



# Sheriff's Office Training Bulletin

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## **SHERIFF'S PERSONNEL SHALL UNDERSTAND THE PROVISIONS OF THE CORRECTIONS PROCEDURES MANUAL PERTAINING TO INMATE VOTING.**

Sworn personnel must have a complete understanding of Sheriff's Office policy regarding inmate voting. Sworn personnel shall be familiar with the policy and what it contains. Sheriff's Office Corrections Procedures Manual Policy 613 establishes the Sheriff's Office policy regarding inmate voting. *The following are excerpts from that policy. All affected personnel must be familiar with the entire Policy as stated in the Sheriff's Office Corrections Procedures Manual.*

### **POLICY**

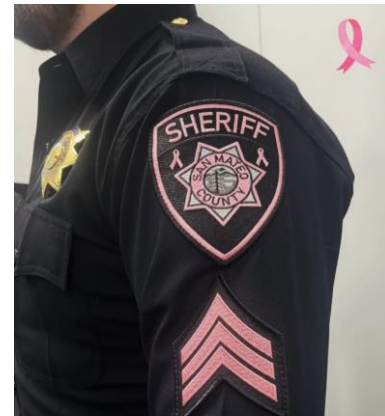
Inmates who have not been convicted of a felony and are in custody during trial continue to have the right to vote. Except for individual inmates

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National Breast Cancer Awareness Month



### **FROM THE TRAINING MANAGER**

The Training Unit is looking for motivated staff members interested in becoming an instructor or simply teaching a class. We have a few POST and STC classes that we are in need of instructors and trainers. If you're interested, please contact Det. Sarah Hathaway [shathaway@smcgov.org](mailto:shathaway@smcgov.org) for POST class instructing opportunities and Det. Alex Ruiz [aruiz@smcgov.org](mailto:aruiz@smcgov.org) for STC class instructing opportunities.

Another holiday season has begun and 2022 is one step closer to moving on. We will conclude our POST training by the end of the year and our STC training will start early next year. Thank you for your continued participation and efforts in our compliance training.

- Sgt. Jason Leone

## 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.

*"Voting" continued from page 1*

who have lost the right to vote, sentenced inmates also maintain this right. Because inmates are unable to access public voting polls, the Division Commander or the authorized designee shall develop written procedures whereby the County Registrar of Voters allows qualified inmates to vote in local, state and federal elections, pursuant to election codes (15 CCR 1071). Inmates should be advised of voting methods during the inmate orientation.

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

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### **VOTING REQUIREMENTS**

Inmates maintain their right to vote while incarcerated if they are:

- ✓ A citizen of the United States.
- ✓ A resident of the county.
- ✓ At least 18 years of age at the time of the next election.
- ✓ Not been declared mentally incompetent by a court.
- ✓ Awaiting or on trial for a criminal offense.
- ✓ Serving time for a traffic or misdemeanor offense or as a condition of probation.
- ✓ Not convicted of a felony offense and sentenced to serve time in a state prison.
- ✓ Not on parole as a result of a felony conviction.

### **PROCEDURES**

Prior to each election, the Division Commander will designate a deputy to be a

liaison between the Office and the local Registrar of Voters. The designated deputy will be responsible for assisting inmates who have requested to vote.

### **REGISTERING TO VOTE**

An inmate who is eligible to vote and requests to register should complete a voter application. The application should be submitted to the liaison deputy, who will forward the application to the local election official.

### **REQUESTING AN ABSENTEE BALLOT**

An inmate who will be in custody during an election and requests to vote by absentee ballot should complete an application. The completed application should be submitted to the liaison deputy, who will forward the application to the local election official.

### **VOTING**

All ballots received shall be delivered to inmates in a timely manner to ensure compliance with the inmate's right to vote. Once the ballot has been delivered to the inmate, it shall be the responsibility of the inmate to mail his/her ballot in accordance with the state's voting requirements. If the inmate is indigent, the correctional facility will mail the ballot; if not, the inmate is responsible for the postage. ☆

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### **A SUSPECT MAY NOT BE GUILTY OF BURGLARY IF THE SUSPECT HAS A MISTAKEN BUT GENUINELY HELD MISTAKE OF FACT.**

A man walked up to a house. When he arrived, he paced back and forth in front of the residence. Then, he walked up to the front door. He knocked on the door and rang the doorbell. There was no response. The man then walked around the house and went into the backyard. He slid open a screen door and attempted to open the locked glass door behind it. He was unable to

open the glass door. At that point, the man sat down on a bench.

When the man was walking into the backyard, a witness called the police, who responded to the residence. When officers went into the backyard, they discovered the man sitting on the bench. The man told the officers that he was there to see his cousin. The man's cousin did not actually live in the house. One of the officers knew the man's cousin and knew that he lived several blocks away.

The man was arrested and was charged with first degree burglary. First degree burglary is defined as entry into an inhabited dwelling with the intent to commit a felony. A burglary is complete upon the slightest partial entry of any kind, with the requisite intent.

