



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 5/23/2019	LENGTH OF TRAINING 0 HOURS 20 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER:					
BRIEF DESCRIPTION OF TRAINING: Petaluma Police Department 5/23/2019 Briefing training on Tennessee v. Garner. Reviewed attached hand out regarding case law and had open discussion on the topic.					
ATTACHMENTS <input checked="" type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER Garrett Glaviano		ID# 2676	SUPERVISOR Glaviano C.V.G.		ID# 2676
LIEUTENANT <i>[Signature]</i>		ID# 1359	DATE 5/23/2019		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

Case Summary of Tennessee v. Garner:

- Police officer shot and killed an unarmed fleeing suspect – Garner.
- Garner’s family sued, alleging that Garner’s constitutional rights were violated.
- The District Court found no constitutional violation. The Sixth Circuit Court of Appeals reversed.
- The U.S. Supreme Court held that deadly force cannot be used against a fleeing suspect unless the suspect poses a serious threat to the officer or others.

Tennessee v. Garner Case Brief

Statement of the Facts:

On an October evening in 1973, Memphis police officers responded to a burglary call. One of the officers went to the back of the house and saw a fleeing suspect — 15-year-old Edward Garner. Garner ran across the yard and stopped at a chain-link fence. With a flashlight, the officer could see that Garner was likely unarmed. The officer told Garner to stop. Garner, however, began to climb the fence. The officer then shot Garner, striking him in the back of the head. He died shortly thereafter.

Tennessee statute (and Memphis Police policy) at that time allowed a police officer to use deadly force against a fleeing suspect. Neither the Memphis Police Firearms Review Board nor a grand jury took any action in the case.

Procedural History:

Garner’s father filed an action, under 42 U.S.C. 1983, in Federal District Court. Garner’s father alleged violations of Garner’s constitutional rights. The District Court found that the Tennessee statute, and the officer’s actions, were constitutional. The Sixth Circuit Court of Appeals reversed. The U.S. Supreme Court granted certiorari.

Issue and Holding:

Is it constitutional to use deadly force against an unarmed felon who is fleeing? No.

Judgment:

Court of Appeals judgment is affirmed.

Rule of Law or Legal Principle Applied:

Deadly force may not be used against a fleeing suspect unless such force is necessary to prevent the suspect’s escape and there is probable cause to believe that the suspect presents a serious threat to the officer or others.

Reasoning:

Stopping a suspect with deadly force is a Fourth Amendment “seizure.”

As a threshold matter, apprehending a suspect by deadly force is a “seizure” under the Fourth Amendment. The Court noted that deadly force is obviously the most intrusive type of seizure possible because the suspect’s life is in jeopardy. Accordingly, the Court must balance the suspect’s Fourth Amendment rights with the Government’s justification for intruding on those rights.

Government's use of deadly force is not justified when a fleeing suspect is unarmed.

The Court noted that Garner was unarmed. It concluded that, under the totality of the circumstances of the case, the Government was not justified in using deadly force against the unarmed Garner.

The Court cautioned that the use of deadly force against a fleeing suspect is not always unconstitutional. Such force can be used if there is probable cause that the fleeing suspect poses a serious threat to the officer or others.

Dissenting Opinion (O'Connor):

Justice O'Connor, in dissent, stated that the Court's opinion expands the Fourth Amendment too far. Justice O'Connor stated that now there is a right for a burglary suspect to flee unimpeded, even if an officer has no means of preventing escape short of using deadly force.

Significance:

Tennessee v. Garner has served as an important guide to law enforcement. It states that a fleeing suspect must present a significant threat before an officer can use deadly force. In addition, the case is an important guide to courts. The case reinforces the notion that courts should take account of the "totality of the circumstances" in reviewing Fourth Amendment cases.

(<https://legaldictionary.net/tennessee-v-garner/>; May 2019)

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

(b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.

2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

(PPD Policy 300 Use of Force; Lexipol; May of 2019)



PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE OF TRAINING 5/17/19	Duration: 15 Minutes	LOCATION PPD
TYPE OF TRAINING DISCUSSION REGARDING LAWS PERTAINING TO OBTAINING IDENTIFICATION FROM ARRESTEES AND DETAINEES		
BRIEF DESCRIPTION OF TRAINING: THE TEAM DISCUSSED BOTH CASE LAW AND STATUTORY LAW REVOLVING AROUND THE CONCEPT OF WHEN SOMEONE HAS TO LAWFULLY IDENTIFY THEMSELVES. SEE ATTACHED DOCUMENTS.		

SUPERVISORY REVIEW			
TRAINER Garrett Glaviano	ID# 2676	SUPERVISOR Garrett Glaviano	ID# 2676
LIEUTENANT Tim Lyons	DATE 5/17/19		

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

California Peace Officers Legal Sourcebook

SEARCH AND SEIZURE - PERSONS

2.14a

The U.S. Supreme Court has drawn a distinction between a detainee's duty to identify himself and his duty to answer non-identification questions during a lawful detention. In Berkemer (1984) 468 U.S. 420, 439, the court stated that a detainee is not obligated to answer any questions you put to him during a lawful detention. (Christian (9th Cir. 2004) 356 F.3d 1103.) However, in Hiibel, the Supreme Court clarified that it was not referring in Berkemer to questions regarding identity. The Court upheld as constitutional a Nevada "stop and identify" statute and found that a detainee's failure to identify himself could be the basis for a lawful arrest under a companion statute almost identical to Penal Code section 148. (Hiibel (2004) 542 U.S. 177.)

Unlike Nevada and other states, California does not have a statute mandating that a detainee identify himself, and that obligation cannot be read into Penal Code section 148. Although you may take whatever steps are reasonably necessary under the circumstances to ascertain the identity of a person you have lawfully detained, Hiibel does not provide a means of arresting someone for failing or refusing to identify himself. The Ninth Circuit has ruled that a suspect's failure to identify himself cannot, on its own, justify an arrest: "the use of Section 148 to arrest a person for refusing to identify herself during a lawful Terry stop violates the Fourth Amendment's proscription against unreasonable searches and seizures." (Martinelli (9th Cir. 1987) 820 F.2d 1491, 1494; Christian (9th Cir. 2004) 356 F.3d 1103, 1106; see also Quiroga (1993) 16 Cal.App.4th 961, 969, fn. 2.)

Likewise, you cannot arrest or cite a "loiterer" or "wanderer" for failing to identify himself. (Lawson (1983) 461 U.S. 352.) Former Penal Code section 647, subdivision (e), was deleted in response to Lawson in 2008.

Note, however, that it is a violation of Penal Code section 148 for a suspect who has been arrested for a felony to fail to orally identify himself during a routine booking interview.

Example: It was not a violation of Penal Code section 148 for an arrestee to fail to give his name in response to questions asked while being driven to the station "because it did not delay or obstruct a peace officer in the discharge of any duty within the meaning of the statute." The officer had no compelling reason to complete the "booking sheet" until the suspect arrived at jail. However, at the jail, the police had the right to question defendant about his identity during a routine booking, and the suspect's refusal to verbally identify himself constituted a violation of Penal Code section 148 just as much as if he had fled from an investigatory detention or physically struggled with a peace officer. (Quiroga (1993) 16 Cal.App.4th 961, 972.)

A person's failure to identify himself may, if combined with "belligerent" conduct, provide a basis for a detention.

Example: Officers responded to a call that two men in a crowded park had a firearm. A witness who had been threatened pointed out a group of three men. Defendant, who broke away from the group and approached one of the officers, refused to identify himself, refused to keep his hands away from his pockets, was hostile and aggressive, and refused to submit to a patdown search. HELD: The detention and patdown were reasonable given the circumstances. (Lopez (2004) 119 Cal.App.4th 132.)

40302. California Vehicle Code

Whenever any person is arrested for any violation of this code, not declared to be a felony, the arrested person shall be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made in any of the following cases:

(a) When the person arrested fails to present both his or her driver's license or other satisfactory evidence of his or her identity and an unobstructed view of his or her full face for examination.

(b) When the person arrested refuses to give his or her written promise to appear in court.

(c) When the person arrested demands an immediate appearance before a magistrate.

(d) When the person arrested is charged with violating Section 23152.

853.5. California Penal Code

(a) Except as otherwise provided by law, in any case in which a person is arrested for an offense declared to be an infraction, the person may be released according to the procedures set forth by this chapter for the release of persons arrested for an offense declared to be a misdemeanor. In all cases, except as specified in Sections 40302, 40303, 40305, and 40305.5 of the Vehicle Code, in which a person is arrested for an infraction, a peace officer shall only require the arrestee to present his or her driver's license or other satisfactory evidence of his or her identity for examination and to sign a written promise to appear contained in a notice to appear. If the arrestee does not have a driver's license or other satisfactory evidence of identity in his or her possession, the officer may require the arrestee to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear. Except for law enforcement purposes relating to the identity of the arrestee, no person or entity may sell, give away, allow the distribution of, include in a database, or create a database with, this print. Only if the arrestee refuses to sign a written promise, has no satisfactory identification, or refuses to provide a thumbprint or fingerprint may the arrestee be taken into custody.

853.6. California Penal Code

(i) Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease, in which case the arresting officer may release the person, except as provided in subdivision (a), or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the nonrelease:

(1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.

(3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

(10) The person was subject to Section 1270.1.



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE 05-16-2019		LENGTH OF TRAINING 15 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT			
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER RAMEY HANDOUT FROM RAY HILL'S 2019 TEXT BOOK							
BRIEF DESCRIPTION OF TRAINING: Pgs 238-240 of Ray Hill's 2019 text book. Pages covered Ramey. Group led discussion afterwards.							
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:							
SUPERVISORY REVIEW							
TRAINER B. Sawyer		ID# 3108		SUPERVISOR Sgt A. Garihan		ID# 1757	
LIEUTENANT T. Lyons		ID# 1359		05-16-2019			
TRAINING RECORD UPDATE							
DATA ENTR		DATE		TRAINING RECORD			

SAWYER

sweep and found 46 marijuana plants growing in plastic tubs in the defendant's bedroom and a cane sword. DCA ruled because of the minor nature of the offense - possession of marijuana (a non-arrestable crime), there was no exigency to enter and sweep the apartment. The consent was a submission to authority (Peo. v. Hau, 1DCA, 1/08); Los Angeles Police officers noted a strong odor of burning marijuana coming from a motel room. They knocked on the door and ordered all persons to exit the room. A protective sweep of the room was conducted. A stolen Blackberry device and credit card taken during the burglary were observed in plain view. DCA ruled an exigency entry is not permissible for a non-jailable crime. There was no evidence the possession of marijuana amounted to misdemeanor (above 28.5 grams) or a felony (Peo. v. Dean, 2DCA, 5/12).

5) **Legal Search Doctrine** - After arrest, a full and complete search of a residence or dwelling can be performed based upon voluntary consent, with a probation or parole search condition, or with a search warrant. If there is probable cause to believe more evidence or contraband is inside the residence, an officer can "**secure the premises**" ("seize" the house by posting an officer on the environs to prevent persons from entering and tampering with or removing evidence) and seek a search warrant.

"The Fourth Amendment draws a firm line at the entrance to the house". "Absent exigent circumstances, that threshold may not reasonably be crossed without an arrest or search warrant" (Payton v. New York, U.S., 1980).

"An intrusion by the State into the privacy of a home for any purpose is one of the most awesome incursions of police power into the life of the individual". "It is essential that the dispassionate judgment of a magistrate be interposed between the state and the citizen at this critical juncture" (Peo. v. Ramey, Cal., 1976).

RAMEY RULE - Requires an arrest warrant be obtained in order to enter a person's home to make an arrest. A warrantless arrest made inside a home is a violation of the Fourth Amendment, unless based on an emergency, consent, or probation/parole condition (Payton v. New York, U.S., 1980; Peo. v. Ramey, Cal., 1976). This rule differs from a warrantless arrest that can be made on the street or in a public place (836 P.C.). If the Ramey rule is violated, the Exclusionary Rule triggers and any evidence or statements are suppressed. A warrantless entry can subject an officer to civil liability ("1983 Action") (George v. City of Long Beach, 9USCA, 7/92). Examples:

* Defendant committed a burglary and took several firearms. Having probable cause for arrest, Sacramento Police officers went to his apartment. After knock and notice and entry, the defendant reached behind a bar as if to hide something.

An officer grasped his arm and took custody. Behind the bar, officers found drugs and a .45 pistol. Cal. ruled even though officers had probable cause to arrest for a felony, a warrantless arrest within a home is "per se unreasonable" (Peo. v. Ramey, Cal., 1976).

* Persons were observed outside an apartment engaging in the "method of operation" for drug sales. Officers feared their presence was revealed and evidence could be destroyed before a search warrant could be obtained. They entered the apartment and arrested the defendant. Cocaine and cash were discovered on his person. U.S. suppressed the evidence because no arrest warrant was obtained. The prosecution failed to sufficiently establish facts showing an "in-progress" exigency justifying a warrantless entry (Kirk v. Louisiana, U.S., 6/02).

* While cleaning a hotel room in South San Francisco, a maid saw baggies containing a white substance. Hotel management notified the police. Police arranged a ruse where the housekeeper knocked at the door. When the defendant answered, plainclothes officers entered the room with guns drawn. Narcotics were observed in plain view. DCA suppressed the evidence because no arrest warrant was obtained. The officer's entry was a "do it yourself variety". The law doesn't permit officers to expose themselves at a residence, then claim an exigency may occur if they leave and seek a warrant (Peo. v. Bellizzi, 1DCA, 5/95).

"Simply put, a person's garage is as much a part of his castle as the rest of his home" (U.S. v. Oaxaca, 9USCA, 11/00).

* DEA agents went to defendant's home to arrest him for methamphetamine sales. They had no arrest warrant. Upon arrival, the defendant was standing inside his open garage, appurtenant to the home. Agents walked into the garage and made the arrest. A consent search of the house revealed sales evidence. 9USCA ruled the consent was tainted by the unlawful entry. An attached garage is part of the home. The fact the garage door was open did not diminish the defendant's expectation of privacy. Persons are not required to keep their doors and windows shut in order to receive Fourth Amendment protection (U.S. v. Oaxaca, 9USCA, 11/00).

"Suggesting that a magistrate judge should be telling police in the middle of the standoff that they must withdraw or what tactics are permissible does not strike us as a reasonable role for a judicial officer under the Fourth Amendment" (Fisher v. City of San Jose, 9USCA (en banc), 3/09).

Exceptions to the **Ramey Rule** include an exigency such as hot pursuit, investigative pursuit of a great bodily injury felon, entry to secure a crime scene to prevent the destruction of evidence, consent-in / step-out, consent entry in response to a general on-scene investigation, or entry pursuant to a search warrant, probation, or parole search. Examples:

* Plaintiff had consumed two six packs of beer and was examining and cleaning his World War II era 18-piece gun collection inside his apartment. A security guard contacted the intoxicated plaintiff about a noise complaint. Plaintiff stepped outside his apartment, carrying a rifle, proclaiming his 2nd Amendment right to bear arms, and allegedly pointed the rifle in the guard's direction. A San Jose Police sergeant arrived, attempted to talk with the plaintiff, and was verbally threatened with being shot. Eventually, 60 officers, including a tactical team and negotiator responded to the scene. The plaintiff invited the negotiator to come inside the apartment under threat of being shot. While officers were establishing tactical positions outside, the plaintiff pointed a rifle at them from inside his apartment. After a 12-hour standoff, including use of flash bang grenades and CS gas, plaintiff was arrested after being subdued with a rubber bullet. 9USCA ruled "We hold that, during such a standoff, once exigent circumstances justify the warrantless seizure of a suspect in his home, as so long as the police are actively engaged in completing his arrest, police need not obtain an arrest warrant before taking the suspect into full custody"(Fisher v. City of San Jose, 9USCA (en banc), 3/09).

"She (the defendant) was not merely visible to the public but exposed to public view, speech, hearing, and touch as if she had been standing completely outside her house" (U.S. v. Santana, U.S., 1976).

The threshold of a dwelling is a public place for the purposes of the Fourth Amendment (U.S. v. Santana, U.S., 1976). Examples:

* Bend, Oregon Police officers had probable cause to arrest the defendant for burglary. They had no arrest warrant. Defendant was living in a motel room. When officers gave knock and notice, the defendant looked out a window, observed the officers, then opened the front door exposing himself to public view. Defendant was standing in the doorway threshold when officers ordered him outside and arrested him. Defendant gave consent to search the room and stolen property was recovered. USCA ruled the "threshold grab" or "doorway exception" arrest was lawful because there was no actual entry into the motel room until after consent had been obtained (Peo. v. Vaneaton, 9USCA, 1995); A "threshold arrest" of a DUI suspect was permitted where an officer had probable cause to take custody and blood alcohol evidence could be compromised by delay (Peo. v. Hampton, DCA 1985; Peo. v. Schofield, DCA. 2001); LAPD detectives were investigating the theft of Academy Award "Oscar" statues. Officers gave a "request-choice" for the defendant to step outside his home, questioned him, then made an arrest. The "step out" was lawful. The detective's request was not accompanied by any command or coercion and there was no entry into the home (Hart v. Parks, 9USCA, 2006).



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JACKIE LACEY
DISTRICT ATTORNEY

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

ONE MINUTE BRIEF

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NUMBER: 2014-02 **DATE:** 02-03-14 **BY:** Devallis Rutledge **TOPIC:** Consensual Encounters

ISSUE: Can police officers contact suspicious individuals without implicating the Fourth Amendment?

For Fourth Amendment analysis, there are 3 levels of interaction between police and suspects: (1) **consensual encounters**, which need **no justification**; (2) **detentions**, requiring **reasonable suspicion** of criminal activity; and (3) **arrests**, which must be supported by **probable cause**. *In re Manuel G.* (1997) 16 Cal.4th 805, 821.

The difference between a consensual encounter and a detention is often the difference between an officer simply **asking** a suspect to do something, and **ordering** him to do it.

"[T]he crucial test is whether, taking into account all of the circumstances surrounding the encounter, the police conduct would 'have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business.' ... [T]he 'reasonable person' test presupposes an innocent person." *Florida v. Bostick* (1991) 501 US 429, 437-38.

Commands and forcible touching generally create **detentions**, as in these examples:

- *People v. Verin* (1990) 220 Cal.App.3d 551, 557. (Telling pedestrian, "Hold it! Police!" constituted a detention.)
- *People v. Rodriguez* (1993) 21 Cal.App.4th 232, 238. (Order to pedestrians to "Stay there!" made interaction a detention.)
- *People v. Coulombe* (2000) 86 Cal.App.4th 52, 57, fn. 3. (Unconsented pat-search.)
- *People v. Bailey* (1985) 176 Cal.App.3d 402, 405-06. (Turning on red lights.)
- *People v. Wilkins* (1986) 186 Cal.App.3d 804, 809. (Blocking suspect's egress.)

On the other hand, where officers are careful to avoid such things as commands, weapons, red lights/siren, forcible touching, or restriction of movement, they may engage in a variety of investigative steps during **consensual encounters**, as in the following cases:

- *Florida v. Rodriguez* (1984) 469 US 1, 5-6. (OK to approach a suspect and **ask** if she would step aside and **talk** to officers.)
- *US v. Drayton* (2002) 536 US 194, 201-02. (OK for officers to board a waiting bus and question passengers and **request consent to search**.)
- *People v. Melnyk* (1992) 4 Cal.App.4th 1532, 1536-37. (OK to tap on the window of a parked car and shine a **flashlight** through the window.)
- *People v. Leath* (2013) 217 Cal.App.4th 344, 353; *People v. Terrell* (1999) 69 Cal.App.4th 1246, 1254; and *People v. Bouser* (1994) 26 Cal.App.4th 1280, 1286-88. (OK to **ask** for **ID** and run a **warrant check**.)
- *In re Frank V.* (1991) 233 Cal.App.3d 1232, 1238. (OK to order a suspect to **take his hands out of his pockets**, for officer safety.)
- *People v. Bennett* (1998) 69 Cal.App.4th 396, 402. (OK to **ask** the suspect if he would wait in the back of the police car while a warrant check was run.)
- *Ford v. Superior Court* (2001) 91 Cal.App.4th 112, 125. (OK to **ask** a suspect if he would accompany officers to the station for questioning.)
- *People v. Hughes* (2002) 27 Cal.4th 825A, 328-29. (OK to **ask** the suspect if he would go to the station **in handcuffs** and have his **clothing tested** for blood.)
- *Florida v. Jardines* (2013) 133 S.Ct. 1409, 1416; and *People v. Rivera* (2007) 41 Cal.4th 304, 309-311. (“**Knock-and-talk**” and **request to enter and search** OK.)
- *People v. Colt* (2004) 118 Cal.App.4th 1404, 1411-12. (OK to lure the suspect outside by “**knock-and-hide**,” prompting a curious suspect to step out to see who’s there.)

Note: An officer’s mistake in calling a consensual encounter a “detention” in reports or testimony is **not controlling**. *People v. Adams* (1985) 175 Cal.App.3d 855, 862-63.

BOTTOM LINE: Avoiding the use of language or conduct that would cause a reasonable, innocent person to feel obliged to comply, police officers may engage in consensual encounters that may reveal evidence that justifies detention or arrest.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.

Background: Arizona v. Gant

The case of Arizona v. Gant concerns a man named Rodney Joseph Gant. This man was arrested because he was driving with a suspended driver's license. After Mr. Gant was taken by the police, the officers conducted a search on his vehicle where they discovered guns and illegal drugs. Because of this search, Mr. Gant was not only charged with illegal operation of a motor vehicle (remember he did not have a valid driver's license), but also with illegal possession of a dangerous drug. After he was arrested, Gant cleverly cited the Arizona Police Department with partaking in an illegal search and seizure. Mr. Gant was apparently a good student, because he knew that the police officers had violated his constitutional rights—all citizens of the United States are protected against illegal search and seizures by the 4th Amendment to the United States Constitution.

The Case: Arizona V. Gant

The Arizona v. Gant case was heard on October 7th of 2008. The case dealt with administrative law; it questioned the "due process" clause of the United States Constitution. The due process clause refers to the government's obligation to respect, maintain and uphold the rights of American citizens when they are arrested. All state governments, as well as the Federal government, are required to uphold this clause; these bodies must preserve and protect a citizen's liberties and rights. The United States Government must uphold the right to respectful and fair treatment when a citizen is detained by police officers.

