about a criminal activity and using it to solve the crime. Solving a crime includes determining who committed the crime, what law was actually violated, and how the crime was committed. Investigative work basically deals with three elements that provide the investigator with information on the crime and how it was committed:

1. The scientific method of reasoning
2. The testimony of witnesses
3. Physical evidence

The scientific method of reasoning refers to the mental processes utilized when an investigator endeavors to construct an accurate explanation for the commission of a crime with the facts and evidence he/she is presented with. The key steps in this process are:

1. Identify the problem and what unknowns are to be solved.
2. Collect data, such as evidence, witness statements, interrogations, interviews, etc.
3. State a hypothesis. Who does the evidence point to as a suspect?
4. Test the hypothesis. Does the suspect have a valid alibi or a motive?
5. Draw a conclusion. Can other evidence verify the hypothesis? Does probable cause exist to arrest a suspect?

The investigator tries to reconstruct the entire chain of events surrounding a particular criminal act. He/she will rely heavily on the deductive process of logic. *Deductive reasoning* means that the unknown is to be determined by examining what is known. As facts about the crime are gathered, common sense dictates certain ways of assembling those facts. For example, common sense tells us that if the criminal seen by a witness had a noticeable limp, the police should attempt to locate suspects with leg problems. Imagination is sometimes useful as well, however, for it may be that the criminal had a rock in his shoe and did not have time to remove it before being seen by the witness.

Using the deductive reasoning process to combine facts, common sense, and reasoning, the questions of who, what, when, where, why and how can often be answered. The investigator uses the facts to suggest a hypothesis; if the hypothesis cannot be verified, he/she may need to suggest others. (See the Basic Investigative Flowchart below.)

On occasion, police will act on a hunch, a feeling that a certain person would be a good suspect or that a crime was committed for a reason that is not obvious to others. Actually, a hunch is usually a form of *inductive reasoning*. Because of the officer's experience and training, certain items known about the suspect or situation may lead the officer to mentally connect them with the crime being investigated. Although it does not replace the deductive process, following up the hunches of experienced officers is often fruitful.

DEVELOPING LEADS

Recently, progressive agencies have organized “crime analysis” or “crime intelligence” units. Using the ability of computers to store and search through enormous amounts of information, such units can generate investigative leads. Typically, an investigator can give what limited information is available about a single crime to the unit, which in turn can generate a list of possible suspects.

There are nine basic sources of investigative leads:

1. **Physical evidence:** Physical evidence may point to a specific individual, as in the case of fingerprints, or to a group of suspects, such as anyone having A-positive blood. Physical evidence may tie a suspect to a crime scene or show intent to commit a crime. Most physical evidence leads are not useful until other leads establish the possible identity or location of a suspect. Physical evidence alone does not guarantee an arrest or conviction.
2. **Background check:** A background check determines the past history, associates, and activities of a victim. This will often produce facts concerning possible motives for a crime, as well as connections between the victim and any suspects.
3. **Motive:** Examine the question of who would profit from a particular crime. Often, this will shed light on the reasons behind the crime as well as possible suspects.
4. **Knowledge:** The circumstances surrounding a crime scene may indicate that suspects with certain abilities or knowledge probably perpetrated the crime. For example, some crimes are referred to as “inside jobs,” meaning the criminal must have been familiar with building layout, alarm system, guard patterns, combinations, etc. Other signs may indicate that the criminal was a professional, an amateur, a juvenile, etc.
5. **Who was in the area:** Have known criminals been seen in the area lately? Who has been field interviewed in the area?
6. **Vehicles involved:** The type of vehicle involved may indicate the status of the criminal or the nature of the crime, or point to a particular suspect. Even partial license plate numbers may give clues to possible suspects.
7. **Informants:** An officer may be able to use information from an individual that he/she has helped previously, or someone that he/she may pay for information. An informant can often provide useful leads on major crimes. The officer must weigh the value of the information gained against the risks to society in utilizing this particular source. A patrol officer wishing to become a detective should cultivate informants early in his/her career.
8. **Witnesses:** Anyone who observed any part of the criminal activity is considered a witness. Not all witnesses are aware that they have observed part of a criminal act, and not all witnesses want to cooperate with the police regardless of their legal obligation to do so. If a suspect is arrested at the scene, the suspect should also be considered a witness. Not only does the suspect have information about accomplices in the particular crime, but he/she may also have information about other crimes that he/she may have been involved in.

A second group of witnesses is composed of people at the scene, such as the complainant, victim, and other involved citizens. These people will often remain at the scene because they have personally been involved.

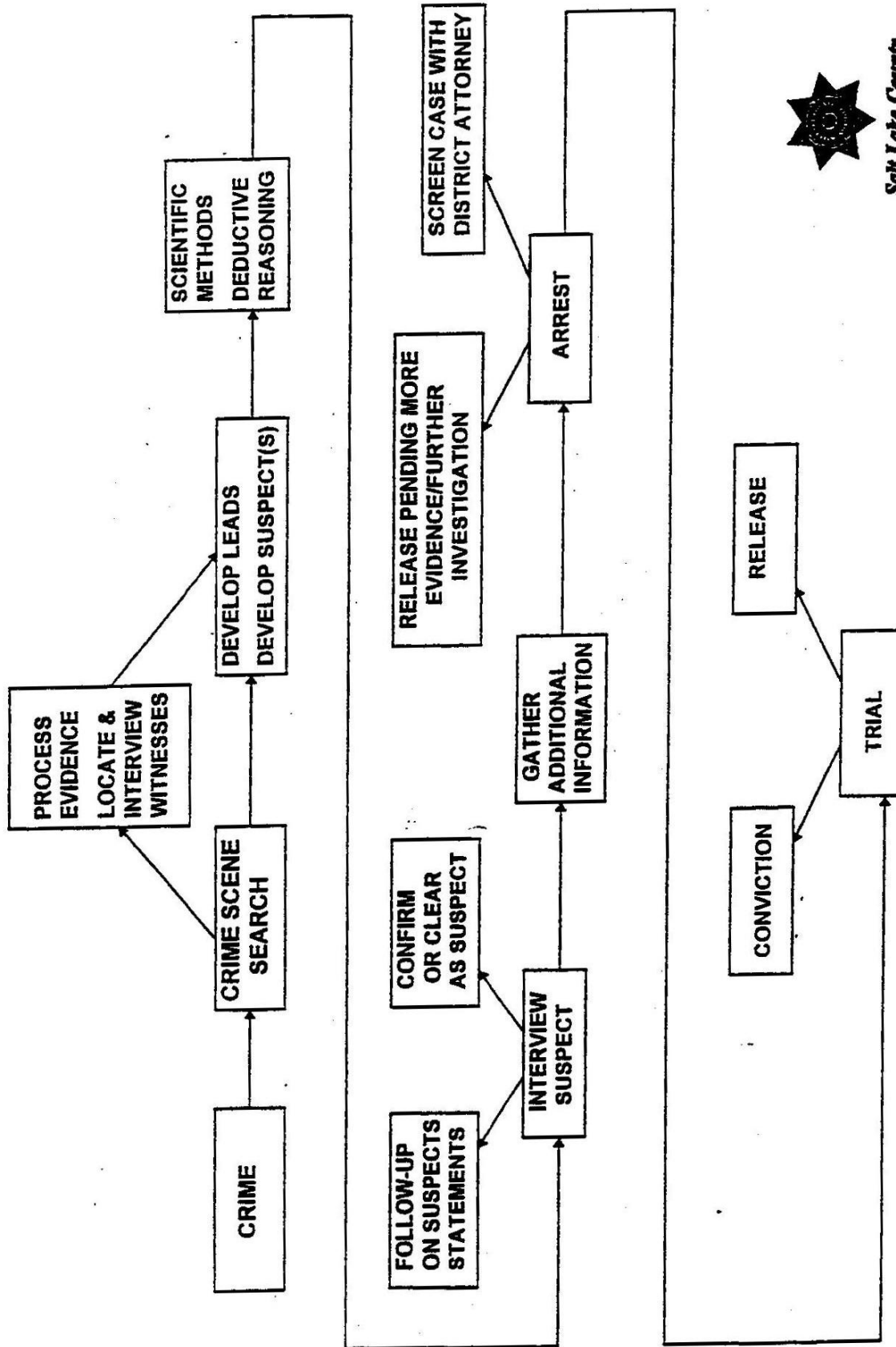
A much larger group of witnesses must be sought out by the investigator. These are the witnesses who don't want to be involved, who didn't know a crime was being committed, or who fear retaliation. These individuals are located through a neighborhood canvassing technique. First, the investigator must determine the *view area*. This is the area where someone may have seen any part of the crime. It may be the inside of a bank or an entire park. After determining the view area, canvassing involves going door to door and business to business, contacting all employees and residents. This should be done several times to ensure that as many potential witnesses as possible are located. The officer may return at

several different times and on several different days of the week in this effort. Service personnel who travel in the area, such as bus drivers, delivery persons, milk truck drivers, and others, are also contacted.

In some crime investigations, the seriousness of the crime and the lack of leads may lead to the offering of rewards to entice witnesses to step forward. In many cases, arrangements can be made to keep the identity of the witness secret. The media, through TV and newspaper coverage are usually cooperative in advising the public of information needed by police. The printing of suspect sketches and bank robbery photographs has been particularly productive. Most law enforcement agencies have special phone numbers for potential witnesses to call.

9. **Modus operandi:** *Modus operandi* refers to the method of operation that the criminal follows in committing the crime. Like all humans, criminals develop patterns, habits, and techniques that they tend to repeat over and over again. A modus operandi becomes a trademark of a particular criminal, and officers compile modus operandi files on known criminals. By noting the specific patterns of a given crime, the investigator can check through the files for suspects having similar patterns. A basic MO can be developed by answering the following questions about a crime:
 - What is the classification of the crime?
 - How was the crime committed?
 - What was the time of the crime?
 - What is the victim's description?
 - What was taken?
 - What tools or weapons were used?
 - What was the motive of the crime?
 - What distinguishes this crime from other crimes?
 - What transportation was involved?
 - How many criminals were involved?

BASIC INVESTIGATIVE FLOWCHART



Salt Lake County
SHERIFF'S OFFICE
 COUNTY OF SALT LAKE

INTERVIEWS AND INTERROGATIONS

A good investigator must be capable of effectively questioning witnesses and suspects and determining whether they are telling the truth. An officer conducts an interview with a witness and an interrogation with a suspect. It is important to remember that all custodial interrogations must be done under the conditions of *Miranda v. Arizona*. The interrogation of a suspect is considered to be a custodial interrogation, but an interview with a witness is not.

An interrogation is the questioning of a suspect about alleged criminal activity or of a person who has made a full disclosure of information about a crime. The purpose of the interrogation is to obtain details of the crime, obtain a confession, or obtain information with which to prove or disprove a person's claim of innocence.

The investigating officer must read the following or a similar statement to the suspect in all cases where a suspect in custody is being questioned.

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish.

After reading the suspect these rights, the following questions should be asked:

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk with us now?

