



Sheriff's Office Training Bulletin

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SWORN PERSONNEL SHALL UNDERSTAND THE PROVISIONS OF THE POLICY MANUAL PERTAINING TO OFF-DUTY LAW ENFORCEMENT ACTIONS.

Sworn personnel must have a complete understanding of Sheriff's Office policy regarding off-duty law enforcement actions. All personnel shall be familiar with the policy and what it contains. Policy 336 establishes the Sheriff's Office policy regarding off-duty law enforcement actions. The following are excerpts from that policy. *Sworn personnel must be familiar with the entire Policy as stated in the Policy Manual.*

POLICY

Initiating law enforcement action while off-duty is generally discouraged. Deputies should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor

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- P. 1** Sworn personnel shall understand the provisions of the Policy Manual pertaining to off-duty law enforcement actions.
- P. 3** A peace officer lacked reasonable suspicion to detain a suspect who was standing in the parking lot of a motel early in the morning.

Sheriff's Office Toy Delivery Days



FROM THE TRAINING MANAGER

The Sheriff's Office will begin collecting Racial and Identity Profiling Act (RIPA) data effective January 1, 2022. Training has been completed for Operations personnel that are required to collect the RIPA data. The Training Unit published new Lexipol policy *431 Racial and Identity Profiling Act (RIPA) Compliance* and impacted staff were assigned the policy as training. Thank you to all stakeholders that collaborated on the RIPA implementation.

As we close the chapter on 2021, there are numerous legislative updates for 2022 that go into effect on January 1st. Some of these new laws don't affect us, but many of them do have a direct or indirect impact on how we operate in the immediate future. The Training Unit will send out a legislative update summary for 2022 soon, to raise awareness for all Sheriff's Office personnel. In the interim, here is an abridged list of laws that will go into effect on January 1, 2022 (with a few exceptions).

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CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all people to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

"Off-Duty" continued from page 1

property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Deputies are not expected to place themselves in unreasonable peril. However, any employee who becomes aware of an incident or circumstance that they reasonably believe poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, deputies should first consider reporting

and monitoring the activity and only take direct action as a last resort.

FIREARMS

Deputies may carry firearms while off-duty in accordance with federal regulations and Sheriff's Office policy. All firearms and ammunition must meet guidelines as described in the Sheriff's Office Firearms and Qualification Policy. When carrying firearms while off-duty deputies shall also carry their Office-issued badge and identification.

Deputies should refrain from carrying firearms when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any deputy who has consumed an amount of an alcoholic beverage or taken any drugs that adversely affect the deputy's senses or judgment.

DECISION TO INTERVENE

There is no legal requirement for off-duty deputies to take law enforcement action. However, should deputies decide to intervene, they must evaluate whether the action is

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necessary or desirable, and should take into consideration the following:

- ✓ The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- ✓ The inability to communicate with responding units.
- ✓ The lack of equipment, such as handcuffs, OC or baton.
- ✓ The lack of cover.
- ✓ The potential for increased risk to bystanders if the off-duty deputy were to intervene.
- ✓ Unfamiliarity with the surroundings.
- ✓ The potential for the off-duty deputy to be misidentified by other peace officers or members of the public.

Deputies should consider waiting for on-duty uniformed deputies to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

INTERVENTION PROCEDURE

If involvement is reasonably necessary the deputy should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty deputy is on-scene and should be provided with a description of the officer if possible. Whenever practicable, the deputy should loudly and repeatedly identify themselves as a deputy sheriff until acknowledged. Official identification should also be displayed.

INCIDENTS OF PERSONAL INTEREST

Deputies should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances deputies should call the responsible agency to handle the matter.

CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

OTHER CONSIDERATIONS

When encountering a non-uniformed deputy in public, uniformed deputies should wait for acknowledgement by the non-uniformed deputy in case they need to maintain an undercover capability.

REPORTING

Any sworn off-duty personnel who engages in any law enforcement activity, regardless of jurisdiction, shall notify their immediate supervisor as soon as practicable. The supervisor shall determine whether a report should be filed by the involved personnel. Deputies should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate. ☆

A PEACE OFFICER LACKED REASONABLE SUSPICION TO DETAIN A SUSPECT WHO WAS STANDING IN THE PARKING LOT OF A MOTEL EARLY IN THE MORNING.

