



January 2013

Course helps law enforcement, schools partner for safety

In this day and age, gun violence in schools is a harsh reality. Unfortunately, teachers and administrators need to be as prepared for school-shooting emergencies as they are for fires and tornadoes. And the best partner in this preparation is law enforcement.

The Ohio Peace Officer Training Academy (OPOTA) and Ohio Department of Education have collaborated on a new course, Active Shooter Training for Educators. It makes educators and peace officers aware of the common risk factors of potential school shooters and the phases a shooter often experiences leading up to a shooting.

Offerings of the four-hour course, which is open to educators and law enforcement, are set for:

- Jan. 31: Hamilton County ESC, 8 a.m. – noon and 1–5 p.m.
- Feb. 7: Athens Meigs ESC, 8 a.m.–noon and 1–4:30 p.m.
- Feb. 12: ESC of Lake Erie West, Toledo, 8 a.m.–noon and 1–5 p.m.
- Feb. 25: Cuyahoga County ESC, 8 a.m. – noon and 1 – 5 p.m.
- Feb. 27: Capital University, Ruff Learning Center, 8 a.m. – noon

For proper credit, law enforcement should register for the courses at www.OhioAttorneyGeneral/OPOTA, where additional offerings will be listed as they are scheduled. Teachers should register through the Ohio Department of Education website.

Law enforcement officers are encouraged to attend the course with their local teachers and administrators or, at a minimum, relay this information to school personnel.

Many school districts don't have resource officers, so local peace officers should stop by the schools on their beat to get to know the administrators and teachers. It's important to build a relationship with educators so you can work together on preventing a school-shooting crisis. The process starts with officers knowing how to help prepare educators.

Officers should know the typical characteristics or "risk factors" of a potential school shooter:

- Male
- Age 14-20
- Troubled home life, possibly including abuse
- Psychotropic drug use or abuse
- Mental health issues
- Poor academic performance
- On the social fringe, "loners," bullied
- Frequent episodes of anger

Obviously these risk factors aren't absolutes for labeling someone a potential school shooter, but they are indicators of a person who might be prone to commit school gun violence. The student may show more specific indicators, such as displaying violent fantasies through writings, drawings, or reading material and having an unusual fascination with weapons.

Law enforcement should share these risk factors with educators and keep an open line of communication with the schools. In learning from past tragedies, officers have discovered that many teachers saw these risk factors in a shooting suspect and could have conveyed this to police. If they're aware of these risk factors, educators may be more likely to report traits they've witnessed in a student.

Peace officers also should know the five phases that school shooters typically go through leading up to a shooting — the fantasy, planning, preparation, approach, and implementation phases. With this knowledge, law enforcement can make teachers and school administrators aware of possible warning signs.

It also is vital for officers to prepare themselves mentally for what they could encounter if called on to respond to an active school shooting. Prepare yourself to respond quickly in hopes of minimizing the casualties and psychological trauma that can follow such tragic experiences.

Morgan A. Linn
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Important resources

- James Burke, OPOTA law enforcement training officer, can answer questions on preparing for active shooters and school safety measures. E-mail him at James.Burke@OhioAttorneyGeneral.gov.
- For information on OPOTA courses, visit www.OhioAttorneyGeneral.gov/OPOTA or e-mail askOPOTA@OhioAttorneyGeneral.gov.

Big Picture Issue: Consent

This is part of an occasional series of articles on broad law enforcement topics.

Consent is one of the most important exceptions to the search warrant requirement because it requires no level of suspicion. An officer can ask any person for consent to search a home, car, or container over which that the person has authority. In its broadest sense, consent is the voluntary agreement of one person to let another person do something.

But like any legal term, consent is more complicated than it seems. First, what does “voluntary” mean? That depends on the facts and circumstances surrounding the consent, which is lawyer talk for, “Voluntary is whatever the court says it is.”