If a suspect answers intelligently and affirmatively and waives these rights, an interrogation can take place. It is best if this waiver is both in writing and witnessed, as a suspect may deny waiving his rights when in court. Questioning can also take place if demand for a lawyer is met, and the suspect agrees to questioning after the lawyer has advised him/her.

A successful interrogation will often provide information about the location of stolen property and evidence, the identity of accomplices, and the motives behind the crime. It may also be used in court to show when a defendant has changed his/her statement to officers and therefore is not a reliable witness.

A successful interrogation will often result from following basic procedures:

- Be well versed in the details of the crime being investigated.
- Know as much as possible about the suspect being questioned.
- Be observant to the reactions to the questions. Certain reactions tend to indicate whether a suspect is lying, such as agitation with questions, boldness, muscular tautness, blushing, eye movement, and changing stories.
- Develop the confidence of the suspect by being knowledgeable and in command of the situation.
- Use a location that is psychologically favorable.
- Be aware of physical symptoms of discomfort, including sweating, color changes, dry mouth, rapid pulse, and others.
- Have a general outline of the questions to be asked prepared ahead of time.
- Repeat the questioning process several times, looking for new details and inconsistencies.

SUMMARY

Not all crimes are solvable, nor can the time and effort needed to solve all crimes be allocated by a law enforcement agency. The type of crime committed will affect the amount of resources assigned to the specific case. It is important, then, that an investigator or detective have certain abilities that will increase the probabilities of success. Among these criteria are:

- Good recall, observation, and perception abilities.
- Street experience.
- The intellectual abilities to formulate deductive reasoning patterns.
- Knowledge of criminal law, rules of evidence, and the ability to properly use scientific aids for investigation.
- The ability to utilize social psychology.

Practical Exercise

A sporting goods store closes at 9:00 p.m. At 9:10 p.m., a motion alarm in the store goes off. Officers respond within three minutes and find a window broken, with glass scattered over the sidewalk. After the manager arrives with a key, officers enter the building and discover that a .357 magnum collector's handgun worth over \$1,350 has been removed from a glass display case in the middle of the store. No fingerprints are located when the case is dusted.

The manager states that just this week he had to fire Suzy Brown, who had been a cashier at the store. He says she claims that the store still owes her \$1,300 in back pay. The crime scene investigation produces the following evidence:

- A set of muddy footprints is visible on the carpet leading in and out of the back door, possibly from cowboy boots.
- The lock to the changing room is broken.
- Several piles of men's shirts have been knocked over.
- The cash register drawer is open and empty.
- A person who is driving by the crime scene pulls into the parking lot and states to officers that approximately 30 minutes ago, at 8:45 p.m., she saw a tall male wearing a cowboy hat standing by the window. She can't remember whether the store was open at the time.

If you were the investigator assigned to the case, would the following deductions be reasonable? Explain why or why not.

1. Entry was made at the back door: _____

2. Entry was made forcibly: _____

3. Suzy Brown has a motive for committing the crime: _____

4. Money was taken in the burglary: _____

5. The alarm went off when the suspect entered the building: _____

6. The crime was planned ahead of time: _____

7. The tall male is a suspect: _____

8. The suspect is probably armed: _____

9. Dusting other areas of the store for fingerprints will probably be profitable: _____

10. The suspect may have been hiding in the store when it closed: _____



VERSION 2016

SPECIALIZED UNITS

CHAPTER 16

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER SIXTEEN: SPECIALIZED UNITS

INTRODUCTION

Almost every law enforcement agency will include the various divisions, squads, or units that have been discussed to this point. Due to the requirements placed on a normal department—those of protecting the citizens of the community—there will always be a need for patrol officers, traffic investigators, and detectives.

A law enforcement agency might also have many specialized units in addition to the basic units listed above. This normally depends on the size of the department and the requirements placed upon the department by the community through the controlling government entity. If, for example, the community feels that there is a need for a specialized unit, such as a D.A.R.E. unit, the request may be taken before the mayor, commission, or council. If appropriate funds can be allocated, the unit will be funded, manpower will be assigned, and the squad will be mobilized.

Often, the law enforcement agency will see a need for a specialized unit and will approach the governing body with a presentation and a request for funding. The funding for the unit might be accomplished from within, or appropriate money may be available through a federal grant. Many specialized units in existence today were originally funded through a grant, proved their usefulness, and had funding continued by the agency's governing body after the grant money ran out.

INDIVIDUAL UNITS

SPECIAL WEAPONS AND TACTICS (SWAT)

A Special Weapons and Tactics (SWAT) team is utilized for high-risk operations that require additional tactical training and firepower. The SWAT team is called to assist or take control of situations such as high-risk warrant service; narcotics raids where suspects are known to carry weapons or there is a high probability of weapons availability; and hostage and barricaded suspect situations.

SWAT members are required to participate in additional training, sometimes in excess of 250 hours per year. They must become proficient in the specialized tactics and additional weapons utilized by this team. They are also involved in the training of other officers in areas such as officer survival, building searches, and high-risk traffic stops.

GANG UNIT

The gang unit is responsible for cataloging and tracking known gang members, and is a valuable source of information for patrol officers and detectives in conducting investigations and solving gang-related crimes. This unit also meets with units from other agencies in order to discuss individuals and exchange information, which is important due to the mobility of gang members and their transient nature. This tracking and exchange of information has proven to be an effective tool in the apprehension and arrest of gang member offenders.

NARCOTICS UNIT

The narcotics unit is responsible for the detection, targeting, and eradication of drug distributors from the community, and assists patrol officers as needed in user-level drug cases. They also provide assistance for other officers in areas of specific expertise, such as the preparation and writing of search warrants, conducting controlled drug buys with confidential informants, and formulating viable raid plans.

The narcotics unit also works closely with Community-Oriented Policing (COP) officers. COP officers, working closely with the community, gather information at the neighborhood level and then pass this intelligence on to the narcotics officers. The narcotics officers may also provide additional equipment and technical devices to assist the COP officers in intelligence gathering.

Today's narcotics units have the additional responsibility of closing down and assisting in the cleanup of methamphetamine labs. Close coordination with other government agencies is needed when dealing with this new phenomenon.

The narcotics unit also works with the Drug Enforcement Agency (DEA) to eliminate high-level drug trafficking that may cross departmental or even state lines.

VICE SQUAD

The vice squad is responsible for detection and apprehension of all violators of vice-related ordinances. This includes prostitution, gambling, sexually oriented businesses, pornography, tavern and bar checks, and licensing of and work cards for the above businesses and their employees.

The squad investigates prostitution and escort operations and runs periodic stings that focus on arresting the individuals who patronize prostitution. Gambling enforcement focuses on such cases reported to the unit by the citizens of the community.

Sexually oriented businesses are closely monitored and inspected to ensure that the various businesses are in compliance with state laws and county ordinances. The main focus with regard to pornography is stopping distribution, although possession may be investigated on a case-by-case basis.

The inspection of taverns and bars can be either overt or covert to ensure that the businesses are in compliance with laws and ordinances. Additionally, the vice squad is utilized to review and make recommendations with regard to licensing requests that come before the commission.

K-9 UNIT

A K-9 unit is made up of teams composed of a trained police dog and the dog's officer/handler. The dog normally lives at the home of its handler and becomes a member of the family. Most police dogs are trained as command dogs, reacting to the commands of the handler. The K-9 units normally work at night but are available for callout at any time.

The teams are used in support of the patrol function and work in conjunction with patrol units. The training of the dogs allows them to be used to assist in a number of other functions, including drug operations, bomb threats, and search-and-rescue operations.

The dog and his handler put in many additional hours of training in order to be able to work as a team. The police dog can be a valuable tool in apprehending dangerous suspects, clearing buildings, or controlling crowds.

COMMUNITY-ORIENTED POLICING UNIT (COP)

Community-Oriented Policing (COP) units have numerous functions and assignments. The concept behind COP is to get the officer into the neighborhood and working with the citizens, but agencies are still exploring the best uses for these officers.

Most agencies use the COP officers as neighborhood liaisons. An officer is assigned a specific geographic area and responds to the needs of the citizens. He/she becomes the person to whom the neighbors turn in order to solve neighborhood problems—anything from a barking dog to a parking problem, from a party house to a meth lab in the neighborhood. He/she is not meant to be the only solution, but is the person who either has or knows how to contact the needed resources.

COP units also become involved with youth groups and schools as they become closer to the community. They meet with area community councils, along with other organizations that have a stake in the community.

SEARCH AND RESCUE

The search and rescue unit is a group of individuals, composed mostly of volunteers, who provide skilled technical abilities in search and rescue operations. Each of these individuals is highly skilled in a specific area, such as mountain rescue, and volunteers this ability in order to assist the community. The unit as a whole is skilled in mountain rescue, water rescue, the rescue of avalanche victims, and numerous other operations. They are also available to assist officers in various searches, whether for a lost child, a downed aircraft, a disoriented person, or evidence and contraband.

MAJOR ACCIDENT TEAM

The Major Accident Team is composed of experienced accident investigators equipped with state-of-the-art technology. The unit is called on to investigate serious-injury and fatal traffic accidents, and using a system of diagramming known as the Nikon Total Station/AIMS system. This team is also used to diagram major crime scenes such as homicides.

COURT SERVICES

Court Services has numerous missions within the judicial system, including provision of security for the various courthouses and courtrooms within its jurisdiction. Each individual bailiff assigned to a courtroom, assisting the judge by starting each session, maintaining order, and helping with the needs of the jury members.

Additional responsibilities include the transport of prisoners to and from the courts, medical facilities, and other offices. Court Services is also required to provide service of civil papers, such as protective orders, judgments, garnishments, summons, subpoenas, and writs.

TRAINING UNIT

The training unit is responsible for the training of all officers in the department. This unit schedules all training required by the department and supervises the elective training that a division or unit requires. This supervision by the training unit is to ensure that all officers in the department meet

the training standard set by state law. Training is designed to provide officers with the latest information in areas such as officer survival, emergency vehicle operations, firearms, and first aid.

CRIMINAL INTELLIGENCE UNIT (CIU)

The Criminal Intelligence Unit (CIU) acts as a repository and clearinghouse for information that assists with investigations, as well as numerous requests from outside agencies. The Geographic Information System (GIS) mapping capabilities of the unit allow division commanders to look at past crime trends and deploy manpower as needed. The unit can also produce photo spreads and link charts, and tracks pawn shop transactions. Other services include:

- Suspect development by physical description or vehicle description.
- Case matching by physical description.
- Pattern analysis and trend identification.
- Statistical analysis of crime trends.

The functions of these products are both reactive and proactive. Many of the services provided are helpful to the field officer, as well as the detective doing follow-up investigation. The CIU also has contacts with many intelligence gathering agencies and organizations, and access to numerous databases.

CHAPLAIN CORPS

The Chaplain Corps is composed of religious ministers from various churches. They are on call to assist officers and provide spiritual inspiration and guidance in times of need. The chaplains are used to provide notification to families of an officer's death or serious injury, as well as notification of the next of kin of a serious injury or death arising from a case investigated by the office, or at the request of another agency.