In Arizona v. Gant, Mr. Gant said that the Arizona police officers who pulled him over performed an illegal search of his car. The search was conducted without a warrant; a warrant is the expressed legal permission for the police to enter a citizen's personal or private property with the intent to find illegal things.

Mr. Gant said that the Arizona police officers acted without probable cause. The United States Supreme Court in Gant v. Arizona ruled in favor of Mr. Gant, stating that the police officers conducted an illegal search because they did not have probable cause to enter Mr. Gant's vehicle. The police officers could only search Mr. Gant's car if there was something alarming about the vehicle. Something that made the police officers curious and made them think, "Hey something illegal is going on here."

The Supreme Court ruled that the Arizona police department lacked evidence to search Mr. Gant's car. In Gant V. Arizona the court ruled that the police could only assume Mr. Gant was in violation of just the illegal operation of a car. Because of this, the Supreme Court overruled Mr. Gant's conviction of illegal possession of guns and drugs.

The Supreme Court ruled in favor of Mr. Gant in Gant v. Arizona because the 4th Amendment to the United States Constitution does not allow police officers or any government workers to conduct unlawful search and seizures of a citizen's personal belongings.

Arizona v. Gant .

<https://www.youtube.com/watch?v=p-Ts09utgKQ>

Consensual encounters, Detentions, and Arrests

<https://youtu.be/-MC4Fh-XROl>

https://youtu.be/fJk7r-48_cc

<https://youtu.be/cMo0cRKjiN4>

<https://youtu.be/8qzB1FKupoE>

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees:

TRAINING SUMMARY

Date: 5-12-19

Length of Training: _____ hours 20 min

Video: _____

Lecture: X

Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

CONTACTS VS. DETENTIONS VS. ARRESTS

REASONABLE SUSPICION VS. PROBABLE CAUSE

ARIZONA VS. GANT

- DISCUSSION OF ABOVE TOPICS AND HOW THEY RELATE TO PPD
POLICY AND PROCEDURES (POWERPOINT)

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☐ Other

SUPERVISORY REVIEW

Trainer: BOYD

Supervisor: NOVELLO

Lieutenant: QC 1749

Date: 5-13-19

TRAINING RECORD UPDATE

Data Entry: _____

Date: _____

Training Record: _____

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees: _____

TRAINING SUMMARY

Date: 5-13-19 Length of Training: _____ hours 15 min

Video: _____ Lecture: X Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

REVIEWED AND DISCUSSED POLICY 420 - CITE AND RELEASE -
AND HOW SB 10 (PRETRIAL RELEASE + DETENTION) WILL AFFECT THE
POLICY

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☐ Other

SUPERVISORY REVIEW

Trainer: NOVELLO

Supervisor: NOVELLO

Lieutenant: EC 1749

Date: 5-13-19

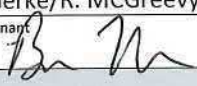
TRAINING RECORD UPDATE

Data Entry: _____ Date: _____ Training Record: _____



Petaluma Police Department BRIEFING TRAINING RECORD

TNR

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#
TRAINING SUMMARY					
Date of Training 05/16/19	Length of Training HRS: MIN: 30	Time of Training START: 1015 END: 1045	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other:		
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Critical Incident Debriefing <input checked="" type="checkbox"/> Other: Power Point					
Brief Description of Training: Domestic Violence Lethality Screening training. Investigations Unit provided training to patrol officers on the newly mandated Domestic Violence Lethality Screening questionnaire. Instructions provided on the screening questions, proper interpretation of the matrix, contact with YWCA if protocol is "triggered", report documentation, and disposition of completed form.					
Attachments					
Supervisory Review					
Trainer P. Gerke/R. McGreevy		ID# 1904/2675	Supervisor P. Gilman		ID# 2042
Lieutenant 		ID# 2709	Date 5/16/19		
Training Record Update					
Data Entry	Date		Training Record		



Petaluma Police Department BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#
TRAINING SUMMARY					
Date of Training 05/09/19	Length of Training HRS: MIN: 30	Time of Training START: 0700 END: 0730		Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other:	
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Critical Incident Debriefing <input checked="" type="checkbox"/> Other: Power Point					
Brief Description of Training: Domestic Violence Lethality Screening training. Investigations Unit provided training to patrol officers on the newly mandated Domestic Violence Lethality Screening questionnaire. Instructions provided on the screening questions, proper interpretation of the matrix, contact with YWCA if protocol is "triggered", report documentation, and disposition of completed form.					
Attachments					
Supervisory Review					
Trainer R. McGreevy		ID# 2675	Supervisor P. Gilman		ID# 2042
Lieutenant		ID#	Date		
Training Record Update					
Data Entry	Date			Training Record	



Petaluma Police Department BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#
TRAINING SUMMARY					
Date of Training 05/13/19	Length of Training HRS: MIN: 30	Time of Training START: 0700 END: 0730		Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other:	
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Critical Incident Debriefing <input checked="" type="checkbox"/> Other: Power Point					
Brief Description of Training: Domestic Violence Lethality Screening training. Investigations Unit provided training to patrol officers on the newly mandated Domestic Violence Lethality Screening questionnaire. Instructions provided on the screening questions, proper interpretation of the matrix, contact with YWCA if protocol is "triggered", report documentation, and disposition of completed form.					
Attachments					
Supervisory Review					
Trainer W. Spiller		ID# 2140	Supervisor P. Gilman		ID# 2042
Lieutenant		ID#	Date 5/14/19 2042		
Training Record Update					
Data Entry		Date		Training Record	



Petaluma Police Department BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#
TRAINING SUMMARY					
Date of Training 05/14/19	Length of Training HRS: MIN: 30	Time of Training START: 1600 END: 1630		Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other:	
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Critical Incident Debriefing <input checked="" type="checkbox"/> Other: Power Point					
Brief Description of Training: Domestic Violence Lethality Screening training. Investigations Unit provided training to patrol officers on the newly mandated Domestic Violence Lethality Screening questionnaire. Instructions provided on the screening questions, proper interpretation of the matrix, contact with YWCA if protocol is "triggered", report documentation, and disposition of completed form.					
Attachments					
Supervisory Review					
Trainer W. Spiller		ID# 2140	Supervisor P. Gilman		ID# 2042
Lieutenant		ID#	Date		
Training Record Update					
Data Entry		Date		Training Record	



PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE OF TRAINING January 2019	LENGTH OF TRAINING 20 MINUTES	LOCATION DISPATCH
TYPE OF TRAINING FENTANYL		
BRIEF DESCRIPTION OF TRAINING: EACH DISPATCHER WAS REQUIRED TO WATCH AN ON-LINE TRAINING VIDEO ON THE DANGERS OF FENTANYL EXPOSURE.		

ATTACHMENTS			

SUPERVISORY REVIEW			
TRAINER	ID#	SUPERVISOR Tina Thomsen	ID# 1777
LIEUTENANT <i>R. Smith</i>	ID# <i>2310</i>	DATE <i>7/24/19</i>	

TRAINING RECORD UPDATE	

DATA ENTRY	DATE	TRAINING RECORD
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S:\Police\Department Forms\In-Service Training Record.doc

Revised 02/2002



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY			
DATE 03/26/19	LENGTH OF TRAINING HOURS 10 MINUTES	LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT	
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: REVIEW/UP DATE			
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED TENNESSEE V. GARNER AND ARIZONA V. GANT <div style="display: flex; justify-content: space-around; margin-top: 10px;">forceSEARCH</div>			

ATTACHMENTS			
<input type="checkbox"/> HANDOUT MATERIALS <input checked="" type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER: POLICY			

SUPERVISORY REVIEW			
TRAINER Farinha	ID# 2837	SUPERVISOR Urton	ID# 1626
LIEUTENANT <i>Croley</i>	ID# 1749	DATE 3/26/19	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

Legal Dictionary

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TENNESSEE V. GARNER

Following is the case brief for Tennessee v. Garner, 471 U.S. 1 (1985).

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Case Summary of Tennessee v. Garner:

- Police officer shot and killed an unarmed fleeing suspect – Garner.
- Garner's family sued, alleging that Garner's constitutional rights were violated.
- The District Court found no constitutional violation. The Sixth Circuit Court of Appeals reversed.
- The U.S. Supreme Court held that deadly force cannot be used against a fleeing suspect unless the suspect poses a serious threat to the officer or others.

Tennessee v. Garner Case Brief

Statement of the Facts:

On an October evening in 1973, Memphis police officers responded to a burglary call. One of the officers went to the back of the house and saw a fleeing suspect — 15-year-old Edward Garner. Garner ran across the yard and stopped at a chain-link fence. With a flashlight, the officer could see that Garner was likely unarmed. The officer told Garner to stop. Garner, however, began to climb the fence. The officer then shot Garner, striking him in the back of the head. He died shortly thereafter.

Tennessee statute (and Memphis Police policy) at that time allowed a police officer to use deadly force against a fleeing suspect. Neither the Memphis Police Firearms Review Board nor a grand jury took any action in the case.

Procedural History:

Garner's father filed an action, under 42 U.S.C. 1983, in Federal District Court. Garner's father alleged violations of Garner's constitutional rights.



RELATED POSTS

- [Graham v. Connor](#)
- [Webster v. Reproductive Health Services](#)
- [New Jersey v. T.L.O.](#)
- [Goodridge v. Department of Public Health](#)
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- [Bolling v. Sharpe](#)
- [Atwater v. City of Lago Vista](#)
- [Alabama v. White](#)
- [Brendlin v. California](#)
- [Schmerber v. California](#)
- [Pierce v. Society of Sisters](#)
- [Smith v. Maryland](#)
- [Heart of Atlanta Motel, Inc. v. United States](#)

The District Court found that the Tennessee statute, and the officer's actions, were constitutional. The Sixth Circuit Court of Appeals reversed. The U.S. Supreme Court granted certiorari.

Issue and Holding:

Is it constitutional to use deadly force against an unarmed felon who is fleeing? **No.**

Judgment:

Court of Appeals judgment is affirmed.

Rule of Law or Legal Principle Applied:

Deadly force may not be used against a fleeing suspect unless such force is necessary to prevent the suspect's escape and there is **probable cause** to believe that the suspect presents a serious threat to the officer or others.

Reasoning:

- **Stopping a suspect with deadly force is a Fourth Amendment "seizure."**

As a threshold matter, apprehending a suspect by deadly force is a "seizure" under the Fourth Amendment. The Court noted that deadly force is obviously the most intrusive type of seizure possible because the suspect's life is in jeopardy. Accordingly, the Court must balance the suspect's Fourth Amendment rights with the Government's justification for intruding on those rights.

- **Government's use of deadly force is not justified when a fleeing suspect is unarmed.**

The Court noted that Garner was unarmed. It concluded that, under the **totality of the circumstances** of the case, the Government was not justified in using deadly force against the unarmed Garner.

The Court cautioned that the use of deadly force against a fleeing suspect is not always unconstitutional. Such force can be used if there is probable cause that the fleeing suspect poses a serious threat to the officer or others.

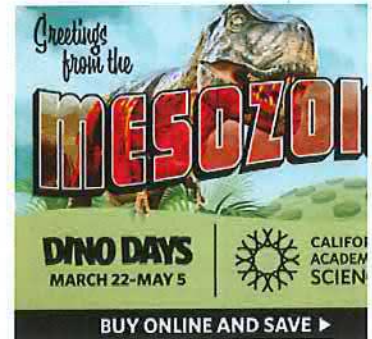
Dissenting Opinion (O'Connor):

Justice O'Connor, in dissent, stated that the Court's opinion expands the Fourth Amendment too far. Justice O'Connor stated that now there is a right for a burglary suspect to flee unimpeded, even if an officer has no means of preventing escape short of using deadly force.

Significance:

Tennessee v. Garner has served as an important guide to law enforcement. It states that a fleeing suspect must present a significant threat before an officer can use deadly force. In addition, the case is an important guide to

- **Bowers v. Hardwick**
- **Payton v. New York**



courts. The case reinforces the notion that courts should take account of the "totality of the circumstances" in reviewing Fourth Amendment cases.

Student Resources:

[//supreme.justia.com/cases/federal/us/471/1/case.html](https://supreme.justia.com/cases/federal/us/471/1/case.html)

[//www.oyez.org/cases/1984/83-1035](https://www.oyez.org/cases/1984/83-1035)

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Elk Grove Police Department Citizens Academy Week 7 – Elk Grove Laguna News

[...] Tennessee vs Garner 1985. Otherwise known as the "fleeing felon" rule. This allows officers to use whatever force is necessary to stop a fleeing felon. In this case the suspect was unarmed. Officers had responded to call for a burglary in a home. When they arrived a woman told the officers that she heard breaking glass in her home. The suspect was seen outside in the backyard. The officers ordered the suspect to stop, but he tried to jump over a fence. One of the officers opened fire killing the suspect. The suspect was an unarmed 15 year male. ... [Read more »](#)

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5 months ago



Guest

Lataja

I disagree with your point of view. Put yourself in the shoes of this young man's parents. What if your child took off running because of the police and the police shot and killed him because he running. Right is right and wrong is wrong. If the suspect is unarmed then there is no way that he can pose a threat to anyone else. There was no point in time where this officer could possibly believe that he feared for his life because he shot the young man in the back of the head while he was climbing a fence.... [Read more »](#)

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EARLIER DECISION OF BRIGHT LINE RULE
"SEARCH AFTER ARREST"
BELTON CASE

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CRIMINAL LAW

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ARIZONA V. GANT

Following is the case brief for Arizona v. Gant, Supreme Court of the United States, (2009)



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Case Summary of Arizona v. Gant:

- Gant was pulled over and arrested for driving while license suspended.
- After being cuffed and secured in the back of a cop car, officers searched his car and found a gun and drugs. Gant moved to have the evidence suppressed as the result of an improper search.
- The Arizona court convicted Gant and he petitioned to the Supreme Court claiming the search violated his Fourth Amendment rights.
- Upon review, the United States Supreme Court held that the police may search a vehicle only if the arrested person is within reaching distance of the passenger compartment at the time of the search or reasonable belief that crime-related evidence is present in the vehicle exists.

Arizona v. Gant Case Brief

Statement of the Facts:

Gant was pulled over and arrested for driving while his license was suspended. After exiting his car, Gant was cuffed and placed in the back of the cop car. The officers then proceeded to search the passenger compartment of the vehicle, discovering a gun and cocaine. Charged with **possession** of a narcotic drug and drug **paraphernalia**, Gant filed a motion to suppress the drug evidence relying on *New York v. Belton*, 435 U.S. 454 (1981), believing its ruling prevented police from searching his car after he was secured in the cop car. At trial, Gant's motion was denied and he was later convicted.

RELATED POSTS

- [Kentucky v. King](#)
- [Maryland v. King](#)
- [Illinois v. Wardlow](#)
- [Whren v. United States](#)
- [Olmstead v. United States](#)
- [California v. Greenwood](#)
- [Florida v. Jardines](#)
- [Kyllo v. United States](#)
- [Rakas v. Illinois](#)
- [Mincey v. Arizona](#)
- [Maryland v. Pringle](#)
- [Maryland v. Buie](#)
- [Florida v. Riley](#)
- [Florida v. Bostick](#)
- [California v. Carney](#)

Procedural History:

The trial court found denied the motion and convicted Gant. The Supreme Court of Arizona reversed and upheld Gant's motion to suppress and held the search violated the Fourth Amendment. The Supreme Court of the United States granted certiorari.

Issue and Holding:

Can a police officer search an individual's vehicle when the arrestee is not within reaching distance of the passenger compartment at the time the search is conducted? **No.**

Rule of Law or Legal Principle Applied:

Subsequent to a recent arrest, police may search a vehicle only if the arrested person is within the reaching distance of the passenger compartment at the time of the search or reasonable belief is established that crime-related evidence is present in the vehicle.

Judgment:

The Supreme Court of the United States affirmed the Arizona's Supreme Court decision.

Reasoning:

- After a recent arrest, the police may search a recent occupant's vehicle if the arrestee is within the reaching distance of the passenger compartment during the search or it is reasonable to believe evidence related to the crime is present in the vehicle.

The Court in *Chimel v. California*, 395 U.S. 752 (1969) held that the basic rule that applies in these cases is that the search incident to an arrest includes the areas of the arrestee's person and the area within his immediate control.

The Court then refers to *New York v. Belton*, 453 U.S. 454 (1981) where they considered the case of an arrestee in his automobile and held that police can search the arrestee's person and conduct a contemporaneous search of the passenger compartment including any containers found therein. The Court held that this decision does not authorize a vehicle search after a recent arrest. Doing so would undermine *Chimel*.

Looking at the two cases together the Court holds that officers may search a vehicle after the recent arrest of the occupant only where the unrestrained arrestee is within the reach of the passenger compartment. The search may include and objects found within the compartment.

The Court then looks to its holding in *Thornton v. United States*, 541 U.S. 615 (2004). In doing so it affirms that police who have stopped a vehicle, can search for evidence only when "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle."



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Here, Gant was arrested for driving with a suspended license, cuffed and secured in the back of a squad car before any search took place. Since he was restrained he could not have had or reached a weapon. In addition, police could not have reasonably believed that it was obvious to find evidence connected to the crime for which he was arrested (driving while license suspended). A broad reading of *Belton* would result in a violation of the Fourth Amendment's privacy interest.

Despite the fact that the state's reading of *Belton*, has been relied on for 28 years to permit searches for minor traffic infractions, any plausible reliance interest does not trump the constitutional rights of all individuals. In addition, *Stare decisis* does not require a broad reading of *Belton*.

Concurring and Dissenting opinion:

Concurring (Scalia):

The Court must apply traditional notions of reasonableness. The preceding cases, *Belton* and *Thornton* insufficiently protect police officers because searching a vehicle is not the best way to prevent an officer from being injured. *Chimel* can be manipulated by officers and provides no guidance. Overruling both *Belton* and *Thornton* would be a better ruling.

Dissenting (Alito):

The Court today is actually overruling its decision in *Belton*. *Belton* has provided a test easier in application than that test decided. *Belton* represents a small extension of *Chimel*, and if the Court overrules *Belton* it should reexamine *Chimel*.

Significance:

Arizona v. Gant established that the search of an occupant's vehicle subsequent to their arrest is permissible when:

- Arrestee is not confined and the passenger compartment is within their immediate reach zone, or
- Officer reasonably believes that evidence of the crime for which the occupant was arrested is in the vehicle.

Student Resources:

<https://www.law.cornell.edu/supct/html/07-542.ZS.html>

<http://caselaw.findlaw.com/us-supreme-court/556/332.html>

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PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE 04-18-2019		LENGTH OF TRAINING 20 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT			
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: BRIEFING TRAINING/GRAHAM V CONNOR/ PPD POLICY 300							
BRIEF DESCRIPTION OF TRAINING: Legal Summary and Discussion Graham v Connor PPD Policy 300 Use of Force							
ATTACHMENTS <input checked="" type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input checked="" type="checkbox"/> OTHER: <i>LEGAL SUMMARY/POLICY</i>							
SUPERVISORY REVIEW							
TRAINER B. HANSEN		ID# 2938		SUPERVISOR Sgt A. Garihan		ID# 1757	
LIEUTENANT T. Lyons		ID# 1359		04-18-2019			
TRAINING RECORD UPDATE							
DATA ENTRY		DATE		TRAINING RECORD			

Legal Summary

Graham v. Connor, United States Supreme Court (490 U.S. 386, 1989)

This case deals with the legal aspects for using force in the course of affecting an arrest, investigatory stop, or other seizure of a free citizen. Or to answer the question “how will I be judged by a court if someone sues me for using excessive force?”

Facts:

Mr. Graham was a diabetic. After feeling the onset of an insulin reaction, he called his friend Berry and asked for a ride to a convenience store. Graham hoped to buy some orange juice. He thought that the sugar in the juice would counteract his reaction. After Graham and Berry arrived at the store, Graham got out of the car and “hastily” went inside. (The Court does not explain “hastily,” but one might imagine Mr. Graham running, jogging, or walking with a very quick pace.) Unfortunately, the check-out line was too long and concerned about the wait, Graham “hastily” returned to the car, got in, and told Berry to drive to another friend’s house. Maybe this friend would have some juice.

Waiting outside the store was Officer Connor. Connor had watched Graham hastily enter and leave the store and suspected something was amiss. Connor followed the two men for a block or so before activating his overhead lights. Berry was pulled over. Berry tried to explain that his friend was just having a “sugar reaction” but Connor was not convinced. Connor told the two men to wait at their car while another officer returned to the store in order to determine what happened. Things got worse from that point. Graham got out of the car. He ran around the car two times, sat down on the curb, and momentarily passed out. Back-up officers arrived, and Graham was handcuffed, picked up, and put — not too gently — into the backseat of a police car. All this time, Berry, and Graham after he regained consciousness, tried to explain that that Graham was just having an insulin reaction. But their pleas had no effect. One officer commented that he had seen a lot of people with diabetes before and that none of them had acted like Graham. In the officer’s opinion, Graham was just drunk.

Connor finally received the report from the officer who returned to the store. The officer confirmed what Berry and Graham had been saying, nothing was amiss. But in the meantime, Mr. Graham had suffered cuts on his wrist, a bruised forehead, a broken bone in his foot, an injured shoulder, and persistent ringing in his ears. Graham sued the police officers, but the Fourth Circuit dismissed his case based on insufficient evidence that the officers maliciously and sadistically tried to hurt him. Graham petitioned the Supreme Court for review under a writ of certiorari.

Issue:

What constitutional standard governs a citizen’s claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other seizure of his person?

Courts Holdings:

The **District Court** granted respondents' motion for a directed verdict at the close of Graham's evidence, applying a four-factor test for determining when excessive use of force gives rise to a § 1983 cause of action, which inquires, inter alia, whether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm. *Johnson v. Glick*, 481 F.2d 1028.

The **Court of Appeals** affirmed the District Court, endorsing this test as generally applicable to all claims of constitutionally excessive force brought against government officials, rejecting Graham's argument that it was error to require him to prove that the allegedly excessive force was applied maliciously and sadistically to cause harm, and holding that a reasonable jury applying the *Johnson v. Glick* test to his evidence could not find that the force applied was constitutionally excessive.

