

SECTION 10 Search and Seizure

10.1 – 10.3 COMPETENCY REQUIREMENTS

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Note to Administrators

In order for POST to review and approve your agency's *Field Training Guide*, you MUST submit the following electronic files:

- 1) The POST FTP Approval Checklist ([Form 2-230](#))
- 2) Your department's *Policy & Procedure Manual*
- 3) Your completed Guide (Volumes 1 & 2), including ALL competency requirements covered in Part 5, Sections 1–18.

LIST OF SUBTOPICS**10.1 SEARCH CONCEPTS**

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SECTION 10 SEARCH AND SEIZURECHECK ONE ONLY: ☐ PHASE 1 ☐ PHASE 2 ☐ PHASE 3 ☐ PHASE 4 ☐ PHASE 5

Trainee

FTO

10.1 SEARCH CONCEPTS**10.1.01 Terminology**

The trainee shall review and explain the following terms relative to searches:

- | | |
|----------------------|---------------------------------|
| A. Consent | E. Instrumentalities of a crime |
| B. Scope of Searches | F. Contraband |
| C. Contemporaneous | G. Knock and Notice |
| D. Probable Cause | H. Container search doctrine |

Reference(s):

Case # (If applicable)

Incident #

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Comments:

Additional Information:**10.1.01 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**☐ N/A

Department Policies: 312 Search and Seizure

10.1.01 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

Search and Seizure

A. Consent:

Generally, the Fourth Amendment prohibits warrantless searches. However, peace officers may enter premises and/or conduct searches without a warrant if they have obtained valid consent.

If officers have probable cause to search but lack an exigent circumstance to justify a warrantless entry, they should always seek a warrant instead of seeking consent.

Without a warrant:

- the occupant of the property has the right to refuse entry and therefore refuse the search
- even if they enter with consent, officers may not detain persons who are on the premises unless they have reasonable suspicion of criminal activity

Seeking consent rather than obtaining a warrant can also serve to warn subjects of pending law enforcement action. The evidence may be destroyed or removed during the time that the warrant is obtained. Peace officers are not allowed to secure or freeze the premises in situations where they have created the exigency by their actions.

For consent to be valid, the consent must be:

- voluntary, and
- obtained from a person with apparent authority or to give that consent

B. Scope of Searches:

If the search is undertaken without a warrant, the scope will be determined by the nature of the evidence being sought. That is, officers may search any area where the object(s) they are looking for might reasonably be located.

If the search is undertaken pursuant to a warrant, the scope will be determined by the terms of the warrant.

C. Contemporaneous:

To be legal, the search must be contemporaneous with the arrest. That is, the search must be conducted:

- at or near the time of arrest, although either can precede the other
- at or near the place of the arrest
- while the arrestee is still on the scene

D. Probable Cause:

The Fourth Amendment to the Constitution prohibits unreasonable searches and seizures by the state and establishes that any search or

seizure by the state must be based on probable cause.

A priority of the authors of the United States Constitution and the California Constitution was to avoid unlimited actions and intrusions by the government and to protect a person's:

- privacy
- liberty
- possession of property

The Fourth Amendment to the United States Constitution (Article 4 of the Bill of Rights) states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Probable cause to search an area or object means having enough facts or information to provide a fair probability, or a substantial chance, that the item sought is located in the place to be searched.

Thus, probable cause requires something less than an absolute or even a near certainty, but something more than a mere hunch or suspicion. Peace officers must demonstrate that probable cause exists to search a specific place for specific property or contraband which will be used as evidence. Even though the court will consider the totality of the circumstances, to meet the Fourth Amendment requirement, officers must have specific facts which can be articulated in court or in a sworn statement (affidavit).

To establish probable cause to search, peace officers must be able to articulate how and why they have a fair probability to believe:

- a crime has occurred or is about to occur
- evidence pertaining to the crime exists
- the evidence is at the location they wish to search

To better understand probable cause as it relates to searches and seizures, peace officers need to understand the following terms.

Reasonable inference is the act of drawing a conclusion from a fact; it is similar to making a presumption (e.g., seeing smoke and inferring there is a fire).

Direct evidence is evidence that proves a fact directly, without an inference or presumption (e.g., the sale of a controlled substance to an undercover officer).

Circumstantial evidence is evidence that proves a fact indirectly, that is, personal knowledge or observations from which deductions must be drawn by the jury or court (e.g., partial six-pack of beer found on the car seat supports inference that someone in the car has been drinking).

