COMMONWEALTH OF MASSACHUSETTS

MPTC

Municipal Police Training Committee

Freedom of Speech

In-Service Training 2025 | *The First Amendment*

Introductions



- Instructor Introduction
- Professional Background
- Why This Training Matters

Learning Objectives

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.



Learning Objective 1

Explain the scope of First Amendment protections.



The First Amendment

Ratified by the states in 1791:

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?

- Originally the 3rd Amendment
- Supreme Court on the 1st Amendment:
  - “the matrix, the indispensable condition, of nearly every other form of freedom” (1936)
- Officers responsible for protecting 1st Amendment rights



First Amendment Protections

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

* Not without limits. Courts have found that in certain, limited circumstances, governments can restrict those rights.



Is it Protected Speech?

1. Burning a U.S. flag in the Town Hall parking lot.
2. A public school principal requires students to participate in the Pledge of Allegiance by standing and saluting the flag.
3. A vehicle's owner covers up the NH state motto "Live Free or Die" on a license plate.
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."
5. Secretly filming a police officer as they conduct their duties in public.
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.
7. A driver stuck in a traffic jam honking at the officer directing traffic.

Limits to Free Speech

- Reasonable time, place, and manner restrictions
  - Need a strong governmental interest
- Not protected:
  - Obscenity
  - True Threats
  - Incitement
  - Defamation
- Also not protected:
  - fighting words, child pornography, perjury, blackmail, solicitations to commit crimes, treason, copyright infringement



Learning Objective 2

Evaluate First Amendment protections and their relevance to criminal law and police procedure.

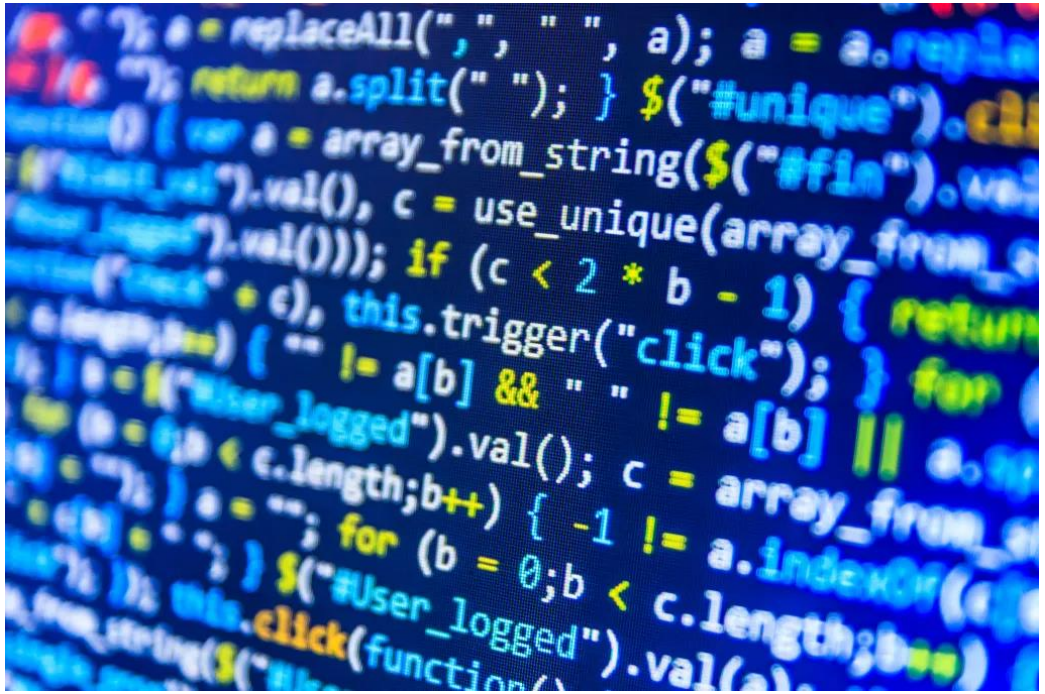


First Amendment and Information Gathering



- Hidden evidence everywhere
- What is captured may be protected
- Where’s the line between investigating crimes and protecting privacy?

