

Date Revised: 09/09/2019

Course Goal: To introduce the recruit officers to consensual encounters.

Learning Objective:

- Recognize appropriate conduct during a consensual encounter [\[15.2.A\]](#)
- Recognize conduct that may elevate a consensual encounter [\[15.2.B\]](#)
- Recognize a peace officer’s responsibility in relation to the protections and rights included in the following amendments to the US Constitution and related California Constitution sections:
 - Fourth Amendment [\[15.1.A.1\]](#)
 - Fifth Amendment [\[15.1.A.2\]](#)
 - Sixth Amendment [\[15.1.A.3\]](#)
 - Fourteenth Amendment [\[15.1.A.4\]](#)
- Recognize a peace officer’s responsibility in relation to the protections included under federal civil rights statutes [\[15.1.B\]](#)
- Recognize the consequences of elevating a consensual encounter [\[15.2.C\]](#)

Session Time: 3 Hours

<p>Resources:</p> <ul style="list-style-type: none"> • Classroom with tables • Overhead projector • Computer with multimedia software and Microsoft PowerPoint • Parking lot with vehicles 	
<p>Summary: The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.</p>	
Outline	Instructor’s Notes
<p>I. Consensual Encounters A. Consensual Encounters 1. Definition a. Contact with a person under circumstances which would cause a reasonable person to believe they are free to leave or otherwise not cooperate. b. No legal justification is needed as long as officers are in a place they have a right to be. 2. Appropriate Actions [1], [15.2.A]</p>	<p><u>TTS 15.2.A - 15.2.B</u> - Fail Forward Exercises</p> <p>Run learning activity # 1 The Pedestrian Stop. (45 min)</p> <p>Note: See last page for learning activity # 1</p> <p>[1][2][3] Run learning activity # 2 Police Contacts in conjunction with PowerPoint slides 2 - 6. (1 Hour)</p> <p>Note: See Last page for learning activity # 2</p> <p>[2] Run learning activity # 3 Appropriate Conduct</p>

EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

<ul style="list-style-type: none">a. Requesting information (including identification and personal information)b. Interviewing witnesses at the scene of a crime or accidentc. Conversing casuallyd. Disseminating information3. Non-Cooperation- People can refuse to cooperate and cannot be made to do so.B. Elevating Consensual Encounters [2], [15.2.B]<ul style="list-style-type: none">1. Certain actions elevate consensual encounters but can have alternate actions<ul style="list-style-type: none">a. Using emergency lights vs using spotlightb. Positioning patrol car to block path vs not obstructing pathc. Issuing orders vs requesting consent or seeking voluntary cooperationd. Using accusatory tone vs inquisitive tonee. Conducting illegal pat searches vs requesting consent for pat searchf. Demanding/keeping I.D. vs requesting and returning when asked2. If consensual encounter is elevated by improper behavior, the peace officer could: [3], [15.2.C]<ul style="list-style-type: none">a. Violate the Fourth Amendment right against unreasonable searches and seizures, resulting in the suppression of evidenceb. Be civilly prosecuted for a violation of civil rightsc. Be criminally prosecuted for false imprisonmentd. Face agency disciplinary actionII. Constitutional Protections and Roll of a Police Officer<ul style="list-style-type: none">A. Overview of the U.S. and California Constitutions: Peace officers have a legal,	<p>During Consensual Encounters in conjunction with PowerPoint slides 7 - 10. (1 Hour)</p> <p>Note: See last page for learning activity # 3</p>
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EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

moral and ethical responsibility to protect all of the rights afforded to a citizen by the United States and California Constitutions[4],

[15.1.A]