The **Supreme Court** vacated and remanded the lower court's ruling. The Court said that all claims that law enforcement officials have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other “seizure” of a citizen are properly analyzed under the Fourth Amendment's “objective reasonableness” standard, rather than under a substantive due process standard. (Pp. 490 U. S. 392-399.)

Discussion:

The notion that all excessive force claims brought under § 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force, and then judge the claim by reference to the specific constitutional standard which governs that right. (Pp. 490 U. S. 393-394.)

Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other “seizure” of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right “to be secure in their persons . . . against unreasonable seizures,” and must be judged by reference to the Fourth Amendment's “reasonableness” standard. (Pp. 490 U. S. 394-395.)

The Fourth Amendment “reasonableness” inquiry is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. (Pp. 490 U. S. 396-397.)

The *Johnson v. Glick* test applied by the courts below is incompatible with a proper Fourth Amendment analysis. The suggestion that the test's "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances is rejected. Also rejected is the conclusion that, because individual officers' subjective motivations are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. The Eighth Amendment terms "cruel" and "punishment" clearly suggest some inquiry into subjective state of mind, whereas the Fourth Amendment term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. (Pp. 490 U. S. 397-399.)

Summary

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the "20/20 vision of hindsight."

The test of reasonableness is not capable of precise definition or mechanical application. Its proper application requires careful attention to the facts and circumstances of each particular case, including:

1. The severity of the crime at issue,
2. Whether the suspect poses an immediate threat to the safety of the officers or others, and
3. Whether he is actively resisting arrest or attempting to evade arrest by flight.

The question is whether the "totality of the circumstances" justifies a particular use of force applied in the situation. The most important factor is #2, whether the suspect poses an immediate threat to the safety of the officer or others.

These are commonly known as the "Graham Factors."

An officer's ***actual intent is irrelevant*** as to whether force was excessive. "An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional."



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 10/4/19		LENGTH OF TRAINING 25 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING DISCUSSION / POWERPOINT					
BRIEF DESCRIPTION OF TRAINING:					
<ul style="list-style-type: none">• K9 OFFICER CORIE JOERGER PROVIDED AN ORIENTATION TO THE USE OF THE K9 INCLUDING THE FOLLOWING:<ul style="list-style-type: none">○ CANINE POLICY○ BUILDING SEARCHES○ SUSPECT APPREHENSIONS○ VEHICLE NARCOTIC SEARCHES					
ATTACHMENTS K9 POWERPOINT					
SUPERVISORY REVIEW					
TRAINER Corie Joerger		ID# 2461	SUPERVISOR Garrett Glaviano	ID# 2676	
LIEUTENANT Tim Lyons		ID# 1359	DATE 10/21/19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



K-9 or no K-9

In progress calls can rapidly change from a situation where the K9 could not be used to a situation where they could.

It is very important to put out all of the factors leading up to the incident and during, no matter how small you think they are. It is a totality of factors that would help determine if a K9 can be utilized.

Examples:

- Foot bail for a misdemeanor 10851/2800.1vc (Not within K9 policy). Foot bail from a 10851/2800.1, wearing bulky clothing, possibly a weapon in hand, informative movements towards waist line (Yes on K9).
- Violent felony wanted subjects.
- 3056pc wants (etc)

318 CANINE POLICY

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

BUILDING SEARCHES

- During a building search the handler will take point for the completion of the K9 announcement
- After the announcement the handler will fall back to third in the stack, while still maintaining a visual on the K9.
- The K9 will be sent in to clear a room and when the K9 exits the room he will be placed into a down position. This will allow patrol to slow search the room before proceeding past it.
- The handler will fall into the room behind the officers and take cover in the doorway, while maintaining a visual of the K9.
- During a building search if a suspect is located, the handler will give the suspects verbal commands. DO NOT start yelling at the suspect. Most suspects that we locate inside the building are hiding and passive. If you begin yelling and become more animated than the suspect the K9 will lock on you, which will make it almost impossible to deploy the K9 at the suspect.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy.

In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend the individual.

Suspect apprehensions

- The suspect was given ample opportunities to surrender prior to the K9 being deployed so do not rush in just because the canine has made suspect contact (i.e. passing un cleared areas)
- The K9 will not be secured/ removed from the suspect until the suspect stops fighting the K9 and officers are able to determine that the suspect does not have any weapons.
- Stay behind or with the Handler on approach.
- Do not get between the handler and the suspect.
- Do not go hands on until instructed to do so by the handler.
- After a suspect apprehension the K9's drive will be elevated, so don't walk up to or near the K9's.

VEHICLE NARCOTICS SEARCHES

When you make a determination that you will be searching a vehicle (i.e. probation or the presence of an odor) this is the time to make your decision if you want the help from a K9.

Do not wait until you have searched the vehicle and then request A K9 to assist.

When you start moving items around inside the vehicle you will ultimately disturb the scent of any existing narcotics that might be concealed inside the vehicle. This makes it difficult for the K9 to pin point the source of odor.

A person's nose possesses "solely" 5 million scent receptors, while a dog has a minimum of 220 million.

If a K9 is used on a search and narcotics are located I will photograph, collect, Test, book and write you a supplemental report.



7ms

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 9/18/19		LENGTH OF TRAINING 30 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING DISCUSSION					
BRIEF DESCRIPTION OF TRAINING:					
<ul style="list-style-type: none">THE TRAINING FOCUSED ON THE DIFFERENT TYPES OF TACTICAL PLANS, OFFERED A STRATEGY TO HELP ORGANIZE A RESPONSE TO CRITICAL INCIDENTS, AND PROVIDED CHECKLISTS TO AID IN MANAGING SUCH EVENTS.THE GROUP REVIEWED THE ARTICLE "THREE TYPES OF TACTICAL PLANS." (SEE ATTACHED)THE GROUP REVIEWED THE ARTICLE "ARE WE CLEAR." (SEE ATTACHED)THE GROUP WAS PROVIDED BOTH PHYSICALLY AND ELECTRONICALLY A PAPER VERSION OF A TACTICAL COMMAND BOARD, A TACTICAL INCIDENT OUTLINE, AND A SWAT MISSION BRIEFING CHECKLIST. (SEE ATTACHED)					
ATTACHMENTS SEE ABOVE MENTIONED ARTICLES AND TOOLS					
SUPERVISORY REVIEW					
TRAINER Garrett Glaviano		ID# 2676	SUPERVISOR Garrett Glaviano	ID# 2676	
LIEUTENANT Tim Lyons		ID# 1359	DATE 10/21/19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



TACTICAL CONCEPTS

By Sid Heal

Three types of tactical plans

Shortly after Napoleon Bonaparte established himself as Emperor of the French, he wrote a letter to his brother Joseph stating, "Everything that is not soundly planned in its details yields no result." (Napoleon, 18 September 1806, to Joseph, Correspondence, No. 10809, Vol. XIII, 1858-1870.) So it was then and so it remains to this day. The most indispensable part of any successful tactical operation is the operational plan. The business community describes it as a "blueprint for success." In tactical operations, the command and control architecture may provide the support for decisions, but it is the operational plan that binds them into a cohesive whole. Plans not only ensure that each decision is supportive of the next, but that the aggregate will eventually lead to a satisfactory resolution. It is hard to imagine any significant human undertaking that does not involve some sort of a plan, and plans are the pivotal factor for a successful tactical intervention. Generally, there are three types of tactical plans. These are deliberate plans, hasty plans and contingency plans.

The most commonly recognized plan is a "deliberate plan." This is because deliberate plans are the most comprehensive of the three types and are often prepared weeks or months, and sometimes even years, before being implemented. In order to provide an organized and thoughtful approach when the unthinkable happens, every disaster management agency worthy of the name has "standing plans" for flood inundation, fire evacuation, earthquake recovery, hurricanes, tornadoes, riots, and so forth. A deliberate plan is most often authored collectively, ("Collectively" means that the plan is authored by a number of people acting as a group. For more information see "Tactical Planning Process," *The Tactical Edge*, Winter, 2003, pp. 52-54) over time, and incorporates the knowledge and experience of all participants. It is as comprehensive as time will per-

mit, and is frequently referred to as the "master plan," since it serves as a baseline for all related plans and operations and describes the preferred course of action.

A "hasty plan" is used to provide an organized response for spontaneous or unintentional events, and which are so impromptu that detailed planning is not possible, or so remote that comprehensive planning is not justified. In simpler terms, hasty plans provide an organized response to surprise. They are used when timeliness and a quick response are paramount. Examples include the killing or escape of a hostage, the unexpected surrender of a suspect, the sighting of a tornado, or a change in direction of a fire.

Response to immediate concerns

A hasty plan provides a tailored response to immediate concerns and allows the much more detailed and time-consuming deliberate plan to continue to be developed. In this manner, hasty plans perform the duties of a "sentry" while continuing development of the deliberate plan. Sometimes a hasty plan is necessary even when a deliberate plan has been completed. This occurs when some critical factor is preventing the deliberate plan from being immediately implemented, such as shortage of logistical support, lack of transportation, or while awaiting the arrival of personnel. When used in this manner, hasty plans act as a "fail safe" to ensure that efforts to resolve an emergency are not deferred while waiting for conditions to improve. In either case, hasty plans may be considered a substitute for deliberate plans, which although describe the preferred course of action, take longer to prepare and implement. They provide a temporary solution by adhering to the tactical adage, "A good plan implemented now, is better than a perfect plan executed later." (This adage is one of the many "Murphy's Laws of Combat," but is

paraphrased from Gen. George S. Patton, Jr.'s book, "War As I Knew It." The verbatim passage reads, "A good plan violently executed now is better than a perfect plan executed next week.")

A "contingency plan" is an alternate plan that focuses thought and effort on anticipated problems that may arise during the conduct of an operation. Because a contingency plan is a "branch" (for more information on branches, see "Branches, Sequels and Couplings," *The Tactical Edge*, Fall, 1999, pp. 69-70) from the deliberate plan, it is often referred to as "Plan B." Contingency plans allow for operational deviation while maintaining continuity with the preferred course of action and guard against operations being stymied by confusion caused by a sudden change in the situation. Contingency plans differ from hasty plans because they are generally authored in advance of an operation, often as part of the deliberate plan, to prepare for a potential deviation from the expected. In fact, hasty plans are sometimes viewed as a subset of contingency plans rather than a separate type altogether. Like hasty plans, however, contingency plans never describe the preferred course of action and are intended to provide guidance for deviations from the more probable chain of events.

Every tactical plan will conform to one of these three types. Knowing what type of plan is required provides a critical first step in designing a methodical approach to resolving a situation. As one World War I general explained, "The main thing is to have a plan; if it is not the best plan, it is at least better than no plan at all." (From General Sir John Monash in a 1918 letter.) ■

Editor's note: Much of this article has been excerpted from Sid Heal's book, "Sound Doctrine: A Tactical Primer," available from the NTOA Bookstore.

Are we CLear?

For those of you who have not made it to the CATO Team Leader course, one of the basic concepts that has tactical value is CLear. No, this is not a misprint. Instead it is an acronym that stands for Containment, Long Rifle and React Team. Especially when confronted with suspect driven, critical incidents, CLear provides a formula for an initial stabilizing law enforcement presence. It is not all encompassing however and certainly would not be the first step in responding to an active shooter incident. Here's the details:

Containment

Containment is a good step to limit the scope of a tactical event such as a barricade. Used properly, it will begin the process of limiting a suspect's options. If the latter is fixed to a specific location, then part of our mission resolution—ending the problem while protecting the community—has begun. With suspect driven events, containment is often initiated by a smart patrol sergeant or street cop. But turning containment responsibilities over to SWAT requires forethought and coordination. Prior to moving SWAT Cops in to relieve patrol—especially during night operations—the Command Post should first alert everyone. This serves notice that the strangers in the night are fellow officers. If time and tactics allow, it may be prudent to orchestrate the transition process using a step by step approach, relieving one patrol containment position at a time rather than all at once.

A team leader's containment concerns should include the evacuation of civilians from the danger zone. This too requires cognitive effort. For example, when officers extricate folks from their homes, it should be done with minimal exposure to the threats posed. One common sense method is to remove civilians through a door or window with the building between them and the suspect's position. If a structure is across the street from the target, the occupants should be told to leave doors unlocked as they exit. The tactical benefits of using this building for containment and/or long rifle placement are obvious. If a crusty old fart like me refuses to leave despite stringent warnings, then this should be documented. Using a smart phone to video our advice and failing that, the individual's refusal would be field expedient. The video file could then be sent to the CP or station for documentation purposes.

Long Rifle

Bringing a long range capability into the tactical mix is a second element in the CLear process. By definition it is a more accurate lethal force option. Depending upon the circumstances and resources available, this might be the first step as opposed to containment. Initially, street cops armed with patrol rifles may even have to do double duty, serving as part of the containment and providing superior

ballistic capabilities. But when possible, they should be replaced by at least SWAT operators—but preferably SWAT precision marksmen—who would then take over the long rifle responsibilities. In the latter case, the arrival of such professionals provides double benefits. First, the rifle will be an enhanced lethal force tool if needed. But the modern sniper rifle and more importantly, the trained person behind it becomes the team leader or commander's tactical telescope. The rifle's magnifying optics will provide intel full of tactical benefits.

Coordination of the long rifle element with other actions should be part of the tactical response. For example, if transitioning from patrol containment to SWAT is a priority, alerting the marksmen first would ensure an overwatch presence to guard against a suspect's aggressive actions.

React Team

The final element of the CLeaR triad--the React Team--is a tactical contingency must. It is tasked with responding to a suspect's behaviors ranging from accepting a surrender to launching an immediate crisis entry. A key assignment is that of the React Team Leader. Even if the team is only two officers, someone should be in charge. Prior to leaving the CP, this officer should be quickly briefed on the React Team's mission along with a threat assessment and orientation to the target location. Prior to deployment, anticipated equipment should be with the team and ready for use. This may include breaching tools, less lethal launchers, chemical agents and diversionary devices. Typically the React Team will be assigned to a tactically advantageous position. But whenever possible, getting there should be orchestrated: The long rifle element should be alerted to cover the team's passage. Similarly, there should be confirmation from containment officers that they know the React Team is maneuvering into position.

How you use this tactical trio is dependent on the circumstances. A React Team may be the first deployed—or the last--followed by either long rifle or containment. The important point is that when used together, CLeaR provides a path to stabilizing and eventually resolving a critical tactical incident. In closing, I strongly suggest that you attend the CATO Team Leader course to learn about this resolution strategy as well as much, much more.

INCIDENT COMMANDER:

TACTICAL COMMANDER:

SITUATION:

MISSION:

PRIORITIES:

RULES OF ENGAGEMENT:

CONTAINMENT TEAM:

LONG RIFLE TEAM:

REACT TEAM:

CHEMICAL AGENT TEAM:

LESS LETHAL / K-9 / AIR / EVACS

SUSPECT:

WEAPONS THREATS:

CIVILIANS:
(HOSTAGES / CAPTIVES / WITNESSES)

MEDICAL:
(CONSIDERATIONS / STAGING)

COMMAND POST:
(LOCATION / CONTACT INFO)

P . I . D . :
(LOCATION / CONTACT INFO)

STAGING LOCATION:
(MANAGER / CONTACT INFO)

INVESTIGATIVE UNIT:
(CONTACT INFO)

OVERVIEW DIAGRAM:
(INGRESS / EGRESS, C.P., T.O.C., STAGING)

LOCATION DIAGRAM:
(ADDRESS)

INTERIOR DIAGRAM:
(PACA)

TACTICAL INCIDENT OUTLINE

- ☐ Initial Perimeters Established
- ☐ Incident Commander Designated
- ☐ Emergency Response / React Team
- ☐ C.P. Location Designated / C.P. Established
- ☐ SWAT Activation
- ☐ Tactical Commander Designated & Tactical C.P. Established
- ☐ Scout / Recon Team
- ☐ Patrol Relieved from Perimeter(s)
- ☐ Sniper Team(s) (Gun Lines)
- ☐ Crisis Negotiation Team
- ☐ Paramedics / Fire Dept. / SWAT Medics
- ☐ Team and Sub-Teams Briefed
- ☐ Missions Assigned
 - ☐ Entry Team
 - ☐ Chemical Agents Plan & Team
 - ☐ Less Lethal Options
 - ☐ Diversions
 - ☐ Utilities Shut Off
 - ☐ Brake & Rake
 - ☐ Suspect Surrender / Hostage Release
 - ☐ Delivery Options (Food, Phone, Etc.)
 - ☐ Sniper / Observer Team
- ☐ Approach Route / Egress Route
- ☐ Last Point of Cover & Concealment and Rally Point
- ☐ Breach Point (Doors & Windows)
- ☐ PACA
 - ☐ Primary Breach Point Identified
 - ☐ Alternate Breach Point Identified
 - ☐ Compromise Alert / Instructions
 - ☐ Abort Command / Instructions
- ☐ Weapons Mix
- ☐ Number of Operators, Assignments, Weapons & Equipment
- ☐ Contact
 - ☐ Suspect Surrenders or
 - ☐ Use of Force Including Shots Fired
- ☐ Officer / Civilian Down and suspect Down Protocols
- ☐ Lock Down Commands
- ☐ Secondary / Detailed Search
- ☐ Status Reports by Team Leader
- ☐ Turn Over Crime Scene to Detectives
- ☐ Team Returns to Tactical C.P. & Station
- ☐ Team, Weapons & Equipment Check/Cleaning
- ☐ Team Debrief

SWAT Mission Briefing Checklist

- ☐ Mission
- ☐ Command Structure
- ☐ Incident C.P. and Tactical C.P. Locations
- ☐ Fire & Paramedics
- ☐ SWAT Teams
- ☐ Suspect Intel
- ☐ Location
- ☐ Other Involved Subjects
- ☐ Threat Assessment
- ☐ Containment Inner Perimeter
- ☐ Long Rifle Deployment
- ☐ React Team Assignment
- ☐ Ingress & Egress Routes
- ☐ Last Point of Cover & Concealment
- ☐ PACA
 - ☐ Primary Breach Point
 - ☐ Alternate Breach Point
 - ☐ Compromise Instructions
 - ☐ Abort Instructions
- ☐ Knock & Notice
- ☐ Breaching Plan
- ☐ Entry Plan
- ☐ Withdrawal Plan
- ☐ Officer Down / Civilian Down Issues
- ☐ Return to C.P.

Searches by Civilians and Police Agents

"[T]he protection of the Fourth Amendment . . . does not extend to searches conducted by private persons."¹

Civilians sometimes discover evidence of a crime and turn it over to officers. Usually it's a weapon, drugs, stolen property, or some type of document. But whatever it is, officers seldom need to worry about how the civilian located it or whether it will be suppressed. That's because, even if was acquired by means of an illegal search, it cannot ordinarily be suppressed unless it was obtained by a sworn officer or some other government employee.²

The main reason the law gives civilians a pass is that the threat of suppression would seldom deter them from looking through other people's property. Moreover, most of them don't know the rules of search and seizure, they have no reason to learn them, and they are not disciplined when they violate them. Officers, on the other hand, aren't so lucky. As the Court of Appeal observed:

Where the exclusionary rule is directed to the police, we may assume that they will have knowledge of it, that there will result directives from the higher echelons designed to secure compliance and to institute acceptable alternative practices, and that both the discipline of an organized police force and the desire to secure convictions will produce compliance with those directives.³

Although there is little justification for applying the exclusionary rule to a search conducted by a civilian, the situation changes if he was functioning as a police agent. In that case, the officers' ability to direct and control his actions would give them a strong incentive to make sure that the search stands up in court. For this reason, the United States Supreme Court has ruled that evidence will be suppressed if it was obtained as the result of an unlawful search by a civilian who was functioning as an "instrument or agent of the Government."⁴

¹ *People v. William G.* (1985) 40 Cal.3d 550, 558.

² See *United States v. Jacobsen* (1984) 466 U.S. 109, 113 ["[The Fourth Amendment] is wholly inapplicable to a search or seizure, even an unreasonable one, effected by a private individual not acting as an agent of the Government or with the participation or knowledge of any governmental official."]; *Emslie v. State Bar* (1974) 11 Cal.3d 210, 222 ["[A] motion to suppress evidence [obtained illegally by a private citizen] cannot be made on the ground that its acquisition constitutes an unreasonable search and seizure under Penal Code section 1538.5."]. BUT ALSO SEE *People v. Otto* (1992) 2 Cal.4th 1088 [suppression is required under federal law when the evidence was obtained by means of a civilian's illegal wiretap].

³ *People v. Botts* (1967) 250 Cal.App.2d 478, 482. ALSO SEE *Dyas v. Superior Court* (1974) 11 Cal.3d 628, 632.

⁴ *Skinner v. Railway Labor Exec. Assn.* (1989) 489 U.S. 602, 614. ALSO SEE *Coolidge v. New Hampshire* (1971) 403 U.S. 443, 487 ["The test [is whether the citizen] must be regarded as having acted as an instrument or agent of the state"].

The question, then, is what makes a civilian a police agent? As we will explain, it depends mainly on whether, and to what extent, an officer had some role in the search; and, of somewhat lesser importance, whether the civilian intended to assist officers.

We will also discuss a thorny issue that can arise when the evidence was inside a box or other container when officers received it from the civilian: Do they need a warrant to open it?