Chaplains also provide grief and other counseling for both active and retired office members and assistance at disaster scenes or emergencies.

RESERVE CORPS

The Reserve Corps is composed of volunteer civilians who donate time to assist law enforcement as needed. These individuals must complete a certified course of instruction through POST, at which time they are recognized as Special Function Reserve officers and are able to act as law enforcement officers under limited circumstances.

These volunteers perform numerous duties, including working for patrol divisions and responding to calls, helping with parades and other community events, providing roadblocks and other assistance for critical incidents, and assisting the search and rescue unit.

SUMMARY

The units discussed above are some of the more prominent squads, but there are many other units not included. Some of these specialized units may, in fact, consist of just one officer. Each of these units is important to a department and serves a specific purpose. Most departments today could not provide the public with required services without utilizing some specialized units.

VERSION 2016

LAW ENFORCEMENT AS AN OCCUPATION

CHAPTER 17

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER SEVENTEEN: LAW ENFORCEMENT AS AN OCCUPATION

POSITIVE ASPECTS

In almost all oral interviews for police officer selection, the candidate will be asked, “Why do you want to be a police officer?” Some typical responses illustrate the positive aspects of law enforcement.

VARIETY

“I like the variety of work experiences.” Many law enforcement officer candidates can think of nothing worse than having to accept and work at a desk job. They like the variety of assignments available in a typical law enforcement career, and often like working non-typical hours and schedules.

COMMUNITY CONTACT

“I like working with people.” Person-to-person contact characterizes police work. Officers meet new people all the time. They learn to seek information, calm down the emotionally upset, and question suspects. They must bring about law compliance, often with no more than a five- or six-minute contact with a person. Officers contact people who come from all walks of life and have all kinds of beliefs. This can be exciting, refreshing, and educational.

ACCOMPLISHMENT

“I like to see accomplishments.” A motivated officer can often follow a case from beginning to end. This may involve gathering evidence, finding a suspect, taking the case to court, and seeing the guilty party convicted. A well-planned raid or arrest, the reduction of certain types of crime, or a properly investigated accident can all evoke feelings of confidence and self-worth.

SATISFACTION

“I like to feel my work is worthwhile.” Perhaps nothing can be more satisfying to an officer than to know that what he or she does for a living is important. Although this can be a general attitude—a feeling that one is helping to protect society—it is often more specific. The life saved, the hazardous situation defused, the criminal arrested, all bring satisfaction from within, feelings that it is all worthwhile.

RESPECT

“I want to be looked up to and respected.” Although the verbal abuse can make one wonder, most people have respect for law enforcement officers. Law enforcement demands a special kind of person, and most people understand the demands of the profession.

NEGATIVE ASPECTS

As with many other occupations, law enforcement makes certain undesirable demands on its participants. While not all police assignments or locations are accompanied by the same problems, the student should consider the following negative aspects of law enforcement before seeking employment within the profession.

HOURS AND SCHEDULES

The demands of public safety mandate that officers do shift work and work non-typical schedules. An agency may use straight rotating shifts, rely on a system of seniority to bid for certain shifts, or attempt to match manpower needs with crime patterns. A change in assignment usually means that the working schedule changes. This can lead to physical problems such as fatigue and stress, as well as potential family problems, and often interferes with attempts to attend school or work part time.

FINANCIAL

Although wages have risen significantly in the past decade, many officers have found it necessary supplement their income by working part time. Wages must be negotiated with politically sensitive government leaders dealing with limited budgets and taxing ability. Law enforcement officers cannot legally strike in most of the United States. Although benefits and retirement pay are provided, the percentages paid by the government employer are dropping due to taxpayer demands and premium increases. Of real concern to individual officers is the possibility of a lawsuit against them that is not covered by some form of liability insurance.

PHYSICAL

Of primary concern to all law enforcement officers is the high risk of death or injury. Approximately 100 officers are killed by violent means each year, and one of every five officers working patrol will sustain an injury annually. Stress results from the risks and seriousness of the police function. The resulting suicide rate for law enforcement officers is greater than that of the general population. Alcoholism is a too-common result of job-induced stress. Some State worker's compensation laws now recognize high blood pressure and heart attacks in police as occupationally caused. With the average life expectancy in the U.S. being 78.7 years, the reported life expectancy of a peace officer is approximately 76 years for male officers. However, there is currently limited research available that supports or agrees upon actual life expectancy of officers. Several studies looking at this difference have found that it is due to the high amounts of stress, which keep the natural adrenaline levels in the body at higher-than-average levels. This causes degeneration of vital tissues, such as the heart muscle, thus leading to a heart attack.

EMOTIONAL

The peace officer is required to view and deal with scenes of violence and hatred almost daily. He/she is also expected to aid the injured and mutilated, and to investigate crimes such as murder, assault, rape, and child abuse. The peace officer is trained to look for, and see, the worst in our society. Because of the uniform and badge, the officer is the constant subject of attention, most of it negative. Due to this attention, many officers limit their social contacts to other police officers, withdrawing

from exposure to other people in their community. Such limited social contacts can be psychologically harmful.

Some officers develop the so-called John Wayne Syndrome to protect themselves emotionally. This kind of officer can be characterized as cynical, overly serious, emotionally withdrawn, cold, and authoritarian. Not only do such officers withdraw from society, but they may have few interests or concerns outside of work and become emotionless even when dealing with their own family members. They become “super cops” who may rationalize the excessive use of force or aggression against others in order to protect society. Many law enforcement agencies now have programs and professional counseling to attempt to assist officers in dealing with these emotional problems.

FAMILY LIFE

All of the above problems can lead to domestic strain. A typical reaction is for the officer, out of love for the spouse, not to talk about the undesirable aspects of his or her working day. No reference is made to the accidents, the victims, or the ugly side of the occupation. With this line of communication closed, it is easy for others to close. The ties between husband and wife require constant communication. If communication stops, oftentimes hostility builds, causing domestic disputes, spouse abuse, and finally divorce.

The spouse of a law enforcement officer often needs to learn to deal with the problem of jealousy. The uniform and badge tend to expose the officer to situations that produce stress between spouses who do not trust each other. It is interesting to note that one of the biggest problems involving the integration of women into law enforcement is the opposition of wives who do not want their husbands to have to work with a female partner.

Some officers tend to be overly harsh and restrictive when dealing with their own children. The officer, not wanting his own child to become a delinquent or a victim, becomes overly controlling and demanding. This type of officer often overreacts to the normal, experimental juvenile behaviors of his own children.

JOB OPPORTUNITIES

There are over 780,000 individuals employed in federal, state, county, and city law enforcement occupations. It is often possible to combine other interests with a law enforcement career. For example, an outdoorsman can become a forest ranger or wildlife resource officer, a flying enthusiast can become a police helicopter pilot, a scientifically minded person can become a forensic specialist, scuba divers and mountain climbers can use their skills for search and rescue, and artists can help catch the most dangerous criminals through sketches of suspects.

As law enforcement has become more progressive, many civilian staff positions have opened up. Agencies need budgetary specialists, public relations experts, educators, and administrators. The need for officers in the public sector has not diminished in recent years, and the profession will continue to require qualified applicants. The use of private security firms and personnel is likely to grow even more quickly.

Of special interest are the job opportunities available to women. The advent of equal rights has moved female officers away from parking meters and juvenile units into all aspects of police work, including patrol, supervision, and administration. Although women have traditionally handled secretarial and clerical duties, studies demonstrate that women can be effective law enforcement officers. The presence of female officers in domestic disturbance situations has been shown to reduce

tension, and community relations are improved with more females employed. The public often finds it easier to deal with a female officer. The LEAA's 1977 report indicated that "in general, male and female officers performed similarly. They used the same techniques to gain and keep control, and were equally unlikely to use force or to display a weapon."

MINIMUM QUALIFICATIONS AND TESTING

CITIZENSHIP

All Utah peace officers are required to be citizens of the United States. In most cases, the individual must also be willing to reside within the jurisdictional limits of the employing law enforcement agency.

CHARACTER

All law enforcement officer applicants are subjected to a background investigation to determine the character of the applicant. This is necessary to ensure the basic honesty and credibility of the potential officer, and to meet the expectations of the community. The background check includes an investigation into the individual's reputation, credit rating, driving record, and conviction records.

Applicants cannot be addicted to intoxicating liquors, narcotics, or habit-forming drugs. A felony conviction or a conviction for *any crime involving dishonesty, unlawful sexual conduct, physical violence or the unlawful use, sale, or possession of a controlled substance* can disqualify an applicant. Serious traffic offenses or the habitual breaking of any laws can also disqualify an individual. Agencies try to avoid hiring individuals who would bring discredit to their organization.

WRITTEN TEST

Most written tests for law enforcement applicants are police aptitude tests. They test whether an applicant has skills such as reading comprehension, noticing patterns, and problem solving. The tests are usually multiple-choice and may last several hours. Scores below a certain level will often disqualify the candidate immediately.

The POST Entrance-Level Test is required and ensures that individuals entering the law enforcement field have adequate reading, writing and mathematical skills. (This is also the test required for all Highway Patrol Trooper applicants, even those who are already POST certified.)

The test takes about 1½ hours to complete, and consist of four parts:

1. Reading comprehension
2. Incident report writing
3. Grammar
4. Mathematics

There is a fee each time the test is taken.

PHYSICAL EXAMINATION

Each applicant must be in good health and able to withstand the rigors of the occupation. Agencies use their own physicians for the examination. They are particularly interested in vision problems, hearing abilities, back problems, and any evidence of potential future medical problems that could be aggravated by law enforcement duties.

PHYSICAL AGILITY TEST

Independent of the physical exam, the applicant is required to pass a physical agility test designed to show that he/she can successfully engage in the physical activities required in law enforcement. Most agencies require women to complete identical requirements with men. The example test announcement material that concludes this chapter includes many of the types of agility test activities found in most agencies.

ORAL INTERVIEW

Almost all agencies require an oral interview conducted by a panel of administrators and supervisors. A typical interview may last up to 30 minutes and is very comprehensive. The interview is structured, so that all applicants will be asked the same questions. Although the answers are important, the oral communication skills of the applicant, his/her ability to analyze questions, and reactions to pressure will all be observed and noted.

The first question asked is often, "Why do you want to be a peace officer?" After discussing this question, the applicant may be asked if he/she could shoot someone in the performance of his/her duties, and may then be asked questions about his/her interests, attitudes and feelings about minorities, etc. This is usually followed by situation questions, wherein the applicant will be given a law enforcement scenario and asked to explain how he/she would handle the situation. The interviewers will be looking for common sense, awareness of non-arrest alternatives, and a lack of prejudice in the applicant.

CERTIFICATION

After a new peace officer is hired, Utah law mandates that the officer complete a 440-hour basic training program taught by Peace Officer Standards and Training (POST). The academy must be completed by new officers before acting as a peace officer. Upon successful completion of the course, which involves testing in various police skills, the officer is certified by the State of Utah. The training and testing will be in areas such as first aid, knowledge of the law, defensive tactics, firearms, and physical conditioning.

