

SECTION **10**
Search and Seizure

10.1 – 10.3 **COMPETENCY REQUIREMENTS**

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Note to Administrators

In order for POST to review and approve your agency's *Field Training Guide*, you MUST submit the following electronic files:

- 1) The POST FTP Approval Checklist ([Form 2-230](#))
- 2) Your department's *Policy & Procedure Manual*
- 3) Your completed Guide (Volumes 1 & 2), including ALL competency requirements covered in Part 5, Sections 1–18.

LIST OF SUBTOPICS**10.1 SEARCH CONCEPTS**

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SECTION 10 SEARCH AND SEIZURE

CHECK ONE ONLY: PHASE 1 PHASE 2 PHASE 3 PHASE 4 PHASE 5

Trainee

FTO

10.1 SEARCH CONCEPTS								
10.1.01 Terminology								
The trainee shall review and explain the following terms relative to searches:								
A. Consent				E. Instrumentalities of a crime				
B. Scope of Searches				F. Contraband				
C. Contemporaneous				G. Knock and Notice				
D. Probable Cause				H. Container search doctrine				
Reference(s):						Case # (If applicable)	Incident #	
FTO:	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

10.1.01 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) N/A

Reference the following Antioch Police Policy(ies):

308 (Search and Seizure)

10.1.01 Part B - Agency Training Details *(field will expand automatically)*

Consent: Search conducted with consent that is voluntary and obtained from a person with the authority to give that consent.

Scope of Searches: Extent of the search to be conducted, specifically, a list of the items described in a search warrant.

Contemporaneous: Search conducted at or near the time of arrest, although either can precede the other, at or near the place of the arrest, and while the arrestee is still on the scene.

Probable Cause: Enough credible information to provide a fair probability that the object the peace officers seek will be found at the place they want to search; requires something less than an absolute or even a near certainty, but something more than a mere hunch or suspicion.

Instrumentalities of a Crime: An item that was the means by which a crime was committed (e.g. vehicle in a hit and run, ski mask in a robbery).

Contraband: Any property that is illegal to produce or possess.

Knock and Notice: Before entering a dwelling to serve a search warrant, officers must give notice to persons inside through certain actions.

Container Search Doctrine: When a warrant authorizes the search of a residence, vehicle or person, it automatically authorizes the search of anything, place or container inside that residence or vehicle or on that person where the object of the search might be located; if, however, the warrant was not for a general area but instead was for a particular container, that container would also have to be described as completely as possible in the warrant

10.1.02 Circumstances Allowing Legally Authorized Searches
 The trainee shall recognize and explain the circumstances under which the following types of legally authorized searches may be made. These circumstances shall minimally include:

A. Pat searches for weapons	E. Plain sight
B. Consent searches	F. Incident to arrest
C. Probable cause search	G. Exigent circumstances
D. A search warrant	H. Probation/parole search

<i>Reference(s):</i>						Case # (If applicable)		Incident #	
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10.1.02	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)	<input type="checkbox"/> N/A
Reference the following Antioch Police Policy(ies):		
308 (Search and Seizure), 903 (Custodial Searches)		

10.1.02 Part B - Agency Training Details *(field will expand automatically)*

Pat Searches for Weapons: A strictly limited search for weapons of the outer clothing of a person who has been lawfully detained; this is a search for possible weapons only, not a search for contraband or other evidence.

Consent Searches: A search conducted with consent that is voluntary and obtained from a person with the apparent authority to give that consent.

Probable Cause Search: Having enough facts or information to provide a fair probability or a substantial chance that the item sought is located in the place to be searched.

Search Warrant: An order in writing signed by a magistrate directed to a peace officer commanding the peace officer to search for an individual(s), thing(s) or personal property in the case of a thing(s) or personal property to bring the same before the magistrate (1523 PC).

Plain Sight: Objects in the line of sight of an officer who has the right to be in that position are subject to seizure without a warrant if the officer has lawful access to the object(s).

Incident to Arrest: A limited authority for a peace officer to conduct a warrantless search of a suspect's person and the property and area within the suspect's immediate control after being lawfully arrested and taken into physical custody.