E. Instrumentalities of a Crime

Property used or intended to be used in connection with the commission of an offence. Example: If a suspect used a firearm to rob the victim, the firearm would be the instrumentalities of a crime.

F. Contraband:

Any property that it is illegal to produce or possess. Smuggled goods that are imported into or exported from a country in violation of its laws.

G. Knock and Notice:

Before entering a private dwelling to execute a search warrant, officers must comply with the requirements of knock and notice. Peace officers must:

- knock or otherwise announce their presence
- identify themselves as peace officers
- state their purpose
- demand entry
- wait a reasonable amount of time
- if necessary, forcibly enter the premises

H. Container search doctrine:

If the officer comes across a container on the person during a cursory/frisk/pat search, the officer is entitled to seize it and open it only if it is reasonable to believe it can be used as a weapon or that it might contain a weapon.

Detention alone does not give officers the right to search (open) the container, unless their knowledge and experience provide probable cause to believe that it contains contraband (i.e., they could easily feel that the object was small and resilient like a heroin-filled balloon), since with probable cause they could make an arrest. (In general, common containers like cigarette packs and film containers are not searchable.)

If peace officers have probable cause to believe the item they are looking for is inside a vehicle, they are entitled to open and search any closed, personal container within the vehicle which might reasonably contain the item. (This rule also applies to locked containers.)

Probable cause to search a container may be established through the officer's sight, smell or touch, or by the container's shape, design, or the manner in which it is being carried.

10.1.02 Circumstances Allowing Legally Authorized Searches

The trainee shall recognize and explain the circumstances under which the following types of legally authorized searches may be made. These circumstances shall minimally include:

- | | |
|-----------------------------|----------------------------|
| A. Pat searches for weapons | E. Plain sight |
| B. Consent searches | F. Incident to arrest |
| C. Probable cause search | G. Exigent circumstances |
| D. A search warrant | H. Probation/parole search |

Reference(s):					Case # (If applicable)		Incident #	
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Additional Information:**10.1.02 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**☐ N/A

Department Policies: 312 Search and Seizure, 418 Detentions and Photographing Detainees

10.1.02 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

A. Pat searches for weapons:

This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others. –Policy 440.2

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others.

Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
- (e) The appearance and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.
- (g) The age and gender of the suspect. Whenever possible, pat-down searches should be performed by officers of the same gender.

B. Consent searches: For consent to be valid, the consent must be: voluntary, and obtained from a person with apparent authority or to give that consent

C. Probable cause search: Probable cause to search means there is enough credible information to provide a fair probability that the object the peace officers is looking for will be found at the place they want to search.

D. Search warrant: Before they can obtain a search warrant, peace officers must be able to provide a judge with specific facts that meet the Fourth Amendment's requirement of probable cause.

A search warrant is:

- an order in writing, in the name of the people
- signed by a magistrate
- directed to a peace officer
- commanding the officer to search for an individual or individuals, a thing or things, or personal property
- in the case of a thing or things or personal property, to bring the same before the magistrate (Penal Code Section 1523)

As a general rule, the courts have found searches and seizures to be reasonable and therefore lawful when authorized by a valid warrant. The burden is on the defendant to prove the illegality of any search executed with a search warrant.

E. Plain Sight

The rule that a law enforcement officer may make a search and seizure without obtaining a search warrant if evidence of criminal activity or the product of a crime can be seen without entry or search. Example: a policeman stops a motorist for a minor traffic violation and can see in the car a pistol or a marijuana plant on the back seat, giving him "reasonable cause" to enter the vehicle to make a search.

F. Incident to arrest:

A search is reasonable, and a search warrant is not required, if a search is conducted as an incident to a lawful arrest. Under this exception to the search warrant requirement, an arresting officer may search only the person arrested and the area within which that person might gain possession of a weapon or might destroy or hide evidence.

G. Exigent circumstances:

Emergency conditions. 'Those circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.'

H. Probation / parole searches:

Parole search conditions permit a search of the parolee's person, residence, and any other property under their control (e.g., vehicle, backpack, etc.). Probation search conditions depend on the specific terms of the probationer, which may be as broad as parole conditions. Therefore, officers should determine the probation search conditions before they conduct a search.