Certification is maintained by completing 40 hours of in-service training each year. This training must be approved by POST and is often taught by POST-approved individual agency instructors. Certification reduces the risks of liability by establishing that minimum standards of training have occurred. It also tends to standardize law enforcement practices statewide and increase professionalism.

Physical fitness is a critical element of the academy requirements. The POST testing program involves the following:

- Vertical jump (jumping and explosion power)
- Strength test (push-ups)
- Muscular endurance (bent-knee sit-ups)
- Cardiovascular endurance (1.5-mile run)

Each candidate is tested on his/her first day at the academy. Candidates performing below an acceptable level (i.e., where training would be unlikely to produce required results by the end of the session) are eliminated from the academy. Another test is given at the halfway point, and again the candidate may be eliminated from the academy depending upon his/her improvement from the first test. (See the chart of basic fitness requirements below.)

APPLICATION FOR EMPLOYMENT

If the decision to pursue a law enforcement career has been made, the next step is to make application with those agencies for which the candidate would be willing to work. It is usually advantageous to apply with several different agencies because of strong competition and a limited number of openings. A candidate may want to consider the following points when deciding which agency he/she would like to work for:

- Pay scale and benefit package
- Promotion possibilities
- Geographical location
- Primary law enforcement functions
- Size of agency
- Agency policies (outside employment, use of vehicles, residency requirements, etc.)

Law enforcement agencies use a number of different selection processes. The following material indicates some of the various qualifications and tests involved in recruiting a new officer.

AGE

Utah law allows for the certification of peace officers as young as age 21, although many allow candidates to start the testing process at age 20. In the time between high school and hiring, the potential peace officer should seriously pursue law enforcement-related jobs and education, or enlist in the military with emphasis on law enforcement. Many agencies will hire dispatchers, cadets, records clerks, non-sworn jailers, and others at age 18. Weber State University, Salt Lake Community College, and Southern Utah University all offer law enforcement degrees, while the University of Utah offers a criminology certificate in its Sociology Department. Police Officer Standards and Training Basic Academy courses are also offered at Salt Lake Community College and Weber State University.

HEIGHT/WEIGHT

Most agencies have done away with minimum and maximum height and weight limitations for legal reasons. Instead, the applicant must perform up to a minimum standard on a physical fitness test and pass a physical examination, as determined by a physician. In order to become certified, a candidate must pass a strenuous set of physical condition standards while attending the academy.

EDUCATION

All Utah law enforcement agencies require at least a high school diploma or equivalent. It is likely that at least some college education will be required in the future, as agencies become more progressive. Some agencies give bonus points in the selection process for education years in excess of the minimum, or increased pay for various college degrees. Federal law enforcement agencies require a college degree.

UTAH PEACE OFFICERS STANDARDS AND TRAINING (POST) PHYSICAL ASSESSMENT

Applicants who do not waive the physical assessment test are responsible for appearing at the scheduled physical assessment test listed on the schedule at the end of this booklet.

The physical assessment test will be administered at the POST Academy Gym Located at SLCC Miller Campus 410 W 9800 S Sandy, Utah.

Applicants who are waving this test based on the requirements listed in this handbook must submit the PHYSICAL ASSESSMENT TEST WAIVER form and pertinent documentation before the application deadline. We reserve the right to reject your documentation and require you to take the physical test if we determine your application for waiver does not meet our requirements.

DESCRIPTION OF PHYSICAL ASSESSMENT TEST EXERCISES

It is extremely important that you begin to prepare for the physical assessment tests immediately in order to meet the qualifying standards.

SIT AND REACH

PHYSICAL ABILITY BEING ASSESSED: FLEXIBILITY DESCRIPTION: The subject assumes a sitting position on the floor with the legs extended directly in front and the back of the legs pressed firmly against the floor and subject's feet pressed against the front of the flexibility box. The subject should bob forward three times and then push the mark with both hands held together as far forward as possible on the top of the box and hold. The subject should not knock or push the park forward further than the tops of his/her fingers will reach.

PUSH-UPS

PHYSICAL ABILITY BEING ASSESSED: STRENGTH DESCRIPTION: The subject assumes a front-leaning position with the hands placed where they are most comfortable. The back, buttocks and legs must be straight from head to heels. Begin the push-up by bending the elbows and lowering the entire body until the tops of the upper arms, shoulders and lower back are aligned and parallel to the floor. (A fist may be placed under the subject's sternum and should be touched, Return to the starting position by lifting the elbows. During the test the subject cannot rest the body on the ground. It is possible to rest, but one cannot relieve pressure for the upper body while in the resting position, If the subject does not keep the body straight or lock the elbows completely, that repetition does not count. The score is the number of push-up completed in the one minute.

SIT-UPS

PHYSICAL ABILITY BEING ASSESSED: MUSCLE ENDURANCE DESCRIPTION: The subject lies on the back with the knees flexed at a right angle. A partner kneels at the subject's feet and presses down on the subject's insteps to keep the heels in contact with the floor. The hands must remain in contact with the head and the fingers cupped behind the ears. When ready the signal "go" is given and the subject sits up to touch the knees with the elbows breaking the vertical plane. Without pause, the subject returns to the starting position just long enough for the shoulders to touch the mat and immediately sits up again. The score is the number of sit-ups that can be completed in the allotted time period. Norms have been computed for one-minute period for men and for women.

1.5 MILE RUN

PHYSICAL ABILITY BEING ASSESSED: CARDIOVASCULAR FITNESS DESCRIPTION: The exercise involves measuring the time spent in running 1.5 miles. The distance covered in a specific amount of time is then used to determine the fitness category of the individual. This test requires a nearly exhaustive effort. It is assumed that the individual has had the proper medical examination and has been cleared for an exercise program.

TAKING THE TEST: On the day of the testing, it is recommended applicants abstain from smoking or eating for a minimum of two hours preceding the test. It is advisable to allow adequate time prior to the test for stretching and warm-up exercises. An important consideration at the end of the run is the "cool down" period. Applicants should not stand around immediately after the run, but should walk for at least five minutes to prevent pooling of the blood in the lower extremities, which reduces the return of the blood to the heart.

CERTIFIED REGISTER AND EXAM WEIGHTS

Applicants who successfully complete all DSMC testing will be placed on a certified register ranked by their respective test scores. Test scores will be based on 100 points weighted as follows:

Deputy Sheriff

TEST COMPONENT	WEIGHT
Written Test	20
B-PAD Video Simulation	40
Oral Interview	40
TOTAL	100
Preference Points	2.5, 5, or 10 points added to test scores

Correctional Officer and Protective Services Officer

TEST COMPONENT	WEIGHT
Written Test	20
Oral Interview: • Behavioral Questions • Situational Questions	80
TOTAL	100

ORAL INTERVIEW

BEHAVIORAL AND SITUATIONAL QUESTIONS

In this interview, applicants will be asked about their past accomplishments and achievements.

Applicants will be required to respond to several “behavioral incident” questions. A behavioral incident refers to an actual incident in the past that illustrates the applicant’s behavior. These questions are designed to assess the applicant’s problem –solving and interpersonal skills.

For the Correctional and Protective Services Officer categories, applicants will also be required to respond to several hypothetical scenarios. These questions are designed to assess the applicant’s communication, problem-solving, and interpersonal skills.

B-PAD

VIDEO SIMULATION EXERCISE (B-PAD) – DEPUTY SHERIFF APPLICANTS ONLY

This test requires the applicant to view and respond to a series of law enforcement-related scenarios on a video screen. Each scenario contains a problem such as a hostile or emotionally distraught person. The applicant’s responses will be videotaped. That tape will then be reviewed and scored by a panel of raters.

HIRING PROCESS

Background Investigation

When the Law Enforcement Agency has or anticipates job openings, they will issue a conditional offer of hire to the top ranking persons on the merit register. After a conditional hire offer is made, the Law Enforcement Office conducts a comprehensive background investigation. The investigation includes, but is not limited to, past work history, a criminal history check, a credit history check, and a polygraph examination. As openings become available, applicants will be invited to a Law Enforcement Office background interview. If there are any problems of concern relative to the background investigation, these matter will be discussed with the applicant during the meeting with the Background Board. The Law Enforcement Office may request the removal of a candidate's name from the register if they do not meet qualifying standards or otherwise fail a background investigation.

Medical Evaluation

Applicants who are being considered for hire will be required to successfully complete a medical examination performed by a County designated or contracted physician. The Law Enforcement Office may request that a candidate's name be removed from the merit register if they fail the medical exam. A qualified candidate with a disability, as applicable under the Americans with Disabilities Act, may request reasonable accommodation that would allow them to perform the essential duties of the job. The Law Enforcement Office will consider requests for reasonable accommodations.

Hiring procedures

When vacancies become available, the Law Enforcement Office submits a request for a list of candidates from which they may select. The Law Enforcement Office will certify the number of candidates the Law Enforcement Office is entitled to, pursuant to state statute and Law Enforcement policies. Current policy allow certification of three candidates for each opening available. The Law Enforcement Office may select any candidate from those certified for the vacancy.

NOTE: No candidate is guaranteed employment. Selections are subject to the discretion of the Law Enforcement Office. Candidates not selected will remain on the register for future consideration unless the Law Enforcement Office requests a candidate's name be removed for good cause or until a new merit register is established.

Probation

Each newly hired sworn office will serve a twelve-month probationary period, which may be extended for time spent in the Utah Peace Officers Standards and Training (POST) Academy. All Probationary employees must successfully complete all POST requirements as condition of continued employment. Following the successful completion of the probationary period, the employee is accorded all status and rights of a sworn office covered by the Deputy Sheriffs- Merit System.

PROBATION INFORMATION

P.O.S.T. PHYSICAL ASSESSMENT QUALIFICATIONS

During the probationary period each candidate, who is not Utah State peace officer certified or certifiable, will be required to pass the physical assessment test as follows:

- During the first week of employment at or above the 40th percentile as a part of the pre-testing.
- During the Academy mid-term test at the 50th percentile or levels that show some improvement.
- During the Academy final test at or above the 50th percentile.