It might be easier to think of what isn't “voluntary.” For example, any consent obtained by coercion or a claim of authority is invalid. Let's say you pull someone over and tell them, “You can let me search your car, or I'm going to write you a ticket.” That's not voluntary consent

because you are threatening the individual. Or, if you say, “I can arrest you for what you’ve done and then search your car anyway, so why don’t you just agree to let me search it now?” Again, you can’t threaten someone into a voluntary decision.

On the other hand, once consent is voluntarily given, it doesn’t matter whether the person knew they could refuse. Unlike Miranda warnings, you don’t have to tell someone, “I’d like to search your car, but you have the right to say no.”

Consent is also common sense. Don’t expect a court to uphold the consent when the other person didn’t speak English and couldn’t understand what you were asking, or if the other person is a 5-year old. A person must be able to really understand what they are doing when they consent.

Consent also applies when a law enforcement officer approaches a person on the street or at his home, where an officer can ask the person questions without needing reasonable suspicion or probable cause. As long as the person feels free to walk away or not answer your questions, then the encounter is consensual.

With all this in mind, though, there are no black and white answers in the law, so it’s important to think of consent as a continuum. For example, if a person gives officers consent to search his garage, this consent doesn’t extend to the inside of his home. The scope of an agreed-upon search can’t exceed the scope of the consent given.

These are important concepts to think about when reading this month’s cases and when you are out on the job.

Survey, eOPOTA course address sexual assault issues

Because about two-thirds of rapes are committed by someone known to the victim, sexual assault cases can be difficult from the start. A new eOPOTA course, Responding to Sexual Assault, can help law enforcement and prosecutors better understand sexual assault dynamics and how perpetrators take advantage of societal myths and misperceptions.

The course stresses a coordinated response model — from initial report through investigation. It covers investigating whether consent was given, corroborating the victim’s report, identifying potential perpetrators, and pursuing the most effective interview and investigation strategies.

“The role of other first responders is covered as well, so law enforcement officers have a strong understanding that they are not working these cases in isolation,” said Sandy Huntzinger, a victim services coordinator with the Attorney General’s Office. “They are supported by local advocates, health care providers, prosecutors, and other community support agencies in the hopes of providing the best outcome for victims of sexual assault.”

This and other eOPOTA courses offered by the Ohio Peace Officer Training Academy are available at www.OHLEG.org.

In addition, OPOTA will offer a classroom course, Sexual Assault Investigation, at the Richfield campus July 15–17 and the London campus Oct. 29–31. The course covers sex crime investigations, suspect/victim interviews, report writing, crime scene evidence collection, lab

submission protocols, standards and testimony, legal issues, and more. For additional information or to register, visit www.OhioAttorneyGeneral.gov/OPOTACourses.

Survey seeks your views

The Attorney General's Crime Victim Services Section is conducting a survey to better understand the challenges and barriers Ohio communities face in addressing the issue of sexual assault.

Responses will assist the office in identifying where Sexual Assault Response Teams (SART) exist, where resources and response to sexual assault reports are limited, and if assistance is needed to sustain an existing SART. Respondents' specific information will not be shared outside of the Crime Victim Services Section.

Please take [the survey](#).

State v. Gardner, Ohio Supreme Court, Dec. 6, 2012

Question: Can a suspect's outstanding arrest warrant justify a stop-and-frisk if the peace officer didn't know about the warrant at the time of the stop?

Quick answer: No.

Facts: An undercover police officer was patrolling a high-crime area and ran the license plate of a car, finding that the owner, Richard Easter, had an outstanding arrest warrant. The officer surveilled the home to see if Easter was there. A little later, three men left in a car, and the officer believed Easter was the driver. He followed the car into a gas station and approached the vehicle. Easter admitted his identity, so the officer arrested him. The officer also noticed Damaad Gardner moving around in the front passenger seat of the car. The officer ordered Gardner to place his hands on the car's dashboard and then ordered him out of the vehicle. The officer handcuffed Gardner and patted him down, finding crack cocaine. The officer didn't know until later that Gardner had an outstanding warrant.