"POLICE AGENTS"

Virtually anyone can be a police agent, including security officers employed by malls and amusement parks, private investigators, motel managers, employees of package delivery companies, informants, and even off-duty officers. But in determining whether someone was a police agent it doesn't matter where he worked. What counts is whether, and to what extent, an officer played a role in his actions.⁵ In the words of the United States Supreme Court:

Whether a private party should be deemed an agent or instrument of the Government for Fourth Amendment purposes necessarily turns on the degree of the Government's participation in the private party's activities.⁶

The officer's role

In determining whether a search conducted by a private citizen was a police search, the most important circumstance is whether an officer played a role in instigating or executing it. While a search that is orchestrated by an officer will certainly qualify, so

⁵ See *Lugar v. Edmondson Oil Co.* (1982) 457 U.S. 922, 937 [a person may be deemed a "state actor" because he is a state official, because he has acted together with or has obtained significant aid from state officials, or because his conduct is otherwise chargeable to the State.]; *People v. Fierro* (1965) 236 Cal.App.2d 344, 348 ["In brief, the question is one of the extent of government involvement in an invasion conducted by the private citizen."]. **NOTE:** As discussed below, the courts may also consider the civilian's primary motive for conducting the search. **NOTES:**

Defendant's burden: The defendant has the burden of proving the citizen was a police agent. See *U.S. v. Reed* (9th Cir. 1994) 15 F.3d 928, 931; *U.S. v. Cleaveland* (9th Cir. 1995) 38 F.3d 1092, 1093; *U.S. v. Gingles* (7th Cir. 2007) 467 F.3d 1071, 1074; *U.S. v. Shahid* (7th Cir. 1997) 117 F.3d 322, 325. **Totality of circumstances:** In determining whether a private citizen was a police agent, the courts must consider the totality of circumstances. See *Skinner v. Railway Labor Executives' Assn.* (1989) 489 U.S. 602, 614. **Searches by non-law enforcement governmental employees:** Regardless of whether the search was initiated or facilitated by officers, the exclusionary rule applies to searches conducted by a government employee if he "acted with the intent to assist the government in its investigatory or administrative purposes and not for an independent purpose." See *U.S. v. Attson* (9th Cir. 1990) 900 F.2d 1427, 1431-2.

⁶ *Skinner v. Railway Labor Exec. Assn.* (1989) 489 U.S. 602, 614. **NOTE:** The standards for determining whether a person was a police agent under the Fourth Amendment is different than those for determining common law agency, federal civil rights violations, and due process violations. See *Arpin v. Santa Clara Valley Transportation Agency* (9th Cir. 2001) 261 F.3d 912, 924 ["Unlike the 'state actor' standard of the Fourteenth Amendment or the 'color of law' standard of [the federal civil rights statute], the fourth amendment cannot be triggered simply because a person is acting on behalf of the government."]; *U.S. v. Koenig* (7th Cir. 1988) 856 F.2d 843, 847, fn.1 [rules of common law agency do not apply].

might a search in which the officer's role was more roundabout or subtle, maybe even if he merely "had a hand in it."⁷

REQUESTING, INDUCING, INSTIGATING: A search conducted by a civilian will be adjudged a police search if officers instigated it, participated in its planning or execution, or if they gave the citizen an incentive to search.⁸ For example, in *Raymond v. Superior Court*⁹ a 12-year old boy told an officer that he had found marijuana in his father's bedroom. The officer responded by asking him to try to get "a sample." He succeeded but, not surprisingly, the court suppressed it, saying, "Although the [boy] was the immediate actor, police participation in planning and implementation subjected the expedition and its product to [suppression]."

JOINT OPERATIONS WITH CIVILIANS: A search by a civilian that occurs during what amounts to a "joint operation" with officers will also be regarded as a police search.¹⁰ For

⁷ See *Lustig v. United States* (1949) 338 U.S. 74, 78 ["[A] search is a search by a federal official if he had a hand in it"].

⁸ See *Lugar v. Edmondson Oil Co.* (1982) 457 U.S. 922, 937 [private citizen may be a police agent if he "obtained significant aid from state officials"]; *United States v. Jacobsen* (1984) 466 U.S. 109, 113 [private citizen may be a police agent if he acted "with the participation" of an officer]; *Jones v. Kmart Corp.* (1998) 17 Cal.4th 329, 333 [private citizen may be a police agent if he "obtained significant aid from state officials"]; *People v. McKinnon* (1972) 7 Cal.3d 899, 912 [Fourth Amendment applies if officers "hired and paid" the person to conduct warrantless searches," or if he were to "open and search a specific package at [their] express direction or request"]; *People v. Bennett* (1998) 17 Cal.4th 373, 384, fn.3 [civilian was acting at an officer's request]; *Dyas v. Superior Court* (1974) 11 Cal.3d 628, 633, fn.2 [exclusionary rule will be applied if officers "requested the illegal search"]; *Stapleton v. Superior Court* (1968) 70 Cal.2d 97, 102 ["[The civilian] entered petitioner's house at the request and as an agent of the police."]; *People v. Tarantino* (1955) 45 Cal.2d 590 [officer requested a sound engineer to plant a bug in a suspect's hotel room]; *People v. Fierro* (1965) 236 Cal.App.2d 344 [officer requested motel manager to search the defendant's motel room]; *People v. North* (1981) 29 Cal.3d 509, 514 [search "performed in conjunction with, or cloaked in the authority of the state"]; *People v. De Juan* (1985) 171 Cal.App.3d 1110, 1120 [search at officers' "behest or instigation"]; *People v. Scott* (1974) 43 Cal.App.3d 723, 726 [citizen "hired and paid by the police"]; *People v. Leighton* (1981) 124 Cal.App.3d 497, 501 ["the police direct[ed] the private citizen to conduct the search"]; *U.S. v. Ziegler* (9th Cir. 2007) 474 F.3d 1184, 1190 [FBI agent asked company manager to provide him with a copy of an employee's hard drive]; *U.S. v. Gingles* (7th Cir. 2006) 467 F.3d 1071, 1075 ["[T]here is no indication that the government encouraged or acquiesced in the brothers' decision to enter their parents' home."]; *U.S. v. Shahid* (7th Cir. 1997) 117 F.3d 322, 325 ["Other useful criteria are whether the private actor acted at the request of the government and whether the government offered the private actor a reward."].

⁹ (1971) 19 Cal.App.3d 321, 325.

¹⁰ See *Lugar v. Edmondson Oil Co.* (1982) 457 U.S. 922, 941 ["[W]e have consistently held that a private party's joint participation with state officials in the seizure of disputed property is sufficient to characterize that party as a 'state actor' for purposes of the Fourteenth Amendment."]; *People v. North* (1981) 29 Cal.3d 509, 514 [search "performed in conjunction with" officers]; *People v. McKinnon* (1972) 7 Cal.3d 899, 912 [civilian would be deemed a police agent if officers were engaged in a "joint operation" with him]; *People v. Scott* (1974) 43 Cal.App.3d 723, 726 [a search would be a police search if a citizen "participates in planning or implementing a 'joint operation' with law enforcement authorities"]. COMPARE *People v. Mangiefico* (1972) 25 Cal.App.3d 1041, 1048 ["Berdan was not engaged in a joint operation with local authorities, but was conducting an independent investigation."].

example, in *Stapleton v. Superior Court*,¹¹ LAPD officers, accompanied by special agents from three credit card companies, went to Stapleton's home to arrest him on an outstanding warrant for credit card fraud. Some of the agents covered the back while the officers and one of the agents entered through the front. After Stapleton was arrested, one of the agents searched the trunk of his car and found several illegal tear gas canisters.

The California Supreme Court ruled the search was illegal and, although it was conducted by a civilian, it also ruled it was a police search because the officers, "by allowing [the agent] to join in the search and arrest operation, put [him] in a position which gave him access to the car keys and thus to the trunk of [Stapleton's] car."

FAILING TO INTERVENE: An officer's failure to intervene may convert a civilian's search into a police action if, (1) the officer knew that the search was impending or underway; and (2) he knew, or should have known, that it was unlawful.¹² As the court explained in *People v. De Juan*, "Suppression will be ordered when with the knowledge that a private citizen is violating or is about to unlawfully violate the privacy rights of another, the police sit idly by and do nothing."¹³

For example, in *U.S. v. Reed*¹⁴ the manager of a Best Western motel in Alaska notified officers that he suspected Reed was using his motel room for "drug activities." He also asked the officers to stand by while he "checked the room." According to the court, the officers "stood guard" in the doorway as the manager went through Reed's dresser drawers and examined the contents of his briefcase. As it turned out, the search netted a gun and some drugs, but the court suppressed everything because the officers had failed to stop him. Said the court:

[The officers] definitely knew and acquiesced in [the manager's] search. They were personally present during the search, knew exactly what [the manager] was doing as he was doing it, and made no attempt to discourage him from examining Reed's personal belongings beyond what was required to protect hotel property.

¹¹ (1968) 70 Cal.2d 97, 100.

¹² See *People v. Yackee* (1984) 161 Cal.App.3d 843, 847 ["[T]he investigating officer knowingly allowed the airline to reopen the suitcase in his presence, for his benefit, without intervening to stop the search. Thus, what had heretofore been a purely private search became a joint operation with the police."]; *Dyas v. Superior Court* (1974) 11 Cal.3d 628, 633, fn.2 [exclusionary rule will be applied if officers "knowingly allowed [an illegal search] to take place without protecting the third party's rights"]; *Stapleton v. Superior Court* (1968) 70 Cal.2d 97, 103 ["[T]he police stood silently by while [the agent] made the obviously illegal search."]; *People v. McKinnon* (1972) 7 Cal.3d 899, 912 ["[A] private citizen may also be deemed to act as an agent of the police when the latter merely 'stand silently by'"]; *People v. North* (1981) 29 Cal.3d 509, 516 ["police foreknowledge or simultaneous awareness of a citizen entry, is wholly lacking in the case before us."]; *U.S. v. Walther* (9th Cir. 1981) 652 F.2d 788, 793 ["The DEA thus had knowledge of a particular pattern of search activity dealing with a specific category of cargo, and had acquiesced in such activity."]; *U.S. v. Shahid* (7th Cir. 1997) 117 F.3d 322, 325 [a "critical" factor is "whether the government knew of and acquiesced in the intrusive conduct"].

¹³ (1985) 171 Cal.App.3d 1110, 1120.

¹⁴ (9th Cir. 1994) 15 F.3d 928.

On the other hand, a failure to intervene will not change the character of the search if the officers reasonably believed the civilian was acting lawfully.¹⁵ As the Ninth Circuit observed:

The presence of law enforcement officers who do not take an active role in encouraging or assisting an otherwise private search has been held insufficient to implicate fourth amendment interests, especially where the private party has had a legitimate independent motivation for conducting the search.¹⁶

For example, in *People v. Minervini*¹⁷ a motel desk clerk in Santa Barbara suspected that two men who had rented two rooms were part of a gang that had been stealing television sets from motels in the area. When he saw one of the men removing a “large box” from his room, he notified the police and the motel’s manager. When officers arrived, they accompanied the manager as he opened the door to one of the rooms and found the television was gone. The manager and the officers then went to the other room which the manager opened with a key. As he looked around the room, he saw that the television set had been placed in a cardboard box. The men were later arrested.

On appeal, they claimed the motel manager was functioning as a police agent when he opened the doors to their rooms. But the court pointed out that the manager “went to the rooms and opened them on his own initiative.” More important, he had a right to do so and “that right would not be diminished if he sought police assistance in exercising that right or even if he was encouraged by the police to so exercise it.”

Similarly, in *U.S. v. Cleveland*¹⁸ an investigator for the Portland General Electric Company (PGE) received a tip that someone was diverting electricity to a certain residence. So he asked a detective to accompany him while he checked the meter. The detective waited in his car while the investigator searched the meter housing and discovered evidence of illegal diversion. In ruling that the search was not a police search, the court noted:

It was PGE, not the police, who initiated the plan to inspect the meter. There was no reason why the detective should have restrained [the investigator] or discouraged him in his search because [the investigator] never exceeded his authority under the Customer Service Agreement to go on the property and inspect the meter.

REQUEST TO FOLLOW “ROUTINE” PROCEDURES: An officer’s request that a civilian, such as a motel desk clerk or housekeeper, follow “routine” procedures while the officer stands by will not convert those procedures into a police search.¹⁹ For example, in *U.S. v. Andrini*²⁰ ATF agents were conducting surveillance on a motel room rented by Andrini who was suspected of setting fire to an office building. As the result of a mix-up in room

¹⁵ See *People v. Thompson* (1972) 25 Cal.App.3d 132, 142 [“The police officer who was present at the [search] believed reasonably and in good faith that the conduct of the airline official was lawful”].

¹⁶ *U.S. v. Walther* (9th Cir. 1981) 652 F.2d 788, 792.

¹⁷ (1971) 20 Cal.App.3d 832.

¹⁸ (9th Cir. 1994) 38 F.3d 1092.

¹⁹ See *People v. Minervini* (1971) 20 Cal.App.3d 832, 839; *U.S. v. Bruce* (6th Cir. 2005) 396 F.3d 697, 706 [“These private employees are not transformed into government agents merely because the police took an interest in the items they planned to remove from the room during their normal cleaning activities”].

²⁰ (9th Cir. 1982) 685 F.2d 1094, 1098.

assignments, Andrini's suitcase was sent to the wrong room, then returned to the front desk. Although an ID tag was not attached to the bag, both the desk clerk and the ATF agent (who happened to be present) suspected that it belonged to Andrini. When the clerk asked the agent what he wanted him to do with the bag, he told him to follow "routine" procedures. So the clerk opened it to try to determine the identity of its owner. Inside, he saw a gun. Continuing to follow routine procedures, he notified local police who arrested Andrini for being a felon in possession of a firearm. During a search incident to the arrest, the officers found a pyrotechnic fuse similar to the one used in the arson.

On appeal from his arson conviction, Andrini contended the search of his suitcase should be deemed a police search but the court disagreed, noting, "[The ATF agent] did not instruct the motel clerk to open the bag. To the contrary, he advised the clerk to follow routine motel procedure."

Similarly, in *U.S. v. Bruce*²¹ the manager of an Extended Stay America hotel in Ohio notified police that employees had detected the odor of burning marijuana coming from one of two rooms that had been rented by Bruce and his friends. So a police sergeant asked the manager to tell the housekeepers to segregate the trash from the two rooms "during their regular cleaning." While searching the trash, officers found marijuana.

On appeal, Bruce contended the housekeepers were police agents, but the court disagreed, noting:

[T]he cleaning staff were not asked to *search* for evidence, but merely to *preserve* any possible evidence they might otherwise have removed from the room and discarded in the course of their ordinary cleaning duties. There is no evidence that the staff were asked to look around the rooms, report any suspicious items, or otherwise deviate from their typical cleaning routine.

BE ON THE LOOKOUT: A search conducted by a civilian will not be attributed to officers merely because they had asked him to be "on the alert" and report any suspicious circumstances. As the California Supreme Court explained in *People v. McKinnon*, "When the authorities respond to [public interest in apprehending criminals] with drug education programs and generalized appeals for the assistance of the citizenry, they do not automatically 'deputize' all those who may have occasion to act on the information thus provided."²²

PRIOR CONTACTS, COOPERATION: Although it is relevant that officers had spoken with the civilian in the past about crime problems or investigations, or that the civilian had previously cooperated with officers, these circumstances do not establish an agency relationship.²³ As the Ninth Circuit put it:

²¹ (6th Cir. 2005) 396 F.3d 697.

²² (1972) 7 Cal.3d 899, 914.

²³ See *People v. Mangiefico* (1972) 25 Cal.App.3d 1041, 1046-7 [private investigator did not become a police agent merely because he notified the police chief and fire marshal that he was working on an arson case that he and they were investigating]; *People v. North* (1981) 29 Cal.3d 509, 629, 516 ["Citizen cooperation with the police in a criminal investigation, standing alone, does not invoke the exclusionary rule."]; *U.S. v. Lambert* (6th Cir. 1985) 771 F.2d 83, 89 ["A person will not be acting as a police agent merely because there was some antecedent contact between that person and the police."]; *U.S. v. Koenig* (7th Cir. 1988) 856 F.2d 843, 848 ["Since Zito began his employment with Federal Express, he has contacted the DEA at least eight times. ... [B]ut he never worked as an informant for the DEA, has never been rewarded by the DEA for his

While a certain degree of governmental participation is necessary before a private citizen is transformed into an agent of the state, de minimis or incidental contacts between the citizen and law enforcement agents prior to or during the course of a search or seizure will not subject the search to fourth amendment scrutiny.²⁴

For example, in *People v. Warren*²⁵ the defendant argued that Alvarez, the owner of a parcel delivery service, was a police agent when he searched a package that Warren had dropped off. His argument was based on Alvarez having been an officer in the past, and having previously notified officers when he found drugs in packages. But this was immaterial, said the court, because “the evidence supports the trial court’s finding that Alvarez was acting as a responsible employee and on behalf of the mail companies, and not as an agent of the government.” Similarly, in *U.S. v. Koenig* the court ruled that Federal Express did not function as an agent of the DEA merely because DEA officials had “aided Federal Express in the development of a drug shipper profile.”²⁶

LICENSING: Finally, a civilian does not become a police agent merely because he was licensed by a state or local government agency; e.g., security officers, private investigators, taxi drivers.²⁷

The citizen’s motivation

In close cases, the courts may look to see whether the civilian conducted the search for personal reasons. If so, it’s a circumstances that may tend to prove he was not a police agent, even if he also intended to assist officers.²⁸ As the court explained in *U.S. v.*

aid, nor even discussed with law enforcement authorities what to look for in Federal Express shipping.”]; *U.S. v. McAllister* (7th Cir. 1994) 18 F.3d 1412, 1418.

²⁴ *U.S. v. Walther* (9th Cir. 1981) 652 F.2d 788, 791.

²⁵ (1990) 219 Cal.App.3d 619.

²⁶ (7th Cir. 1988) 856 F.2d 843, 849.

²⁷ See *People v. De Juan* (1985) 171 Cal.App.3d 1110, 1122; *People v. Christopher H.* (1991) 227 Cal.App.3d 1567, 1574-5.

²⁸ See *People v. Minervini* (1971) 20 Cal.App.3d 832, 840 [“[I]t is significant that any ‘search’ by the manager was . . . to secure the premises themselves and to prevent theft of property belonging to the motel.”]; *Arpin v. Santa Clara Valley Transportation Agency* (9th Cir. 2001) 261 F.3d 912, 924 [“[F]or the conduct of a non-law enforcement governmental party to be subject to the Fourth Amendment, Arpin must show that Ruiz acted with the intent to assist the government in its investigatory or administrative purposes, and not for an independent purpose.”]; *U.S. v. Bruce* (6th Cir. 2005) 396 F.3d 697, 705 [“[T]wo elements must be shown in order to treat ostensibly private action as a state-sponsored search: (1) the police must have instigated, encouraged, or participated in the search; and (2) the private individual must have engaged in the search with the intent of assisting the police.” Citation]; *People v. Warren* (1990) 219 Cal.App.3d 619, 622 [“The relevant factors used in determining whether the governmental participation is significant, or de minimis, are (1) the government’s knowledge and acquiescence, and (2) the intent of the party performing the search.”]; *U.S. v. Attson* (9th Cir. 1990) 900 F.2d 1427, 1433 [the citizen “must have acted with the intent to assist the government in its investigatory or administrative purposes and not for an independent purpose.”]; *U.S. v. Gingles* (7th Cir. 2006) 467 F.3d 1071, 1075 [“[T]heir primary objective was to protect the community from harm, not to assist law enforcement.”]; *U.S. v. McAllister* (7th Cir. 1994) 18 F.3d 1412, 1418 [there is substantial evidence “that the CI was working primarily to further his own interests”]; *U.S. v. Shahid* (7th Cir. 1997) 117 F.3d 322, 325 [a “critical” factor is “whether the private party’s purpose in conducting the search was to assist law enforcement agents or to further [his] own ends.”]; *U.S. v. Cleaveland* (9th

Shahid, “[T]hat a private party might also have intended to assist law enforcement does not transform him into a government agent so long as the private party has had a legitimate independent motivation for engaging in the challenged conduct.”²⁹

An example is found in *U.S. v. Cleaveland*,³⁰ the PGE case we discussed earlier. Some additional facts: The PG&E investigator suspected that Cleaveland was diverting power to grow marijuana; and he wanted the detective to stand by “in the event the situation became dangerous.” Furthermore, he said that if he discovered a power diversion “he wanted the police to be able to get a warrant to search the house to confirm the power theft.” Based on information obtained during the investigator’s search, the detective obtained a warrant which netted marijuana, a firearm, and evidence of power diversion.

On appeal, Cleaveland argued that the evidence should have been suppressed because the investigator’s objective was to uncover evidence of a crime. That was true, said the court, but he also had a significant interest in preventing a further loss of electricity and revenue to his employer. As the court explained, “[The investigator’s] motive to recover for PGE’s loss of power was a legitimate, independent motive apart from crime detection or prevention. That motivation was not overridden by the fact the police stood by during the search, and used the fruits of that search to obtain a warrant to search Cleaveland’s house.”

In contrast, in *U.S. v. Reed*³¹ (also discussed earlier) the court ruled that a motel manager’s search of the defendant’s room was conducted solely to assist narcotics officers—not to protect motel property. Said the court, “[The manger] called the police in order to let them know that he felt he had a room and a guest that was ‘involved in activity they would want to be aware of,’ and because he suspected that Reed was involved in drug activity.”

Applying the principles

Having explained the basic principles, we will now look at how the courts have applied them in specific situations.³²

Cir. 1995) 38 F.3d 1092, 1093 “[T]he relevant inquiry is: (1) whether the government knew of and acquiesced in the intrusive conduct; and (2) whether the party performing the search intended to assist law enforcement efforts or further his own ends.”]; *U.S. v. Lambert* (6th Cir. 1985) 771 F.2d 83, 89 [“First, the police must have instigated, encouraged or participated in the search. Second, the individual must have engaged in the search with the intent of assisting the police in their investigative efforts.”].

²⁹ (7th Cir. 1997) 117 F.3d 322, 326.

³⁰ (9th Cir. 1994) 38 F.3d 1092.

³¹ (9th Cir. 1994) 15 F.3d 928.