P.O.S.T. PHYSICAL ASSESSMENT QUALIFICATIONS

40TH PERCENTILE REQUIREMENTS

MALES

AGE	SIT & REACH (inches)	MINUTE PUSH-UP	ONE MINUTE SIT-UP ONE	1.5 MILE RUN (time)
20-29	16.5	20	38	12:51
30-39	15.5	18	35	13:36
40-49	14.5	13	29	14:29
50-59	13.5	12	24	15:26
60+	12.5	12	19	16:43

FEMALES

AGE	SIT & REACH (inches)	MINUTE PUSH-UP	ONE MINUTE SIT-UP ONE	1.5 MILE RUN (time)
20-29	19.5	9	32	15:26
30-39	18.5	7	25	15:57
40-49	17.5	6	20	16:58
50-59	17.0	6	14	17:54
60+	15.5	6	6	18:44

50th PERCENTILE REQUIREMENTS

MALES

AGE	SIT & REACH (inches)	SIT-UPS (one minute)	1.5 MILE RUN (time)	AGE	PUSH-UPS (one minute)
20-29	17.5	40	12:12	17-21	32
30-39	16.5	36	12:51	22-26	30
40-49	15.5	31	13:53	27-31	28
50-59	14.5	26	14:55	32-36	23
60+	13.5	20	16:07	37-41	22
				42-46	18
				47+	17

FEMALES

AGE	SIT & REACH (inches)	SIT-UPS (one minute)	1.5 MILE RUN (time)	AGE	PUSH-UPS (one minute)
20-29	20.0	34	14:55	17-21	13
30-39	19.0	27	15:26	22-26	11
40-49	18.0	22	16:27	27-31	10
50-59	18.0	17	17:24	32-36	10
60+	16.5	8	18:16	37-41	8
				42-46	7
				47+	7

DUTIES OF NEWLY HIRED SWORN MEMBERS

DEPUTY SHERIFF

1. Conduct street patrol.
2. Conduct investigations into possible law violations – make arrests.
3. Conduct searches of individuals, vehicles, and buildings.
4. Act as a public relations representative for the Office.
5. Testify in court.
6. Control and direct traffic, issue citations.
7. Interview suspects, witnesses, and victims.
8. Physically protect himself/herself and others from harm.
9. Provide information and assistance to the public.
10. Write reports.
11. Operate various equipment, devices, and apparatus.

CORRECTIONAL OFFICER

1. Ensure prisoner information is correct, such as name, age, place of birth, physical description, scars, marks, tattoos, etc. Notify appropriate personnel when inaccuracies are discovered.
2. Detain persons enumerated in the State Laws.
3. Fingerprint and photograph prisoners according to laws and procedures.
4. Deliver judicial papers directed to a prisoner.
5. Segregate prisoners in accordance with established classification and administrative procedure.
6. Supervise daily activities of prisoner population in housing units, keeping them safe and secure in accordance with policies, procedures, and post orders.
7. Record any occurrences in jail and/or unit during tour of duty, using computer programs and forms provided.
8. Complete formal computer reports of any incidents when directed, and in accordance with policies, procedures, and post orders.
9. Fulfill all orders and commands from supervisory personnel.
10. Learn and follow the policies and procedures of the Salt Lake County Metro Jail.

PROTECTIVE SERVICE OFFICER

1. Patrol County facilities and work areas.
2. Respond to emergencies, calls for assistance, and alarms.
3. Investigate reports of criminal activity – make arrests.
4. Provide information and assistance to the public.
5. Conduct surveillance.
6. Enforce parking laws.
7. Protect participants at public meetings and provide crowd control at large events.
8. Provide escort and transportation of County funds.
9. Take custody of court defendants while waiting for transportation to the jail.
10. Testify in court.
11. Take custody of lost or unsecured property.
12. Check County facilities for safety violations and pedestrian hazards.
13. Write reports.

For further details, check with your local law enforcement agency.

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APPENDICES

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

APPENDIX A: GLOSSARY

ACCESSORY: A person who assists in the commission of a crime, either before or after the fact.

ACQUIT: To find not guilty.

ACTION / CASE / SUIT / LAWSUIT: A legal dispute brought into court for trial.

ACTUS REUS: An act in violation of the law; a guilty act.

ADJUDICATION: Giving or pronouncing a judgment or decree; rendering a decision on a matter before the court.

ADMISSIBLE EVIDENCE: Evidence that can legally and properly be used in court.

ADVERSARY SYSTEM: The system of trial practiced in the United States, in which each of the opposing parties has full opportunity to present and establish his/her opposing contentions before the court.

AFFIDAVIT: A written and sworn statement witnessed by a notary public or another official possessing the authority to administer oaths.

ALIBI: An excuse or plea that a person was somewhere else at the time a crime was committed.

ALLEGATION: An assertion or statement of a party to an action explaining what the party expects to prove.

APPEAL: The bringing of a case to a higher court for review.

APPELLATE COURT: A court which hears appeals from a lower court.

ARRAIGNMENT: The initial appearance before a judge at which the defendant is told his rights and given a lawyer if needed, and enters his plea.

ARREST: To be taken into custody by a legal authority.

ATTORNEY / LAWYER: A person who has been trained and licensed to represent others in legal matters.

BAIL: A sum of money posted by a defendant to guarantee his appearance in court prior to being released from jail.

BAIL BONDSMAN: A person who will post bail to obtain the release of a defendant from jail in exchange for a fee, usually 10% of the total bail.

BAILIFF: A court official whose duties are to keep order in the courtroom and assist the jury.

BENCH TRIAL: Trial without a jury in which the judge decides the case.

BEYOND A REASONABLE DOUBT: The judge or jury is entirely convinced, with no rational doubt as to the defendant's guilt.

BIND OVER: A judge's decision to hold a criminal defendant for trial.

BOOKING: Being processed into jail.

BRIEF: An attorney's written statement of a client's case filed in court; a summary of the facts in the case, pertinent case law, and an argument of how the law applies to the facts supporting the client's position.

BURDEN OF PROOF: The principle that, in a criminal case, the prosecution must prove its case beyond a reasonable doubt.

CALENDAR: A court's list of cases to be heard by a particular judge.

CASE LAW: The law made by courts by interpreting cases and law rather than codified laws.

CERTIFICATION: The process of transferring a juvenile's case from the Juvenile Court to an adult court for trial.

CHANGE OF VENUE: The removal of a trial begun in one jurisdiction to another jurisdiction.

CHARGE: An accusation by the state against an individual.

CIRCUMSTANTIAL EVIDENCE: Evidence of an indirect nature; testimony not based on actual knowledge or observation.

CITATION: An official notice to appear in court and answer to charge(s).

CIVIL CASE: A lawsuit brought by one citizen against another.

COMMON LAW: A body of unwritten judicial opinion based upon custom, tradition, and precedent.

CONCURRENT JURISDICTION: Two or more courts who share jurisdiction, each authorized to hear the case.

CONCURRENT SENTENCE: Sentence under which two or more prison or jail sentences are served at the same time.

CONDITIONAL RELEASE: A non-security release from custody which imposed regulations on the activities and associations of the defendant.

CONSECUTIVE SENTENCE: When two or more prison or jail sentences are served back to back.

CONTEMPT OF COURT: Any act involving disrespect to the court or failure to obey its rules or orders.

CONTINUANCE: An order of the court postponing the court's proceedings.

CONTRACT: A legally enforceable agreement between two parties, each of whom promises to do certain things.

CONVICTION: In a criminal case, a finding that the defendant is guilty.

CORROBORATING EVIDENCE: Confirmation or support of the story of a witness or victim.

COUNTY/DISTRICT ATTORNEY: A lawyer employed by the government to prosecute criminal cases; also referred to as the prosecutor.

COURT: A place where legal proceedings occur.

COURT OF RECORD: A court whose proceedings are permanently recorded.

CRIMINAL CASE: A case brought by the government against a person accused of committing a crime.

CROSS EXAMINATION: The questioning of a witness by the lawyer for the opposing side.

CULPABILITY: The act, conduct, or negligence of a person.

DEFENDANT: The accused in a criminal case; the person from whom money or other recovery is sought in a civil case.

DEFENSE ATTORNEY: The lawyer who represents the accused person.

DELIBERATION: The jury's decision-making process after hearing the evidence, closing arguments, and instructions to the jury.

DELINQUENCY: The commission of an illegal act by a juvenile.

DEPOSITION: The testimony of a witness taken under oath outside of court.

DETAIN: Stopping a person briefly to inquire, question, or conduct a reasonable investigation.

DIRECT EXAMINATION: The questioning of a witness by the attorney for the party on whose behalf the witness is called.

DISCOVERY: The process by which parties to an action are allowed to gain relevant information known to the other party prior to trial.

DIVERSION: Process for handling a relatively insignificant juvenile violation informally. In criminal cases, continuance of a case for a specific period of time with the goal of dismissal if all conditions are met.

DUE PROCESS: The method for determining whether a person is guilty, incorporating rules which protect an individual's rights.

EN BANC: A full court. Many appellate courts sit in part or as a committee rather than using the full contingent of judges that are on the court.

EVIDENCE: That which is presented in court to prove or disprove an allegation.

EXCLUSIONARY RULE: Evidence which was obtained illegally and cannot be used in a criminal trial against a defendant.

EXCLUSIVE JURISDICTION: The matter can only be filed in one court.

EXHIBIT: Objects presented in court to prove the facts of a case.

EXTRADITION: The surrender of an accused or fugitive from one jurisdiction to another.

FINE: A sum of money paid as part of a penalty or conviction for a particular offense.

GRAND JURY: 12 to 23 citizens who hear evidence to decide whether a defendant should be held for a felony trial.

GUILTY: Adjudged or convicted of an offense; culpable.

HABEAS CORPUS: A Latin phrase meaning "you have the body." In criminal cases, it refers to a court order to have a prisoner released if he is being held illegally.

HEARSAY: Secondhand evidence.

HUNG JURY: A jury unable to reach a verdict as required by law.

INCARCERATION: Confinement in a jail or prison.

INCRIMINATE: To imply the guilt of an individual.

INDICTMENT: An accusation made by a grand jury that the accused has violated a law.

INFORMATION (COMPLAINT): A formal document charging an individual with the commission of a crime.

IRRELEVANT: Evidence not sufficiently related to the matter at issue.

JUDGE: A person appointed to hear and decide questions of law in court cases and to make certain that fair procedures are used.

JUDGMENT: The official decision of a court.

JURISDICTION: The legal authority of a court to hear a case or conduct other proceedings.

JURY: A group of qualified people empaneled to hear the evidence in a trial and give a verdict.

JURY TRIAL: A trial in which a group of citizens listens to the evidence presented in court and then gives its verdict.

LIABILITY: A legal responsibility, obligation, or debt.

MENS REA: A guilty mind; the intent required to commit the crime.

MISTRIAL: A trial which is void due to an error.

MOTION: A request presented to the court in legal form.

NEGLIGENCE: Failure to exercise the care that an ordinarily prudent person would exercise in the same situation.

NOLO CONTENDERE: A Latin phrase meaning “I will not contest it”; a plea in a criminal case which is similar to a guilty plea, except that the defendant does not actually admit having committed the crime.

OATH: The swearing before the court that you will tell the truth or decide the case fairly.

OBJECTION: A party asserts that a particular witness, line of questioning, evidence, or other matter is improper and should not be allowed.

ORIGINAL JURISDICTION: The court in which a matter must first be filed.

PEREMPTORY CHALLENGE: The right of a party to a trial to reject a certain number of prospective jurors without giving a reason.

PERJURY: Lying while under oath.

PLAINTIFF: The person or party who files a complaint and brings legal action against another person or party.

PLEA: The defendant’s response to a criminal charge (guilty, not guilty, or no contest).

PLEA IN ABEYANCE: A plea held in suspension. Upon completion of requirements, a guilty finding is set aside.

PLEA BARGAIN: Negotiations between a defense attorney and a prosecutor in which a guilty plea is exchanged either for a lesser charge or for fewer charges.

POSSE COMITATUS: A body of men that a law enforcement officer can call upon to assist him in time of emergency or need.

