




Ohio Attorney General's Law Enforcement Bulletin



May 2014

Human Relations and Law Enforcement

Human relation skills are vital in the law enforcement field, helping you interact with citizens, criminals, victims, informants, and people in crisis. The Ohio Peace Officer Training Academy will offer several such courses this summer. Here's a sampling:

- **Procedural Justice and Police Legitimacy, June 12, Richfield:** This course was developed through the Ohio Peace Officer Training Academy's partnership with the Education and Training Division of the Chicago Police Department, which devised the original curriculum with assistance from Yale Law School and the University of Illinois at Chicago. Procedural justice is the process police officers use to treat citizens fairly and with proper respect. Legitimacy refers to a citizen feeling that a police officer should be deferred to, complied with, and trusted. The goal of procedural justice and legitimacy is to strengthen a department's relationship with the community and ultimately improve officer safety and efficiency. It's as basic as the old adage: It is not what you say, but how you say it. It's not just about what you do, but how you are doing it. Procedural justice and legitimacy in law enforcement is not just a strategy, but a movement. By fostering an environment in which procedural justice principles become standard practice, a department can create an organizational culture that fosters a true partnership with the public and leads to safer work environments. This course is free.
- **Crime Victims' Rights and Responsibilities, June 19, London:** This course provides information on the rights and responsibilities of crime victims and law enforcement's responsibility to inform of these rights. You learn typical victim reactions and how to work with victim advocates. The class also touches on the Victim Information Notification System (VINE), which allows victims and law enforcement to track offenders' movement through the correctional system, and ways to encourage victims to be effective partners in the criminal justice system. The course is free.
- **Interacting with and De-Escalating Special Needs Populations, Aug. 14, London:** This course, for officers who may encounter people with special needs in the course of their duties, covers recognizing observable characteristics of individuals in crisis and basic de-escalation techniques to respond to those situations. The course is free.
- **Reid Technique for Interview and Interrogation, Aug. 18-20, Richfield:** This program sharpens observation skills and teaches how to use a suspect's behavior to reveal when he or she is ready to confess. Topics include identifying the five facial expressions that indicate the emotional state of the suspect and developing a strategic game plan for every interview/interrogation based on evaluating the suspect using case facts. Other topics include interview and interrogation preparation, behavior symptoms, Reid Behavior Analysis Interview (BAI), Nine Steps of Interrogation, and more. The cost of this course is \$415.

- **Human Trafficking: Basic Overview, Aug. 21, London:** Human trafficking is one of vilest crimes in the world today, and it's happening right under our noses. Not only is human trafficking international in scope, it also encompasses a multitude of felonies. Countless lives have been ruined through this crime, and it isn't stopping; in fact, authorities say it's the world's fastest-growing crime. This class examines human trafficking's causes and effects, both nationally and internationally, and explore the crime from the victims' and perpetrators' perspectives. The course, which is free, satisfies state-mandated training on this topic.
- **Cultivating Confidential Informants, Sept. 30, 2014, London:** This course informs law enforcement investigators and professionals how to cultivate and work with confidential informants to further criminal or administrative investigations. The cost is \$65.

To register for these or other classes, visit the [OPOTA course catalog](#).

Informants (Anonymous Tips): *Navarette v. California*

Question: Can you stop a vehicle based on an anonymous tip even though you personally did not see evidence of a crime?

Quick Answer: Yes, but only when the tip, based on the detail of the information and surrounding circumstances, is credible.

[*Prado Navarette v. California*](#), U.S. Supreme Court, April 22, 2014

Facts: A 911 dispatcher received a tip from an anonymous caller who reported that a pickup truck had just run her vehicle off the road. The caller gave the license plate number, the direction the truck was traveling, and nearest highway mile marker. Two California Highway Patrol officers found the truck 20 miles down the road and followed it for 5 minutes. The officers did not see the driver make a single driving error. Still, they stopped the truck. When they approached the truck, the officers smelled marijuana. The patrolmen found 30 pounds of marijuana in the bed of the truck. The driver and passenger argued that the traffic stop violated their Fourth Amendment rights because it was based solely on an anonymous tip and not any personal observations by the officers. The U.S. Supreme Court found in a 5-4 decision that the search was reasonable.