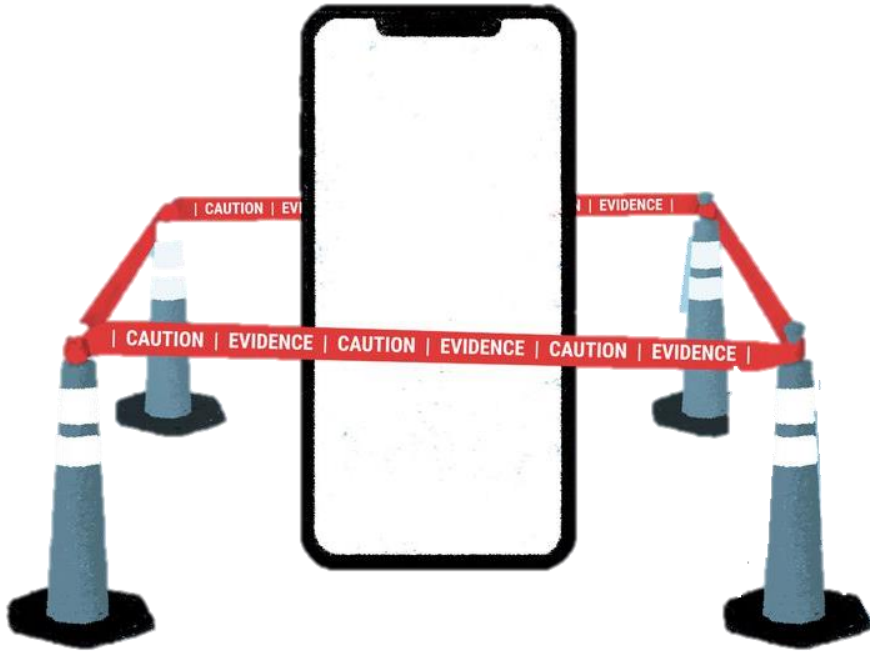
First Amendment and Criminal Procedure



- Advancement of technology
- Criminal investigations can impede 1st Am. Rights
- Balance investigating crimes with privacy

Cell Phones: Get a Warrant

- Affidavit musts
- Prevalence not enough
- Specific information, locations, or files
- Temporal limit

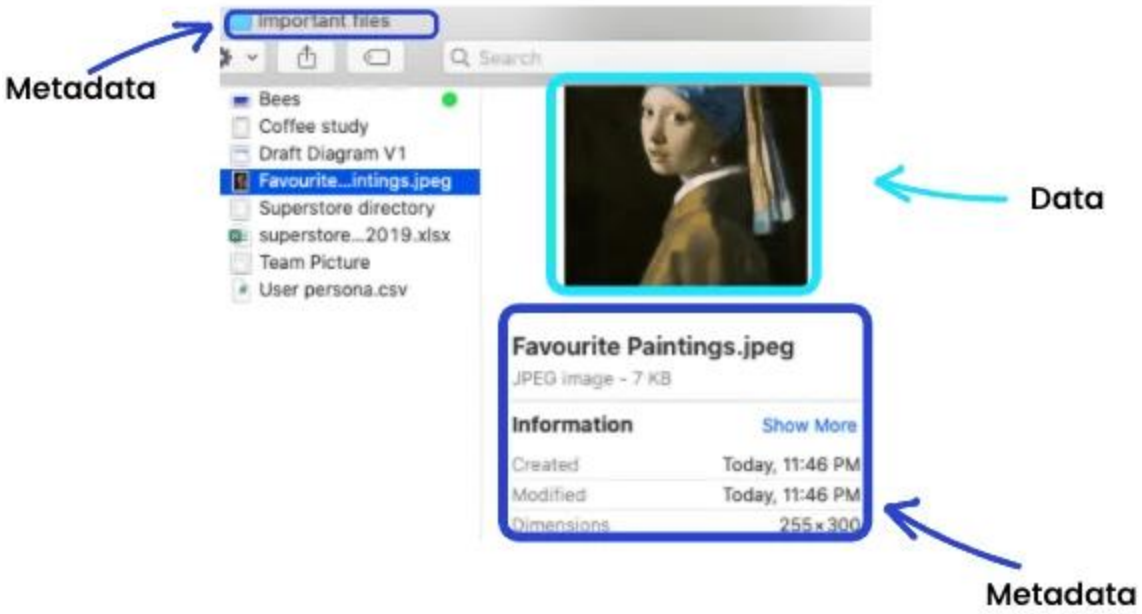


Consent Searches and Search Warrants

- Beneficial
- Search warrant always wise
- Motions to suppress
- Written consent and search warrant best