10.1.03 Items Which May Be Legally Searched

The trainee shall identify items for which an officer may legally search. These items shall minimally include:

- | | |
|-----------------------------|-----------------------|
| A. Dangerous weapons | D. Contraband |
| B. Fruits of the crime | E. Suspects |
| C. Instruments of the crime | F. Additional victims |

Reference(s):					Case # (If applicable)		Incident #	
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Additional Information:**10.1.03 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**
☐ N/A

Department Policies: 312 Search and Seizure

10.1.03 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

A. Dangerous weapons:

Federal law defines dangerous weapon as, “(i) an instrument capable of inflicting death or serious bodily injury; or (ii) an object that is not an instrument capable of inflicting death or serious bodily injury but (I) closely resembles such an instrument; or (II) the defendant used the object in a manner that created the impression that the object was such an instrument (e.g. a defendant wrapped a hand in a towel during a bank robbery to create the appearance of a gun).” (18 USCS Appx § 1B1.1)

B. Fruits of the crime:

Fruits of crime mean the results of a criminal act. It is the material objects acquired in consequence of commission of a crime.

C. Instruments of the crime:

Property used or intended to be used in connection with the commission of an offence. Example: If a suspect used a firearm to rob the victim, the firearm would be the instrumentalities of a crime.

D. Contraband:

Any property that it is illegal to produce or possess. Smuggled goods that are imported into or exported from a country in violation of its law.

E. Suspects:

Search of suspects either by consent, probable cause, incident to arrest, or warrant.

F. Additional victims:

Based on the circumstances of the call for service, searches may be done for additional victims. Searches may be done by consent, probable cause, or based on exigent circumstances.

10.1.04 Limits of Searches

The trainee shall discuss the limits of searches when conducted with persons, vehicles, and buildings including:

- A. Protective sweeps
 B. Closed containers
 C. Inventory searches

Reference(s):						Case # (If applicable)		Incident #	
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Additional Information:**10.1.04 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**☐ N/A

Department Policies: 312 Search and Seizure, 502 Vehicle Towing and Release

10.1.04 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

A. Protective Sweeps:

A protective sweep is a brief search to look for individuals only.

If peace officers are already lawfully inside or outside a house and have a specific factual basis for believing there may be other people inside who pose a danger to them, the officers can conduct a protective sweep.

Protective sweeps are limited to spaces immediately adjoining the area of an arrest:

- where another person could be hiding
- from which an attack could be immediately launched

It is illegal to sweep into areas beyond those “immediately adjoining” the arrest location, unless the officer has reasonable suspicion, based on articulable facts, that there may be someone there who poses a danger to the officer.

Any contraband or crime-related evidence in plain view during a protective sweep may be seized.

B. Closed containers:

If the officer comes across a container on the person during a cursory/frisk/pat search, the officer is entitled to seize it and open it only if it is reasonable to believe it can be used as a weapon or that it might contain a weapon.

Detention alone does not give officers the right to search (open) the container, unless their knowledge and experience provide probable cause to believe that it contains contraband (i.e., they could easily feel that the object was small and resilient like a heroin-filled balloon), since with probable cause they could make an arrest. (In general, common containers like cigarette packs and film containers are not searchable.)

If peace officers have probable cause to believe the item they are looking for is inside a vehicle, they are entitled to open and search any closed, personal container within the vehicle which might reasonably contain the item. (This rule also applies to locked containers.)

Probable cause to search a container may be established through the officer’s sight, smell or touch, or by the container’s shape, design, or the manner in which it is being carried.

If peace officers have probable cause to believe the item they are looking for is inside a vehicle, they are entitled to open and search any closed, personal container within the vehicle which might reasonably contain the item. (This rule also applies to locked containers.)

Probable cause to search a container may be established through the officer’s sight, smell or touch, or by the container’s shape, design, or the manner in which it is being carried.

C. Inventory searches:

A vehicle inventory is not a search for evidence or contraband. It is a procedure peace officers use to account for personal property in a vehicle that is being impounded or stored.

To inventory a vehicle:

- the vehicle must be in the lawful custody of law enforcement
- the courts have made it clear that a standardized agency policy may be very broad regarding vehicle inventories, permitting examination of

any area where valuable or dangerous items are commonly kept. This may include, but is not limited to:

- under the seats
- glove compartments
- consoles
- the trunk
- closed containers
- officer conducts the inventory pursuant to a standardized agency policy

A vehicle inventory should never be undertaken for the purpose of finding evidence or contraband, but rather only for taking note of personal property.

