



Advanced Search & Seizure

COURSE OUTLINE

Who did it, where were you, what did you do, and did you have C.R.E.W.

Anthony Bandiero, Esq.

Attorney and President

Blue to Gold Law Enforcement Training, LLC
COEUR D'ALENE, IDAHO

Course Description

Advanced Search & Seizure teaches officers to independently analyze and solve the Fourth Amendment problems they face on duty. The course is built on four questions that resolve almost every search and seizure issue: Who did the search or seizure? Was it a protected area? Did a search or seizure occur? And did you have C.R.E.W., meaning consent, a recognized exception, or a warrant? Layered over those questions are the Search & Seizure Golden Rules: articulate, weigh the seriousness of the crime, and act on probabilities rather than possibilities. The class is fast paced, built on video and real cases, and keyed to the host state's constitution and case law.

Course title	Advanced Search & Seizure (AS&S)
Length	8 hours (480 minutes, including a 60-minute lunch and two 10-minute breaks; 400 minutes of instruction)
Learners	In-service training for certified law enforcement officers, including patrol, investigations, specialty units, corrections, supervisors, and administration; also appropriate for federal officers
Prerequisites	None
Methods	Lecture with slides, video case studies, Socratic discussion, case briefs, field hypotheticals, and an in-class knowledge check
Assessment	Nine-question knowledge check and instructor observation. Certificates issued through Blue to Gold University.
Instructor	Blue to Gold legal instructor. Course author: Anthony Bandiero, Esq., Attorney and President.
Contact	Blue to Gold, LLC, 174 E Neider Ave #212, Coeur d'Alene, ID 83815 888-579-7796 info@bluetogold.com www.bluetogold.com

Learning Objectives

By the end of this course, the student will be able to:

1. Apply the four Legal Fundamentals questions (who did it, was it a protected area, did a search or seizure occur, did you have C.R.E.W.) to a fact pattern.
2. State the three Search & Seizure Golden Rules and explain how each changes the way a court views an officer's actions.
3. Explain when a private search becomes a government search and apply the private search doctrine and its two limits.
4. Define curtilage using the four Dunn factors and describe what officers may lawfully do on curtilage during a knock and talk or a call for service.
5. Distinguish a lawful threshold arrest under Santana from an unlawful entry under Payton, and state the hot pursuit rule after Lange v. California.

6. State the emergency aid standard from *Case v. Montana* and explain why community caretaking alone does not justify a home entry.
7. Distinguish purposeful abandonment, inadvertent abandonment, and lost property, and prove abandonment with words and actions.
8. Describe the *Katz* privacy and *Jones* trespass tests for a search and the two ways a person is seized.
9. Distinguish a consensual encounter from a detention, obtain voluntary consent, apply common and apparent authority to third-party consent, and stay within the scope of consent.
10. Explain why a detention must end when suspicion is dispelled and why processing a crime scene after the emergency requires consent or a warrant.

Schedule

Segment	Slides	Minutes
Part One: Introduction and Golden Rules	1 to 178	40
Part Two: Q1, Who Did the Search or Seizure?	179 to 206	30
Break		10
Part Three: Curtilage and Knock and Talk	208 to 298	55
Part Three: Threshold, Emergency Aid, Private Areas	299 to 393	60
Part Three: Abandoned Property	394 to 426	25
Lunch		60
Part Four: Q3, Did a Search or Seizure Occur?	427 to 500	55
Break		10
Part Five: Q4, Did You Have C.R.E.W.?	501 to 655	115
Part Six: Knowledge Check and Close	656 to 688	20
Total		480

Part One: Introduction and Golden Rules

SLIDES 1 TO 178 | 40 MINUTES

Opening the Class

- ▶ Instructor introduction, “Hypothetical Criminal” opener (reasonable suspicion or probable cause?), and housekeeping (certificates, three disclaimers, content advisory)
- ▶ Legal Fundamentals roadmap: Q1 who did the search or seizure; Q2 was it a protected area; Q3 did a search or seizure occur; Q4 did you have C.R.E.W.
- ▶ Five preview questions: what is a search, four curtilage factors, warrantless arrest on curtilage, plain view versus plain view seizure, three protective sweeps
- ▶ Text of the Fourth Amendment

