Law Enforcement Digest

2015 SUBJECT MATTER INDEX

Law enforcement officers: Thank you for your service, protection and sacrifice.

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2015 SUBJECT MATTER INDEX

LED EDITORIAL NOTE: This annual LED subject matter index covers all LED entries from January 2015 through and including the December 2015 LED. Since 1988, an annual index has been published each December. Also, the LED was established as a monthly publication in 1979, several multi-year subject matter indexes have been published: a 10-year index of LEDs from January 1979 through December 1988; a 5-year subject matter index from January 1989 through December 1993; a 5-year index from January 1994 through December 1998; a 5-year index from January 1999 through December 2003; and a 5-year index from January 2004 through December 2008. The 1989-1993, 1994-1998, 1999-2003, 2004-2008, and 2009-2013 indexes, as well as monthly issues of the LED starting with January of 1992, are available on the Criminal Justice Training Commission (CJTC) website at: https://fortress.wa.gov/cjtc/www/. Click on Publications and Resources, then Law Enforcement Digest.

In this 2015 index, entries are arranged chronologically within each category and subcategory based on the date of the appearance in the LED (in other words, earlier entries appear before later entries within the categories and subcategories). Citations to court decisions include a citation to the LED as the final part of the entries; the LED citation is abbreviated. For example, the citation in the first entry under "Arrest, Stop and Frisk" immediately following this note, to "January 15:03" means that the State v. Huffman entry appears in the January 2015 LED starting at page 03.

Through 2011, the annual subject matter index appeared in the December LED. Since 2012, the annual subject matter index has been published as a separate, stand-alone document that, like the monthly LEDs, can be found on the CJTC's LED webpage.

ARREST, STOP AND FRISK (See also "Searches" topic)

Officer's stop upheld where driver went over center line, and no statutory provision expressly authorized that deviation; court construes rcw 46.61.100, .140. State v. Huffman, 185 Wn. App. 98 (Div. I, Dec. 22, 2014) – January 15:03 Status: No request for Supreme Court review filed; decision is final.

"Witness" seizure upheld where man did not exit apartment as directed during police investigation of a reported physical domestic dispute. State v. Rubio, 185 Wn. App. 387

(Div. III, Jan. 8, 2015) – February 15:02 Status: The Washington Supreme Court denied the defendant's petition for discretionary review.

Duration limits on traffic stops under Fourth Amendment: Stop must be limited to time reasonably needed to process the traffic matter, including running records checks, unless there is reasonable suspicion of an additional violation of law; extending duration of stop to run K-9 sniff for drugs not ok if no reasonable suspicion re drugs. Rodriguez v. United States, 136 S.Ct. 1609 (April 21, 2015) – May 15:02

Stopping vehicles: Under Prado, a car's three brief passes over the fog line by about an inch each time, without more evidence, did not support stop based on RCW 46.61.140(1) in light of statute's "as nearly as practicable" language; nor does this evidence alone provide reasonable suspicion of impaired driving that would support a vehicle stop (Note: solution may be to rely on RCW 46.61.670 as authority to stop for crossing fog line) State v. Jones, 186 Wn. App. 786 (Div. I, April 6, 2015) – May 15:04 Status: The decision is final; no petition for review was filed.

Seizing, frisking and searching runaways: Officer lawfully seized and frisked runaway juvenile before placing him in his patrol car for transport to Crisis Residential Center, but when officer did not feel anything consistent with a weapon during the frisk, the officer was not authorized under the community caretaking doctrine to search for and remove illegal drugs from the runaway's pants pockets. State v. A.A., 187 Wn. App. 475 (Div. III, April 30, 2015) – May 15:07 Status: The decision is final; no petition for review was filed.