Metadata

- Data about data
  - date/time photo or video taken
  - Camera settings used
  - Location coordinates
  - Device details
- Unique to each photo or video



Accessing Metadata on Android

1. Gallery App
2. File Manager
3. Third-party Apps
4. Google Photos

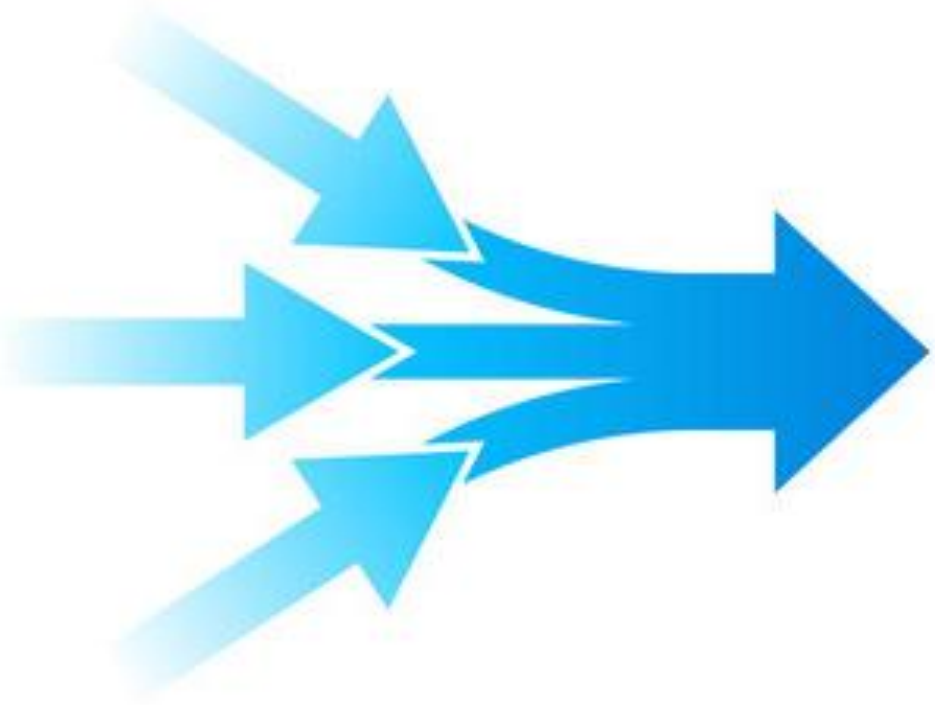


Accessing Metadata on iPhones

1. Photos App
2. Files App
3. Third-party Apps
4. Share Menu



Convergence



- Historically 1st, 4th, 5th Amendments treated as separate doctrines
- Lines are blurring in the age of interconnectivity
- **Where do 1st Amendment rights end and criminal behavior begin?**

Convergence Example 1

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.

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.”

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).

