Search and Seizure
2019 Introduction
Cleveland Division of Police

Course Date: July 2019 - December 2019
Current Revision Date: July 27, 2019
Course Hours: 1 Hour
Primary Audience: All Officers of the Cleveland Division of Police
Module Goal: To give officers an overview of the new search and seizure policies and emphasize the importance of knowing how to apply these policies and concepts in the course of their everyday duties.
REFERENCES

1. Cleveland Division of Police GPO Search and Seizure
2. Cleveland Division of Police GPO Investigatory stops
3. Cleveland Division of Police GPO Probable Cause / Warrantless Arrest
4. Cleveland Division of Police GPO Strip Searches & Body Cavity Searches
5. Cleveland Division of Police GPO Miranda Warning and Waiver
6. https://legaldictionary.net/arizona-v-gant/
TEACHING AIDS

- Erasable Board/Markers
- Lectern/Table
- Other:
  - Student Handouts

INSTRUCTIONAL TECHNIQUES

- Lecture
- Demonstration
- Individual Exercise
- Problem Solving
- Group Discussion
- Scenario-based Training
- Hands-on Techniques
I. Securing Weapons and Officer Safety Protocol
   a. All weapons will be exchanged for inert blue weapons as students arrive for training
   b. Everyone must secure their weapons in lock boxes provided
      i. Firearm, knives
      ii. Taser, baton
      iii. Extra magazines
      iv. Pepper spray
      v. Extra Taser cartridges

II. Roll Call
   a. Will be given by a supervisor (If no Training Section supervisors are available, a supervisor approved by the Training Section to present the introduction will be designated to deliver this important part of the lesson.)
   b. The Supervisor will
      i. Welcome everyone to CDP’s new search and seizure policy training
      ii. Give roll call and ensure everyone has signed in
      iii. Ensure only officers who are on the sign-in sheet and have taken the preload are in class
      iv. Ask officers to place cell phones on silent and put them away. Indicate that usage is prohibited unless on a designated break or express permission by an instructor is given.
      v. Advise students no eating during training
      vi. Ask about injuries
          1. Must have been previously documented with Medical Unit
          2. If not must leave and go to Medical Unit
   c. Explain the course schedule and how the classes will be rotated
      i. The training will be one day
      ii. The day will have 3 modules you will attend
      iii. We will break you into 3 groups and you will spend approximately 1 hour and 40 minutes in each training module
iv. Daily Schedule below:

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>0800-0900</td>
<td>Introduction</td>
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<tr>
<td>0900-1040</td>
<td>Module #1</td>
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<tr>
<td>1040-1100</td>
<td>Switch out guns</td>
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<td>1100-1200</td>
<td>Lunch</td>
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<td>1200-1340</td>
<td>Module #2</td>
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<td>1350-1530</td>
<td>Module #3</td>
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<tr>
<td>1530-1600</td>
<td>Review</td>
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d. Training expectations
   i. **Explain to the class:**
      1. You are expected to take an active role in training and fully participate in this on-going professional education.
      2. You will get the most out of the training and help you understand the concepts if you take an active role
      3. Class participation is mandatory
      4. All three modules will assess your understanding of the policy
      5. Everyone will be evaluated by
         a. Class participation
         b. Performance check sheet
            i. Yes / No
      6. Don’t Forget what you learned in;
         a. Use of Force training
            i. De-escalation techniques
            ii. Calling resources
            iii. Levels of resistance
            iv. Officers shall only use the amount of force necessary to achieve a lawful objective
         b. CPOP
            i. Making community deposits
            ii. Treat everyone with courtesy, professionalism, dignity, respect, and equality
         c. Bias Free
            i. Fast traps
         d. CIT
            i. Where appropriate, making referrals in lieu of arrests
            ii. Individuals in crisis who are being charged with a misdemeanor or minor misdemeanor may be issued a
summons or made a named suspect in lieu of arrest.

ii. If the student does not perform satisfactorily then they will receive remedial training so that they understand the concepts.

iii. If the student does not participate in the training then they will be sent back to their district/unit and their commander will be notified.

iv. **Explain to class:** This is your training, your level participation will increase your knowledge and skills.