Terry stops and drug houses – Fuentes: Reasonable suspicion standard met in pattern of short-stay visits to drug apartment plus suspect's short-stay visit in which she carried plastic bag in and less-full plastic bag out of apartment; Sandoz: State falls short of reasonable suspicion with pale, nervous suspect coming from drug apartment. State v. Fuentes, 183 Wn.2d 149 (May 7, 2015) (consolidated with State v. Sandoz) – June 15:03

Court votes 7-2 to reject strict Aguilar-Spinelli test for informant-based "reasonable suspicion" and instead to retain totality of circumstances test; but all nine justices agree that reasonable suspicion standard for car stop was not met under facts of case because car did not match 911 callers' descriptions of involved car, and no one in car met descriptions of suspect. State v. Z.U.E., 183 Wn.2d 497 (July 16, 2015) – July 15:04

Seizure or search of companion of suspect: after officers had arrested wanted man, they should have released his companion who they did not know, and who they did not reasonably suspect of being involved in companion's crime or of posing a safety risk. State v. Flores, 188 Wn. App. 305 (Div. III, May 21, 2015) (ordered published on June 25, 2015) – July 15:08 Status: On December 2, 2015, the Washington Supreme Court granted the State's petition for review; oral argument is set for March 10, 2016.

King County Metro Fare Enforcement Officer lawfully stopped just-disembarked "passenger" under chapter 35.58 RCW to check for proof of fare payment, and the FEO also lawfully held the passenger for reasonable period required for a law enforcement officer to arrive and identify the detainee. State v. Mitchell, ___ Wn. App. ___, 2015 WL 6680069 (Div. I, Nov. 2, 2015) – November 15:04

ASSAULT AND RELATED OFFENSES (Chapter 9A.36 RCW)

"Obstruct" in RCW 9A.04.110(26) definition of "strangulation" does not require complete blocking of airway. State v. Rodriguez, 187 Wn. App. 922 (Div. I, June 1, 2015) – July 15:06

CIVIL LIABILITY

Civil Rights Act lawsuits

No qualified immunity for deputy sheriff for cuffing and arresting public defender (1) who court referee had ordered to appear in representation of client, and (2) who sarcastically told deputy sheriff that he would have to arrest her to get her to appear. Demuth v. County of Los Angeles, ___F.3d ___, 2015 WL 4773429 (9th Cir., August 14, 2015) – August 15:03

Police entry into commercial area open to public is held not a "search," and such entry is therefore held lawful under Fourth Amendment; "trespass" principles of recent U.S. Supreme Court decisions held not relevant when addressing police entry onto commercial property open to public, regardless of officers' motive for entry. Patel v. City of Montclair, __F.3d __, 2015 WL 4899632 (9th Cir., August 18, 2015) – August 15:04

Two cases must go to jury on whether law enforcement officers violated Brady v. Maryland by not sharing impeaching or exculpatory information with prosecutor in murder cases. Carillo v. County of Los Angeles, ___F.3d ___, 2015 WL 5024010 (9th Cir., Aug. 26, 2015) – August 15:04

Liability for non-consenting warrantless entry to arrest: In case where officers entered private-event building while searching for suspects in investigation of minor crime of beer theft, exigent circumstances issue must go to jury; Fourth Amendment "standing" issues also are addressed. Lyall v. City of Los Angeles, ___ F.3d ___, 2015 WL 7873413 (9th Cir.,Dec.4, 2015) – Dec 15:03

Lawsuits based on negligence

Tort: a "take charge" relationship between county jail and mentally ill inmate may have existed that created a duty to persons killed and injured by the mentally ill inmate after his release from jail. Binschus v. State, 186 Wn. App. 77 (February 23, 2015 – March 15:03 Status: On September 29, 2015, the Washington State Supreme Court granted discretionary review; oral argument was held January 14, 2016; awaits decision.

