

**Citizen Contacts
Search and Seizure
Module #1
Cleveland Division of Police**



Course Date:	July – December 2019
Current Revision Date:	07-27-19
Course Hours:	1 hour 40 minutes
Primary Audience:	Cleveland Police officers
Module Goal:	Through scenario based training, the student will make the decision how to address a citizen complaint during a consensual encounter.

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

COURSE MATERIALS

TEACHING AIDS

Erasable Board/Markers

Easel/Notepads

Lectern/Table

Other:

Student Handouts

Handout #1:

INSTRUCTIONAL TECHNIQUES

Lecture

Group Discussion

Demonstration

Scenario-based Training

Individual Exercise

Hands-on Techniques

Problem Solving

LEARNING OBJECTIVES

- **At the end of this topic, the student will be able to:**
 1. Understand how to apply the five search & seizure GPOs
 2. Identify factors that can turn consensual encounters into a seizure/detention
 3. Understand the concept of conversational fact gathering
 4. Analyze if a seizure takes place, officers must stay within the guidelines of the policies and 4th amendment
 5. Decide whether the search and/or seizure met all department policies, procedures and training standards

<p>I. Scenario for Instructor and 911 call:</p> <p>A. This scenario will start with a two-person zone car responding to a radio broadcast for a male disturbing outside a corner store. A business owner is calling to report a male loitering on the sidewalk in front of his business and would like him removed. Caller states this is affecting his business but does not state how. The officers will be told they have arrived on scene and directed to role player #1 who is acting as the store owner. If officers ask any questions pertaining to the call, they will be advised that no further information is available. <i>(Note: description will match the role player’s outer clothing, height and weight for that day.)</i></p> <p>II. Instructions for Role Player #1</p> <p>A. Officers will then confer with the store owner, role player #1, who will state, <u><i>“that guy has been standing on the sidewalk outside my store for a half hour without coming in or buying anything.”</i></u></p> <p>B. Store owner, role player #1, states that he has asked them to leave the area several times. <u><i>“I told him if he’s not going to buy anything, he has to leave. I want him removed from the area.”</i></u></p> <p>C. The store owner will point out that he has a clearly posted sign saying, <u><i>“No Loitering”</i></u> in his parking lot.</p> <p>III. Instructions for Role Player #2</p> <p>A. Role player #2 will be standing on the “public sidewalk” waiting for his ride.</p> <p>B. Role player #2 <u>will not</u> be blocking the entrance to the business nor will he be blocking the sidewalk.</p> <p>C. Role player #2 will not argue with role player #1 or the officers</p> <p>D. Role player #2 will not engage the officers or role player #1 until addressed by the officers. If the officer do not engage role player #2, he will advise officers of his actions. (See RP #2 instructions)</p>	<p>Instructor will act as the dispatcher and provide this information</p> <p>This sheet can be used as a handout for the role player</p> <p>The address is 123 Main street</p> <p>Officers should allow the complaint to speak providing him a voice.</p>
---	--

<p>E. Role player #2 Script (Male standing on sidewalk)</p> <ul style="list-style-type: none"> a. If the officers do not initiate an encounter, role player #2 will approach them and state, <u>“He has been yelling at me to either buy something or leave for the last 20 minutes”</u>. This will ensure interaction with role player #2. b. If the officers should approach role player #2 who will be standing there calmly but looking around. The role player will be cooperative with all questioning. c. Interaction with the police: be calm and cooperative, and follow any orders given, unless you are asked to leave or to give officers your ID. If you are ordered to leave, refuse and ask why. If officers ask you to produce identification, refuse to do so. d. Role player #2 will comply with officer’s commands and allow them to ask questions, before asking if he or she is detained. To end scenario, role player #2 will say, <u>“there’s my ride”</u>, and then they will walk away. e. If officers then stop him, a seizure has been made and needs to be justified, they should let role player #2 walk away. <ul style="list-style-type: none"> i. The proper response should be allowing role player #2 to walk away <p>F. Officer’s desired response when contacting role player #2</p> <ul style="list-style-type: none"> a. Initiate a non-custodial interview with the understanding no crime has occurred. b. This contact with role player #2 should remain conversational and any questions should be only to gather facts from the perspective of role player #1. c. Professionally explain to role player #2 why you have made contact with them <ul style="list-style-type: none"> ii. Advise the role player they are not being detained iii. Answer any questions from the role player 	<p><i>Consensual encounter should be built on a pillars of trust and respect</i></p> <p><i>Conversational interaction between the officers and role player</i></p> <p>Do not escalate the situation</p>
--	--

