



# Sheriff's Office Training Bulletin

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## IMPORTANT NEW LEGISLATION EFFECTIVE IN THE YEAR 2021.

Here are some of the highlights of the new legislation in California taking effect on January 1, 2021. These highlights are a few of the new laws taking effect:

- **Government Code section 7286.5** was added to prohibit a law enforcement agency from authorizing the use of a carotid restraint or choke hold by any peace officer employed by the agency. It was removed as a force option from our policy on \_\_\_\_.
- **Health and Safety Code section 11364(c)** was amended to extend the sunset date to January 1, 2026, in order to keep in place the exception to the crime of unlawfully possessing drug

*See "Legislation" continued on page 2*

## INSIDE THIS ISSUE

- p. 1** Important new legislation effective in the year 2021.
- p. 1** From the Training Manager.
- p. 2** A suspect who was lawfully arrested for violation of a local ordinance provided sufficient constitutional grounds to search the interior of the vehicle.
- p. 5** From the Rangemaster.

### California State Capitol



### FROM THE TRAINING MANAGER:

This January issue of the Training Bulletin contains legal updates that you need to know. However, the size of the Training Bulletin restricts how many of the new and changed laws can be discussed.

To give further information on these new and/or changed laws, we've attached the CPOA CA Legislative Update. While not everything in the 108 pages may apply to you, a simple scan of the table of contents can help focus your reading.

Some of the new changes will affect us directly, such as updates to Family Code 6320, which now adds 'coercive control' as a basis for a DV TRO.

Finally, although it is mentioned in the Bulletin, please read AB2655, which forbids photographing deceased persons for non-law enforcement purposes.

All in all, important reading.

paraphernalia: hypodermic needles or syringes possessed solely for personal use.

- **Health and Safety Code section 104559.5** was added to create a new infraction crime of a tobacco retailer or a tobacco retailer's employee or agent, selling, offering for sale, or possessing with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer (to a person of any age).
- **Penal Code section 647.9** was added to create the new misdemeanor crime of a first responder photographing the image of a deceased person at the scene of an accident or at the scene of a crime for any purpose other than an official law enforcement purpose or a genuine public interest, whether the photo is taken with a personal electronic device or a device belonging to the employing agency.
- **Penal Code section 653(y)** was added to create new misdemeanor and infraction crimes for misusing the 911 emergency system to harass another person.
- **Penal Code section 290** was amended to delete several crimes from the list of offenses requiring registration as a sex offender and to convert lifetime registration into a tiered system of sex offender registration.

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

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- **Penal Code section 1203a** was amended to limit the maximum period of probation for most misdemeanor crimes to one year, with specified exceptions, including DUI and domestic violence offenses.
- **Penal Code section 1203.1** was amended to limit the maximum period of probation for most felony crimes to two years, with specified exceptions, including DUI and domestic violence offenses.
- **Vehicle Code 21809** was amended to extend the reach of the "slow down, move over" for vehicles approaching emergency stopped vehicles from freeways only, to also include local streets and roads by changing the word "freeway" to "highway."
- **Welfare and Institutions Code section 625.6** was amended to expand the prohibition on the custodial interrogation of a minor without the minor first consulting with legal counsel, by raising the age of the minor from 15 years of age or younger, to 17 years of age or younger. The consultation cannot be waived.

*Please consult the full text of these new code sections for their complete content. The code sections are on the internet at*

<https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

☆

### **A SUSPECT WHO WAS LAWFULLY ARRESTED FOR VIOLATION OF A LOCAL ORDINANCE PROVIDED SUFFICIENT CONSTITUTIONAL GROUNDS TO SEARCH THE INTERIOR OF THE VEHICLE.**

Two police officers were on duty shortly before 3:00 a.m. in a downtown area. The officers were patrolling the area because they were aware that patrons of the downtown bars often remained in the area after the bars closed, congregating and creating a nuisance.

## 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.

The officers drove into a parking lot known for after-hours activity. When they drove in, people began to scatter.

