25-07 - High-Risk Stop Tactics Chinaryan v. City of Los Angeles

Los Angeles County Sheriff's Department

NEWSLETTER

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HIGH-RISK STOP TACTICS

CHINARYAN v. CITY OF LOS ANGELES

In August 2024, in *Chinaryan v. City of Los Angeles*, 113 F.4th 888 (9th Cir. 2024), the Ninth Circuit Court of Appeals sharply criticized the use of high-risk vehicle stop tactics based solely on a suspicion that a vehicle is stolen and held that reckless disregard for clearly established constitutional rights can expose law enforcement officers to personal liability.

The court denied qualified immunity to the involved officers, emphasizing that prior Ninth Circuit precedent had already clearly established that such tactics are unconstitutional absent specific, articulable safety concerns. Because those earlier decisions put law enforcement officers on notice, the officers in this case could not claim they were unaware their conduct violated the Fourth Amendment.

ISSUE

Q: Can officers use high-risk vehicle stop tactics merely because they suspect a car is stolen?

A: No. Not without clearly articulating a specific and objective danger posed by the vehicle's occupants.

RULE

Law enforcement officers must be able to articulate a *specific threat* from the occupants of a vehicle, beyond the mere suspicion that the vehicle is stolen, before using high-risk stop tactics. The high-risk stop tactics include:

1. Pointing firearms *at or near* the occupants;
2. Ordering occupants to kneel or lie prone on the ground; or
3. Handcuffing occupants during the stolen vehicle investigation.

CASE FACTS

On June 14, 2019, Los Angeles Police Department (LAPD) officers detected a signal from a LoJack device

installed in a stolen 2015 Chevrolet Suburban limousine and determined its approximate location. However, LoJack signals are imprecise and do not provide an exact location.

Two days later, on June 16, 2019, Hasmik Chinaryan was driving her black 2018 Chevrolet Suburban limousine, accompanied by her minor daughter and a friend. An LAPD sergeant, aware of the prior report of a stolen Chevrolet Suburban limousine, saw Ms. Chinaryan's vehicle less than half a mile from where the LoJack signal had previously been detected. A license plate check revealed that the license plate belonged to a Dodge Ram, leading the sergeant to suspect that the vehicle was "cold-plated," meaning a suspect had intentionally switched its license plates to conceal that the Suburban was stolen.

Multiple LAPD units responded to assist in following the suspected stolen vehicle. Over the next 10 minutes, Ms. Chinaryan followed all traffic laws and did not attempt to flee. Although the vehicle had tinted windows, officers approaching from the opposite direction could see the driver and a front-seat passenger. Ultimately, approximately a dozen officers and an LAPD helicopter were involved in the stop. During this time, none of the patrol vehicles' LoJack receivers registered a signal.

When Ms. Chinaryan noticed the officers, she pulled to the side of the road to let them pass. At that point, officers activated their sirens and issued commands for her to stop. The officers ordered Ms. Chinaryan to turn off the vehicle, throw her keys outside, and exit the car with her hands up. Ms. Chinaryan complied and exited the vehicle. Several officers pointed their firearms "at or near her" as one officer ordered her to lie prone on the street, where she remained for more than three minutes while officers held their firearms in a "low-ready" position.

Other officers ordered Ms. Chinaryan's daughter and friend to exit the vehicle and then cleared it. Officers pointed firearms, including an AR-15 rifle and a 12-gauge shotgun, "at or near" the passengers. The passengers were instructed to walk backward approximately 15 to 20 steps and sit on the curb. Ms. Chinaryan's daughter became so frightened that she cried and urinated on herself during the encounter.

During this investigatory stop, officers checked the Vehicle Identification Number (VIN) and confirmed it matched the Suburban. They ultimately determined the mismatch in registration was the result of a Department of Motor Vehicles (DMV) administrative error, as the assigned plate differed by only a single digit. After confirming all the VINs matched, Ms. Chinaryan and her party were released without citation. The entire incident, from the traffic stop to release, lasted approximately 24 minutes.

The involved officers later stated that they had followed Department-approved "high-risk vehicle stop" tactics, which call for officers to take positions of cover, order occupants out of the vehicle, maintain weapons at the "low ready" position (pointed below a suspect's waist and "at or near" the suspect), and place occupants in a prone position for handcuffing.