Convergence Example 4

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

Convergence Example 5

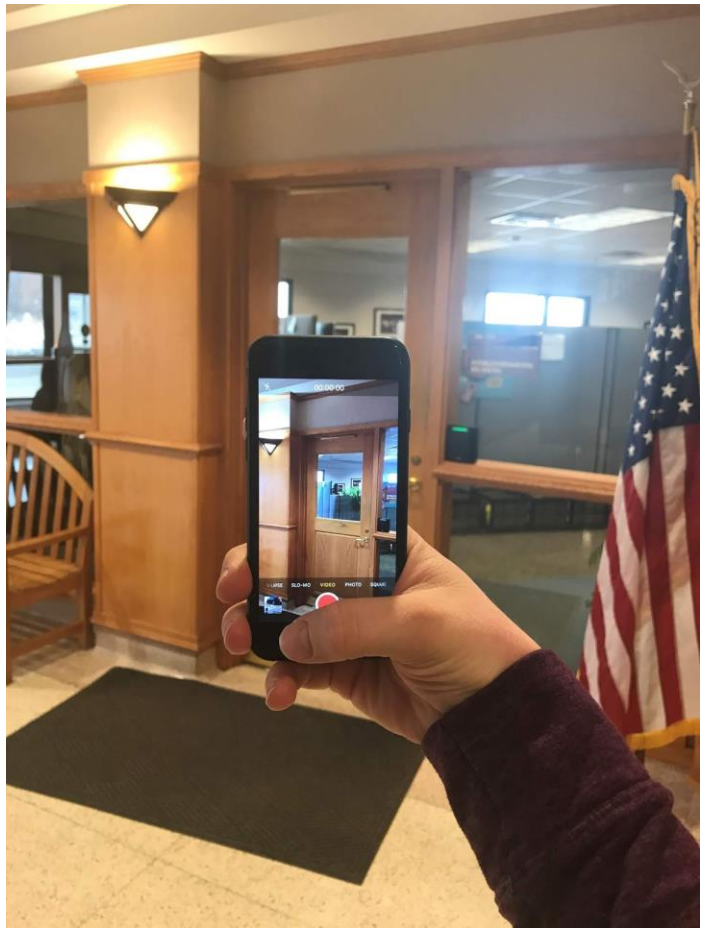
A 911 caller reports that the couple next door has been arguing all night, that it has turned to terrified screams for help, and that they heard what they believed to be gunshots coming from the home. They also report hearing the wife screaming in pain and begging, “Please don’t shoot the kids, just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

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.

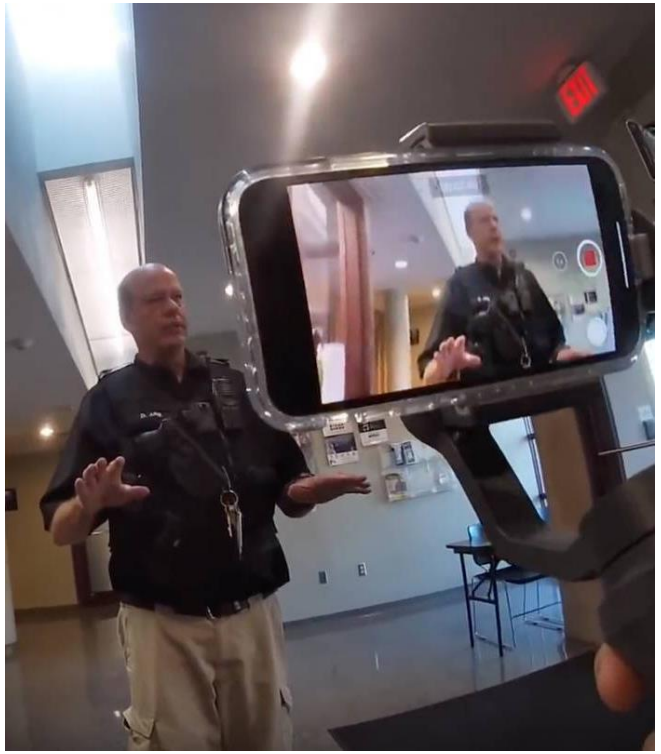
First Amendment Auditors

- Test and expose 1st Am. violations
- Film or record interactions with LEO or gov officials
- Three behaviors
  1. Conspicuous public recording
  2. Attempts to provoke public officials
  3. Refusal to cooperate



Auditor Ideology:

1. Civil liberties advocacy
2. Government accountability
3. Transparency and open government
4. Education and awareness
5. Legal rights and protections



Audit Locations

1. Government buildings
2. Public streets and parks
3. Transportation hubs
4. Border checkpoints
5. Other public facilities



Public vs. Restricted Space

- "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." *Greer v. Spock*, 424 U.S. 828 (1976) quoting *Adderley v. Florida*, 385 U.S. 39, 47 (1966).
- 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.

