

**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/>

COURSE MATERIALS

TEACHING AIDS

<u> X </u>	Erasable Board/Markers	<u> X </u>	Easel/Notepads
<u> X </u>	Lectern/Table		
<u> X </u>	Other:		
<u> </u>	Student Handouts		

INSTRUCTIONAL TECHNIQUES

<u> X </u>	Lecture	<u> X </u>	Group Discussion
<u> X </u>	Demonstration	<u> X </u>	Scenario-based Training
<u> X </u>	Individual Exercise	<u> X </u>	Hands-on Techniques
<u> X </u>	Problem Solving		

iv. Daily Schedule below:

0800-0900	Introduction
0900-1040	Module #1
1040-1100	Switch out guns
1100-1200	Lunch
1200-1340	Module #2
1350-1530	Module #3
1530-1600	Review

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

PPT#5

PPT #6

GPO 5.11.03(III, 7,b)

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

PPT #7

III. Chief's Video

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."

PPT #8

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 increase 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

PPT #9

PPT #10

<ul style="list-style-type: none"> a. This increases transparency and understanding about the Miranda Warning on the part of the citizen b. Protects the public against involuntary self-incrimination <p>2. The instructor will explain case specific requirements from Miranda Warnings</p> <ul style="list-style-type: none"> a. Deaf and Hard of Hearing b. Individuals with Limited English Proficiency c. Juveniles <p>i. Question to the class- Is a vehicle stop for a traffic code violation an investigatory stop? Answer-no</p> <ul style="list-style-type: none"> i. An officer shall have probable cause to conduct a vehicle stop for a traffic code violation or completed misdemeanor 	<p>PPT #14</p>
<div style="border: 1px solid black; padding: 10px; text-align: center;"> <p>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</p> </div>	<p>PPT #15</p>
<p>V. We must begin to re-define ourselves as a police agency</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> i. Community members 	<p>PPT #16</p> <p>PPT #17</p>

- 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

PPT #18

- 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*)

PPT #19

- 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***

<ul style="list-style-type: none"> 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 <ul style="list-style-type: none"> 1. It is best practice to inform the person that they are free to go-creates a record on body camera b. <u>Non-custodial interviews-</u> <ul style="list-style-type: none"> 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 <ul style="list-style-type: none"> 1. <i>Talking to a neighbor about recent break-ins in the area</i> 2. <i>Canvassing an area to search for witnesses of a recent crime</i> 3. <i>Be mindful however, a non-custodial interview may turn into a seizure we will discuss seizures further</i> c. <u>Seizure-</u>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 <ul style="list-style-type: none"> i. <i>Physical arrest of an individual</i> ii. <i>Traffic stop</i> iii. <i>Investigatory stop</i> iv. <i>Show of force or authority</i> v. <i>Using lights or sirens</i> vi. <i>Number of officers present</i> vii. <i>Blocking the individual’s vehicle or freedom to move</i> viii. <i>Physical contact with the individual</i> ix. <i>Whether the officers or tone of voice indicates that compliance with the officers request is required</i> x. <i>Display of a weapon</i> d. <u>Area of Immediate Control-</u> The physical area within reaching distance which the person might gain possession of a weapon, destructible evidence, or evidence <ul style="list-style-type: none"> i. <i>Within reaching distance of a arrested person (arm’s</i> 	<p><i>A physical arrest, traffic stop, investigatory stop and show of force are clearly examples of seizures</i></p> <p><i>It is important to note that v.-x. is an evaluation of the totality of circumstances, not a bright line rule</i></p>
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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

PPT #20

- 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

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CONCLUSION

- A. Summarize material
- B. Ask Questions

