

EXHIBIT D

Warrantless Arrest Search and Seizure Module #3 Cleveland Division of Police



Course Date: July – December 2019

Current Revision Date: 07-22-2019

Course Hours: 1 hour 40 minutes

Primary Audience: Cleveland Police officers

Module Goal: Through scenario based training, the student will make the decision if it is legally justified to seize an individual and conduct a pat down or search of persons or places within the scenario

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

 X Other:

 X Student Handouts

Handout #1:

INSTRUCTIONAL TECHNIQUES

_____ Lecture

 X Group Discussion

 X Demonstration

 X Scenario-based Training

 X Individual Exercise

 X Hands-on Techniques

 X 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. Articulate reasonable suspicion for an Investigatory Stop
3. Identify factors that raise the encounter from reasonable suspicion to probable cause for arrest
4. Understand the difference in scope between pat down/frisk and search incident to arrest
5. Ensure officers have evaluated all factors and can clearly identify the level of governmental intrusion allowed

LESSON PLAN

[illegible]

<p>IV. The Scenario and Role Player Script</p> <p>a. In this scenario, a two person car will be patrolling the zone assigned to them for the shift. While driving the officers get flagged by a frantic individual who state they were just robbed by a person with a gun. The victim reports the suspect stole a watch from them and walked eastbound to the next street. The victim provides you with a suspect description (the description will be the clothing that the role player is wearing that day). This incident occurred about 30 seconds prior to your arrival. After confirming EMS is not needed, you drive the zone car eastbound to the next street to find a person walking eastbound matching the exact description that the victim gave you. 60 seconds total has passed. You get out and approach:</p>	<p>USE AS HANDOUT TO ROLE PLAYERS TO ENSURE CONSISTENCY THROUGHTOUT THE TRAINING</p>
<p>V. Instructions for Role Player #1</p> <p>a. RP #1 will act suspicious by looking nervous, not making eye contact and walking in different directions (evasive)</p> <p>b. Interaction with Police- Cooperate with officers as the officers ask questions, Role Player #1 will answer them but will appear anxious. If asked about a robbery Role Player #1 will state they don't know anything about anyone being robbed. Refuse to answer any other questions. Role Player #1 will have a BLUE GUN concealed in his sock under his pant leg. He or she will have a wrist watch in a side pocket.</p>	<p>Allow the scenario to evolve, make note of teachable moments and address these in the debrief</p> <p>INVESTIGATORY STOPS GPO (II, C)</p>
<p>VI. Officers desired response when contacting suspect</p> <p>a. The officer's full name and badge number</p> <p>b. The fact that the officer is a Cleveland Police Officer</p> <p>c. The reason for the stop</p> <p>d. The fact the stop is being recorded, if applicable</p> <p>e. Officers will address the suspect with professionalism as they investigate</p>	<p>INVESTIGATORY STOPS GPO (II, A)</p> <p>SEARCH AND SEIZURE GPO (V,B,1)</p>

<ul style="list-style-type: none"> f. Identify the level of detention <ul style="list-style-type: none"> i. Investigative stop, when the officer determines probable cause to arrest, a physical arrest will occur g. Identify what the officers can legally do within the confines of the stop <ul style="list-style-type: none"> i. When officers have reasonable suspicion for the investigatory stop <ul style="list-style-type: none"> 1. Pat down of outer garments for weapons 2. Seize firearm in connection with evidence ii. When officers have probable cause to arrest <ul style="list-style-type: none"> 1. Search incident to arrest 2. Question after Miranda has been issued 3. Handcuff 4. Place in rear of zone car 5. Identify when it is appropriate to issue Miranda Warnings <ul style="list-style-type: none"> a. Subject is in custody b. Officer is to question or interrogate individual about ANY crime h. Once the decision to arrest has been officially made by the officers the scenario will conclude 	
<p>VII. Debrief of Training</p> <ul style="list-style-type: none"> a. Review of module goal b. Review of key points of learning objectives c. Solicit student feedback 	<p>MIRANDA WARNINGS GPO (I,B)</p> <p>ASK EACH OFFICER TEAM QUESTIONS</p>