CRIMINAL RULE 3.1 (and CrRLJ 3.1) (ARRESTEE RIGHT TO ATTORNEY WARNINGS AND CONTACT) (See also topic "Interrogations and confessions")

DUI defendant's right under criminal court rule CrR 3.1 to consult an attorney was not violated by the arresting officer remaining in the 27-by-19-foot BAC room out of earshot while the defendant spoke by phone with an on-call public defender. State v. Fedorov (Roman), 183 Wn. App. 736 (Div. II, 2014) (unpublished opinion issued July 29, 2014; opinion ordered published on September 23, 2014) – January 15:02 Status: The Washington Supreme Court granted discretionary review and affirmed the Court of Appeals decision; see next entry.

DUI defendant's court-rule right to consult an attorney was not violated by arresting officer remaining in the BAC room but out of earshot while the defendant spoke by phone with an attorney. State v. Fedorov (Roman), 183 Wn.2d 669 (August 6, 2015) – August 15:06

DUE PROCESS PROTECTION, INCLUDING BRADY REQUIREMENTS ON GOVERNMENT

Failure to give to defendant prior to trial information about the expressions of doubt that the star witness had given to police and prosecutor regarding his memory of events requires overturning conviction. Comstock v. Humphries, 786 F.3d 701 (9th Cir., May 12, 2015) – June 15:02

Violation of Brady v. Maryland by prosecutor's office in not disclosing terms of plea bargain with star witness results in habeas corpus relief for murderer. Shelton v. Marshall, 796 F.3d 1075 (9th Cir., August 7, 2015) – August 15:02 (Modified on November 23, 2015 in manner not relevant to the holding addressed in the LED entry.)

Two cases must go to jury on whether law enforcement officers violated Brady v. Maryland by not sharing impeaching or exculpatory information with prosecutor in murder cases. Carillo v. County of Los Angeles, ___F.3d ___, 2015 WL 5024010 (9th Cir., Aug. 26, 2015) – August 15:04

Under Brady v. Maryland, the State's failure to disclose that crime lab scientist had been fired from lab for bad job performance was exculpatory and should have been disclosed to the criminal defendant, but such evidence was not material. State v. Davila, 184 Wn.2d 55 (August 27, 2015) – Sept 15:18

EVIDENCE LAW

Google Earth satellite image and image's computer-generated "digital tack" do not constitute hearsay because, somewhat like a photograph, the image makes no assertion. U.S. v. Lizarraga-Tirado, 789 F.3d 1107 (9th Cir., June 18, 2015) – July 15:03

FIRST AMENDMENT FREEDOM OF SPEECH

First Amendment free speech protection: conviction for crime of obstructing is held not supported for juvenile who yelled at officers from home's doorway as officers dealt with his intoxicated juvenile sister outside. State v. E.J.J., 183 Wn.2d 610 (June 25, 2015) – July 15:04

IMPLIED CONSENT, BREATH AND BLOOD TESTS FOR ALCOHOL (RCW 46.20.308)

Search warrants and implied consent law: When officer got warrant for blood after DUI arrestee refused breath test, RCW 46.20.308 did not require that officer give another advisement regarding the right to independent testing. State v. Goggin, 185 Wn. App. 59 (Div. III, Oct. 28, 2014) – February 15:01 Status: Review denied by Washington Supreme Court on 4/29/15.

INTERROGATIONS AND CONFESSIONS (See also "Sixth Amendment Right to Counsel" and "Criminal Rule 3.1" topics)

Miranda invocation: When custodial suspect shook his head side to side immediately after officers Mirandized him and asked if he wanted to talk, he unequivocally invoked his right to remain silent, and officers should not have questioned him further. State v. I.B., 187 Wn. App. 315 (Div. III, April 28, 2015) – May 15:04 Status: The decision is final; no petition for review was filed.