QUALIFIED IMMUNITY

Qualified immunity shields sworn officers from facing trial for alleged constitutional violations, if specific conditions are met. This defense is typically resolved before trial, and if granted, the civil case against the law enforcement officer is dismissed. A denial of qualified immunity does not mean the officer is automatically liable. It means a jury must decide at trial whether a constitutional violation occurred.

In an excessive force case, qualified immunity will be granted where the court finds that, even if a constitutional violation occurred, the law was not "clearly established" at the time, meaning no prior published decisions had

put a reasonable officer on notice that the conduct was unlawful.

Importantly, courts must evaluate a motion for qualified immunity based on the plaintiff's version of events, not the officers. If there is a material factual dispute that could change the outcome of the case, the court must deny qualified immunity and allow a jury to resolve those factual questions at trial.

PRIOR NINTH CIRCUIT DECISIONS ON HIGH-RISK VEHICLE STOPS

The Ninth Circuit found that the law governing high-risk stop tactics was "clearly established" long before the LAPD's 2019 stop of Ms. Chinaryan's Suburban. The case law the court was referencing included the following cases:

- In *Washington v. Lambert*, 98 F.3d 1181 (9th Cir. 1996), the court held that the Fourth Amendment protects individuals "from the terrifying and humiliating experience of being pulled from their cars at gunpoint, handcuffed, or made to lie face down on the pavement when insufficient reason for such intrusive police conduct exists." In *Washington*, police officers stopped two African-American men who generally matched robbery suspects' descriptions but did not otherwise act suspiciously. Officers ordered both men out of their car at gunpoint, handcuffed them, and placed them in separate patrol cars. The court ruled that officers could not use such intrusive tactics during a *Terry* stop unless they have an "articulable basis" for suspecting that someone may be involved in a crime.

- Nearly two decades later, in *Green v. City & County of San Francisco,* 751 F.3d 1039 (9th Cir. 2014), the Ninth Circuit criticized the use of high-risk stop tactics based solely on a suspicion that a vehicle was stolen. In *Green,* officers relied on an Automatic License Plate Reader (ALPR) alert mistakenly indicating a vehicle was stolen, when the system had misread one digit on the plate. The vehicle's registered owner, Denise Green, a 47-year-old Black woman with no criminal history, was pulled over by multiple officers after a brief delay to assemble backup, and without visually confirming the license plate. Officers drew and pointed their weapons, ordered Ms. Green out of her car, directed her to her knees, handcuffed her, and detained her for up to 20 minutes. "Green was wholly compliant and nonresistant for the entirety of the stop and . . . there was no indication that she was armed."

The *Green* court rejected the officers' argument that the suspected theft of a vehicle alone justified a high-risk stop. The court held that while some suspects driving stolen cars may indeed pose a danger, that possibility does not automatically justify such intrusive tactics. Instead, whether the officers' actions were reasonable was a question of fact for a jury to decide.

COURT ANALYSIS AND LESSONS FROM *CHINARYAN V. CITY OF LOS ANGELES*

Relying on its earlier decisions in *Washington and Green,* the Ninth Circuit held that law enforcement officers may be held personally liable and not shielded by qualified immunity for using high-risk stop tactics, such as pointing firearms, ordering occupants to the ground, or handcuffing, based solely on reasonable suspicion that a vehicle was stolen.

The use of high-risk tactics must be objectively reasonable under the Fourth Amendment assessed under the totality of the circumstances. Officers must have sufficient reason or "special circumstances" to justify the degree of force or intrusion.

Applying the Graham v. Connor Factors

In determining whether the governmental interests justified this degree of intrusion, courts typically apply the familiar *Graham v. Connor* factors:

1. The severity of the crime at issue;

2. Whether the suspect posed an immediate threat to the officer or public safety; and

3. Whether the suspect was actively resisting arrest or attempting to flee.

Although vehicle theft is an "arguably severe" crime, the *Chinaryan* court found that the LAPD officers had no articulable facts suggesting an immediate threat beyond the general risk that any vehicle thief might pose. There was no evidence that the suspects were armed or dangerous, nor that a violent crime was reasonably likely to occur. The court observed that Ms. Chinaryan and her passengers were fully cooperative and posed no risk of flight or violence.