<p>VIII. Scenario Specific Questions</p> <ul style="list-style-type: none"> a. What was your legal basis for the contact? <ul style="list-style-type: none"> i. Investigative stop in connection with a report of an aggravated robbery <ul style="list-style-type: none"> 1. A victim stated he/she was just robbed by a person with gun 2. Suspect walked eastbound 3. You find individual matching the same description the victim gave you eastbound from the location you were just at 4. Time proximity (60 seconds total has passed ii. Physical arrest after probable cause was determined b. Did you state the stop was being recorded? <ul style="list-style-type: none"> i. Yes or no? Why not? c. At what point did you issue Miranda warnings? Why? <ul style="list-style-type: none"> i. The Miranda warning is required by Miranda v. Arizona, 384 U.S. 436 (1966), and applies only to sworn police officers who will be questioning or interrogating a subject who is in custody ii. Officers shall provide Miranda Warning when both of the following criteria are met <ul style="list-style-type: none"> 1. The subject is in custody 2. The officer is to question or interrogate the individual about any crime d. What was your reasonable suspicion for stopping the role player? <ul style="list-style-type: none"> i. Officers shall not rely solely upon an individual geographic location, or presence in a high crime 	<p><i>INVESTIGATORY STOPS GPO (II, A)</i></p> <p><i>INVESTIGATORY STOPS GPO (III,B)</i></p> <p><i>GPO MIRANDA WARNING AND WAIVER (I, A)</i></p>
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<p>attorney, parent, or guardian is present; however no parent or guardian may waive the juvenile's right to counsel</p> <p>h. Did you attempt to use coercion during the course of the encounter, examples are</p> <ul style="list-style-type: none"> i. Threatening to charge a person with crime such as obstruction or disorderly conduct ii. Threatening a referral to department of children and family services iii. Threatening to obtain a warrant as means of obtaining consent iv. Threatening the use of a K-9 <p>i. What if anything would you do differently?</p> <ul style="list-style-type: none"> i. Solicit student feedback <p>j. What is the difference between a pat down search and search incident to arrest</p> <ul style="list-style-type: none"> i. <u>Pat down/frisk</u>-a limited search during an investigatory stop in which an officer conducts a pat down of the outer clothing of a person for weapons when the officer reasonable suspects that the particular person is armed and dangerous. It is limited to what is necessary to detect weapons and must be based reasonable articulable suspicion that the person is armed. An officer may not manipulate objects that are discovered under the clothing to determine whether they are contraband 	<p><i>ADDRESS ANY DEFECNCIES</i></p> <p><i>SCENARIO COMPLETE, PREPARE FOR NEXT SCENARIO</i></p>
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Instructor will ask officers to articulate an example narrative for their reasonable suspicion that this person is the suspect in the crime. The narrative should focus on information provided by the victim, such as, physical description, clothing, location in relation to the area crime was committed, and a detailed account of the subjects behavior.

***THIS IS THE
ASSESSMENT
SHEET***

- ii. Search incident to arrest- A search of an arrested person, their personal effects, or their area of immediate control at the time of search
- iii. Custodial searches shall be conducted respectfully and, when possible, be conducted by officers of the same/gender identity as the arrestee

***Discussion point for this scenario is how does the search of the suspect and the discovery of the blue gun relate to the strip search GPO.
Instructor: This does not fall under the strip search GPO.***

IX. Performance evaluations:

- A. Did officers properly identify themselves as Cleveland Police? If “No” why not?
- B. Did officers state the reason for the search/seizure?
- C. Do officers state how the search will be conducted?
- D. Did officers state the stop is being recorded?
- E. Do officers limit the pat down to outer clothing where a weapon could be concealed?