Your State Constitution

- ▶ Host state’s search and seizure analog and its courts’ approach: lockstep, floor with independent authority, or broader protection
- ▶ *Tranum v. Stringer*, 216 Ala. 522 (1927): the federal amendment as parent of the state provisions

Search & Seizure Golden Rules

- ▶ Rule One: the more you articulate, the more likely it is upheld; weak reports lose cases
- ▶ Rule Two: the more serious the crime, the more reasonable your actions are viewed; *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975); *Welsh v. Wisconsin*, 466 U.S. 740 (1984); *Longshore v. State*, 399 Md. 486 (2007)
- ▶ Rule Three: probabilities, not possibilities; *State v. McCall*, 138 Nev. Adv. Op. 64 (2022)

Part Two: Q1, Who Did the Search or Seizure?

SLIDES 179 TO 206 | 30 MINUTES

Private Searches and Government Agents

- ▶ The Fourth Amendment does not restrict private actors; *Burdeau v. McDowell*, 256 U.S. 465 (1921)
- ▶ Two-part agency test: police instigated, encouraged, or participated, and the private party intended to assist police
- ▶ *State v. Sanders*, 185 N.J. Super. 258, 448 A.2d 481 (1982); *State v. Brockman*, 339 S.C. 57, 528 S.E.2d 661 (2000); *State v. Luman*, 347 Or. 487, 223 P.3d 1041 (2009); *Rann v. Atchison*, 689 F.3d 832 (7th Cir. 2012); *United States v. Highbull*, 894 F.3d 988 (8th Cir. 2018)

The Private Search Doctrine

- ▶ *United States v. Jacobsen*, 466 U.S. 109 (1984): the “cat out of the bag” search
- ▶ Two limits: do not exceed the private search (*United States v. Phillips*, 32 F.4th 865 (9th Cir. 2022)) and have lawful access (*State v. Shaw*, 237 N.J. 588, 207 A.3d 229 (2019))
- ▶ Pro tip: use the doctrine on digital devices only as a fail-safe; prefer exigency, common authority consent, or a warrant

Part Three: Q2, Was It a Protected Area?

SLIDES 208 TO 426 | 140 MINUTES PLUS LUNCH

Curtilage: Defining the Protected Area (slides 208 to 248)

- ▶ Curtilage is part of the home; *Florida v. Jardines*, 569 U.S. 1 (2013)
- ▶ Four Dunn factors: adjacent, enclosure, use, sight screening; *United States v. Dunn*, 480 U.S. 294 (1987); open fields
- ▶ Curtilage color codes (red, yellow, green) and “what color are you standing on?”; *Alvarez v. Montgomery County*, 147 F.3d 354 (4th Cir. 1998)
- ▶ Artificial vantage points: *State v. Kender*, 588 P.2d 447 (1978); *State v. McKelvey*, 544 P.3d 632 (Alaska 2024); *State v. Mitchell*, 8 Kan. App. 2d 265 (1982)

Knock and Talk (slides 249 to 298)

- ▶ Implied license and its scope; state divergences (South Carolina, Arkansas, Oregon)
- ▶ *French v. Merrill*, 15 F.4th 116 (1st Cir. 2021); *Brizuela v. City of Sparks*, No. 22-16357 (9th Cir. 2023); *Morgan v. Fairfield County*, 903 F.3d 553 (6th Cir. 2018)
- ▶ Flashlights, chairs, and hands and knees: *Marshall v. U.S.*, 422 F.2d 185 (5th Cir. 1970); *State v. Adams*, 378 So.2d 72 (1979); *State v. Bowling*, 867 S.W.2d 338 (1993); nosey, not intrusive
- ▶ Fences and signs: *United States v. Bearden*, 780 F.3d 887 (8th Cir. 2015); *United States v. Carloss*, 818 F.3d 988 (10th Cir. 2016); *State v. Lohse* (Ariz. Ct. App. 2018); calls for service

