

A FIELD GUIDE FOR POLICE OFFICERS

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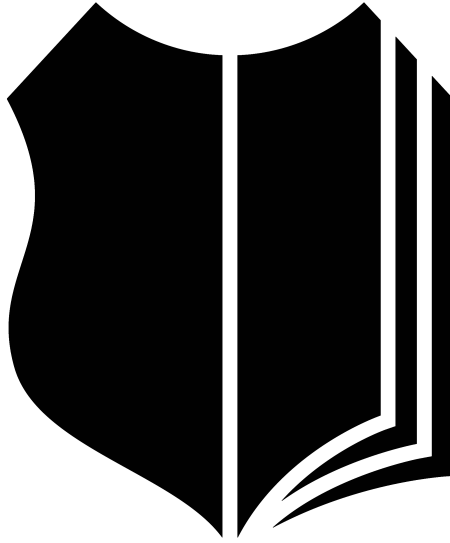
REPORT WRITING

ANTHONY BANDIERO, JD



Bulletproof Report Writing

A FIELD GUIDE FOR LAW ENFORCEMENT



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Blue To Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

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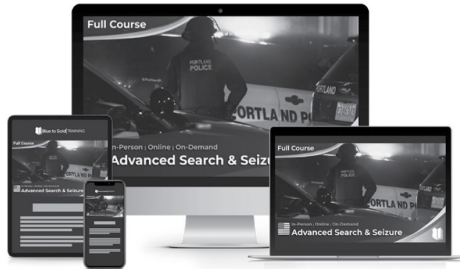
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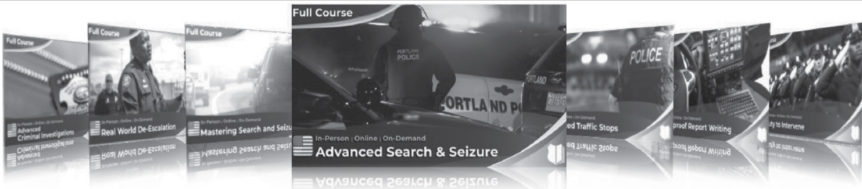


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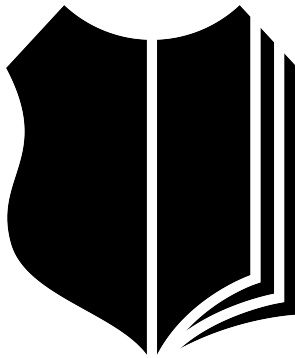
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We have an incredible warrior class in this country - people in law enforcement..., and I thank God every night we have them standing fast to protect us from the tremendous amount of evil that exists in the world.

— Brad Thor



Homes

Private Searches

Requirement

The Fourth Amendment controls government officials, not private actors. Therefore, there is generally no restriction on using information gained from a private citizen's search as long as he was not acting as a government agent. This is true even when the private search was conducted in a highly offensive, unreasonable, or illegal manner.

Remember, you may not exceed the scope of the original private search. The point here is that the suspect loses any reasonable expectation of privacy in those areas searched by the private person, so police can view the same evidence. But that doesn't mean the suspect lost his expectation of privacy in other, non-searched areas.

Here's what to articulate:

- It should be clear that you didn't **direct, encourage, or participate** in the original private search or seizure (if you did then all regular Fourth Amendment rules likely apply); And,
- Explain why the private person conducted the search. Was it with the **intent to help police or discover evidence**? Or some other personal motive?
- Finally, describe how your search, if any, didn't exceed the **scope** of the private search.

The first two factors must both be present for a private search to turn into a government search. The third factor will turn a private search into an unreasonable government search.

Articulation Example

"On March 25, 2020 at approximately 1230 hours I met with Richard Bronson in the police department lobby. Bronson told me that he was fed up with his roommate doing drugs in their shared apartment. Bronson said he went into his roommate's room this morning while the roommate was at work and searched for drug evidence. Bronson opened a red Adidas backpack and found a crystalline substance, packaged in a tiny zip-lock baggie. Bronson also observed a scale with white residue on it.

Bronson brought the backpack to the lobby to show me what he saw. I asked Bronson to show me only those things that he saw while in the apartment, and nothing else. Bronson opened the backpack and I looked inside, seeing the

same evidence described above. Based on my training and experience the crystalline substance was methamphetamine because (explain why).

The search I conducted was the same as the one conducted by the suspect's roommate before he arrived at the station. Therefore, I did not expand the original private search and did not invade the suspect's reasonable expectation of privacy.

I seized the backpack as evidence and applied for a search warrant to search the entire backpack and the suspect's bedroom."

Serving Arrest Warrant

Requirement

An arrest warrant not only authorizes the suspect’s arrest in public, but also authorizes you to enter the suspect’s home, if he's home, to make the arrest. This is an extremely helpful option for arresting wanted suspects.

