The "Official Channels" Rule

Arrests based on information from other officers

"It is well settled that an officer may reasonably rely on information received through official channels to support an arrest."[1]

Officers often arrest and detain suspects, conduct searches, and take other action based solely or mainly on communications from other officers, police dispatchers, outside agencies, and law enforcement data bases. For example, officers will routinely arrest a person based on a notification that a warrant for the person's arrest is outstanding, or that he is driving a car that has been reported stolen. Officers also conduct searches based on advisories that the suspect is on parole or probation with a search condition.

Officers rely so often and so completely on information from other officers and agencies that it is not a subject that gets much attention. It's just standard police procedure, especially in larger departments. As the U.S. Court of Appeals observed:

> The whole complex of swift modern communication in a large police department would be a futility if the authority of an individual officer was to be circumscribed by the scope of his first hand knowledge of facts concerning a crime or alleged crime.[2]

The courts do not, however, permit such reliance merely because it is expedient. They do it mainly because experience has shown that officers will not disseminate investigative information to other officers unless they have reason to believe it is accurate. Still, this presumption of accuracy does not cover every communication between officers. Instead, it applies only to information that is transmitted to them through so-called "official channels."

What is an "official channel?" It is essentially any conduit through which information pertaining to the identification or apprehension of a suspect is transmitted from one officer to another, or from a governmental agency or database to an officer. While this includes formal communications such as "Be on the lookout" requests, "Wanted" flyers, criminal activity reports, and roll-call announcements, it also covers impromptu exchanges such as routine police radio traffic and even face-to-face conversations between officers about suspicious activity, a particular crime, or a suspect.

One thing should be noted before we go further. Although officers may rely on "official channels" information, if evidence is discovered as the result the defense may require that prosecutors prove the information was, in fact, transmitted. This subject is covered in the article entitled *"Harvey-Madden"* which begins on page 19.

As we will now explain, the official channels rule—also known as the collective knowledge rule or the fellow officer rule—covers both of the following types of communications:

(1) Notifications and requests to arrest, detain, or search a certain suspect.

(2) Factual information that may assist officers in determining whether there are grounds to arrest, detain, or search a certain suspect.

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[1] *People* v. *Alcorn* (1993) 15 Cal.App.4th 652, 655.

[2] *Williams* v. *U.S.* (D.C. Cir. 1962) 308 F.2d 326, 327. ALSO SEE *People* v. *Rice* (1967) 253 Cal.App.2d 789, 792 ["(I)t is obvious that the law cannot demand that investigations be conducted by single officers who then must also make the arrest. Criminal investigation is not that simple."]; *U.S.* v. *Valez* (2d Cir. 1986) 796 F.2d 24, 28 ["The rule exists because, in light of the complexity of modern police work, the arresting officer cannot always be aware of every aspect of an investigation; sometimes his authority to arrest a suspect is based on facts known only to his superiors or associates."]; *U.S.* v. *Nafzger* (7th Cir. 1992) 974 F.2d 906, 910 ["(L)aw enforcement officers in diverse jurisdictions must be allowed to rely on information relayed from officers and/or law enforcement agencies in different localities in order that they might coordinate their investigations, pool information, and apprehend fleeing suspects in today's mobile society."]; *U.S.* v. *Colon* (2nd Cir. 2001) 250 F.3d 130, 135 ["The collective knowledge doctrine was developed in recognition of the fact that with large police departments and mobile defendants, an arresting officer might not be aware of all the underlying facts that provided probable cause or reasonable suspicion, but may nonetheless act reasonably in relying on information received by other law enforcement officials."].

NOTIFICATIONS

The most common communications that fall within the official channels rule are requests to detain, arrest or search a certain suspect, and notifications that there are grounds to do so. These communications—many of which are computer generated—need not contain any of the facts upon which the request or notification are based. This is because, as the Delaware Supreme Court explained, an officer "can act in the belief that his fellow officer's judgment is correct."[3] Or, in the words of the Seventh Circuit:

> If the officer issuing the flyer or bulletin concludes that the facts he is aware of authorize a stop or arrest and relays that conclusion to another officer, that officer may rely on the conclusion, regardless of whether he knows the supporting facts.[4]