Lack of "Special Circumstances"

The court emphasized that the absence of "special circumstances" made the use of high-risk tactics constitutionally excessive. Officers had less intrusive alternatives available to control the suspects. For example, the officers could have remained behind cover and ordered the occupants to step out, raise their shirts, and turn around to show their waistbands, without pointing firearms or ordering the driver to lie prone.

In this case, the driver's form-fitting clothing made even that unnecessary, and she was "visibly unarmed." One LAPD officer testified that he could tell from her fitted pants that she did not have a handgun.

Prolonged Handcuffing

The court also found that it was excessive to keep the vehicle's occupants handcuffed for nine minutes after officers realized the DMV error. Handcuffing, the court noted, "substantially aggravates the intrusiveness of an otherwise routine investigatory detention and is not part of a typical *Terry* stop." As stated above, the occupants were fully cooperative.

Firearms and the "Low-Ready" Position

A central issue in *Chinaryan* was the definition of pointing firearms "at or near" a person. Ms. Chinaryan testified that officers pointed guns directly at her. The LAPD officers said they were keeping their firearms in a "low-ready" position. The court found that a "low ready" stance still involves pointing a weapon "anywhere below the suspect's waist – whether directly at the suspect or nearby."

Although courts must accept the plaintiff's version of events at this stage, the Ninth Circuit went further, finding that pointing firearms at compliant, nonthreatening individuals constitutes a Fourth Amendment violation as a matter of law.

Lighting, Visibility, and "Tactical Investigatory Stops"

The court rejected the LAPD's argument that dusk lighting and tinted windows justified the high-risk stop tactics. The mere fact that it was getting dark or that visibility was limited did not create a sufficient safety concern.

Instead, the court pointed to the LAPD's own concept of a "tactical investigatory stop." According to the LAPD, a "tactical investigatory stop" is a lower-risk alternative where officers remain behind their "bulletproof" doors, maintain cover, keep their guns holstered, and order occupants to step outside, lift their clothing, and turn around to show their waistbands. The suspect is normally not ordered to lie down in the street. This approach, the court suggested, allows officers to maintain safety without escalating to a full high-risk procedure.

CONCLUSION

Under the Ninth Circuit's decision in *Chinaryan v. City of Los Angeles,* high-risk vehicle stop tactics are not justified by mere suspicion of vehicle theft alone. Instead, under this ruling, law enforcement officers must be able to articulate a specific and objective threat to their safety or to others before escalating to tactics such as pointing firearms, ordering occupants to the ground, or handcuffing them.

While the court acknowledged that vehicle theft is a serious crime, it made it clear that generic safety concerns, such as the possibility that a vehicle thief might be armed, limited visibility, or the time of day, do not, by themselves, justify high-risk procedures. The court reasoned that the level of force must be objectively reasonable, balancing the severity of the crime, the immediacy of any threat, and the suspect's behavior.

The court's opinion underscores that law enforcement officers must act reasonably, not perfectly, under the circumstances. Overly intrusive tactics used against compliant and unarmed individuals may expose individual officers to civil liability.

As circumstances can rapidly change, officers should remain prepared to escalate to high-risk stop tactics when the situation objectively warrants it.

REFERENCES

Chinaryan v. City of Los Angeles, et al., 113 F.4th 888 (9th Cir. 2024)

Washington v. Lambert, 98 F.3d 1181 (9th Cir. 1996)

Green v. City and County of San Francisco, 751 F.3d 1039 (9th Cir. 2014)

Graham v. Connor, 490 U.S. 386 (1989)

The Briefing Room Training Video - "Can Officers Use High-Risk Vehicle Stop Tactics on the Occupants of a Stolen Vehicle":

- https://training.thebriefingroom.com/briefing/can-officers-use-high-risk-vehicle-stop-tactics-on-the-occupants-of-a-stolen-vehicle/

The Briefing Room Webinar - "Performing High-Risk Traffic Stops on Stolen Vehicles – Is it Still Legal?":

- https://training.thebriefingroom.com/briefing/performing-high-risk-traffic-stops-on-stolen-vehicles-is-it-still-legal/