




Ohio Attorney General's Law Enforcement Bulletin



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Stress Management isn't a Luxury in Law Enforcement; It's Vital

The career of police officer was named the 10th most stressful job in the United States for 2013 by CareerCast, a career and job opportunity website that provides annual rankings.

“(An) officer’s beat can be one of the most dangerous in the working world,” CareerCast acknowledges. “Breaking down doors not knowing what’s on the other side definitely raises blood-pressure levels. And loss of life on the job is a real, ongoing concern. Police officers are tasked with a community’s safety, but they must also uphold the standards to which the profession is held, which can also be a challenge.”

The National Institute of Justice has identified several factors that cause stress for law enforcement, including work-related factors such as frequent rotating shifts and regular duty changes as well as personal issues such as family, financial, or health problems.

The Ohio Peace Officer Training Commission (OPOTC), recognizing the need for stress management training, is creating content for four hours of basic training on the topic to be taught beginning in July.

“We are putting serious and hard-hitting issues into this class and want to show the recruits what stress can do physically and mentally over a career in law enforcement,” said Aaron Cory, a law enforcement training officer at OPOTA who has written content for the curriculum addition. The training will focus on the causes of cumulative and traumatic stress, the body’s physical response, and stress management. OPOTA also offers classes on stress management in its advanced training curriculum.

Cory said two effective ways to deal with stress are to talk about it and to exercise — vital contributors to good mental and physical health. “The most important thing an officer can do is talk about it,” he said. “Once they do, they will see many officers are affected.”

Also, consider that your family’s concern for your job can be a stressor. Erica Dreadfulwater, a writer for *Police Magazine* and the wife of a police officer, explained what helped lower stress in her home: “Before I met my husband, I had never been around guns. Suddenly, I’m living with a badge-carrying, vest-wearing gun lover. I was able to find a stress-relieving hobby by letting him teach me to shoot, buy me guns, take me to the range on date nights before dinner, and teach me useless gun facts. It allowed him to open up to me about things at work — I now understood that part of his life.”

Another helpful tip is to control stressors through your conduct. When you are on calls, remember that your tone, actions, and words can make a situation more stressful between suspects, citizens, and yourself. For example, if you yell to a suspect, “Hey you! Come here!” they may hear, “Go away — quickly!” That’s a point made by Dr. George J. Thompson, founder of the Verbal Judo Institute.

Based on your word choice and tone, you may have created a more stressful situation by making the suspect nervous.

Communicating with civilians can also lead to stress, especially when they see your badge and expect you to be completely up to speed on all community and government resources. If you aren't, the citizen may become rude or disrespectful.

To address this problem, Chief Scott Reinbolt of the Blanchester (Ohio) Police Department suggests agencies create a resource directory for each patrol vehicle. The directory should contain local contacts for social service, government, and other agencies frequently requested by citizens. "It is important to point people in the right direction," Reinbolt said, noting the tie-in with the service aspect of police work.

Law enforcement is one of the most important professions to the structure and well-being of society. With great responsibility sometimes comes great pressure. If you find the stress of your job is too much, contact your supervisor for help and resources.

Here are some additional resources:

- [Ohio Peace Officer Training Academy trainings](#)
- [CareerCast](#) website on most stressful jobs in 2013
- [National Institute of Justice](#) article on stress and officer safety
- [Police Magazine](#) article, "How Spouses can Deal with Police Stress," by Erica Dreadfulwater
- [Police Link](#) article, "7 Things a Cop Should Never Say to Anyone," by Dr. George Thompson

Jennifer Anne Adair
Deputy General Counsel for Law Enforcement Initiatives

Proper Protocol (Photo Arrays): *State of Ohio v. Hudson*

Question: Is a photo array unduly suggestive if all of those pictured do not look similar to the suspect?

Quick Answer: No. Photo arrays are not required to contain photos of people who look identical to the suspect, but should be based on the description given by the witness.

