



# Sheriff's Office Training Bulletin

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## **A VEHICLE SEARCH WAS JUSTIFIED BASED ON PROBABLE CAUSE AFTER AN OFFICER DETERMINED THAT MINORS WERE USING MARIJUANA.**

Two police officers from a gang enforcement detail were on duty in a marked patrol car when they observed two males sitting in a car that was parked against the curb of a public street.

The officers ran the license plate number and determined that the registration on the vehicle was expired. When the two officers drove up, they detected a strong odor of burnt marijuana coming from inside the vehicle. The officers conducted a detention.

One of the officers approached the vehicle and made contact with the suspect, who was sitting in the driver's seat. The officer recognized a male sitting in the front passenger seat and a male lying on the back seat trying to hide. The officer knew that the two he recognized were minors.

The officer asked the suspect if they had

*See "Marijuana" continued on page 2*

Sheriff's Office Marine Unit



## **FROM THE TRAINING MANAGER**

The new two-year POST training cycle begins in January 2023. We will begin the perishable skills related training once again for sworn staff. We are also at the midpoint of the STC training cycle, so a handful of Corrections relevant training is in the pipeline to satisfy STC mandates. I realize some of the inbound training was just completed in 2022, but there are legislative mandates that require specific topics to be covered annually.

I recently completed a tactical medicine class with the Range Staff, FTOs, and SWAT members. It was a very good experience that I think our staff members could benefit from. I encourage you to take a moment to read the Rangemaster's Office article in this bulletin for more information. Knowing the basics of First Aid/CPR is certainly a great foundational skill set, but knowing what to do with serious trauma casualties during critical incidents can certainly save lives when seconds matter.

- Sgt. Jason Leone

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## CODE OF ETHICS

**AS A LAW ENFORCEMENT OFFICER**, my fundamental duty is to serve the community; 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 to liberty, equality and justice.

**I WILL** keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will 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 both in my personal and official life, I will be exemplary in obeying the law 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, political beliefs, aspirations, 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 police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

*"Marijuana" continued from page 1*

been smoking. The suspect said he had smoked marijuana about two hours earlier. The suspect told the officer that he was 20 years old and that the vehicle belonged to him.

Because the three males were not legally allowed to possess or smoke marijuana because they were under the age of 21, the officer ordered them out of the car.

The officers conducted a search of the vehicle based on their reason to believe that there

was still marijuana in the car. They formed that determination due to the current smell of marijuana and the suspect's admission that he had smoked marijuana.

During the search, officers found a Xanax pill and a round of ammunition in the center console. They searched the trunk and found a nine-millimeter handgun without a serial number visible.

In the case of People v. Castro, the California Court of Appeal ruled that the officers were justified in searching the vehicle based on the automobile exception to the warrant requirement.

In its written decision, the Court first stated, "The Fourth Amendment to the Constitution of the United States protects against unreasonable searches and seizures of private property. In general, a law enforcement officer is required to obtain a warrant before conducting a search. Warrantless searches are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions. The prosecution bears the burden of establishing an exception applies."

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

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The Court continued, “Under the so-called automobile exception, officers may search a vehicle without a warrant if it is readily mobile and probable cause exists to believe it contains contraband or evidence of criminal activity. Probable cause to search exists where the known facts and circumstances are sufficient to warrant a person of reasonable prudence in the belief that contraband or evidence of a crime will be found. Once an officer has probable cause to search the vehicle under the automobile exception, they may conduct a probing search of compartments and containers within the vehicle whose contents are not in plain view. Moreover, where such probable cause exists, a law enforcement officer may search the vehicle irrespective of whether [the offense] is an infraction and not an arrestable offense.”

The Court then looked at the facts of the suspect’s case and stated, “Here, when the officers approached [the suspect]’s car because of the expired registration, [an officer] noticed a ‘strong odor’ of ‘burnt marijuana’ emanating from the car. [The officer] exited the patrol car to contact the driver . . . , and he observed the two male passengers who he knew to be minors based on prior encounters with them. It is unlawful for a person under 21 years of age to possess any amount of recreational marijuana. (See Health & Safety Code section 11357.) [The officer] asked [the suspect] if they were smoking, and [the suspect] responded affirmatively, adding that he had smoked marijuana two hours earlier. [The suspect] also told [the officer] that he was 20 years old. [The officer] testified he ‘had reason to believe that there was still marijuana in [the suspect]’s car based on the current smell of marijuana coming from inside the car,’ and [the suspect]’s admission he had smoked marijuana. We conclude [that the officer] had probable cause to search [the suspect]’s car because, under these facts and circumstances, his belief that contraband or evidence of a crime (e.g., marijuana) would be found in the car was reasonable.”

