

SECTION 10

Search and Seizure

10.1 – 10.3 COMPETENCY REQUIREMENTS

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10.3	Warrants
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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

- 10.1.01 Terminology
- 10.1.02 Circumstances Allowing Legally Authorized Searches
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- 10.3.02 Serving Search and Arrest Warrants
- 10.3.03 Demonstrating Proper Procedures for Obtaining and Serving Warrants

SECTION 10 SEARCH AND SEIZURE

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

Trainee

FTO

10.1 SEARCH CONCEPTS															
<p>10.1.01 Terminology The trainee shall review and explain the following terms relative to searches:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">A. Consent</td> <td style="width: 50%; border: none;">E. Instrumentalities of a crime</td> </tr> <tr> <td style="border: none;">B. Scope of Searches</td> <td style="border: none;">F. Contraband</td> </tr> <tr> <td style="border: none;">C. Contemporaneous</td> <td style="border: none;">G. Knock and Notice</td> </tr> <tr> <td style="border: none;">D. Probable Cause</td> <td style="border: none;">H. Container search doctrine</td> </tr> </table>								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
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														
<i>Reference(s):</i>						<i>Case # (if applicable)</i>	<i>Incident #</i>								
	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

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, deputies 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

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

	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

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

WPD Policy #321 (Search and Seizure)

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 a deputy who has the right to be in that position are subject to seizure without a warrant if the deputy 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 immediately 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 or 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.

Whenever practicable, Officers who are unsure of the legal ramifications regarding a search, are encouraged to contact a Supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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

<i>Reference(s):</i>	Case # (If applicable)	Incident #
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	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

<p>10.1.03 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum)</p> <p>WPD Policy #321 (Search and Seizure)</p>	<input type="checkbox"/> N/A
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<p>10.1.03 Part B - Agency Training Details (field will expand automatically)</p>
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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

<i>Reference(s):</i>						<i>Case # (If applicable)</i>	<i>Incident #</i>	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

10.1.04 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) N/A
 WPD Policy #321 (Search and Seizure)

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

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 #	
FTO:	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

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

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				
Reference(s):						Case # (If applicable)	Incident #	
FTO:	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
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Additional Information:

10.2.01 Part A - Reference Agency Policies/Procedures, if applicable (600 characters maximum) WPD Policy #321 (Search and Seizure)	<input type="checkbox"/> N/A
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10.2.01 Part B - Agency Training Details (field will expand automatically)

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?
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Trainee:								
Comments:								

Additional Information:

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

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 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.

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.

Warrant template/forms are located on the 'S' drive. In most cases, except DUI blood warrants and EPO's, contact the on call DA first for review, then the on call judge. A list of who is scheduled to be on call is emailed to all sworn personell once every two weeks.

Warrants after hours are submitted electronically to the judge and the court. During the day, bring a paper copy and a copy on a USB drive with you to court in case the Judge requests minor changes be made.

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

<i>Reference(s):</i>						<i>Case # (If applicable)</i>	Incident #	
	Received Instruction		Competency Demonstrated		How Demonstrated?	Remedial Training		How Remediated?
	Signature	Date	Signature	Date		Signature	Date	
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Additional Information:

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

N/A

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

The FTO and trainee will discuss the process for serving a Search Warrant.

Hours of Service for Felony Arrest Warrants

- Any time of the day or night (with Judge's approved Night Service if at Residence)
- Hours of Service for Misdemeanor Arrest Warrants
- 0600 – 2200 Hours, unless the warrant is endorsed for nighttime service

Hours of Service for Search Misdemeanor 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:
 - Nighttime 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 nighttime 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, deputies 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; Wait a reasonable amount of time; If necessary, forcibly enter the premises
 - Exemptions; Potential harm to the officers or other individuals (hostages)
 - 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, the Officer 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)

See next page for Attestation

Part 5 – Section 10: Search and Seizure

ATTESTATION FOR SECTION 10

TO ENTER YOUR ELECTRONIC SIGNATURE:

- Click on the 'X' in the signature line to activate the signature field > Right click and select "Sign" from the menu.
- Click on "Select Image" > Locate your signature file > Click "Open" to place your signature (date appears automatically).
- Enter your full name next to your signature.

YOUR ELECTRONIC SIGNATURES VERIFY that the Field Training Officer (FTO) and Trainee attest to the following:

1. The FTO(s) provided all instruction, training, and related feedback/comments to the Trainee in accordance with the agency's training requirements for this portion of the Field Training Program.
2. The Trainee demonstrated all competencies required for this portion of the Field Training Program.
3. If remedial training was performed, the results were reviewed by the appropriate FTO(s) and accepted by the Trainee.
4. The final evaluation of the Trainee's performance for this portion of the Field Training Program were approved by the FTO(s) and accepted by the Trainee.

Primary Field Training Officer: _____ X _____ Print Full Name: _____

Trainee: _____ X _____ Print Full Name: _____

IMPORTANT: After signing the Attestation, the file will be "locked" and **CANNOT BE MODIFIED**. If you need to make changes, both signatures must be removed and re-entered after the final revisions have been made.

To remove the electronic signature: Right click on the signature line > Select "Remove" from the menu.

See the following pages for Instructions to Administrators and FTOs

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: Basic Training Bureau (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