PRECEDENT: A rule of law established by an appellate court for a particular type of case.

PREMEDITATION: When a crime was thought about beforehand.

PREPONDERANCE OF THE EVIDENCE: Evidence which is minimally of greater weight or more convincing than the evidence which is offered by the opposition.

PROSECUTOR: The individual who conducts criminal prosecutions on behalf of the state or people.

PRO TEMPORE: For the time being; temporary.

PUBLIC DEFENDER: A lawyer regularly employed by the government to represent people accused of crimes and who cannot afford to hire their own attorney.

RELEVANT: Evidence which helps to prove a point or issue in a case.

REMAND: To send a case back to a lower court after an appeal has been heard and decided in the appellant's favor.

RESTITUTION: Court ordered payment by the offender to the victim of a crime to restore goods or money.

SENTENCE: The judgment pronounced by the court upon the defendant after conviction, imposing the punishment.

SEQUESTER: To separate from or hold aside.

STATUTE LAW: Law passed by a law-making body such as the State Legislature.

STANDING: The legal right of a person or group to challenge a ruling or the conduct of another.

STAY: The temporary suspension of proceedings in a case, by order of the court.

SUMMONS / SUBPOENA: An official order of the court to appear at a specific time.

TESTIMONY: Information or evidence given by a witness under oath.

TRIAL DE NOVO: A new trial or retrial held in an appellate court in which the whole case is heard as if the trial had not been heard previously in a lower court.

VENUE: The particular geographic area in which a court with jurisdiction may hear and determine a case.

VERDICT: A formal decision or finding made by the jury.

VOIR DIRE: The questioning of possible jurors by the judge and the lawyers to decide whether they are acceptable to decide the case.

WAIVE: To give up a right or a claim voluntarily.

WARRANT: A writ or order authorizing arrest, search and seizure, or other act, in the interest of justice.

WRIT: An order issued by a court or judge, in the name of the state, for the purpose of compelling the defendant to do something mentioned in the order.

WRIT OF CERTIORARI: A writ from a superior court to an inferior court directing that a record of its proceedings in a specific case be sent up for review.

APPENDIX B: SUPREME COURT CASES

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CARROLL v. UNITED STATES, 267 U.S. 132 (1925)

George and John Carroll, and several others, were convicted of transporting alcohol for sale in violation of the federal prohibition law and the 17th Amendment. The contraband liquor had been taken from his vehicle by federal agents acting without a search warrant. Carroll's case was heard before the Supreme Court and his conviction was upheld.

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

...On reason and authority the true rule is that if the search and seizure without a warrant are made upon probable cause, that is, upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains that which by law is subject to seizure and destruction, the search and seizure are valid. The Fourth Amendment is to be construed in the light of what was deemed an unreasonable search and seizure when it was adopted, and in a manner which will conserve public interests as well as the interests and rights of individual citizens.

...We have made a somewhat extended reference to these statutes to show that the guaranty of freedom from unreasonable searches and seizures by the Fourth Amendment has been construed, practically since the beginning of the government, as recognizing a necessary difference between a search of a store, dwelling house, or other structure in respect of which a proper official warrant readily may be obtained and a search of a ship, motor boat, wagon, or automobile for contraband goods, where it is not practicable to secure a warrant, because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought.

Having thus established that contraband goods concealed and illegally transported in an automobile or other vehicle may be searched for without a warrant, we come now to consider under what circumstances such search may be made. It would be intolerable and unreasonable if a prohibition agent were authorized to stop every automobile on the chance of finding liquor, and thus subject all persons lawfully using the highways to the inconvenience and indignity of such a search. ...But those lawfully within the country, entitled to use the public highways, have a right to free passage without interruption or search unless there is known to a competent official, authorized to search, probable cause for believing that their vehicles are carrying contraband.

...In a case showing probable cause, the government and its officials are given the opportunity which they should have, to make the investigation necessary to trace reasonably suspected goods and to seize them.

Such a rule fulfills the guaranty of the Fourth Amendment. In cases where the securing of a warrant is reasonably practicable, it must be used and when properly supported by affidavit and issued after judicial approval protects the seizing officer ... In cases where seizure is impossible except without warrant, the seizing officer acts unlawfully and at his peril unless he can show the court probable cause.

...The right to search and the validity of the seizure are not dependent on the right to arrest. They are dependent on the reasonable cause the seizing officer has for belief that the contents of the automobile offend against the law.

ESCOBEDO v. ILLINOIS, 378 U.S. 478 (1964)

Danny Escobedo, a 22-year-old of Mexican extraction, was arrested in connection with the fatal shooting of his sister's husband. He had been arrested shortly after the shooting but had made no statement and was released after his attorney had obtained a writ of habeas corpus. On the second occasion of his arrest, he had made several requests to see his attorney, who was in the building. He was not advised of his right to remain silent and, after persistent questioning, made a damaging statement which was admitted at his trial. He was convicted and appealed to the state Supreme Court, which affirmed the conviction. He then petitioned the U.S. Supreme Court, which heard the case, reversed the lower court decision, and remanded the case back to the lower court.

Mr. Justice Goldberg delivered the opinion of the Court.

The critical question in this case is whether, under the circumstances, the refusal by the police to honor petitioner's request to consult with his lawyer during the course of an interrogation constitutes a denial of "the Assistance of Counsel" in violation of the Sixth Amendment to the Constitution as "made obligatory upon the States by the Fourteenth Amendment."

...Petitioner testified that, during the course of the interrogation, he repeatedly asked to speak to his lawyer, and that the police said that his lawyer "didn't want to see" him. The testimony of the police officers confirmed these accounts in substantial detail.

Notwithstanding repeated requests by each, petitioner and his retained lawyer were afforded no opportunity to consult during the course of the entire interrogation. At one point, as previously noted, petitioner and his attorney came into each other's view for a few moments, but the attorney was quickly ushered away. Petitioner testified "that he heard a detective telling his attorney the latter would not be allowed to talk to [him] until they were done," and that he heard the attorney being refused permission to remain in the adjoining room. A police officer testified that he had told the lawyer that he could not see petitioner until "we were through interrogating" him.

...The interrogation here was conducted before petitioner was formally indicted. But in the context of this case, that fact should make no difference. When petitioner requested, and was denied, an opportunity to consult with his lawyer, the investigation had ceased to be a general investigation of "an unsolved crime." Petitioner had become the accused, and the purpose of the interrogation was to "get him" to confess his guilt despite his constitutional right not to do so.

...We hold, therefore, that where, as here, the investigation is no longer a general inquiry into an unsolved crime, but has begun to focus on a particular suspect, the suspect has been taken into police custody, the police carry out a process of interrogation that lends itself to eliciting incriminating statements, the suspect has requested and been denied an opportunity to consult with his lawyer, and the police have not effectively warned him of his absolute constitutional right to remain silent, the accused has been denied "the Assistance of Counsel" in violation of the Sixth Amendment to the Constitution, and that no statement elicited by the police during the interrogation may be used against him in a criminal trial.

FURMAN v. GEORGIA, 408 U.S. 238 (1972)

Three petitioners who had received the death penalty, one of them for murder, and two for rape, petitioned the U.S. Supreme Court on a Writ of Certiorari. Petitioner in No. 69-5003 was convicted of murder in Georgia, Petitioner in No. 69-5030 was convicted of rape in Georgia, and Petitioner No. 69-5031 was convicted of rape in Texas. In each, the determination of whether the penalty should be death or a lighter punishment was left by the State to the discretion of the judge or of the jury. In each of the three cases, the trial was to a jury. All three received the death penalty from their respective juries. The U.S. Supreme Court was asked to answer the question whether the imposition and execution of the death penalty constitutes “cruel and unusual punishment” within the meaning of the Eighth Amendment as applied to the States by the Fourteenth. The Supreme Court, voting 5-4, vacated each judgment.

Mr. Justice Douglas, Mr. Justice Brennan, Mr. Justice Stewart, Mr. Justice White, and Mr. Justice Marshall filed separate opinions in support of the judgments. The Chief Justice, Mr. Justice Blackmun, Mr. Justice Powell, and Mr. Justice Rehnquist have filed separate dissenting opinions (Per Curiam Opinion).

The Court holds that the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. The judgment in each case is therefore reversed insofar as it leaves undisturbed the death penalty imposed, and the cases are remanded for further proceedings.

...Congressman Bingham, in proposing the Fourteenth Amendment, maintained that “the privileges or immunities of citizens of the United States,” as protected by the Fourteenth Amendment, included protection against “cruel and unusual punishments.”

[Many] instances of State injustice and oppression have already occurred in the State legislation of this Union, of flagrant violations of the guaranteed privileges of citizens of the United States, for which the national Government furnished and could furnish by law no remedy whatever. Contrary to the express letter of your Constitution, “cruel and unusual punishments” have been inflicted under State laws within this Union upon citizens not only for crimes committed, but for sacred duty done, for which and against which the Government of the United States had provided no remedy, and could provide none.

...It would seem to be incontestable that the death penalty inflicted on one defendant is “unusual” if it discriminates against him by reason of his race, religion, wealth, social position, or class, or if it is imposed under a procedure that gives room for the play of such prejudices.

There is evidence that the provision of the English Bill of Rights of 1689, from which the language of the Eighth Amendment was taken, was concerned primarily with selective or irregular application of harsh penalties, and that its aim was to forbid arbitrary and discriminatory penalties of a severe nature.

Finally, there is evidence that the imposition of the death sentence and the exercise of dispensing power by the courts and the executive follow discriminatory patterns. The death sentence is disproportionately imposed, and carried out on the poor, the Negro, and the members of unpopular groups.

In re GAULT, 387 U.S. 1 (1967)

On Monday, June 8, 1964, Gerald Gault, a 15-year-old, and his friend, Ronald Lewis, were taken into custody by the Sheriff of Gila County. The arrest was the result of a complaint that he had made a lewd telephone call to a female neighbor and she had recognized his voice. Gault was on probation at the time of the arrest, having been in the company of another boy who had stolen a wallet from a lady's purse. At the time he was picked up, his parents were both at work. No notice was left at the home, nor were any other steps taken to notify them of the situation. They were able to locate him later that evening, Gerald having been placed in a Detention Home.

A hearing was held on June 9 before Judge McGhee, attended by Gerald, his mother, and two Probation Officers. No transcript or recording was made, no memorandum was prepared. The judge interviewed Gerald and a delinquency hearing was set for June 15. At the conclusion of the hearing, the judge committed Gerald to the State Industrial School "for the period of his minority [that is, until 21], unless sooner discharged by due process of the law." The Gault family appealed the case to the Arizona Supreme Court, which upheld the lower court ruling, but with reservations. The U.S. Supreme Court heard the case, reversed the ruling, and remanded the case back to the Arizona court.

Mr. Justice Fortas delivered the opinion of the Court.