On the other hand, if the suspect is at a third-party’s home, like a friend’s house, you must apply for a search warrant.

Finally, the arrest warrant can be a bench warrant, misdemeanor traffic warrant, and of course, a felony warrant.

Here’s what to articulate:

- Explain why you had **probable cause** that this was the **suspect’s home**, and not a third-party’s home (get a search warrant for third-party homes);
- Explain why you had **reason to believe** the suspect was currently home;
- Describe how you **knocked and announced** your authority and purpose (e.g., “Police, arrest warrant”);
- If appropriate, explain why you conducted any **protective sweeps**; and
- It should be clear that you looked for the suspect in people-sized places, but did not search for evidence, but **plain view seizure applied**.

Articulation Example

“I confirmed that the fugitive had an active arrest warrant by [describe how you confirmed it].

I determine that 555 Main Street was the fugitive’s current domicile because [describe how you confirmed it].

I had a reason to believe that the fugitive was presently home before the execution of the warrant because I observed a vehicle in the driveway belonging to the fugitive and lights were on inside the home, indicative of someone currently home.

I then executed the arrest warrant by [describe how you served it, including how you complied with knock and announce].

After approximately 30 seconds the fugitive did not answer the door. Based on the loud knocking and announcing and lack of response, it was reasonable

to believe that the fugitive was denying entry into the home to effectuate the arrest.

We then forced entry into the home [explain how]. We searched for the fugitive and found him hiding under the bed in a spare bedroom.”

Hot Pursuit

Requirement

There's a difference between "hot pursuit" and "fresh pursuit." Hot pursuit is when you're literally chasing a suspect who is trying to flee. You can follow him anywhere he goes. The law is not clearly established whether you can pursue a misdemeanor suspect into his home, though the answer is likely yes. Fresh pursuit, on the other hand, is where you have identified a suspect in a serious violent felony and are actively tracking him down. Once you find out where he's hiding you may make a warrantless entry and arrest him. If it's a non-violent crime, get a warrant.

Here's what to articulate:

- Explain that you were in **hot pursuit** (i.e. chasing) of a suspect believed to have committed an **arrestable offense** and that he ran into a home (a surround and call-out may also be done for officer safety purposes).

Articulation Example

"The driver fled the traffic stop on foot. I chased the suspect and observed him entering a home through the front door. The address was later confirmed as 555 Main Street. The driver committed an arrestable offense by fleeing a lawful traffic stop, which obstructed my duties by requiring me to capture the fleeing driver, instead of focusing on the reason for the stop.

I then entered the home under hot pursuit and searched the residence for the suspect. I found the suspect hiding in a hallway utility closet."

Fresh Pursuit

Requirement

There's a difference between "hot pursuit" and "fresh pursuit." Hot pursuit is when you're literally chasing a suspect who is trying to flee. You can follow him anywhere he goes. The law is not clearly established whether you can pursue a misdemeanor suspect into his home, though the answer is likely yes. Fresh pursuit, on the other hand, is where you have identified a suspect in a serious violent felony and are actively tracking him down. Once you find out where he's hiding you may make a warrantless entry and arrest him. If it's a non-violent crime, get a warrant.

Here's what to articulate:

- Explain how you were in **fresh pursuit** of the suspect after investigating a **serious violent crime** and quickly (usually no more than two hours) **traced the suspect back to his home**.

Articulation Example

"Based on my investigation, I had probable cause that the suspect fled the crime scene and retreated into his residence. Several officers and I made a forced entry into the suspect's residence to make an arrest for the following reasons:

- I had probable cause to believe that the suspect had committed a violent felony, namely a sexual assault;
- The suspect used a firearm during the felony;
- Surrounding the house while waiting for a warrant would have provided ample opportunity for the suspect to barricade, ambush, or offensively attack officers;
- Fellow officers watched security camera footage near the crime scene (describe where) and observed the suspect enter a vehicle and quickly speed away;
- The camera captured the suspect's license plate, which indicated the registered owner resided at 555 Main Street.
- Within approximately 90 minutes from the time of the sexual assault, officers arrived at 555 Main Street and observed the vehicle in the driveway;
- The residence had several interior lights on;
- Officer Johnson touched the car's hood and told me that it was hot, indicative of recent operation;

- I knocked on the door, stated that I was the police, and demanded that the suspect open the door;
- After approximately 20 seconds I heard noises coming from inside the house, but no effort was made to open the door;
- Based on the nature of the crime, the suspect probably had DNA evidence on his genital area and possibly under his fingernails. This evidence may be readily discarded with water;
- Additionally, it is probable that the suspect had trace evidence on his clothing. This evidence may be readily discarded in a washing machine.

Based on the totality of the circumstances, exigent circumstances existed to enter the residence and take the suspect into custody due to the danger presented to on-scene officers and the ready destructibility of evidence believed to be on the suspect's person and clothing."