1. Fourth Amendment [\[15.1.A.1\]](#)
 - a. Right to be free from unreasonable search and seizure
 - b. Officers must follow procedures when obtaining a warrant
 - c. Related Terms
 - 1) Reasonable Suspicion
 - 2) Probable Cause
 - 3) Search and seizure of a person/property
 2. Fifth Amendment [\[15.1.A.2\]](#)
 - a. Self-incrimination
 - b. Double jeopardy
 - c. Due Process
 3. Sixth Amendment [\[15.1.A.3\]](#)
 - a. Speedy trial
 - b. Confront witnesses against them and obtain witnesses in their favor
 - c. Right to counsel
 4. Fourteenth Amendment [\[15.1.A.4\]](#)
 - a. Due process and equal protection for all, regardless of citizenship
- B. Civil Rights Statutes [\[15.1.B\]](#)
1. U.S. Code, Title 42, Section 1983
 - a. Permits a civil rights suit seeking monetary damages against government acting under color of law
 - b. Color of Law- An action carried out as if under the authority of law, but is actually done in violation of the law (e.g., peace officers or magistrates using their positions to act in an unlawful manner).
 - c. Peace officers can be held personally liable **[6]**
 2. U.S. Code, Title 18, Section 241 **[5]**
 - a. Federal crime, punishable by a fine or

TTS 15.1.A - 15.1.B (15 min)

PowerPoint Slides 12 – 13

- Save this for the end of the class. Infuse concepts with LD 2 to help review.
- **[4] Ask** different recruits to give a summary of the above amendments.
- **Ask** Whose responsibility is it to protect the citizens' rights afforded by the U.S. and California constitutions?
 - Answer: Police Officers
- **Conduct** a facilitated discussion about the civil rights statutes.
 - Possible opening questions to **ask**:
 - Are police officers exempt from actions they take on the public?
 - Answer: no
 - **[5] Ask** Give examples where a police officer's actions are not sanctioned by the law.
 - Seeking:
 - Racial profiling
 - Excessive force
 - Guide answers towards color of authority and discuss what it is
 - **[3] Ask** What consequences can officers face when operating under color of authority?
 - Answer: fine or imprisonment based on the U.S. Codes in TTS'
 - Answer: Dept disciplinary action

[6] Already Asked above What consequences can officers face when operating under color of authority?

EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

<p>imprisonment up to 10 years, or both:</p> <ol style="list-style-type: none">1) If two or more persons2) Conspire to injure, oppress, threaten, or intimidate any person3) For doing anything that the person had a legal right to be doing4) Or because the person previously exercised any such legal right <p>b. Peace officers can be prosecuted criminally [6]</p> <p>c. Peace officers have a responsibility and legal obligation to protect the Civil Rights of all people</p> <p>3. U.S. Code, Title 18, Section 242 [5]</p> <ol style="list-style-type: none">a. Federal crime, punishable by a fine or imprisonment up to one year, or both:<ol style="list-style-type: none">1) For any person, acting under color of any law2) To willfully deprive any person of any legal right3) Or to subject any person to a different punishment or penalty4) Based on that person's color, race, or citizenship statusb. Peace officers can be prosecuted criminally <p>4. PC 422.6(a) [5]</p> <ol style="list-style-type: none">a. Broader than Section 242b. Includes additional categories of religion, ancestry, national origin, disability, gender, and sexual orientation that are protected from discrimination <p>5. Peace officers must practice constitutional policing and LAPD core values. [lapd specific][LD 1 & 3 infused]</p>	<p>[5] Asked above Give examples where a police officer's actions are not sanctioned by the law.</p>
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EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

The below content will be covered in LD 16 but review briefly if time permits

- C. Searches During Consensual Encounters
 - 1. Officers may conduct warrantless search of a person if they obtain consent
 - 2. Conditions
 - a. Must be voluntary
 - b. Obtain consent from someone with authority to give consent
 - c. If consent is withdrawn, search must stop
 - d. Officers' conduct must not undermine the voluntary nature (ie, intimidate, trick or coerce)
 - e. Express vs implied consent
 - f. Not legally necessary to advise they have a right to refuse consent

The below content will be covered in LD 16 but review briefly if time permits

Fill out Consent portion of SPICE / PePPER Chart

Learning Activity # 1 - The Pedestrian Stop

Purpose: To expose the recruits to a pedestrian stop and provide the opportunity to identify the key aspects of a pedestrian stop and where to gather the information about pedestrian stops while in a learning team.