Importance: Tips from informants do not create the reasonable suspicion required for a stop unless they are credible. Usually, anonymous tips are not credible on their own, so they require an officer's personal observation of criminal behavior before there is reasonable suspicion to stop a car. However, sometimes — such as in this case — the circumstances surrounding the tip are enough to make it creditable even though the officers do not personally witness evidence of a crime. In *Prado Navarette*, the caller provided details about the make, model, color, and license plate of the vehicle (which the officers were able to confirm), the call was made to 911 (which could subject the caller to prosecution if she made a false report), and the report came shortly after the incident occurred (making it less likely to be preplanned). Because the tip suggested the driver was impaired, the court believed that when combined with the specific facts just listed, the officers had reasonable suspicion to stop the truck.

Keep in Mind: Before this case, the rule was pretty simple: All anonymous tips must be corroborated by police observation, because a person's liberty shouldn't be invaded based on an anonymous tip. In this case, the court looked at several factors to determine that the tip was credible. These factors

are not hard or fast rules, and they may change depending on the circumstances of each case. So in practice, the best thing to do is to corroborate all tips. If you don't, you may run the risk of the judge telling you the surrounding circumstances were not enough to make the tip reliable, and the evidence will be thrown out.

More on Informants

Sit tight, I'm going to take a look. You get a tip from a confidential informant you've successfully worked with in the past. Your CI gives you a license plate number and description of a car in which the driver has illegal firearms. You stop the vehicle for an unlit rear license plate. Based on the tip, you and your partner approach the car with guns drawn. You see the driver reach down, so you order him and his passenger out of the car. You search the car for weapons and find a bag of cocaine under the driver's floor mat. Was the search appropriate based on the information provided by the informant? Yes, in *Jones* the court held that the tip was from a known, credible informant and created a reasonable suspicion that the car contained weapons. The officers were justified in searching. [Ohio v. Jones](#), First Appellate District, March 26, 2014. **Special Note:** This case is different from *Prado Navarette* for two reasons: 1) the tip came from a known, credible informant rather than an anonymous tipster, and 2) the officers actually saw the illegal activity that was the basis for the stop. For that reason, the court did not have to consider the reliability of the tip.

This tip passes the smell test. You receive a tip from an anonymous citizen claiming that a neighbor is growing pot in his house. You drive to the address and smell marijuana outside the garage. The resident has a lengthy criminal history, and the house is using significantly more electricity than its neighbors. You submit an affidavit describing these facts and stating that, based on your experience, you believe a grow operation is taking place. A judge issues a warrant to search the house. Does the affidavit support the warrant even though the information was all gathered as a result of an anonymous tip? Yes, said the 10th District in *Thomas*. According to the court, the marijuana odor, extreme kilowatt usage, and the resident's prior criminal history all corroborated the anonymous tip, confirming its credibility. [Ohio v. Thomas](#), Tenth Appellate District, April 8, 2014. **Special Note:** This case is different from *Prado Navarette* because the tip was corroborated by the smell of the marijuana, research of the electrical usage, and officers' knowledge of the home's history. Remember, *Prado Navarette* deals with anonymous tips that may not need additional corroboration.

Search Warrants (Affidavits and Corroboration of Information): *State of Ohio v. Bertloff*

Question: What do you need to state in an affidavit in support of a warrant when most of the information came from a confidential informant?

Quick Answer: When information comes from a confidential informant, you need to state how you corroborated the information and why the confidential informant is reliable.

[State of Ohio v. Bertloff](#), Eighth Appellate District, Cuyahoga County, March 20, 2014

Facts: Lakewood Police Department Detective John Guzik obtained a warrant based on the affidavit, including a significant amount of information obtained from a confidential informant. The CI told Guzik that a man named "Brian" was trafficking heroin, packaged it in his residence, and transported it in a silver Chevy Malibu. Guzik observed the subject's residence and the vehicle, and the CI positively

identified Brian Bertloff from his BMV photo. The CI then made two controlled purchases with Bertloff. Guzik saw Bertloff arrive at both “meets” in the Malibu, complete the sale to the CI, and immediately return to his residence. Bertloff claimed the information provided in the affidavit didn’t give probable cause to issue a search warrant. The court disagreed.

