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| **TEXAS CTE LESSON PLAN**  [www.txcte.org](http://www.txcte.org) | |
| **Lesson Identification and TEKS Addressed** | |
| **Career Cluster** | Law, Public Safety, Corrections & Security |
| **Course Name** | Correctional Services |
| **Lesson/Unit Title** | Interrogation |
| **TEKS Student Expectations** | **130.333. (c) Knowledge and Skills**  (7) The student recognizes constitutional laws and laws of correctional systems.  (A) The student is expected to apply constitutional laws, including laws of arrest, to execute official correctional service duties while respecting citizen rights  (B) The student is expected to explore the impact of the U.S. legal system on the correctional system  (C) The student is expected to differentiate between the civil and criminal justice systems and explain how change impacts correctional services  (H) The student is expected to state the conditions under which citizens and non-citizens of the United States may be interrogated in the correctional environment |
| **Basic Direct Teach Lesson**  (Includes Special Education Modifications/Accommodations and  one English Language Proficiency Standards (ELPS) Strategy) | |
| **Instructional Objectives** | The students will be able to:   1. Apply constitutional laws and the laws of arrest to execute official correctional service duties while respecting citizen rights 2. Explore the impact of the US legal system on the correctional system 3. Differentiate between the civil and criminal justice systems and explain how change impacts correctional services 4. State the conditions under which citizens and non-citizens of the US may be interrogated in the correctional environment |
| **Rationale** | The criminal justice system is frequently perceived as an intimidating and complex system. This system of justice was carefully designed to protect people from unfair convictions by guaranteeing many legal rights to anyone charged with a crime. These rights are also available to some extent to the prisoners that are in detention in a correctional facility. For law enforcement agents in all fields (police, court, and corrections) it is important to understand the rights of the prisoners and how to conduct interrogations while protecting those rights. |
| **Duration of Lesson** | 6 to 7 hours |
| **Word Wall/Key Vocabulary**  *(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* | Admission – a statement or acknowledgement of facts by a person that tends to incriminate that person, but which is not sufficient itself to establish guilt of a crime  Affidavit – a written statement containing allegations that is confirmed by oath that is then used as evidence in court  Citation – document issued by a police officer, most often for a misdemeanor or other minor criminal matter such as jaywalking, littering, or a minor traffic offense  Confession – a statement or acknowledgement of facts by a person establishing that person’s guilt of all elements of a crime  Elicit – to draw out or entice  Indictment – a formal charge imposed by the grand jury, which is a group of citizens convened by the court. Its function is to determine whether there is sufficient evidence to charge a person with a crime and to bring him or her to trial. The grand jury conducts its proceedings in secret and has broad investigative powers  Information – a written document filed by a prosecutor (often the district or prosecuting attorney) alleging that the defendant committed a crime. The information may be based upon a criminal complaint, which is a petition to the prosecutor requesting that criminal charges be initiated  Interrogation – the questioning of a person that has been stopped or arrested and who is suspected of criminal activity  Interview – the questioning of a subject who is not suspected of criminal activity at the time of the encounter. A person being interviewed may become a suspect. Interviews are used as a tool to prepare for interrogation  Nolo contendere – translates to "I do not contest (the charge)." A guilty plea that in turn avoids automatic civil liability  Probable Cause – facts sufficient to support a reasonable belief that criminal activity is probably taking place or knowledge of circumstances indicating a fair probability that evidence of crime will be found  Persuade – to influence or gain over by argument or advice  Statement – a broad term meaning simply an oral or written declaration or assertion  Suspect – the person that the police officer has reasonable cause to believe committed a specific crime  Victim – the person who is the subject of an incident, crime, or other harm caused against them  Witness – someone who personally sees, hears, or otherwise observes something relating to the incident under investigation |
| **Materials/Specialized Equipment Needed** | * Interrogation Key Terms * White board/chalk board * Computers with Internet Access |
| **Anticipatory Set**  (May include pre-assessment for prior knowledge) | * Professionalism & Ethics * Constitutional Law |