The purpose of a vehicle inventory is to protect:

- the property of a person whose vehicle has been impounded or stored
- the government agency from false claims of loss

If, during the course of an inventory, officers discover evidence of a crime or contraband, they may lawfully seize it.

10.1.05 Exclusionary Rule

The trainee shall explain the “exclusionary rule” and its effect upon police action and procedures including:

A. Court filings

B. Prosecution of suspects

Reference(s):					Case # (If applicable)		Incident #	
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Additional Information:**10.1.05 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**☐ N/A

Department Policies: 312 Search and Seizure

10.1.05 Part B - Agency Training Details (field will expand automatically)

The above / below information will be read by the trainee and then discussed with the FTO.

Court filing and prosecution of suspects:

If a court finds a search or seizure is not reasonable and a person's Fourth Amendment rights have been violated by the government, all items seized during the search could be ruled inadmissible or excluded as evidence at trial. As a result, the prosecution of suspects may be in jeopardy.

10.2 SEIZURE CONCEPTS**10.2.01 Lawful Evidence Seizure**

The trainee shall review and explain the concept of lawful evidence seizure, including instances where force may be justified, such as:

- A. Preventing a suspect from swallowing evidence
- B. Inducing a suspect to vomit

- C. Extracting blood evidence from a suspect
- D. Extracting fingerprint evidence from a suspect

Reference(s):					Case # (If applicable)		Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:**10.2.01** **Part A - Reference Agency Policies/Procedures, if applicable** *(600 characters maximum)*☐ N/A

Department Policies: 300 Use of Force, 312 Search and Seizure, 504 Impaired Driving

10.2.01 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

A. Preventing suspect from swallowing evidence:

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the CSU Channel Islands Police Department for this specific purpose.

B. Inducing a suspect to vomit:

If the suspect swallowed evidence, such as heroin-filled balloons, it may be possible to recover the evidence simply by waiting for it to pass through the person's digestive tract.

On the other hand, if the suspect has swallowed an object that could result in serious injury or death, it may be necessary to recover the object immediately by having a physician pump the suspect's stomach or by having a physician administer a solution (emetic) to induce vomit.

Because such procedures are so highly intrusive and unusual, as well as an affront to the person's dignity and privacy (Rochin (1952) 342 U.S. 165, 172), stomach pumping and forced vomiting are generally permitted only if the suspect voluntarily consents, either expressly or implicitly, by cooperating with a doctor in carrying out the procedure, after having been informed of the danger of ingesting such objects (Bracamonte (1975) 15 Cal.3d 394, 401; Jones (1971) 20 Cal.App.3d 201, 209).

If the suspect refuses to give consent in a life-threatening situation, decisions concerning removal of the object should be left to the treating physician.

C. Extracting blood evidence from suspect:

Only persons authorized by law to withdraw blood shall collect blood samples (Vehicle Code §23158). The withdrawal of the blood sample should be witnessed by the assigned officer. No officer, even if properly certified, should conduct the blood withdrawal. Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be drawn for alternate testing. Unless medical personnel object, two samples should be drawn and retained as evidence, so long as only one puncture is required. If an arrestee cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant, he/she shall not be required to take a blood test. Such inability to take a blood test should not be treated as a refusal. However, the person may be required to complete another available and viable test.

When a person refuses to provide a viable chemical sample, officers should:

(a) Advise the person of the requirement to provide a sample (Vehicle Code § 23612).

- (b) Audio-record the admonishment and the response if practicable.
- (c) Document the refusal in the appropriate report.

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524); or
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol in the person's blood stream. Exigency can be established by the existence of special facts such as a lengthy delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

If a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond. The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the withdrawal is taken in a medically approved manner.
- (e) Ensure the forced withdrawal is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied is reasonable under the circumstances:
 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 2. In misdemeanor cases, if the suspect becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.
- (g) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.
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D. Extracting fingerprint evidence from a suspect:

Peace officers may obtain fingerprint samples from a person if they have that person's consent or probable cause to believe the person was involved in criminal activity. If the person has been placed under arrest, the person has no legal right to refuse a fingerprint examination.

Officers may use a reasonable amount of force to obtain the fingerprints of a person who refuses to cooperate. However, fingerprints taken by force are often smeared or incomplete and are seldom useful.