Kent v. United States, 383 U.S. 541 (1966), held "that the [waiver] hearing must measure up to the essentials of due process and fair treatment." This view is reiterated, here in connection with a juvenile court adjudication of "delinquency," as a requirement which is part of the Due Process Clause of the Fourteenth Amendment of our Constitution. The holding in this case relates only to the adjudicatory stage of the juvenile process, where commitment to a state institution may follow. When proceedings may result in incarceration in an institution of confinement, "it would be extraordinary if our Constitution did not require the procedural regularity and exercise of care implied in the phrase 'due process.'"

Due process requires, in such proceedings, that adequate written notice be afforded the child and his parents or guardian. Such notice must inform them "of the specific issues that they must meet," and must be given "at the earliest practicable time, and in any event, sufficiently in advance of the hearing to permit preparation." Notice here was neither timely nor adequately specific, nor was there waiver of the right to constitutionally adequate notice.

In such proceedings, the child and his parents must be advised of their right to be represented by counsel and, if they are unable to afford counsel, that counsel will be appointed to represent the child. Mrs. Gault's statement at the habeas corpus hearing that she had known she could employ counsel, is "not 'an intentional relinquishment or abandonment' of a fully known right."

The constitutional privilege against self-incrimination is applicable in such proceedings: an admission by the juvenile may [not] be used against him in the absence of clear and

unequivocal evidence that the admission was made with knowledge that he was not obliged to speak, and would not be penalized for remaining silent.

Furthermore, experience has shown that “admissions and confessions by juveniles require special caution” as to their reliability and voluntariness....

GIDEON v. WAINWRIGHT, 372 U.S. 335 (1963)

Clarence Earl Gideon was charged in a Florida state court with having broken and entered a poolroom with intent to commit a misdemeanor, which is a felony. Gideon requested that the court appoint an attorney to represent him and the court refused, per Florida law. Gideon defended himself in court, was convicted, and was sent to prison for five years. He petitioned the U.S. Supreme Court, who heard the case and reversed the decision of the Florida State Supreme Court, remanding the case back to the lower court. This decision overruled a previous Supreme Court case, *Betts v. Brady*, in which the Court had stated that the States must decide who would receive appointed counsel.

Mr. Justice Black delivered the opinion of the Court.

...Since 1942, when *Betts v. Brady*, 316 U.S. 455, was decided by a divided Court, the problem of a defendant's federal constitutional right to counsel in a state court has been a continuing source of controversy and litigation in both state and federal courts.

...The Sixth Amendment provides, "In all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for his defense." We have construed this to mean that, in federal courts, counsel must be provided for defendants unable to employ counsel unless the right is competently and intelligently waived. *Betts* argued that this right is extended to indigent defendants in state courts by the Fourteenth Amendment. In response, the Court stated that, while the Sixth Amendment laid down no rule for the conduct of the States, the question recurs whether the constraint laid by the Amendment upon the national courts expresses a rule so fundamental and essential to a fair trial and so, to due process of law, that it is made obligatory upon the States by the Fourteenth Amendment.

...While the Court, at the close of its Powell opinion, did, by its language, as this Court frequently does, limit its holding to the particular facts and circumstances of that case, its conclusions about the fundamental nature of the right to counsel are unmistakable. Several years later, in 1936, the Court reemphasized what it had said about the fundamental nature of the right to counsel in this language:

"We concluded that certain fundamental rights, safeguarded by the first eight amendments against federal action, were also safeguarded against state action by the due process of law clause of the Fourteenth Amendment, and among them the fundamental right of the accused to the aid of counsel in a criminal prosecution."

[The assistance of counsel] is one of the safeguards of the Sixth Amendment deemed necessary to insure human rights of life and liberty... The Sixth Amendment stands as a constant admonition that, if the constitutional safeguards it provides be lost, justice will not "still be done."

The right of an indigent defendant in a criminal trial to have the assistance of counsel is a fundamental right essential to a fair trial, and petitioner's trial and conviction without the assistance of counsel violated the Fourteenth Amendment.

JENCKS v. UNITED STATES, 353 U.S. 657 (1957)

On April 28, 1950, Jencks, the President of Amalgamated Bayard District Union, Local 890, International Union of Mine, Mill & Smelter Workers filed an Affidavit with the National Labor Relations Board falsely stating that he was not a member of the Communist Party. Testimony against him was given by two individuals working as undercover agents for the F.B.I. Jencks' attorney requested production of the reports and any other documents relating to the statements of the agents. His motions were denied. The case was filed with the U.S. Supreme Court and the Court heard the case. The Supreme Court held that denial of the motions was erroneous and the conviction was reversed.

Mr. Justice Brennan delivered the opinion of the Court.

The evidence relied upon by the Government was entirely circumstantial. It consisted of testimony of conduct of the petitioner from early 1946 through October 15, 1949, and of Matusow's testimony concerning alleged conversations between him and the petitioner... Both the trial court and the Court of Appeals erred. We hold that the petitioner was not required to lay a preliminary foundation of inconsistency, because a sufficient foundation was established by the testimony of Matusow and Ford that their reports were of the events and activities related in their testimony.

...The crucial nature of the testimony of Ford and Matusow to the Government's case is conspicuously apparent. The impeachment of that testimony was singularly important to the petitioner. The value of the reports for impeachment purposes was highlighted by the admissions of both witnesses that they could not remember what reports were oral and what written, and by Matusow's admission, "I don't recall what I put in my reports two or three years ago, written or oral, I don't know what they were."

It is unquestionably true that the protection of vital national interests may militate against public disclosure of documents in the Government's possession. ...But this Court has noticed ...that, in criminal causes "...the Government can invoke its evidentiary privileges only at the price of letting the defendant go free. The rationale of the criminal cases is that, since the Government which prosecutes an accused also has the duty to see that justice is done, it is unconscionable to allow it to undertake prosecution and then invoke its governmental privileges to deprive the accused of anything which might be material to his defense..."

We hold that the criminal action must be dismissed when the Government, on the ground of privilege, elects not to comply with an order to produce, for the accused's inspection and for admission in evidence, relevant statements or reports in its possession of government witnesses touching the subject matter of their testimony at the trial. The burden is the Government's not to be shifted to the trial judge, to decide whether the public prejudice of allowing the crime to go unpunished is greater than that attendant upon the possible disclosure of state secrets and other confidential information in the Government's possession.

KENT v. UNITED STATES, 383 U.S. 541 (1966)

Morris A. Kent, Jr. was first arrested in 1959 when, at the age of 14, he was apprehended as a result of several housebreakings and an attempted purse snatching. On September 2, 1961, an intruder entered the apartment of a woman, stole her wallet, and raped her. Latent prints found at the scene matched the fingerprints of Morris Kent. At about 3:00 p.m. on September 5, Kent was taken into custody. He was taken to the police station and interrogated, at which time he apparently admitted his involvement. Kent's mother hired an attorney, who petitioned the court for several motions. The judge did not rule on the motions, did not hold a hearing, nor did he confer with the parents. The judge entered an order reciting that after "full investigation, I do hereby waive" jurisdiction and transferred the case to the adult courts. Kent was tried in an adult court and convicted on six of eight counts. He was sentenced to serve five to fifteen years on each count. The parents appealed the case and the Supreme Court heard the case. The Supreme Court held that the Juvenile Court order waiving jurisdiction and remitting petitioner for trial in the District Court was invalid.

Mr. Justice Fortas delivered the opinion of the Court.

Because the State is supposed to proceed in respect of the child as *parens patriae*, and not as adversary, courts have relied on the premise that the proceedings are "civil" in nature, and not criminal, and have asserted that the child cannot complain of the deprivation of important rights available in criminal cases. It has been asserted that he can claim only the fundamental due process right to fair treatment.

...While there can be no doubt of the original laudable purpose of juvenile courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purpose to make tolerable the immunity of the process from the reach of constitutional guaranties applicable to adults. There is much evidence that some juvenile courts, including that of the District of Columbia, lack the personnel, facilities and techniques to perform adequately as representatives of the State in a *parens patriae* capacity, at least with respect to children charged with law violation. There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.

This concern, however, does not induce us in this case to accept the invitation to rule that constitutional guaranties which would be applicable to adults charged with the serious offenses for which Kent was tried must be applied in juvenile court proceedings concerned with allegations of law violation. The Juvenile Court Act and the decisions of the United States Court of Appeals for the District of Columbia Circuit provide an adequate basis for decision of this case, and we go no further.

MAPP v. OHIO, 367 U.S. 643 (1961)

On May 23, 1957, three Cleveland police officers arrived at the home of Dollree Mapp looking for a person who was wanted for questioning and was allegedly hiding at her house. Miss Mapp lived on the top floor of a two-family dwelling. The officers demanded entry into the home but, after consulting with her attorney by telephone, she refused to allow them in. Three hours later, more officers arrived and forced entry was made. Miss Mapp demanded to see a search warrant and a paper was shown to her, but she was not allowed to read it. After a commotion, she was arrested and handcuffed. Her portion of the house was searched and then officers moved to the basement and searched. Obscene materials were located in a trunk in the basement and she was charged. At the trial, no search warrant was produced. The prosecution argued that even if the search were made without authority, it was not prevented from using the seized evidence at trial. Mapp was convicted and appealed the case. The Ohio Supreme Court found that her conviction was valid even though the search of the residence was unlawful. The U.S. Supreme Court heard the case and held that all evidence obtained by searches and seizures in violation of the Federal Constitution is inadmissible in a criminal trial in a state court.

Mr. Justice Clark delivered the opinion of the Court.

...In the year 1914, in the *Weeks* case, this Court “for the first time” held that, “in a federal prosecution, the Fourth Amendment barred the use of evidence secured through an illegal search and seizure.” This Court has ever since required of federal law officers a strict adherence to that command which this Court has held to be a clear, specific, and constitutionally required—even if judicially implied—deterrent safeguard without insistence upon which the Fourth Amendment would have been reduced to “a form of words.”

If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment declaring his right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land.

We have no hesitation in saying that, were a State affirmatively to sanction such police incursion into privacy, it would run counter to the guaranty of the Fourteenth Amendment.

Moreover, our holding that the exclusionary rule is an essential part of both the Fourth and Fourteenth Amendments is not only the logical dictate of prior cases, but it ales very good sense. There is no war between the Constitution and common sense. Presently, a federal prosecutor may make no use of evidence illegally seized, but a State’s attorney across the street may, although he supposedly is operating under the enforceable prohibitions of the same Amendment. Thus the State, by admitting evidence unlawfully seized, serves to encourage disobedience to the Federal Constitution which it is bound to uphold.

MIRANDA v. ARIZONA, 384 U.S. 436 (1966)

On March 13, 1963, Ernesto Miranda was arrested at his home and taken in custody to a Phoenix police station. He was identified by a complaining witness and then taken to an interrogation room, where he was questioned by two officers. The officers admitted in court that they did not advise Miranda that he had the right to an attorney. Two hours later, the officers had a written confession signed by Miranda. Miranda was tried and convicted of rape and kidnaping. The case was then appealed to the Arizona Supreme Court, which upheld the conviction. The U.S. Supreme Court agreed to hear the case and overturned the lower court ruling.

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

...We deal with the admissibility of statements obtained from an individual who is subjected to custodial police interrogation and the necessity for procedures which assure that the individual is accorded his privilege under the Fifth Amendment to the Constitution not to be compelled to incriminate himself.