| **Direct Instruction \*** | I. Civil Justice, Criminal Justice, and Constitutional Law  A. Civil Law governs disputes between individuals  B. Criminal Law governs offenses that are public and relate to the  government  C. Our system of justice was carefully designed to protect people  from unfair convictions by guaranteeing many legal rights to  anyone charged with a crime  D. Most crimes are punishable under state rather than federal laws  E. Although all states must comply with certain federal constitutional  laws, there are variations from one state to another  F. Some state constitutions provide a higher degree of personal and  procedural rights to the criminally accused than do others  G. Both criminal and civil cases involve a dispute over the rights and responsibilities of the people involved  1. In civil cases, the issue is usually money  2. In criminal cases, the defendant might be ordered to pay a fine or be sentenced to probation, jail, or prison, or even death  H. The possibility of losing life or liberty distinguishes criminal from civil penalties  II. Laws of Arrest  A. The authority to arrest occurs when a police officer has a  reasonable belief, based on facts and circumstances, that a person has committed or is about to commit a crime  1. The arrest is based on probable cause (which requires more than a mere hunch, but less than proof beyond a reasonable doubt)  2. An arrest warrant has been issued  3. A police officer personally sees someone commit a crime  B. If probable cause exists and formal charges have not been issued, the police may detain a person in custody for a period (generally 24 to 48 hours)  C. After a brief period, the police must release a person or bring formal charges and take the person before a judge. If  released, the person may be rearrested later if the police obtain sufficient evidence  D. Police do not have to tell a person the crime for which they are arrested, but most police officers do tell  E. Police are not permitted to use excessive force when making an arrest. However, if a person resists arrest or acts violently, the police can use reasonable force to make the arrest or to keep the person from injuring himself/herself or others  F. While the police are making an arrest, they might read the Miranda Rights. However, they do not have to read the Miranda Rights if they do not intend to make an interrogation  G. A person may be in custody even if the police do not say, "You are under arrest." The law considers a person in custody when they have been arrested or otherwise deprived of their freedom of movement in a significant way, such as when  1. An officer is holding someone at gunpoint or when several officers are surrounding a person  2. A person is handcuffed or placed in the back seat of a police car  H. The main question is whether a reasonable person in the circumstances would have felt free to leave the scene  I. The most obvious example of being in custody is when the police say, "You are under arrest."  III. Arrest and Criminal Charges  A. Criminal cases go through a screening process before a defendant faces charges in court. This process begins with the police inquiry. The investigating officer (and/or a superior officer) reviews the arrest report. The officer(s) then determines if there is enough evidence to recommend filing charges  1. If the officer decides not to recommend filing charges, the arrested person will be released from jail  2. If the officer decides to recommend filing charges, a prosecutor from the district attorney's (DA’s) office reviews the officer's recommendation  B. Based on the arrest report and follow-up investigation, the DA's office decides whether to file charges and what the charges are. These allegations appear in a complaint (affidavit) filed in the court  C. Citizens have a constitutional right to have an attorney's advice before and during police interrogation and  1. When police read a suspect his or her Miranda rights  2. When police place a suspect in a lineup  3. When a suspect has been formally charged with a crime  4. During court appearances  D. There are basically three ways in which formal charges may be brought  1. Information  a) Is a written document filed by a prosecutor alleging that the defendant committed a crime  b) May be based upon a criminal complaint, which is a petition to the prosecutor requesting that criminal charges be initiated  2. Indictment  a) A formal charge imposed by the grand jury who  (1) Determines if there is sufficient evidence to charge a person with a crime  (2) Conducts its proceedings in secret and has broad investigative powers  3. Citation  a) Is issued by a police officer, most often for a misdemeanor or other minor criminal matter such as jaywalking, littering, or a minor traffic offense  4. These do not determine the guilt or innocence of defendants. They only indicate if the issuing authority has sufficient evidence to bring a person to trial  E. After formal criminal charges are brought against a defendant, he or she must appear before the court  1. If the defendant is