



Training Bulletin

Los Angeles Port Police

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Stolen Vehicles and High-Risk Stops

PURPOSE:

The purpose of this Training Bulletin is to inform officers of the recent Ninth Circuit Court of Appeals decision in the case of *Chinaryan vs. City of Los Angeles* that eliminates an officers qualified immunity (exposing officers to potential liability) when stopping a vehicle using high risk tactics based on nothing more than a reasonable suspicion that the vehicle is stolen.

POLICY:

See Port Police Policy Manual § 300.4.2, Displaying of Firearms, for further information.

PROCEDURES:

Officers shall not conduct high-risk vehicle stops based **solely** on a suspicion that a vehicle is stolen or cold-plated (using a plate other than that assigned to it) unless they can articulate the reasons that they believe the occupants are armed or otherwise dangerous.

In training, we teach officers to apply various tactical methods to safely detain the occupants of suspected stolen vehicles. Factors that could weigh into determining whether there is an immediate threat or risk to justify the need for the high-risk tactic include, but are not limited to:

1. The subjects are uncooperative, combative, or refusing to obey commands.
2. The stop is at the end of a vehicle pursuit.
3. The stop closely follows a report of a violent crime.
4. Weapons are perceived or visible.
5. When there is information that the subjects are currently armed.
6. Other specific threats of violence known to the officer.

If all of the occupants are cooperative, and/or there has been a passage of time since the reported theft, this could indicate the occupants may not be connected to the crime and may not be armed or dangerous.

Simply stated, the generic dangers posed by stopping a suspected stolen or cold-plated vehicle alone are insufficient to justify the use of high-risk tactics. Just because a person is in a suspected stolen vehicle as a driver or passenger does not automatically mean they are armed and dangerous.

Investigative Stops on Stolen Vehicles

If officers have no specific justification for a high-risk stop, such as those described above, and decide to pull over a suspected stolen vehicle, then they can conduct an investigative stop and direct the occupants out of the vehicle without using high-risk tactics. Investigative vehicle stops are typically conducted when an officer has reasonable suspicion that one or more occupants of the vehicle are involved in criminal activity. During such stops, vehicle positioning is typically similar to that of a high-risk stop, and if firearms are drawn, they shall be held in the low ready

position. Officers are to be reminded that in the low ready position the muzzle is maintained in a manner that does not physically cover the occupants, unless doing so can be justified.

Thereafter, officers should instruct the occupants of the vehicle to exit and move to a safe location, such as the sidewalk, where the officers have a tactical advantage. The occupants should not be ordered back between the police vehicles, should not be put in the kneeling position, or ordered to lay face down on the ground during these types of stops, unless the circumstances change and there are articulable reasons justifying this tactic. Once all occupants are outside the vehicle, officers should conduct a visual search of the interior of the vehicle for any other occupants that may be hiding, before engaging with the occupants and continuing their investigation. **However, tactics are fluid and officers need to be prepared to transition to a high-risk stop if the circumstances change.**

Remember, these procedures are specific to a stolen vehicle that has no special circumstances to indicate violent crime, threat, resistance, or flight. Nothing in this training bulletin should prevent officers from utilizing well-reasoned discretion in your decision-making skills. As with all things in law enforcement, we must constantly assess the situation, keeping in mind our decisions must be founded on articulable facts based on the totality of the circumstances.

Here are some excerpts from the case that further illustrate the Court's opinion:

"It was clearly established in Washington v. Lambert (9th Cir. 1996), and Green v. City & County of San Francisco, (9th Cir. 2014), that officers can be held liable for conducting a high-risk vehicle stop based on nothing more than a reasonable suspicion that the vehicle was stolen."

"The Fourth Amendment protects persons "from the terrifying and humiliating experience of being pulled from their cars at gunpoint, handcuffed, or made to lie face down on the pavement when insufficient reason for such intrusive police conduct exists." While circumstances may sometimes call for such intrusive tactics during a Terry stop, the police may not employ them "every time they have an 'articulable Basis' for thinking that someone may be a suspect in a crime." Rather, there must be "special circumstances" that make such tactics reasonable. Whether a particular Terry stop warrants the use of intrusive tactics depends on the tactics' objective reasonableness assessed under the totality of the circumstances. "We balance the 'nature and quality of the intrusion' against the 'countervailing governmental interests at stake.'" (quoting Graham v. Connor, 490 U.S. 386, 396 (1989).

Without a doubt, "the degree of intrusion here was severe." To begin with, the officers physically restricted plaintiffs' liberty, which "is an important factor in analyzing the degree of intrusion effected by the stop." The officers removed all three suspects from the vehicle, ordered Chinarian to lie down on the street, and ordered NEC and Manukyan to walk to a location remote from the vehicle. The officers also handcuffed plaintiffs, which "substantially aggravates the intrusiveness of an otherwise routine investigatory detention and is not part of a typical Terry stop." (quoting United States v. Bautista, 684 F.2d 1286, 1289 (9th Cir. 1982). And by drawing their guns and aiming them at or near plaintiffs, the officers "greatly increased the seriousness of the stop." (see Thompson v. Rahr, 885 F.3d 582, 587 (9th Cir. 2018) "Pointing guns at persons who are compliant and present no danger is a constitutional violation." (quoting Baird v. Renbarger, 576 F.3d 340, 346 (7th Cir. 2009)....Although vehicle theft is an "arguably severe" crime, the officers had no

articulable basis to suspect that plaintiffs posed a threat to anyone beyond the generic threat that a suspected vehicle thief poses. Plaintiffs were not “uncooperative or taking action at the scene that raised a reasonable possibility of danger or flight.” Washington, 98 F.3d at 1189

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