Why this case is important: The Ohio Supreme Court held that a person with an outstanding arrest warrant doesn't forfeit all expectations of privacy. The trial court denied Gardner's suppression motion based on the fact that Gardner had an outstanding warrant, but an arrest warrant doesn't "cleanse" a seizure or search that otherwise would violate the Fourth Amendment. The ends do not justify the means if there is no other reason for stopping and searching a suspect. Here, the stop-and-frisk was not validated by Gardner's outstanding warrant because the officer didn't know about the warrant at the time of the stop.

The court didn't decide the issue of whether the officer's pat-down of Gardner was based on reasonable, articulable suspicion.

Keep in mind: A suspect's outstanding arrest warrant doesn't act like a "Get Out of Jail Free" card for peace officers who otherwise are violating the Fourth Amendment. If you stop someone and want to pat him down, the stop-and-frisk should be based on reasonable, articulable suspicion of criminal activity. However, if you know the suspect has an outstanding warrant *before* you stop him, this will be enough to justify the stop-and-frisk under the Constitution.

Visit the [Ohio Supreme Court](#) website to view the entire opinion.

***U.S. v. Collins*, Eighth Circuit Court of Appeals (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota), Nov. 14, 2012**

Question: Is a person's consent to search coerced, and therefore invalid, when peace officers warn the person of the legal consequences of refusing to cooperate?

Quick answer: No.

Facts: Law enforcement obtained an arrest warrant for Travis Collins based on a parole violation. Two officers received a tip that Collins was staying at a house in Des Moines, so the officers drove to the home to execute the warrant. After confirming with the home's landlord that Collins had been there recently, the officers knocked on the front door multiple times over the course of several minutes. Finally the tenant of the home, Krista Stoekel, came to the door. She denied knowing Collins and denied the officers permission to look for him inside. One officer explained that he had reason to believe Collins was there and wanted to search inside. Stoekel again denied the officer's request and denied knowing Collins several times, assuring the officers that she was alone in the home. But the same officer told Stoekel that Collins was wanted for a parole violation and that he didn't want her "to get into trouble." Stoekel became emotional, so the officer accused her of lying to him. She finally admitted to knowing Collins and told the officers, "He may have come home last night" while pointing upstairs. The officers asked for permission to go upstairs, and Stoekel replied, "Fine." They found Collins in a bedroom, arrested him, and saw a gun lying next to him in an open bag. Collins moved to suppress the gun, arguing that the officers' entry into the home was based on invalid, coerced consent.

Why this case is important: The court found that the consent given was valid. Law enforcement has limited authority to enter a person's home when they have an arrest warrant for that person. But when the person is located inside a third party's home, the only ways officers may enter to make the arrest is with a search warrant, exigent circumstances, or consent. Here, Collins was inside Stoekel's residence, so the officers needed Stoekel's consent before entering. Although she denied the officers permission at first, her eventual consent was valid. Consent must be voluntary, and voluntariness is determined from the totality of the circumstances. Here, Stoekel was old enough to rent the home, and the fact that she initially denied the officers' requests showed she was aware of her legal right to refuse consent. The fact that one officer told Stoekel she may get into trouble for not cooperating does not equal coercion. Nor was her reluctant "fine" mere acquiescence to a false claim of police authority. The officers were trying to execute a valid arrest warrant, and the officer's warning to Stoekel was an accurate statement that she could get charged with a crime. Stoekel may have been induced to cooperate, but induced cooperation does not equal unreasonable coercion.

Keep in mind: There is no harm in telling a person what the legal consequences are when trying to obtain that person's consent. Be careful in your demeanor and how you deliver that message, though, because determining the voluntariness of consent is based on the totality of the circumstances in getting a person's consent.

Visit the [Eighth Circuit Court of Appeals](#) website to view the entire opinion.

***U.S. v. Coleman*, Eighth Circuit Court of Appeals (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota), Nov. 8, 2012**

Question: Can a peace officer search every part of a motor home when the home's owner tells the officer that drugs are located only in the front part of the home?

