



Sheriff's Office Training Bulletin

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SHERIFF'S PERSONNEL SHALL OBSERVE THE PROVISIONS OF THE POLICY MANUAL PERTAINING TO TEMPORARY CUSTODY OF ADULTS.

Sheriff's Office personnel must have a complete understanding of Sheriff's Office policy regarding temporary custody of adults. All personnel shall be familiar with the departmental policy and what it contains. Policy 900 establishes the Sheriff's Office policy regarding temporary custody of adults. The following are excerpts from that policy. These excerpts apply to an inmate's initial placement in temporary custody. *Sworn personnel must be familiar with the entire Policy as stated in the Policy Manual.*

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held. Custodial searches are addressed in the Custodial Searches Policy.

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Sheriff's Office Search and Rescue



FROM THE TRAINING MANAGER:

You may be following the Georgia case regarding the fatal shooting of Ahmaud Arbery by Gregory McMichael. This is not about the incident itself. It's about McMichael's training records from when he was a LEO.

The San Francisco Chronicle recently ran a story about McMichael's training records ([link here](#)). The article states that McMichael had "fallen short in various types of training hours in 2005, 2006, 2007, 2009 and 2010." It specifically notes a "warning in 2014 that McMichael had neglected to finish mandatory firearms and use-of force courses."

This should serve as a reminder that, while personnel records are confidential, training records are not. CA POST receives regular requests for training records and, in compliance with the CA Public Records Act, they provide them.

We do our best to keep everyone in compliance with training mandates. Please keep this in mind before you miss/reschedule training.

DEFINITIONS

Definitions related to this policy include:

- ✓ Temporary custody - The time period an adult is in custody at the San Mateo County Sheriff's Office prior to being released or transported to a housing or other type of facility.

POLICY

The San Mateo County Sheriff's Office is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Office. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release. No adult should be in temporary custody for longer than six hours.

INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the San Mateo County Sheriff's Office, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

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- ✓ Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- ✓ Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- ✓ Any individual who is seriously injured.
- ✓ Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy). If the deputy taking custody of an individual believes that he/she may be a suicide risk, the deputy shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- ✓ Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- ✓ Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- ✓ Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- ✓ Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051). Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- ✓ Any individual who is obviously developmentally disabled (15 CCR 1057).
- ✓ Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).

- ✓ Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- ✓ Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Deputies taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Office unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

SUPERVISION WHILE IN TEMPORARY CUSTODY

An authorized office member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female office member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

INITIATING TEMPORARY CUSTODY

The deputy responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability,

vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The deputy should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving deputy should ask the arresting deputy if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the County jail or the appropriate mental health facility. ☆

THE WARRANTLESS ENTRY OF A RESIDENCE WITHOUT EXIGENT CIRCUMSTANCES VIOLATED THE CONSTITUTIONAL RIGHTS OF THE OCCUPANT.

Two police officers were dispatched to a residence based on a call from a concerned member of the public. The caller stated that an unoccupied running car had been in the driveway of the residence for about half an hour. The officers arrived and met with the reporting party. The officers noted that the vehicle's engine was running, the windows were up and foggy, and the lights were on. The vehicle was registered to a car rental company.

The officers were concerned that the occupants of the now-empty vehicle were inside the residence and may be in distress or may be engaged in criminal activity. One of the officers had responded to similar calls and in one case found someone suffering from a diabetic coma.

The officers approached the residence and rang the doorbell several times. The doorbell could be heard ringing inside the residence. After waiting for 30 to 60 seconds, the officers became concerned. The door was locked.

The officers walked around outside the residence to see if anyone might be injured or if

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there was criminal activity taking place. About 10 feet away from the front door, the officers observed a second door, which appeared to be part of, and open to, the main residence.

One of the officers turned the handle of that door but did not knock first. The officer believed that knocking would alert people inside the residence. The officer was unaware of the interior layout of the residence and was unaware where the door led.

Turning the handle, the officer then opened the door and announced "police." The officer looked around and noticed a man who he knew to be a convicted felon lying on the floor looking back at him. The officer suspected that the man was involved in criminal activity. The officer then looked around further and located another convicted felon who had drug paraphernalia and methamphetamine in plain view.

In the case of People v. Smith, the California Court of Appeal ruled that the officers' entry into the residence violated the occupants' Fourth Amendment rights against unreasonable searches and seizures.

In its written decision, the Court stated, "At the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable government intrusion. Accordingly, the Fourth Amendment has drawn a firm line at the entrance to the house. Thus, with few exceptions, the question whether a warrantless search of a home is reasonable and hence constitutional must be answered no."

The Court added, "Pursuant to the emergency aid exception, police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury. Additionally, the exigent circumstances exception applies to situations requiring prompt police action. These situations may arise when officers are responding to or investigating criminal activity."

The Court noted that, in the 2019 case *People v. Ovieda*, the California Supreme Court

ruled that the community caretaking exception asserted in the absence of exigency was not one of the recognized exceptions to the warrant requirement. In the absence of an articulable emergency, entrance into a home to resolve the possibility that someone inside requires assistance or that property needs protection is unconstitutional.

The Court in *Smith* stated, "The question before us is whether exigent circumstances justified the warrantless search. Exigent circumstances are defined as 'an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or destruction of evidence.' Exigent circumstances include situations where an entry or search appears reasonably necessary to render emergency aid, whether or not a crime may be involved." The Court analyzed whether the officers' conduct was based on emergency aid or on other exigent circumstances.

The Court looked at whether the officers' conduct was based on providing emergency aid. The Court stated, "The well-recognized emergency aid exception requires that the articulable facts support a reasonable belief that an emergency exists. It is not enough that officers seek to rule out the possibility that someone might require aid. Officers do not need ironclad proof of a likely serious, life-threatening injury to invoke the emergency aid exception. The test is whether there was an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger."

The Court looked at the facts of the case and noted that the facts known to the officers were insufficient to provide them with an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger such that a warrantless search of the residence was justified by the emergency aid exception. The Court also found a lack of exigent circumstances of an in-progress burglary and noted that, while the unoccupied running car warranted investigation, it did not reasonably suggest a burglary in progress and justify a warrantless search. ☆