### III. Chief’s Video

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Ask the class if they have any questions on the Chief’s Video. Be prepared to reinforce the Chief’s parting thought “a well-trained officer will result in better service to the citizens and a safer community.”
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At this point in the lesson the instructor will provide a forum for an open discussion. The instructor will ask the below questions with an emphasis on highlighting major policy changes. This discussion will provide the student an opportunity for a teach-back to validate they understand the major policy changes. Discussion will include changes to the policy, how these policy changes increases our professionalism and community perceptions.

### IV. Highlighting some changes in the new policy

a. Ask the class-Under the new policy what information is required to give an individual under an investigatory stop? Have the class call out answers: (correct responses below)

   i. Officers full name and badge
   ii. The fact the officer is a Cleveland Police Officer
   iii. The reason for the stop
   iv. The fact that the stop is being recorded, if applicable

b. Ask the class-how does this information increase the public’s trust and confidence in the police? Have the class call out answers: (correct responses below)

   i. Provides people with a sense of dignity and respect
   ii. Legitimizes the police action that is taking place

   1. *If you were stopped on the street wouldn’t you want to know why the stop was taking place*
   iii. Wherever time and circumstance permit, officers shall
listen to the individual and answer any reasonable questions that the individual has relating to the interaction

1. This provides them with a voice during the encounter

c. Question to the class “When was the last time CDP’s investigatory stop policy was updated?”
   i. Answer-2002
      1. This is a good time to ask the class “Do you think search and seizure procedures have changed in the last 17 years?”
      2. Solicit student feedback by asking “who was on the job in 2002”
      3. By updating policy this tells the community that the Division is progressing in the area of search and seizure

d. Question to the class “Can anyone find the definition of Probable Cause in our current (Search and Seizure) General Police Orders?”
   i. Answer-Probable Cause is not defined in our Current (Search and Seizure) General Police Order
   ii. This is a good time to have an open discussion with the class. Explain to the class that the new Search and Seizure policies while it appears large and complex, clarity is provided to you in the form of definitions and other resources. Examples are guidance on speaking to juveniles in an age appropriate manner, how to respectfully handle the search of a person wearing a religious garment and when and how to conduct a strip search

e. Search and seizure is highly complex, nuanced issue
f. As we all know case law could change every day

g. Prior to this policy change, definitions relating to search and seizure issues were often sporadic or placed into Divisional Notices and disseminated throughout the division with no formal training

h. Ask the class-Has anyone ever had a case thrown out or evidence suppressed due to the application or timing of Miranda Warnings
   i. Solicit feedback and ask for clarity in responses
   ii. Explain that this new policy clarifies Miranda’s where, when and how
      1. A subject is in custody and the officer is to question or interrogate the individual about any crime
a. This increases transparency and understanding about the Miranda Warning on the part of the citizen
b. Protects the public against involuntary self-incrimination

2. The instructor will explain case specific requirements from Miranda Warnings
   a. Deaf and Hard of Hearing
   b. Individuals with Limited English Proficiency
   c. Juveniles

   i. Question to the class- Is a vehicle stop for a traffic code violation an investigatory stop? Answer-no

      i. An officer shall have probable cause to conduct a vehicle stop for a traffic code violation or completed misdemeanor

### Initiate a Large Group Discussion:
Ask class-How do the new policies assist in an overall crime prevention strategy that takes into account community values- solicit feedback from students- answers below

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V. We must begin to re-define ourselves as a police agency

   a. As much community input as we have in forming these new policies, we are striving to educate the community on police procedure

   b. We learned in Community Engagement and Problem Solving "Adverse police actions, real or perceived, can cultivate distrust in communities who have been the object of that action. It doesn’t matter if the action happened here or abroad. For many, negative perceptions of police can be based on things that happened to others, not just to them"

   c. These new search and seizure polices assist the Cleveland Division of Police in becoming a model of policing in the United States

   d. With these new strategies we begin to build a foundation of trust within the neighborhoods we serve

   e. As a Division, we are continuing our commitment to develop policies rooted in constitutional law, without overlooking the guidance from members of the community we serve:

      i. Community members
ii. Church leaders
iii. Business owners
iv. Political leaders
v. Police leaders
vi. Department of Justice

f. These policies provide clarity and guidance on complex legal issues. Using the tools provided by these new policies we can work with our community partners to build trust