Exigent Circumstances: An emergency situation requiring swift action to prevent imminent danger to a person's life or safety, serious damage to property, imminent escape of a suspect, or imminent destruction/removal of evidence.

Probation/Parole Search: A warrantless search of a person who is on probation or parole; search status must be established prior to the search.

10.1.03 Items Which May Be Legally Searched
 The trainee shall identify items for which an officer may legally search. These items shall minimally include:

A. Dangerous weapons	D. Contraband
B. Fruits of the crime	E. Suspects
C. Instruments of the crime	F. Additional victims

Reference(s):	Case # (If applicable)	Incident #
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Additional Information:

10.1.03 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) N/A

Reference the following Antioch Police Policy(ies):

308 (Search and Seizure), 903 (Custodial Searches)

10.1.03 Part B - Agency Training Details (field will expand automatically)

When responding to a call for service or investigating a report of a crime, officers will likely need to conduct searches for evidence and/or persons. Having probable cause and adhering to the parameters of the Fourth Amendment, laws and codes, and a reasonable expectation of privacy, officers can search for dangerous weapons, fruits and instrumentalities of the crime, contraband, suspects, and additional victims

10.1.04 Limits of Searches The trainee shall discuss the limits of searches when conducted with persons, vehicles, and buildings including: A. Protective sweeps B. Closed containers C. Inventory searches								
Reference(s):						Case # (If applicable)	Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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10.1.04	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) Reference the following Antioch Police Policy(ies): 308 (Search and Seizure), 903 (Custodial Searches)	<input type="checkbox"/> N/A
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10.1.04	Part B - Agency Training Details (field will expand automatically) Protective Sweeps: Brief search of a house or building to look for individuals only. Closed Containers: Can be searched if a search warrant authorizes the search of a residence, vehicle, or person. If a search warrant is for a particular container, the container must be described as completely as possible in the warrant. The container can be seized and opened during a pat search, only if it reasonable to believe it could be used as a weapon or that it might contain a weapon. A detention alone does not give officers a right to open a container unless their knowledge and experience provide probable cause to believe that it contains contraband. Inventory Searches: An inventory search is conducted only after the vehicle or item has come into lawful custody for reasons other than solely for the purpose of conducting the inventory search.	
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10.1.05 Exclusionary Rule								
The trainee shall explain the “exclusionary rule” and its effect upon police action and procedures including:								
A. Court filings				B. Prosecution of suspects				
Reference(s):						Case # (If applicable)	Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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10.1.05	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)	<input checked="" type="checkbox"/> N/A
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10.1.05	<p>Part B - Agency Training Details (field will expand automatically)</p> <p>Mapp v. Ohio, 367 U.S. 643 (1961), If a court finds a search or seizure is not reasonable and a person’s Fourth Amendment rights have been violated by the government, all items seized during the search could be ruled inadmissible or excluded as evidence at trial. This inadmissible or excluded evidence is often referred to as “the fruit of the poisonous tree.”</p> <p>The exclusionary rule does not appear anywhere in the Constitution, but rather was created by the United States Supreme Court to encourage proper law enforcement conduct. Usually, the evidence is excluded as a penalty for the illegality of the search or seizure.</p> <p>If evidence that falls within the scope of the exclusionary rule led the officer to other evidence which he/she would not have otherwise located, then the exclusionary rule applies to the related evidence found subsequent to the excluded evidence, subject to very few exceptions. Evidence obtained through unreasonable searches and seizures further complicates matters for prosecuting attorneys when it comes to court filings and prosecution of the suspects as the evidence is ill-gotten and is a violation of a person’s rights.</p>	
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10.2 SEIZURE CONCEPTS								
10.2.01 Lawful Evidence Seizure								
The trainee shall review and explain the concept of lawful evidence seizure, including instances where force may be justified, such as:								
A. Preventing a suspect from swallowing evidence				C. Extracting blood evidence from a suspect				
B. Inducing a suspect to vomit				D. Extracting fingerprint evidence from a suspect				
<i>Reference(s):</i>						<i>Case # (If applicable)</i>	<i>Incident #</i>	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
FTO:					<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test			<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test
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Additional Information:

