



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 296

April 4, 2005

USE OF HANDCUFFS TO DETAIN PERSON DURING QUESTIONING AND SEARCH WARRANT EXECUTION

Reference: Darin L. Muehler, United States Supreme Court
et al No. 03-1423
v. March 22, 2005
Iris Mena

FACTS:

About 7:00 a.m., police officer Muehler, along with other police officers and a SWAT team, executed a search warrant at a private residence. The warrant authorized a broad search of the house and premises for, among other things, deadly weapons and evidence of gang membership. Police suspected one of the occupants had recently been involved in a drive-by shooting. Because the gang--the West Side Locos--was comprised primarily of illegal immigrants, the police notified Immigration and Naturalization Services (INS--now ICE) and they accompanied the officers.

When the warrant was executed, there were four individuals in the residence. Mena was in her bedroom. All four were handcuffed and taken to the attached garage. INS officers asked all four of them for their immigration documents. Mena confirmed her status as a permanent resident.

Search of the residence yielded a handgun, ammunition, baseball bats with gang writing, gang paraphernalia and a bag of marijuana. The entire operation took between two and three hours. Before officers left the area, Mena was released.

Mena argued successfully before the Ninth Circuit Court of Appeals that both her detention by use of handcuffs and the subsequent interview by INS violated the Fourth Amendment.

The Ninth Circuit Court of Appeals upheld the civil judgment (brought by a 1983 suit) of \$60,000 against each of the officers sued.

ISSUE:

Did use of handcuffs to retain Mena during the search and the officers' questioning her about her immigration status during that detention violate the Fourth Amendment?

HELD: No--the handcuffed detention during execution of the warrant was reasonable and the officers' questioning did not constitute a violation of the Fourth Amendment.

REASONING:

1. Michigan v. Summers (see Legal Bulletin No. 49) held that officers executing a search warrant for contraband have the authority "to detain the occupants of the premises while a proper search is conducted."

2. There are three legitimate law-enforcement interests that provide substantial justification for detaining an occupant: (a) preventing flight in the event incriminating evidence is found; (b) minimizing the risk of harm to the officers; and (c) facilitating the orderly completion of the search, as detainees' self-interest may induce them to open locked doors or containers to avoid use of force.

3. The two-to-three hour detention in handcuffs in this case does not outweigh the government's continuing safety interest.

4. Mere police questioning does not constitute a seizure. Even when officers have no basis for suspecting a particular individual, they may: (a) generally ask questions of that individual; (b) ask to examine the individual's identification; (c) request to search his or her luggage.

NOTES:

A review of the following cases is recommended:

Michigan v. Summers, Legal Bulletin No. 49--regarding pre-arrest seizure of a person while executing a search warrant.

Maryland v. Wilson, Legal Bulletin No. 214--ordering passengers out of a car stopped by police is permissible.

Illinois v. Caballes, Legal Bulletin No. 292--held that a dog sniff performed during a traffic stop does not violate the Fourth Amendment.

Way v. State, Legal Bulletin No. 290--authorized the investigative seizure/pat-down (handcuffing) of persons present during a search for a fugitive.

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