[State of Ohio v. Hudson](#), Seventh Appellate District, Mahoning County, Dec. 9, 2013

Facts: "M," a 14-year-old girl, was kidnapped while walking to school at knife point. She was taken to an abandoned house and raped by an individual described as an older black man between 40 and 50, possibly with facial hair, who had a distinctive walk. The investigating officer compiled a photographic array using images from the Bureau of Motor Vehicles. The investigators believed that M had difficulty accurately gauging the age of older men and so included older and younger men. The investigator included Charles Hudson's image because of M's description of a distinctive walk, and M identified Hudson as the man who kidnapped and sexually assaulted her. After identifying Hudson in the photo array, M began to cry, but was able to confirm when asked that she was sure he was her assailant. Hudson filed a motion to suppress, arguing the results of the photo array were unduly suggestive because the investigator included individuals outside of M's description and that he was the only individual who appeared close to 60 and had gray hair.

Importance: While the Constitution prohibits lineups that are unduly suggestive, it does not require that *all* of the subjects be nearly identical to the suspect. In this case, age was just one factor given by M. The court also found that this lineup was not suggestive because the reasons why Hudson's photo was selected (distinctive walk, prior criminal history, and local suspect) were not evident to M when she looked at the photo array.

Keep in Mind: If a lineup is unduly suggestive, the identification may still be reliable. Many factors will be considered to determine reliability, including the personal observations of the witness, the accuracy and consistency of the description of the suspect, the certainty of the witness with the identification, and the length of time between the crime and identification.

Electronic Surveillance (GPS and the Exclusionary Rule): *State of Ohio v. Sullivan*

Question: If you have obtained the location of a suspect through GPS and a cell phone, does the cell phone evidence get suppressed if it is determined the GPS evidence was improperly obtained?

Quick Answer: No. If the cell phone data was properly obtained under a warrant and supported by independent evidence, it will not be suppressed.

[*State of Ohio v. Sullivan*](#), Fifth Appellate District, Fairfield County, Nov. 22, 2013

Facts: Following a series of home invasions, the Franklin County Sheriff's Office connected a white Honda Civic belonging to Montie Sullivan to the robberies. Over a three-day period, surveillance was conducted at the address where the car was registered and the parking lot of the apartment complex. However, because of resource shortages, constant surveillance remained difficult. As a result, Corp. Miner and an undercover officer installed a small GPS unit under the vehicle's bumper. Miner monitored the GPS data showing the movements of the white Honda Civic approximately three to four times a day for approximately 10 minutes at a time. On one occasion, Miner noticed the car moving suspiciously. Two hours later, the vehicle again drove slowly through neighborhoods and circled an area in Fairfield County. Miner contacted the Fairfield County dispatcher, identified himself, and explained the situation. He learned a home invasion had occurred in the area. A search warrant was issued for Sullivan's residence and the vehicle. Upon execution of the warrant, officers found property from a recent robbery as well as previous robberies.

During the investigation, Miner also obtained a search warrant for Sullivan's cell phone. Miner located Sullivan at Motel 6 through cell phone tracking. After checking the hotel registry, law enforcement confirmed Sullivan was registered at the hotel. Sullivan was found at the hotel and taken into custody. Sullivan filed a motion to suppress the GPS device data and all evidence collected as a result, including the cell phone records.

Importance: The U.S. Supreme Court has held that installation of a GPS on a vehicle requires a warrant. When a warrant is not obtained, evidence will be suppressed. However, not all evidence may be excluded in situations where a GPS was improperly used, only evidence that is directly related to the GPS. For example, the cell phone location obtained from cell phone towers through a warrant would not be excluded even though the GPS supplied the same location, because it was based on independent information.

Keep in Mind: In this case, the bad guy was captured and held accountable only because the officers used a variety of methods to investigate and track him. Many GPS cases, at or about the time the law changed, are facing exclusion of evidence because law enforcement did not know warrants were necessary. Many courts, however, are combatting this by using good-faith exceptions to the exclusionary rule. Staying up to date on legal trends and changes in law may help you to anticipate protocol changes for your police work.

Search of Property (Warrant Particularity Requirement): *State of Ohio v. Baro*

Question: If you want to search multiple open booths in a flea market, how many warrants do you need?

Quick Answer: One warrant is needed if all of the booths are contained in a single-use, single-story building.