Miranda's post-invocation initiation-of-contact rules: State wins on facts showing that (1) defendant's assertion of right to silence was not violated in contact by different officers five hours later, and (2) defendant's subsequent assertion of Miranda right to counsel was not violated because he initiated the next relevant contact with an officer. State v. Elkins, 188 Wn. App. 386 (Div. II, June 15, 2015) – July 15:18

Miranda: Officer's deliberate and uncured 2-step interrogation violated Seibert's ruling against (Step 1) purposefully questioning custodial suspect without warnings, and (Step 2) Mirandizing for more questioning after the cat is out of the bag. State v. Rhoden, 189 Wn. App. 193 (Div. II, August 4, 2015) – August 15:08

Language of Miranda warnings: Detective's reply to suspect's request for clarification of attorney appointment process – explaining how "appointment" of an attorney comes only through a court proceeding – held to make his Mranda advisement "contradictory and confusing." State v. Mayer, ___Wn.2d ___, 2015 WL 6388248 (Oct. 22, 2015) – October 15:04

Miranda invocation: Custodial suspect held in habeas review to have unambiguously invoked his right to counsel when he asked detective to call and invite down to the station the attorney that suspect said his step-dad had gotten for him; however, while state court erred in admitting post-invocation statements, state court's alternative ruling of harmless error was not unreasonable, so conviction stands. Mays v. Clark, ___ F.3d ___, 2015 WL 8117079 (9th Cir., Dec. 8, 2015) – December 15:04

Miranda invocation: Habeas relief granted where detectives did not stop questioning custodial suspect after he answered "no" in response to Miranda question asking whether he wished to talk to the detectives. Garcia v. Long, 808 F.3d 771 (9th Cir., Dec. 21, 2015) – December 15:06

MEDICAL USE OF MARIJUANA/CANNABIS ACT (Chapter 69.51A RCW) (See also topic "Uniform Controlled Substances Act and Other Drug Laws")

Because RCW 69.51A.040 provides only an affirmative defense and does not decriminalize medical use of marijuana, the statute does not make invalid a search warrant that is based on probable cause of a marijuana grow operation. State v. Reis, 183 Wn.2d 197 (May 7, 2015) – June 15:06

OBSTRUCTING (RCW 9A.76.020)

First Amendment free speech protection: conviction for crime of obstructing is held not supported for juvenile who yelled at officers from home's doorway as officers dealt with his intoxicated juvenile sister outside. State v. E.J.J., 183 Wn.2d 610 (June 25, 2015) – July 15:04

POSSE COMITATUS ACT

Posse Comitatus Act-like restrictions precluded NCIS agent from investigating Washington civilian for distributing child porn, but Ninth Circuit decides not to apply suppression remedy. United States v. Dreyer, 804 F.3d 1266 (9th Cir., Nov. 4, 2015) – November 15:02

PUBLIC RECORDS ACT (Chapter 42.56 RCW)

Public Records Act: the names of witnesses, accused officers, and the requestor's own identifying information in an internal investigation are not exempt from the Public Records Act. City of Fife v. Hicks, 186 Wn. App. 122 (February 24, 2015) – March 15:04

Public Records Act: Personal cellphone of public employee is subject to disclosure when used to conduct public business. Nissen v. Pierce County, ___Wn.2d ___, 2015 WL 5076297 (Aug. 27, 2015) – Sept 15:19

ROBBERY (Chapter 9A.56 RCW)

No implied threat in note or defendant's words or demeanor, holds 2-1 majority, so credit-union-robbery conviction is converted to a first degree theft conviction. State v. Farnsworth, 184 Wn. App. 305 (Div. II, Oct. 28, 2014) – January 15:18 Status: The Washington Supreme Court accepted review; oral argument was heard October 22, 2015; awaits decision.

SEARCHES (See also "Arrest, Stop and Frisk" topic)

Abandoned property

Defendant held by 2-1 majority to have voluntarily abandoned cell phone that police found in a stolen vehicle after he ran from a vehicle stop; and exigent circumstances held by same majority to have justified warrantless use of phone to aid tracking down the suspect. State v. Samalia, 186 Wn. App. 224 (Div. III, March 5, 2015) – April 15:03 Status: The Washington Supreme Court has granted review, and review is pending; oral argument was heard January 12, 2016; awaits decision.