³² **NOTE:** In *People v. Zelinski* (1979) 24 Cal.3d 357 the California Supreme Court ruled that private security personnel who were fulfilling a public function, such as making arrests, were police agents and that evidence illegally obtained as a result of such activities must be suppressed. That ruling is no longer the law, having been abrogated by the passage of California’s Proposition 8. See *Collins v. Womancare* (9th Cir. 1989) 878 F.2d 1145, 1154 [“*Zelinski* directly conflicts with and is superseded by *Lugar*.”]; *People v. McKay* (2002) 27 Cal.4th 601, 608 [“With the passage of Proposition 8, we are not free to exclude evidence merely because it was obtained in violation of some state statute or state constitutional provision.”]. Consequently, this determination will be based on federal law which does not view private security officers as police agents. See *People v. Taylor* (1990) 222 Cal.App.3d 612, 621 [“Under federal law, searches and seizures by private security employees have traditionally been viewed as those of a private citizen and consequently not subject to Fourth Amendment proscriptions.”]. **NOTE:** Although some of the following

MALL AND STORE SECURITY: Although mall and store security personnel make citizens' arrests and engage in other activities that are related to law enforcement (and some are even licensed by the state³³), they seldom qualify as police agents. This is mainly because they are not supervised or otherwise controlled by police officers, and their primary objective is to protect their employer's property.³⁴

For example, in *People v. Christopher H.*³⁵ two security officers employed by the Los Cerritos Mall saw two juveniles walking along an access road on mall property. When the juveniles stopped, looked around, and walked into some bushes, the officers decided to investigate. After ordering them out, they noticed that one of the juveniles, Christopher, was wearing a sweatshirt that was covering a "large bulge" around his waist. At the request of one of the officers, he lifted up his sweatshirt, exposing a loaded .357 magnum handgun.

On appeal, the court ruled that, even if the search was unlawful, the gun could not be suppressed because the security officers were not police agents. Among other things, the court pointed out that they "obtained no aid from state officials in stopping and searching defendants," and that "the state had no part in [the investigation] until after the stop and search had been completed."

Similarly, in *People v. Leighton*³⁶ security officers at the Nordstrom store in Costa Mesa received information that Leighton, a store employee, had stolen some refund slips which she had taken to her apartment. The officers went there and spoke with Leighton's roommate who, apparently at their request, went into Leighton's bedroom and retrieved the slips from a desk drawer. The officers later gave the slips to police, who arrested Leighton.

Leighton claimed the security officers and her roommate were working as police agents because they acted "with the specific objective of assisting law enforcement officials." But even if that were true, said the court, they would not have been police agents because "[t]here is no evidence of prior consultation [with police officers] before seizure of the incriminating documents nor is there any evidence the police had any part in the direction of this investigation."

AMUSEMENT PARK SECURITY: While private security officers at amusement parks perform a service that is related to law enforcement, they are not usually police agents because, like mall security, they are not supervised or controlled by police officers. For

examples were based, at least in part, on *Zelinski*, we included them because the courts' analysis would be valid under current law.

³³ See Bus. & Prof. Code §§ 7580 et seq.

³⁴ See *People v. Taylor* (1990) 222 Cal.App.3d 612, 625 ["[T]he mere fact that California licenses security guards and regulates their conduct does not transform them into state agents."]; *People v. Leighton* (1981) 124 Cal.App.3d 497, 503 [the security officer's "interests were directed towards protecting her clients—the store's—interests"]; *U.S. v. Shahid* (7th Cir. 1997) 117 F.3d 322, 326 ["[T]he security officers' primary role is to provide safety and security for all persons on mall property."].

³⁵ (1991) 227 Cal.App.3d 1567. ALSO SEE *People v. Brouillette* (1989) 210 Cal.App.3d 842, 847 ["There was evidence to support the findings that the security guards dressed like police and are looked upon by others as representing police authority, and that they assisted the police . . . [But there] was nothing to show that they made the inspection of the wallet as agents of the state."].

³⁶ (1981) 124 Cal.App.3d 497.

example, in *People v. Taylor*³⁷ two security officers employed by the Santa Cruz Seaside Company saw four men drinking beer under the boardwalk. They also saw that one of the men, Taylor, was holding a baggie of marijuana. After seizing the baggie, they obtained Taylor's consent to search his clothing for more. The search netted four more baggies of marijuana and several sheets of LSD. The officers then placed Taylor under citizen's arrest and notified Santa Cruz police.

Taylor contended the boardwalk security officers were police agents mainly because they worked closely with Santa Cruz police, they wore uniforms with shoulder patches, a duty belt and badge; they carried handcuffs, batons, and two-way radios, including a police radio; and their purpose in searching Taylor was to enforce the drug laws, not protect boardwalk property.

Nevertheless, the court ruled they were not police agents mainly because there was "no evidence from which this court can infer a prearranged plan, customary procedure, or policy that substituted the judgment of a private party for that of the police," and there was no indication that police officers "coerced or encouraged the security guards to effect the citizen's arrest."

It has been argued that security officers employed by the larger amusement parks should be deemed police agents because these parks are the functional equivalent of a small city. But so far, these arguments have been rejected. For example, in *U.S. v. Francoeur*³⁸ security officers at Walt Disney World detained and searched the defendant who was suspected of passing counterfeit currency. The court ruled that even if the search was unlawful, the evidence could not be suppressed because Disney World is "not an open town fully accessible and available to all commerce. This private property is an amusement park to which admission is charged."

PRIVATE INVESTIGATORS: Even though private investigators are licensed by the state, they are not police agents when they obtain evidence in the course of an investigation if, as is usually the case, their objective was to obtain information or evidence for their client.³⁹

For example, in *People v. De Juan*⁴⁰ private investigators, some of whom were retired police officers, were hired to find two brothers missing under suspicious circumstances. In the course of their probe, some of them illegally detained the defendant and obtained his consent to search his car which, as it turned out, contained evidence linking him to the murder of the brothers. Although the search was unlawful, the court refused to suppress

³⁷ (1990) 222 Cal.App.3d 612. ALSO SEE *Ecker v. Raging Waters Group, Inc.* (2001) 87 Cal.App.4th 1320, 1329, fn.3 ["Even in a criminal prosecution, the action of a private security guard in searching an individual is not subject to the proscriptions of the Fourth Amendment unless the private security guard may fairly be said to be a state actor."].

³⁸ (1977) 547 F.2d 891.

³⁹ See *People v. Mangiefico* (1972) 25 Cal.App.3d 1041, 1048 [the private investigator "was not engaged in a joint operation with local authorities, but was conducting an independent investigation"]; *People v. Sahagun* (1979) 89 Cal.App.3d 1 [security consultant hired to investigate thefts at a laundry was not a police agent when he searched a shed owned by the suspect]; *People v. De Juan* (1985) 171 Cal.App.3d 1110, 1122 ["Although several of the private investigators involved in this case were retired policemen, their testimony was that they did not display . . . any badge or other identification indicating they were policemen"]. **NOTE re bail bondsmen:** Bail bondsmen are not police agents when they make an arrest pursuant to their statutory authority. See *People v. Houle* (1970) 13 Cal.App.3d 892, 895; Pen. Code § 1301.

⁴⁰ (1985) 171 Cal.App.3d 1110.

the evidence because the investigators “were not acting as agents of the police or in concert with the police . . . [and the police] had no knowledge of the investigators’ plan to intercept and interrogate defendant . . .”

The court also ruled, however, that the private investigators *were* acting as police agents when, after discovering the evidence, they received authorization from police officers to transport the defendant to the police station. Consequently, statements made by the defendant during the trip were suppressed.

HOTEL AND APARTMENT EMPLOYEES: Security officers and employees of hotels, motels, apartments, and condominiums who are acting on their own initiative and without police supervision are deemed civilians when taking action to protect people and property on the premises, or to prevent the premises from being used for illegal activities.⁴¹

For example, in *Emslie v. State Bar*⁴² the California Supreme Court ruled that security officers at Caesar’s Palace in Las Vegas were acting as civilians when, after detaining Emslie (a suspected hotel burglar and confirmed lawyer), they searched him and found eight hotel room keys which they gave to the police. Said the court:

The initial apprehension and detention of Emslie by the hotel security officer was in the nature of a citizen’s arrest for a public offense committed or attempted in his presence. The hotel security officers were not acting under the authority of the state in apprehending, detaining, searching or questioning Emslie at Caesar’s Palace Hotel.

The situation would be different, of course, if officers played a role in the search. For example, in *U.S. v. Reed*⁴³ the manager of a Best Western motel in Alaska had reason to believe that two guests might be selling drugs out of their room. So he asked police officers to stand by while he entered the room to check it out. When no one responded to his knocking, he unlocked the door with a master key and entered. Then, while the officers “stood guard” in the doorway, the manager searched the room and found guns and drugs.

Not surprisingly, the court ruled the evidence should have been suppressed because the officers played a “vital” role in the caper—they were the lookouts. Moreover, said the

⁴¹ See *People v. Bennett* (1998) 17 Cal.4th 373, 383, fn.2 [at the request of police, motel manager placed cuff lock on suspect’s door]; *People v. Ingram* (1981) 122 Cal.App.3d 673, 677 [hotel manager found drugs in a guest’s suitcase and showed the open suitcase to officers]; *People v. Robinson* (1974) 41 Cal.App.3d 658 [landlady who discovered a murder weapon in her tenant’s coat pocket, gave the coat to a police investigator]; *People v. Johnson* (1971) 21 Cal.App.3d 235, 242 [apartment maintenance supervisor was not a police agent when he lawfully entered an apartment in the course of his duties and saw a large quantity of drugs and a machine gun]; *People v. Minervini* (1971) 20 Cal.App.3d 832, 839; *U.S. v. Andrini* (9th Cir. 1982) 685 F.2d 1094 [“The officer did not instruct the motel clerk to open the bag. To the contrary, he advised the clerk to follow routine motel procedure.”]; *U.S. v. Reed* (9th Cir. 1994) 15 F.3d 928 [“[The officers] definitely knew of and acquiesced in [the manager’s] search. They were personally present during the search, knew exactly what (the manager) was doing as he was doing it, and made no attempt to discourage him from examining [the] personal belongings beyond what was required to protect hotel property. (The manager) reported his findings to them as he searched.”]; *U.S. v. Bruce* (6th Cir. 2005) 396 F.3d 697, 705 [cleaning personnel were not police agents when, at officer’s request, they segregated trash taken from suspect’s room]; *U.S. v. Bomengo* (5th Cir. 1978) 580 F.2d 173, 175 [apartment building security director].

⁴² (1974) 11 Cal.3d 210.

⁴³ (9th Cir. 1994) 15 F.3d 928.

court, they were “personally present during the search, knew exactly what [the manager] was doing as he was doing it, and made no attempt to discourage him from examining [the] personal belongings beyond what was required to protect hotel property.”

SHIPPING EMPLOYEES: Parcels that are shipped by UPS, Federal Express, the airlines, and other carriers will sometimes be opened by employees intentionally for inspection or as the result of a mishap.⁴⁴ In any event, evidence discovered as the result will not be suppressed because these employees are plainly not police agents.⁴⁵ For example, when this issue was raised in *U.S. v. Koenig* the court responded, “Nothing in the record suggests that Federal Express searched Koenig’s package, or any other package, for reasons other than what it perceived as its own business interest in safety and security.”⁴⁶

EMPLOYERS: While an employer who searches an employee’s desk, files, computer, or personal property at the workplace is ordinarily not a police agent, he effectively becomes one if he works for an agency of the government—whether federal, state, or local. This is because all government agencies are subject to the Fourth Amendment’s restrictions on searches and seizures. As the United States Supreme Court said in *O’Connor v. Ortega*,⁴⁷ “Searches and seizures by government employers or supervisors of the private property of their employees are subject to the restraints of the Fourth Amendment.”

INFORMANTS: Even though informants often have an ongoing working relationship with officers, are not police agents if they conducted the search on their own initiative.⁴⁸

OFF-DUTY POLICE OFFICERS: The courts have rejected the argument that officers are always *on duty* for Fourth Amendment purposes. Instead, it appears to be the rule that a search conducted by an off-duty officer will be deemed a private search if, (1) he was

⁴⁴ See *People v. McKinnon* (1972) 7 Cal.3d 899, 913 “[B]ecause a common carrier has a general duty of care towards all the goods it transports, it also has the right to open and inspect a package which it suspects contains a dangerous device or substance which may damage other goods in the shipment or the vehicle carrying them.”]

⁴⁵ See *United States v. Jacobsen* (1984) 466 US 109, 115 [“Whether [the initial opening of the package by Federal Express employees was] accidental or deliberate, and whether [it was] reasonable or unreasonable, [it] did not violate the Fourth Amendment because of their private character.”]; *Miramontes v. Superior Court* (1972) 25 Cal.App.3d 877, 884 [when airline employees discovered marijuana in a package, it was reasonable for them “to call on the police for expert assistance.”]; *People v. McKinnon* (1972) 7 Cal.3d 899, 914 [a request by BNE agents to “be alert” for suspicious packages “does not ipso facto create a police agency relationship.”]; *People v. Sapper* (1980) 102 Cal.App.3d 301, 305 [shipper did not become a police agent merely because government regulations encouraged, but did not mandate, searches of suspicious packages]; *People v. Superior Court (Evans)* (1970) 11 Cal.App.3d 887, 891 [“[T]he original opening was conducted by Grantham solely as the agent of United Airlines and not as an agent of the police.”]; *U.S. v. Parker* (8th Cir. 1994) 32 F.3d 395, 399 [“Here, the government did not direct UPS to open the package . . . UPS opened the package pursuant to its policy to inspect the packaging of packages insured for more than \$1,000.”]. COMPARE *U.S. v. Walther* (9th Cir. 1981) 652 F.2d 788, 792-3 [shipper was police agent based largely on “extensive contact” with the DEA which caused him to expect a reward for finding drugs].

⁴⁶ (7th Cir. 1988) 856 F.2d 843, 849.

⁴⁷ (1987) 480 US 709, 715.

⁴⁸ See *U.S. v. McAllister* (7th Cir. 1994) 18 F.3d 1412, 1417-8 [“Other useful criteria in our analysis include whether the informant performed the conduct at the request of the government and whether the government offered him a reward.”]; *U.S. v. Bomengo* (5th Cir. 1978) 580 F.2d 173, 175 [former police officer was not a police agent merely because “he previously had supplied [the officer] with reliable information regarding criminal activity”].

acting on his own initiative, and (2) his primary motivation for searching was personal in nature.⁴⁹ For example, in *People v. Wachter*⁵⁰ an off-duty Kern County sheriff's deputy and a friend were on a fishing trip when, while trespassing on Wachter's property, they spotted some marijuana plants. The deputy notified an on-duty deputy who obtained a warrant to search the property. On appeal, the court ruled that, even if the trespass constituted an illegal search under the Fourth Amendment, the evidence could not be suppressed. Said the court:

The defendant contends that there is no such thing, in fact, as an off-duty police officer. He urges that since a police officer is required in many situations to take police action, even during off-duty hours, he never really loses his status as such police officer during any 24-hour period. Such a rule, however, finds no support in California case law.

Consequently, the court examined the surrounding circumstances and concluded that the deputy's "conduct up to and including the time of discovery of the marijuana in the field was that of a private citizen and not that of a police officer."

Similarly, in *People v. Wolder*⁵¹ an off-duty LAPD officer named Donnelly was talking with the owner of a Long Beach apartment complex in which Donnelly's daughter, Margaret, lived. After Donnelly mentioned that he was concerned that Margaret was hanging out with "bad companions," the owner informed him that Margaret's "Uncle Bob" had stored "a bunch of cases of something" in the garage. Donnelly was suspicious because Margaret did not have an Uncle Bob.

So, at Donnelly's request, the owner permitted him to look inside the boxes which contained typewriters and burglar tools. Looking further into the matter, he determined that "Uncle Bob" was Bob Wolder, a well-known "office machine burglar." He also learned that the typewriters had been taken in a commercial burglary in Long Beach. On appeal, Wolder contended that Donnelly was a police agent when he opened the boxes, but the court disagreed:

The record discloses that Mr. Donnelly, although a police officer for the City of Los Angeles, acted as a private citizen when he sought and obtained permission to enter [the] garage and to examine the boxes which he was informed his daughter had stored there. He was concerned about his daughter's association with "bad companions."

In the above cases, it was apparent that the officers were primarily motivated by personal interests when they conducted the searches. In contrast is the case of *People v. Millard*.⁵² Here, two off-duty LAPD officers were working as store security at a J.J.

⁴⁹ See *People v. Peterson* (1972) 23 Cal.App.3d 883, 884 ["It fairly appears he entered the garage out of concern for his own safety as a tenant of the apartment complex, and was acting as a private citizen only."]; *People v. Topp* (1974) 40 Cal.App.3d 372, 378 ["Here [the off-duty officer] was for all intents and purposes a private citizen. He was off-duty and not engaged in active police work at the time. He simply acceded to the request of his friend to accompany him to the house."] *U.S. v. Gingles* (7th Cir. 2006) 467 F.3d 1071, 1076 [off-duty officer was deemed a private citizen because of his "uniquely personal motivation"].

⁵⁰ (1976) 58 Cal.App.3d 911.

⁵¹ (1970) 4 Cal.App.3d 984.

⁵² (1971) 15 Cal.App.3d 759. ALSO SEE *U.S. v. Schleis* (8th Cir. 1976) 543 F.2d 59, 61 [off-duty federal marshal was functioning as a peace officer because "he identified himself to appellant as

Newberry store when they noticed that a man in the store, Millard, appeared to be drunk. As they approached him, one of them identified himself as a police officer, displayed his badge, and placed him under arrest. During a pat-search, he found marijuana. But the court suppressed it, pointing out that "[t]he search was incident to the arrest which had just preceded it and [the officer] had made this arrest ostensibly and expressly as a police officer and not as a private person."

LATER SEARCH BY POLICE

When a civilian finds evidence and gives it to officers, they do not, of course, need a warrant to inspect it if it was not in a container or wrapper.⁵³ But if it was not in plain view, a warrant may be necessary to remove it unless, (1) the citizen had previously observed it, or (2) the officers had probable cause to search the container or wrapper.

Evidence previously observed

Officers may open a container or wrapper and remove the evidence inside if the citizen had already seen it.⁵⁴ This is because the evidence, having already been revealed, cannot support a reasonable expectation of privacy.⁵⁵ As the Court of Appeal observed,

such, read appellant his *Miranda* warnings, and may have coerced submission to the search by reason thereof."].

⁵³ See *United States v. Jacobsen* (1984) 466 US 109, 120; *Arizona v. Hicks* (1987) 480 U.S. 321, 325; *New Jersey v. T.L.O.* (1985) 469 U.S. 325, 346, fn.12. NOTE: Nor would a warrant be necessary if officers reasonably believed the owner of the item had abandoned it. See *People v. Ayala* (2000) 24 Cal.4th 243, 279; *People v. Baraka H.* (1992) 6 Cal.App.4th 1039, 1048.

⁵⁴ See *People v. Haugland* (1981) 115 Cal.App.3d 248, 256-7 ["[W]hen the officers opened Haugland's briefcase, they were not 'searching' for anything; they knew it contained a loaded gun and went about retrieving the weapon. . . . Haugland gave up any reasonable expectation of privacy when he told the officers the briefcase contained a loaded gun."]; *U.S. v. Koenig* (7th Cir. 1988) 856 F.2d 843, 852 ["[O]nce a private actor has legally opened a package, has found suspected contraband within the package, and has notified the government of the discovery, the government need not obtain a search warrant before examining and field testing the contents."]; *U.S. v. Runyan* (5th Cir. 2001) 275 F.3d 449, 458 ["[A] police view subsequent to a search conducted by private citizens does not constitute a search . . . so long as the view is confined to the scope and product of the initial search."]; *U.S. v. Koenig* (7th Cir. 1988) 856 F.2d 843, 852 ["[T]he private, legal search [by the citizen] has destroyed any legitimate expectation of privacy in the package's contents."]; *U.S. v. King* (6th Cir. 1995) 55 F.3d 1193, 1196 [warrantless police search permitted if it did not "exceed the scope of the private search"]; *People v. Houle* (1970) 13 Cal.App.3d 892, 895 ["When [the citizen] informed Officer Sanchez that the contraband had been found, the intrusion into appellant's right of privacy had already occurred."]; *People v. Shegog* (1986) 184 Cal.App.3d 899, 904 ["[A]ny expectation of privacy by the defendant had already been frustrated by the time Detective Kostella arrived to view the property"]; *People v. Ingram* (1981) 122 Cal.App.3d 673, 677 [the briefcase "had already been opened" by the hotel manager].

⁵⁵ See *U.S. v. Runyan* (5th Cir. 2001) 275 F.3d 449, 461 [the "critical inquiry" is "whether the authorities obtained information with respect to which the defendant's expectation of privacy has not already been frustrated."]; *People v. Brouillette* (1989) 210 Cal.App.3d 842, 848 [because the security guards had seen the drugs inside the defendant's wallet, "the later actions of the police in repeating the inspection of the contents of the wallet did not infringe any constitutionally protected private interest that had not already been frustrated as the result of private conduct"]; *People v. Warren* (1990) 219 Cal.App.3d 619, 623 ["(I)nsofar as the governmental search is nothing more than a reexamination of matter uncovered in a search by a private citizen, it involves no impermissible infringement of a privacy interest."]; *People v. Baker* (1970) 12 Cal.App.3d 826,

"No real purpose is served by precluding police examination of what has already been discovered."⁵⁶

For example, in *United States v. Jacobsen*⁵⁷ a cardboard box that was being shipped to Jacobsen via FedEx was inadvertently damaged while in transit. Pursuant to company policy, FedEx employees opened the package to see if the contents had also been damaged. Inside was an object wrapped in duct tape. The employees cut open the duct tape and found four zip-lock plastic bags containing white powder. Suspecting drugs, they notified the DEA. But before the first DEA agent arrived, the employees resealed the plastic bags in duct tape and put everything back into the cardboard box. When the DEA agent arrived, he removed the four plastic bags, opened each of them and field tested some of the powder. It was cocaine, and Jacobsen was arrested.

The United States Supreme Court ruled the agent's opening of the bags was lawful because the FedEx employees already knew that they contained white powder. Said the Court:

[T]he removal of the plastic bags from the tube [of duct tape] and the agent's visual inspection of their contents enabled the agent to learn nothing that had not previously been learned during the private search. It infringed no legitimate expectation of privacy and hence was not a "search" within the meaning of the Fourth Amendment.

Similarly, in *People v. Yackee*⁵⁸ an airline baggage agent in Atlanta discovered two pounds of a "flour-like substance" inside a suitcase. The suitcase had been addressed to Yackee for pickup at LAX. The baggage agent notified Atlanta police who opened it and, after confirming it was cocaine, arranged with LAPD officers to have it sent to LAX for a controlled delivery.⁵⁹ Yackee was arrested when he claimed it. On appeal, he contended that the warrantless search in Atlanta was unlawful, but the court disagreed, pointing out that the Atlanta officer had "infringed no constitutionally protected privacy that had not already been negated by the previous private search."