out on bail, he or she must come to court as ordered  2. If the defendant is in jail, correctional officers must bring him or her to court  3. If the defendant has not been arrested or fails to appear, the judge issues an arrest warrant  a) Then a police officer locates the suspect and places him or her under arrest prior to his or her first court appearance  F. During the first appearance  1. The defendant is usually represented by an attorney. If not, the judge appoints one  2. A judge explains the defendant's rights and the charges in the complaint  a) The purpose of the first judicial appearance is to ensure that the defendant is informed of the charges and made aware of his or her legal rights  3. Defendants charged with misdemeanors are asked to enter a plea at the first appearance  4. In most jurisdictions, the accused can waive the initial  appearance  G. In felony cases, the defendants have a preliminary hearing, which is a separate proceeding that occurs soon after the first  Appearance  H. During the preliminary hearing  1. A prosecutor calls only the witnesses necessary to show the judge that a crime happened and that there is a strong belief that the defendant committed it  2. Often there is just one witness, the police officer who  investigated the crime or who arrested the defendant  3. The accused person must be present at the hearing, but they do not introduce evidence in their defense.  4. The judge determines if there is enough evidence to charge the defendant with having committed a crime  a) If the judge decides that the state does not have sufficient evidence, the judge orders that the charges be dismissed  b) If the judge believes the evidence is sufficient, the judge may set the amount of the defendant's bail (or deny bail), depending upon the crime and whether the accused is likely to flee  c) For those charged with misdemeanors, the next step typically is to plead guilty or nolo contendere or go to trial  d) For those charged with felonies, if the judge has found enough evidence to support the charges, the case is set for arraignment  I. When a defendant appears for arraignment, the charges are read, his or her rights are explained, and he or she enters his or her plea  1. If the defendant pleads not guilty  a) The court sets a date for the trial, which is the next step in the process  b) It is often the first step in plea bargaining  2. If the defendant pleads guilty  a) A date is set for sentencing, although probation, fines, or other sentences are determined immediately for some minor crimes  b) The majority of criminal cases result in pleas of guilty or nolo contendere  (1) Nolo contendere – translates to "I do not contest (the charge)." A guilty plea that in turn avoids automatic civil liability  (2) A guilty plea is a specific admission of guilt  c) In both pleas, the defendant is found guilty of the crime originally charged  IV. Interviews  A. Interviewing is the art of fact finding that produces information that  can lead to conclusions about an event or an incident  B. In criminal justice, an interview is questioning persons who are not suspects in a crime but who may know something about it; the overall purpose is to gather information  C. The categories of persons who are interviewed include  1. Victim – the person who is the subject of an incident, crime, or other harm caused against them  2. Witness – someone who personally sees, hears, or otherwise observes something relating to the incident under investigation  3. Suspect – the person that the police officer has reasonable cause to believe committed a specific crime  V. Interrogations  A. An interrogation is the questioning of a person that has been  stopped or arrested and who is suspected of criminal activity  B. The opportunity to interrogate must be lawfully obtained  1. There must be an absence of force, threat, or promise of leniency  2. There must be compliance with the requirements for warnings of constitutional rights to a custodial suspect  C. The goal of an interrogation is to elicit a truthful confession and encourage the suspect to provide evidence of guilt or involvement in an event  1. Confession  2. Admission  D. Police may not use any tactic that will coerce an individual to give up his or her rights that are guaranteed by the US Constitution  E. Non-coercive strategies to predispose a suspect to voluntarily  waive his or her Miranda Rights are permitted  1. Non-coercive interrogation tactics  a) Conditioning  b) De-emphasizing  c) Persuasion  d) Being polite and expressing concern for the suspect  e) Minimizing the potential importance/blending the rights into the conversation  f) Convincing the suspect to waive his or her rights for the opportunity to speak about his or her side of the situation  VI. US Legalities of Interviews/Interrogations  A. Miranda Warning  1. Reads as follows: “You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?”  