[*State of Ohio v. Baro*](#), Tenth Appellate District, Franklin County, Nov. 21, 2013

Facts: The Franklin County Sheriff's Office was informed that counterfeit merchandise was being sold at a flea market. Detective Joe Schuler conducted a plain-clothes canvass of flea market for the counterfeit merchandise with an expert, who noted counterfeit merchandise was being sold at all but two of the booths in operation on the day of the canvass. Schuler applied for and executed a single warrant for the flea market. At the time of the search, Siradjou Baro was in control of four booths at the flea market. Investigators seized items including merchandise offered for sale and merchandise tags containing company trademarks. Baro filed a motion to suppress the evidence of counterfeit merchandise because the warrant did not particularly describe the place to be searched.

Importance: The Fourth Amendment requires a search warrant to state with particularity the places and items authorized to be searched. Baro argued that because each booth was owned by a separate person, separate warrants should have been issued. The court determined that because the flea market was a single-use structure containing open displays and booths, one warrant was sufficient.

Keep in Mind: The rule of particularity was not violated in this case because of the type of building in which the flea market was housed. If the building had multiple floors with multiple uses, the warrant would need to state with particularity the purpose and location of the search.

More on Property Searches

What other evidence could you possibly need? You receive a confidential tip from a reliable informant that crack is being sold out of a duplex. After checking the police department hotline to see if any complaints have been received on this address, you find one open complaint and decide to conduct surveillance. People come and go at the location, consistent with drug activity. Using the informant, you also conduct two successful controlled buys. These two buys were made at the other address associated with the duplex, and not the address where you watched the previous activity. With this evidence, you request a search warrant on both sides of the duplex, on one side finding a hand gun, digital scale with residue, and measuring cup with residue and on the other side finding numerous bags of crack and a digital scale. Did you have probable cause to obtain the warrant? The court in *Curry* says absolutely, finding the warrant was based on more than the informant's word, but

independent observation and investigation by the detectives. [State of Ohio v. Curry](#), Second Appellate District, Montgomery County, Dec. 13, 2013

Nosey Neighbors. After notification of possible drug activity in a neighborhood, you interview one of the witnesses. That individual is a neighbor who has watched the activity for a month and a half. She has documented when people come and go and has descriptions of the individuals and the types of vehicles driven. One is a maroon GMC pickup truck with a male driver and female passenger who go into the house and return to the car minutes later. Later, on patrol, you see a maroon GMC pickup truck with a male driver and female passenger. You follow the car and initiate a traffic stop for a marked lane violation. After obtaining verbal consent to search the vehicle, you find cocaine. Based on this traffic stop and the information provided by the neighbor, you request a search warrant for the possible drug house. Do you get the affidavit? The court in *Garza* says yes. Based on the personal observations of the witnesses, even though presented as hearsay from an unnamed source, coupled with the search of the vehicle matching the description of the informant, justified an assumption that illegal activity was probable on the property. [State of Ohio v. Garza](#), Third Appellate District, Henry County, Dec. 16, 2013.

Ben Franklins for everyone! Through information from a cooperating source, you learn that counterfeit \$100 bills are being passed around the local high school. The source tells you that the owner of the local ice cream shop, where the source is employed, is responsible for the counterfeiting. He also tells you the suspect always has large amount of marijuana at his residence and regularly has local high school students over to smoke and engage in sexual activity with him. The source also reveals the residence has security monitoring and tells you the location of the cameras. Based on this information, can you obtain a search warrant? The court in *Rapp* says yes. It found the information was from a reliable source and established a substantial basis to conclude the existence of marijuana, counterfeit money, and other items to indicate criminal activity. Although the source was unnamed, the detective vouched for his credibility and all information came from personal observations. [State of Ohio v. Rapp](#), Seventh Appellate District, Mahoning County, Dec. 6, 2013

Search and Seizure of People (*Terry Stops* and Nervous Suspects): *State of Ohio v. Hawkins*

Question: Is a high crime area and a nervous suspect enough to make a *Terry* stop?

Quick Answer: No. These two factors alone do not constitute the reasonable, articulable suspicion of criminal activity necessary to make an investigatory detention of a suspect.