Finally, in *People v. Robinson*⁶⁰ the defendant's landlady was removing his belongings from her house in Sacramento when she discovered a gun in his coat pocket. For various reasons, she suspected the gun had been used to murder a friend, so she notified Sacramento police. When a detective arrived, she handed him the coat, saying, "The gun is in the pocket." He then removed it. Robinson, who was subsequently charged with the murder, argued that the detective needed a warrant to remove the gun, but the court disagreed, pointing out that his privacy was "originally invaded" by the landlady.

838 ["A distinction between material seized by the private searcher, and material restored to concealment in a place over which he has dominion and control has no rational justification. The owner's privacy has already been invaded."].

⁵⁶ *People v. Baker* (1970) 12 Cal.App.3d 826, 838.

⁵⁷ (1984) 466 US 109. ALSO SEE *New Jersey v. T.L.O.* (1985) 469 U.S. 325, 346, fn.12 ["If Mr. Choplick could permissibly search T.L.O.'s purse for cigarettes, it hardly seems reasonable to suggest that his natural reaction to finding them—picking them up—could be a constitutional violation."].

⁵⁸ (1984) 161 Cal.App.3d 843.

⁵⁹ **NOTE:** The court noted that, technically, the luggage was opened by an airline employee; but because officers were present, it deemed the opening a police search.

⁶⁰ (1974) 41 Cal.App.3d 658.

Probable cause

Even if the citizen had not actually seen the evidence, officers may open the container without a warrant if, based on the totality of circumstances, they had probable cause to believe it was, in fact, evidence of a crime.⁶¹ For example, in *People v. McKinnon*⁶² a BNE agent was dispatched to an air freight facility where employees had discovered what appeared to be marijuana inside a carton. When he arrived, the carton was on the floor and open. Inside he saw several "brick-shaped packages wrapped in red cellophane" which had a "distinctive" odor of marijuana. He then opened one of them and confirmed that it was marijuana. One of the men who dropped off the carton, McKinnon, was arrested at the airport a few minutes later.

On appeal, the court ruled that because the BNE agent had probable cause to believe that all the packages contained marijuana, he did not need a warrant to open them. Said the court, "Predicated on such probable cause, the officer's subsequent search of the packages before him and the remaining four cartons in the shipment was constitutionally reasonable."

Similarly in *People v. Leichty*⁶³ an air cargo supervisor at Ontario International Airport opened a suspicious package and found that it contained two Pepsi bottles filled with a "yellowish liquid" which he thought was drugs. So he notified officers who opened one of the bottles and, based on the "strong, ether-like odor," concluded that it contained PCP. The defendant contended that the PCP should have been suppressed because the officers did not have a warrant to open the bottles. The court responded that a warrant was not required because "[t]he facts which they possessed concerning the bottles would have led any person of reasonable caution to believe that the bottles contained contraband drugs."

Testing drugs

FIELD TESTING: If an officer suspects that evidence in plain view or evidence in a container is an illegal drug, the officer may promptly subject it to presumptive field testing. In the words of the United States Supreme Court, "A [field] chemical test that

⁶¹ See *Arizona v. Hicks* (1987) 480 U.S. 321, 325-6; *California v. Acevedo* (1991) 500 U.S. 565, 580 ["The police may search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained."]; *People v. Howard* (1971) 21 Cal.App.3d 997, 1000 [packages smelled of marijuana]; *People v. Cohn* (1973) 30 Cal.App.3d 738, 746 ["[The officer's] conduct in opening the matchbox, although it was state action, was clearly based on probable cause to believe that the box contained contraband and, therefore, was proper."]; *People v. Superior Court (Evans)* (1970) 11 Cal.App.3d 887, 893 ["[T]he seizure of the contraband is validated since [the officer] possessed overwhelming probable cause to believe that the package in the United Airlines office contained hashish"]; *People v. Ingram* (1981) 122 Cal.App.3d 673, 677 [the briefcase "had already been opened" by the hotel manager, and each of them contained white powder in plastic bags that the officer, "as an experienced narcotic officer believed to be cocaine"]. **NOTE:** In *U.S. v. Runyan* (5th Cir. 2001) 275 F.3d 449 the court ruled that officers must be "substantially certain" that the items they view are evidence of a crime. We must assume this "substantially certain" standard of proof was the equivalent of probable cause. But if the court was creating a brand new standard of proof that is higher than probable cause but less than proof beyond a reasonable doubt, it failed to provide any authority or analysis for such a dramatic change in the law.

⁶² (1972) 7 Cal.3d 899.

⁶³ (1988) 205 Cal.App.3d 914.

merely discloses whether or not a particular substance is cocaine does not compromise any legitimate interest in privacy.”⁶⁴

LABORATORY TESTING: If a field test confirms a substance was an illegal drug, a warrant is not required to subject the substance to laboratory testing.⁶⁵ If, however, the field test was negative or inconclusive, laboratory testing is permitted only if officers obtain a search warrant.⁶⁶ POV

⁶⁴ *United States v. Jacobsen* (1984) 466 U.S. 109, 123.

⁶⁵ *People v. Warren* (1990) 219 Cal.App.3d 619, 623-4.

⁶⁶ *People v. Leichty* (1988) 205 Cal.App.3d 914, 923-4.



PETALUMA POLICE DEPARTMENT TRAINING RECORD

Trs

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 09-20-2019		Duration: .25 hours		LOCATION PETALUMA	
Briefing Training					
BRIEF DESCRIPTION OF TRAINING: Watched DEA video related to the dangers of Fentanyl					
ATTACHMENTS					
SUPERVISORY REVIEW					
TRAINER Rick Cox		ID# 1770	SUPERVISOR R. Cox		ID# 1770
LIEUTENANT <i>(Signature)</i>		ID# 1359	DATE 9/19/19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

Cox, Rick

From: Lyons, Tim
Sent: Wednesday, August 14, 2019 11:30 AM
To: Cox, Rick; McGowan, Nicholas; Garihan, Aaron
Subject: Fentanyl Briefing Training
Attachments: Fentanyl.pdf

Sergeants,

Can you review this Fentanyl update regarding Evidence packaging ASAP. I have also attached a link to a video if you want to show that also. Please complete a Briefing Training form and forward it to me when completed. I will email those employees that are off this email. Thanks Tim

<https://www.justice.gov/opa/video/roll-call-video-warns-about-dangers-fentanyl-exposure>

Lieutenant Tim Lyons
Patrol Services Division
Petaluma Police Department
969 Petaluma Blvd North
Petaluma, CA 94952
Office (707) 776-3718
FAX (707) 656-4059
tlyons@cityofpetaluma.org



TMS

S:\Police\Department Forms\In-Service Training Record.doc Revised 02/2002

Cox, Rick

From: Klein, Ronald
Sent: Monday, August 05, 2019 4:48 PM
To: Glaviano, Garrett; McGowan, Nicholas; Urton, Andrew; Novello, Lance; Garihan, Aaron; Cox, Rick; Gilman, Paul; Walsh, Jeremy
Cc: Salizzoni, Tara; Neve, Kerri
Subject: FW: New evidence packaging requirements for fentanyl

In May a request was made for training to be conducted on the below email from Evidence Tech Neve. That was to include the appropriate Briefing Training Sheet be completed to document the training. To this date the only training sheets that have been turned in were by Sergeant Wash and Gilman. Please complete this training ASAP, ensure your teams are aware of this email and the procedure for the proper packaging of Fentanyl. Once completed place a Briefing Training Sheet in my mail slot. If there are any questions please contact Kerri Neve.

Thanks for your attention to this matter.

Ron Klein

Lieutenant- Support Services (Mon-Thur)
Petaluma Police Department
969 Petaluma Blvd North
Petaluma, Ca 94952
rklein@cityofpetaluma.org
(707) 778-4530



Working With Our Community To Provide Professional Police Services Since 1858

From: Neve, Kerri <KNeve@cityofpetaluma.org>
Sent: Wednesday, May 08, 2019 3:26 PM
To: -- Police Patrol <ppdpatrol@cityofpetaluma.org>
Cc: Litzie, Nicole <NLitzie@cityofpetaluma.org>
Subject: New evidence packaging requirements for fentanyl

To All :

We recently had a case where the DA's office was requesting suspected fentanyl be sent to the DOJ lab for testing. Prior to sending the evidence item up, I contacted the lab to confirm how the fentanyl needed to be packaged. I learned that an evidence item being sent to the lab which contains any suspected fentanyl **MUST BE HEAT SEALED prior to being placed in the DOJ drug envelope.**

If you book any fentanyl and/or suspected fentanyl into evidence, please do the following:

1. Heat seal the items in a provided heat seal bag. (Heat seal bags are located inside a manila envelope hanging from the bulletin board in the evidence room) The black heat sealer is located on the counter top.
2. Date/initial the heat seal bag after sealing
3. Place the heat sealed bag into the DOJ envelope, seal/date/initial and fill out the envelope as standard
4. Be sure to use the bright orange hazard stickers for the outside of the envelope

The property room manual has been updated to reflect this new procedure. Instructions are on page 24 of the manual.

If you have any questions, please see me.

Kerri Neve

Property/Evidence Unit
Petaluma Police Department
969 Petaluma Boulevard North
Petaluma, CA 94952
#707-778-4328
kneve@ci.petaluma.ca.us





PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

JMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE 10/07/19		LENGTH OF TRAINING HOURS 30 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT			
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: POWERPOINT							
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED POLICY 328 (DISCRIMINATORY HARASSMENT) AND 338 (HATE CRIMES)							
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input checked="" type="checkbox"/> OTHER: POLICY							
SUPERVISORY REVIEW							
TRAINER Raccanello		2745		SUPERVISOR Glaviano		ID# 2676	
LIEUTENANT <i>E. Crosby</i>		ID# 1749		DATE 10-13-19			
TRAINING RECORD UPDATE							
DATA ENTRY		DATE		TRAINING RECORD			



TW

PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE 10/07/19	LENGTH OF TRAINING HOURS 30 MINUTES			LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT			
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: POWERPOINT							
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED POLICY 326 (ADULT ABUSE) AND 330 (CHILD ABUSE)							
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input checked="" type="checkbox"/> OTHER: POLICY							
SUPERVISORY REVIEW							
TRAINER Raccanello		ID# 2745		SUPERVISOR Glaviano		ID# 2676	
LIEUTENANT <i>E. Croley</i>		ID# 1749		DATE 10-13-19			
TRAINING RECORD UPDATE							
DATA ENTRY		DATE		TRAINING RECORD			



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

TMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE OF TRAINING 10/7/19		LENGTH OF TRAINING 20 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT			
TYPE OF TRAINING							
DISCUSSION							
BRIEF DESCRIPTION OF TRAINING:							
<ul style="list-style-type: none">THE TEAM REVIEWED PETALUMA POLICE DEPARTMENT POLICY 326, ADULT ABUSE.							
ATTACHMENTS							
NONE							
SUPERVISORY REVIEW							
TRAINER Ryan Suhrke		ID# 3300		SUPERVISOR Garrett Glaviano		ID# 2676	
LIEUTENANT Ed Crosby		ID# 1749		DATE 10-19-19			
TRAINING RECORD UPDATE							
DATA ENTRY		DATE		TRAINING RECORD			



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

4ms

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 9/18/19		LENGTH OF TRAINING 30 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING DISCUSSION					
BRIEF DESCRIPTION OF TRAINING:					
<p>THE TEAM REVIEWED AND DISCUSSED THE FOLLOWING POLICIES:</p> <ul style="list-style-type: none"> CHILD ABUSE (330) MENTAL HEALTH COMMITMENTS (418) 					
ATTACHMENTS					
SUPERVISORY REVIEW					
TRAINER Garrett Glaviano		ID# 3194	SUPERVISOR Garrett Glaviano		ID# 2676
LIEUTENANT Ed Crosby		ID# 1749	DATE		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 09/05/2019	LENGTH OF TRAINING 0 HOURS 15 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER: POWER POINT					
BRIEF DESCRIPTION OF TRAINING: TEAM 6 COMPLETED TRAINING ON CHILD ABUSE (POLICY 330).					
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER M. Parnow		ID# 2931	SUPERVISOR N. McGowan		2800
LIEUTENANT T. Lyons		ID# 1359	DATE 09-05-19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

11/15

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 09/11/2019	LENGTH OF TRAINING 0 HOURS 15 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER: POWER POINT					
BRIEF DESCRIPTION OF TRAINING: TEAM 6 COMPLETED TRAINING ON THE IMMIGRATION POLICY AND RACIAL PROFILING. THIS INCLUDED THE REVIEW OF POLICY 428 AND 402.					
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER E. Esponda		ID# 1685	SUPERVISOR N. McGowan		2800
LIEUTENANT T. Lyons		ID# 1359	DATE 09-11-19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

Tms

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 09/20/2019	LENGTH OF TRAINING 15 HOURS 15 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER: POWER POINT					
BRIEF DESCRIPTION OF TRAINING: TEAM 6 COMPLETED BRIEFING TRAINING ON DOMESTIC VIOLENCE. THE TRAINING INCLUDED REVIEW OF POLICY 320.					
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER M. Parnow		ID# 2931	SUPERVISOR N. McGowan		2800
LIEUTENANT T. Lyons		ID# 1359	DATE 09-20-19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 9/9/19		LENGTH OF TRAINING 30 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING DISCUSSION					
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED THE FOLLOWING POLICIES: <ul style="list-style-type: none">• BIAS-BASED POLICING (402)• IMMIGRATION VIOLATIONS (428)					
ATTACHMENTS					
SUPERVISORY REVIEW					
TRAINER Eddie Estrella		ID# 3194	SUPERVISOR Garrett Glaviano <i>GVG</i>		ID# 2676
LIEUTENANT Ed Crosby		ID# 1749	DATE 9/14/19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

TMR

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees:

TRAINING SUMMARY

Date: 8-4-19 Length of Training: _____ hours 20 min

Video: X Lecture: X Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

- WATCHED AND DISCUSSED TWO OIS VIDEOS AVAILABLE ON "POLICBONE.COM."
- ① VIDEO #484564006 : OFFICER SHOTS HOMEOWNER (WITH FIREARM) THROUGH A WINDOW AFTER RESPONDING TO A PANIC ALARM CALL. BETTER OPTIONS DISCUSSED.
 - ② VIDEO #484586006 : OFFICER KILLS WOMAN WHILE AIMING FOR LOOSE DOG. BETTER OPTIONS DISCUSSED.

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☒ Other
VIDEOS AVAILABLE ON POLICBONE.COM

SUPERVISORY REVIEW

Trainer: NOVELLO Supervisor: NOVELLO

Lieutenant: Crosby Date: 8/11/19

TRAINING RECORD UPDATE

Data Entry: _____ Date: _____ Training Record: _____



TMS

PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE 8/06/2019	LENGTH OF TRAINING 0 HOURS 20 MINUTES	LOCATION <input checked="" type="checkbox"/> MAIN STATION
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER:		
BRIEF DESCRIPTION OF TRAINING: Petaluma Police Department 8/06/2019 Policy 428- Immigration Violations Policy 402- Bias-Based Policing Went over the policies and had an open discussion.		

ATTACHMENTS	
<input checked="" type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:	


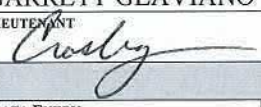
SUPERVISORY REVIEW			
TRAINER Chris Ricci	ID# 2754	SUPERVISOR Urton	ID# 1626
LIEUTENANT <i>Crosby</i>	ID# 1749	DATE 7/11/2019	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD



TMS

PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 9/2/19	LENGTH OF TRAINING 25 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT		
TYPE OF TRAINING DOMESTIC VIOLENCE					
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED DOMESTIC VIOLENCE POLICY 320. THE TEAM DISCUSSED THE RAMIFICATIONS OF STRANGULATION CASES TO VICTIMS BOTH PHYSICALLY AND IN TERMS OF LETHALITY. THE TEAM DISCUSSED THE IMPORTANCE OF THOROUGHLY DOCUMENTING DOMESTIC VIOLENCE CASES.					
ATTACHMENTS THE DANGERS OF STRANGULATION, DOMESTIC VIOLENCE CHECKLIST					
SUPERVISORY REVIEW					
TRAINER GARRETT GLAVIANO	ID# 2676	SUPERVISOR 		ID# 2676	
LIEUTENANT 	ID# 1749	DATE 9-3-19			
TRAINING RECORD UPDATE					
DATA ENTRY	DATE		TRAINING RECORD		

The Dangers of Strangulation

March 15, 2016 / 52 Comments / in Get Help Today

by Heather, a Hotline advocate

At The Hotline, we often speak with people who don't think they are being abused because they aren't being hit, aren't being hit with a closed fist or aren't being physically abused on a regular or daily basis. While abuse can include frequent, violent attacks, abuse can also include monitoring your phone, restricting access to finances, controlling who you spend time with and many other behaviors that aren't physical at all. However, one of the most serious and deadly forms of abuse is physical, but many survivors are still hesitant to label strangulation or "choking" as abusive.

The information in this article is not meant to scare you, but you deserve to know the facts so you can make the best plan to keep yourself safe. If your partner has ever put their hands around your neck, put you in a "sleeper hold" or used anything else to strangle you like a scarf, necklace, belt, rope, etc. keep reading.

Because strangulation can be very serious and symptoms of brain damage can take hours, days or even weeks to develop, it's a good idea to get checked out by a doctor as soon as possible, especially if you have:

- a sore throat
- difficulty swallowing
- neck pain
- hoarseness
- bruising on the neck or behind your ears
- discoloration on your tongue
- ringing in your ears
- bloodshot eyes
- dizziness
- memory loss
- drooling
- nausea or vomiting
- difficulty breathing
- incontinence
- a seizure
- a miscarriage
- changes in mood or personality like agitation or aggression
- changes in sleep patterns
- changes in vision such as blurriness or seeing double
- fainted or lost consciousness

It's possible to experience strangulation and show no symptoms at first but die weeks later because of brain damage due to lack of oxygen and other internal injuries. For this reason, and for a safe way to document the abuse, we strongly recommend you consider seeing a doctor if your partner has strangled

or choked you. Also know that you always have the right to **file a police report**, press charges for an assault or **seek a restraining order** against someone who is choosing to be abusive towards you.

Facts You Deserve To Know:

- Strangulation is **a significant predictor for future lethal violence**
- If your partner has strangled you in the past, your risk of being killed by them is **10 times higher**
- Strangulation is **one of the most lethal forms of domestic violence**: unconsciousness may occur within seconds and death within minutes.

Filling out the **lethality assessment**, especially with an advocate at your local domestic violence agency, can help you learn more about your personal risk from your partner. **This survivor's story** talks about how long-term memories can be affected by traumatic brain injuries caused by strangulation and concussion. We know that the details of abuse can get fuzzy, sometimes from **gaslighting** or from the abuse itself, so if it's safe to do so we recommend **documenting** as much of the abuse you're experiencing as possible. If you need to call the doctor, The Hotline or your local domestic violence agency but making calls is dangerous for you, **here are some helpful tips** that might work for you.

Domestic Violence Checklist

- Call for Service
- Response to call
- Victim Interview
 - *Establish relationship*
 - *Detailed account of act of violence*
 - *Other abusive behaviors*
 - *Monitoring of phones*
 - *Restricted access to finances*
 - *Jealousy issues*
 - *How did the violence stop?*
- Suspect Interview
- Witness Statements
 - *Children (be sure to obtain contact info whether present or not)*
 - *Neighborhood Check*
- Evidence
- Intoxication
- Injuries
 - Strangulation
 - *Loss of consciousness*
 - *Body Positioning*
 - *Petechial Hemorrhages*
 - *Difficulty speaking / swallowing*
 - *Coughing*
- Mirandized 2nd Suspect Interview
- 911 Tape
 - *Reviewed and Summarized*
- EPO
 - *Judge Name*
 - *Time granted*
 - *How it was served (recorded)*
- Citizen's arrest
- Arrest/Charges
- Domestic Violence Packet
- Lethality Screening Form
- Previous Domestic Violence History
 - *If suspect has been arrested for domestic violence in the past even if it was with a different victim.*
- Summary of Criminal History for both parties
 - *Highlighting the presence or lack of crimes of violence.*
- Firearms
 - *Note ownership or lack thereof*

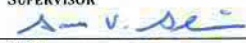


- Follow Up Required
- *Follow up Photographs*
- *Additional interviews*

(Revised 9/2/19)



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

1MS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 9/2/19		LENGTH OF TRAINING 20 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING EVIDENCE PACKAGING REQUIREMENTS OF FENTANYL					
BRIEF DESCRIPTION OF TRAINING: REVIEWED PROCEDURES ESTABLISHED BY THE DEPARTMENT PROPERTY TECHNICIAN KERRI NEVE REGARDING THE PROPER WAY TO PACKAGE SUSPECTED FENTANYL. THE TRAINING INCLUDED A PRACTICAL DEMONSTRATION IN THE PROPERTY ROOM					
ATTACHMENTS EMAIL FROM KERRI NEVE DATED MAY 8 TH , 2019.					
SUPERVISORY REVIEW					
TRAINER GARRETT GLAVIANO		ID# 2676	SUPERVISOR 		ID# 2676
LIEUTENANT 		ID# 1749	DATE 9-3-19		
TRAINING RECORD UPDATE					
DATA ENTRY 		DATE		TRAINING RECORD	

Glaviano, Garrett

From: Neve, Kerri
Sent: Wednesday, May 08, 2019 3:26 PM
To: -- Police Patrol
Cc: Litzie, Nicole
Subject: New evidence packaging requirements for fentanyl

To All :

We recently had a case where the DA's office was requesting suspected fentanyl be sent to the DOJ lab for testing. Prior to sending the evidence item up, I contacted the lab to confirm how the fentanyl needed to be packaged. I learned that an evidence item being sent to the lab which contains any suspected fentanyl **MUST BE HEAT SEALED prior to being placed in the DOJ drug envelope.**

If you book any fentanyl and/or suspected fentanyl into evidence, please do the following:

1. Heat seal the items in a provided heat seal bag. (Heat seal bags are located inside a manila envelope hanging from the bulletin board in the evidence room) The black heat sealer is located on the counter top.
2. Date/initial the heat seal bag after sealing
3. Place the heat sealed bag into the DOJ envelope, seal/date/initial and fill out the envelope as standard
4. Be sure to use the bright orange hazard stickers for the outside of the envelope

The property room manual has been updated to reflect this new procedure. Instructions are on page 24 of the manual.