10.3 WARRANTS									
10.3.01 Obtaining Search and Arrest Warrants The trainee shall explain the laws and procedures for obtaining search and arrest warrants, to minimally include: <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>A. Probable cause necessity</p> <p>B. Allowable exclusions (including hot pursuit and emergency situations)</p> </div> <div style="width: 48%;"> <p>C. Process for obtaining warrants during and after business hours</p> </div> </div>									
<i>Reference(s):</i>						Case # (If applicable)		Incident #	
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Additional Information: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 85%;"> <p>10.3.01 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)</p> <p>Department Policies: 312 Search and Seizure, 606 Warrant Service, 607 Operations Planning and Deconfliction</p> </div> <div style="width: 10%; text-align: right;"> <input type="checkbox"/> N/A </div> </div>									

10.3.01 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

Materials and/or handouts to be used:

1. Lexipol Policy 606 (specifically 606.4, 606.6, and 606.9)
2. Search Warrant template form
3. Search Warrant Notice of Service form
4. Return to Search Warrant form

Fundamentals of search warrants:

A. What is a search warrant and what are the grounds for obtaining one

1. A search warrant is a legal document authorizing a police officer or other official to enter and search premises or gain access to documents or information. In essence, a search warrant is to show “probable cause” that you may find additional information/evidence for your investigation by searching/obtaining information done by the search.

2. Penal Code section 1524(a) states several reasons by which a search warrant may be issued. The following are applicable to patrol officers/investigators:

- 1) When the property was stolen or embezzled.
- 2) When the property or things were used as the means of committing a felony.
- 3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- 4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- 5) When the property or things to be seized consist of evidence that tends to show that either 311.3 PC (possession of child pornography or child exploitation) or 311.11 PC (matter depicting sexual conduct of a person under 18 years of age) has occurred or is occurring.
- 6) When there is a warrant to arrest a person (Steagald warrant required to enter third party residence).
- 7) When the provider of an electronic communication service or remote computing service has records or evidence showing that property was stolen or embezzled constituting a misdemeanor, or that that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- 8) A worker’s compensation Labor Code violation has occurred.
- 9) Seizure of guns or other deadly weapons in connection with a domestic violence or physical assault incident involving a threat to human life.
- 10) Seizure of guns or other deadly weapons owned by or in possession of the custody or control of somebody who meets the criteria for a

5150 WI, 5250 WI, or 5300 WI.

11) Seizure of firearms by somebody who has a protective restraining order against them as defined in 6218 of the Family Code.

12) Use of tracking device to show a misdemeanor or felony has occurred.

13) When a sample of the blood of a person constitutes evidence that tends to show a violation of 23140, 23152, or 23153 VC, and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by 23612 VC. The sample must be drawn in a reasonable, medically approved manner.

14) Seizure of firearms and/or ammunition owned by somebody issued with a served gun violence restraining order after that person has failed to relinquish the firearm as required by law.

15) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance.

3. Other information and Penal Code sections associated with the service/execution of a search warrant.

- 1531 PC-allows a peace officer to break down any outer or inner door or window to execute the warrant
- 1533 PC-Unless night service is approved by the Judge, warrants may be served between 0700 hours and 2200 hours.
- 1534 PC-A search warrant shall be executed and returned within 10 days after date of issuance.
- 1535 PC-When an officer takes property under the warrant, a receipt must be issued with list of property seized, if nobody present the receipt must be left where the property was found.
- 1537 PC-An officer must provide a written inventory of the property taken (via a search warrant return form) to the issuing judge.
- Knock and notice-When serving a search warrant, police must knock on the door, announce their authority to search the premises and wait a reasonable period of time before they enter. If the knock and notice is not given without approval from a judge, evidence may be suppressed and the subject may have cause for a civil rights violation lawsuit.

B. Mechanics of writing the search warrant

Step 1: go to G drive, click on police, click on CSUCI Police Files & Documents, click on Criminal Investigation, click on Search Warrants folder, click on Search Warrant Forms, then click on Search Warrant Form.

1. Page one: Put in your name as the affiant, check the proper box of why the warrant is to be issued.

2. Page two: If there is an address to be searched, input the address with a detailed description of the residence (color of house, one story or two story, location of door, type of roof and exterior of home, address numbers affixed to house, door and/or mailbox). If you would like to search a person include a driver's license/identification card number, date of birth, physical description. If you would like to search a vehicle include make, model, color, number of doors, license plate number, VIN, and registered owner information (If registered owner does not have any affiliation with your case, you need to establish a connection to the case and why it is necessary to search or include it in your warrant). Describe the property or item(s) you are searching for.