- Acting with professionalism by providing very clear, calm, and precise commands will increase the likelihood of voluntary compliance from the suspect.*
- Advising and keeping the subject informed of the reasons for the stop also increases the likelihood of voluntary compliance.*

- Officers should be aware of the behavioral responses people, especially youths, may employ that can impact the tenor and evolution of an investigatory stop in unintended ways. Responses may include***
- 1. Physical resistance including fleeing***
 - 2. Verbal challenges***
 - 3. Outright disregard for police directives***
 - 4. Resignation to perceived mistreatment***

Officers will state specific actions that cause the decision to stop or not

- Instructor will complete the performance evaluation form for each student

Training Section will provide a training book which will contain copies of the five GPOs making up the new search and seizure policy.

These books will be provided for reference to the officers in scenario, as well as for the officers in the handout scenarios.

Questions not found or answered will be looked up and addressed through this reference.

XI. Handout Discussion:

- A. The instructor will open a discussion with the students on how they would have handled the scenario in Handout #1
- B. The instructor will answer any questions on how to handle the handout scenario
- C. The instructor will correct any issues officers may have had during the handout scenario

During handout discussion, address issues with questioning juveniles. Discuss the need to make sure the juvenile is provided Miranda right in an age appropriate way and then that they acknowledge understanding of the Miranda rights officer has provided.

Can also take time during discussion to review the above listed issues with dealing with juveniles.

CONCLUSION

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

HANDOUT #1 Scenario

Print Name and Badge # _____

Handout Scenario #1: You are assigned to a two person zone car. During your tour of duty you receive a radio assignment at 761 St. Clair for a male stabbed. As you arrive, a male, “John” with blood on his pants walks up and begins to tell you where the stabbed male is lying. While leading you to the area, John begins to describe how he found the male and at the end of the statement says, “I warned him, I told him this was going to happen if he kept messing with me.” Your back up arrives, they secure the scene and start applying first aid to the injured male who is not responding. EMS has been notified and is five minutes away.

1. What are the two main criteria for issuing Miranda warnings?

a. _____

b. _____

2. Do you need Miranda warnings to clarify his statement? Why or why not?

3. If you determine that you will issue Miranda warnings to the subject and a detective arrives on scene later, does the detective need to reissue Miranda warnings before questioning? Why or why not?

4. What are the proper considerations to be taken if you know that “John” is a juvenile?

HANDOUT #1A

Instructor Answers Key to Scenario

Print Name and Badge # _____

Handout Scenario #1: You are assigned to a two person zone car. During your tour of duty you receive a radio assignment at 761 St. Clair for a male stabbed. As you arrive, a male “John” with blood on his pants walks up and begins to tell you where the stabbed male is laying. While leading you to the area, the male begins to describe how he found the male and at the end of the statement says, “I warned him, I told him this was going to happen if he kept messing with me.” Your back up arrives, they secure the scene and start applying first aid to the injured male who is not responding. EMS has been notified and is five minutes away.

1. What are the two main criteria for issuing Miranda warnings?
 - a. *The subject is in custody*
 - b. *Officer is to question or interrogate the individual about any crime*
2. Do you need Miranda warnings to clarify his statement? Why or why not?
Yes. If the subject makes a spontaneous incriminating statement you must provide Miranda warning before clarifying the statement.
3. If you determine that you will issue Miranda warnings to the male and a detective arrives on scene later, does the detective need to reissue Miranda warning before questioning?
Yes. If there is a significant delay (more than 30 min.) between the times Miranda warning is first given.
4. What are the proper considerations to be taken if you know that “John” is a juvenile?
 - c. *Officer shall explain the Miranda warnings in an age-appropriate manner.*
 - d. *Ask juvenile to explain them back in their own words.*
 - e. *Officer shall stop questioning juvenile upon the request of a parent, attorney, or guardian*