

# IDEAS AND RESOURCES FOR TEACHING WITH *RULES OF THE ROAD: THE AUTOMOBILE AND THE TRANSFORMATION OF AMERICAN CRIMINAL JUSTICE* (STANFORD UNIVERSITY PRESS, 2023)

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## Chapter 1: Revolutions per Minute

### Key concepts and jumping-off points

- Use of incarcerated people's labor by governments and private companies.
  - Relationships between law and technology.
    - How technological developments create new bases for legal regulations and new law enforcement responsibilities.
    - How contemporary considerations around regulation and enforcement related to autonomous vehicles compare with early regulation and enforcement related to automobiles.
  - Regulation of street users, regulation of public space.
  - Informal vs. formal social control (comparative workability of informal social control on pre-automobile streets).
  - Private actors' interests in law enforcement priorities (insurance companies and auto theft).
  - Decentralization and jurisdiction in "patchwork" US criminal justice system.
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### In-class activities

- Ask students to imagine themselves as potential lawbreakers around the dawn of the automotive age and brainstorm ways that cars might factor into lawbreaking activities.
  - Ask students to imagine themselves as law enforcement officials around the dawn of the automotive age and reflect on cars' implications for law enforcement work.
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### Media resources

- Demonstration of very early automobile technology: "Driving the First Crappy Car Ford Ever Built" (2:49). <https://www.youtube.com/watch?v=68CcW3ELNBM>
- "The Real Reason Jaywalking Is A Crime (Adam Ruins Everything)" (3:24). <https://www.youtube.com/watch?v=vxopfjXkArM>
- On the chaos and relative lawlessness of early driving: "Road Hogs," W.C. Fields sequence from *If I Had a Million* (1932).

## Chapter 2: Calling All Cars

### Key concepts and jumping-off points

- Weber on bureaucratization and rationalization.
- Police militarization.
- *Mala in se* vs. *mala prohibita* criminal offenses.
- Law enforcement clearance rates.
- Traffic duty as exposing better-off people to law enforcement in new ways.
- Information as key resource for modern police organizations.

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### In-class activities

- Ask students to reflect on pros and cons of police specialization and police generalization.
- Ask students to volunteer examples of both *mala in se* and *mala prohibita* offenses and keep a list of responses on projector display or chalkboard/whiteboard. Students' responses will highlight offenses that are clearly in each category and should also provide opportunities for discussion of some "edge cases."

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### Media resources

- On police communication and rapid response: opening sequence from *Drive* (2011) (approximately 9 minutes).
- "Police Dispatch Behind the Scenes" (2:25). <https://www.youtube.com/watch?v=HCQGHSphHvs>

## Chapter 3: Fifts and the Fourth

### Key concepts and jumping-off points

- The origins, characteristics, and implications of criminalization.
- Relationships between morals and laws.
- Law and law enforcement activity's effects on culture, and vice versa.
- The Fourth Amendment and privacy.
  - Surveillance (*Olmstead v. United States*).
  - Searches (*Carroll v. United States*).
- The automobile exception and vehicle stops.
- Defining probable cause.
- The exclusionary rule (and threats thereto from contemporary SCOTUS).

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### In-class activities

- Ask students to volunteer and discuss contemporary examples of criminalization of different activities, social statuses, and identity characteristics.
- Ask students to discuss prohibition vs. legalization and regulation approaches to policy regarding both alcohol and other drugs.

- Ask students to reflect on relationships between criminal laws, law enforcement strategies, and patterns in crime, especially organized criminal activity.

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### Media resources

- George Jones, “White Lightning” (1959). <https://www.youtube.com/watch?v=tpuCOTxTiFI>
- Tyler Childers, “We’ve Had Our Fun” (2011). <https://www.youtube.com/watch?v=x8COT36YeoY>
- “How Moonshine Bootlegging Gave Rise to NASCAR” (Jennifer Billock, Smithsonian Magazine, February 10, 2017). <https://www.smithsonianmag.com/travel/how-moonshine-bootlegging-gave-rise-nascar-180962014/>
- *The Moonshine War* by Elmore Leonard (1969).
- “Prohibition: The Goons” (7:45). <https://www.pbs.org/video/prohibition-the-goons/>

## Chapter 4: The Automotive Age of Majority

### Key concepts and jumping-off points

- Race, gender, and freedom of movement.
- Licensure and state legibility projects.
- Gender and safe driving ability: stereotypes vs. reality.
- Balancing access to driving and associated benefits with public safety considerations (“negative freedom” vs. “positive freedom”).
- Applying *parens patriae* doctrine.