**Initiate a Large Group Discussion:**

Ask class—“Why is this training important?”
Solicit feedback from students, answer below

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g. Search and Seizure has more impacts than you may think

i. It is the law

ii. Conduct searches and seizures fairly and respectfully consistent with the Division’s commitment to:
   1. Procedural justice
      a. Treating people with dignity and respect
      b. Giving individuals a chance to be heard during encounters
      c. Making decisions fairly and based on facts, staying neutral
      d. Conveying goodwill and trustworthiness through transparency
   2. Community and Problem Oriented Policing
      a. Identify and solve problems in ways other than arrest
   3. Community values
      a. Bias free policing
   4. All investigatory stops will be conducted in a manner that not only promotes the safety of police officers and the public but also conforms to the constitutions of the United States and State of Ohio

iii. Can have negative impacts
   1. Personally
      a. Loss of employment
      b. Suspension
      c. Civil liability for the officer and the department
      d. Criminal liability on the part of the
officer

2. Loss of public trust
   a. We want to make deposits in community bank account
   b. As taught in Bias-Free
   c. The way the public views the police as a whole

3. Court cases being lost

   h. CDP will conduct investigatory stops, searches and arrests fairly and respectfully as part of an effective overall crime prevention strategy that takes into account community values
   i. Officers may take into account the race, ethnicity, age, gender, or other demographic characteristics of an individual in establishing reasonable suspicion or probable cause only when the characteristics are part of an actual and credible description of a specific subject in an investigation that includes other identifying factors.

### Initiate a Large Group Discussion:

During this review of definitions the instructor will say the key word and definition. The instructor will then ask the class to give examples. This will provide critical thinking concepts to the students and an opportunity for interactive learning.

VI. Definition review (*Brief synopsis of several definitions with examples in bold*)

   a. Consensual encounters-

      i. A voluntary encounter between the police and an individual with the intent of engaging in casual, and/or non-investigative conversation.

      1. *A brief conversation with a pedestrian*

      2. *Talking with a store owner about community related concerns*
ii. A reasonable person in the individual’s position would feel free to leave and/or decline any of the officer’s requests at any point

1. It is best practice to inform the person that they are free to go creates a record on body camera

b. Non-custodial interviews-

i. A voluntary and consensual investigatory interview that an officer conducts with an individual

ii. During which the individual is free to leave and/or decline any of the officer’s requests at any point

1. Talking to a neighbor about recent break-ins in the area
2. Canvassing an area to search for witnesses of a recent crime
3. Be mindful however, a non-custodial interview may turn into a seizure we will discuss seizures further

c. Seizure-When an officer’s words or actions would make a reasonable person believe that he or she is not free to leave or terminate the encounter

i. Physical arrest of an individual
ii. Traffic stop
iii. Investigatory stop
iv. Show of force or authority
v. Using lights or sirens
vi. Number of officers present
vii. Blocking the individual’s vehicle or freedom to move
viii. Physical contact with the individual
ix. Whether the officers or tone of voice indicates that compliance with the officer’s request is required
x. Display of a weapon

A physical arrest, traffic stop, investigatory stop and show of force are clearly examples of seizures

It is important to note that v.-x. is an evaluation of the totality of circumstances, not a bright line rule

d. Area of Immediate Control- The physical area within reaching distance which the person might gain possession of a weapon, destructible evidence, or evidence

i. Within reaching distance of a arrested person (arm’s
length)

e. Search –

i. A search is either a physical intrusion into a constitutionally protected area (ex. a person, house, paper or effect)

ii. for the purpose of gathering information or any conduct that violates a reasonable expectation of privacy by officers or civilians acting as an agent of law enforcement

1. Search incident to arrest
2. Inventory search of a vehicle prior to a tow

f. Probable cause: The facts and circumstances known to the officer that would lead a reasonable person to believe an individual has more likely than not committed or is committing a crime

i. Physical evidence on scene
   ii. Witness or victim statements
   iii. An officer’s observations

g. Plain Feel Doctrine:

i. An officer may seize an object while conducting a limited search during a permitted pat down/frisk

1. The handle of a firearm
2. Knife

ii. If its nature as contraband is immediately apparent by feel, and without manipulation of any objects.