In the trial court, the man took his case to a jury trial. The jury was instructed that a defendant is not guilty of the charged crime if he lacked the mental state required to commit the crime because of a mistaken belief or lack of knowledge. The court erroneously told the jury that the defendant's mistaken belief must be both actual and reasonable. In fact, the proper instruction would have informed the jury that the defendant need hold only an actual but mistaken belief in the relevant fact. The man was convicted of first degree burglary.

In the case of People v. Hendrix, the California Supreme Court ruled that the erroneous jury instruction was a sufficient ground to overturn the man's conviction.

In its written decision, the Court first stated, "The type of mistake of fact claim [the man] raised in this case is often described as a 'defense' to the charge. But the term is somewhat misleading, because mistake of fact is, generally speaking, not a true affirmative defense. It is, rather, an assertion by the defendant that a particular factual error in his perception of the world led him to lack the [mental state] required for the crime."

The Court continued, "Say a defendant is charged for theft of a box of oranges. He claims he mistakenly thought the oranges were his. If the defendant indeed believed the oranges were his, it is necessarily true that he did not intend to steal them from someone else. His

mistake of fact claim, then, is simply one particular way of saying he lacked the [mental state] required for theft. In this way mistake of fact operates as a kind of failure-of-proof defense, reflecting a defendant's attempt to suggest the prosecution failed in its burden to establish beyond a reasonable doubt that the defendant acted with the criminal intent required for the offense."

The Court then stated, "In this case, [the man]'s mistake of fact claim was raised in connection with the question whether he intended to commit theft once inside the . . . house. Whether the jury credited the claim would determine whether he possessed the requisite criminal intent: that is, whether he was innocently intending to look for his cousin . . . or culpably intending to carry out a burglary. The prosecutor's theory of [the man]'s intent was captured in the positive phrasing of the substantive [mental state] instruction: [The man] intended to burglarize the home. [The man]'s theory of intent was captured in the negative phrasing of the mistake of fact instruction: He intended to visit [his cousin], not carry out a burglary. Because they ultimately help the jury answer the same question — [The man]'s state of mind at the time he entered the home — the two instructions should have been aligned. The jury was instructed, if not in so many words, that burglary is a specific intent crime, so it should have received a specific intent mistake of fact instruction that recognized the possibility that a genuine, if unreasonable, belief would negate a finding of criminal intent. The jury instead received a more limited mistake of fact instruction geared toward general intent crimes, generating the problem in this case."

The Court then looked at whether the erroneous jury instruction should result in overturning the jury's verdict. The Court noted that the California Constitution imposes upon appellate courts an obligation to conduct an examination of the entire case and reverse a lower court's judgment for error only upon determining that a "miscarriage of justice" has occurred. Otherwise, the error is considered "harmless" and will not lead to overturning the case.

The Court looked at the facts of the case

and ruled that the error in the case was not "harmless" and that a reasonable jury could have acquitted [the man] based on his holding a genuine but unreasonable belief that he entered the residence seeking to find his cousin. The Court stated, "In sum, there is a reasonable chance, more than an abstract possibility, that [the man]'s jury would have come to a different verdict had it been correctly told that it should not find [the man] guilty if it believed [the man] made an honest, but unreasonable, mistake. The law recognizes even an unreasonable mistake as grounds for acquittal under the circumstances. And there was substantial evidence—not overwhelming evidence, but realistic evidence—to support the conclusion that [the man] made an unreasonable mistake. Because there is at least a reasonable probability a jury making that assessment would have given a different answer had it received correct instructions in this case, we conclude the instructional error was prejudicial and requires reversal. The Court of Appeal erred in concluding otherwise." ☆

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### **A SUSPECT IS NOT GUILTY OF AUTO THEFT IF THE SUSPECT MISTAKENLY BELIEVED THAT HE OR SHE HAD PERMISSION TO TAKE OR DRIVE THE VEHICLE.**

A car was taken from a tow yard. The chains had been cut off the gate at the tow company. In addition to the theft of the vehicle, keys to multiple cars on the lot were taken, including the keys to the car that was taken. The car that was taken was in reasonably good shape. It was valued at about \$2,000 and had an intact interior. It had no body damage, but it also did not have license plates.

When the office manager of the tow yard arrived at work the next day, she immediately noticed that there had been a break-in. She reported the crime and the missing car.

About five days after the break-in, a sheriff's deputy saw a vehicle that had no front license plate. He followed the vehicle and initiated a vehicle stop. As the deputy pulled

## 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.

behind the car, he observed the driver and the occupant of the front passenger seat moving things from the front of the vehicle to the rear passenger area. The vehicle was painted matte black.