A peace officer was on duty with his partner early one spring morning in Los Angeles County. There had been a considerable amount of unrest in Los Angeles during that time, and peace officers had heightened concerns for public safety. Although there was an ongoing county-wide curfew, the location of the patrol was not particularly involved in ongoing protest demonstrations or rioting.

At about 2:15 a.m., the officer drove into the parking lot of a motel conveniently located near an outlet mall and several chain restaurants.

The parking lot was a narrow strip of asphalt located between the motel and a fence fronting on a busy thoroughfare. Altogether, there were five parking stalls.

As the officer drove through the parking lot, he observed a man standing near a parked car. The officer rolled down his window and asked the man if he was aware of the curfew. The man said no. The county-wide curfew did not apply to persons on private property, which was where the man was located. The man was not in violation of the curfew.

The officer then asked the man if he was on parole or probation. The man stated that he was on probation. The officer then decided to detain the man. The officer and his partner got out of their patrol car and asked the man to walk over to the hood of the patrol car. The man raised his hands and started to step backward away from the patrol car. While he was backing up, the man asked the officers why they were attempting to detain him if he had done nothing wrong.

As the man began to raise his hands, one of the officers observed a bulge in the man's right front pants pocket. The bulge was large and was consistent with the shape of a firearm. As the officer stared at the bulge, the man spontaneously told the officers that he had a gun.

The officers ordered the man to the ground. The man was detained and a patdown search revealed a loaded .38 caliber revolver in the man's right front pants pocket.

In the case of People v. Cuadra, the California Court of Appeal ruled that the search was the product of an unlawful detention that violated the man's Fourth Amendment rights against unreasonable searches and seizures.

In its written decision, the Court first stated, "Officers must have sufficient justification under the Fourth Amendment to effect a search and seizure. There are three distinct types of police-citizen encounters, each requiring a different level of suspicion to be deemed reasonable under the Fourth Amendment: (1) arrest, which must be supported by probable cause; (2) brief investigatory stops, which must be supported by reasonable articulable suspicion;

and (3) brief encounters between police and citizens, which require no objective justification. It is well settled that an officer may approach a person in a public place and ask if the person is willing to answer questions. Such consensual encounters present no constitutional concerns and do not require justification."

The Court continued, "A consensual encounter may ripen into a seizure for Fourth Amendment purposes when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen. In situations involving a show of authority, a person is seized if in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave, or otherwise terminate the encounter. The dispositive question is whether in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he or she was not free to leave. The test is objective, not subjective; it looks to the intent of the police as objectively manifested to the person confronted. Accordingly, an officer's un-communicated state of mind and the individual citizen's subjective belief are irrelevant."

The Court further stated, "A seizure may occur by a show of authority alone without the use of physical force, but there is no seizure without actual submission. The test for existence of a show of authority is an objective one: whether the officer's words and actions would have conveyed to a reasonable person that he was being ordered to restrict his movement."

The Court then stated, "Instructions to put one's hands on the hood of a car has been deemed a show of authority. By his own testimony, [the officer] began the detention process when he 'asked' [the man] to come toward the hood of the patrol car. Hearing those words, whether as a 'request' or an 'order,' no reasonable person would feel free to leave. It is objectively apparent the officers intended to detain and frisk [the man]. Why else would they have instructed him to move to the hood of their patrol car? And [the man], by his question, reasonably understood that he was being detained. That [the man] raised his hands and stepped backward is not, by any stretch of the imagination, an indication that he believed he was

MISSION STATEMENT

The San Mateo County Sheriff's Office is dedicated to protecting lives and property and is committed to providing the highest level of professional law enforcement and correctional services. We pledge to promote public trust through fair and impartial policing and will treat all persons with dignity, compassion and respect.

COMMITMENT

We are committed to protecting life and property and preserving the public peace by acting professionally, with integrity, and without prejudice, even in the most challenging circumstances, when no one is watching, and on and off duty. We hold others accountable to the same standards and challenge any inappropriate behavior.

INTEGRITY

We are committed to ethics, equity and excellence. We understand that making a difference in the quality of life is an opportunity that policing and correctional services provides. We provide excellent service by respecting and upholding the rights and freedoms of all people in all our interactions, free from bias or stereotype, seeking to understand and help others by making a difference.

COMPASSION

We understand that sometimes we interact with the community during their most trying times. We are committed to treating all people with compassion, empathy, and respect; going the extra mile to ensure others feel safe, supported, included, engaged and valued; standing up for those who cannot stand up for themselves; and valuing others' life experiences.