<ul style="list-style-type: none"> iv. Explain to role player what the store owner’s complaint is and why police are involved d. Officers should/ can provide alternatives (i.e. asking if role player needs a ride or ask him whether he/she is willing to voluntarily move further away from the store to limit the interaction with the store owner) e. Officers should not order role player #2 to do anything <p>IV. Debriefing Protocol:</p> <ul style="list-style-type: none"> A. Officers should be reminded of what turns a non-custodial interview into a detention or arrest. <ul style="list-style-type: none"> A. Telling him the role player they are not free to leave B. Ordering the role player to do anything C. Show of force D. An officer may ask for ID, although this could lead to a detention <ul style="list-style-type: none"> i. Why did you feel it was necessary to ask for the role player’s id? ii. Do you feel that was appropriate or may have escalated that situation? E. Using oscillating lights to gain attention of role player F. Physical contact with the individual G. Number of officers present H. Blocking individual’s freedom to move I. language or tone that indicates compliance is required B. Officers will address complainant and role player #2 with professionalism as they investigate the complaint. C. It is imperative that officers are aware this is a fact gathering conversation (non-custodial interview) not a terry stop or detention 	<p><i>Investigatory Stops GPO Definitions and Section B2 a-j</i></p> <p><i>Investigatory Stops GPO Definitions Section</i></p>
--	--

<p>D. The role player is free to leave at any time</p> <p>E. Officers should not pat down or search the subjects</p> <p>F. If the officers detained role player #2, they will be remediated with the policy</p> <p>G. After the conversation with role player #2, officers should explain to the store owner no crime is occurring and RP #2 is legally allowed to be there.</p> <p>V. Debrief scenario and answer all questions</p> <p>A. Provide positive feedback to officers for proper actions during the scenario.</p> <p>B. Ask, “What was your legal basis for the stop?”</p> <p>i. There is not a legal basis for ANY form of detention, this is a non-custodial interview</p> <p>C. Ask, “Was immediate police action required?”</p> <p>i. No, assistance provided to all parties to keep the situation from escalating.</p> <p>D. Ask, “What would turn this encounter into a detention?”</p> <p>i. Numbers of officers present</p> <p>ii. Blocking the individual’s vehicle or freedom to move</p> <p>iii. Physical contact with the individual</p> <p>iv. Whether the officer’s language or tone of voice indicated that compliance with the officer’s requests is required</p> <p>v. Display of weapon</p> <p>vi. Display of official police vehicle indicators such as signals of flashing, oscillating, or rotating lights</p>	<p>Allow the scenario to evolve, note teachable moments to explore during the debrief</p> <p>Once the proper de-escalation is use for the complaint, this should be a low stress interaction</p> <p>Investigatory Stops GPO I, B1</p>
--	--

- E. Cover any missteps, problems, or issues occurring during scenario.
- F. Answer all questions in connection with the scenarios.
- G. Officers must distinguish between voluntary contacts and terry stops. The inquiry into whether an individual would feel free to leave and or decline any of the officer's requests at any point is an objective one. Factors could include but are not limited to;
 - i. Number of officers present
 - ii. Blocking the individual's vehicle or freedom to move
 - iii. Physical contact with the individual
 - iv. Whether the officers or tone of voice indicates that compliance with the officers request is required
 - v. Display of a weapon
 - vi. Display of official indicators, such as signals of flashing, oscillating, rotating lights

This scenario is a consensual encounter. Store owner will complain in general about people in front of his store.

If asked for ID, role player will provide it.