Quick answer: Yes, under the automobile exception. Officers also may conduct a limited "protective sweep."

Facts: A state trooper watched a motor home vehicle swerve over the highway's white fog line onto the shoulder two times. The trooper stopped the motor home and asked the driver, Thomas Coleman, to sit in the patrol car while the trooper issued a warning citation and checked Coleman's criminal history. Coleman denied having any criminal record, but the trooper learned from dispatch that Coleman had an extensive criminal history, including drug, gun, and robbery offenses. The trooper again asked Coleman about his prior record, but he denied having one. The trooper then asked him about any drug use, and Coleman admitted to keeping medicinal marijuana in the front of his motor home. The trooper placed Coleman in the back of the patrol car and performed a protective sweep of the entire motor home. During the sweep, the trooper noticed a large weapons-type bag. He opened the bag to find a high-point rifle and ammunition. The trooper confirmed with dispatch that Coleman was a convicted felon, and then he found Coleman's marijuana in the front of the motor home. Coleman was charged with being a felon in possession of a firearm, and he moved to suppress the evidence found from the stop and search.

Why this case is important: The court denied Coleman's motion to suppress under the automobile exception. In *California v. Carney*, the U.S. Supreme Court held that because a motor home is mobile, like any other vehicle, it has a lessened expectation of privacy and is subject to the automobile exception. So when Coleman admitted to having marijuana in his motor home, the trooper had probable cause to search every part of the home where marijuana may have been kept, including the bag found underneath the motor home's bed. The trooper's search of the bag also was justified because, even without probable cause, officers may conduct a protective sweep of an area to ensure officer safety, which includes looking under a bed. The trooper noticed the bag in plain view and recognized it as a gun case. So the trooper had probable cause to look inside the bag because he believed contraband may be found inside, and he also believed Coleman was a convicted felon.

Keep in mind: Motor homes, campers, and other mobilized living quarters are unique because they allow law enforcement to justify a warrantless search in a few different ways. First, you may search a motor home under the automobile exception. Even though these homes are basically like a house, they are still considered a vehicle under the Fourth Amendment because they are commonly found on roads and highways. One thing to remember, though: If you are looking for something like a rifle or shotgun, for example, you don't have the right to search through a purse or any small containers you find inside the motor home.

Second, because officers aren't able to visibly see inside the passenger compartment of a motor home, they also may perform a protective sweep of the home for officer safety. And during that search, any contraband in plain view is fair game.

Visit the [Eighth Circuit Court of Appeals](#) website to view the entire opinion.

***State v. Ortega*, Third District Court of Appeals (Allen, Auglaize, Crawford, Defiance, Hancock, Harding, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert, Wyandot), Dec. 17, 2012**

Question: Have a suspect's rights been violated when the suspect only hears an officer issue *Miranda* warnings to other people in the next room?

Quick answer: No, as long as an officer personally confirms that the suspect heard and understood those rights.

Facts: A confidential informant contacted a member of the local drug task force and set up a controlled buy from a known drug dealer. Based on the CI's information and the officers' observations, the task force officers obtained a search warrant. When executing the warrant, officers placed all of the home's occupants in the living room, including the home's owner, Ramon Ortega III. Ortega was handcuffed and lying on the floor. One detective took Ortega into the kitchen, which was right next to the living room area. The detective handed Ortega the warrant, letting him read through it.

Another detective stayed with the other occupants in the living room and told them that he was going to advise them of their *Miranda* rights. The detective who was with Ortega stopped reviewing the search warrant and told Ortega to listen to the warnings. After the *Miranda* warnings were given, the detective asked Ortega if he understood those rights and explained that he didn't have to speak with police. Ortega said he understood and wanted to speak with police. He asked what they were looking for, and the detective told him they were searching for drugs and guns. Ortega told the detective that a firearm was located in a dresser drawer in a bedroom upstairs. Ortega later filed a motion to suppress his confession, alleging that he was improperly Mirandized and that he involuntarily waived his rights.