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### In-class activities

- Ask students to discuss desirability of standard legal age thresholds (e.g. 16 for driver’s licenses, 18 for adult responsibility under the criminal law) as well as the comparative desirability of conceivable alternatives.
- Ask students to discuss importance of driver licensing as resource for young people, marker of transition to adulthood in contemporary USA.
  - Juxtapose recent increases in average age of first licensure with similar movement of other conventional markers of adulthood to later average ages (e.g. marriage, parenthood, forming new households).

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### Media resources

- Olivia Rodrigo, “drivers license” (2021). <https://www.youtube.com/watch?v=ZmDBbnmKpqQ>
- “Test Driving the First Digital Driver’s Licenses” (5:46). <https://www.youtube.com/watch?v=4FYUU4wP9s8>

## Chapter 5: City Planning, Suburbanization, and Vehicle Patrol

### Key concepts and jumping-off points

- Law and residential racial segregation.
- The cycle of automobile dependency (Litman 2011).
- The rule of law and accountability for authorities.
- *Weeks, Mapp*, and selective incorporation of the Bill of Rights.
- The power of the Supreme Court.
  - Granting certiorari (*Carroll & Brinegar*).
  - Stare decisis and overturning precedent.
- Broken windows theory.
  - Impact on policing and communities.
  - Lack of evidence for theory's viability.

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### In-class activities

- Ask students to discuss their experiences with residential racial segregation and reflect on its origins and effects.
- Ask students to discuss their experiences with the car-dependent built environment and reflect on its origins and effects.
- Ask students to reflect on the comparative merits and drawbacks of foot patrol and vehicle patrol.

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### Media resources

- “The Segregation Myth: Richard Rothstein Debunks an American Lie” (8:35). <https://www.youtube.com/watch?v=2roWLzrqOjQ>
- Broken windows theory and broken windows policing: *Hidden Brain* podcast episode, “How a Theory of Crime and Policing Was Born, and Went Terribly Wrong” (30:42). <https://www.npr.org/2017/05/29/530192364/how-a-theory-of-crime-and-policing-was-born-and-went-terribly-wrong>
- On racial inequities and police violence in broken windows policing: “Do low-level offenses provoke police shootings?” (4:42). <https://www.youtube.com/watch?v=pzD34j8WdYc>

## Chapter 6: Discretion and Disparities in Car-Based Criminal Justice

### Key concepts and jumping-off points

- Supportive and punitive aspects of government power, left and right hands of the state.
- Street-level bureaucrats.
- Gatekeeping.
- Over- and underpolicing.
- Race and vehicle stops, “Driving While Black.”
- *Terry, Whren*, and pretextual stops.

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### In-class activities

- Ask students to discuss the balance between empowering legal authorities to act discretionarily and implementing rules and accountability mechanisms to protect civil liberties and reduce between-group disparities.
- Ask students to reflect on implications of lack of community trust in police.
- Demonstrate the Stanford Open Policing Project’s “explore” function in class. Show students clustering of vehicle stops, compare racial patterning of populations and stops in different metro areas.  
<https://openpolicing.stanford.edu/explore/>

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### Media resources

- “A Day in the Life: Public Safety Dispatcher” (8:56). [https://www.youtube.com/watch?v=2\\_7PoNfgwwk](https://www.youtube.com/watch?v=2_7PoNfgwwk)
- On pretextual stops and probable cause: *End of Watch* (2011): 37:00-42:03.
- Bun B, “Blood on the Dash” (2018). <https://www.youtube.com/watch?v=1kV8F7mJjwk>
- Charles Epp and Steven Maynard-Moody interview about *Pulled Over* (16:38). <https://www.c-span.org/video/?325383-1/pulled-over>
- “Driving While Black: Race, Space and Mobility in America” (PBS documentary).
- “Chris Rock and Driving While Black” (7:00). <https://www.msnbc.com/all-in/watch/chris-rock-and-driving-while-black-42241235537>
- Public Enemy, “911 is a Joke” (1990). <https://www.youtube.com/watch?v=MwNhwwcQ4Ow>
  - Flavor Flav interview about “911 is a Joke” (3:42).  
<https://www.youtube.com/watch?v=WGoGwUU1RtQ>
- Denzel Curry, “John Wayne” (2022). <https://www.youtube.com/watch?v=nfqkgBrxmpM>
- Two video playlist about Turn Signl, app offering motorists opportunity to initiate video calls with attorneys when pulled over (3:30 total).  
[https://www.youtube.com/watch?v=qPKyshMIR3k&list=PLf8EWx3e1p8\\_niCAPqVucYIAExSpmPuUw](https://www.youtube.com/watch?v=qPKyshMIR3k&list=PLf8EWx3e1p8_niCAPqVucYIAExSpmPuUw)