10.2.01	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)	☒ N/A
Reference the following Antioch Police Policy(ies): 308 (Search and Seizure), 903 (Custodial Searches), 502 (Drunk Driving and Evidence Collection)		

10.2.01 Part B - Agency Training Details *(field will expand automatically)*

- Seizure law originates from the Fourth Amendment of the United States Constitution. It states, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.” Conversely, in a constitutional sense, when an officer sees an item in plain view, from a place the officer has a lawful right to be, no search has taken place. The owner or possessor obviously has no reasonable expectation of privacy for which items are on plain view. Without an expectation of privacy, the owner or possessor has no Fourth Amendment protection.
- A search warrant is a written order, in the name of the people, signed by a magistrate, directed to a peace officer, commanding the officer to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, to bring the same before the magistrate (1523 PC).
- A seizure of property occurs when there is some meaningful interference with an individual’s possessory interest in that property by the government. A seizure of a person occurs when an officer physically applies force or a person voluntarily submits to an officer’s authority.
- In order for seizures to be lawful, officers must meet certain requirements before an item in plain view may be seized legally and used as evidence. Officers must have probable cause, a lawful right to be in the location, and lawful access to the item (whether through a plain view seizure or with a warrant). Probable cause to search means enough credible information to provide a fair probability that the object or person the officer seeks will be found at the place they want to search. The lawful right to be in the location means that the officer’s location does not violate an individual’s reasonable expectation of privacy. Lawful access to the item is most commonly obtained when an officer’s entry is based on consent, exigent circumstances, or some other purpose (e.g., to conduct a parole, probation, administrative, or regulatory search).
- When applying seizures to the warrantless search and seizure instances, courts will consider the totality of the circumstances. Officers must always have specific facts to demonstrate the search or seizure fell within one of the exceptions to the warrant requirement.
- Occasionally, force is required to seize evidence from a person. The following instances justify when force may be used:
 - Preventing a Suspect from Swallowing Evidence: If officers have probable cause to believe there is evidence in a person’s mouth, they may use reasonable force to remove it, or to prevent the person from swallowing it. It not recommended that an officer reach inside a suspect’s mouth or restrict the blood flow or airway in any way. If the suspect swallows evidence such as narcotics, medical attention should be sought as soon as possible. A supervisor shall be notified right away.
- Extracting Blood Evidence from a Suspect: Blood samples are considered minimally intrusive. The affidavit for a blood sample must demonstrate the following: Probable cause that the test results will show evidence of a crime. The removal will be conducted by trained medical personnel in accordance with accepted medical practices. If blood is going to be taken without a warrant or consent, officers must have in addition to probable cause to arrest and probable cause to search, exigent circumstances, which typically exist because of the evanescent nature of the evidence. Assuming these conditions are met, blood may be taken, even in situations where the suspect is unconscious, or where the officers must apply reasonable force. Subjects’ failure to participate in tests they have no legal right to refuse may be used as evidence of consciousness of guilt. A supervisor shall be contacted right away if force will be needed to extract the sample.
- Extracting Fingerprint Evidence from a Suspect: Officers may obtain fingerprint samples from a person if they have that person’s consent or probable cause to believe the person was involved in criminal activity. If the person has been placed under arrest, the person has no legal right to refuse a fingerprint examination. Officers may use a reasonable amount of force to obtain fingerprints. Care should be taken to prevent smearing or incomplete prints when using force to extract fingerprints.
- Evidence seizures shall be conducted in accordance with the Fourth Amendment of the U.S. Constitution and the APD policies listed above in Part A.