3. Page three:

-Training and experience (Hero statement): Include how many years of service you have as a law enforcement officer, your current and past assignments (collateral assignments can be included), small history of your education (Associate, Bachelor's or Master's degree), that you have

investigated various types of crimes and have testified in court on these cases, and that you have attended training courses (if possible include one that you have been to that is directly related to the investigation your conducting).

EXAMPLE of what can be included:

-I, Officer Wesley Johnson, have been employed by California State University Channel Islands for 1 year and 4 months as a Police Officer. Prior to this position, I was employed by the Santa Barbara County Sheriff's Department for 12 years as a Deputy Sheriff. I am currently assigned to patrol. While with the Santa Barbara Sheriff's Department, I was assigned as a patrolman, a detective and a field training officer. I have investigated hundreds of criminal offenses, including assaults, narcotics violations, and theft related offenses including forgery, embezzlement and identity theft. I have prepared these cases for court and testified in court on said cases. I have prepared and served numerous search and arrest warrants involving the above listed offenses. I have attended numerous training courses, including a POST approved 40 hour class on identity theft investigations.

-Statement of Probable Cause: This will be the portion the Deputy DA and Judge will care most about and needs to obtain the reasons why there is probable cause for your search and why you think the search will yield the items you are searching for. Most of the time you can just cut and paste your report narrative into this section (but go through the warrant and make sure you leave out any unnecessary information).

-Conclusion: At the end of this paragraph include a conclusion (Example: Based on the information contained in this declaration and my training and experience, I believe that by searching xxx, I will find further evidence, including the items listed in attachment A, which will tend to further prove the suspects involvement in the crime and therefore request a search warrant be granted.)

-If a sealing order is being sought (needed in cases where you do not want the suspect to know of the investigation), provide the request after the probable cause and sign the form attached. Be prepared to explain to the Deputy DA and Judge why it is necessary for this case to be sealed.

C. Steps to getting your completed warrant approved and ready to be served.

-After the search warrant is completed, bring a copy of your warrant and a thumb/flash drive containing your warrant to the District Attorney's office located at the Government Center, suite 314 (the thumb/flash drive is important in case there are changes that need to be made). See attached map for further details about locations at the Government Center. Inform a secretary at the front counter that you are there to get a search warrant reviewed by a DA. Once the DA approves the warrant, he or she will sign it and give you the face page with their signature, which will be placed on top of the warrant.

-After the warrant is approved by the DA, respond to the Civil Services area (room 101, northeast corner on the first floor of the courthouse building near the metal detector entrance). Tell the employee at the counter you have a search warrant for review and advise how many pages the warrant is. You will be provided with a form (asking your name, department, date, etc.), which is used to notify the judges of the warrant being ready for review. You will then be provided a court room number to go to and that is where you will meet the judge. You will use the back door and find the elevator to go through the back channels. The judge will be in their chambers if not in the courtroom (if needed, ask for assistance in locating the judge). The judge will review your warrant and correct any changes that are necessary.

-Once the warrant has been signed and approved, it is considered active and can be served immediately.

D. Before serving the warrant

Prior to serving the warrant, make two copies of the warrant (one for our records and the original eventually gets returned to the Judge). Attach a copy to the report in RIMS and provide a copy to records. You will also need a copy of the face page only to provide to the place/person you are searching.

E. After the warrant has been served

After the warrant has been served you must do a search warrant return (this form is located in the Search Warrants Folder). This basically shows what, if anything, was obtained from the search. This form will be returned as the top page along with the original warrant. This should be completed within a few days after the warrant was served. The warrant needs to be returned to the traffic window (where we normally turn in citations) on the first floor of the courthouse. The judge does not need to review or see it at this time and the clerk will stamp the top right corner of the return and provide the officer with a copy of the stamped return for our records. The officer should attach a copy of this to the RIMS report and place the copy in the records box. (If an arrest was made, it does not need to be noted in the search warrant return).

If during your search, you obtain information that requires an additional warrant for a different location or information, you can do a “piggy-back warrant.” A piggy-back warrant is a new warrant, however, you simply use your existing narrative and add the additional information to the end of it and explain the updated probable cause and reason for the new search. The same return procedure will be used for this warrant as well.