## Chapter 7: Interstate Crime

### Key concepts and jumping-off points

- Federalism.
  - Federal/state jurisdiction and federalization in criminal justice.
    - Federal sentencing policies and relevant statutes (e.g. Armed Career Criminal Act, RICO Act, omnibus crime bills).
    - Dual sovereignty and double jeopardy.
  - The war on drugs and its effects, including mass incarceration.
  - The Mann Act and the FBI, especially under J. Edgar Hoover.
  - Human trafficking as a social issue and criminal justice matter.
  - FOSTA-SESTA and regulation of online activities via criminal law.
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### In-class activities

- Display the federal drug scheduling system (see <https://www.dea.gov/drug-information/drug-scheduling>) and ask students to assess the scheduling system and propose potential alterations. Invite students to compare characteristics of non-scheduled intoxicants (alcohol, tobacco) with scheduled drugs.
- Display a map showing states' basic cannabis policies (available at [https://en.wikipedia.org/wiki/Legality\\_of\\_cannabis\\_by\\_U.S.\\_jurisdiction](https://en.wikipedia.org/wiki/Legality_of_cannabis_by_U.S._jurisdiction)). Ask students to discuss the costs and benefits of cannabis legalization and the implications of interstate variation in these laws.
- Invoking Chapter 3, ask students to compare the effects of Prohibition and the war on drugs on criminal activity and the criminal justice system.
- Ask students to compare the attention paid to sex trafficking relative to labor trafficking, from both popular media and government agencies.
- Ask students discuss criminalization vs. legalization of sex work and implications for human trafficking and criminal justice.

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### Media resources

- “Ken Burns: Prohibition, Drug Laws, and Unintended Consequences” (13:11). <https://www.youtube.com/watch?v=jd-40VnMG94>
- On dynamics of interstate variations in cannabis law: “How Colorado’s marijuana legalization strengthened the drug’s black market” (7:38). <https://www.pbs.org/newshour/show/how-colorados-marijuana-legalization-strengthened-the-drugs-black-market>
- On sex trafficking, Backpage, and FOSTA-SESTA: *This American Life* Episode 740, “There, I Fixed It,” Act One (33:00). <https://www.thisamericanlife.org/740/there-i-fixed-it>

## Chapter 8: MADD Prosecutors?

### Key concepts and jumping-off points

- Moral entrepreneurs, moral panics.
  - Role of third-party information gathering and activism in shaping law and criminal justice practices.
- Rule creators and rule enforcers in criminal justice.
- Sobriety checkpoints and the Fourth Amendment.
- Prosecutorial discretion and prosecutors’ power.
- Plea bargaining’s centrality in US criminal justice.

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### In-class activities

- Ask students to reflect on how “bottom up” stories of legal change (like those driven by moral entrepreneurship campaigns) inform our understanding of the legal system.
- Ask students to compare the anti-drunk driving campaign with the Prohibition campaign described in Chapter 3.
- Ask students to discuss the desirability of different thresholds for motorists’ legal BAC. Is .08% right? Why or why not?
- Ask students to imagine themselves as prosecutors considering a case in which an impaired motorist caused death. Faced with the obligation to make a charging decision in the case, what factors would they consider?

Record students' responses on the chalkboard/whiteboard or projector screen. After recording student responses, lead the class in a discussion of what factors should be most important when prosecutors make charging decisions.

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### Media resources

- “1979 Star Wars PSA – Friends don’t let friends drive drunk” (0:37). [https://www.youtube.com/watch?v=0\\_VW9O9Y5ZU](https://www.youtube.com/watch?v=0_VW9O9Y5ZU)
- Oral argument in *Yates v. United States* (sentencing ranges, prosecutorial discretion, and Scalia’s “mad prosecutor”) (27:58-33:10). <https://www.oyez.org/cases/2014/13-7451>

## Chapter 9: Roadblocks

### Key concepts and jumping-off points

- Collateral consequences.
- How people’s criminal justice involvement affects their families and communities.
- Driver’s license denials, suspensions, and revocations.
- Legal financial obligations and their consequences.
- Due process.
- Equal protection.

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### In-class activities

- Ask students to assess the logic of collateral consequence statutes and their desirability.
- Ask students to discuss the pros and cons of restricting legal driving privileges for reasons unrelated to safe driving.
- Ask students to reflect on the role cars and driving have played in their lives and what losing driving privileges means for individuals and families.