Why this case is important: The court determined that Ortega received a proper *Miranda* warning and that he voluntarily waived his rights. Peace officers may Mirandize a group of people at the same time, and a suspect's rights aren't violated by having him listen to the warnings being given in the next room. As long as it's confirmed that the suspect understands those rights, there's no Fifth Amendment violation. Here, the officer reading the *Miranda* warning was speaking in a clear, loud voice, and Ortega's kitchen was right next to his living room. The detective with Ortega personally asked him if he understood his rights, and Ortega acknowledged that he did.

Ortega also voluntarily waived his rights. He was a middle-aged man who had previous run-ins with law enforcement. The detective also didn't believe that Ortega didn't understand the *Miranda* warnings; plus, he reiterated Ortega's right to remain silent before Ortega admitted to having a gun in the house. Under the totality of the circumstances, Ortega received valid *Miranda* warnings and intelligently, knowingly, and voluntarily waived his rights.

Keep in mind: You don't have to individually Mirandize each person present while arresting a group of suspects, but it's good practice to personally confirm that each suspect clearly heard and understood those rights. As long as a suspect is within earshot of the warnings being given and he acknowledges that he understands his rights, any incriminating statements he makes shouldn't be suppressed for the failure to properly Mirandize.

Visit the [Third District Court of Appeals](#) website to view the entire opinion.

***State v. Newsome*, Eleventh District Court of Appeals (Ashtabula, Geauga, Lake, Portage, and Trumbull), Dec. 10, 2012**

Question: Can a peace officer request that a driver perform field sobriety tests based solely on the driver's admission to consuming alcohol?

Quick answer: No, not without other indicia of drunk driving.

Facts: A city police officer drove up to a recent accident about 7 p.m. The officer saw a motorcycle on its side, an injured person in the middle of the road, and Richard Newsome standing next to his pickup truck. The officer called for assistance and then spoke with Newsome to see if he was involved in the accident. Newsome explained that he had attempted to turn into his driveway when the motorcyclist tried to drive around him on the right, between Newsome's truck and the curb. So as Newsome turned into his driveway, he hit the motorcyclist. The officer asked Newsome if he had been drinking, and Newsome admitted to having one beer an hour before the accident occurred. The officer didn't believe Newsome showed any signs of intoxication.

Another officer arrived at the scene. The second officer spoke to a witness, who explained it was Newsome who tried to pass the motorcycle and turn into a driveway, causing the accident. That officer also didn't believe that Newsome appeared intoxicated, but because Newsome admitted to drinking, the officer had him perform three field sobriety tests. Based on those results, the officer concluded that Newsome was "borderline" and asked him to take a breath test. Newsome voluntarily took the test and registered at a 0.14 BAC, so the officers cited him for an OVI. He later was charged with vehicular assault. Newsome filed a motion to suppress the field sobriety tests and the breath test results based on a lack of reasonable suspicion and probable cause that he was driving while intoxicated.

Why this case is important: The court suppressed Newsome's field sobriety tests and breath test because no suspicion of intoxication existed. A peace officer may have a suspect perform field sobriety tests if the officer has reasonable suspicion to believe that the suspect has been driving under the influence of alcohol. There are certain factors to consider when determining if reasonable suspicion exists to conduct these tests, which include:

- Time and day of the stop
- Location of the stop
- Any indicia of erratic driving before the stop, indicating a lack of coordination
- Whether there is a cognizable report that the driver may be intoxicated
- Condition of the suspect's eyes
- Impairments of the suspect's ability to speak
- Odor of alcohol coming from the person's breath or interior of the car
- Intensity of the odor, described by the officer
- Suspect's demeanor
- Any actions by the suspect after the stop indicating a lack of coordination

- Suspect's admission of alcohol consumption, the number of drinks had, and the amount of time in which they were consumed, if given.

All of these factors, taken together with the officer's previous experience in dealing with drunk drivers, may help determine if the officer acted reasonably.