Imminent Escape

Requirement

Under Imminent Escape, you may enter the home of a suspect who has retreated into their home after recently committing a serious crime and that they are likely to escape before the issuance of a warrant.

Here's what to articulate:

- Explain your **probable cause** that the suspect committed a serious violent crime, and you reasonably believe that he **would escape** before obtaining a warrant.

Articulation Example

"Based on my investigation (articulated elsewhere), I tracked the suspect back to 555 Main Street Apartment 102. I had probable cause that the suspect was presently inside his apartment because:

- Witness Smith stated that the suspect drove a late-model white Chevy Malibu bearing CA 123XYZ;
- Witness Smith stated that the suspect was a white male approximately 6' tall, weighing approximately 190 pounds;
- A records check of the vehicle revealed that the vehicle was registered to this apartment address just two months prior;
- A records check of the registered owner matched the characteristics provided by Witness Smith;
- The Malibu was in the apartment parking lot;
- I touched the Malibu's hood and perceived that it was very hot, indicating that it had been recently driven;
- Apartment #102 had lights on, despite it being just past midnight, when most people are sleeping;

I decided that the proper course would be to knock on the door and demand that the suspect come out. There was no time to obtain an arrest warrant because:

- I had probable cause that the suspect had committed an armed robbery, a serious violent crime;
- All available police resources were utilized;

- The apartment complex layout allowed the suspect to flee out the front or back patio area;
- Only two officers were available to take the suspect into custody;
- If a warrant was obtained, that would mean only one officer would be left on scene. This would be futile since it requires at least two officers to cover the back and front. This would also be dangerous because the suspect was considered armed and dangerous and a minimum of two officers should help capture this suspect if he chose to flee again.

[Now explain how you complied with knock and announce rules and how you made a forced entry if required.]

Warrantless Entry for Emergency

Requirement

Generally, you cannot make a warrantless entry into a home unless you have consent, recognized exception, or a warrant (C.R.E.W.). One of the recognized exceptions is if you have an objective reasonable basis for believing that an occupant requires emergency assistance, or an occupant is threatened with imminent injury. Remember, the scope of your entry is limited and you must leave, if demanded, once the emergency is over.

Here's what to articulate:

- Explain why you had **reason to believe** that any occupant was in immediate need of **medical assistance** or is threatened with **imminent injury**;
- Once the emergency is over, you must leave unless you receive consent or a warrant;
- Describe how you complied with **knock and announce** rules; and
- Finally, you **could not search for evidence**, but may make a plain view seizure.

Articulation Example

"On March 25, 2020 at approximately 1230 hours I was dispatched to a possible domestic battery at 555 Main Street. The nature of the call was [explain].

Upon arrival I walked up to the residence and could hear a male yelling. As I got closer I could see inside the front living room window. I observed a female adult falling back against the living room wall, as if pushed. The female hit her head on the wall and did not get back on her feet. The male was still yelling and said, 'You deserve that!'

I knocked on the front door and said, "Police, open the door." The male yelled back and told me to "Get a warrant." This reply meant the male was affirmatively refusing my lawful entry to protect occupants from further harm and to render medical aid.

I then checked the door and it was unlocked. I entered the house, still announcing my authority, and [explain the rest]."

Warrantless Entry to Prevent Destruction of Evidence

Requirement

Generally, you cannot make a warrantless entry into a home unless you have consent, recognized exception or a warrant (C.R.E.W.). One of the recognized exceptions is the warrantless entry to prevent the destruction of evidence. Remember, you cannot create the exigency. But simply knocking on the door does not count.

Here’s what to articulate:

- Explain why you had **probable cause** that an occupant was or was about to **destroy evidence or contraband**;
- It should be clear you did not create the **exigency**;
- If there was no time to knock and announce, explain why;
- After you **secure** the home, you must get a warrant; and
- You **cannot search for evidence**, but may make a plain view seizure.

Articulation Example

“On March 25, 2020 at approximately 1230 hours my partner and I arrived at 555 Main Street, Apartment 102 to conduct a knock and talk with occupants. The reason for the knock and talk was because I got an anonymous tip that occupants at this apartment were in the process of packaging a large amount of heroin. The tipster stated that after the drugs were packaged, the drugs would be moved to another location. [you would go into more detail about the tip].

My partner and I were in plain clothes and knocked on the door. About ten seconds later an occupant opened the door about twenty inches and asked me what I wanted. I told him I was a narcotics detective and wanted to talk with him. The occupant immediately looked shocked, and began to stutter.

During this time I looked over the occupant’s shoulder and saw a brown kitchen table with various items on it that were immediately apparent as drugs and paraphernalia [describe exactly what you saw and why].

