COMMONWEALTH OF MASSACHUSETTS

MPTC

Municipal Police Training Committee

In-Service Training

Freedom of Speech

Version: A2025

INSTRUCTOR LESSON PLAN

The Municipal Police Training Committee (MPTC), an agency of the Executive Office of Public Safety and Security (EOPSS), serves the Commonwealth by establishing training standards, oversight, and policy guidance for policing professionals.

Title:	Freedom of Speech
Version:	A2025
Course Purpose:	To provide law enforcement officers with the information and training needed to understand, preserve, and protect First Amendment rights during the course of their professional duties.
Length:	3 hours
Learning Objectives:	By the end of the lesson, participants will be able to: 1. Explain the scope of First Amendment protections. 2. Evaluate First Amendment protections and their relevance to criminal law. 3. Assess sovereign citizen ideology, tactics, and best practices during police encounters.
Course Sequence	Introduction and First Amendment (50 minutes) First Amendment and Criminal Procedure (50 minutes) Sovereign Citizens (50 minutes)
Instructional Methods:	Direct Instruction (Lecture) Individual Reflection Small Group Discussion Video Analysis Open Discussion
Case References:	*Brandenburg v. Ohio,* 395 U.S. 444 (1969). *Burlington Police Department v. Hagopian*, 100 Mass.App.Ct. 720 (2022). *Commonwealth v. Chou,* 433 Mass. 229 (2001). *Commonwealth v. Dorelas*, 473 Mass. 496 (2016). *Commonwealth v. Henley*, 488 Mass. 95 (2021). *Commonwealth v. Sholley,* 432 Mass. 721 (2000). *Commonwealth v. Snow*, 486 Mass. 582 (2021). Commonwealth v. Strahan, 39 Mass.App.Ct. 928 (1995). *Counterman v. Colorado*, 600 U.S. 66 (2023). *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011). *Greer v. Spock*, 424 U.S. 828 (1976). *Miller v. California,* 413 U.S. 15 (1973). *Nieves v. Bartlett*, 587 U.S. ___, 139 S. Ct. 1715 (2019). *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

Packingham v. North Carolina, 582 U.S. 98 (2017).
Palko v. Connecticut, 302 U.S. 319, 327 (1937).
Project Veritas Action Fund v. Rollins, 982 F.3d 813 1st Cir. (2020).
Snyder v. Phelps, 562 U.S. 443 (2011).
Spence v. Washington, 418 U.S. 405 (1974).
Texas v. Johnson, 491 U.S. 397 (1989).
West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943).
Wooley v. Maynard. 430 U.S. 705 (1977).
U.S. v. Kokina, 497 U.S. 720 (1990).

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INSTRUCTOR NOTES

1. Delivering instructor for this section must have an active MPTC In-Service TY25 Freedom of Speech instructor certification. For lessons taught at MPTC-operated academies, instructors must also have an active state contract at the time of instruction. Instructors at operated academies without an active state contract at the time of instruction will not be paid.
2. Instructors should use and refer to the Massachusetts District Court Criminal Model Jury Instructions when describing Massachusetts General Laws (MGL) elements. The documents are available online.
3. Instructors must use the "Instructor" lesson plan and deliver the lesson in its entirety. Instructor NOTES are inserted throughout the lesson plan to choreograph delivery and ensure content is presented as intended and within the prescribed timeframe.
4. Opportunities for facilitated discussion are provided throughout the lesson. Key takeaways are included with these discussion questions to clarify the purpose of the facilitated discussion. The takeaways help instructors confirm that participants understand the key ideas presented.
5. Instructors are encouraged to share relevant personal work experiences to help illustrate concepts in the lesson. Instructors should be mindful of the time allocated to the lesson so that all material in the lesson plan is presented.
6. "Version" numbers are used to identify the most current In-Service lesson plans, visual aids, and handout materials. Instructors must confirm they have the most current materials for delivery by checking MPTCtraining.com.

ICONOGRAPHY


Corresponding Slide Title


Video


Sound Clip


Instructor Note


Facilitated Discussion


Refer to Handout

INTRODUCTION



Introductions

Instructors should introduce themselves, share their professional backgrounds, and explain and emphasize that the primary goal of this training is to provide officers with an understanding of First Amendment protections and how they are relevant during police encounters and when gathering information.



Learning Objectives & Learning Objectives cont'd

Review the course objectives with participants:

1. Explain the scope of First Amendment protections.
2. Evaluate First Amendment protections and their relevance to criminal law and police procedure.
3. Assess sovereign citizen ideology, tactics, and best practices during police encounters.

THE FIRST AMENDMENT

OBJECTIVE # 1: Explain the scope of First Amendment protections.



The First Amendment

The First Amendment, ratified by the states in 1791, states:

> 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.



The Most Important Amendment?

Some argue that the First Amendment was the most important amendment to the American founders because it was listed first. However, the First Amendment originally came third after

reapportionment and congressional pay raises. The states did not ratify the first two, making what was originally the third listed amendment the First Amendment.[1]

In *Palko v. Connecticut*, 302 U.S. 319, 327 (1937), the Supreme Court found that one may say that the First Amendment's protection of thought and speech "is the matrix, the indispensable condition, of nearly every other form of freedom."

Today's lesson, the first in a series of courses examining the First Amendment, focuses on the expression of speech, the evolution of these rights, and their application to both police officers and criminal procedure.

This lesson takes the unequivocal position that police officers are responsible for protecting First Amendment rights during the course of their duties while gathering information and impartially enforcing the laws.



First Amendment Protections

The First Amendment protects the right to ____ without punishment from the government, of which police officers act as agents.

- ✓ speak
- ✓ not to speak (take a knee or not salute)
- ✓ engage in symbolic speech
- ✓ write
- ✓ worship
- ✓ share ideas and opinions
- ✓ consume information
- ✓ gather
- ✓ protest
- ✓ petition elected representatives
- ✓ associate with others

However, the rights guaranteed by the First Amendment are not without limits. The courts have found that in certain limited circumstances, the government can restrict those rights. These restrictions will be covered later in the lesson.



Video – *Meet the Parents:* Bomb, Bomb, Bomb

[1] Monk, L. (2015). *The Words We Live By: Your Annotated Guide to the Constitution*. Stonesong Press.

Video – Meet the Parents – Bomb, Bomb, Bomb

Can you say "bomb" on an airplane? This video serves as a "hook" to the concept of freedom of speech. The First Amendment does not provide citizens with an unqualified right to always speak out on any conceivable subject. While you have the right to say it, there will, of course, be consequences. ***NOTE: The video embedded in the PowerPoint has been edited.***

Is It Protected Speech?

Instructors should present the slide to the class and have participants turn and talk with those around them about whether they believe the following would be protected under the First Amendment if the acts occurred in Massachusetts. Another way to present this information in a participant-centered way would be to read the statement and ask for a show of hands whether they believe it to be protected. Depending on how split the room is, you could then facilitate discussion following the show of hands.