2. Confirmed by the Supreme Court as constitutionally required  because of the 1966 Miranda v. Arizona case  3. Was developed to protect the individual's Fifth Amendment right against self-incrimination  4. Must be given to persons in custody prior to questioning by a law enforcement officer  a) If a suspect who is in custody and subjected to  interrogation requests an attorney, all questioning must stop immediately  b) If the Miranda Warning is not given before questioning or if police continue to question a suspect after an attorney is requested the suspect’s statement are generally  inadmissible  c) However, suppressing a statement or confession in court may be difficult for an attorney  5. There are three measures of whether the individual has properly waived his or her right to remain silent  a) The Voluntary Requirement  (1) The Miranda waiver must be made voluntarily  (2) It must be proved that the waiver was not the result of coercion or other factors that adversely influenced the defendant’s exercise of free will  b) The Knowing Requirement  (1) The Miranda waiver must be made knowingly  (2) It must be proved that the defendant knew and understood his or her rights  c) The Intelligence Requirement  (1) The Miranda waiver must be made intelligently  (2) It must be established that the defendant intelligently relinquished those rights, that he understood he was  agreeing to answer questions  6. Some exceptions to the Miranda Warning requirement include  a) Statements that are initiated voluntarily by the defendant when there is no interrogation, regardless of whether the suspect is in custody  b) In situations when there is immediate or impending danger to the public safety, police may arrest a suspect and ask questions to elicit information to remove the threat to the  public  B. The four-prong test for the admissibility of a confession is  contained in the Fourth, Fifth, Sixth, and Fourteenth Amendments  C. Other Legalities  1. The Confession Statement  a) Allow the suspect to make corrections to his or her statement  b) Ask if the suspect has anything else to say  c) Allow the suspect to put additions in his or her own writing at the bottom of the confession  2. Non-Custodial Interrogation Situations  a) Occurs when the suspect is not in police custody or under arrest  b) Make the suspect fully aware that he or she is free to leave at any time. Awareness may be based on  (1) The location of the interrogation  (2) The attitude of the interrogator  c) Follow through by not arresting the suspect  3. Non-Custodial Interrogation Requirements  a) Do not require the Miranda Warning unless the situation changes  b) Is not an option if  (1) The suspect has been arraigned in court on the crimes under investigation or  (2) The individual asks to speak with an attorney  4. Custodial Interrogation Situation  a) Occurs when the suspect  (1) Is under arrest or  (2) Is not free to leave because arrest is pending  b) The suspect must  (1) Be given the Miranda Warning  (2) Understand these rights  (3) Must make a voluntary waiver of these rights for an interrogation to take place  VII. Some Supreme Court Cases regarding Correctional Interviews  A. Howes, Warden v. Fields (2012)  1. The question issued to the Supreme Court was whether an inmate’s (Fields’) confession to a sex crime should be  suppressed because he did not receive the Miranda Warning before he was questioned  2. The issue then became whether Fields was in custody at the time  3. The Court decided that Fields was not in custody, so his confession was admissible  B. Illinois v. Perkins (1990)  1. Is another case in which the Court approved of interrogation in the absence of the Miranda Warning  2. In this case the suspect, Lloyd Perkins, was questioned by an undercover police officer while serving time for unrelated charges  3. The Court ruled that the suspect thought he was confessing to a fellow inmate and was therefore not coerced  C. Maryland v. Shatzer (2010)  1. In this case the suspect was serving a prison term at the time of his interrogation, during which he received and waived his  Miranda Rights  2. The problem was that two years prior to this interrogation he had invoked his right to counsel, which promptly ended questioning, but he had remained incarcerated in the interim  3. The Supreme Court ruled that  a) A break in custody of fourteen days or more could purge  the earlier invocation of counsel  b) A person can be incarcerated but still experience a break in custody for Miranda purposes  c) Incarceration in a jail or prison does not amount to Miranda custody  VIII. US Correctional System: Prisoners’ Rights  A. Entitled to food, water, medical attention, and access to the legal system  B. Provided access to  1. A law library in which they may do legal research  2. Typewriters on which to prepare legal motions  C. Are protected against unequal treatment based on race, sex, and creed  D. Are protected against jailer brutality  E. Are not given the right to privacy in a prison setting  1. Court decisions have established that prison officials can properly monitor and record prisoners' conversations, provided that the prisoner and the visitor are warned that this will be done  