The occupant then turned around and looked at the same table I was looking at. It appeared the occupant now knew I saw drugs and paraphernalia in plain

view. The occupant then told me he had to go and immediately tried to close the door but my partner was able to prevent its closure.

Based on the totality of the circumstances, we had probable cause that narcotics trafficking was occurring inside Apartment 102 [explain everything, ideally with bullet point list].

Additionally, we also had probable cause that the suspect would be able to quickly remove heroin evidence by flushing it down the toilet. The suspect knew we were narcotics detectives, knew we saw the evidence in plain view, and would have a motive and opportunity to remove the evidence before a search warrant was received. This evidence would be the most important evidence for a trafficking charge. Therefore, we forced entry into the apartment and arrested the occupant for various drug offenses.

A protective sweep was conducted for other occupants, but none were found. While inside the apartment we did not search for any evidence.

I then secured the apartment from the outside with evidence tape, signed the tape with my initials, date, and time. I took a picture of the seal and included the picture in the search warrant affidavit.”

Drug Buy: Entry with Arrest Team

Requirement

If you work undercover and enter a home to conduct a narcotic sale or purchase, you may make the arrest immediately. However, if you leave the residence and want to re-enter with an arrest team, you should articulate that the re-entry was “immediate” and necessary. Here’s what to articulate:

- You are an **undercover officer** and conduct a narcotics transaction inside the home, you may leave and **immediately** re-enter with an arrest team when two conditions are met: First, there must be a **legitimate officer safety reason** why you had to leave first, instead of summoning the arrest team into the home and you must articulate that an **exigency exists**, such as destruction or loss of evidence.

Articulation Example

“After purchasing heroin from the suspect, I left the residence and met with an arrest team around the block. After coordinating our actions, we immediately approached the residence to effect the suspect’s arrest. I did not arrest the suspect while initially inside the suspect’s home for the following reasons:

- There were multiple suspects inside the home which meant that I was at a tactical disadvantage if I attempted to arrest the suspect without other officers;
- Drug dealers are usually considered armed and dangerous because they rely on self-help to protect their business. Therefore, drug dealers usually have weapons on their person or readily accessible, and an immediate re-entry with an arrest team was the safest method to effectuate the arrest.”

Protective Sweeps

Requirement

If you make a lawful arrest inside a home, you're allowed to conduct a protective sweep. There are three zones, or areas, you may search depending on the circumstances

Here's what to articulate:

- Zone 1: You may search the **immediate vicinity** where the suspect has access to weapons, evidence, or means of escape;
- Zone 2: You may search for **people** in people-sized places in the **same area** where the arrest occurs; and
- Zone 3: If you have reasonable suspicion that **dangerous confederates** are in the house, you may search for people in people-sized places and **detain the confederates** until the arrest is completed.

Articulation Example

Lunge area example: "While arresting Smith for domestic battery, I searched the area immediately within his lunge area. The arrest occurred in his bedroom, near a dresser. I opened the top drawer and saw a Glock handgun and seized it for officer safety."

Throughout house example: "While arresting Smith on a parole violation warrant I searched the entire house for dangerous confederates. I only searched people-sized places. The reason a protective sweep was conducted throughout the house was because:

- Smith was a documented active gang member;
- In my training and experience, gang members often have fellow gang members with them to help defend themselves against rival attacks;
- In my training and experience, gang members usually have weapons to attack rivals and to counterattack;
- The arrest took place in the afternoon, a common time when house guests are present;

During my protective sweep for confederates, I saw a sawed-off shotgun in plain view on top of the bed in the back bedroom. I seized the firearm as evidence against Smith."



ABOUT THE AUTHOR

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Anthony is an attorney and retired law enforcement officer with experience as both a municipal police officer and sergeant with a state police agency. Anthony has studied constitutional law for over twenty years and has trained countless police officers in advanced search and seizure.

View his bio at [BlueToGold.com/about](https://www.BlueToGold.com/about)

THE PURPOSE OF THIS BOOK IS SIMPLE: I WANT YOU TO BECOME AN ARTICULATION EXPERT. ARTICULATION IS OFTEN THE KEY TO WINNING SUPPRESSION HEARINGS, TRIALS, AND CIVIL RIGHT'S LAWSUITS. ARTICULATION HAS TWO GOALS.

FIRST, YOU NEED TO PROVIDE ENOUGH EVIDENCE TO PROVE A CRIME BEYOND A REASONABLE DOUBT. SECOND, YOU MUST DESCRIBE HOW YOU OBTAINED YOUR EVIDENCE LAWFULLY. IN OTHER WORDS, WERE YOUR SEARCHES AND SEIZURES IN COMPLIANCE WITH THE FOURTH AMENDMENT?

AND WERE YOUR CONFESSIONS, IF ANY, IN COMPLIANCE WITH THE FIFTH AMENDMENT? DO THAT AND YOU HAVE A BULLETPROOF REPORT.



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