1. Burning a U.S. flag in the Town Hall parking lot. *Texas v. Johnson*, 491 U.S. 397 (1989).
2. A public school principal requires students to participate in the Pledge of Allegiance by standing and saluting the flag. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).
3. A vehicle's owner covers up the NH state motto "Live Free or Die" on a license plate *Wooley v. Maynard*. 430 U.S. 705 (1977).
4. An environmental activist standing outside a docked whale-watching boat tells an employee of the whale-watching company that he was "just looking for a place to put a hole in the boat." *Commonwealth v. Strahan*, 39 Mass.App.Ct. 928 (1995).
5. Secretly filming a police officer as they conduct their duties in public. *Project Veritas Action Fund v. Rollins*, 982 F.3d 813 1st Cir. (2020).
6. Protestors holding signs that say "America is Doomed"; "Thank God for Dead Soldiers"; "God Hates Fags"; and "You're Going to Hell" on public property 1000 ft away from a funeral for a marine killed in the line of duty. *Snyder v. Phelps*, 562 U.S. 443 (2011).
7. A driver stuck in a traffic jam honking at the officer directing traffic. *Burlington Police Department v. Hagopian*, 100 Mass.App.Ct. 720 (2022).



Facilitated Discussion Question

1. **Burning a U.S. flag in the Town Hall parking lot. *Texas v. Johnson,* 491 U.S. 397 (1989).**

   Takeaways:

   - *It depends. The context and totality of the circumstances surrounding the act will determine whether it is expressive or not. In this case, Mr. Johnson was part of a larger political demonstration during the Republican National Convention in Dallas. The group marched through Dallas chanting political slogans. Some protesters spray-painted walls of buildings while other overturned potted plants. Mr. Johnson did not engage in those activities. The demonstration ended at city hall where Johnson took an American flag, doused it with kerosene, and set it on fire. While it burned, protestors shouted, "America, the red, white, and blue, we spit on you." In these circumstances, the burning of the flag was expressive conduct.*

   - *The plain language of the First Amendment literally only protects speech, but the courts have "long recognized that its protection does not end at the spoken or written word. When dealing with actions or conduct, the court will consider whether the acts intended to convey a particularized message and "whether the likelihood was great that the message would be understood by those who viewed it." Spence v. Washington*, 418 U.S. 405, 410-411 (1974.).

2. **A public school principal requires students to participate in the Pledge of Allegiance by standing and saluting the flag. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).**

   Takeaways:

   - *In Barnette, the school adopted a regulation requiring students and teachers to participate in the salute of the flag. Some individuals, who were Jehovah's Witnesses, refused arguing that it was against their religion. The court did not focus on the religious argument, instead decided the case under the freedom of speech analysis.*

   - *Saluting the flag is nonverbal conduct, but it is still a form of expression. "Symbolism is a primitive but effective way of communicating ideas. The use of an emblem or flag to symbolize some system, idea, institution, or personality, is a short cut from mind to mind." Barnette* at 632.

- *The freedom of speech usually involves someone being allowed to do something. (i.e. burning a flag.) In this case, the issue was: does the First Amendment protect someone's right not to do something. The court found that it does.*

3. A vehicle owner covers up the NH state motto "Live Free or Die" on a vehicle's license plate. The numbers are still visible. *Wooley v. Maynard* (1977).

Takeaways:

- *The covering of "Live Free or Die" is expressive conduct and is, therefore, speech that is protected. Since 1969, New Hampshire has required license plates to contain the state motto: "Live Free or Die." George Maynard, a Jehovah's Witness, found the motto repugnant to his personal beliefs. He covered up the motto on his vehicle's license plate. He was charged on several occasions with violating a NH statute that criminalized individuals who knowingly obscure figures or letters on a license plate.*
- *The US Supreme Court found that the First Amendment protects the right to speak freely and the right not to speak. The court found that the statute required its residents to "use their private property as a 'mobile billboard' for the State's ideological message or suffer a penalty."* Wooley *at 715. The fact that most people agree with the State's motto is not the test. "The First Amendment protects the right of individuals to hold a point of view different form the majority and to refuse to foster, in the way New Hampshire commands, an idea they find morally objectionable."* Wooley *at 715.*

4. An environmental activist standing outside a docked whale-watching boat tells an employee of the whale-watching company that he was "just looking for a place to put a hole in the boat." *Commonwealth v. Strahan*, 39 Mass.App.Ct. 928 (1995).

Takeaways:

- *The statement may be protected speech, but not if it is a true threat. If a statement meets the elements of threats to commit a crime, then the statement will not be protected.*
- *In* Strahan*, the defendant was an environmental activist, passionate about saving whales, and had a history of picketing and protesting outside the Aquarium. On this day, the activist was wearing a backpack and standing on the gangplank of the whale-watching boat docked at the Aquarium. When an employee asked what he was doing, the activist said that it is "illegal to harass*

whales" and that he was "assessing the enemy" and "I'm just looking for, for a place to put a hole in the boat." The court found that the defendant's statements, when taken into context with his past protesting behaviors and the fact that he was wearing a knapsack, it was reasonable for the employee to believe that the defendant had the intent and the ability to damage the boat. Because these facts and circumstances meet the elements of the criminal offense of threats to commit a crime, the speech would not be protected.

5. **Secretly filming a police officer as they conduct their official duties in public. *Project Veritas Action Fund v. Rollins*, 982 F.3d 813 (1st Cir. 2020).**

   Takeaways:

   - *The First Amendment protects free speech and the freedom of the press. These rights include the right to gather information about public officials discharging their official duties. Individuals have a right to audio and video record the police performing their official duties in public places, with or without the officer's consent.* Glik v. Cunniffe, *655 F.3d 78 (1st Cir. 2011). It does not matter if the recording is done openly or secretly.* Rollins *confirmed that an individual has the right to record an on-duty officer in public places while the officer is carrying out official duties, even if the officer is unaware that they are being recorded.*

6. **Protestors holding signs that say "America is Doomed"; "Thank God for Dead Soldiers"; "God Hates Fags"; and "You're Going to Hell" on public property 1000 ft away from a funeral for a Marine killed in the line of duty. *Snyder v. Phelps*, 562 U.S. 443 (2011).**

   Takeaways:

   - *This picketing, although offensive and upsetting, is protected.*
   - *In* Snyder*, the father of a fallen soldier sued the Westboro Baptist Church for picketing the funeral for damages. The family argued that the speech should get less Constitutional protection because of the hateful words they used and because they exploited the funeral to get their message to a broader audience.*
   - *The court noted that the choice of the funeral made the group's expression of their views particularly hurtful, especially to the family. However, the picketing was peaceful, and it was conducted on a public street in accordance with police guidance on a matter of public concern and did not otherwise disrupt the*

funeral. "Speech cannot be restricted simply because it is upsetting or arouses contempt." Snyder *at 458.*