The Court dismissed the suspect’s argument that, in light of the passage of Proposition 64, police may no longer search an

automobile just because they smell marijuana inside a vehicle stopped for expired registration. The Court stated, “In 2016, the voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, which legalized the possession of up to 28.5 grams of cannabis by individuals 21 years or older. (Health and Safety Code section 11362.1 (a)(1).) Health and Safety Code section 11362.1, added by Proposition 64, fundamentally changed the probable cause determination by specifying lawfully possessed cannabis is ‘not contraband’ and lawful conduct under the statute may not constitute the basis for detention, search or arrest. But this applies only to activities ‘deemed lawful’ by Proposition 64. It was unlawful for [the suspect] and his minor passengers to possess any amount of recreational marijuana due to their age.”

The Court then looked at the suspect’s argument that the officers were not permitted to search the vehicle because they could neither arrest nor cite the three because the offense was not committed in the presence of the officers. The Court stated, “This assertion is immaterial to the legal question before us—whether the officers had probable cause to search [the suspect]’s car under the automobile exception. We are not evaluating a search incident to an arrest and, as explained above, where probable cause to search a vehicle under the automobile exception exists, a law enforcement officer may search the vehicle irrespective of whether the offense is an infraction and not an arrestable offense.”

The Court further stated, “Based on the ‘strong odor’ of ‘burnt marijuana’ emanating from [the suspect]’s car, [the suspect]’s admission he had smoked marijuana, and the fact all occupants of the car were under 21 years of age, the officers had probable cause to believe they would find contraband or evidence of a crime (e.g., marijuana possessed by someone under 21) in the car. We are unpersuaded by [the suspect]’s argument that probable cause did not exist because he told [the officer] he had smoked marijuana two hours before. [The officer’s] belief that there was still marijuana in

the car based on the current smell of marijuana coming from inside the car was reasonable under the circumstances of this case. Accordingly, we conclude the officers had probable cause to search the car under the automobile exception, and the trial court did not err in declining to suppress the evidence from the vehicle search.” ☆

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## **A CUSTODIAL INTERROGATION INITIATED BY THE SUSPECT AFTER HE REQUESTED AN ATTORNEY VIOLATED THE SUSPECT'S CONSTITUTIONAL RIGHTS.**

A suspect spent an afternoon drinking beer with friends. The suspect was 18 years old. At one point, the suspect showed off his handgun. Late in the afternoon, the suspect went with his friends to a nearby alley. He continued to drink beer.

In the evening, one of the suspect's friends drove a group of friends to a liquor store. There were about 15-20 people hanging out nearby. The suspect approached the victim. The victim said, “What's up?” The suspect and a friend lifted their shirts and drew their guns. The victim yelled, “Oh, Sh\*t.” He began to walk backwards. The suspect and his friend shot at the victim, who was killed.

After a police investigation, the suspect was arrested for murder. Police searched his bedroom and found 44 rounds of .38 caliber ammunition and a receipt from a fast food restaurant that placed him near the scene of the shooting just after the time of the shooting.

The suspect was interrogated separately by two detectives on the day of his arrest. The first interview began after midnight and lasted about three hours. During that time, the suspect was handcuffed to a table. About an hour and a half after the interview began, an evidence technician had the suspect take off his clothing. He photographed the suspect and gave him a paper gown. The suspect was given some food to eat. After the interview resumed, the suspect admitted that he was at the scene but denied shooting anybody.

The first detective told the suspect that he was probably going to be held overnight. He told the detective that he wanted to make a phone call. Instead of taking the suspect to make a phone call, the first detective was replaced by a second detective. He conducted an interview that lasted approximately two hours. During the interview, the detective said, “I mean that detective and my boss, you know, they're not gonna let you go unless you tell 'em who, who the shooter is. And I know that's a big decision on your part, and, you know what, only you can make that decision. Only you can decide, you know . . . and I'm not gonna ask you for it 'cause I gave you my word that I wouldn't. That's a decision you have to make.”

About an hour after the interrogation began, police brought the suspect's parents into the interrogation room for about 10 minutes. The suspect denied being involved in the shooting, but made some incriminating statements. After his parents were taken out, the detective reentered the interrogation room. The suspect asked, “Am I gonna be in here for a long time still in here, in this room?” The suspect asked, “Can I go use the restroom?” [The detective] said, “Yeah,” but suggested he should think about it.