The Threshold and Hot Pursuit (slides 299 to 342)

- ▶ *United States v. Santana*, 427 U.S. 38 (1976); *Payton v. New York*, 445 U.S. 573 (1980); *Ryburn v. Huff*, 565 U.S. 469 (2012)
- ▶ Body snatching requires exigency: *Bailey v. Swindell*, 940 F.3d 1295 (11th Cir. 2019); *McClish v. Nugent*, 483 F.3d 1231 (11th Cir. 2007); St. Louis County critical incident video
- ▶ *Lange v. California*, 141 S. Ct. 2011 (2021) and the Santa Rosa hot pursuit video; plain view requires lawful access, *Lewis v. State*, 358 Ga. App. 482 (2021)

Emergency Aid and Community Caretaking (slides 343 to 374)

- ▶ *Caniglia v. Strom*, 141 S. Ct. 1596 (2021): no community caretaking exception for homes
- ▶ *Hannon v. State*, 125 Nev. 142 (2009) versus *State v. Reece*, 117 A.3d 1235 (2015); the Rapkin case study
- ▶ *Case v. Montana*, 607 U.S. ____ (2026): objectively reasonable basis, not probable cause; welfare check hypothetical

Private Areas Beyond Curtilage (slides 375 to 393)

- ▶ Privacy analysis for fenced and posted areas that are not curtilage: *State v. Karston* (La. Ct. App. 1991); *State v. Dixon*, 307 Or. 195 (1988); *People v. Scott*, 79 N.Y.2d 474 (1992); *State v. Lakin*, 588 S.W.2d 544 (1979); *State v. Larson*, 159 Or. App. 34 (1999); *State v. Weaver*, 349 S.W.3d 521 (Tex. Crim. App. 2011)

Abandoned Property (slides 394 to 426)

- ▶ Abandonment is about privacy, not property; *United States v. Prieto*, 234 F. App'x 457 (9th Cir. 2007); state trash divergences (Alaska, Iowa)
- ▶ Purposeful abandonment, inadvertent abandonment, lost property; do not chit chat before the search, *State v. Olson*, 377 Wis. 2d 337 (2017)
- ▶ *Edwards v. State*, 497 S.W.3d 147 (Tex. App. 2016); *Cooper v. State*, 806 P.2d 1136 (Okla. Crim. App. 1991); *Morris v. State*, 908 P.2d 931 (Wyo. 1995); *Thompson v. State*, 680 So.2d 1014 (1996); *United States v. Ferebee*, 957 F.3d 406 (4th Cir. 2020)

Part Four: Q3, Did a Search or Seizure Occur?

SLIDES 427 TO 500 | 55 MINUTES

What Is a Search? Katz and Jones (slides 427 to 462)

- ▶ *Katz v. United States*, 389 U.S. 347 (1967): reasonable expectation of privacy; the 100-Person Test; social media; false friend doctrine, *Hoffa v. United States*, 385 U.S. 293 (1966)
- ▶ *United States v. Jones*, 565 U.S. 400 (2012): trespass on an effect to gather information
- ▶ Trespass searches that were still reasonable: *United States v. Richmond*, 915 F.3d 352 (5th Cir. 2019); *United States v. Correa*, 908 F.3d 208 (7th Cir. 2018); *Commonwealth v. Harvard*, 64 A.3d 690 (2013); *Schmidt v. Stassi*, 250 F. Supp. 3d 99 (E.D. La. 2017)

Seizure of Persons and Property (slides 463 to 500)

- ▶ Show of authority plus submission: *California v. Hodari D.*, 499 U.S. 621 (1991); fifteen-state divergence on submission
- ▶ Physical force with intent to restrain: *Torres v. Madrid*, 141 S. Ct. 989 (2021); Empire State Building shooting discussion
- ▶ Seizure of property as meaningful interference with possessory interests; *United States v. Jacobsen*

Part Five: Q4, Did You Have C.R.E.W.?