The officers parked their patrol car and approached a parked car. A man, later identified as Tony Sims, was seated in the front passenger seat of the vehicle. He appeared to be passed out. The keys to the vehicle were in the ignition.

The officers spoke with Sims and detected an odor of an alcoholic beverage emanating from him. The officers noticed that Sims had bloodshot eyes and slurred speech. When asked for identification, Sims fumbled with his wallet. He looked like he was about to vomit.

Sims appeared to have violated a provision of the local municipal code that prohibits a person under the influence from being in or about any motor vehicle while the vehicle is on a street or any other public place.

The officers conducted a computer criminal history search for Sims and located a record for a person named Tony Sims which appeared to match the suspect's information, including date of birth. The Tony Sims who was the subject of the criminal history was on

probation and had a condition of probation allowing for warrantless search.

In fact, it turned out that the Tony Sims who was in the criminal history data base was not the same person as the suspect. The Tony Sims who was in the parking lot did not have a condition of probation allowing for warrantless search. Nonetheless, Sims readily acknowledged that he was the other Tony Sims, and agreed that he had the same date of birth.

Believing that Sims had violated a local ordinance and also believing that Sims was subject to a probation condition providing for warrantless search, the officers asked Sims to get out of the car.

The officers then took a careful look at Sims and observed that he appeared to be paralyzed from the waist down. Sims was not able to leave the vehicle without assistance.

The officers let Sims remain in the vehicle and began to search. During the search, the officers located a loaded semi-automatic handgun from the rear passenger floorboard. At that point, Sims was removed from the vehicle and was handcuffed.

*Continued on page 4*

The officers continued their search and recovered a second loaded semi-automatic handgun from underneath the front passenger seat and also located handgun ammunition from the rear driver side floorboard.

In the case of People v. Sims, the California Court of Appeal ruled that the search and seizure did not violate Sims' Fourth Amendment rights against unreasonable searches and seizure.

In its written decision, the Court first stated, "The Fourth Amendment guarantees the right to be free from unreasonable searches and seizures. Warrantless searches are presumed to be unreasonable, therefore illegal, under the Fourth Amendment, subject only to a few carefully delineated exceptions. As discussed more fully below, two exceptions are relevant for purposes of this appeal—the automobile exception and the exception for searches incident to arrest."

The Court first looked at the automobile exception and stated, "Under the automobile exception, police who have probable cause to believe a lawfully stopped vehicle contains

evidence of criminal activity or contraband may conduct a warrantless search of any area of the vehicle in which the evidence might be found. The historical rationale for the automobile exception was that 'ready mobility' of a vehicle creates a risk that evidence of a crime or contraband will be lost while a warrant is obtained. Over time, courts have also recognized a second rationale for the automobile exception—a person has a lesser expectation of privacy in his or her vehicle due to the pervasive regulation of vehicles capable of traveling on the public highways."

The Court then stated, "Probable cause is a more demanding standard than mere reasonable suspicion. It exists where the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found. In determining whether a reasonable officer would have probable cause to search, we consider the totality of the circumstances."

The Court then stated, "The trial court found that the defendant was 'drunk in public,' a

*See "Downtown" continued on page 5*

## 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.

## FROM THE RANGE MASTER

Hello everyone! In this month's notes, I wanted to bring to your attention Lexipol Policy 306.3.1. Specifically, that we were able to get the Staccato 2011 pistol approved for duty. The Staccato 2011 pistol is similar to a 1911 platform but modernized and specifically designed for law enforcement. This service pistol is widely accepted and has been approved for duty by over 280 L.E. agencies across the country.

We are in the process of designing a 4-hour conversion training class for those who wish to purchase and carry this new duty weapon. Once you complete the 4hr conversion class, you will be expected to qualify with a 90% score each time you qualify. This high standard must be maintained as this service weapon requires additional training to adjust to the external safeties (thumb safety and grip safety) built into the service pistol.