Here, the only fact that the officers used in support of administering the field sobriety tests was that Newsome admitted to having a drink. Although this may be a factor to support an officer's reasonable suspicion of intoxicated driving, a driver's admission to drinking is not enough on its own. Other factors may have been present (the accident may have shown erratic driving, for example), but the officers only cited to the admission as the reason for having Newsome perform the sobriety tests.

Keep in mind: As the court said in *Newsome*, it is not illegal to drive a car after consuming alcohol; it's illegal to drive a car while under the influence of alcohol. Therefore, a driver's admission to drinking, alone, isn't enough to request that the driver perform field sobriety tests. You should always try to cite as many of the above factors as possible to justify requiring the driver to perform the tests: erratic driving, slurred speech, glassy eyes, excessive nervousness, odor of alcohol, lack of coordination, etc.

Visit the [Eleventh District Court of Appeals](#) website to view the entire opinion.

***Cleveland v. Lynch*, Eighth District Court of Appeals (Cuyahoga), Dec. 6, 2012**

Question: If peace officers make a warrantless entry into a suspect's home for a traffic offense even though they didn't see the offense and don't have a reasonable belief that the suspect is injured, have they violated the Fourth Amendment?

Quick answer: Yes.

Facts: Police were dispatched to a Cleveland neighborhood because a neighbor heard a loud boom about 12:40 a.m. and then saw Kelly Lynch's car smashed into a tree. The neighbor reported a large amount of damage to the front of the vehicle. He also told police he spoke to Lynch, who indicated that she didn't need any assistance, got back into her car, and drove away. Officers used the neighbor's description of the vehicle and later found a brown Toyota with front-end damage and deployed air bags in the driveway of a nearby home. The back door of the home was open, but the screen door was closed. The officers could see Lynch in the kitchen, and they heard her say, "Oh, boy. I'm okay. I'm inside my house." One officer stepped inside the home without first getting Lynch's permission. The officers asked her if she was okay and then asked her to step out of the house. Once outside, they asked Lynch about her car, but she denied being involved in any kind of accident. Officers smelled alcohol on Lynch's breath. Lynch was arrested on suspicion of OVI, leaving the scene of an accident, and failure to control. She filed a motion to suppress based on a warrantless search and seizure.

Why this case is important: The court suppressed the evidence because the officers entered Lynch's home without a warrant or consent. Warrantless entry into a home should be severely restricted when only a minor offense has been committed. And a search without a warrant is not

justified unless an exception applies. Here, neither the “hot pursuit” exception nor the exigent circumstances exception justifies the officers’ entry into Lynch’s home. For the “hot pursuit” doctrine to apply, a peace officer must witness a suspect commit an offense in a public place and then flee into a private place. But the officers didn’t witness the collision; they only learned of it from a neighbor.

And the exigent circumstances exception doesn’t apply, either, because warrantless entry under this exception is allowed only when law enforcement has compelling reasons or exceptional circumstances. Here, the officers believed they had found the suspect who had the accident, Lynch, and saw her inside her home, appearing to be fine. The neighbor who reported the accident also said that Lynch told him she felt fine. There was no emergency of “life or limb” that would have permitted the officers to enter Lynch’s home without a warrant.

Keep in mind: Both the “hot pursuit” and exigent circumstances exceptions can still apply to misdemeanor offenses; it all depends on the totality of the circumstances. But you must actually witness the fleeing suspect commit the offense, or there must be a serious emergency that would justify not obtaining a warrant.

Visit the [Eighth District Court of Appeals](#) website to view the entire opinion.

***State v. Thomas*, Third District Court of Appeals (Allen, Auglaize, Crawford, Defiance, Hancock, Harding, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert, Wyandot), Dec. 3, 2012**

Question: Can peace officers use information from several years ago to obtain a search warrant?

Quick answer: Yes, as long as the officers show in the warrant affidavit that the information is part of an ongoing criminal investigation.