- *The Court wrote, "Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow and – as it did here – inflict great pain. On the facts before us, we cannot react to that pain as punishing the speaker. As a Nation we have chosen a different course – to protect even hurtful speech on public issues to ensure that we do not stifle public debate. That choice requires that we shield Westboro from tort liability for its picketing in this case."*

7. **A driver stuck in a traffic jam honking at the officer directing traffic. *Burlington Police Department v. Hagopian*, 100 Mass.App.Ct. 720 (2022).**

   Takeaways:

   - *Honking a horn may be protected speech in some circumstances, such as honking in support of protestors holding signs along the road. However, honking intended to embarrass, annoy, or harass is not protected speech.*
   - *Conduct can be considered expressive speech if it conveys a particular message and when the likelihood is great that the message would be understood by those who saw it. The court found that Mr. Hagopian honked the horn out of impatience and to show his anger at the officer for creating the traffic jam. "Those who witnessed his excessive honking would not have seen it as expressing a particularized message."*



Limits to Free Speech

The government may impose reasonable time, place, and manner restrictions on an individual's right of free speech. For example, a mass march on a public street may require a permit.

To lawfully impose such restrictions, the government must have a strong interest served by the restriction. For instance: There is a strong governmental interest in protecting public safety. Therefore, there is a strong governmental interest served by not allowing people to yell "fire" in a crowded public building or "bomb" on an airplane.

In addition, any restriction imposed must be narrowly tailored so that it advances the strong governmental interest but does not restrict the individual's First Amendment rights more than it has to in order to serve the governmental interest. For instance: while the government can restrict yelling certain things in public spaces, imposing a law that forbids any speech on a plane

or in a crowded public building would not be narrowly tailored to serve that governmental interest.

The Courts have found that certain categories of speech are not protected. Those categories of speech are as follows:

Obscenity

Obscenity is a depiction of or language regarding sexual conduct that, when taken as a whole, depicts sex in a patently offensive way and does not have serious literary, artistic, political, or scientific value[2]. In *Miller v. California* (1973), the Court held that speech is obscene if it meets the following three criteria:

1. "whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;"
2. "whether the works depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law;" and
3. "whether the work, taken as a whole, lacks serious artistic, political, or scientific value."

True Threats

Utterances intended to intimidate citizens provide no social benefit. To be unlawful, threats must be "true threats," not just expressive speech. Speech that meets the elements of the crime of threats in Massachusetts (MGL c 275 § 2) are "true threats" and not protected speech. *Commonwealth v Sholley*, 432 Mass. 721 (2000).

Incitement to Imminent Lawless Action

Incitement is speech that is directed at producing imminent lawless action and is likely to do so. *Brandenburg v. Ohio*, 395 U.S. 444 (1969). In *Brandenburg* speakers at a KKK rally advocating "revengeance" against Blacks and Jews were charged under an Ohio statute prohibiting advocacy of violence. The Supreme Court found that mere abstract advocacy is protected speech unless it is intended to incite immediate lawless action.

Defamation

Defamation is false statements of fact that harm another person's reputation.[3] Spoken words are *slander*, whereas written words are *libel*. A person cannot prove defamation if the statements are true. The Supreme Court ruled in *New York Times v. Sullivan* (1964) that defamation against public officials or public figures also requires that the party making the

[2] *Miller v. California*, 413 Mass. 15 (1973).
[3] *Counterman v. Colorado*, 600 U.S. 66 (2023).

statement acted "with knowledge that it was false or with reckless disregard of whether it was false or not." *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964).

Child pornography

Perjury

Blackmail

Solicitations to Commit Crimes

Treason (if committed verbally)

Copyright Infringement

FIRST AMENDMENT CRIMINAL LAW

OBJECTIVE # 2: Evaluate First Amendment protections and their relevance to criminal law and police procedure.



First Amendment and Information Gathering

With today's technology, there are little hidden pieces of evidence everywhere we go. Our houses have Alexa devices, smart refrigerators, smart light bulbs, surveillance cameras, digital thermostats, and countless other devices that store data that may one day help solve a crime you are investigating.

But what is captured by these devices—things that are said, written, communicated, consumed, and expressed—may implicate a person's First Amendment rights to freedom of speech, expression, and assocation. Over the past several years, the courts have started grappling with finding the line between investigating crimes that are being perpetrated, at least in part, over the internet and protecting a suspect's First Amendment rights and reasonable expectation of privacy.



First Amendment and Criminal Procedure

With the advancement of technology, the courts have recognized how criminal investigations can impede someone's First Amendment rights. Because of the vast amount of personal information people share on the Internet, social media, and cell phones, the courts have found it necessary to address the need to balance the governmental interest in investigating crimes and the privacy rights protected by the First and Fourth Amendments.



Cell Phones: Get a Warrant

An affidavit in support of a search warrant must set forth enough acts and reasonable inferences that can be drawn from those facts to establish a connection between the criminal activity under investigation and the place or item to be searched. When the police are looking to search the contents of a cell phone, there must be a nexus between the criminal activity and the contents of the cell phone.[4]

The fact that cell phones are prevalent in daily life will not be enough. The opinion of the affiant alone that coventurers often use cell phones to communicate will also not be enough.[5]

When possible, officers should identify specific locations or files within the cell phone to be searched.[6] When officers do not know where the information will be located on the cell phone, they must state the specific information they are seeking with particularity in the affidavit.[7]

Because of the vast amount of information that can be stored on a cell phone, any search warrant for a cell phone must contain a temporal limit.[8]



Consent Searches & Search Warrants

Consent searches can be beneficial in many circumstances, especially when obtaining evidence from a victim's cell phone. However, if you are getting evidence from a suspect's cell phone and you find incriminating evidence, it is always wise to follow up with a search warrant.

As cases progress through the judicial system, there are typically many motions to suppress, and if you have both written consent and a search warrant, you give yourself a much better chance of having the evidence you obtained admitted at trial.



Metadata[9]

Metadata on a photo or video is essentially data about the data. In the context of visual media, it includes information like the date and time the photo or video was taken, the camera settings used (such as aperture, shutter speed, etc.) location coordinates if available, and sometimes even details about the device used to capture the media. This metadata can provide valuable context and insights about the media content.

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[4] *Commonwealth v. Henley*, 488 Mass.95 (2021).
[5] *Commonwealth v. Henley*, 488 Mass. 95 (2021).
[6] *Commonwealth v. Dorelas*, 473 Mass. 496 (2016).
[7] *Commonwealth v. Henley,* 488 Mass. 95 (2021).
[8] *Commonwealth v. Snow*, 486 Mass. 582 (2021).
[9] Holmes, H. (2022, March 4). *Everything you wanted to know about media metadata but were afraid to ask.* Freedom of the Press Foundation. https://freedom.press/training/everything-you-wanted-know-about-media-metadata-were-afraid-ask/.

