

## 14-19 - Seated and Backseat Investigative Detentions

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Los Angeles County Sheriff's Department

### NEWSLETTER

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### SEATED AND BACKSEAT INVESTIGATIVE DETENTIONS

As Deputy Sheriff's, we conduct investigations in a variety of manners. This newsletter discusses options and factors to consider when using the seated investigative detention and the backseat detention.

#### SEATED INVESTIGATIVE DETENTIONS (SID)

This detention technique involves having detainees exit their vehicles and sit on the curb during the interview/investigation phase of the traffic stop. By having detainees sit on the curb, deputies increase their margin of safety by reducing the suspect's confrontational mobility. Deputies are able to recognize and react to potential attacks because suspects must first rise from the curb. The (SID) technique also removes the suspects from their vehicles, therefore inhibiting their ability to access a weapon from within.

When the SID technique is used, suspects are usually put at ease when they sit on the curb. They may avoid the perceived embarrassment of being searched beside a patrol car or confined to the backseat of a patrol car.

The SID is not appropriate for ALL situations. There may be instances where detained persons or suspects may not want to sit on the curb due to their attire, medical restriction, or simply prefer to stand. In these cases, detained persons should be directed to stand on the curb or away from their vehicle where you or your partner can maintain visual contact and a safe distance from them.

The SID technique is used as an option of detaining someone in response to sufficient Reasonable Suspicion

to generate an Investigative Detention.

1. When detaining someone for a prolonged period of time in this circumstance, the SID technique should be considered **before** utilizing other detention techniques such as hands on the hood of the car, kneeling, prone-out, or backseat detentions.
2. The purpose of the SID is to reduce the risk of violent confrontations between deputies and detained persons. The technique enables a small group of deputies to safely detain a large group of detainees while an investigation continues. It may also help prevent foot pursuits and the destruction of evidence.

Remember, if the SID is used, deputies must be able to articulate **why** this detention was used and the reasonable suspicion for their investigation. (i.e., this was a traffic stop for an infraction/misdemeanor).

### **BACKSEAT DETENTIONS (BSD)**

The backseat detention is a tactic used by deputy personnel who believe the person they are detaining may pose a threat or be an escape risk.

Backseat detentions may be considered an “indication of custody” whether the detained person is handcuffed or not. Deputies working with a partner should consider a SID if it is safe to do so. When contemplating the use of the backseat detention, the following factors should be considered:

1. Placing a detained person in the backseat of a patrol car may be an “indication of custody” and Miranda Right advisement issues could apply based on the level of questioning of the suspect. Deputies may tell the detainee he or she is only being detained, and not under arrest, if applicable to the circumstances of the detention.
2. Searches of items separated from the detained person (e.g. purse, wallet, phone) may lead to an exclusion of evidence. For example, a suspect exits their vehicle with a purse in hand, the deputy places the purse on the hood of the car and places the detained person in the back seat, separating the purse from the suspect. A search of the purse while the suspect is simply detained would require articulable facts in order for the search to be deemed reasonable.
3. Some individuals may take offense to being placed in the backseat of a patrol car. They may become hostile and believe they are being unnecessarily detained or harassed. In such event, ensure you

thoroughly explain the rationale for the BSD. If the individual complains about being detained in the backseat, the deputy shall call for a field sergeant to respond to the scene to address the complaint. If the individual does not want to wait, the deputy shall advise the individual of the Department's complaint process, including how to make a complaint in person with the Watch Commander, the availability of filing complaints on-line at lasd.org or calling the hotline at 1-800 698-8255. The deputy shall further provide his or her business card or equivalent identifying information.

4. In instances where the backseat detention is due to weather conditions or at the detainee's request for privacy, deputies will inform the individual that the detention is optional.
5. You can use whatever precautionary safety measures that are reasonable under the circumstances. The use of force, handcuffs, et cetera, does not necessarily turn a detention into an arrest.