If you have any questions, please see me.

Kerri Neve

Property/Evidence Unit
Petaluma Police Department
969 Petaluma Boulevard North
Petaluma, CA 94952
#707-778-4328
kneve@ci.petaluma.ca.us





PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 8/5/19		LENGTH OF TRAINING 20 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING EVIDENCE PACKAGING REQUIREMENTS OF FENTANYL					
BRIEF DESCRIPTION OF TRAINING: REVIEWED PROCEDURES ESTABLISHED BY THE DEPARTMENT PROPERTY TECHNICIAN KERRI NEVE REGARDING THE PROPER WAY TO PACKAGE SUSPECTED FENTANYL. THE TRAINING INCLUDED A PRACTICAL DEMONSTRATION IN THE PROPERTY ROOM					
ATTACHMENTS EMAIL FROM KERRI NEVE DATED MAY 8 TH 2019.					
SUPERVISORY REVIEW					
TRAINER GARRETT GLAVIANO <i>GVG</i>		ID# 2676	SUPERVISOR		ID#
LIEUTENANT <i>Crosby</i>		ID# 1749	DATE 8/6/2019		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

Glaviano, Garrett

From: Neve, Kerri
Sent: Wednesday, May 08, 2019 3:26 PM
To: -- Police Patrol
Cc: Litzie, Nicole
Subject: New evidence packaging requirements for fentanyl

To All :

We recently had a case where the DA's office was requesting suspected fentanyl be sent to the DOJ lab for testing. Prior to sending the evidence item up, I contacted the lab to confirm how the fentanyl needed to be packaged. I learned that an evidence item being sent to the lab which contains any suspected fentanyl **MUST BE HEAT SEALED prior to being placed in the DOJ drug envelope.**

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If you have any questions, please see me.

Kerri Neve

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Petaluma Police Department
969 Petaluma Boulevard North
Petaluma, CA 94952
#707-778-4328
kneve@ci.petaluma.ca.us



TMR

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees:

TRAINING SUMMARY

Date: 6-22-19 Length of Training: _____ hours 5 min

Video: _____ Lecture: x Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

REVIEWED FENTANYL PACKAGING, PROCEDURES PER EMAILED INSTRUCTIONS

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☐ Other

SUPERVISORY REVIEW

Trainer: NOVELLO Supervisor: NOVELLO

Lieutenant: Crosby Date: 8/5/2019

TRAINING RECORD UPDATE

Data Entry: _____ Date: _____ Training Record: _____

From: Neve, Kerri
Sent: Wednesday, May 08, 2019 3:26 PM
To: -- Police Patrol <ppdpatrol@cityofpetaluma.org>
Cc: Litzie, Nicole <NLitzie@cityofpetaluma.org>
Subject: New evidence packaging requirements for fentanyl

To All :

We recently had a case where the DA's office was requesting suspected fentanyl be sent to the DOJ lab for testing. Prior to sending the evidence item up, I contacted the lab to confirm how the fentanyl needed to be packaged. I learned that an evidence item being sent to the lab which contains any suspected fentanyl **MUST BE HEAT SEALED prior to being placed in the DOJ drug envelope.** If you book any fentanyl and/or suspected fentanyl into evidence, please do the following:

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2. Date/initial the heat seal bag after sealing
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If you have any questions, please see me.

Kerri Neve

Property/Evidence Unit
Petaluma Police Department
969 Petaluma Boulevard North
Petaluma, CA 94952
#707-778-4328
kneve@ci.petaluma.ca.us





PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 08-31-2019	LENGTH OF TRAINING 20 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: BRIEFING TRAINING					
BRIEF DESCRIPTION OF TRAINING: Officer Camilleri reviewed and lectured on policy 320 (Domestic Violence) and 326 (Adult Abuse).					
ATTACHMENTS <input checked="" type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER N. Camilleri		ID# 3383	SUPERVISOR Sgt A. Garihan		ID# 1757
LIEUTENANT E. Crosby		ID# 1749	08-31-2019		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES							
NAME	ID#	NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY							
DATE 08/08/2019	LENGTH OF TRAINING HOURS 10 MINUTES			LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT			
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input checked="" type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER: POWER POINT							
BRIEF DESCRIPTION OF TRAINING: TEAM 6 COMPLETED TRAINING ON THE PROPER PACKAGING OF FENTANYL.							
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:							
SUPERVISORY REVIEW							
TRAINER M. Parnow		ID# 2931	SUPERVISOR N. McGowan		DATE 08-08-19		
LIEUTENANT T. Lyons		ID# 1359	2800				
TRAINING RECORD UPDATE							
DATA ENTRY		DATE		TRAINING RECORD			



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

1ms

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 8/19/19		Duration: 20 Min		LOCATION PPD	
TYPE OF TRAINING EVIDENCE PACKAGING REQUIREMENTS FOR FENTANYL					
BRIEF DESCRIPTION OF TRAINING: REVIEWED PROCEDURES ESTABLISHED BY THE DEPARTMENT PROPERTY TECHNICIAN KERRI NEVE REGARDING THE PROPER WAY TO PACKAGE SUSPECTED FENTANYL. THE TRAINING INCLUDED A PRACTICAL DEMONSTRATION IN THE PROPERTY ROOM.					
ATTACHMENTS EMAIL FROM KERRI NEVE DATED MAY 8 TH 2019.					
SUPERVISORY REVIEW					
TRAINER Garrett Glaviano		ID# 2676	SUPERVISOR Garrett Glaviano		ID# 2676
LIEUTENANT <i>Crosby</i>		ID# 1749	DATE 8/27/19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

Glaviano, Garrett

From: Neve, Kerri
Sent: Wednesday, May 08, 2019 3:26 PM
To: -- Police Patrol
Cc: Litzie, Nicole
Subject: New evidence packaging requirements for fentanyl

To All :

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If you have any questions, please see me.

Kerri Neve

Property/Evidence Unit
Petaluma Police Department
969 Petaluma Boulevard North
Petaluma, CA 94952
#707-778-4328
kneve@ci.petaluma.ca.us





PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 06/26/2019		LENGTH OF TRAINING 20 MINUTES		LOCATION MAIN STATION	
TYPE OF TRAINING POLICY REVIEW/TRAINING EVIDENCE PACKAGING FOR SUSPECTED FENTANYL					
BRIEF DESCRIPTION OF TRAINING: Review package procedures for suspected fentanyl. Location of packaging materials and heat seal equipment in PPD Evidence room. Any evidence item being sent to the lab which contains any suspected fentanyl! <u>MUST BE HEAT SEALED</u> prior to being placed in the DOJ drug envelope. If you book any fentanyl and/or suspected fentanyl into evidence, please do the following: <ol style="list-style-type: none">1. Heat seal the items in a provided heat seal bag. (Heat seal bags are located inside a manila envelope hanging from the bulletin board in the evidence room) The black heat sealer is located on the counter top.2. Date/initial the heat seal bag after sealing3. Place the heat sealed bag into the DOJ envelope, seal/date/initial and fill out the envelope as standard4. Be sure to use the bright orange hazard stickers for the outside of the envelope The property room manual has been updated to reflect this new procedure. Instructions are on page 24 of the manual.					
ATTACHMENTS					
SUPERVISORY REVIEW					
TRAINER SGT J. Walsh		ID# 2405	SUPERVISOR Sgt. J. Walsh		ID# 2405
LIEUTENANT LT B. Miller		ID# 2709	DATE		
TRAINING RECORD UPDATE					
ENTRY		DATE		TRAINING RECORD	

[illegible]



Petaluma Police Department BRIEFING TRAINING RECORD

7/25

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 11-26-19	Length of Training HRS: MIN: 20	Time of Training START: 0730 END: 0750	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input type="checkbox"/> Video <input checked="" type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Other: _____			
ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies. TRAINING TOPIC(S): General Description of Training EXAMPLE • <u>Use of Force</u> : PPD Policy 300 – Discussion / Handouts • <u>Search & Seizure</u> : Vehicle searches, Arizona v Gant – Discussion / PowerPoint Case law review regarding pat search of a juvenile robbery suspect (In Re Jeremiah) and search of vehicles based on odor/visual of marijuana (People v Fewes). Officer Flores led a dicussion on both cases.			

Supervisory Review			
Trainer Flores, Ronald	ID# 3306	Supervisor Novello, Lance	ID# 2363
Lieutenant Crosby, Edward	ID# 1749	Date 11-26-19	



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE OF TRAINING 11/3/19	LENGTH OF TRAINING 20 MINUTES	LOCATION PETALUMA POLICE DEPARTMENT
TYPE OF TRAINING DISCUSSION		
BRIEF DESCRIPTION OF TRAINING: <ul style="list-style-type: none">THE TEAM REVIEWED PETALUMA POLICE DEPARTMENT POLICY 332, MISSING PERSONS.		
ATTACHMENTS NONE		

SUPERVISORY REVIEW			
TRAINER Eddie Estrella	ID# 3194	SUPERVISOR Garrett Glaviano	ID# 2676
LIEUTENANT Ed Crosby	ID# 1749	DATE 11-9-19	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD



INS

S:\Police\Department Forms\In-Service Training Record.doc

Revised 02/2002

Use of Force Policy Quiz

Fill in the blanks

1. Officers shall use that amount of force that _____ given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

2. Any peace officer may use reasonable force to effect an arrest, _____ or to overcome resistance.

3. The policy reflects sixteen considerations used to determine the reasonableness of force. List five.

- _____
- _____
- _____
- _____
- _____

4. The application of any pain compliance technique shall be _____ once the officer determines that compliance has been achieved.

5. The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:

- The subject is _____ or _____ resisting
- The subject by words or actions, has demonstrated an intention to be _____ and reasonably appears to have the potential to harm officers, him/herself or others.

6. Officers are _____ from using force solely to prevent a person from swallowing evidence or contraband.

7. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an _____ threat of death or serious bodily injury.

8. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are _____ means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

9. The policy outlines four situations in which an officer should obtain medical assistance for an arrestee. List two.

- _____
- _____

TOC = 8352 OR

8 OFFICER / SUBJECT FACTORS

1. Prior Contacts
2. Number of Officers vs. Subjects
3. Age, Size, Gender, Relative Strength
4. Special Knowledge or Skills
5. Injury or Exhaustion
6. Mentally Ill or Under the Influence
7. Environmental Factors
8. Proximity to Potential Weapons

3 LEVELS OF FORCE

1. Deadly Force
2. Intermediate Force
3. Non-Deadly Force

5 GRAHAM FACTORS

1. Immediate Threat to Officers or Others
2. Active Resistance
3. Split-Second Decisions
4. Severity of the Crime
5. Attempting to Escape or Evade

5 TIMES WHEN FORCE CAN BE USED

1. Effect an Arrest
2. Overcome Resistance
3. Prevent Escape
4. Defense of Self
5. Defense of Others

Adapted with permission from Constitutional Law Crate ©2017.

USE OF FORCE REPORT WRITING

- ❖ **Past experiences are important indicators of probable future behavior:** Make sure you include your past experiences at the location; an arrest of a 148 PC subject from a house last week is likely to present a similarly resistant subject this week. Include prior experiences with the subject; it is common for people to act in accordance with recent past behavior. Incorporate additional information provided by dispatch prior to your arrival. (Those facts known to the officer at the time, is a standard measure of reasonable force.)
- ❖ **State facts in order to present conclusions:** It is better to explain the facts of what you saw than to explain, or present your own conclusion. For example; writing “a combative subject...” vs. writing a description of the suspect’s stance, their emotions, their present ability, Etc... *(Further explanation of the situation then concludes “a combative subject.” Etc...)*
 - **Describe the subject’s objective behavior:** This includes emotions and behaviors as well as objective symptoms of aggressive behavior. For Example: An intoxicated subject can be described by noting the details of their intoxication. *(An odor of alcohol, red or bloodshot eyes, glassy or watery eyes, slurred speech, staggered gait, Etc...)*
 - **Describe the subject’s physical posture:** Describe the subject’s body language and explain your interpretation of what was presented: *(Fists clenched, raised at chest level, legs spread apart in a bladed stance; similar to a boxer. Etc...)*
 - **Explain verbal commands, subject’s responses, and obtain witness statements:** Explain your verbal efforts to gain the subject’s compliance and their response. Solicit written statements from witnesses who can memorialize the encounter. *(I told the subject he was under arrest, and directed him to interlace his fingers in the small of his back; the suspect responded by saying, “I am not going back to jail.” A witness stated, “The subject was not listening to the officer’s instructions.” Etc...)*
 - **Explain the subject’s present ability:** Explain the suspect’s present ability to delay, resist, or obstruct your efforts to take them into custody; describe their physical presence and relative ability to carry out their behaviors or threats; describe their size versus your size. *(Correlations in size and strength compared to the relative size and strength of the officer is important to justify the amount of reasonable and necessary force to affect the arrest. Etc...)*
 - **Explain force applications, describe the suspect’s reactions, and document injuries:** Explain any use of force and whether it was effective. Describe any resistive behavior whatsoever and document the existence or non-existence of injuries; **take pictures!** *(I applied a modified twist lock to the left arm of the subject. The subject continued to resist by pulling away; maintaining the twist lock, I initiated a twist lock takedown to the rear. The subject’s head struck an edge of a table while he was being taken to the ground. There was a small dime shaped abrasion located behind the subject’s right ear. The injury was photographed and the subject was medically cleared by paramedics on scene. Etc...)*
- ❖ **Additional questions to consider when writing you report:**
 - How many officers were at the scene?
 - How many suspects, witnesses or others?
 - What is the subject’s proximity to potential weapons? (A stick, a knife, a chair, a rock, etc...)
 - What is the age of the suspect?
 - Do you have a special skill level?
 - Does the subject possess a special skill level?
 - What is the time frame of the incident? (Thirty seconds, a minute, or five minutes)
 - Was anyone exhausted or injured during the incident?
 - Are there any indications of Mental Illness or drug usage?
 - Was there any remarkable pain tolerance or irrational responses?
 - What were the environmental factors? (Rain, mud, light, dark, traffic, etc...)
 - Was there any present, continuing, or future danger to the public safety created by the incident?
- ❖ **Proof read your report for accuracy:** Verbalize the circumstances to an objective listener and ask them to review your report. *(Determine if your written report matched your oral statement. If not, make the necessary changes in your report to reflect your oral statement; we think a lot faster than we write, expect to leave things out, and expect your partner to find errors.)*

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees: _____

TRAINING SUMMARY

Date: 11/14/19

Length of Training: _____ hours 30 min

Video: ☒

Lecture: _____

Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

POST USE OF FORCE VIDEO: "AB 392:
CALIFORNIA'S NEW USE OF FORCE STANDARDS: WHAT
YOU NEED TO KNOW."

ATTACHMENTS

☐ Handout materials

☐ Lecture materials

☐ Lesson Plan

☐ Other

SUPERVISORY REVIEW

Trainer: POST

Supervisor: B. MILLER

Lieutenant: B. MILLER

Date: 11/14/19

TRAINING RECORD UPDATE

Data Entry: _____

Date: _____

Training Record: _____



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE OF TRAINING 10/16/19	LENGTH OF TRAINING 20 MINUTES	LOCATION PETALUMA POLICE DEPARTMENT
TYPE OF TRAINING DISCUSSION		
BRIEF DESCRIPTION OF TRAINING: <ul style="list-style-type: none">CORPORAL RICCI PROVIDED TRAINING ON COLLISION REPORTING.<ul style="list-style-type: none">THE CHP 555 FORM WAS REVIEWEDREPORT FORMATS WERE DISCUSSEDCOMMON REPORT ERRORS WERE REVIEWED		

ATTACHMENTS			
COLLISION REPORTING POWERPOINT			

SUPERVISORY REVIEW			
TRAINER Chris Ricci	ID# 2754	SUPERVISOR Garrett Glaviano	ID# 2676
LIEUTENANT Tim Lyons	ID# 1359	DATE	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

COLLISION REPORTING

CLICK ON THE TABS OF THE AREA YOU NEED HELP WITH.

CHP 555 PAGE 1

[illegible]

SPECIAL CONDITIONS

DROP DOWN MENU

- PRIVATE PROPERTY
- LATE REPORTED (INJURY REPORT)
- ON-DUTY EMERGENCY VEHICLE
- COUNTER REPORT (AFTER THE FACT)
- FATAL
- SCHOOL BUS
- COURTESY

NO DROP DOWN IS USED UNLESS IT MEETS ONE OF THE CRITERIA.

LATE REPORTED IS AN INJURY T/C
THAT IS REPORTED AFTER PARTIES
HAVE LEFT THE SCENE.

COUNTER REPORT IS A NON-INJURY
T/C THAT IS REPORTED AFTER
PARTIES HAVE LEFT THE SCENE.

TIPS

WHEN ENTERING THE DATE AND TIME, MAKE SURE YOU ENTER THE DATE PROPERLY. IF YOU ENTER A FUTURE DATE, THE REPORT WILL NOT POPULATE IN YOUR "IN THE WORKS" SECTION

PUT 2500 HOURS FOR THE TIME OF A HIT-AND-RUN WHERE THE TIME OF COLLISION IS NOT KNOWN

USE THE DROP DOWNS FOR THE ROADWAYS. IF DONE PROPERLY THE LATITUDE AND LONGITUDE WILL POPULATE. THAT MAKES THE REPORT ABLE TO BE RESEARCHED AT A LATER TIME FOR DATA PURPOSES.

THE COLLISION IS A "TOW AWAY" IF A VEHICLE IS TOWED DUE TO DAMAGE, EVEN IF THEY CALL OR WILL CALL THEIR OWN PRIVATE TOW.

'STATE HIGHWAY RELATED' IS WITHIN 250 FEET OF THE CENTER OF THE FREEWAY OVERPASS/UNDERPASS OR ANYTHING ON LAKEVILLE HWY

DISTRICT MAP

PUT THE CORRECT DISTRICT AND
THE CORRECT BEAT OF WHERE THE
COLLISION OCCURRED

<p>PAGE 1</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 1</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 2</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p>	<p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 3</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 4</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 5</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 6</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 7</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 8</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 9</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 10</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 11</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 12</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 13</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 14</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 15</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 16</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 17</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 18</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 19</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 20</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 21</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 22</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 23</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 24</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 25</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 26</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 27</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 28</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 29</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 30</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 31</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input 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type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 40</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 41</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 42</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 43</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 44</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 45</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 46</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 47</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 48</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 49</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 50</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 51</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 52</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</p> <p>ROUTE 53</p> <p>BRIDGE <input type="checkbox"/> TRAIL <input type="checkbox"/> PAVED <input type="checkbox"/> WATER</</p>
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- ▶ IDENTIFY THE TYPE OF PARTY INVOLVED
- ▶ USE THE DROP DOWNS TO FILL IN INFORMATION
- ▶ POSTED SPEED LIMIT – LEAVE BLANK IF PRIVATE PROPERTY

- FILL IN VEHICLE INFORMATION
- DISPOSITION: ON ORDERS OF OFFICER/DRIVER/OTHER
FLED FROM SCENE/PARRED AT SCENE/DRIVEN FROM SCENE
IF TOWED WHO TOWED IT.

- VEHICLE TYPE USE DROP DOWN
- UNKNOWN IS ??
- IF UNKNOWN, VEHICLE DAMAGE SHOULD BE UNKNOWN
- DO SKETCH IF YOU HAVE THE INFORMATION

♦ FOR A PARKED VEHICLE, ENTER THE PHONE NUMBER, INSURANCE, DIRECTION OF TRAVEL, STREET, AND SPEED LIMIT ON THE LEFT SIDE AND THEN ALL OF THE PERTINENT VEHICLE INFORMATION ON THE RIGHT SIDE.

DISPATCH NOTIFIED ?

YES IF TRANSPORTED BY AMULANCE
OR ARRESTED. OTHERWISE N/A.

16.446 class, North Carolina		2010	17
Class	16.446	16.446	16.446
Section	16.446	16.446	16.446

**PRIVATE PROPERTY
DAMAGE**

FILL IN ACCORDINGLY: IF CITY PROPERTY MAKE NOTIFICATIONS AND DO A REQUEST FOR SERVICE FOR RECORDS TO SEND A COPY OF THE REPORT TO RISK MANAGEMENT

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524
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CHP 555 PAGE 2

VC SECTION VIOLATED: MOST APPLICABLE. DON'T PUT 20002(A)
REMEMBER TO PUT THE PARTY AT FAULT

'OTHER THAN DRIVER'
SEIZURE/MEDICAL EMERGENCY
DRIVER SHOULD BE ISSUED A
PRIORITY RE-EVAL FORM

'OTHER IMPROPER DRIVING'
ON PRIVATE PROPERTY, WRITE OUT
WHAT THEY WERE DOING - VC
SECTIONS DO NOT APPLY

USE ALL OTHER CHECK BOXES AS APPLICABLE


<input type="checkbox"/> "Not interested" (Rec'd) <input type="checkbox"/> "Not Sure/Not for Now" (Rec'd)	Date: 11/14/10
--	----------------

SKETCH – CHECK BOX

CHECK THE BOX "SEE ATTACHED SKETCH" IF A SKETCH WAS COMPLETED FOR THE COLLISION

Figure 1. Example of a completed form for the 100-hour requirement.

DOCUMENT TYPE OR SUBJECT, TYPE OF INJURY IF APPLICABLE, AND ANY OTHER IDENTIFYING INFORMATION




FROM IN THE WORKS
HIGHLIGHT THE REPORT AND
SELECT ATTACHMENTS



SELECT WHICH TO CREATE OR EDIT

TO ADD PHOTOS CLICK THE PHOTOS
BUTTON ON THE BOTTOM AND
FOLLOW THE PROMPTS




DIAGRAM

SELECT THE MOST APPROPRIATE
TEMPLATE

IF MIDBLOCK, PUT A REFERENCE
POINT (BE ADDRESS) ON THE
DRAWING

MAKE SURE TO IDENTIFY PARTIES
WITH P-1 OR P-2



CREATE NARRATIVE

MOST WILL BE III OR IV SUMMARY CAUSE
USE THIS FOR 2002 NO SUSPECTS
11-82 OR ANNOT 11-81

CITY VEHICLES WILL BE A CLASS II REPORT
AND FORWARDED TO RISK MANAGEMENT

CLASS II HI AND RUN ONLY WHEN THERE IS
INVESTIGATIVE LEAD AND POSSIBLE
PROSECUTION

AFTER COMPLETING YOUR REPORT AND
UPLOADING PHOTOS YOU NEED TO VALIDATE
YOUR REPORT.

