



# Sheriff's Office Training Bulletin

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## **ALL SWORN PERSONNEL SHALL UNDERSTAND THE PROVISIONS OF THE POLICY MANUAL PERTAINING TO SEARCH AND SEIZURE.**

Sworn personnel must have a complete understanding of Sheriff's Office policy regarding search and seizure. All personnel shall be familiar with the policy and what it contains. Policy 308 establishes the Sheriff's Office policy regarding search and seizure. The following are excerpts from that policy. *Sworn personnel must be familiar with the entire policy as stated in the Policy Manual.*

### **POLICY**

It is the policy of the San Mateo County Sheriff's Office to respect the fundamental privacy rights of individuals. Sheriff's Office deputies will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this Office will comply with relevant federal and state law governing the seizure of persons and property. In accordance with the Training Policy, the Office will provide relevant and current training to deputies as guidance for the application of current law, local community

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### **INSIDE THIS ISSUE**

- p. 1** All sworn personnel shall understand the provisions of the policy manual pertaining to search and seizure.
- p. 3** The prosecution must show fair market value to prove that property taken was valued over \$950 in order to constitute grand theft or burglary.

### Historic Redwood City Courthouse



### **FROM THE TRAINING MANAGER:**

As you may be aware, Jan 1, 2021 is the beginning of a new training cycle for CA POST. There will be some changes to the next training cycle, including new mandates and a new schedule.

#### *Mandates / Documents*

CA POST has recently issued a few documents that, while not mandatory reading, are worth your time because they explain the changes that have recently taken place as well as suggest changes that may be coming in the near future:

[De-escalation: Strategies and Techniques](#)

[POST Use of Force Standards and Guidelines](#)

These outline changes as well as the logic and explanation that drive them. Because of this, they're a bit longer than you may expect. But they contain significant insight into what has happened and the direction we can expect in the future.

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## **FROM THE RANGE MASTER:**

### Advanced Officer Class (A/O)

Late this year we began teaching an Advanced Officer firearms class that meets the same requirements for CA POST as the force options simulator training. The A/O class is focused on specific lessons to teach staff how to use proper trigger control and sight alignment along with shoot / don't shoot training. Each lesson is meant to build off the previous one and, by the end of the day, the lessons learned will be combined.

The class will start with basic 'dot' drill exercises at 3 yards. Once this drill is complete, we'll move on to a 'bullseye' drill. This drill is shot at 5,7,10, and 15 yards. This drill is designed to get students back to the basics and focus on fundamentals. After this drill is complete, we will move on to learning how to shoot on the move. We will move forward, backwards, left to right, and right to left. The class will end with learning how to use a flashlight in the dark.

As we continue to train, you will rise to a higher level than you are at currently. All these lessons are designed around fundamentals. There are no time limits and the range staff work with you as you conduct these drills.

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## **SAN MATEO COUNTY SHERIFF'S OFFICE TRAINING BULLETIN**

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standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

## **SEARCHES**

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search. Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- ✓ Valid consent
- ✓ Incident to a lawful arrest
- ✓ Legitimate community caretaking interests
- ✓ Vehicle searches under certain circumstances
- ✓ Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas. Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law. Whenever practicable, deputies are encouraged to contact an on-duty sergeant to resolve questions regarding search and seizure issues prior to electing a course of action.

## **SEARCH PROTOCOL**

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the

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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 men 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.

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following guidelines should be followed whenever circumstances permit:

- ✓ Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- ✓ In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- ✓ When the person to be searched is of the opposite sex as the searching deputy, a reasonable effort should be made to summon a deputy of the same sex as the subject to conduct the search. When it is not practicable to summon a deputy of the same sex as the subject, the following guidelines should be followed:
  - Another deputy or an on-duty sergeant should witness the search.

- The deputy should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

### DOCUMENTATION

Deputies are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- ✓ Reason for the search
- ✓ Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- ✓ What, if any, injuries or damage occurred
- ✓ All steps taken to secure property
- ✓ The results of the search, including a description of any property or contraband seized
- ✓ If the person searched is the opposite sex, any efforts to summon a deputy of the same

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## 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.

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sex as the person being searched and the identification of any witness deputy

An on-duty sergeant shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and office policy have been met. ☆

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## **THE PROSECUTION MUST SHOW FAIR MARKET VALUE TO PROVE THAT PROPERTY TAKEN WAS VALUED OVER \$950 IN ORDER TO CONSTITUTE GRAND THEFT OR BURGLARY.**

A man entered a leather goods store in an outlet mall. The outlet mall's stores sold discounted merchandise and did not sell items at their "full" value. As he walked through the store, the man put on a leather jacket that was for sale in the store. The man then filled shopping bags with seven pairs of

leather gloves, four leather backpacks, and two leather purses.

As the man was gathering merchandise, he was observed by the assistant store manager, who noted all of the items that were taken. She went over to a sales associate and told her to call mall security. The man walked towards the entrance, where the assistant store manager and the sales associate were waiting. The assistant manager told the man that he either needed to leave the merchandise or pay for it. The man continued to walk out the door and gave the assistant manager a little shove with the bags to move her out of the way. The sales associate documented the man's actions by taking photographs with her cell phone as the man fled.

The assistant manager and the sales associate showed a cell phone photo of the man to the mall security guard, who recognized the man from previous encounters. The assistant manager contacted the police and an officer responded and took a report.