Metadata is typically unique to each photo or video, as it contains information specific to that piece of media. However, some metadata fields might be common across multiple photos or videos if they were taken with the same device or under similar conditions. For example, if you took a series of photos with the same camera settings, those settings would be the same across all photos and reflected in their metadata.



Accessing Metadata on Android

On an Android device, you can usually access metadata for photos and videos through the following methods:

1. Gallery App: Many gallery apps provide basic metadata such as date, time, and location. Open the photo or video in your gallery app and look for an "Info" or "Details" option, often represented by an (i) icon. Tapping on this will typically display metadata.
2. File Manager: You can use a file manager app to view metadata. Navigate to the folder where the photo or video is stored, long-press the file, and look for an option like "Details" or "Properties."
3. Third-party Apps: There are several third-party apps available on the Google Play Store specifically designed for viewing and editing metadata. Apps like "EXIF Viewer" or "Photo Exif Editor" can provide comprehensive metadata information for your media files.
4. Google Photos: If you use Google Photos, you can access some metadata by opening the photo or video, tapping on the (i) icon, and scrolling down to see details such as date, time, and location.

Keep in mind that the specific method may vary slightly depending on your device model and the version of Android you're using.



Accessing Metadata on iPhones

On an iPhone device, you can access metadata for photos and videos through these methods:

1. Photos App: Open the Photos app and select the photo or video you want to view metadata for. Tap on the "Options" button (three dots) and then select "Show Metadata" or "Info." This will display details such as date, time, location, and camera settings.
2. Files App: If the photo or video is stored locally on your device or in iCloud Drive, you can use the Files app to view metadata. Find the file, tap and hold it, then select "Get Info." This will provide details including file size, resolution, and more.

3. Third-party Apps: There are also third-party apps available on the App Store that specialize in viewing and editing metadata. Apps like "Metapho" or "Exif Viewer by Fluntro" can be downloaded to access detailed metadata information.

4. Share Menu: In some cases, you can access metadata through the share menu. Open the photo or video, tap the share icon, and look for an option like "More" or "Show More." This may reveal additional options including metadata.

Remember that the exact steps may vary slightly depending on your iPhone model and the version of iOS you're using.



Convergence

The First, Fourth, and Fifth Amendments have historically been treated as separate doctrines because they protect constitutional rights differently. Court cases involving the First Amendment work primarily by striking down laws, regulations, or governmental restrictions on the individual's rights. In contrast, court decisions involving the Fourth and Fifth Amendments have established rules officers must follow when investigating and information gathering and penalties for when the rules are violated.

For instance, officers must have reasonable suspicion of criminal activity before they can detain someone and must have probable cause if they want to search someone. When officers stop or search someone without meeting those standards, the evidence is suppressed.

But in the age of interconnectivity, smartphones, various social media platforms, and cameras with audio capability everywhere, the lines between these doctrines are beginning to blur. When officers suspect an individual has committed a crime on social media or by speech alone, it implicates the suspect's rights guaranteed by the First Amendment. When conducting these investigations, officers will want to gather information from phones, tablets, computers, and social media sites. Searches of such things necessarily implicate the suspect's reasonable expectation of privacy, which is protected by the Fourth Amendment.[10]

Let's now consider several scenarios where the potential criminal activity is solely speech or expressive conduct. We will examine each scenario and try to determine where the suspect's First Amendment rights end and criminal activity starts.



Convergence Example 1

[10] Solove, D. (2007). "First amendment as criminal procedure." *NYUL Rev.,* 82, 112. https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-82-1-Solove.pdf.



Pose the following scenarios to the room. Instruct participants to turn and talk with those around them to discuss what actions they would take and whether any crimes are being committed. Referring to the SRO or Detectives is not an option.

As the sector car, you are asked to respond to the station to speak to a walk-in.

> Martin Robson, a teacher at the local Middle School, reports that he has been experiencing ongoing antisemitic harassment from one of his students for the past few months. Alexis, a sixth-grade 12-year-old student of his, began making Nazi jokes and sent him a drawing of a swastika with the label '*Heil Hitler*' written above the symbol. Mr. Robson states that while teaching one day, he asked the class to quiet down. Upon doing so, Alexis began making homophobic and antisemitic comments. Mr. Robson also recalls that one day, he came to school wearing a kippah for Passover; Alexis made multiple hateful and demeaning comments about the kippah. School officials responded by holding a "restorative circle" in which Mr. Robson and Alexis reflected on the incident. Mr. Robson said Alexis did not say anything during the session. Earlier this afternoon, Alexis gave Mr. Robson another drawing; the contents included a sketch of Hitler hovering over a dead person labeled 'Sorry, *Jew*,' surrounded by swastikas and canisters labeled '*gas.*' Mr. Robson shows you the drawing, as well as emails he got from Alexis insulting his teaching. He wants this to stop.



Facilitated Discussion

Takeaways:

- *You should encourage Mr. Robson to report these additional instances to the school. You could also inform him that he may qualify for a Harassment Prevention Order.*
- *How involved is the SRO? What other information might they provide?*
- *The next steps would be to speak with the juvenile and their parents. As with any investigation, you need to hear from both sides.*
- *Does this conduct meet the elements of criminal harassment? There are five elements:*[11]
    - *First: the suspect engaged in a knowing pattern of conduct or speech, or series of acts, on at least three separate occasions;*

[11] Model jury Instructions for Use in the District Court 6.640.

- *Second: the suspect intended to target [the alleged victim] with the harassing conduct or speech, or series of acts, on each occasion;*
- *Third: the conduct or speech, or series of acts, were of such a nature that they seriously alarmed [the alleged victim]*
- *Fourth: the conduct or speech, or series of acts, were of such a nature that they would cause a reasonable person to suffer substantial emotional distress; and*
  - *Substantial emotional distress is "considerable, of importance, solid and real. The offending conduct must be such as would produce a considerable or significant amount of emotional distress in a reasonable person; something markedly greater than the level of uneasiness, nervousness, unhappiness or the like which is commonly experienced in day to day living."*
- *Fifth: the suspect committed the conduct or speech, or series of acts, willfully and maliciously. Willful conduct must be intentional, not by mistake or accident. An act is done with malice if the suspect's conduct was intentional and without justification or mitigation, and any reasonably prudent person would have foreseen the actual harm that resulted to [the alleged victim.]*

- *If this is a crime, it is also a hate crime because of the presence of various bias indicators (hate speech, swastikas, Holocaust references, visual depictions, etc.)*



Convergence Example 2

A mother and her teenage daughter report that a local, registered sex offender has been "stalking" her daughter by "liking" photos on her daughter's Instagram profile. Mother and daughter believe it to be "creepy."