Community caretaking exception to search warrant requirement See also "Emergency Circumstances" and "Exigent circumstances" subtopics under this "Searches" topic)

Search and seizure: officers' entry into a garage to interview at risk children during a welfare check falls under the community caretaking exception to the warrant requirement, and officers lawfully seized a board used to abuse the children under the plain view exception to the warrant requirement. State v. Weller, 185 Wn. App. 913 (February 18, 2015) – March 15:02 Status: The Washington Supreme Court denied discretionary review in July of 2015.

Seizing, frisking and searching runaways: Officer lawfully seized and frisked runaway juvenile before placing him in his patrol car for transport to Crisis Residential Center, but when officer did not feel anything consistent with a weapon during the frisk, the officer was not authorized under the community caretaking doctrine to search for and remove illegal drugs from the runaway's pants pockets. State v. A.A., 187 Wn. App. 475 (Div. III, April 30, 2015) – May 15:07 Status: The decision is final; no petition for review was filed.

Consent exception to search warrant requirement

Ferrier "knock and talk" warnings regarding right to refuse, right to restrict scope, and right to revoke are not required to obtain single-party consent to search a vehicle. State v. Witherrite, 184 Wn. App. 859 (Div. III, Dec. 9, 2014) – January 15:02

Division Three majority (1) interprets trial court ruling as having found that officers failed to give full Ferrier warnings, orally or in writing, before entering a child porn suspect's home in conducting a "knock and talk," and (2) holds that giving full Ferrier warnings immediately after law enforcement entry of the home did not satisfy Ferrier requirement. State v. Budd, 186 Wn. App. 184 (Div. III, March 3, 2015) – April 15:02 Status: Oral argument in Washington Supreme Court was held on October 29, 2015; awaits decision.

Search of bedroom that a violating probationer shared with her non-probationer boyfriend violated the boyfriend's privacy rights where he did not consent to the search; frisk of boyfriend, however, is upheld as justified based on several swords, an axe and multiple knives in open view in the room. State v. Rooney, ___Wn. App. ___, 2015 WL 5935471 (Div. II, October 13, 2015) – October 15:12

Where car's driver asserted his right to silence after being arrested and Mirandized, officer did not violate Miranda by asking arrestee for identity of the two passengers and whether either of them could lawfully drive the car; nor did officer violate Miranda by then asking for consent to search the car; also, officer's act of advising the arrestee that officer would impound car and pursue a warrant to search car did not make consent involuntary. State v. Cherry, ___Wn. App. ___, 2015 WL 7459090 (Div. II, Nov. 24, 2015) – November 15:05

Emergency circumstances exception to search warrant requirement (See also "Community Caretaking" and "Exigent circumstances" subtopics under this "Searches" topic)

Search and seizure: officers' entry into a garage to interview at risk children during a welfare check falls under the community caretaking exception to the warrant requirement, and officers lawfully seized a board used to abuse the children under the plain view exception to the warrant requirement. State v. Weller, 185 Wn. App. 913 (February 18, 2015) – March 15:02 Status: The Washington Supreme Court denied discretionary review in July of 2015.

Entry of private premises to arrest (Payton/Steagald rules)

Liability for non-consenting warrantless entry to arrest: In case where officers entered private-event building while searching for suspects in investigation of minor crime of beer theft, exigent circumstances issue must go to jury; Fourth Amendment "standing" issues also are addressed. Lyall v. City of Los Angeles, ___ F.3d ___, 2015 WL 7873413 (9th Cir.,Dec.4, 2015) – Dec 15:03

Execution of search warrant, including frisking or searching persons present

Evidence allegedly discovered under search warrant suppressed because no one witnessed officer's inventory of the items seized under the warrant, as is required under Washington Criminal Rule 2.3, and because the violation of the rule prejudiced the

defendant. State v. Linder, ___ Wn. App. ___, 2015 WL 5933732 (Div. III, October 13, 2015) – October 15:16

Exigent circumstances exception to search warrant requirement (See also "Community Caretaking" and "Emergency circumstances" subtopics under this "Searches" topic)

Defendant held by 2-1 majority to have voluntarily abandoned cell phone that police found in a stolen vehicle after he ran from a vehicle stop; and exigent circumstances held by same majority to have justified warrantless use of phone to aid tracking down the suspect. State v. Samalia, 186 Wn. App. 224 (Div. III, March 5, 2015) – April 15:03 Status: The Washington Supreme Court granted review; oral argument was heard January 12, 2016; awaits decision.