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### Media resources

- “Living in the shadow of a felony conviction” (4 video playlist, approx. 12 min. total). [https://www.youtube.com/playlist?list=PLf8EWx3e1p8\\_maVHmzodWsM2uq-YA4Dqq](https://www.youtube.com/playlist?list=PLf8EWx3e1p8_maVHmzodWsM2uq-YA4Dqq)
- “Felons in Florida Can Vote – If They Pay” (5:44). <https://www.youtube.com/watch?v=TVwNUpYlcGc>
- “The impact of driver’s license suspensions” (4:16). <https://www.youtube.com/watch?v=LGGin7KBXz0>

## Chapter 10: Civil Asset Forfeiture and the Limits of the Criminal Law

### Key concepts and jumping-off points

- Asset forfeiture (criminal and civil/administrative).
  - The “guilty property fiction.”
  - Forfeiture and the war on drugs.
  - Race and forfeiture.

- Standards of proof: probable cause, preponderance of the evidence, clear and convincing, beyond a reasonable doubt.
- *Gideon*, due process in civil vs. criminal matters.
- Revenue generation via criminal justice.
- Recent forfeiture cases (*Austin*, *Bennis*, *Bajakajian*, *Timbs*).
  - *Timbs* and the excessive fines clause.

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### In-class activities

- Ask students to discuss the pros and cons of civil forfeiture policies.
- Ask students to assess what due process protections and which standard of proof should apply in forfeiture actions.
- Ask students to reflect on how best to balance individual property rights with government interests in this context.

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### Media resources

- “How Police Departments Use Civil Forfeiture to Collect Billions” (17:57).  
[https://www.youtube.com/watch?v=EP88\\_mNK3-U](https://www.youtube.com/watch?v=EP88_mNK3-U)
- “Civil Forfeiture: Last Week Tonight with John Oliver (HBO)” (16:29).  
<https://www.youtube.com/watch?v=3kEpZWGgJks>
- Point/counterpoint: “Civil Asset Forfeiture: An Overview & Conversation” (6:16).  
<https://www.youtube.com/watch?v=HM92ccVQdRE>

## Chapter 11: Watching the Wheels

### Key concepts and jumping-off points

- Automated enforcement.
  - Speed cameras.
  - Red-light cameras.
  - Public safety vs. revenue generation explanations.
- Race, class, and automated enforcement.
- Constitutional protections and automated enforcement.
- Automated License Plate Readers (ALPRs) and surveillance.

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### In-class activities

- Ask students to imagine themselves as law enforcement officers and reflect on how they would feel about a proposal to introduce automated enforcement in their jurisdiction.
- Ask students to reflect on the pros and cons of replacing officer-initiated vehicle stops with automated enforcement from citizens’ perspective.
- Ask students to discuss implications of involving for-profit companies in law enforcement.
- Ask students to discuss the costs and benefits of ALPRs.

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### Media resources



- On revenue generation through ticketing generally and speed cameras specifically: *This American Life* Episode 629, “Expect Delays,” Act One (23:00). <https://www.thisamericanlife.org/629/expect-delays>
- “License plate readers tracking drivers across South Florida” (3:54). [https://www.youtube.com/watch?v=JTM\\_QK11maA](https://www.youtube.com/watch?v=JTM_QK11maA)

## Chapter 12: Monitoring Mobility

### Key concepts and jumping-off points

- Radio frequency tracking.
  - Home detention.
  - Mass supervision, mass probation.
- GPS tracking.
- Phone tracking, cell-site simulators.
- SCOTUS and location tracking (*Katz, Knotts, Karo, Jones, Carpenter*).
- Geofence warrants.

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### In-class activities

- Ask students to assess different applications of tracking technologies, reflect on how these technologies should (and shouldn't) be used.
- Ask students to discuss the balance between individuals' interest in free movement and government's interest in collecting information about those movements.

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### Media resources

- “The Stingray: How Law Enforcement Can Track Your Every Move” (4:34). <https://www.youtube.com/watch?v=wzSgLPNrr2E>
- “Geofence Warrants: law enforcement's controversial surveillance tool” (4:57). <https://www.youtube.com/watch?v=ncqqd7SbMjI>
- Treasury Inspector General for Tax Administration's letter to Senators Warren and Wyden regarding government use of location data from commercial sources and its constitutionality under *Carpenter*. <https://s.wsj.net/public/resources/documents/Response.pdf>