Description:

1. Recruits will be given a scenario in which they have limited to no knowledge of pedestrian stops. It is expected they will make mistakes and the actions taken during the scenario will be used to discuss and learn about pedestrian stops and consensual encounters.
2. Select (2) recruits to act as police officers. Provide each recruit acting as a police officer an inert pistol and radio. The remaining class will remain as observers.
3. Conduct the role playing in the parking lot.
4. Brief the recruits of the following scenario:

Two Officers are assigned 14FB52 in a business district. The officers receive information that numerous vehicles were broken into in the rear parking lot of 5651 West Manchester Ave. You and your partner have been assigned to provide extra patrol for the parking lot. Gender and race only describe the suspect.

Facilitator: Provide the recruits and the class with the information regarding the above scenario. Instruct the recruits who are observing to bring a field officer's notebook and take notes on their observations. Instruct the observing recruits to write down the positive and negative aspects of how the recruits performed in the scenario.

Role Player: The role player should be walking in the parking lot between parked vehicles. The role player should not look into the vehicles or conduct any suspicious activity that would justify a detention. If the officers attempt a consensual encounter the role player should tell the officers, "I need to get to work/school, I am late." Role player should continue answering questions from the officers and even provide an ID; however, after waiting a short while, attempt to terminate the conversation and continue on to work. Role player should put hands in pockets, reach into backpack/bag if have one.

5. The scenario is set up to be approached as a consensual encounter only. Based on the recruits' experience, they should take action that turns the scenario into a detention.
6. Return to classroom. Do not answer questions or provide answers on how to better approach the scenario. It is intended to leave them with questions and ponder the scenario until the next lesson plan, detentions. Instead, follow below.
7. The recruits should realize they are currently ill-prepared to conduct a pedestrian stop.
8. **Ask:** What additional skills/information/competencies do you need in order to conduct a pedestrian stop? **Write** answers on flip chart, board, or overhead projector.
9. Allow the recruits to discuss and identify the information and skills they need in order to competently perform a pedestrian stop.

EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

10. **Ask** where they can identify any possible resources where this information may be obtained. (i.e. LD books, Training Bulletins, Penal Code etc.)
11. Expected responses for skills / information needed:
 - a. How to know when it is appropriate to stop someone
 - b. What laws need to be known to stop someone
 - c. What is the law for conducting searches of people
 - d. What is and how to conduct a pat down search
 - e. What information do I obtain/write down if any (FI, code 10)
 - f. Was the stop legal
 - g. Radio procedures
 - h. Communication
 - i. What languages will be needed
 - j. Contact / Cover
12. Expected responses for where to obtain additional information
 - a. LD books 15, 16, 33, 21, 42
 - b. Spanish language handouts
 - c. Radio procedures handouts
 - d. Training bulletins
 - e. Department manual
13. Explain all the concerns and information listed above, as well as everything they need to learn about pedestrian stops, will be covered during the Ped Stop event.

Resources needed:

- Inert pistols
- Radios
- Parking lot with vehicles.

Handouts:

- None

Time required: 45 Minutes

Learning Activity # 2 - Police Contacts

Purpose: Provide the recruit with the laws related to conducting pedestrian stops by utilizing a learning activity which requires both analytical and creative thinking.

