



# Facilitated Scenarios

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## Agenda

You will discuss the question(s) on the slide at your table.

Feel free to use any available resources to answer, including [www.tjctc.org](http://www.tjctc.org) materials.

Nominate table spokesperson who will share your answer.

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# Scenario 1

An officer pulls over a driver for speeding. While waiting for the driver's license, a drug-sniffing dog accompanying the officer sticks its head through the driver's open window and sniffs around inside the vehicle, leading to the discovery of methamphetamine in the back seat. Are the dog's actions an unreasonable search? Why or why not?

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# Scenario 2

The court holds a hearing on an application for an occupational driver's license (ODL) and sends a notice to the prosecutor. Applicant's license was suspended due to having over a .08 blood alcohol content during a DWI stop. It is the first time they have been arrested for a DWI and there is no bond condition or other order currently in place restricting them to only drive vehicles equipped with an Ignition Interlock Device (IID). The applicant had a previous ODL that was revoked under TC 521.252. The applicant is otherwise eligible and has demonstrated an essential need to drive and evidence of financial responsibility.

Should the court grant or deny the application? What are the rules governing eligibility and a judge's ODL decision? What must and what may be included in the ODL order if granted?

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## Scenario 3

A defendant is sued for negligence after a car crash. Defendant told police in the hospital that he visited two bars and drank three beers and felt “buzzed”. He had a cut on his head, and his face was swollen at the time. He said he did not remember which bars. Officer’s notes said he seemed confused and disoriented. Blood-alcohol was above the legal limit, so he was charged with intoxication assault with motor vehicle. In the civil case, plaintiffs ask him in interrogatories to identify the bars where he drank that night. The defendant refuses, invoking his Fifth Amendment right. Plaintiff argues it is waived because of the hospital bed disclosures. How would you rule on a motion to compel?

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## Scenario 4

Defendant was arrested for a 1st DWI offense with a blood alcohol level of .10. She has no prior arrests and says she just got carried away celebrating her raise. However, her teacher certification might be at risk if she enters a guilty plea or is convicted.

What bond conditions would you impose at magistration?  
Is a deferred adjudication appropriate, and if so, what conditions should be imposed?

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## Scenario 5

A driver who had consumed alcohol causes a fatal accident. There is conflicting evidence as to whether he was legally intoxicated. He is charged with both intoxication manslaughter and manslaughter. The jury acquits on intoxication manslaughter but convicts on manslaughter finding he drank alcohol and then drove inattentively, which established recklessness. Double jeopardy issues? Can evidence of impaired driving that does not rise to the level of intoxication be sufficient to show recklessness to support a manslaughter charge?

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## Scenario 6

At 1:30 a.m., a CDL holder is driving his personal vehicle in Texas. He is stopped after an officer observes him move out of his lane one time while making a right turn. There are no other cars in the vicinity. After blowing a 0.15, he is charged with DWI. He is also charged with defective equipment because his muffler is broken and drags along the pavement as he drives. After a thorough review of the dash cam footage and arrest report, the prosecutor decides not to move forward with DWI and only pursue the defective equipment misdemeanor. The CDL holder requests deferred disposition for the defective equipment charge. Is the decision to drop the DWI case masking? May the court grant deferred on the defective equipment charge?

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## Scenario 7

Police investigating a capital murder request a warrant to search the suspect's electronic devices. The affidavit justifies the search by stating that, in the officer's experience, electronic devices often contain evidence — without tying that assertion to facts specific to the suspect or crime. Would you sign the warrant? Is there anything else that should be included in the affidavit?

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## Scenario 8

Defendant was found asleep at the wheel at school pickup. Car was running with keys in the ignition but in park. He was not responsive to sound, light, or movement at first. When police got him to wake up and open the door, they smelled alcohol. Defendant's speech was severely slurred. He could not walk in a straight line. Witness says she noticed car parked in place for 40 minutes but was unsure of when it arrived. Defendant admitted to recently driving but denied drinking any alcohol. Defendant charged with DWI, but he is arguing no probable cause because no one ever saw him operate the vehicle. Is there probable cause? Be ready to explain your answer.

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## Scenario 9

A driver and passenger are stopped for a standard traffic violation. The officer asked to search the vehicle and the driver refuses. They are detained for nearly an hour waiting for a K-9 unit because officer knows they have “drug history”. Dog alerts and vehicle is searched. The passenger (non-vehicle owner) moves to suppress evidence found during the search, arguing that the prolonged detention was unreasonable. Does the passenger have standing to question the detention? Standing to question the search?

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## Scenario 10

Police are called about a reckless driver and find a car matching the description parked on the grass/common area in an apartment complex. They find a man in one of the nearby apartments who matches the witness description of the driver. He is sweating profusely, unsteady on his feet, and exhibits slurred speech. He denies driving that night. Police arrest him without a warrant. The officer justifies the arrest under the “suspicious places” exception, even though there was no exigent circumstance. Is this proper? Does the suspicious places exception under CCP 14.03(a)(1) require exigent circumstances for a warrantless arrest?

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## Scenario 11

Defendant is arrested for a DWI with Child Passenger. At magistration, are you required to impose ignition interlock device (IID) as a bond condition? What are all the offenses that require IID installation? What other bond conditions would you order?

Note: this issue might also be presented to you after information or indictment in a motion to modify bond conditions.

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## Scenario 12

A defendant who pled guilty to possession of cocaine claims that a police officer, known for falsifying evidence in prior cases, handled key evidence in his trial. He asserts that he would not have pled that way if he'd known about the officer's misconduct. He argues that the officer's misconduct creates an inference that the evidence against him was falsified, and thus, his plea was obtained through false evidence. Yet, other officers were involved in providing evidence, including another officer initiating the stop and a different officer conducting a proper K-9 search. How would you rule on his argument about the inference of falsity?

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## Scenario 13

Your county sheriff and two other judges that conduct magistrate duties have been talking. They come to you and propose a change in magistrate policies in your area to stop the press from being able to attend, watch, or record bail hearings. They argue that space is becoming too limited to continue to do in-person bail hearings that are open to everyone. Can the officials in your county legally implement this new policy? Why or why not? What options are available for counties with limited space?

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## Thank You!!!

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