



# ORANGE COUNTY SHERIFF'S DEPARTMENT CONSTITUTIONAL POLICING UPDATE

ISSUE DATE: SEPTEMBER 23, 2024  
BULLETIN #24 - 16



Chinaryan v.  
City of Los Angeles  
August 14, 2024  
#21-56237

## CIVIL LIABILITY

Illegal Seizure  
Excessive Force  
Failure to Properly Train

## A Minute with Mary



*"The law will support the decision to err on the side of OFFICER SAFETY; however, throughout the investigation, a constant assessment of tactics should be evaluated and adjusted (and later documented) based on the unfolding facts."*

*"The driver's actions play a direct role in how law enforcement decides to conduct the stop."*

*"The delay from when an officer knew or should have known sufficient facts exist to dial it back versus the time they took to act (e.g. uncuffing) is under scrutiny."*

*"Officers should constantly be evaluating if the situation would permit them to transition to a less intrusive form of detainment..."*

# COLD-PLATED VEHICLES, FELONY CAR STOPS & QUALIFIED IMMUNITY

High-risk vehicle stops of auto theft suspects do not automatically violate the Fourth Amendment. However, as established in *Chinaryan v. City of Los Angeles* (August 14, 2024, #21-56237), if the sole justification for a high-risk stop is a cold-plated vehicle without additional articulable facts, then officers will not have Qualified Immunity.

## Case Overview

LAPD air support received a LoJack alert for a stolen 2015 Chevy Suburban. The next day, ground units suspecting a nearby chop shop began tracking a similar 2018 Chevy Suburban driven by Chinaryan, who was returning home with two teenage girls in the car. Dispatch confirmed the vehicle's plate belonged to a Dodge Ram. Ultimately, it turned out DMV provided the RO with the incorrect plates and the vehicle was not stolen.

Reasonable suspicion for the stop existed, but the basis for conducting a high-risk stop was insufficient. The facts did not show any articulable threats from the vehicle's actions before or after the stop, nor did the actions of the occupants present a safety issue. The mere presence of cold plates does not justify a high-risk felony stop without articulable facts suggesting the occupants are armed or dangerous.

## Key Findings

- **Lawful High-Risk Stops:** A high-risk stop is warranted only when there is credible evidence that the occupants pose a threat to officers. A cold-plated vehicle alone is not enough.
- **Conducting Stops:** The officer's assessment prior to initiating a high-risk stop must include observed behaviors that indicate potential criminal activity, e.g., erratic driving or suspicious movement inside the vehicle. High-risk stops based solely on reasonable suspicion of auto theft without additional indicators of danger may result in liability.
- **Incident Management:** Efficiently managing the stop—such as requesting back-up and having driver exit the vehicle for further investigation or approaching occupants cautiously and gathering intelligence—can mitigate risks and enhance officer safety.

*“There were sufficient articulable facts to support reasonable suspicion for the stop in this case. Unfortunately, the case did not establish facts to support how the traffic stop should unfold.”*

*“Most agencies, like OCSD, train to*



*promptly questioned to see what intelligence can be gathered of who else is inside of the vehicle.”*

*“The 9th Circuit’s opinion removed Qualified Immunity, in part, because of the severe degree of “intrusion” effected at the stop.”*

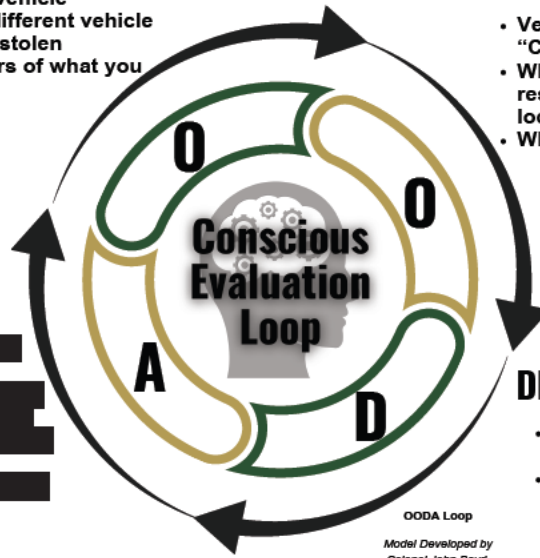
**OBSERVE**

- Observations of vehicle
- Plate returns to different vehicle
- Vehicle possibly stolen
- Process indicators of what you are seeing

**ORIENT**

- Vehicle observed near known “Chop Shop” area
- Where are my available resources in relation to my location?
- What facts do I have?

**ACT**



**DECIDE**

- What are the occupants reactions to my presence?
- Will I initiate an Investigatory Stop or a Felony Car Stop?

**APPLY THE CONSCIOUS EVALUATION LOOP AND DOCUMENT YOUR CONSTANT ASSESSMENT OF ACTIONS IN YOUR POLICE REPORT**

One fact alone (a cold-plated vehicle) will not be sufficient to justify a high-risk felony stop. Also, a blanket view that all auto theft suspects may be armed or dangerous is not going to pass a constitutional analysis. Think of it like a Terry Stop. Patting someone down is a critically important lawful tool to protect peace officers. But we still need to articulate why. Merely documenting “I patted him down for my safety” has long been established to be legally inadequate.

**Bottom Line**

Officers should utilize their training to minimize liability and ensure officer safety. On each call, objectively evaluate indicators and document your decision-making process. This 9th Circuit case highlights the importance of transitioning to less intrusive measures when the situation permits.

Patrol shifts are built on making split-second decisions, factoring indicators seen, relying on your extensive training and experience, listening to your intuition, and not projecting what we think the situation will be. Instead, process all the various things before you that drive your next steps, putting it all together to successfully and safely close out the incident.

The law supports the decision to err on the side of officer safety and then dial it back to less intrusive measures. However, the delay from when an officer knew or should have known sufficient facts exist to dial it back versus the time they took to act (e.g. uncuffing) is under scrutiny.

Multiple factors in this specific case appeared to fall in line, creating the perfect storm of unfortunate coincidences. The three keys to avoiding liability are to (1) utilize your training and always put officer safety first; (2) objectively evaluate the indicators before you (e.g. What are the facts that justify my next steps? Should I increase or decrease the intensity here? Is there some factor or circumstance that makes me want to elevate this call beyond reasonable suspicion); and (3) practice a conscience evaluation loop that forms the basis for your actions and document it in your police report.

**ISSUE 24-16**