Importance: When preparing an affidavit to support a search warrant, there must be probable cause that contraband or evidence of a crime will be found in a particular place. The affidavits must provide believable and reliable evidence supporting the claim. In cases where you are using a CI, it is important to state how and why the CI is reliable, how the CI obtained the information, and how you personally know these facts. It is always best practice to corroborate an informant’s information. In this case, Guzik did it right. He confirmed the information given by the CI by observing the residence and vehicle and by performing two controlled purchases, which he watched.

More on Search Warrants

Can I Search the Seized Computer? You submit an affidavit for a warrant to search the house of a man you suspect of rape, gross sexual imposition, and unlawful sexual conduct involving a minor. Your affidavit includes the police report from the victim that details multiple nonconsensual activities between the suspect and victim as well as several emails the victim received from the suspect. A subpoena to the suspect’s Internet provider confirms he sent the emails. The judge issues a warrant, and you seize several computers. Did the affidavit provide enough information to support probable cause that evidence of the alleged crimes would be found on the man’s computer? The court in *Hosseini pour* said yes. By providing the emails and Internet provider records, the affidavit had evidence that corroborated the connection between suspect’s activity and the need to seize the computer. [*State v. Hosseini pour*](#), Fifth Appellate District, Delaware County, March 18, 2014

He Bought from Our Confidential Informant — Twice. You set up a confidential informant to conduct two controlled drug buys from a suspect. The drug buys are done two weeks apart, and the informant is equipped with monitoring gear. After the first buy, you follow the suspect back to his residence. Before the second buy, you set up surveillance at the suspect’s house, and you see him leave the house and go to the location of the buy. Based on these facts, you write an affidavit for a search warrant for the suspect’s house. Was there probable cause for the search warrant? The court in *Morris* said yes. An affidavit for a warrant must give timely information and include facts closely related to the time of issuing the warrant. Here, the drug buys were two weeks apart, and the warrant was issued the day after the second buy. Also, the surveillance of the suspect’s house corroborated the information given by the informant. The affidavit gave enough timely, validated information to show probable cause to believe the officers would find contraband at the suspect’s house that day. [*State v. Morris*](#), Seventh District, Mahoning County, March 20, 2014

Traffic Stops (Reasonable Duration): *State of Ohio v. McCullough*

Question: Is it OK for you to hold a driver to wait for a canine search?

Quick Answer: Yes, you can conduct a canine search as long as the entire stop only lasts a “reasonable period of time” (about as long as it takes to write a ticket or run a computer search).

[*State v. McCullough*](#), Twelfth Appellate District, Fayette County, April 21, 2014

Facts: Fayette County Sheriff's Office Detective Larry McGarvey received word that a suspect would be returning to town with a load of recently purchased heroin. Acting on the tip, McGarvey set up a controlled buy with the suspect. The suspect arrived at the location of the buy in a vehicle driven by Andrea McCullough. The officers followed the pair and stopped the vehicle for going 2 miles over the speed limit. Once the car was stopped, officers placed McCullough and the suspect in separate cruisers and conducted a canine search of McCullough's vehicle. Although the dog alerted on the car, a search turned up no drugs. In addition, the dog alerted to the two police cruisers in which McCullough and the suspect were being held. Two bags of heroin were discovered on McCullough's person during processing at the county jail. McCullough argued that the officers had no right to detain her while the canine search took place. The court disagreed.

Importance: You cannot detain a driver for an unreasonably long period of time. Detaining a driver for the time necessary to issue a ticket or conduct a computer check on a driver's license, registration, and plates is not unreasonable. During that time, you may also conduct a canine search. However, you should not make a driver sit and wait a long period of time while a canine unit travels to the scene.

Keep in Mind: Although you may detain a driver for a reasonable time following a traffic stop, you cannot search the car without probable cause. In this case, the alert by a trained narcotics dog was enough to create probable cause and allowed the officer to search inside the vehicle.