In describing the incident to the officer, the assistant manager described the value of the

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merchandise taken based on the “comparable value” as written on the merchandise tags. While merchandise in the store sold for discounted prices, the merchandise tags contained a “comparable value.” The assistant manager used the “comparable value” of the merchandise to establish the value at more than \$1,000 worth of property, over the \$950 threshold for grand theft. Each item of merchandise had a full price that the store discounts by varying percentages. Tags attached to the merchandise displayed a “comparable value,” and the discounted sales price that customers paid was determined by applying various discount percentages to the “comparable value.” The discount percentages for an item changed every week and the store did not track past discount percentages.

As an example of the pricing, the stolen jacket had a tag with a “comparable value” of \$350. The price for the jacket on the date of the theft was \$89.99. Similarly, gloves with a value of \$60 sold for \$25 or \$34.99 as they were marked down.

The stolen backpacks reflected “comparable values” of \$168, \$168, \$188, and \$198 and the “comparable value” of one of the backpacks also listed an “MSRP” of \$188. The assistant store manager did not know what “MSRP” stands for.

In the case of People v. Grant, the California Court of Appeal ruled that evidence of the “comparable value” was insufficient evidence to support a conviction for grand theft or burglary based on a threshold amount of more than \$950.

In its written decision, the Court first stated, “To establish that [the man] committed either grand theft or burglary, the prosecution bore the burden of proving he stole property valued at more than \$950. In determining the value of the property obtained, for the purposes of theft offenses, the reasonable and fair market value shall be the test.”

The Court continued, “The fair market value of an item is the highest price obtainable in the market place as between a willing buyer and a willing seller, neither of whom is forced to act. Put another way, fair market value means the highest price obtainable in the market place rather than the lowest price or the average price. Fair market

value is not the value of the property to any particular individual.”

The Court further stated, “Fair market value may be established by opinion or circumstantial evidence. The price charged by a retail store from which merchandise is stolen is also sufficient to establish the value of the merchandise, absent proof to the contrary. Jurors may also rely on their common knowledge in determining the value of an item.”

The Court looked at the facts of the case and stated, “In light of [the leather store]’s pricing structure—under which ‘everything is discounted’ from a displayed ‘comparable value’ and ‘nothing is sold at full price’—we agree with [the man] that substantial evidence does not support the jury’s finding that the fair market value of the merchandise he stole exceeded \$950.”

The Court continued, “Most fundamentally, although the prosecution introduced photographic and testimonial evidence establishing the comparable values [the leather store] displayed on the tags attached to the stolen merchandise, the prosecution introduced no evidence establishing that those comparable values reflect the merchandise’s fair market values. The pictures of the products’ tags, themselves, did nothing more than show the displayed comparable values. And the assistant manager . . . established only that those comparable values were not the prices that [the store] actually charged. The fact that she testified one of the representative tags featured both a comparable value and an MSRP is of no moment in light of her testimony that she did not know the meaning of MSRP. Moreover, because the comparable value and MSRP were the same, and because [the store] sells nothing at its comparable value, it necessarily follows that [the store] also did not sell this item at MSRP.”

The Court noted that the assistant store manager did not offer any testimony regarding the merchandise’s fair market value. She did, however, testify that she did not have any experience selling the backpacks or purses outside of the leather store.

The Court then stated, “To be sure, circumstantial evidence and any reasonable

inferences drawn from that evidence may constitute substantial evidence. But the record before us contains no evidence from which the jury could reasonably have inferred that the merchandise's comparable value reflected their fair market values. This is particularly relevant in the context of an outlet store that sells everything at discount."

The Court noted that the prosecution's evidence left many questions unanswered in establishing fair market value of the discounted goods. The Court stated, "Was the stolen [store] merchandise identical to merchandise sold at traditional retail stores at prices equal to [the store]'s assigned comparable values? Or was the stolen merchandise of lesser quality (e.g., made from a lower grade of leather, or blemished) and intended for sale exclusively at a discount store? If not identical, why is the higher quality merchandise's fair market value reflective of the stolen merchandise's comparable value? If identical, was the merchandise ever offered for sale—let alone actually sold—by anyone at a price equal to [the store]'s assigned comparable value? Or was the comparable value merely illusory, intended to give consumers the impression they were getting a bargain? The evidence the prosecution introduced did not address any of these questions. Without answers to these types of questions . . . , the jury could only have speculated that the comparable values [the store] displayed on the tags attached to the stolen merchandise reflected their fair market value." ☆

*"From the Training Manager" continued from page 1*

### Training Schedule Pilot

In the next training cycle, we will have a pilot program for scheduling mandated training.

There are 24 hours of mandated training per POST training cycle (2 years). In the past, these mandates have been met by 8-hour training days and/or 4-hour blocks. Instead of 3 or more training days, we will be condensing them into (1) 12-hour training day per year. This way, you effectively get an extra day off, and it will be the same as if you had signed up for a 12 hours overtime shift.

The training dates will be by team, and we will let you know the training dates months in advance, so you can schedule your life and avoid last minute changes.

Once we get everything planned, we'll be sending out an email with details. Please let us know any suggestions or input you may have.

*"From the Rangemaster" continued from page 2*

The goal of this class is to improve your skills and get away from simply qualifying. While we will qualify during the class, qualifying is only meeting a basic standard. The focus on this A/O class will be on training to improve your skills so that you are above standard and are best equipped to protect the people we serve as well as your partners and yourself.



The graduates of Santa Clara County Adult Corrections Academy class ACA 22!  
Special congratulations to CO Tuipulotu, who was awarded for leadership and top overall recruit, and CO Banagan, who was top of the class in physical fitness!