Facts: Officers with a crime task force received information that Gary Thomas was selling crack cocaine. The officers were able to arrange for a confidential informant to buy crack cocaine from Thomas several different times. From the large amounts of crack that Thomas was selling, the task force labeled him a large-scale drug dealer and began to conduct surveillance on him. Another CI told the task force about an upcoming drug shipment for Thomas, so the officers obtained several search warrants. One warrant was for a storage unit that some of the officers witnessed Thomas use. They uncovered more than 700 grams of cocaine, about \$21,000 in cash, a 9mm handgun, and some paperwork belonging to Thomas. More search warrants followed this drug bust, and more drugs, money, and weapons were found at various locations used by Thomas. He filed a motion to suppress the evidence because he alleged the information officers used to get the first search warrant was stale, so no probable cause existed to search the storage unit.

Why this case is important: The court denied the motion to suppress because, although some of the information the task force relied on was from years before, the information was part of an ongoing investigation of Thomas. A court will find that evidence collected over time for the same investigation doesn’t mean the older information has gone “stale.” Plus, in this case, the task

force had recent observations of Thomas using the storage unit, and two CIs gave a recent report on Thomas's drug activity.

Keep in mind: If you've got a continuing investigation on a suspect, the older information you've collected won't be considered stale so long as you can show that your investigation has been ongoing. So make sure you also have recent evidence documented in your warrant affidavit.

Visit the [Third District Court of Appeals](#) website to view the entire opinion.

***State v. Jackson*, Fifth District Court of Appeals (Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, Tuscarawas), Nov. 29, 2012**

Question: Can peace officers search a parolee's home without a warrant?

Quick answer: Yes, but only if a parole officer has requested peace officer assistance and reasonable grounds exist to conduct the search.

Facts: Gregory Jackson was placed on parole in 2010 and assigned a parole officer. Law enforcement had recently received a 911 call that a man named Greg, nicknamed "Dirty," had robbed him at gunpoint. The caller also told the operator that Greg had recently been paroled from prison and he described the suspect's car, a red Chevy Suburban. The next day, another person called 911 to say that he had just witnessed a man get out of a maroon Chevy Suburban and brandish a handgun, and he knew the man was nicknamed "Dirty." The caller also gave the license plate number of the Suburban. Both of these tips led to Jackson, so law enforcement contacted Jackson's parole officer. Police and Jackson's parole officer met at Jackson's address. They saw the Chevy Suburban but weren't sure exactly which house Jackson lived in. They called Jackson and spoke with him and his girlfriend three different times. Jackson eventually tried to flee from the home but was caught by another officer located in the area. Police then searched Jackson's entire house, finding drugs and a gun. Jackson filed a motion to suppress the evidence based on a lack of probable cause for the police to search.

Why this case is important: The court held that law enforcement's warrantless search of Jackson's home was constitutionally valid. Jackson is a parolee, and the U.S. Supreme Court held in *Wisconsin v. Griffin* that parolees and probationers have a lessened expectation of privacy than a typical person would have. Therefore, probable cause isn't needed to search a parolee's home; a parole officer only needs "reasonable grounds" to search, which is the equivalent to reasonable suspicion. Here, reasonable suspicion existed that Jackson had committed a crime and, at a minimum, wasn't following the terms of his parole. Two 911 calls linked Jackson to an armed robbery and having a handgun in his possession. Law enforcement corroborated the facts that the Chevy Suburban seen by both 911 callers was Jackson's car and that Jackson's alias was "Dirty," so this was enough suspicion for Jackson's parole officer to justify searching his home without a warrant. Jackson complained that only his parole officer had the right to search the home, not the police, but there is no Fourth Amendment violation when a parole officer requests assistance from law enforcement during a search.

Keep in mind: You don't need probable cause to conduct a warrantless search of a parolee's or probationer's home, only reasonable suspicion. However, this lower level of suspicion applies to a search by a *parole officer*, not peace officers, but peace officers may assist in a search at the parole officer's request.

Visit the [Fifth District Court of Appeals](#) website to view the entire opinion.