Auditor Best Practices

1. Familiarize yourself with constitutional rights
2. Maintain professionalism and respect
3. Do not ignore illegal activity
4. Pay attention to behavior and conduct
5. Use reasonable and contemporaneous orders (never sacrifice safety)
6. De-escalation and conflict resolution

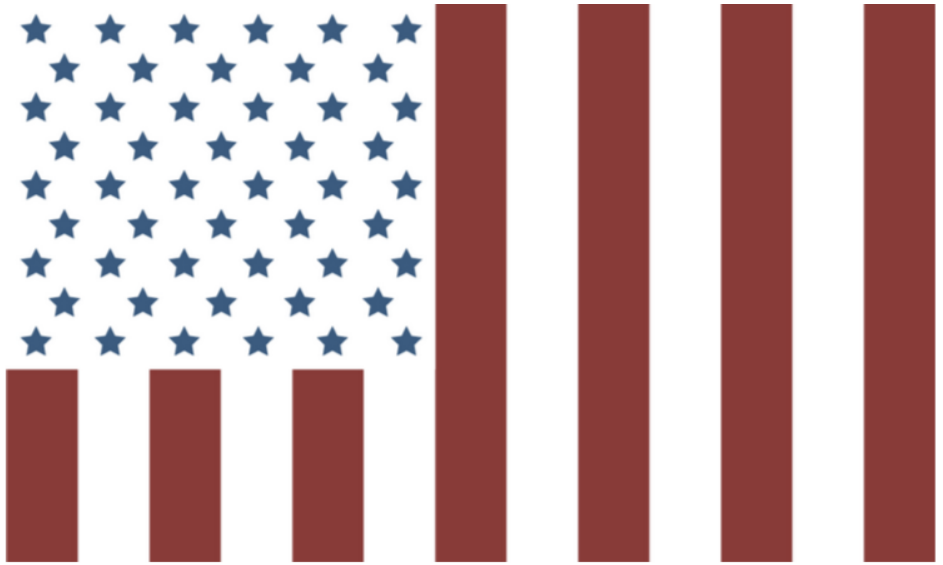
Learning Objective 3

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



Freedom to Think

- Likely encounter at some point
- Right to think, consume information, associate, and express their beliefs
- Goal of this section:
  - ✓ Basic understanding of ideology and tactics



What's a Sovereign Citizen?

FBI:

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

Southern Poverty Law Center:

- Sovereign citizens believe themselves exempt from US law
- Use a variety of falsehoods to justify their beliefs
- Rivalries and infighting
- 300,000+ and rising in the U.S.
- FBI labeled them a serious domestic terror threat in 2010


WARNING
THIS VIDEO INCLUDES IMAGES AND OR AUDIO SOME VIEWERS MAY FIND UPSETTING OR DISTURBING.

Importance of Understanding to LEOs

- 2020 analysis: 94 instances in which a s.c. attempted to harm or kill police officers.
- traffic stops are especially dangerous
- Ideology is protected
- When they break the law, officers must be enforce the laws fairly and in ways that are procedurally just.



Sovereign Citizen Origins

- No official, united history
- Combination of other movements:
  - Tax protestors
  - Posse Comitatus
  - Christian identity
  - Militia movement
- Grew in reaction to 1990s domestic terrorism events (Ruby Ridge, Waco, Oklahoma City, etc.



Ideology



1. Individual sovereignty
2. Rejection of government authority
3. Misinterpretation of legal concepts
4. Taxation and financial obligations
5. Alternative identification and documentation

Sovereign Citizen Theory on Travel

- Traveling vs. driving
- Exercising their right to travel
- Courts have rejected this



Tactics

1. Filing frivolous lawsuits
2. Paper terrorism
3. Refusing to cooperate with authorities
4. Occupation of property

Paper Terrorism

- Misuse and abuse of legal paperwork to harass, intimidate, or disrupt:
  - Frivolous lawsuits
  - Issuing false liens
  - Sending bogus legal notices
  - Engaging in courtroom disruptions



Best Practices

1. Prioritize officer safety
2. Maintain a professional demeanor
3. Educate yourself
4. Assert your authority appropriately
5. Document everything

End of December 2023.....

Conclusion

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

<u>Takeaways:</u>

- First Amendment freedoms intersect with police information gathering
- Balancing First and Fourth Amendments during tours essential