1. Observable or apparent

h. Reasonable Suspicion:

i. An objectively, justifiable suspicion that is based on specific and articulable facts or circumstances that justifies an officer stopping an individual that has committed, is committing, or is about to commit an offense.

1. A investigatory stop of an individual based on
the description provided by a radio broadcast
(i.e. a person matching the description of a
domestic violence suspect seen in the area of
the caller)

ii. Reasonable suspicion is more than a hunch but less than
probable cause.

1. Needs to be articulable facts based on
   observations or reliable sources of information

2. While on routine patrol you observe a person
   standing in front of convenience store known
to sell alcohol. You have previously had
complaints of individual’s openly drinking
alcohol at this location. This person appears to
drink from a large glass container. When this
person notices the police he or she quickly
turns to walk away and attempts to keep the
container from sight. You initiate a non-
custodial interview by walking up to the person
and begin a casual conversation to develop
more information. As you are speaking with
the person you notice the glass container is an
open container of beer.

iii. A police officer stopping an individual must be able to
point to specific facts or articulable circumstances even
though the level of suspicion need not arise to probable
cause.

Initiate a Large Group Discussion:

Can an officer search or seize a subject based on an
anonymous tip alone?

Have student support and/or justify their response

Answer – no
VII. Anonymous Tips
   a. Information from a person not known by police is not to be assumed trustworthy without additional details which point to criminal activity.
   b. Officers must carefully develop reasonable suspicion in cases involving anonymous tips by corroborating information received with what the officer observes on scene.
   c. Officer’s observations while on scene, securing more complete information from an anonymous person and/or other circumstances that would tend to support the information received are all ways that officers can use to articulate reasonable suspicion allowing a Terry stop.

VIII. Data Collection forms
   a. Explain to the class—Keep in your mind the need to clearly articulate reasonable suspicion and probable cause. This information along with other information will be input into data collection software.
   b. The software is primarily drop down boxes but also has free text input. However it is encouraged to fill out the drop down boxes fully for data collection.
   c. You will be asked to clearly articulate what initially led you to the encounters. Including the facts giving rise to reasonable suspicion and separate facts justifying any non-consensual search.
   d. Similar to a CIT stat sheet only digital.
   e. This an opportunity to explain what you did during an encounter and why.

IX. Safety
   a. Identify supervisor who is the safety officer.
   b. Safety is everyone’s number one priority.
   c. All instructors will store their weapons and be checked by a supervisor prior to enter training areas.
   d. Anyone can stop training for safety reasons.
   e. Anyone injured must report their injury to an instructor or supervisor immediately.
   f. There is a first aid kit and AED available at both sites.
      i. Police Academy
         1. First aid kit
            a. Entrance of police academy.
         2. AED
            a. Entrance of police academy.
            b. Gym next to vending machine.
         3. Trauma kits
            a. Entrance of police academy.
            b. Gym office.
g. **NO LIVE WEAPONS** will be used in training; all students will be issued inert training weapons.
   i. Instructors’ weapons shall be secured
      1. Outside of training and area
      2. Prior to training
      3. Supervisors will check instructors
   ii. Signage shall be placed outside of training area
      1. Warning to “Stay out, training in progress”
   iii. No one shall be allowed to enter training area with live weapons
   iv. Training Section supervisors shall monitor training
   v. If someone enters the training area with a weapon
      1. All training shall stop immediately
      2. Training shall not resume until area is cleared and free from live weapons
         a. Student personal safety
         b. Officer personal safety
   vi. Drink fluids
   vii. Sunscreen (if necessary)
   viii. Clothing to keep warm

X. **Breaking for lunch**
   a. All groups will return to the main classroom
   b. You will be allowed to recover your weapon (if needed)
   c. Must be back on time
   d. Do not leave your weapon in the car
   e. Do not put weapons in box, wait for instructions
   f. After lunch return to classroom for safety brief (same as in the morning) and safety check. Continue with training

XI. **Divided into groups**
   a. Read name for Group 1
      i. Then report to their training area
      ii. They will be safety checked by instructors
   b. Read name for Group 2
      i. Then report to their training area
      ii. They will be safety checked by instructors
   c. Read name for Group 3
      i. Then report to their training area
      ii. They will be safety checked by instructors
CONCLUSION

A. Summarize material

B. Ask Questions