We dealt with certain phases of this problem recently in *Escobedo v. Illinois*. This case has been the subject of judicial interpretation and spirited legal debate since it was decided two years ago. Both state and federal courts, in assessing its implications, have arrived at varying conclusions. A wealth of scholarly material has been written tracing its ramifications and underpinnings.

We start here, as we did in *Escobedo*, with the premise that our holding is not an innovation in our jurisprudence, but is an application of principles long recognized in other settings. We have undertaken a thorough reexamination of the *Escobedo* decision and the principles it announced, and we reaffirm it.

...Our holding will be spelled out with some specificity in the pages which follow, but, briefly stated, it is this: the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned.

POWELL v. ALABAMA, 287 U.S. 45 (1932)

On March 25, 1931, the defendants, together with a number of other African-Americans, were upon a freight train on its way through Alabama. On the same train were seven white boys and the two white girls. A fight took place between the African-Americans and the white boys in the course of which the white boys, with the exception of one, were thrown off the train. A message was sent ahead, reporting the fight and asking that every African-American be gotten off the train. The participants in the fight, and the two girls, were in an open gondola car. Upon arrival at the next stop, the two girls reported that they had been assaulted by the defendants. The defendants were arrested, charged, and convicted in short order. The defendants appealed to the U.S. Supreme Court and the convictions were reversed.

Mr. Justice Sutherland delivered the opinion of the Court.

In this court, the judgments are assailed upon the grounds that the defendants, and each of them, were denied due process of law and the equal protection of the laws in contravention of the Fourteenth Amendment, specifically as follows: (1) they were not given a fair, impartial and deliberate trial; (2) they were denied the right of counsel, with the accustomed incidents of consultation and opportunity of preparation for trial, and (3) they were tried before juries from which qualified members of their own race were systematically excluded.

...It is hardly necessary to say that, the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his choice. Not only was that not done here, but such designation of counsel as was attempted was either so indefinite or so close upon the trial as to amount to a denial of effective and substantial aid in that regard.

The right of the accused, at least in a capital case, to have the aid of counsel for his defense, which includes the right to have sufficient time to advise with counsel and to prepare a defense, is one of the fundamental rights guaranteed by the due process clause of the Fourteenth Amendment.

In a capital case, where the defendant is unable to employ counsel and is incapable of making his own defense adequately because of ignorance, feeble-mindedness, illiteracy or the like, it is the duty of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law, and that duty is not discharged by an assignment at such a time and under such circumstances as to preclude the giving of effective aid in the preparation and trial of the case.

In a case such as this, the right to have counsel appointed, when necessary, is a logical corollary to the right to be heard by counsel.

In such circumstances, the trial court has power, even in the absence of statute, to appoint an attorney for the accused, and the attorney, as an officer of the court, is bound to serve.

However guilty defendants, upon due inquiry, might prove to have been, they were, until convicted, presumed to be innocent. It was the duty of the court having their cases in charge to see that they were denied no necessary incident of a fair trial.

TERRY v. OHIO, 392 U.S. 1 (1968)

Detective McFadden, an officer with Cleveland P.D., was working a plainclothes beat downtown. He observed two strangers on a street corner, and then watched them proceed alternately back and forth along an identical route, pausing to look into the same store window, which they did about 24 times. They were joined by a third person. McFadden felt that the three were “casing” the store in order to commit a robbery. The three again began their suspicious activity. When the three finally ended up together in front of the store, McFadden walked up, identified himself, and asked for their names. When the men “mumbled something” in response to his questions, McFadden grabbed Terry, spun him around, and patted down the outer clothing. He felt what appeared to be a pistol and later recovered it. He also found a gun on Chilton. The three were arrested. Terry and Chilton were convicted and Terry appealed to the Supreme Court.

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

This case presents serious questions concerning the role of the Fourth Amendment in the confrontation on the street between the citizen and the policeman investigating suspicious circumstances.

Though the police must, whenever practicable, secure a warrant to make a search and seizure, that procedure cannot be followed where swift action based upon on-the-spot observations of the office on the beat is required. The reasonableness of any particular search and seizure must be assessed in light of the particular circumstances against the standard of whether a man of reasonable caution is warranted in believing that the action taken was appropriate.

The officer here was performing a legitimate function of investigating suspicious conduct when he decided to approach Terry and his companions. An officer justified in believing that an individual whose suspicious behavior he is investigating at close range is armed may, to neutralize the threat of physical harm, take necessary measures to determine whether that person is carrying a weapon. A search for weapons in the absence of probable cause to arrest must be strictly circumscribed by the exigencies of the situation.

An officer may make an intrusion short of arrest where he has reasonable apprehension of danger before being possessed of information justifying arrest. The officer’s protective seizure of petitioner and his companions and the limited search which he made were reasonable, both at their inception and as conducted.

The officer’s search was confined to what was minimally necessary to determine whether the men were armed, and the intrusion, which was made for the sole purpose of protecting himself and others nearby, was confined to ascertaining the presence of weapons. The revolver seized from petitioner was properly admitted into evidence against him, since the search which led to its seizure was reasonable under the Fourth Amendment.

WEEKS v. UNITED STATES, 232 U.S. 383 (1914)

Weeks was arrested by a police officer, without a warrant, at the Union Station in Kansas City, Missouri, where he was employed by an express company. Other officers went to his house and entered, without a search warrant. Various papers and articles were seized and were later turned over to the U.S. Marshal. The defendant was charged with improper use of the mail and was convicted. He was given a fine and imprisonment was imposed. He appealed on a writ of error and requested the U.S. Supreme Court to review the case. The lower court ruling was reversed and remanded for review and further proceedings.

Mr. Justice Day delivered the opinion of the Court.

...Upon the introduction of such papers during the trial, the defendant objected on the ground that the papers had been obtained without a search warrant, and by breaking open his home in violation of the 4th and 5th Amendments to the Constitution of the United States, which objection was overruled by the court. It is apparent that the question presented involves the determination of the duty of the court with reference to the motion made by the defendant for the return of certain letters, ...taken from his room by the United States Marshal, ...visited the room of the defendant for the declared purpose of obtaining additional testimony to support the charge against the accused...

The effect of the Fourth Amendment is to put the courts of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers, and effects, against all unreasonable searches and seizures under the guise of the law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all entrusted under our Federal system with the enforcement of the laws.

...If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the 4th Amendment, declaring his right to be secure against such searches and seizures, is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land. The United States Marshal could only have invaded the house of the accused when armed with a warrant issued as required by the Constitution, upon sworn information, and describing with reasonable particularity the thing for which the search was to be made. Instead, he acted without sanction of law, doubtless prompted by the desire to bring further proof to the aid of the government, and under color of his office undertook to make a seizure of private papers in direct violation of the constitutional prohibition against such action.

We therefore reach the conclusion that the letters in question were taken from the house of the accused by an official of the United States, acting under color of his office, in direct

violation of the constitutional rights of the defendant; that having made a reasonable application for their return, which was heard and passed upon by the court, there was involved in the order refusing the application a denial of the constitutional rights of the accused, and the court should have restored these letters to the accused.

In re WINSHIP, 397 U.S. 358 (1970)

Samuel Winship, a 12-year-old, was accused of breaking into a locker and stealing \$112 from a woman's pocketbook. At the adjudicatory hearing, the judge found the juvenile to have been delinquent and Samuel was placed in a training school for an initial period of 18 months, subject to annual extensions of his commitment until his 18th birthday. The judge acknowledged that the proof might not establish guilt beyond a reasonable doubt, but rejected the appellant's contention that such proof was required by the Fourteenth Amendment. The judge relied on a New York Juvenile Court ruling which provides that "any determination at the conclusion of (an adjudicatory) hearing that a (juvenile) did an act or acts must be based on a preponderance of the evidence." The case was appealed to the New York Court of Appeals, which upheld the constitutionality of the law. An appeal was then made to the Supreme Court, which agreed to hear the case. The Court held that the lower court had erred.

Mr. Justice Brennan delivered the opinion of the Court.

The requirement that guilt of a criminal charge be established by proof beyond a reasonable doubt dates at least from our early years as a Nation. The "demand for a higher degree of persuasion in criminal cases was recurrently expressed from ancient times, (though) its crystallization into the formula 'beyond a reasonable doubt' seems to have occurred as late as 1798. It is now accepted in common law jurisdictions as the measure of persuasion by which the prosecution must convince the trier of all the essential elements of guilt." Although virtually unanimous adherence to the reasonable-doubt standard in common-law jurisdictions may not conclusively establish it as a requirement of due process, such adherence does "reflect a profound judgment about the way in which law should be enforced and judgment administered."

...Use of the reasonable-doubt standard is indispensable to command the respect and confidence of the community in applications of the criminal law. It is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned. It is also important in our free society that every individual going about his ordinary affairs have confidence that his government cannot adjudge him guilty of a criminal offense without convincing a proper fact finder of his guilt with utmost certainty.

Gault decided that, although the Fourteenth Amendment does not require that the hearing at this stage conform with all the requirements of a criminal trial, or even of the usual administrative proceeding, the Due Process Clause does require application during the adjudicatory hearing of "the essentials of due process and fair treatment."

The requirement of proof beyond a reasonable doubt has this vital role in our criminal procedure for cogent reasons. The accused, during a criminal prosecution, has at stake interests of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by the conviction.

...In sum, the constitutional safeguard of proof beyond a reasonable doubt is as much required during the adjudicatory stage of a delinquency proceeding as are those constitutional safeguards applied in *Gault*-notice of charges, right to counsel, the rights of confrontation and examination, and the privilege against self-incrimination.

APPENDIX C: WEBSITES

America's Most Wanted: www.fugitivehunter.org/usmostwanted.html

Anti-drug websites: www.stopdrugs.org/index.html

www.streetdrugs.org/

A.T.F.: <https://www.atf.gov/>

Bureau of Criminal Identification: www.bci.utah.gov/index.html

Bureau of Justice Statistics: <http://www.bjs.gov/ucrdata/publications.cfm>

Customs: www.cbp.gov/

D.E.A.: www.usdoj.gov/dea/

Division of Motor Vehicles: www.dmv.utah.gov/index.html

Driver's License Division: www.driverlicense.utah.gov/

F.B.I.: www.fbi.gov/

Highway Patrol: www.highwaypatrol.utah.gov/

Highway Safety: www.highwaysafety.utah.gov/

Marshals: www.usdoj.gov/marshals/

Police Academy (POST): www.post.utah.gov/index_noflash.html

Postal Inspector: <https://postalinspectors.uspis.gov/>

Sourcebook of Criminal Justice Statistics: www.albany.edu/sourcebook/

State of Utah: www.utah.gov/

Utah Dept. of Corrections (includes sex offender registry and Utah's most wanted):
<http://corrections.utah.gov/>

U.S. Dept. of Justice: www.usdoj.gov/

Utah Justice Commission: www.justice.utah.gov/

Utah State Courts: www.utcourts.gov/

Utah State Legislature: www.le.utah.gov/