SLIDES 501 TO 655 | 115 MINUTES

Consensual Encounters (slides 501 to 529)

- ▶ Ultimate question: would a reasonable person believe they could ignore you without legal repercussions?
- ▶ Start with a question; *In re Manuel G.*, 16 Cal.4th 805 (1997); *People v. Roth*, 219 Cal.App.3d 211 (1990); *United States v. Espinoza*, 490 F.3d 41 (1st Cir. 2007); *People v. Franklin*, 192 Cal.App.3d 935 (1987); *State v. Shine* (Ohio Ct. App. 2017)
- ▶ Asking for ID: *People v. Bouser*, 26 Cal.App.4th 1280 (1994); *United States v. Chan-Jimenez*, 125 F.3d 1324 (1997); California and New York divergences

Consent to Search: Voluntariness (slides 530 to 563)

- ▶ Voluntary consent means a real choice; express or implied; *Pokatilov v. State*, 2017 Ark. 264 (2017)
- ▶ Legal truth versus coercive threats: *State v. Peoples*, 2005 WL 1010505; *U.S. v. Berg*, 196 P.3d 547 (2008); *Harless v. Turner*, 456 F.2d 1337 (1972); *United States v. Gonzalez-Basulto*, 898 F.2d 1011 (1990)
- ▶ Right to refuse advisements (Colorado, Iowa); consent may be withdrawn at any time

Third-Party Consent (slides 564 to 599)

- ▶ Common authority and the Piggyback Rule; apparent authority, *Illinois v. Rodriguez*, 497 U.S. 177 (1990); actual authority states
- ▶ *People v. Stacey*, 317 N.E.2d 24 (1974); *State v. Miranda*, 292 A.3d 473 (2023); *State v. Crumb* (App. Div. 1997); *Fernandez v. California*, 571 U.S. 292 (2014); *Georgia v. Randolph*, 547 U.S. 103 (2006)
- ▶ Traffic stop scenarios: *United States v. Infante-Ruiz*, 13 F.3d 498 (1994); *People v. Olivas*, 859 P.2d 211 (1993); *United States v. Eldridge*, 984 F.2d 943 (1993); *State v. Daniels*, 848 N.W.2d 670 (2014)

Scope of Consent (slides 600 to 615)

- ▶ What you ask to search for defines the scope; typical reasonable person standard; automatic withdrawal when the object is found; destructive searches need explicit permission (*United States v. Camargo-Chavez*, 2014 WL 1330205; *United States v. Torres*, 663 F.2d 1019 (10th Cir. 1981))

Investigative Detentions: Duration (slides 616 to 636)

- ▶ The melting ice cube; Alaska and Nevada divergences
- ▶ Once suspicion is dispelled the stop ends: *King v. United States*, 917 F.3d 409 (2019); *United States v. Bey*, 911 F.3d 139 (3d Cir. 2018); *United States v. De La Cruz*, 703 F.3d 1193 (10th Cir. 2013); *Torres v. State*, 131 Nev. 11 (2015); *State v. Dubuc*, 141 Nev. Adv. Op. 67 (2025)

Crime Scenes (slides 637 to 655)

- ▶ Once the emergency is over, consent or a warrant is required: *Mincey v. Arizona*, 437 U.S. 385 (1978); *Flippo v. West Virginia*, 528 U.S. 11 (1999); *Thompson v. Louisiana*, 469 U.S. 17 (1984)
- ▶ *State v. Schroeder*, 109 Wash. App. 30 (2001); *State v. Boisselle*, 194 Wash. 2d 1 (2019); *Commonwealth v. Witman*, 750 A.2d 327 (2000): if you lack confidence, get a warrant

Part Six: Takeaways

SLIDES 656 TO 688 | 20 MINUTES

- ▶ Nine-question knowledge check with discussion
- ▶ Four questions decide almost every case; articulate; curtilage is the home; consent is a gift; detentions melt
- ▶ Return to the five preview questions; class photo