The deputy contacted the driver. The driver had the keys to the vehicle, but the rear license plate did not match up with the car's vehicle identification number. The deputy, along with another deputy, searched the vehicle and found the assigned license plate on the rear seat. The deputies searched the trunk and located a large pair of bolt cutters and a power drill that matched the dimensions of the screws used to secure the rear license plate. The passenger compartment of the vehicle contained miscellaneous clothing, tools, and personal items, including a bag with women's clothing inside.

The driver told the deputies that he had been driving the passenger, his girlfriend, to the hospital. He told the deputies that he had borrowed the car from "a guy named Jason" and that it was the second time he had borrowed it. He said that he had the car the previous time for about two days and had been pulled over once but there were no

consequences. The driver said that "Jason" had painted the car and that the man had touched over the paint because "Jason" had not used car paint but a kind of house paint. The driver did not ask "Jason" where the car came from or whether it was stolen. The driver told the deputies that the spare license plate belonged to his girlfriend and he had no information about the other plate. One of the deputies told the driver that the car was stolen. The driver responded by stating, "You're kidding."

In the case of People v. Speck, the California Court of Appeal ruled that the trial court erroneously refused to instruct the jury on mistake of fact in his trial for felony vehicle theft and receiving stolen property.

In its written decision, the Court stated, "Defense counsel requested the trial court instruct the jury with [the jury instruction] regarding mistake of fact . . . based on defendant's testimony that he mistakenly but actually believed he had permission from the owner—Jason, whom defendant thought was the owner—to drive the

*See "Auto" continued on page 6*

car, which he mistakenly but actually believed was not stolen."

The jury instruction that was requested would have read, "The defendant is not guilty of [the crime] if he did not have the intent or mental state required to commit the crime because he [reasonably] did not know a fact or [reasonably and] mistakenly believed a fact. If the defendant's conduct would have been lawful under the facts as he [reasonably] believed them to be, he did not commit [the crime]. If you find that the defendant believed that [state the alleged mistaken facts] [and you find that belief was reasonable], he did not have the specific intent or mental state required for [the crime]. If you have a reasonable doubt about whether defendant had the specific intent or mental state required for [the crime], you must find him not guilty."

The Court looked at the facts of the case and stated, "Defendant's claimed mistake

of fact was that he thought ["Jason"] was the car's owner. Because he had taken the car with permission of the owner, or so he thought, whether he possessed the requisite intent (to permanently deprive the actual owner) would be irrelevant. Also, if defendant mistakenly thought ["Jason"] was the owner, there is no way he would know the car was stolen under the facts as presented at trial, because he had received the car from ["Jason"] himself, the rightful owner per defendant's mistaken belief. If credited, defendant's claim of mistake as to the [car]'s owner—that it was ["Jason"]—would have negated the intent and knowledge requirements . . . and made the acts underlying the charged conduct, even if proven in all respects, innocent acts. Thus, defendant was entitled to receive the benefit of the pinpoint jury instruction outlining the mistake of fact defense. . . ." ☆

## **FROM THE RANGEMASTER**

### *Legally Armed Citizen Field Contacts*

Concealed Carry Weapon (CCW) permits are now in high demand in California. Since the recent New York State Rifle & Pistol Association, Inc. v. Bruen case decision, we have seen a dramatic increase in CCW applications in San Mateo County. The case concerned the constitutionality of the 1911 Sullivan Act, a New York State law requiring applicants for an unrestricted license to carry a concealed pistol on their person to show "proper cause", or a special need distinguishable from the general public, in their application.

In Bruen, the United States Supreme Court struck down the "proper cause" requirement for CCW applicants because it was too subjective (and thus deemed unconstitutional, in violation of the Second Amendment). Existing California State law prior to Bruen required a CCW applicant to show "good cause" (self-defense alone did not meet that criteria) in a nearly identical manner as New York State's "proper cause" requirement.

The Bruen decision opened the doors for everyone to apply for a CCW. After the ruling, we have seen San Mateo County CCW applications quadruple, and this number is increasing. This training bulletin is to provide law enforcement with guidance on what they can do when they stop someone, and learn they have a CCW.

You are going to see an increase in people carrying guns, so it's only appropriate that you understand what we teach in the CCW class. First, we instruct them to always comply with law enforcement. Next, we tell them they should tell law enforcement know they have a CCW if stopped. They are instructed on traffic stops to inform you right away they have a CCW, and to keep their hands on the steering wheel (until they receive further instructions from the law enforcement officer).

All applicants are issued a CCW license card. This card looks like an ID card. It will have their identifying information on it. On the back of the CCW card will be up to three guns they are authorized to carry. This means we conducted a records check of the guns and made sure the gun was legally registered to them, before we list them on their CCW card. The guns listed on their CCW card are allowed to be carried and transported in any manner they wish. If they have a gun that IS NOT on their CCW card, that gun MUST be transported as specified in 25610 PC.

If you arrest someone for a crime and they have a CCW, you should contact me immediately so I can inform the Sheriff. The Sheriff will decide if any further action is necessary (regarding the person's CCW status). Stay Safe.

- Sgt. David Weidner