10.3 WARRANTS								
10.3.01 Obtaining Search and Arrest Warrants								
The trainee shall explain the laws and procedures for obtaining search and arrest warrants, to minimally include:								
A. Probable cause necessity				C. Process for obtaining warrants during and after business hours				
B. Allowable exclusions (including hot pursuit and emergency situations)								
Reference(s):						Case # (If applicable)	Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
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Additional Information:

10.3.01	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)	<input checked="" type="checkbox"/> N/A
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10.3.01 Part B - Agency Training Details *(field will expand automatically)*

In order for seizures to be lawful, officers must meet certain requirements before an item in plain view may be seized legally and used as evidence. Officers must have probable cause, a lawful right to be in the location, and lawful access to the item (whether through a plain view seizure or with a warrant). Probable cause to search means enough credible information to provide a fair probability that the object or person the officer seeks will be found at the place they want to search. The lawful right to be in the location means that the officer's location does not violate an individual's reasonable expectation of privacy. Lawful access to the item is most commonly obtained when an officer's entry is based on consent, exigent circumstances, or some other purpose (e.g. to conduct a parole or probation search).

There are exclusions to the need to obtain an arrest or search warrant. Exigent circumstances where there is imminent danger to a person's life or safety, serious damage to property, imminent escape of a suspect (hot & fresh pursuits), imminent destruction or removal of evidence are instances where a warrant would not be required; however, officers can only act to resolve the exigency. Officers may search only if it is reasonable to believe a search is necessary to secure the exigency. Items in plain view can be seized if the item is believed to be contraband or evidence of a crime. Once the exigency is resolved, officers must vacate the premises within a reasonable amount of time, if applicable, and not reenter unless they obtain a warrant or consent.

If a warrant will be needed after business hours for a property seizure or DUI blood draw, officers will prepare the necessary affidavit and supporting documentation and present it to a supervisor for review. After review by a supervisor, officers will notify APD dispatch who will contact the Contra Costa County Sheriff's Communication Center. CCSO Communication Center will contact the appropriate on-call magistrate for the officer to present his/her affidavit/warrant for the magistrate's review and signature.

1534 PC states that a search warrant shall be executed and returned within 10 days from issuance. The 10-day time limit means that peace officers have 10 days within which to execute the warrants, beginning with the day after the warrant is issued and running until midnight of the 10th day, with no exceptions for weekends or holidays. If the 10-day period has expired, officers must obtain a new warrant or resubmit the expired warrant so it may be reissued and revalidated.

10.3.02 Serving Search and Arrest Warrants
 The trainee shall describe the process for serving search and arrest warrants, including:

A. Hours of service for felony arrest warrants
 B. Hours of service for misdemeanor arrest warrants
 C. Hours of service for search warrants
 D. Knock and notice for search warrants, and exemptions to
 E. "Signing off" warrants/return

Reference(s): Case # (If applicable) Incident #

	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
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Trainee:								

Comments:

Additional Information:

10.3.02 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) N/A

Reference the following Antioch Police Policy(ies):

308 (Search and Seizure)

10.3.02 Part B - Agency Training Details *(field will expand automatically)*

Hours of Service for Felony Arrest Warrants:

- Any time of the day or night

Hours of Service for Misdemeanor Arrest Warrants:

- 0600 – 2200 Hours, unless the warrant is endorsed for nighttime service.

Hours of Service for Search Warrants:

- 0700 – 2200 Hours

- If an officer can show good cause, the magistrate will allow the warrant to be served at any time of the day or night.

- Examples of good cause: Night service will decrease danger to peace officers. A drug sale occurred at the search location at night. Prompt execution might preclude murders. The property sought will likely be gone, sold, or removed by dawn. The stolen items are primarily perishable or easily disposable goods.

- A night service request is not necessary for searches that go past 2200 hours as long as the service is executed prior to 2200 hours.

Knock and Notice:

- Before entering dwelling to serve a search warrant, officers must give notice to persons inside by doing the following: Knock and otherwise announce their presence. Identify themselves as peace officers. State their purpose. Demand entry and wait a reasonable amount of time. If necessary, forcibly enter the premises.

- Exemptions: Potential harm to the officers or other individuals (hostages) and destruction of evidence.