Facilitated Discussion

Takeaways:

- *Stalking under M.G.L. c. 265 § 43 has 5 elements:*[12]

[12] Model Jury Instructions for Use in the District Court 6.680.

- *First, over a period of time the defendant knowingly engaged in a pattern of conduct or series of acts, involving at least three incidents, directed at [the alleged victim];*
- *Second, that those acts were of a kind that would cause a reasonable person to suffer substantial emotional distress;*
- *Third, that those acts did cause [the alleged victim] to become seriously alarmed or annoyed;*
- *Fourth, that the defendant took those actions wilfully and maliciously; and*
- *Fifth, the defendant also made a threat with the intention of placing [the alleged victim] in imminent fear of death or bodily injury.*

- *The elements of stalking can be satisfied by conduct committed in person, via mail, over the phone, or over the internet. Stalking may also be committed entirely over the internet via emails or social media, which is often referred to as cyberstalking. Cyberstalking is not a free-standing crime; it is just one way of committing the crime of stalking.*
- *Since no threat occurred, these facts are not enough for a stalking charge.*
- *Confirm whether liking photos was the only thing that happened. If there was other conduct, do these facts meet the elements of harassment?*
- *You should encourage the teenager to make her profile private.*
- *Is it a crime for a registered sex offender to comment or like photos of a minor on their social media page? No. Absent any restrictions placed on the offender by probation, parole, or bail terms, a sex offender is not prohibited from internet voyeurism. If the sex offender is on parole or probation, confirm what the terms of release are. Report any violations to the parole or probation officer.*
- *In 2017, the Supreme Court struck down a North Carolina law that prohibited sex offenders from accessing various websites where minors are known to be active and have accounts. In that case, a 21-year-old college student was convicted of a sex crime with a minor. Following imprisonment and supervised release, he posted a status update about a traffic appeal he won on his Facebook profile. He was subsequently arrested for violating a law that barred convicted sex offenders from accessing social media websites. In the decision, the Court ruled that the North Carolina statute was overly broad. A content-neutral regulation of speech must be narrowly tailored to*

serve a significant government interest. Packingham v. North Carolina, *582 U.S. 98 (2017).*



Convergence Example 3

A complainant reports that someone posted all of their personal information online (names, addresses, phone numbers, social security number, family member details, financial data).



Facilitated Discussion

Takeaways:

- *Doxing is the act of searching for and maliciously publishing private or identifying information about a person on the internet. The word is an abbreviated form of "dropping dox," a revenge tactic of 1990s hacker culture.*[13]
- *Doxing is not yet a crime in Massachusetts because most of the information posted is public information.*
- *Encourage the complainant to contact the platform on which they have been doxed so that the post can be removed.*



Convergence Example 4

A complainant reports that his "crazy" ex-girlfriend distributed explicit photos and videos of their intimate acts.



Facilitated Discussion

Takeaways:

- *Nonconsensual pornography, a.k.a. "revenge porn," is the distribution of sexually explicit images without consent. 1 in 12 U.S. adults report at least one instance of victimization in their lifetime, and 1 in 20 reported perpetration.*[14]

[13] Honan, M. (2014, March 6) *What is doxing?* Wired. https://www.wired.com/2014/03/doxing/.
[14] Ruvalcaba, Y., & Eaton, A. (2020). Nonconsensual pornography among US adults: A sexual scripts framework on victimization, perpetration, and health correlates for women and men. *Psychology of Violence, 10*(1), 68-78. https://doi.org/10.1037/vio0000233.

- *Effective September 18, 2024, nonconsensual pornography becomes a chargeable offense in Massachusetts. The Criminal Harassment law was amended to make disseminating nude or partially nude photos of another person without their permission a misdemeanor. In any situation, be sure to check the facts against the elements.*
- *What other questions can you ask? What other information do you need? The defendant may have committed a crime by these acts, depending on other information you receive. Potential crimes to consider:*
    - *Photographing, videotaping, or electronically surveilling a nude or partially nude person (MGL c 272 §105.)*
    - *Annoying and accosting person (MGL c 272 § 53.)*
- *They may also visit https://stopncii.org, a free tool designed to support victims of Non-Consensual Intimate Image (NCII) abuse. If any financial account information is compromised, they should contact their financial institution.*



Convergence Example 5

A 911 caller reports that the couple next door has been arguing all night, that it has turned to terrified screams for help, and that they heard what they believed to be gunshots coming from the home. They also report hearing the wife screaming in pain and begging, "Please don't shoot the kids, just leave them alone." The entire shift responds, but upon investigating, you learn that no such incident occurred.



Facilitated Discussion

Takeaways:

- *Assuming that the caller made up all of the stuff they reported during the 911 call, this is a "swatting" call. Someone who makes such a 911 call has committed a False Report of a Crime (M.G.L. c. 269 § 13A). There are four elements:*
    - *First, they reported a crime to a police officer or caused such a report to be made.*
    - *Second, the report was false.*

- *Third: the caller intended to make the false report, and it was not made by accident or negligence*
- *Fourth: the caller knew the report they were making or caused to be made was false.*

- *When dealing with "Swatting" calls, depending on the venue targeted, or the nature of the threat, Terroristic Threats (M.G.L. c. 269 § 14) may also be an appropriate charge.*



Convergence Example 6

A parent of an 8th-grade student reports that his son's classmate made a hit list on TikTok. When you talk to the student who made the TikTok, he claims he has been bullied by the people named. To him, it's a creative expression that makes him feel better, and he did not mean anything by it.



Facilitated Discussion

Takeaways:

- *The First Amendment provides broad protections of expression. To charge with Threat to Commit a Crime (M.G.L. c. 275 § 2-4.), the teenager:*

  First: expressed an intent to injure a person, or the property of another, now or in the future

  Second, intended the threat to be conveyed to a particular person

  Third, that the injury that was threatened, if carried out, would constitute a crime; and

  Fourth: made the threat under circumstances which could reasonably have caused the person to whom it was conveyed to fear that the defendant had both the intention and the ability to carry out the threat.

- *The offense of threatening to commit a crime only reaches cases of "true threats," which do not qualify as protected speech.* Commonwealth v. Sholley*, 432 Mass. 721, (2000). The term "true threat" distinguishes between words that literally threaten but have an expressive purpose such as political hyperbole, and words that are intended to place the target of the threat in fear.* Commonwealth v. Chou*, 433 Mass. 229 (2001).*

- *A threat assessment will probably need to be completed.*



First Amendment Auditors

Some individuals are concerned that officers may not be protecting the rights of community members. First Amendment auditors conduct activities to test and potentially expose any violations of the First Amendment.[15]

These auditors often film or record interactions with law enforcement or government officials in public spaces to assert their rights and to ensure accountability and transparency in how these rights are respected and upheld by authorities.[16]

There are three behaviors that First Amendment auditors often exhibit:[17]

1. Conspicuous public recording
2. Attempts to provoke public officials
3. Refusal to cooperate by refusing to answer questions or providing ID



First Amendment Auditor Ideology

The ideology of First Amendment auditors can vary widely among individuals. However, some common themes and principles often underpin their activities:[18]

1. **Civil Liberties Advocacy:** Many First Amendment auditors are strong proponents of civil liberties and constitutional rights. They believe in the importance of protecting and exercising rights such as freedom of speech, freedom of the press, and the right to peacefully assemble.

