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FIRST THINGS FIRST:

These topics are controversial.
Let’s be open to a variety of perspectives.

We’ll be discussing how the laws are *supposed to work in an ideal world*.

Your real-life experiences may be very different.

We’re here to learn together to make things better.
Tarek Shawky: private attorney who (1) defends the accused and (2) sues the government when it abuses its authority and harms his clients.

Rashad Sharif: LA Police Dept. officer who interacts with public and is charged with balancing the rights of individuals with the safety of the community.

Renee Williams: Alt. Public Defender for LA County – she defends the accused who cannot afford to hire an attorney.

Leonard Torrealba: Dep. District Attorney for LA County – Consumer Protection Division – he decides which cases to prosecute in court after examining evidence brought to him by law enforcement.
3 SECTIONS:

1. Five-minute overview of THE LAWS that GRANT and LIMIT police power

2. INTERACTING WITH POLICE: PANELIST INTROS & PERSPECTIVES
   Routine Stops * Suspected Crimes * Witnesses * Victims

3. Q & A
Part 1: THE LAWS
We, the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common Defence, promote the General Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.
QUESTIONS:

(1) What gives police their power?

(2) What limits on police power exist so they do not abuse the power we give them?
The Bill of Rights

Ratified December 15, 1791

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

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

Article III
No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Article IV
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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

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

Article VII
In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Article VIII
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

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

Article X
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.
THE BILL OF RIGHTS

The CONSTITUTION of the United States and its Amendments, especially the First Ten Amendments,

BOTH GIVES & LIMITS POLICE POWER
The Bill of Rights

* The 10th Amendment **GRANTS** “police powers” to the state to protect the public

* The 4th, 5th and 6th Amendments **LIMIT** police powers to protect the rights of individuals
Why do we give the police special powers and authority???
to respond to EMERGENCIES and threats to public safety

to investigate SUSPECTED crimes

to refer criminal investigations to the COURTS so a judge or jury can decide if guilty

to TEMPORARILY detain (i.e., jail) suspects until they can see a judge
To carry out those duties, we give officers limited “police powers:”
“police powers” to arrest a suspect
“police powers”

- to arrest
- to detain
“police powers”

- to arrest
- to detain
- to use force
“police powers”

- to arrest
- to detain
- to use force
- to search
The Bill of Rights tries to balance police powers with rights of individuals by promising “due process of law:”

- **NOTICE** of charges against us
- **OPPORTUNITY** to present our side at a **FAIR** trial
The Bill of Rights includes:

**The FOURTH Amendment**
* Requires PROBABLE CAUSE for searches & seizures
* prohibits EXCESSIVE FORCE

**The FIFTH Amendment**
* “DUE PROCESS” (notice & hearing) and
* “THE RIGHT TO REMAIN SILENT”

**The SIXTH Amendment**
* gives you the right to a LAWYER, a JURY and WITNESSES in a criminal trial
Pop quiz:

Do undocumented immigrants have rights and liberties under the US Constitution?
Yes.

You do not need to be a citizen to have the constitutional rights and liberties we are discussing today.

Just be aware, however: at “border zones,” federal officials can conduct routine searches without probable cause.
Fourth Amendment
Surveillance
Stop-and-frisk
Warrants
Probable Cause
Search
Seizures
Right
Persons
Government
Probable
Causes
Arrests
Protection
Seized
Secure
Houses
Papers
Unreasonable
Wiretaps
The Fourth Amendment:

(a) protects “against unreasonable searches and seizures. . .”

* That includes the use of excessive force.
However:

• **NOTE:** Police are entitled to use force, even deadly force as a last resort, when they believe a person poses an “**immediate danger**” to others, including the officer.
The Fourth Amendment also:

(b) requires law enforcement to show **probable cause** to:

* arrest a suspect
* obtain an arrest warrant or search warrant (describing property)
“PROBABLE CAUSE” is... 

- More than just a “hunch” or a suspicion!