Signing-off/Returning Warrants:

- 1534 PC states that a search warrant shall be executed and returned within 10 days from issuance. The 10-day time limit means that peace officers have 10 days within which to execute the warrants, beginning with the day after the warrant is issued and running until midnight of the 10th day, with no exceptions for weekends or holidays. If the 10-day period has expired, officers must obtain a new warrant or resubmit the expired warrant so it may be reissued and revalidated.

10.3.03 Demonstrating Proper Procedures for Obtaining and Serving Warrants Given an incident and necessary probable cause that calls for a search or arrest warrant, the trainee shall follow agency procedures for obtaining and serving the appropriate warrant(s).								
Reference(s):						Case # (If applicable)	Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
FTO:					<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test			<input type="checkbox"/> Field Perform <input type="checkbox"/> Role Play <input type="checkbox"/> Written Test <input type="checkbox"/> Verbal Test
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Additional Information:

10.3.03	Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)	<input checked="" type="checkbox"/> N/A
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10.3.03	Part B - Agency Training Details (field will expand automatically)	
Should the opportunity present itself, the trainee will properly prepare, serve, and return a search warrant.		

See next page for Attestation

How to Complete Part 5 (Sections 1–18)

INSTRUCTIONS TO ADMINISTRATORS

VOLUME 2 OF THE FIELD TRAINING GUIDE CONSISTS OF 18 SECTIONS WHICH MAKE UP PART 5. Each section is provided as a separate file on the POST website (<https://www.post.ca.gov/field-training--police-training.aspx>). Prior to submitting your FTP Guide to POST for review, you must complete all 18 sections and include them as part of your Guide.

1. **Set up:** Keep an unchanged copy of each section file as a master for reference. Make a copy of the file to use for your agency-specific entries.
2. **Front cover (optional):** To keep a hard copy of Volume 2 for internal use, you can add your agency name and date to the front cover.
3. **For each section (1–18):**
 - a. Open the applicable file and add your agency name and date to the header on page 1. (DO NOT change any other headers or footers or alter any other sections of the file.)
 - b. Below each table:
 - *Part A:* Enter applicable references from your agency’s Policies & Procedure Manual.
 - *Part B:* Enter your agency’s training details.
4. **After completing ALL sections (1–18),** you MUST submit the following materials via flash drive, CD, or DVD to POST for review and approval (do not send printed copies):
 - 1) **Your completed FTP Guide**
 - 2) **FTP Approval Checklist ([POST Form 2-230](#))**
NOTE: Guides submitted without this form will NOT be reviewed.
 - 3) **Your Department’s Policy & Procedure Manual**
5. MAIL YOUR ELECTRONIC MEDIA TO:
Commission on POST
860 Stillwater Road, Suite 100
West Sacramento, CA 95605
Attn: Phil Caporale – BTB
6. You will receive status notification within 90 days from the date received.

See next page for Instructions to Field Training Officers

How to Complete Part 5 (Sections 1–18)

INSTRUCTIONS TO FIELD TRAINING OFFICERS (FTOs)

VOLUME 2 OF THE FIELD TRAINING GUIDE CONSISTS OF 18 SECTIONS WHICH MAKE UP PART 5. Each section has been customized by your agency administrator(s) to include references to policies and procedures and training details to meet your agency’s Field Training Program requirements. Each file is provided as a separate file. For each section (1–18), complete all tables for each topic.

1. **Set up:** Keep an unchanged copy of each section file as a master for reference. Make a copy of the file to use for your training sessions.
2. **Tracking your training sessions:**
 - a. Upon completing each competency, enter the FTO and trainee names and dates, and how the competency was demonstrated, into the applicable tables.
 - b. Enter any note-worthy comments related to the trainee’s performance.
3. **If trainee requires remedial training:**
 - c. Enter the FTO and trainee names and dates, and how the competency was remediated, to show that each competency was completed.
 - d. Enter any additional note-worthy comments related to the trainee’s performance.
4. **Attestation:** After all competencies have been performed, including any remedial training, the primary FTO and Trainee **MUST** enter their electronic signatures on the Attestation page (see instructions) to verify that the Trainee has completed this portion of the Field Training Program.

End Section