The suspect asked if he could see a lawyer. The detective said, “Sure. You can do that.” The suspect said he wanted to talk to a lawyer. The detective told the suspect, “I respect your decision that you wanna talk to a lawyer, but if for some reason you change your mind and you wanna talk to me, you can, just ask for me. I don't care if it's 2:00, 3:00 in the morning I'll come back. Okay? Because I care about you getting your story the right way out. Okay?”

After spending the night in a holding cell, the suspect told one of the jailers he wanted to speak to the detectives again. The suspect was brought back to the same interrogation room for a second interview, still apparently wearing the same paper gown from the day before. The suspect asked, “You guys don't have any socks do you?” An officer asked him if he was cold. The suspect said that it had been colder where he was being held. The suspect asked, “Whatever I tell my lawyer, he's going to tell you the same thing, right?” After waiving his Miranda rights, the

## 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.

suspect admitted shooting the murder victim, stating: "I, I self-defended myself, you know?"

In the case of People v. Avalos, the California Court of Appeal ruled that the interrogation held the next day violated the suspect's constitutional rights.

In its written decision, the Court first noted that the Fifth Amendment provides that no person shall be compelled in any criminal case to be a witness against himself. According to the Court, "When a person is in custody and is being interrogated, the person may feel compelled to testify against himself. . . . Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning."

The Court continued, "Courts decide

whether a Miranda waiver is valid or not. To establish a valid waiver of Miranda rights, the prosecution must show by a preponderance of the evidence that the waiver was knowing, intelligent, and voluntary. Determining the validity of a Miranda rights waiver requires an evaluation of the defendant's state of mind and inquiry into all the circumstances surrounding the interrogation. Relevant circumstances include the suspect's age, experience with the criminal justice system, level of education, intelligence, and the suspect's ability to understand the rights being explained by the officer . . . . The United States Supreme Court held that an accused having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges, or conversations with the police."

The Court then stated, "After invoking the right to counsel during questioning, a suspect may later change his mind, but the police cannot

*See "Interrogation" continued on page 6*

prompt or encourage a suspect to change his mind. A change of mind on the part of the defendant prompted by the advice of counsel, his own psychological make-up, or similar facts is permissible. On the other hand, a change of mind prompted by continued interrogation and efforts to convince the defendant to communicate with the officers cannot be considered a voluntary, self-initiated conversation."

The Court then looked at the facts of the suspect's case and stated, "On the day of his arrest, after about five hours of questioning, [the suspect] invoked his right to counsel by saying, 'I wanna talk to a lawyer.' [The detective] acknowledged [the suspect] had invoked his right to counsel by stating: 'I respect your decision that you wanna talk to a lawyer.' Under Miranda and its progeny, all questioning should have stopped until [the suspect] was provided an attorney. An exception exists if [the suspect] himself changed his mind and initiated further conversations with the police."

The Court continued, "However, rather than scrupulously honoring [the suspect's] invocation, [the detective] encouraged [the suspect] to speak to her further without the presence of an attorney by saying, 'but if for some reason you change your mind and you wanna talk to me, you can, just ask for me. I don't care if it's 2:00, 3:00 in the morning I'll come back. Okay? Because I care about you getting your story the right way out. Okay?'"

The Court further stated, "[The detective]'s statement purporting to care about [the suspect] getting his story 'the right way out,' had no conceivable purpose other than to encourage [the suspect] to continue to talk to her (without the presence of counsel). Certainly, police can engage in any number of tactics designed to persuade, encourage, or even trick a Mirandized suspect into continuing to communicate. Ordinarily, these tactics are perfectly acceptable. For instance, in this case, there was absolutely nothing wrong with [the detective] establishing a motherly rapport with [the suspect] by calling the murder suspect 'mijo' or 'my son.' However, once [the suspect] invoked the right to counsel, everything changed. From that point forward, [the detective] was required to scrupulously honor [the suspect's] invocation of his right to counsel, and she was prohibited from encouraging [the suspect] to speak to her any further."