2. **Government Accountability:** First Amendment auditors often see themselves as watchdogs who hold government officials, particularly law enforcement, accountable for their actions. They aim to ensure that officials respect the rights of citizens and adhere to the limitations placed on their power by the Constitution.

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[15] Nicodem, K, & Wilson, K. (2022). *Responding to first amendment "audits" in the local government contexts*. UNC School of Government. https://www.sog.unc.edu/sites/default/files/reports/2022-11-09%2020220124%20LGLB%20141.pdf

[16] Goldberg, L., & Bockelman. (2023, January 10). *First Amendment audits: How to keep calm and respond.* [Webinar]. Massachusetts Municipal Association. https://www.mma.org/resource/first-amendment-audits-how-to-keep-calm-and-respond/.

[17] Winn, J. (2024). Weaponizing the First Amendment. *North Carolina State Bar Journal.* https://www.ncbar.gov/media/730781/journal-29-1.pdf.

[18] Dewbery, D. (2021). First Amendment audits: Comparing the arguments for the right to record on the street to arguments in case law. *Argumentation and Advocacy 57*(2), 85-102. https://doi.org/10.1080/10511431.2021.1897276.

3. **Transparency and Open Government:** Auditors frequently advocate for transparency and openness in government operations. They believe that recording interactions with officials in public spaces helps foster transparency and can serve as a check against abuse of power.
4. **Education and Awareness:** Many auditors view their activities as educational, seeking to inform both the public and law enforcement about constitutional rights and proper conduct during interactions. They often provide resources and information to empower individuals to assert their rights effectively.
5. **Legal Rights and Protections:** First Amendment auditors typically assert their legal rights firmly during interactions with officials. They may refuse searches or requests for identification when they believe such actions violate their rights.



First Amendment Audit Locations[19]

First Amendment auditors typically conduct their investigations or exercises of constitutional rights in public spaces where individuals have a reasonable expectation of freedom of speech and freedom of the press. These locations may include:

1. **Government Buildings:** Auditors may visit government buildings such as police stations, courthouses, city halls, and federal facilities to observe and potentially document interactions with law enforcement officers or other government officials.
2. **Public Streets and Parks:** Auditors often conduct audits in public streets, sidewalks, parks, and other publicly accessible areas where individuals have the right to assemble peacefully and express themselves freely.
3. **Transportation Hubs:** Some auditors may visit transportation hubs like airports, train stations, or bus terminals to observe security measures or interactions with transportation authorities.
4. **Border Checkpoints:** Auditors might also visit border checkpoints or immigration control points to document interactions with border patrol agents or immigration officials.
5. **Other Public Facilities:** Additionally, auditors may choose to visit other public facilities such as libraries, schools, or post offices to assert their rights and potentially document any encounters with officials.

[19] Nicodem, K, & Wilson, K. (2022). Responding to first amendment "audits" in the local government contexts. *UNC School of Government*. https://www.sog.unc.edu/sites/default/files/reports/2022-11-09%2020220124%20LGLB%20141.pdf

In all these locations, auditors aim to exercise their rights to freedom of speech, freedom of the press, and the right to peacefully assemble, while also holding government officials accountable for their actions. They often use video recording equipment or other forms of documentation to capture their interactions and any potential infringements on their rights.



Public vs. Restricted Space

Not all places owned or operated by a government agency are a "public forum" for First Amendment purposes. "The State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated."[20]

When the property has not traditionally been and has not been specifically dedicated to the public for expressive activity, the government may place reasonable restrictions on First Amendment activity.[21]



Best Practices[22]

Here are six best practices for interacting with First Amendment auditors:

1. **Familiarize Yourself with Constitutional Rights:** Ensure that you and your fellow officers have a thorough understanding of the First Amendment rights guaranteed by the Constitution, including freedom of speech, freedom of the press, and the right to peacefully assemble.
2. **Maintain Professionalism and Respect:** As you would when dealing with any member of the public, approach interactions with auditors in a professional and respectful manner. Do not assume that auditors have a malicious intent. Recognize that auditors are exercising their constitutional rights and that your role is to protect those rights while ensuring public safety and order. Some auditors may be more aggressive than others, just like any member of the public you are dealing with. How you speak to and deal with an auditor should be no different than how you speak to or deal with any other member of the public.

[20] *Greer v. Spock*, 424 U.S. 828 (1976) quoting *Adderley v. Florida*, 385 U.S. 39, 47 (1966).
[21] *U.S. v. Kokina*, 497 U.S. 720 (1990).
[22] Winn, J. (2024). Weaponizing the First Amendment. *North Carolina State Bar Journal.* https://www.ncbar.gov/media/730781/journal-29-1.pdf. See also Atstupenas, A. (2020). First Amendment auditors: Saying "cheese" and other strategies for success. Chief's Counsel, *Police Chief 87*(6), 16-17. https://www.policechiefmagazine.org/chiefs-counsel-first-amendment-auditors/?ref=8fafd15587eb51e633fb1497dbeed491

3. **Do not ignore illegal activity:** The U.S. Supreme Court ruled that probable cause for an arrest defeats a First Amendment retaliatory arrest claim as a matter of law.[23] The mere fact that someone is recording does not forgive him or her of all criminal transgressions.

4. **Pay attention to behavior and conduct:** Officers run into an issue when they focus on the act of recording itself. Instead, they should be careful to pay attention to the person's conduct and behavior. For instance, if someone commits a disturbance while recording, officers may charge the individual with disturbing the peace, but they should make it clear in the police report what conduct and behavior the person was engaged in, apart from the recording, to justify the charge.

5. **Use reasonable and contemporaneous orders (never sacrifice safety):** Certain reasonable restrictions may be imposed on individuals recording them when safety concerns exist. In such instances, the officer's order should not address the recording but focus on the safety concerns.

6. **De-escalation and Conflict Resolution:** If the auditor is aggressive or raising their voice, prioritize de-escalation and conflict resolution techniques as you would with anyone behaving that way. Listen to their concerns, address any misunderstandings or grievances calmly, and seek to resolve conflicts through dialogue whenever possible. Be mindful of the potential for tensions to escalate and take proactive steps to prevent escalation.

By adhering to these best practices, law enforcement officers can effectively uphold the rights of First Amendment auditors while fulfilling their duty to protect public safety and order.

SOVEREIGN CITIZENS

OBJECTIVE 3: Assess the history, ideology, and tactics of sovereign citizens and provide best practices for law enforcement during encounters.