Instructor should have discussion about factors that turn a consensual encounter into a detention:

- 1. Walking away/holding ID***
- 2. Giving an order to subject***
- 3. Placing subject into the patrol car***
- 4. Making subject feel they are not free to leave***

**Investigatory Stops
GPO Section IV, B2
a-j**

Instructor will complete the performance evaluation form for each student

Instructor's debrief will include, that when individuals are treated properly and with respect, we will receive greater cooperation from citizens. This provides opportunities for interactions with community members in an official capacity which empowers them with a collective problem solving experience. Showing citizens examples of working with the police will provide better police service to the community.

Officers should be striving to work toward the four pillars of community engagement:

- *Neutrality*
- *Respect*
- *Trustworthiness*
- *Voice*

VI. Performance evaluations:

- A. Did officers properly identify themselves as Cleveland Police? If "No", why not?
- B. Did officers detain any of the role players? If "Yes," why?
- C. Did officers state the encounter is being recorded? If "No", why not?
- D. Did officers listen and answer questions from the either of the subject(s)? If "No", why not?
- E. Did officers act courteous and professionally to the subjects?
- F. Do officers make subjects aware they can leave at any time?
- G. Can the officers articulate the purpose for identifying this as a consensual encounter?
- H. Did officers follow department policies/directives?

VII. Handout scenario:

- A. The officers not currently involved in the scenario will be

Handout #1

*Strip searches and
body cavity searches
GPO*

given a written search and seizure scenario (Handout#1).

- B. They will read the scenario and answer the questions in the handout while they are waiting for their turn to perform in the live action scenario.
- C. A policy book containing the five new search and seizure policies will be made available to assist officers with completing the written scenario.

VIII. Handout discussion:

- A. A review and discussion of the type of scenario (Handout #1) will take place after all officers have completed the live action scenario
- B. The instructor will answer any questions and relate it to the GPOs in connection with the scenario
- C. The instructor will correct any issues officers may have had during the handout scenario

During handout discussion, the strip search GPO should be discussed and questions should be answered using the provided GPO training book.

***Discuss the exigent circumstances extends to the misdemeanor arrest when the item is believed to be a handgun or dangerous ordinance.
Section III subsections A. and B.1.***

Advise officers of the privacy issues that go along with performing a strip search and steps required to address them.

Discuss the importance of notifying a supervisor and the reporting procedure

CONCLUSION

- A. Summarize material
- B. Questions?
- C. Answers

HANDOUT#1 Scenario

Print Name and Badge # _____

Handout Scenario #1: You arrest a male on a contempt of court DUS traffic warrant and have verified it on Channel 9. While conducting a search, you feel a solid object in the upper inseam of his trousers that you believe is the handle of a handgun. The male is not speaking or answering questions and is now passively resisting.

1. What is the legal justification for the search?

2. Per the new GPO, what type of search is required? Why?

3. Can you retrieve what you believe is the handgun? Why or why not?

4. What notifications need to be made?

5. What is the reporting procedure?

HANDOUT #1A
Instructor Answers Key to Scenario

Print Name and Badge # _____

Handout Scenario #1: You arrest a male on a contempt of court DUS traffic warrant and have verified it on Channel 9. While conducting a search, you feel a solid object in the upper inseam of his trousers that you believe is the handle of a handgun. The male is not speaking or answering questions and is now passively resisting.

1. What is the legal justification for the search?
Search incident to arrest.
2. Per the new GPO, what type of search is required? Why?
Strip Search, due to the “rearrangement of the clothing directly covering the arrestee’s genitalia, buttocks, breasts, or undergarments.”
3. Can you retrieve what you believe is the handgun? Why or Why not?
Yes, you can retrieve the handgun under the exigent circumstances clause. However a supervisor shall immediately respond to the holding facility or to the scene when an officer requests permission to conduct a strip search and if conducted, must be done under the conditions that provide privacy.
4. What notifications need to be made?
A supervisor must be advised and called to the scene.
5. What is the reporting procedure?
Officer must complete a Cleveland Division of Police Prisoner Search Report