ONCE VALIDATED AND ALL IS GOOD PRINT A
COPY OF THE REPORT

REVIEW YOUR PRINTED COPIES FOR ANY
ERRORS MISSED. IF GOOD, ATTACH A
TRACKING SHEET AND PLACE THE REPORT INTO
THE TRAFFIC OFFICE BOX

ANY QUESTIONS REGARDING THIS FURTHER CAN
MOST LIKELY BE ANSWERED BY USE OF THE CHP
COLLISION INVESTIGATION MANUAL

FEEL FREE TO EMAIL OR CALL ME
WITH ANY QUESTIONS.

MARIO GIOMI
774-3722

PAGE 3-5 AND PAGE 4-5 HAVE THE TEMPLATE
FOR PAGE 1 AND PAGE 2 OF THE CHP 555.
THAT TEMPLATE WILL REFER YOU TO A SECTION
FOR FURTHER CLARIFICATION.



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE 09/12/2019	LENGTH OF TRAINING 6 HOURS 15 MINUTES		LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT		
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input checked="" type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input type="checkbox"/> OTHER: POWER POINT					
BRIEF DESCRIPTION OF TRAINING: TEAM 6 COMPLETED BRIEFING TRAINING ON MISSING PERSONS. THE TRAINING INCLUDED REVIEW OF POLICY 332.					
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:					
SUPERVISORY REVIEW					
TRAINER J. Jucutan		ID# 2674	SUPERVISOR N. McGowan		2800
LIEUTENANT T. Lyons		ID# 1359	DATE 09-12-19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees: _____

TRAINING SUMMARY

Date: 9-18-19

Length of Training: _____ hours 15 min

Video: _____

Lecture: Y

Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

Review Policy 418
Mental Health Commitments

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☐ Other

SUPERVISORY REVIEW

Trainer: Lyons

Supervisor: Lyons (initials)

Lieutenant: Lyons

Date: 9-18-19

TRAINING RECORD UPDATE

Data Entry: _____

Date: _____

Training Record: _____

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees:

TRAINING SUMMARY

Date: 9/30/19 Length of Training: _____ hours 30 min

Video: _____ Lecture: X Practical Demonstration: _____

Other: POLICY REVIEW

BRIEF DESCRIPTION OF TRAINING

DISCUSSION & REVIEW OF DOMESTIC
VIOLENCE POLICY 320 & MISSING
PERSON 332.

ATTACHMENTS

☐ Handout materials ☐ Lecture materials ☐ Lesson Plan ☒ Other
POLICY 332 & 320

SUPERVISORY REVIEW

Trainer: B. HANSEN Supervisor: _____
Lieutenant: Crosby 1749 Date: 9/30/19

TRAINING RECORD UPDATE

Data Entry: _____ Date: _____ Training Record: _____



PETALUMA POLICE DEPARTMENT

BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE 08/07/2019	LENGTH OF TRAINING HOURS 5 MINUTES	LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: CASE DEBRIEF		
BRIEF DESCRIPTION OF TRAINING: Reviewed procedures on how to package Fentanyl for analysis.		

ATTACHMENTS			
<input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER:			

SUPERVISORY REVIEW			
TRAINER Sgt. A. Garihan	ID# 1757	SUPERVISOR 	ID# 8/7/2019
LIEUTENANT T. Lyons	ID#1359	DATE 8/07/2019	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

TMS

PETALUMA POLICE DEPARTMENT

BRIEFING / TRAINING RECORD

Employees:

TRAINING SUMMARY

Date: 9-27-19

Length of Training: _____ hours 15 min

Video: _____

Lecture: 7

Practical Demonstration: _____

Other: _____

BRIEF DESCRIPTION OF TRAINING

POLICY 316 - RESPONSE TO CALLS
INITIATING CODE 3 RESPONSE

ATTACHMENTS

☒ Handout materials ☐ Lecture materials ☐ Lesson Plan ☐ Other

SUPERVISORY REVIEW

Trainer: Lyons

Supervisor: _____

Lieutenant: Lyons

Date: 9-27-19

TRAINING RECORD UPDATE

Data Entry: _____ Date: _____ Training Record: _____

Officer Response to Calls

316.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

316.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify the Communications Center.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

316.3.1 NUMBER OF UNITS ASSIGNED

Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify the Communications Center. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Communications

Petaluma Police Department

Petaluma PD Policy Manual

Officer Response to Calls

Center shall be notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

316.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify the Communications Center. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

316.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the Watch Commander
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance)
- (e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

- Mic
- BWC
- TRAM
Daw
P...

316.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than those units reasonably necessary under the circumstances are involved in the response
- (c) Affected outside jurisdictions are being notified as practical

Petaluma Police Department

Petaluma PD Policy Manual

Officer Response to Calls

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

316.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or the Communications Center of the equipment failure so that another unit may be assigned to the emergency response.



Petaluma Police Department BRIEFING TRAINING RECORD

TMS
1

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 12/20/19	Length of Training HRS: 0 MIN: 20	Time of Training START: 0720 END: 0740	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Other: <u>Policy review</u>			
ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies. TRAINING TOPIC(S): General Description of Training EXAMPLE • <u>Use of Force</u> : PPD Policy 300 – Discussion / Handouts • <u>Search & Seizure</u> : Vehicle searches, Arizona v Gant – Discussion / PowerPoint Reading of Policy 316 and open discussion. <u>Response To CALLS</u>			

Supervisory Review			
Trainer Rivera, <u>Lyons</u>	ID# 2846	Supervisor <u>[Signature]</u>	ID# 1757
Lieutenant	ID# <u>1359</u>	Date <u>12-20-19</u>	



Petaluma Police Department BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 12/18/19	Length of Training HRS: MIN: 45	Time of Training START: 0815 END: 0835	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input checked="" type="checkbox"/> Video <input checked="" type="checkbox"/> Lecture <input checked="" type="checkbox"/> Practical Demonstration <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Other: _____			
ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies. TRAINING TOPIC(S): General Description of Training EXAMPLE <ul style="list-style-type: none">• <u>Use of Force</u>: PPD Policy 300 – Discussion / Handouts• <u>Search & Seizure</u>: Vehicle searches, Arizona v Gant – Discussion / PowerPoint <p>Spike Strip Video and everyone had to demonstrate that knew how to properly deploy it.</p>			

Supervisory Review			
Trainer Lyons/Garihan	ID# 1359	Supervisor Garihan	ID# 1757
Lieutenant Lyons	ID# 1359	Date 12-18-19	



Petaluma Police Department BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 12/3/19	Length of Training HRS: MIN: 5	Time of Training START: 1625 END: 1630	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input type="checkbox"/> Video <input type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Other: <u>Legal brief</u>			
ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies. TRAINING TOPIC(S): General Description of Training EXAMPLE • <u>Use of Force</u> : PPD Policy 300 – Discussion / Handouts • <u>Search & Seizure</u> : Vehicle searches, Arizona v Gant – Discussion / PowerPoint Vehicle searches for documents (CDL, insurance, registration). One minute brief document attached.			

Supervisory Review			
Trainer B. Sawyer	ID# 3108	Supervisor <i>[Signature]</i>	ID# #1234
Lieutenant <i>[Signature]</i>	ID# #1357	Date 12/3/19	<i>[Signature]</i>



JACKIE LACEY
DISTRICT ATTORNEY

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

ONE MINUTE BRIEF

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NUMBER: 2019-26 **DATE:** 11-25-19 **BY:** Devallis Rutledge **TOPIC:** Vehicle Search for Documents

MODIFIES 1MBs 2006-03, 2009-07, 2015-15 and 2018-21

ISSUE: May law enforcement officers routinely search a vehicle for license, registration and insurance documents upon a detained driver's failure to produce them?

Upon an officer's demand at a lawful traffic stop, a driver must produce for examination a driver's license and proof of registration. VC §§ 12951(b), 4462(a). If a citation is being issued or a crash investigated, proof of insurance must also be produced. VC § 16028(b), (c).

In the combined cases of *In re Arturo D.* and *People v. Hinger* (2002) 27 Cal.4th 60, the California Supreme Court ruled that if requested documents were not produced by the driver, the officer could enter the vehicle and search for them, in places where they might reasonably be expected to be found, seizing any evidence that came into plain view in the process. A differently-constituted California Supreme Court has now **overruled *Arturo D.* and *Hinger* (4-3) as to searches for CDL or "identification"** (and likely, on the same rationale, as to searches for registration and insurance documents, as well, but see *Lopez, post*, fn. 2).

- Acting on two anonymous reports of erratic driving, an officer staked out the address of record of the reported plate number. The vehicle soon arrived and parked, and the driver, Maria Elena Lopez, got out. During a consensual encounter, the officer asked Lopez for her license. She said she had none, whereupon the officer detained her for VC § 12500, cuffing her after she resisted a control hold. Another officer entered Lopez's car to search for CDL or ID documents, and found methamphetamine in her purse. Her motion to suppress was ultimately reviewed by the California Supreme Court.

12/3/20 1770, 3412, 3413, 2837, 2939, 2461, 2882

The four justices in the majority concluded that *Arturo D.*'s rationale had been undercut by the US Supreme Court's subsequent decision in *Arizona v. Gant* (which redefined the circumstances under which a vehicle could be searched *incident to arrest*—which was not the issue in *Lopez*). The majority also believed that since no other states had adopted *Arturo D.*'s holding, its legitimacy must be suspect. On reconsideration, the majority decided to abandon its prior holding:

*"For these reasons, we now hold that the Fourth Amendment does not contain an exception to the warrant requirement for searches to locate a driver's **identification** following a traffic stop. To the extent it created such an exception, **In re Arturo D. is overruled and should no longer be followed.**"* *People v. Lopez* (2019) ___ Cal.5th ___, S 238627, slip opn. at 43. Read at: <https://www.courts.ca.gov/opinions/documents/S238627.PDF>

Acknowledging longstanding reliance on *Arturo D.*'s precedent, the court said: "We recognize that law enforcement agencies have crafted policies in reliance on *Arturo D.*, and our decision today will require them to adopt a different approach in scenarios like the one presented here." *Id.*, slip opn. at 42.

- As alternatives to the now-disallowed document search, the court suggested officers could pursue other exceptions, such as consent, exigent circumstances or "the automobile exception" based on probable cause. "And finally, if no other path seems prudent or permissible, the officer can arrest the detainee and take him or her to be booked into jail for the traffic violation." *Id.*, slip opn. at 30, citing to VC § 40302, *Atwater v. Lago Vista* (2001) 532 US 318, 323, and *People v. McKay* (2002) 27 Cal.4th 601, 618. If the vehicle could then be lawfully removed or impounded, a standardized inventory could occur. See 1MB 2019-22.

- The *Lopez* decision once again illustrates the wisdom of the advice that in justifying searches and seizures, **police and prosecutors should not put all their eggs in one basket**, but should establish all available justifications the facts support. See 1MBs 2006-29, 2006-30 and 2016-14.

BOTTOM LINE: Officers conducting traffic stops may no longer routinely search the vehicle for license or ID (and probably not for registration or proof of insurance) when the driver fails to produce them on demand.

(Emphases added and citations omitted in quoted material.)

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.



Petaluma Police Department
BRIEFING TRAINING RECORD

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EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 12/17/19	Length of Training HRS: MIN: 20	Time of Training START: 0745 END: 0808	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input type="checkbox"/> Video <input checked="" type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Other: _____			
<p>ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies.</p> <p>TRAINING TOPIC(S): General Description of Training</p> <p>EXAMPLE • <u>Use of Force</u>: PPD Policy 300 – Discussion / Handouts</p> <p>• <u>Search & Seizure</u>: Vehicle searches, Arizona v Gant – Discussion / PowerPoint</p> <p>Policy 320</p> <p>Domestic Violence Training/Update</p>			

Supervisory Review			
Trainer Miller	ID# 1927	Supervisor Garihan	ID# 1757
Lieutenant h/urs	ID# 1359	Date 12/17/19	



Petaluma Police Department BRIEFING TRAINING RECORD

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EMPLOYEES					
Name	ID#	Name	ID#	Name	ID#

TRAINING SUMMARY			
Date of Training 11/01/2019	Length of Training HRS: MIN: 30	Time of Training START: 0730 END: 0800	Location <input checked="" type="checkbox"/> Main Station <input type="checkbox"/> Other: _____
Type of Training <input type="checkbox"/> Video <input checked="" type="checkbox"/> Lecture <input type="checkbox"/> Practical Demonstration <input type="checkbox"/> Discussion <input type="checkbox"/> Other: _____			
ATTACH TRAINING MATERIALS. PowerPoint, case law, etc. Exclude department policies. TRAINING TOPIC(S): General Description of Training EXAMPLE • <u>Use of Force</u> : PPD Policy 300 – Discussion / Handouts • <u>Search & Seizure</u> : Vehicle searches, Arizona v Gant – Discussion / PowerPoint Child Abuse PPD Policy 330, discussion and report writing requirements regarding Child Abuse Investigations.			

Supervisory Review			
Trainer Stemmer/ Hawkins	ID# 1771/2173	Supervisor Garihan	ID# 1757
Lieutenant Lyon	ID# 1353	Date 11/30/15	



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#
TRAINING SUMMARY					
DATE OF TRAINING 11/12/19		LENGTH OF TRAINING 20 MINUTES		LOCATION PETALUMA POLICE DEPARTMENT	
TYPE OF TRAINING DISCUSSION					
BRIEF DESCRIPTION OF TRAINING:					
<ul style="list-style-type: none">THE TEAM REVIEWED AND DISCUSSED VEHICLE PURSUIT POLICY 314					
ATTACHMENTS NONE					
SUPERVISORY REVIEW					
TRAINER Steve Cummings		ID# 3186	SUPERVISOR Garrett Glaviano <i>cus</i>		ID# 2676
LIEUTENANT Ed Crosby <i>EC</i>		ID# 1749	DATE 11-30-19		
TRAINING RECORD UPDATE					
DATA ENTRY		DATE		TRAINING RECORD	



PETALUMA POLICE DEPARTMENT IN SERVICE TRAINING

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EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE OF TRAINING 11/12/19	LENGTH OF TRAINING 20 MINUTES	LOCATION PETALUMA POLICE DEPARTMENT
TYPE OF TRAINING DISCUSSION		
BRIEF DESCRIPTION OF TRAINING: <ul style="list-style-type: none">THE TEAM WATCHED AND DISCUSSED THE POST VIDEO, AB 392 USE OF FORCE STANDARDS		
ATTACHMENTS NONE		

SUPERVISORY REVIEW			
TRAINER Steve Cummings	ID# 3186	SUPERVISOR Garrett Glaviano <i>GG</i>	ID# 2676
LIEUTENANT Ed Crosby <i>EC</i>	ID# 1749	DATE 11-30-19	

TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS

EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE 11/12/19	LENGTH OF TRAINING HOURS 20 MINUTES	LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: POWERPOINT		
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED POLICY 332 – MISSING PERSONS		
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER: POLICY		
SUPERVISORY REVIEW		
TRAINER Neve	ID# 3384	SUPERVISOR Glaviano <i>WJ</i>
LIEUTENANT <i>Crosby</i>	ID# 1749	DATE 11-30-19
TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

MISSING PERSONS

Policy 332

PURPOSE & SCOPE

- This policy provides guidance for handling missing person investigation

DEFINITIONS

- AT RISK
- Victim of a crime of foul play
- Missing and in need of medical attention
- No pattern of running away/disappearing
- Parental abduction
- A mentally impaired MP, including cognitively impaired or developmentally disabled

MISSING PERSON

- Any person who is reported missing to LE when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law
- Also includes any child missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior; and who may be in need of assistance

POLICY

PPD does not consider any report of a missing person to be routine and assumes that the MP is in needs of immediate assistance until investigation reveals otherwise

- PPD gives MP cases priority over property related cases

REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTIONS KITS

- Department MP form
- MP investigation checklist
- School notification
- Medical records release
- California DOJ missing person
- Biological sample collection kits

ACCEPTANCE OF REPORTS

- Any member encountering a person who wishes to report a missing person or runaway SHALL render assistance without delay.
- Telephone or in-person

INITIAL INVESTIGATION

- Responded as soon as practical
- Interview all involved parties and determined if at risk
- Notify supervisor immediately if evidence MP may qualify for a public alert
- Do a BOLO if under 21 years of age or at risk
- NOTE: No more than one hour after determining the MP is under 21 and may be at risk – other cases, no more than 2 hours
- Collect a photograph and a fingerprint, voluntarily biological sample (toothbrush, hairbrush)
- Collect any evidence that may assist

REPORT PROCEDURES AND ROUTING

- Complete all missing person report/forms promptly and advised the supervisor as soon as the report is completed

FOLLOW UP

- Investigator SHALL ensure MP's school is notified w/ in 10 days (notice in writing and include a photo)
- Contact school officials regarding the notice and have it placed in the MP's file (in case school receives a call requesting a transfer of MP's file)
- Recontact RP and witnesses within 30 days of report, obtain any additional info
- Every 30 days after should continue to make efforts to locate MP and document findings
- Make appropriate inquiry with Coroner
- Obtain medical/dental records, photos (most recent), x-rays
- MP at-risk for extended time, seek federal assistance

MP IS LOCATED

- Document location of the MP
- Notify RP
- Notify other involved agencies if nessessary



PETALUMA POLICE DEPARTMENT BRIEFING TRAINING RECORD

TMS
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EMPLOYEES					
NAME	ID#	NAME	ID#	NAME	ID#

TRAINING SUMMARY		
DATE 11/12/19	LENGTH OF TRAINING HOURS 20 MINUTES	LOCATION <input checked="" type="checkbox"/> MAIN STATION <input type="checkbox"/> STOREFRONT
TYPE OF TRAINING <input type="checkbox"/> VIDEO <input type="checkbox"/> LECTURE <input type="checkbox"/> PRACTICAL DEMONSTRATION <input type="checkbox"/> CRITICAL INCIDENT DEBRIEFING <input checked="" type="checkbox"/> OTHER: POWERPOINT		
BRIEF DESCRIPTION OF TRAINING: THE TEAM REVIEWED AND DISCUSSED POLICY 320 - DOMESTIC VIOLENCE		
ATTACHMENTS <input type="checkbox"/> HANDOUT MATERIALS <input type="checkbox"/> LECTURE NOTES <input type="checkbox"/> LESSON PLAN <input type="checkbox"/> OTHER: POLICY		
SUPERVISORY REVIEW		
TRAINER Neve	ID# 3384	SUPERVISOR Glaviano <i>604</i>
LIEUTENANT <i>Crosby</i>	ID# 1749	DATE 11-30-19
TRAINING RECORD UPDATE		
DATA ENTRY	DATE	TRAINING RECORD

DOMESTIC VIOLENCE

POLICY 320



320.2 POLICY

- PPD response to incidents of DV and violations of related court orders SHALL stress enforcement of the law to protect the victim and SHALL communicate the philosophy that DV is criminal behavior

320.3 OFFICER SAFETY

- DV cases often places officers in emotionally charged and sometimes highly dangerous environment. No provision of this policy is intended to superseded the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

INVESTIGATIONS

- Calls of reported, threatened, imminent or ongoing DV and the violation of any court order are of extreme importance and should be considered the highest priority
- Obtain statements from all involved parties: Victim, Suspect, Witnesses (including children) and neighborhood check
- List full name and DOB (school if available) of child who was present during an DV incident
- Audio or video record statements and observations
- All injuries should be photographed regardless the severity (same sex depending on personal privacy)
- Don't forget to informed the V to follow up with PD if injuries become visible after time
- Sign release of medical records for incident
- S no longer on scene, make effort to locate, if not 836 PC

INVESTIGATION CONTINUED

- Seize all firearms or dangerous weapons for safekeeping or evidence. If DV involves threats of bodily harm, seize if weapon is in plain view and/or consent, or obtained through other lawful search
- DV Court Order violation arrest; document date offender has been served, name of serving agency, provision of the order offender violated

IF SUSPECT IS ARRESTED

- Officers should;
- Advise the victim there is no guarantee the S will remain in custody
- Victim notification for jail staff in case S is released

IF NO ARREST IS MADE

- Voluntary separation
- Appropriate referrals; counselors, friends, relatives, etc...
- Document on CAD resolution

VICTIM ASSISTANCE

- DV Packet even if no crime
- Victim advocates, shelters and community resources
- Stand by for a reasonable amount to help removing essential items
- Medical treatment
- Safe place to stay, assist in arranging to transport the V to alternate shelter
- EPO

FOREIGN COURT ORDERS

- An order should be considered properly issued when it reasonably appears that the issuing court had jurisdiction over the parties
- A valid out-of-state order SHALL be enforced
- Canadian DV protection orders SHALL also be enforced in the same manner as if issued in this state

VERIFICATION OF COURT ORDER (ANOTHER JURISDICTION)

- Subject has copy of the order
- Check records database
- Contact issuing court
- Contact LE from jurisdiction where order was issued

STANDARDS OF ARREST THINGS TO CONSIDER

- PC to believe that a felony or misd DV offence has been committed
- Right to make a private person's arrest (CA)
- Officer SHALL not cite and release for the following offenses:
- 243(e)(1) PC, 273.5 PC, 273.6, PC 646.9 PC and other serious or violent felonies
- Generally not make dual arrest and make reasonable effort to identify dominate aggressor
- Dominate aggressor is the person determined to be MOST significant rather than first aggressor
- Officer SHALL make an arrest when PC to believe DV court order had been committed

COURT ORDERS

- Officer who obtains EPO SHALL serve it on the restrained person
- Provide protected party with copy
- ASAP SHALL entered into computer database
- Any officer serving the EPO and respondent possesses weapons or ammunition SHALL request those items immediately be surrendered