2. Prison officials cannot intrude upon conversations that are legally afforded confidentiality, such as those between the prisoner and the prisoner's attorney or spouse  F. Are afforded the same rights regarding self-incrimination and  double jeopardy as defendants that are not incarcerated  1. Prisoners do not have access to Grand Juries unless they are charged with a new crime  2. Officers are not required to give the Miranda Warning to inmates prior to interrogation; it is only necessary for new charges  G. Are given due process in all forms of discipline and criminal  proceedings, including  1. The opportunity for a speedy and public trial  2. The right to a jury in any criminal proceedings  3. Notification of charges against themselves in both criminal and disciplinary proceedings  4. The right to confront witnesses and present witnesses on their own behalf  H. May have the right to counsel  1. Prisoners have the right to counsel if they cannot afford it during felony criminal proceedings  2. Prisoners do not have the right to counsel during institutional proceedings such as disciplinary hearings or parole hearings  I. Are afforded due process during institutional proceedings (i.e.  disciplinary hearing) and criminal proceedings  J. Prisoners who are not US citizens  1. Have the same rights as prisoners who are US citizens regarding Human Rights – The basic rights and freedoms that all humans are entitled to, including the right to life, liberty, and equality before the law  2. That are imprisoned based upon the War on Terrorism are protected by  a) International and US law that prohibits torture and other ill treatment of any person in custody in all circumstances  b) US Uniform Code of Military Justice considers abuse of prisoners a crime  *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Guided Practice \*** | Interrogation Framework and Role Play. Have the students create a graphic organizer illustrating the steps law enforcement/correctional officers must use to correctly interview/interrogate a suspect. Then have students work in small groups to create a scenario regarding a suspect and law enforcement. Have the students perform the scenario for the class. Afterword, have a class critique/discussion about the officers’ methods in each scenario. Use the Individual Work Rubric, the Peer Evaluation Rubric, the Role Play Rubric, and/or the Discussion Rubric for assessment.  *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Independent Practice/Laboratory Experience/Differentiated Activities \*** | Criminal Case Research Project. Have the students use a computer with Internet access to select, research, and plot the path of a criminal case through the criminal justice system. The research results should progress from the offense, investigation, apprehension, trial, incarceration, and follow-up case or appeal. The correctional aspect of the case should be emphasized in detail. The students’ final product may be in the form of a report, a poster board illustration, or a computer-based presentation. Use the Research Rubric and/or the Individual Work Rubric for assessment.  *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \*** | * Interrogation Exam and Key * Discussion Rubric * Individual Work Rubric * Peer Evaluation Rubric * Research Rubric * Role Play Rubric   *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  For reinforcement, the students will illustrate the definitions of the Interrogation Key Terms. Use the Individual Work Rubric for assessment. |
| **References/Resources/**  **Teacher Preparation** | * American Bar Association: Criminal Justice, * Smart Talk: Contemporary Interviewing & Interrogation, Denise Gosselin Howes, Warden v. Fields (2012) <http://www.supremecourt.gov/opinions/11pdf/10-680.pdf> * Illinois v. Perkins (1990)   <http://uscivilliberties.org/cases/3951-illinois-vperkins-496-us-292-1990.html>   * Maryland v. Shatzer (2010)   <http://www.supremecourt.gov/opinions/09pdf/08-680.pdf>   * Torture Law: Legal Constraints Against Torture <http://www.supremecourt.gov/opinions/11pdf/10-680.pdf> * Investigator/Officer’s Personal Experience <http://www.law.cornell.edu/constitution/> |
| **Additional Required Components** | |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** |  |
| **Recommended Strategies** | |
| **Reading Strategies** |  |
| **Quotes** |  |
| **Multimedia/Visual Strategy**  **Presentation Slides + One Additional Technology Connection** |  |
| **Graphic Organizers/Handout** |  |
| **Writing Strategies**  **Journal Entries + 1 Additional Writing Strategy** |  |
| **Communication**  **90 Second Speech Topics** |  |
| **Other Essential Lesson Components** | |
| **Enrichment Activity**  (e.g., homework assignment) | For enrichment, the students will research the historical significance of Howes, Warden v. Fields (2012). Use the Research Rubric for assessment. |
| **Family/Community Connection** |  |
| **CTSO connection(s)** | SkillUSA |
| **Service Learning Projects** |  |
| **Lesson Notes** |  |

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