- FACTS or EVIDENCE that would lead a “reasonable person” to believe the suspect committed a crime.
• EXAMPLES of “Probable Cause”

• a driver is pulled over for speeding & there’s an illegal assault rifle in the back seat, in plain view

• a driver admits he is high on cocaine
• BUT: What if an officer has a “pretty good hunch” that someone has engaged in criminal activity but doesn’t have evidence to show probable cause?
REASONABLE SUSPICION = a “strong suspicion” that a person is involved in criminal activity or may be armed and dangerous – but not as concrete as PROBABLE CAUSE
• With **REASONABLE SUSPICION**, police CAN **briefly detain** you for questioning.

• They can even enter a house without knocking **IF** announcing their presence would be dangerous or allow a suspect to destroy evidence.
The Fifth Amendment:

“. . .nor shall [any person] be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. . .”
The Fifth Amendment means...  

- *You have the right to remain silent!*
- *You have the right to know the charges against you & have an opportunity to defend yourself!*
"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury... to be confronted with the witnesses against him and have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."
The Sixth Amendment...

• You have the right to a quick, public trial with a lawyer representing you, in front of a jury, where you can question witnesses.
IMPORTANT...

- If you’re arrested, police can still question you – even if you exercise your right to remain silent – UNLESS YOU TELL THEM YOU WANT TO SPEAK WITH A LAWYER!
Part 2: Panelists’ perspectives
RASHAD SHARIF
Officer, LAPD

- Person of interest
- Suspect
- Hot pursuit
TAREK SHAWKY
Civil Rights and Criminal Defense Lawyer

• Stopped and/or Questioned
• Detained
• Arrested
• Bystander/Witness

• Remedies for Civil Rights Violations
RENEE WILLIAMS
Alternate Public Defender, LA County

- Arrest
- Right to counsel
- Common pitfalls
- Consent
LEONARD TORREALBA
Deputy District Attorney, Consumer Protection Division

• Victim of Crime
• Witness to a Crime
ROLE PLAY SCENARIOS
Scenario #1

Pedestrian Stopped on Street

ID requested and refused (undocumented)

“matches description” of wanted violent suspect

Search of coat pockets yields nothing
Scenario #2

Driver pulled over for expired tags
Officer asks if driver was drinking; she denies
Officer says he smells alcohol
Driver consents to search of car
No alcohol, but illegal firearm found in trunk
Scenario #3

Police come to door and say they have a search warrant. They want to search the car in the driveway.
IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO
STATE OF CALIFORNIA
SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY
OF SAN MATEO: proof by affidavit having been made before me by Detective Matthew Broad,
San Mateo County Sheriff's Office demonstrates that there is probable cause to believe that the
property described herein may be found at the locations set forth herein and that it is lawfully
seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that:

☐ it was stolen or embezzled;
☐ it was used as the means of committing a felony;
☐ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another
to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
☐ it tends to show that a felony has been committed or that a particular person has committed a felony;
☐ it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter
depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is
occurring;
☐ there is a warrant to arrest the person;
☐ a provider of electronic communication service or remote computing service has records of evidence, as specified in
Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a felony/public offense, or that
property or things are in possession of any person with intent to use them as a means of committing a felony/public
offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them
or preventing their discovery;

YOU ARE THEREFORE COMMANDED TO SEARCH:

Premises(s): The premises, structure, rooms, receptacles, outbuildings, storage areas, and safes
situated at the residence located at:

See Appendix A for description – attached hereto and incorporated herein

Person(s): The persons described as: Jason Shao Chen,

Vehicle(s): In the vehicles described as: Any vehicle that is at the location of the search warrant
and under the dominion and control of Jason Chen.

FOR THE FOLLOWING PROPERTY:

See Appendix B – attached hereto and incorporated herein

AND TO SEIZE IT IF FOUND and to retain the same in your custody pending disposition
according to law. Return of this search warrant shall be to the above entitled court.
QUESTIONS?