Impound/inventory exception to search warrant requirement

Court analogizes a locked box to a cell phone and rules that search incident to arrest rule does not support a warrantless, non-consenting, non-exigent search of a box that was six inches by four inches by two inches, was locked with a three-number combination lock, and was found in arrestee's backpack immediately following his arrest; court also holds search was not a lawful inventory search. State v. VanNess, 186 Wn. App. 148 (Div. I, March 2, 2015) – April 15:04 Status: The decision is final; no petition for review was filed.

Search incident to arrest, impound-inventory search and automatic standing: Court rejects warrantless search by officer who searched a zipped shaving kit that he took from front seat of arrestee's vehicle after he placed the arrestee in the back seat of his patrol car. State v. Wisdom, 187 Wn. App. 652 (Div. III, May 19, 2015) – June 15:06

Incident to arrest (motor vehicles) exception to search warrant requirement

Search incident to arrest, impound-inventory search and automatic standing: Court rejects warrantless search by officer who searched a zipped shaving kit that he took from front seat of arrestee's vehicle after he placed the arrestee in the back seat of his patrol car. State v. Wisdom, 187 Wn. App. 652 (Div. III, May 19, 2015) – June 15:06

Incident to arrest (persons and personal effects) exception to search warrant requirement

Court analogizes a locked box to a cell phone and rules that search incident to arrest rule does not support a warrantless, non-consenting, non-exigent search of a box that was six inches by four inches by two inches, was locked with a three-number combination lock, and was found in arrestee's backpack immediately following his arrest; court also holds search was not a lawful inventory search. State v. VanNess, 186 Wn. App. 148 (Div. I, March 2, 2015) – April 15:04 Status: The decision is final; no petition for review was filed.

8-1 majority holds that backpack taken from suspect at start of Terry stop automatically became subject to search incident to arrest under the "time of arrest" rule when the Terry stop ripened into a lawful arrest over a period of ten minutes. State v. Brock, 184 Wn.2d 148 (Sept. 3, 2015) – Sept 15:08

Overbreadth and particularity issues for search warrants

Two rulings regarding search warrant for blood in DUI case: (1) Affidavit established probable cause to search DUI arrestee's blood for both alcohol and drugs; and (2) search warrant authorized testing of arrestee's blood even though the warrant did not expressly say so. State v. Martines, 184 Wn.2d 83 (Aug. 27, 2015) – Sept 15:13

Search warrant for child pornography held by unanimous Washington Supreme Court to fail Fourth Amendment particularity requirement; citation to child porn RCW held to be insufficient, though quoting of RCW language – "depictions of a minor engaged in sexually explicit conduct" in warrant's description of what was to be seized – would apparently have satisfied the Fourth Amendment particularity requirement. State v. Besola, ___ Wn.2d ___, 359 P.3d 799 (Nov. 5, 2015) – November 15:03

Plain view doctrine

Search and seizure: officers' entry into a garage to interview at risk children during a welfare check falls under the community caretaking exception to the warrant requirement, and officers lawfully seized a board used to abuse the children under the plain view exception to the warrant requirement. State v. Weller, 185 Wn. App. 913 (February 18, 2015) – March 15:02 Status: The decision is final; the Washington Supreme Court denied review.