10.3.02 Serving Search and Arrest Warrants

The trainee shall describe the process for serving search and arrest warrants, including:

- | | |
|---|---|
| <p>A. Hours of service for felony arrest warrants</p> <p>B. Hours of service for misdemeanor arrest warrants</p> <p>C. Hours of service for search warrants</p> | <p>D. Knock and notice for search warrants, and exemptions to</p> <p>E. “Signing off” warrants/return</p> |
|---|---|

<i>Reference(s):</i>					Case # (If applicable)		Incident #	
FTO:	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
Trainee:					<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test			<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test
Comments:								

Additional Information:**10.3.02 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**
☐ N/A

Department Policies: 312 Search and Seizure, 606 Warrant Service

10.3.02 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

CSUCI Search Warrant Training Outline
CSUCI Arrest Warrant Process

A. Hours of service for felony arrest warrants:

Felony warrants can be executed at any time of day per PC 840.

B. Hours of service for misdemeanor arrest warrants:

Misdemeanor warrants are also limited as to what time of day they can be executed. Misdemeanor warrants must be served within the hours of 6:00 am and 10:00 pm unless there is a nighttime service authorization from the magistrate. This rule will also not apply if the arrest is made in a public the defendant is already in custody of law enforcement, or the arrest doesn't require a warrant because of PC §836 & 837.

C. Hours of service for search warrants

Penal Code 1533: "Upon a showing of good cause, the magistrate may, in his or her discretion, insert a direction in a search warrant that it may be served at any time of the day or night. In the absence of such a direction, the warrant shall be served only between the hours of 7 a.m. and 10 p.m.

D. Knock and notice for search warrants, exemptions to:

A police officer is not required to knock and announce if doing so would be unreasonable, e.g. if there is a risk of injury to the police officer executing the search warrant or a risk of the occupants destroying the sought-after evidence between the police officer's knock and his or her entry. The applicability of this exception is determined on a case-by-case basis.

E. "Signing off" warrant/return

Once an officer has written a search warrant, the warrant must be approved from the Ventura County District Attorney's Office prior to it being reviewed by a judge.

Except for tracking device search warrants, a search warrants shall be executed and returned within 10 days from issuance. (Pen. Code, § 1524.) Service is valid if the warrant is returned within the 10-day limit and the probable cause supporting the warrant did not change (dissolve or self-destruct) before the warrant was executed. (Cleland (1990) 225 Cal.App.3d 388, 394; Seibel (1990) 212 Cal.App.3d 1279.) This 10-day time limit means that you have 10 days within which to execute the warrant, beginning with the day after the warrant is issued and running until midnight of the 10th day, with no exceptions for weekends or holidays. (Clayton (1993) 18 Cal.App.4th 440.)

Note: It is a crime for a peace officer willfully to disclose the existence of a search (or arrest) warrant, prior to its execution, for the purpose of preventing the search or seizure (or arrest). (Pen. Code, § 168.)

10.3.03 Demonstrating Proper Procedures for Obtaining and Serving Warrants

Given an incident and necessary probable cause that calls for a search or arrest warrant, the trainee shall follow agency procedures for obtaining and serving the appropriate warrant(s).

Reference(s):					Case # (If applicable)		Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
FTO:					<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test			<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test
Trainee:								
Comments:								

Additional Information:**10.3.03 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)**☐ N/A

Department Policies: 312 Search and Seizure, 606 Warrant Service, 607 Operations Planning and Deconfliction

10.3.03 Part B - Agency Training Details *(field will expand automatically)*

The above / below information will be read by the trainee and then discussed with the FTO.

CSUCI Search Warrant Training Outline
CSUCI Arrest Warrant Process

Procedure for obtaining a search warrant:

The steps required to get a valid search warrant are as follows:

- Preparing the affidavit: This affidavit describes the place to be searched, the items to be searched, and the reasons why the officer expects the items will be found at the location (probable cause).
- Preparing the warrant: This step results in the official document be signed by a judge permitting law enforcement to enter the premises for the search to take place.
- Getting the warrant signed: Law enforcement officials present the warrant and affidavit to the Ventura County District Attorney's Office for review. Once reviewed and approved, a law enforcement official will present the warrant and affidavit to the judge. If the judge believes there is probable cause for a search to take place, he signs the warrant to make it official.