INNOVATION

We promote an environment that encourages continuous improvement and innovation. We strive to be leaders in modern policing, acting on input and feedback from our communities and colleagues; constantly implementing best-practices; and exploring alternative solutions to current issues.

"Search" continued from page 4

not being seized and was, instead, free to leave. Indeed, the People, in their briefing, state: 'Admittedly, when the deputies exited their car and asked appellant to approach their car, a reasonable person in those circumstances would have believed that he was not free to leave or otherwise terminate the encounter.'"

The Court dismissed the State's claim that the man did not actually submit to the show of authority of the officer and was not actually detained at the point where the officer saw the bulge in his pocket. The Court stated, "Generally, people do not put up both hands and step back while still facing the police if they believe they can just walk away. They walk away. Raising one's hands and stepping back is a universally acknowledged submission to authority. . . ."

The Court further stated, "We conclude that there was neither probable cause to arrest [the man] but for the illegal detention, nor was this a consensual encounter after the officers directed [him] to the hood of the car. As for a brief investigatory stop under Terry v. Ohio, there must be an objective manifestation of a reasonable articulable suspicion that criminal

activity is afoot and that appellant was a person engaged in, or about to engage in, criminal activity. Here there was neither. All the officers knew was that [the man] was standing next to a car in a motel parking lot at 2:00 a.m. And without knowing whether defendant's grant of probation included a search condition, the officers could not ultimately stop and search him as they did." ☆

FROM THE RANGEMASTER

The Training Unit was able to achieve POST certification for our new Red Dot Pistol Transition Instructor Course. We are the only agency in our region to do so. In 2022, we anticipate a high volume of outside agencies being trained by our Range Staff to be Instructors for this new course. The Sheriff's Office is quickly becoming a leader in progressive industry leading equipment and tactics. In 2022, we will continue that trend. With our state-of-the-art range facility at Coyote Point, we will continue to provide the best equipment and training for our staff.

The Sheriff's Office has recently agreed to purchase a new [VirTra](#) law enforcement simulator training system. This new system will allow us to train our staff and allied agencies using the latest technology in use of force simulators. With a wraparound large scale video screen display, participants will be immersed in the scenarios. The more realistic the training is, the better the results in real world situations. Expect the system to be operational in the first half of 2022.

- Sgt. David Weidner

FROM THE TRAINING MANAGER (Cont.) – UPCOMING LAWS

[SB 320 \(Eggman\)](#)- Domestic violence protective orders: possession of a firearm.

[AB 48 \(Gonzalez, Lorena\)](#)- Law enforcement: use of force, kinetic energy projectiles and chemical agents

[AB 331 \(Jones-Sawyer\)](#)- Organized theft

[AB 333 \(Kamlager\)](#)- Participation in a criminal street gang: redefines terms and amends PC 186.22

[AB 700 \(Cunningham\)](#)- Criminal procedure: arraignment and trial (for in-custody defendants)

[AB 1281 \(Rubio\)](#)- Criminal procedure: protective orders

[AB 26 \(Holden\)](#)- Peace officers: use of force, duty to intercede

[SB 715 \(Portantino\)](#)- Criminal law: "unarmed" civilian OIS investigation triggers

[AB 89 \(Jones-Sawyer\)](#)- Peace officers: minimum qualifications (age 21)

[SB 2 \(Bradford\)](#)- Public employment: peace officer certification/decertification: civil rights

[AB 1057 \(Petrie-Norris\)](#)- Firearms: definitions related to GVRO and DV restraining orders

[AB 481 \(Chiu\)](#)- Law enforcement and state agencies: military equipment: funding, acquisition, and use

[AB 490 \(Gipson\)](#)- Agency policies: arrests: positional asphyxia

[AB 958 \(Gipson\)](#)- Peace officers: law enforcement gangs

[AB 1475 \(Low\)](#)- Law enforcement: social media

[SB 98 \(McGuire\)](#)- Public peace: media access to closed off command posts

[SB 73 \(Wiener\)](#)- Probation: eligibility: crimes relating to controlled substances

[AB 453 \(Christina Garcia\)](#)- Sexual battery: nonconsensual condom removal (NCCR)

[SB 23 \(Rubio\)](#)- Disorderly conduct: distribution of intimate images: statute of limitations

[SB 16 \(Skinner\)](#)- Peace officers: release of records

[SB 81 \(Skinner\)](#)- Sentencing: dismissal of enhancements

- Sgt. Jason Leone