[State of Ohio v. Hawkins](#), Second Appellate District, Montgomery County, Dec. 13, 2013

Facts: Officers were on foot patrol in an area experiencing high drug activity. The officers saw two men, one of whom was Christopher Hawkins, walking toward them. The two men left the sidewalk and cut across the grass toward the entrance to an apartment building. The officers, from the opposite direction, did the same, though they had not seen anything in particular to make them suspicious of the men. The paths of the two groups met on the front stoop. One officer told the men to stop and asked them for identification. Hawkins was shaking and appeared quite nervous, and it seemed to the officer that he wanted to go into the building. The officer asked Hawkins for permission to pat him down for weapons. When the officer put his hand on Hawkins's right front pants pocket, he felt a round, solid object. The nature of the object was not immediately apparent to the officer, so he asked Hawkins what it was. Hawkins responded by asking him to stop the pat-

down. The officer again asked what it was, and Hawkins replied, “a pipe.” During the pat-down, the officer smelled raw marijuana coming from Hawkins and asked Hawkins if he had any marijuana. Hawkins said he did. The officer then searched Hawkins and found marijuana in his jacket pocket. Hawkins moved to suppress the pipe and marijuana because the officers had no probable cause for the detention.

Importance: The central question in this case is whether the encounter was a *Terry* stop. An officer may temporarily detain someone in order to investigate whether criminal activity is occurring, but there must be some reasonable, articulable suspicion to do so. In this case, neither officer had an articulable suspicion of criminal activity. The officer’s reasoning that they were in a high crime area and the suspect was nervous was not enough to support the investigatory stop. As a result, the evidence was suppressed.

Keep in Mind: The nervousness of a suspect is an important factor in police investigations. But being nervous around cops is not a crime. More often than not, nervousness is innocent human behavior.

More on Searches and Seizures of People

Consensual encounters: You are part of an ongoing burglary investigation. While on patrol you see a man walking in the alley and decide to talk to him. You approach and ask the man some basic questions and ask for his ID. He gives you the ID, you hold on to it for about 30 seconds to write down his information, and give it back. You ask him if he has a weapon and he responds that he does. You confiscate the gun and arrest him. Was your search constitutional? The court in *McDowell* says yes, finding this was a consensual encounter and the Fourth Amendment was not implicated. This was because the officer parked his cruiser away from the suspect and never activated his lights or showed his weapon. Also, when the officer asked for the suspect’s ID and asked him questions, particularly about the weapon, the suspect volunteered the information. Mere police questioning or a request for an ID does not automatically constitute a seizure, especially when the suspect can refuse to comply. [*State of Ohio v. McDowell*](#), Tenth Appellate District, Franklin County, Dec. 3, 2013

Is everything OK? While on the way to a downed tree, you spot two men sitting on a guard rail under an overpass. Concerned, you stop and ask if they are OK. You do not activate your lights or get out of the cruiser, but do pull up close to them. Your question is met with hostility, and you exit your car to talk with them further. One thing leads to another, and both men end up arrested. When you pulled your cruiser over, what type of stop have you made, *Terry* or caretaking? The court in *Starcher* says caretaking. It found that under a totality of the circumstances and based on the first question asked by the officer, “Is everything OK,” the officer was attempting to ensure no one was hurt. This community caretaking role of police is considered a consensual encounter, and no reasonable articulable suspicion of criminal activity is necessary to make the stop. Whether this consensual encounter turned into an investigatory stop is an open question, as the appellate court sent the case back for the trial court to reconsider. [*State of Ohio v. Starcher*](#), Seventh Appellate District, Jefferson County, Dec. 9, 2013

Traffic Stops (Stops outside Jurisdictional Limit): *State of Ohio v. Brown*

Question: Is there a penalty for pulling someone over for a misdemeanor traffic violation outside of your jurisdiction?

Quick Answer: Technically yes, however, for evidence to be excluded, the stop must be in violation of the individual's constitutional rights.