Privacy expectations, scope of constitutional protections (see also "Open View" subtopic under this "Searches" topic)

Child pornography and privacy: Federal and state constitutions provide no privacy right for files in computer file sharing system accessible to others on peer to peer network. State v. Peppin, 186 Wn. App. 901 (Div. III, April 9, 2015) – May 15:06

Probable cause to search, including staleness

Probable cause to search: Where officers had probable cause to believe that defendant recently had stolen a pickup truck and some items of bulky personal property, including two ATVs, and where defendant recently was seen driving the pickup near his home with an ATV in the truck bed shortly before the pickup was found abandoned, there was probable cause to search his home and outbuildings. State v. Dunn, 186 Wn. App. 889 (Div. III, April 9, 2015) – May 15:03

Because RCW 69.51A.040 provides only an affirmative defense and does not decriminalize medical use of marijuana, the statute does not make invalid a search warrant that is based on probable cause of a marijuana grow operation. State v. Reis, 183 Wn.2d 197 (May 7, 2015) – June 15:06

Two rulings regarding search warrant for blood in DUI case: (1) Affidavit established probable cause to search DUI arrestee's blood for both alcohol and drugs; and (2) search warrant authorized testing of arrestee's blood even though the warrant did not expressly say so. State v. Martines, 184 Wn.2d 83 (Aug. 27, 2015) – Sept 15:13

Probation and parole searches by CCOs

RCW 9.94A.631 violated where CCO searched parolee's electronic device without reasonable suspicion that device contained evidence of criminal conduct or of violation

of other conditions of community custody. State v. Jardinez, 184 Wn. App. 518 (Div. II, November 18, 2014) – January 15:03

Search of bedroom that a violating probationer shared with her non-probationer boyfriend violated the boyfriend's privacy rights where he did not consent to the search; frisk of boyfriend, however, is upheld as justified based on several swords, an axe and multiple knives in open view in the room. State v. Rooney, ___Wn. App. ___, 2015 WL 5935471 (Div. II, October 13, 2015) – October 15:12

Standing to challenge search, including automatic standing

Search incident to arrest, impound-inventory search and automatic standing: Court rejects warrantless search by officer who searched a zipped shaving kit that he took from front seat of arrestee's vehicle after he placed the arrestee in the back seat of his patrol car. State v. Wisdom, 187 Wn. App. 652 (Div. III, May 19, 2015) – June 15:06

Liability for non-consenting warrantless entry to arrest: In case where officers entered private-event building while searching for suspects in investigation of minor crime of beer theft, exigent circumstances issue must go to jury; Fourth Amendment "standing" issues also are addressed. Lyall v. City of Los Angeles, ___ F.3d ___, 2015 WL 7873413 (9th Cir.,Dec.4, 2015) – Dec 15:03

THEFT AND RELATED CRIMES (Chapter 9A.56 RCW)

Using wire cutters to remove security tag in shoplifting does not qualify as retail theft "with extenuating circumstances" under former RCW 9A.56.360 or as retail theft "with special circumstances" under current RCW 9A.56.360. State v. Larson, ___Wn.2d ___, 2015 WL 9460073 (December 24, 2015) – Dec 15:02

TRAFFIC (Title 46 RCW) (See also "Implied Consent" topic)

Officer's stop upheld where driver went over center line, and no statutory provision expresssly authorized that deviation; court construes rcw 46.61.100, .140. State v. Huffman, 185 Wn. App. 98 (Div. I, Dec. 22, 2014) – January 15:03 Status: The decision is final; no petition for review was filed.

Stopping vehicles: Under Prado, a car's three brief passes over the fog line by about an inch each time, without more evidence, did not support stop based on RCW 46.61.140(1) in light of statute's "as nearly as practicable" language; nor does this evidence alone provide reasonable suspicion of impaired driving that would support a vehicle stop (Note: solution may be to rely on RCW 46.61.670 as authority to stop for crossing fog line). State v. Jones, 186 Wn. App. 786 (Div. I, April 6, 2015) – May 15:04 Status: The decision is final; no petition for review was filed.