Freedom To Think

At some point during their career, officers are likely to encounter a sovereign citizen. Because of their ideology, sovereign citizens are often difficult to communicate with.

Like all individuals, sovereign citizens have a First Amendment right to think, consume information, associate, and express their beliefs. This lesson provides officers with a basic

[23] *Nieves v. Bartlett*, 587 U.S. ___, 139 S. Ct. 1715 (2019).

understanding of the ideology and tactics of sovereign citizens so that officers are better prepared to interact effectively with members of this group.



What's a Sovereign Citizen?

According to the FBI, sovereign citizens are:

> *A network of loosely affiliated individuals living within the United States who believe the federal, state, and local governments are operating illegitimately.*[24]

The Southern Poverty Law Center explains:

> *Sovereign citizens believe they are not under the jurisdiction of the federal government and consider themselves exempt from U.S. law. They use a variety of conspiracy theories and falsehoods to justify their beliefs and their activities, some of which are illegal and violent.*[25]

The movement, which is comprised of several groups and factions, is plagued with rivalries and infighting. The SPLC estimates there are over 300,000 rising purported sovereign citizens in the United States, and the FBI labeled them a serious domestic terror threat in 2010.[26]



Farmington, Utah Sovereign Citizen Encounter



Video – Bodycam footage shows fatal Utah police shooting

In March 2023, in Farmington, UT, police conducted a traffic stop on a vehicle without a license plate. The operator, Chase Allen, a 25-year-old sovereign citizen, refused to cooperate with officers. After conducting an internal review, Farmington police released an edited compilation of footage.



Importance of Understanding Sovereign Citizens to Law Enforcement

A 2020 analysis found 94 instances in which sovereign citizens attempted to harm or kill police officers.[27] Routine traffic stops are often especially dangerous for officers because sovereign

[24] Domestic Terrorism Operations Unit. (2010). *Sovereign citizens: An introduction for law enforcement.* Federal Bureau of Investigation. https://info.publicintelligence.net/FBI-SovereignCitizens.pdf.
[25] Southern Poverty Law Center. (n.d.). *Sovereign citizens movement*. SPLC. https://www.splcenter.org/fighting-hate/extremist-files/ideology/sovereign-citizens-movement.
[26] *Ibid.*
[27] Sarteschi, C. (2021). Sovereign citizens: A narrative review with implications of violence towards law enforcement. *Aggression and Violent Behavior, 60*. https://doi.org/10.1016/j.avb.2020.101509.

citizens are often confrontational, argumentative, and combative. They typically refuse to comply with police at even simple traffic stops, and this behavior has led to the deaths of officers and sovereigns.[28]

Officers across the Commonwealth are likely to encounter one of these individuals. Understanding who they are and what they believe is important because understanding such information helps you avoid potentially dangerous situations.

The information they consume, the ideology they spread, and what they say during their conversations are protected under the First Amendment. However, when they break the law, officers must still enforce the laws of the Commonwealth in ways that are fair and procedurally just.



Origins

There is no official history of the sovereign citizen movement. The modern movement combines elements of various other movements: tax protestors, the Posse Comitatus, Christian identity adherents, and the militia movement. The ranks of these groups swelled during the domestic terrorism events of the 1990s (Ruby Ridge, Waco, Oklahoma City, Centennial Olympic Park Bombing, etc.).[29]



Ideology

The ideology of sovereign citizens is rooted in the belief that individuals possess inherent sovereignty and are not subject to the authority of government or its laws. Here are some key aspects of sovereign citizen ideology:[30]

1. **Individual Sovereignty:** Sovereign citizens assert that they are sovereign entities, separate from any government jurisdiction. They believe that they hold inherent rights and privileges that cannot be overridden by governmental institutions.
2. **Rejection of Government Authority:** Sovereign citizens often reject the legitimacy of government institutions and officials. They may claim that the government has been unlawfully usurped or corrupted, and therefore, they are not bound by its laws or regulations.

[28] Sarteschi, C. (2022). *Perspective : Growing threat of sovereign citizen extremism spans borders and ideologies.* Homeland Security Today. https://www.hstoday.us/featured/perspective-growing-threat-of-sovereign-citizen-extremism-spans-borders-and-ideologies/.
[29] Sarteschi, C. (2020). *Sovereign citizens: A psychological and criminological analysis.* Springer.
[30] *Ibid.*

3. **Misinterpretation of Legal Concepts:** Sovereign citizens often espouse pseudo-legal theories and interpretations of legal documents, such as the U.S. Constitution and the Uniform Commercial Code. They may misinterpret language or cite obscure statutes to support their beliefs.
4. **Taxation and Financial Obligations:** Sovereign citizens frequently engage in tax avoidance or refuse to pay taxes altogether. They may argue that taxation is illegal or unconstitutional and, therefore, they are not obligated to contribute to government revenue.
5. **Alternative Identification and Documentation:** Sovereign citizens may create their own forms of identification, such as "sovereign citizen" driver's licenses or passports. They may also refuse to carry government-issued identification and instead present homemade documents to authorities.



Sovereign Citizen Theory on Travel

The sovereign citizen theory of travel versus driving is based on a misinterpretation of legal terminology and concepts related to transportation laws. Sovereign citizens assert that there is a distinction between "traveling" and "driving" and claim that they have a right to travel freely without government interference while driving is a commercial activity subject to regulation.

According to this theory, traveling refers to the lawful movement of individuals from one place to another without engaging in commerce or using public infrastructure, such as roads and highways. Sovereign citizens argue that the right to travel is a fundamental natural right protected by the Constitution and cannot be restricted by government regulations.

On the other hand, driving is perceived as a commercial activity conducted for profit, such as transporting goods or passengers for hire. Sovereign citizens contend that when individuals engage in driving, they enter into a contractual relationship with the government by obtaining a driver's license, registering their vehicle, and accepting other regulatory requirements. Therefore, they argue that driving falls under the jurisdiction of commercial law rather than constitutional law.

Based on this theory, sovereign citizens often refuse to comply with traffic laws, vehicle registration requirements, and driver's license regulations, claiming that they are not "driving" but merely exercising their right to travel. They may challenge traffic citations in court by arguing that they were not engaged in commercial activity or that the government lacks jurisdiction over their movement.

However, courts have consistently rejected the sovereign citizen theory of travel versus driving as a frivolous legal argument and have affirmed the government's authority to regulate motor

vehicle operation and ensure public safety on roadways. Sovereign citizens who attempt to assert this theory in court often face legal consequences, including fines, license suspension, and even criminal charges for contempt of court or obstruction of justice.