[State of Ohio v. Brown](#), Sixth Appellate District, Wood County, Dec. 6, 2013

Facts: A patrol officer and K-9 handler for a township police department was watching the southbound traffic on I-280 while parked in a marked patrol car in the median. She pulled out into the southbound passing lane to observe another vehicle. When approximately two car lengths behind Terrence Brown's vehicle, she observed both of his right tires cross over the white line for about 100 feet along a curve near the exit ramp, but the car did not leave the paved highway. The officer continued to follow Brown because the area was not conducive to a stop. As she pulled up alongside appellant, she observed him staring straight ahead. He did not turn to look at her. She initiated a stop just north of the intersection with the Ohio Turnpike, approximately 2.5 miles from where she had been parked and outside her jurisdiction. During the stop, Brown admitted to having drugs in the car and was arrested.

Importance: The township officer violated [R.C. 4513.39](#) by making an extraterritorial stop on an interstate highway for a marked lane violation, which is specified in R.C. 4513.39(A) as being within the exclusive jurisdiction of the state highway patrol, sheriffs, and sheriff's deputies. A stop outside of your jurisdiction may be OK if you can show extenuating circumstances were present to justify the stop. In this case, the court found the officer did not show extenuating circumstances.

Keep in Mind: There is no penalty outlined in the statute for a violation of R.C. 4513.39. and an extraterritorial stop does not automatically require exclusion of evidence obtained as a result of the stop. To exclude evidence, the stop must also rise to the level of a constitutional violation.

More on Traffic Stops

Electronic traffic tickets: The Ohio Supreme Court has made an amendment to Traffic Rule 3(F), allowing law enforcement to use electronic traffic tickets. The amendment also clarifies that a defendant's signature is not required on an electronically produced ticket. This change was effective Jan. 1, 2014. The amendment does not change the rights, responsibilities, and liabilities that apply to an officer who signs a ticket, whether paper or electronic. Electronic tickets must also conform to all other substantive rules about tickets and ticketing procedure. An officer must still provide the defendant with a copy of the ticket. To learn more and access the Traffic Rules, read the following story from the Ohio Supreme Court: [Supreme Court Adopts Amendments to Traffic Rules \(Dec. 20, 2013\)](#)

Prolonged stop due to polite driver: You pull over a driver going 10 mph over the limit and ask for the driver's license, registration, and insurance, which he gives you. During the stop, you get a suspicious feeling because the driver is being too polite and breathing heavy at times. As a result, you call for the canine. You go back your car, run his information, and begin to write a warning ticket. The canine arrives on scene and you ask the driver to get out and sit in the cruiser while the canine sniffs. The canine alerts on the car and after a search, marijuana and a gun are found. The stop took 12 minutes. Has this stop been unreasonably prolonged to conduct the canine sniff? The court in *Fountain* says yes. It found that the reason for the canine was unrelated to the stop and instead of giving the driver the written warning, the canine was called in. The officer did not smell marijuana or have any indication that were drugs in the car. The court also noted that a suspect being overly polite and breathing heavy did not give an officer a reasonable suspicion of criminal activity. **[State of Ohio v. Fontaine](#)**, Eighth Appellate District, Cuyahoga County, Nov. 27, 2013

Not quick enough. I saw the drugs: You respond to a call about a man and woman fighting outside of a silver car at a local playground. On arrival, the two are in the car, and you can hear them fighting a distance away. As you approach, the woman gets out of the car to bend the passenger seat back to access something in the back seat. You ask her to talk to you and note she has glazed eyes, is slow in her mannerisms, and has scabs on her face. The driver begins to cuss and move about the car. His eyes also look glazed. You call for backup and approach the car to ask the driver for his ID. The driver begins looking around the car and pulls open a tray on the dashboard, revealing a plastic bag, then quickly closes it. You ask him to reopen the tray because you saw the bag. He reopens the tray and you confirm a bag of white powder. You ask to search the car, but the driver declines, so you call in the canine. Upon arrival, the canine alerts. The vehicle is searched, resulting in heroin being found. The stop took nine minutes. Has this stop been unreasonably prolonged to conduct the canine sniff? The court in *Valenti* says no. Unlike the case above, here the canine was called in due to the suspicion of drug activity and drugs in the car. Under a totality of the circumstances, the additional time for the canine to get to the scene was reasonable. [*State of Ohio v. Valenti*](#), Ninth Appellate District, Summit County, Dec. 18, 2013