One More Note: Here is an example of when the court found a traffic stop was unreasonably long due to a canine sniff:

- [*State of Ohio v. Ramos*](#), Second District Court of Appeals, Clark County, Nov. 26, 2003: At approximately 5:45 a.m. Nov. 19, 2001, a trooper stopped a vehicle driven by Loretta Ramos for a marked-lane violation. The trooper had previously been alerted by an anonymous call that a vehicle matching Ramos' was weaving within its lane. Ramos was traveling with two passengers: a woman in the front passenger seat and a man lying in the back seat. The trooper ran a check on Ramos and the passenger. According to the videotape, at 5:53 a.m. the trooper learned that Ramos' driver's license had expired. At 5:58 a.m., the dispatcher informed the trooper that Ramos had been charged with drug trafficking charge in September 2001. The trooper requested the canine unit. At 6:06 a.m., the trooper began to write the ticket for the marked lane violation, expired license, and a seatbelt violation. For approximately the next 17 minutes, the trooper questioned Ramos about the nature of her trip, the passengers, and her personal history. At 6:38 a.m., the canine unit arrived. At 6:42 a.m., nearly an hour after the stop began, the dog alerted near the right rear tire of the vehicle. After a search, the trooper found Ecstasy pills inside the pocket of a pair of sweat pants hanging in the back of the vehicle. The court determined the trooper did not handle the traffic stop and related investigation in a reasonable time. It found the trooper prolonged the traffic stop for the purpose of waiting for the canine unit to arrive. The videotape recorded the trooper telling Ramos at 6:16 a.m. that they should just wait for the canine unit after she said she could call her sister to pick her up. In this case, the evidence was suppressed because the stop went beyond the time reasonably necessary to complete the traffic-related investigation.

More on Traffic Stops

Obvious? No. Suspicious? Yes. You and your partner are on patrol when you see a man in a pickup parked in a parking lot. The truck is backed in far away from the entrance, and another car is pulled up next to the truck. As you watch, the drivers appear to exchange cash. You and your partner pull into the lot and approach the two men individually. You see loose cash in the cup holder and torn-

open sandwich bags on the floor of the truck. The driver nervously tells you he has a concealed carry permit and offers three separate times to produce the weapon he keeps in the center console, reaching each time. After the third time, you ask the driver to exit the truck, and you open the center console to secure the weapon. Inside you find unlabeled bottles and baggies filled with pills. Was this a proper *Terry* stop? Yes, according to the *Bly* court. An officer may detain a suspect only if he has reasonable suspicion that the suspect is engaged in criminal activity and only until that suspicion is no longer reasonable. Although there was no obvious evidence that the driver in *Bly* was doing something illegal, the setting, placement of the vehicles, apparent exchange of money, loose cash, empty baggies, and the driver's nervousness all supported the officer's reasonable suspicion that a crime had been committed. Since those facts continued throughout the encounter, the suspect was not held for an unreasonably long amount of time because reasonable suspicion was present. [*State of Ohio v. Bly*](#), Tenth Appellate District, Franklin County, March 27, 2014

So Much for the Speeding Ticket. You stop a car for speeding and run the occupants' IDs. Five minutes later, your dispatcher alerts you that the driver has a warrant. After returning to the car, you ask if there are any weapons in the car. All three men say, "No." You ask the driver to exit the vehicle, and when he refuses, you secure his hands to remove him. As you do, the driver tells you he's got a gun in his waistband. You secure the weapon and cuff the driver. About 25 minutes after the initial stop, the passenger tells you there is a loaded magazine in the center console. The magazine does not match the gun you took off the driver, so you order the other two men out of the car and search them for the weapon that goes with the magazine. The passengers are clean, but one of them tells you there's a gun under the driver's seat. It isn't until you sort everything out that you charge the men and issue the speeding ticket. Did your traffic stop last too long? No, not once you found the driver's gun. The court in *Blanks* held that although a routine traffic stop cannot last longer than reasonable (typically about 20 minutes), once the driver alerted the officer that he had a weapon, the stop was no longer routine. Therefore, a longer duration becomes reasonable. [*State of Ohio v. Blanks*](#), Second Appellate District, Montgomery County, April 18, 2014