As with the seated investigation detention, deputies must be able to articulate why the back seat detention technique was used, and the reasonable suspicion for their investigation. The technique should not be used as a matter of routine or convenience. When using this type of detention, remember to:

- Ensure the person being detained is unarmed. If you have any suspicions the person may be armed, conduct a pat-down (cursory) search for your safety.
- Ensure they **put on their seatbelt**.
- Ensure the patrol unit doors are closed.
- Make continual visual checks on persons being detained to ensure their welfare and that they are not trying to exit your patrol unit by unconventional means (e.g., kicking the window out).

**Note:** Be cognizant of the *Arizona v. Gant* case law decision (*Arizona v. Gant*, 556 U.S. 332 (2009)) that requires a nexus between the offense/arrest and the rationale for a vehicle search. It restricts vehicle searches when a suspect is securely detained.

### **Tactical considerations for handcuffing an unsecured suspect while in a BSD**

- It is **HIGHLY RECOMMENDED** to have a partner present before handcuffing or taking the detainee into custody, whenever feasible.
- In many past situations, when deputies removed a detained person from a patrol vehicle's rear seat for handcuffing, the encounter evolved into a fight, a foot pursuit, or both.
- If you decide to handcuff the person who is detained in the rear seat of your vehicle, it is not always necessary to have them exit the vehicle to be handcuffed.
- Take the totality of the circumstances of your situation into consideration before making a decision to obtain back-up. As always, WHEN IN DOUBT, REQUEST BACK UP.
- Consider ordering the suspect to remain seated, to turn their body facing away from you, and to lean forward.
- If possible, have the suspect place their legs on the floor of the opposite side of the backseat and cross their legs. This will diminish the suspect's ability to shove themselves backwards in an attempt to escape or head-butt you. This may not be feasible or physically possible depending on the type of patrol

car, cage construction, and the size of the suspect. Use your best judgment based on the entirety of the situation when positioning your suspect for handcuffing.

- Consider having the suspect cross their legs regardless of where you position them. The feet are often the only part of the legs visible when handcuffing. The suspect uncrossing their legs can be a warning sign of adverse action and may give you more time to react.
- If the suspect appears cooperative, and if physically possible, ensure the suspect fastened their seatbelt and order the suspect to pull the shoulder strap over their head.
- Before handcuffing, have the suspect place their hands behind their back.
- If they refuse any of your instructions, you should obtain back up and have a field supervisor present prior to attempting to handcuff the suspect.
- For added security, consider handcuffing them behind their back through the open backdoor window rather than opening the back door, if possible.
- If handcuffing through an open backdoor window isn't practical and the suspect appears cooperative, open the door and place handcuffs on the suspect. Try to keep as much distance as possible between your face and the back of the suspect's head.
- Ensure the suspect is not watching you when you open the door.
- Consider only "cracking" the door first to gauge the suspect's reaction before fully opening it.

**NOTE: DO NOT transport suspects without ensuring they are unarmed.** This will probably require removing persons from the vehicle after they have been handcuffed for a secondary search. Remember to search the backseat area before returning the suspect and to seatbelt the suspect properly prior to transport.

Properly document the BSD by entering the contact type code in the Mobile Digital Computer (MDC) along with a narrative articulating the justifications for the BSD, keeping in mind any 4<sup>th</sup> amendment and/or *Terry v. Ohio* concerns.

Questions regarding the contents of this Newsletter may be directed to Field Operations Support Services, [foss@lasd.org](mailto:foss@lasd.org)

## **REFERENCES**

The California Peace Officers Legal Sourcebook Sections 2.A, 2.B, 3.A and 4.A.

U.S. Supreme Court Case Law Decision Arizona vs. Gant (2009)

<http://www.supremecourt.gov/opinions/08pdf/07-542.pdf>

U.S. Supreme Court Case Law Decision California vs. Beheler (1983)

<https://www.ncjrs.gov/App/publications/abstract.aspx?ID=97560>

LASD FOSS Newsletter 13-12 New MDC Codes for Logging Field Activity

[http://intranet/intranet/sites/Rmb/FOSS/newsletters/2013/NL\\_13-12.pdf](http://intranet/intranet/sites/Rmb/FOSS/newsletters/2013/NL_13-12.pdf)

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