Tactics

Some common tactics employed by sovereign citizens include:

1. **Filing Frivolous Lawsuits:** Sovereign citizens often file baseless lawsuits against government officials, law enforcement officers, or private individuals. These lawsuits may contain nonsensical legal arguments and demands for exorbitant damages.
2. **Paper Terrorism:** Sovereign citizens engage in "paper terrorism" by inundating government agencies, courts, and financial institutions with frivolous legal documents, liens, and notices. These documents are designed to overwhelm the system and create administrative burdens for officials.
3. **Refusing to Cooperate with Authorities:** During encounters with law enforcement officers, sovereign citizens may refuse to comply with commands or provide identification. They may argue that they are not subject to the officer's jurisdiction and become combative or uncooperative.

   Sovereign citizens may also explain their reasoning based on what they believe. The following statements each have significance to sovereign citizen ideology: "I do not consent," "I don't answer questions," "what's the emergency?", "what's your bond number?", "do you have a business card?", "not U.S. citizens," "this is not a car, truck or vehicle," "did you take an oath?", "you are dismissed," and/or "what crime did I commit?"
4. **Occupation of Property:** In some cases, sovereign citizens have engaged in the illegal occupation of government-owned or private property. This may involve squatting in abandoned buildings, seizing control of vacant homes, or establishing unauthorized encampments on public land.



Paper Terrorism[31]

The sovereign citizen tactic of "paper terrorism" involves the misuse and abuse of legal paperwork to harass, intimidate, or disrupt government officials, law enforcement personnel, and private individuals. This tactic is rooted in the belief that sovereign citizens are not subject

[31] Sarteschi, C. (2020). *Sovereign citizens: A psychological and criminological analysis.* Springer.

to the jurisdiction of government authorities and can use legal documents to assert their supposed rights and challenge the legitimacy of laws and regulations.

Here's a breakdown of how paper terrorism is typically carried out by sovereign citizens:

1. **Filing Frivolous Lawsuits:** Sovereign citizens may file baseless lawsuits against government officials, law enforcement officers, judges, or other individuals they perceive as enemies. These lawsuits often contain nonsensical legal arguments and demands for outrageous damages. The primary goal is to tie up the court system and burden the targeted individuals with legal expenses and time-consuming litigation.
2. **Issuing False Liens:** Sovereign citizens may attempt to file fraudulent liens against government officials or private citizens as a means of retaliation or coercion. These liens are often based on fabricated debts or judgments and can wreak havoc on a person's credit and financial stability. The intent is to harass and intimidate the target into capitulating to the sovereign citizen's demands.
3. **Sending Bogus Legal Notices:** Sovereign citizens may inundate government agencies, courts, and law enforcement agencies with a barrage of pseudo-legal documents, notices, and demands. These documents may assert the sovereign citizen's alleged rights or make claims about the illegitimacy of government authority. The sheer volume of paperwork can overwhelm administrative systems and waste valuable time and resources.
4. **Engaging in Courtroom Disruption:** Sovereign citizens may attempt to disrupt court proceedings by refusing to recognize the jurisdiction of the court, making irrelevant or nonsensical arguments, or engaging in contemptuous behavior. This disrupts the orderly administration of justice and can lead to sanctions or legal consequences for the individual.

Paper terrorism poses significant challenges for law enforcement and government agencies, as it can tie up resources, waste taxpayer money, and create administrative burdens. Moreover, these tactics can cause emotional distress and financial harm to the individuals targeted by sovereign citizens.



Best Practices

An officer is most likely to encounter a sovereign citizen during a "routine" traffic stop. It is during such traffic stops that the deadliest attacks on law enforcement occur. [32]

Here are five best practices when interacting with sovereign citizens:

1. **Prioritize Officer Safety:** Sovereign citizen encounters can be unpredictable and potentially dangerous. **Prioritize your safety and the safety of others at all times**. Maintain a safe distance, be mindful of your surroundings, and call for backup. Avoid being drawn into debates or arguments that could compromise your safety or escalate the situation unnecessarily. Apply the established best practices for all tactical situations.

2. **Maintain a Professional Demeanor:** Sovereign citizens often hold strong anti-government beliefs and will challenge your authority as a law enforcement officer. It is crucial to remain calm, composed, and professional during interactions, regardless of their behavior or rhetoric. Avoid escalating the situation with confrontational language or actions.

3. **Educate Yourself:** Understanding the ideology and tactics employed by sovereign citizens is key to effectively managing interactions. Stay informed about their common arguments, legal theories, and tactics used to obstruct law enforcement. This knowledge will help you anticipate their responses and navigate conversations more effectively.

4. **Assert Your Authority Appropriately:** Because sovereign citizens dispute the legitimacy of government authority, these interactions can be difficult to navigate. Clearly and respectfully communicate your intentions, the reason for the interaction, and any lawful orders or requests. Remain firm in upholding the law while avoiding unnecessary power struggles.

5. **Document Everything:** Detailed documentation is crucial when dealing with sovereign citizens. Document the encounter thoroughly, including statements made by the individual, any identification provided (if available), and the actions taken by both parties.

By adhering to these best practices, police officers can effectively manage interactions with sovereign citizens while upholding their duty to enforce the law and ensure public safety.

[32] See Sarteschi, C. (2020). Sovereign citizens: A narrative review with implications of violence toward law enforcement. *Aggression & Violent Behavior 60,* 101509. https://doi.org/10.1016/j.avb.2020.101509 & Gruenewald, J., Dooley, K. M. G., Suttomoeller, M. J., Chermak, S. M., & Freilich, J. D. (2016). A mixed-method analysis of fatal attacks on police by far-right extremists. *Police Quarterly, 19*(2), 216–245. https://doi.org/10.1177/1098611115623061.

Video - Newbie Sovereign Citizen Arrested On His First Traffic Stop

Video – Newbie Sovereign Citizen Arrested On His First Traffic Stop by a Veteran Mass Cop

This video, a compilation of footage from the sovereign citizen's camera, shows him delivering a notice that he will be traveling to police departments in Southeastern Massachusetts. The second part of the video shows his encounter with a Kingston sergeant during a traffic stop. The Kingston sergeant, along with another officer, demonstrates how an officer can handle a situation effectively. ***NOTE: The video embedded on the PowerPoint slide has been edited to remove the commentary of the YouTube creator.***

Conclusion

During this lesson, we have

1. Explained the scope of First Amendment protections.
2. Evaluated First Amendment protections and their relevance to criminal procedure.
3. Assessed sovereign citizen ideology, tactics, and best practices during police encounters.

This lesson has sought to underscore that First Amendment freedoms—the sharing of information—intersect with police information-gathering practices. Knowing what is protected and what is not helps officers preserve essential rights and freedoms while gauging the scope of the governmental interest.

Lastly, we looked at this intersection of the First and Fourth Amendments in practice, both by covering Auditors and Sovereign Citizens, each of whom is free to think, share, petition, and assemble. But, when laws are violated, police must be safe and pivot into other areas of their training to enforce the laws in ways that are procedurally just. Balancing the First and Fourth Amendments during their tours of duty will be essential in an increasingly divided society.

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