This is a reliable, accurate, high-performance firearm that can accommodate a wide variety of ammunitions (follow [this link](#) to watch a 10k round stress test). All versions come equipped with an accessory rail for lighting options and the P-Duo version (sometimes referred to as the DPO or Dawson version) has the option to fit several red dot sights (RDS) including Holosun, Leupold, and Trijicon.

If you have any questions, please email or call me. I would be happy to answer any questions.



*See page 5 for more Rangemaster notes regarding patrol rifles*

finding that is supported by ample evidence. One officer testified he came to believe defendant was intoxicated immediately when he encountered the defendant. He based this belief on his personal observations that the defendant had bloodshot eyes, slurred his speech, fumbled with his walled, seemed as though he was going to vomit, and emitted an odor of alcohol."

The Court continued, "Given the defendant's clear state of intoxication, it was reasonable for the officers to believe a search of the vehicle in which the defendant was passed out would produce evidence of alcohol consumption, such as unsealed alcohol containers."

The Court quickly dismissed Sims' argument that the officers lacked probable cause because his state of intoxication did not provide an inference that he possessed any alcoholic beverages in the car. The Court noted that an officer testified that the parking lot was a known place to hang out after the bars closed in order to continue to drink and congregate. The Court stated, "Assuming without deciding that something more than the defendant's state of intoxication was necessary for the officers to have probable cause for the search, there was something more here. The encounter between the officers and the defendant occurred shortly before 3:00 a.m., after nearby bars had closed. At the hearing on the defendant's suppression motion, one of the officers testified the parking lot where the defendant was parked was a known place to hang out after bars closed, drink, and loiter around. The officer added that there were people congregating around their cars, partying when the officer and his partner entered the parking lot. These facts, coupled with the defendant's signs of inebriation, provided the officers probable cause to search the vehicle for evidence that the defendant was publicly intoxicated in violation of the [municipal ordinance]."

The Court then looked at the other ground for the search—as a search incident to an arrest. The Court cited U.S. Supreme Court case

law that stated that police may conduct a warrantless search of the passenger compartment of a vehicle and any containers therein, so long as the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest. The exception derives from interests in officer safety and evidence preservation that are typically implicated in arrest situations.

The Court then looked at whether the search followed a lawful custodial arrest. The Court noted that the officers were going to arrest Sims for violation of the local ordinance and that the officers also knew that there was no one around to take care of Sims. There were keys in the ignition and the officers were not going to leave Sims. The Court also noted that the officers considered Sims to be drunk in public. The officers were placing Sims under arrest in order to take him to detox or to jail.

The Court then concluded that the trial court acted properly in making its implied finding that the search satisfied the U.S. Supreme Court's case law. The Court stated, "At the time the officers began to search the vehicle—and discovered the first loaded firearm—the defendant was unsecured and seated in the front passenger seat of the vehicle. The defendant was plainly within reaching distance of the passenger compartment. Therefore, the search—at least the portion of the search conducted while the defendant was seated in the vehicle—was warranted under the U.S. Supreme Court case law."

The Court dismissed Sims' argument that it was unreasonable to consider Sims within reaching distance because of his paralysis. The Court noted that the case law standard does not consider the physical abilities of the suspect. According to the Court, "The only question the trial court asks is whether the area is generally reachable without exiting the vehicle, without regard to the likelihood in the particular case that such a reaching was possible. The backseat of a passenger compartment is generally reachable by an unrestrained person seated in

the front of the compartment, irrespective of whether the area was reachable by the defendant in this particular instance." ☆

### **FROM THE RANGE MASTER (cont'd)**

I also wanted to let everyone know that we were able to purchase red dot optics for all the issued patrol rifles. We purchased the Vortex Crossfire. It has a 1.1" viewfinder, zero magnification (a true 1x), and can last up to 50,000 hrs on a single CR2032 battery. As you come to the range with your patrol issued rifle (they will not be issued to personally owned patrol rifles), we will outfit you with a flashlight and red dot optic. A Range Instructor will zero your rifle and have you sign a property acceptance sheet.

Thank you



*The Vortex Crossfire RDS*