Description:

1. Divide the class into learning teams consisting of 6 to 8 recruits
2. Have them discuss the different types of police contacts that they, or someone they know, have experienced:
 - a. Traffic ticket
 - b. Community meeting
 - c. Police report
3. From the various police contacts presented within the learning team, have them choose one or two of the contacts to present to the class by creating a drawing that depicts the police contact:
 - a. No words can be used and the depiction should be able to explain the contact
 - b. Each recruit must take part and draw a portion of the depiction.
 - c. Drawing exercise introduces uses of diagrams and other drawings that may be utilized in instances like tactical briefings, crime scene sketch, traffic collisions.
4. Conduct an instructor led discussion and identify some of the positive & negative contacts. Relate their positive / negative experiences with any or all core values.
[LD 1 Infused] [LAPD specific]:
 - a. Service to our communities
 - b. Reverence for the law.
 - c. Commitment to leadership.
 - d. Integrity in all we say and do.
 - e. Respect for people.
 - f. Quality through continuous improvement.
5. Have a recruit or another instructor write down the different types of contacts on the white board and group them into consensual encounters, detentions, and arrests. Explain the 3 types of contacts we as police will have. After each recruit shares their story, point out which contact it falls under.
6. Take the examples under consensual encounters and subcategorize them into encounters with community members (i.e. community meetings), interviewing witnesses, and encounters with individuals involved in potential criminal activity, but no reasonable suspicion exists to legally detain.
7. The instructor should provide additional examples if there are not enough to cover the three areas.
8. Using the initial role play exercise, **ask** if the officers could / should have engaged in consensual encounter.

EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

- a. Answer should be yes.
 - b. **Ask:** When would be appropriate times to use consensual encounters? Cover TTS 15.2.A
 - c. **Discuss** the role play scenario and point out any actions that raised the encounter to a detention. Cover TTS 15.2.B
 - d. **Ask:** Based on the scenario (if recruits elevated it to a detention), what could happen to the police officers? Cover TTS 15.2.C
9. Ensure to discuss police contacts fall into three basic categories:
- a. Consensual Encounters
 - b. Detentions
 - c. Arrests
10. Identify each of the recruit examples as one of the basic categories, but focus on consensual encounters.

Resources needed:

- Poster paper
- Multi-colored markers

Handouts:

- None

Time required: 1 Hour

Learning Activity # 3 - Appropriate Conduct During Consensual Encounters

Purpose: Identify and understand the limitations of officers' actions during consensual encounters and identify those actions that would elevate consensual encounters into detentions and potentially result in 4th Amendment violations.

Description:

1. Present the following information to the recruits:

Officers respond to a scene of a gang-related homicide. Upon their arrival, the officers were directed by the primary unit to canvas the area for witnesses. The officers identified one witness who most likely observed the incident. They attempted to interview the witness; however, he was extremely reluctant due to his fear of retaliation from the gang members.

2. Allow the recruits to problem solve the above scenario utilizing CAPRA. [LD 3 infused]
3. Conduct a facilitated discussion infusing the CAPRA model. Possible responses:
 - a. Clients: Victim, victim family, community
 - b. Acquire / Analyze: Information we have
 - i. Gang-related homicide
 - ii. Residents are fearful of gang
 - iii. Residents unwilling to come forward
 - c. Acquire / Analyze continued: Information we need
 - i. Reliable witness
 - ii. Evidence of the crime
 - d. Partnerships we have or need
 - i. Police: Officers at scene, detectives, SID, etc.
 - ii. Community: Witnesses, residents, block captains
 - e. Response
 - i. Information gathering
 - ii. Interviewing witnesses
 - iii. Casual conversation
 - iv. Information dissemination
 - v. Requesting identification
 - vi. Request to keep hands out of pockets
 - f. Response to uncooperative witnesses
 - i. Persuasion
 - ii. Appeal to sense of decency
 - iii. Issue business card
 - iv. Interview out of view of others
 - v. Get personal information for later contact

EV03 - Pedestrian Stops
Session 01 - Consensual Encounters
LD15 - Laws of Arrest

- vi. Follow home and advice detectives
- g. Assessment
 - i. Were you able to find reliable witnesses
 - ii. Were you able to gather evidence

Resources needed:

- Classroom
- Projector
- Computer with multimedia software

Handouts:

- None

Time required: 1 Hour