The Court further noted, "In sum, based on [the suspect's] age (18), lack of experience with the criminal justice system (a high school student with no evidence of any prior arrests), and all the surrounding circumstances (e.g., [the detective]'s statement exhorting [the suspect] to talk after he had invoked the right to counsel, the cold room, the paper gown, the lack of socks, etc.), we do not find that [the suspect] made a voluntary, knowing and intelligent waiver of the right to counsel prior to the interview on the second day." ☆

## **FROM THE RANGEMASTER'S OFFICE**

### *Tactical Emergency Casualty Care (TECC)*

I recently completed an eight-hour POST certified tactical medicine course, along with Rangemaster Sgt. David Weidner, Range Instructors, FTOs, and SWAT members. The class was presented by [Swift Tactical](#), who did an excellent job delivering the material. The course was designed for public safety first responders, and teaches the basic medical interventions of the Tactical Emergency Casualty Care (TECC) protocols, applied in a tactical setting, on duty, such as an active shooter event or mass casualty incident. This course provided us with valuable information that's worth sharing with you. During the class, we became proficient in patient assessment, prioritization of care, application of tourniquets, wound packing, hemostatic gauze application, pressure bandaging, burn treatment, and litter evacuation. The class was

comprised of lecture, facilitated discussions, hands on practical application, and scenarios. This article is not a substitute for proper medical trauma training, but it will serve to provide you with a basic introduction to the TECC protocols that can be helpful in an emergency. By memorizing a couple of simple acronyms within TECC, the priorities of casualty care can become simplified under stress.

## Background

The Committee for Tactical Emergency Casualty Care ([C-TECC](#)) created the TECC guidelines in 2011, based upon the U.S. military's Tactical Combat Casualty Care (TCCC) system that was derived from Special Operations Forces in the post-9/11 era. In essence, the C-TECC committee developed a civilian version of the military's casualty management model, for use during civilian tactical and rescue operations. The TECC guidelines for medical treatment are best practice recommendations for casualty management.

## TECC Applications

The TECC systematic approach to casualty care is intended for Fire, EMS, and Law Enforcement personnel use during civilian high-risk scenarios (e.g., active shooter, terrorism events, mass casualty events, natural disasters, etc.).

## TECC Phases

The TECC approach to casualty care is divided into three phases of care:

- Direct Threat Care
  - There is an active, on-going, or close proximity threat
  - Neutralize threat, self-care, massive bleeding treatment only
- Indirect Threat Care
  - The threat has been neutralized or has moved away from the area
  - Self-care, buddy-care, rapid MARCH assessment and stabilization care
- Evacuation Care
  - Threat has been neutralized
  - Continued assessment, stabilization, and management (victims are triaged for transport)

## Tactical Action Plan – THREAT

- Threat – Neutralize or mitigate the threat **FIRST**
- Hemorrhage – Stop massive bleeding
- Rapid Extrication – Move the victim quickly to a safe area for further assessment and treatment
- Assess – Perform a complete, detailed physical assessment for life-threatening injuries
- Transport – Provide rapid transport to a trauma hospital

## Tactical Assessment – MARCH(e)

- Massive Hemorrhage – Stop massive, rapid bleeding **FIRST** (tourniquet, hemostatic gauze, pressure bandages)
- Airway – Open and maintain an open airway (head tilt/chin lift, jaw thrust)
- Respirations – Ensure adequate breathing, treat torso penetrations (chest seals, bag valve)
- Circulation – Treat lesser bleeding, maintain circulation

- **Hypothermia/Head Injury** – manage heat loss by insulating victim (emergency blanket), recognize and manage head injuries and altered consciousness, disarm altered victims (take their firearm if law enforcement victim)
- **(e)verything else** – If injuries, time, and number of rescuers permit, triage, treat, and manage lesser injuries

#### **Local Level 1 Adult Trauma Centers**

- **Stanford University Medical Center**
  - **Adult Emergency Department**
    - 1199 Welch Road, Palo Alto, CA 94304
    - 650-723-5111
  - **Pediatric Emergency Department**
    - 900 Quarry Road Extension, Palo Alto, CA 94304
    - 650-723-5111
- **San Francisco General Hospital**
  - **Emergency Department**
    - 1001 Portrero Avenue, San Francisco, CA 94110
    - Building 25, 1<sup>st</sup> floor
    - 628-206-8000

#### **Closing thoughts**

I hope this information was useful and will inspire you to attend a tactical medicine type of class, or to get refresher training on trauma casualty care in general. At the bare minimum, I recommend you are proficient with applying a tourniquet to yourself and others. The Rangemaster and I agree that integrating this type of trauma casualty care into other areas of training would be beneficial to our members. With that in mind, don't be surprised to see more of TECC in the future. If you need guidance on how to get this type of tactical medicine training or additional resources, don't hesitate to contact me. Stay safe.

- Guest contributor, Sgt. Jason Leone