

B U L L E T I N

September 30, 2024

Dear Subscriber:

Periodically, when the courts publish only a limited number of cases that affect chapters in the Sourcebook, we issue a Bulletin in lieu of a full Revision Packet. The cases listed below will be included in Revision No. 229 in November 2024:

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Recent Cases:

- **People v. Valle** (2024) 2024 WL 4230524 [9/18/24]

A traffic stop was not unduly prolonged where an officer saw a known gang member pumping gas into a vehicle missing the front license plate but did not make an enforcement stop until defendant drove away and was a quarter mile down the road. Prior to the stop, the officer called for a weapons canine to assist. The appellate court rejected defendant's claim that a prolonged detention could be based on starting when the officer first observed the Vehicle Code violation. Further, the court held that the open-air canine sniff that occurred while the officer was still writing a ticket did not prolong the lawful detention.

The court also addressed the new Vehicle Code section 2806.5 requiring that officers state the reason for a traffic stop before initiating questioning. The court noted that section 2806.5 "has no impact on the legality of pretextual stops or the admissibility of evidence obtained during such stops."

California Peace Officers Legal Sourcebook

- **DiMaggio v. Superior Court** (2024) 2024 WL 4002417 [8/30/24]

A search warrant authorized the search of a sexual assault suspect's cell phone and tablet for data within a specified one-month time period. A search was conducted that included both data "within the temporal parameters of the search warrant as well as items without timestamps." The appellate court held that the search exceeded the scope of the warrant. The *Leon/Herring* good faith exception did not apply because the scope of the warrant was "substantially exceeded" and "intentionally disregarded" and the violation was not a "one-time or intermittent blunder" but rather a "systemic error."

- **Sellers v. Superior Court** (2024) 324 Cal.Rptr.3d 650 [8/22/24]

Plain view observation during a traffic stop of crumbled and scattered marijuana in the passenger compartment of the car provided probable cause to search based on a violation of Health and Safety Code §11362.3, subd. (a)(4). (NOTE: A petition for review or a request for publication can still be filed in this case.)

- **People v. Ramirez** (2024) 104 Cal.App.5th 315 [8/20/24]

Officers may request that a driver step out of his vehicle at any point during a valid traffic stop.

- **People v. Wilson** (2024) 16 Cal.5th 874 [8/5/24]

(1) Officers are not required to use double-blind photo lineups, and they are not required to present the photos sequentially. The appropriate inquiry is whether a photo lineup is "unduly suggestive."

(2) When a suspect freely decides to reinitiate communication with officers, *Miranda* law does not foreclose the admission of subsequent statements.