See next page for Attestation

Part 5 – Section 10: Search and Seizure

ATTESTATION FOR SECTION 10

TO ENTER YOUR ELECTRONIC SIGNATURE:

- Click on the 'X' in the signature line to activate the signature field > Right click and select "Sign" from the menu.
- Click on "Select Image" > Locate your signature file > Click "Open" to place your signature (date appears automatically).
- Enter your full name next to your signature.

YOUR ELECTRONIC SIGNATURES VERIFY that the Field Training Officer (FTO) and Trainee attest to the following:

1. The FTO(s) provided all instruction, training, and related feedback/comments to the Trainee in accordance with the agency's training requirements for this portion of the Field Training Program.
2. The Trainee demonstrated all competencies required for this portion of the Field Training Program.
3. If remedial training was performed, the results were reviewed by the appropriate FTO(s) and accepted by the Trainee.
4. The final evaluation of the Trainee's performance for this portion of the Field Training Program were approved by the FTO(s) and accepted by the Trainee.

Primary Field Training Officer:

X

Print Full Name: _____

Trainee:

X

Print Full Name: _____

IMPORTANT: After signing the Attestation, the file will be "locked" and **CANNOT BE MODIFIED**. If you need to make changes, both signatures must be removed and re-entered after the final revisions have been made.

To remove the electronic signature: Right click on the signature line > Select "Remove" from the menu.

See the following pages for Instructions to Administrators and FTOs

How to Complete Part 5 (Sections 1–18)

INSTRUCTIONS TO ADMINISTRATORS

VOLUME 2 OF THE FIELD TRAINING GUIDE CONSISTS OF 18 SECTIONS WHICH MAKE UP PART 5. Each section is provided as a separate file on the POST website (<https://www.post.ca.gov/field-training--police-training.aspx>). Prior to submitting your FTP Guide to POST for review, you must complete all 18 sections and include them as part of your Guide.

1. **Set up:** Keep an unchanged copy of each section file as a master for reference. Make a copy of the file to use for your agency-specific entries.
2. **Front cover (optional):** To keep a hard copy of Volume 2 for internal use, you can add your agency name and date to the front cover.
3. **For each section (1–18):**
 - a. Open the applicable file and add your agency name and date to the header on page 1. (DO NOT change any other headers or footers or alter any other sections of the file.)
 - b. Below each table:
 - *Part A:* Enter applicable references from your agency’s Policies & Procedure Manual.
 - *Part B:* Enter your agency’s training details.
4. **After completing ALL sections (1–18),** you MUST submit the following materials via flash drive, CD, or DVD to POST for review and approval (do not send printed copies):
 - 1) **Your completed FTP Guide**
 - 2) **FTP Approval Checklist** ([POST Form 2-230](#))
NOTE: Guides submitted without this form will NOT be reviewed.
 - 3) **Your Department’s Policy & Procedure Manual**
5. MAIL YOUR ELECTRONIC MEDIA TO:
Commission on POST
860 Stillwater Road, Suite 100
West Sacramento, CA 95605
Attn: Phil Caporale – BTB
6. You will receive status notification within 90 days from the date received.

See next page for Instructions to Field Training Officers

How to Complete Part 5 (Sections 1–18)

INSTRUCTIONS TO FIELD TRAINING OFFICERS (FTOs)

VOLUME 2 OF THE FIELD TRAINING GUIDE CONSISTS OF 18 SECTIONS WHICH MAKE UP PART 5. Each section has been customized by your agency administrator(s) to include references to policies and procedures and training details to meet your agency's Field Training Program requirements. Each file is provided as a separate file. For each section (1–18), complete all tables for each topic.

1. **Set up:** Keep an unchanged copy of each section file as a master for reference. Make a copy of the file to use for your training sessions.
2. **Tracking your training sessions:**
 - a. Upon completing each competency, enter the FTO and trainee names and dates, and how the competency was demonstrated, into the applicable tables.
 - b. Enter any note-worthy comments related to the trainee's performance.
3. **If trainee requires remedial training:**
 - c. Enter the FTO and trainee names and dates, and how the competency was remediated, to show that each competency was completed.
 - d. Enter any additional note-worthy comments related to the trainee's performance.
4. **Attestation:** After all competencies have been performed, including any remedial training, the primary FTO and Trainee **MUST** enter their electronic signatures on the Attestation page (see instructions) to verify that the Trainee has completed this portion of the Field Training Program.

End Section