Reliance on summary requests and notifications is also permitted because, as the United States Supreme Court explained, it "minimizes the volume of information concerning suspects that must be transmitted to other jurisdictions and enables police in one jurisdiction to act promptly in reliance on information from another jurisdiction."[5]

Authorization to arrest

Officers may arrest a suspect based on a notification from another officer or law enforcement agency that a warrant for the suspect's arrest is outstanding. "It is well established," said the U.S. Court of Appeals, "that the arresting officer need not possess an encyclopedic knowledge of the facts supporting probable cause, but can instead rely on an instruction to arrest delivered by other officers possessing probable cause."[6]

Probably the most "official" of all the channels through which arrest authorizations are transmitted are the national, statewide, regional, and local law enforcement data bases that store and transmit arrest warrant information; e.g., NCIC, CLETS, AWS.[7] As the United States Court of Appeals observed in discussing the NCIC network, "NCIC printouts are reliable enough to form the basis of the reasonable belief which is needed to establish probable cause for arrest."[8]

As noted, authorization to arrest can also be given less formally—but still "officially"—by word of mouth. For example, in *People* v. *Lara*[9] Los Angeles police officers developed probable cause to believe that Lara had committed a murder they were investigating. They also learned he was staying with his sister in South Gate. So one of the investigators phoned South Gate PD and requested that officers go there and arrest him, which they did.

On appeal, Lara contended the arrest was unlawful because the South Gate officers knew nothing about the case. The California Supreme Court ruled it did not matter what the South Gate officers knew because they were "entitled to make an arrest on the basis of this information, as it was received through official channels."

Arrest requests are also routinely made in the course of narcotics investigations, especially "buy-bust" operations when an undercover officer notifies other officers that a person just sold drugs to him. In such cases, as the court in *People* v. *Maldonado*[10] pointed out, it makes no difference that the arresting officers did not see the transaction or have any other first-hand information as to what the suspect said or did. Said the court, "[The arresting officer] testified

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[3] *Delaware* v. *Cooley* (1983) 457 A.2d 352, 355.

[4] *U.S.* v. *Nafzger* (7th Cir. 1992) 974 F.2d 906, 913. ALSO SEE *People* v. *Ramirez* (1997) 59 Cal.App.4th 1548, 1556; *U.S.* v. *Shareef* (10th Cir. 1996) 100 F.3d 1491, 1503, fn.4 ["(W)hen an order to stop or arrest a suspect is communicated to officers in the field, the underlying facts constituting probable cause or reasonable suspicion need not be communicated"].

[5] *U.S.* v. *Hensley* (1985) 469 U.S. 221, 231.

[6] *U.S.* v. *Burton* (3d Cir. 2002) 288 F.3d 91, 99. ALSO SEE *Whiteley* v. *Warden* (1971) 401 U.S. 560, 568 ["Certainly police officers called upon to aid other officers in executing arrest warrants are entitled to assume that the officers requesting aid offered the magistrate the information requisite to support an independent judicial assessment of probable cause."].

[7] See *Case* v. *Kitsap County Sheriff's Department* (9th Cir. 2000) 249 F.3d 921, 923-4 ["(NCIC) is a national criminal records data system administrated by the Federal Bureau of Investigation. NCIC contains criminal history information, including outstanding arrest warrants, and is available to police departments nationwide."]; *U.S.* v. *Davis* (6th Cir. 1978) 568 F.2d 514, 516 ["An NCIC identification of a vehicle is sufficient to establish probable cause for the arrest of one possessing it"].

[8] *U.S.* v. *McDonald* (5th Cir. 1979) 606 F.2d 552, 554.

[9] (1967) 67 Cal.2d 365.

[10] (1995) 635 N.Y.S.2d 155.

that he received a radio transmission from the undercover officer that a 'positive buy' had been made and giving him a description of the seller's clothing and physical characteristics. . . . [The arresting officer] could reasonably believe, based upon [his] experience and all the circumstances surrounding the transaction, that defendant had sold narcotics to the undercover."

Requests to detain

Officers may also detain a suspect based solely on an official request to do so. As the Court of Appeal explained:

> [A] police officer who receives a request or direction, through police channels, to detain named or described individuals may make a constitutionally valid detention, even without personal knowledge of facts sufficient to justify the detention . . . .[11]

For example, in *United States* v. *Jacobsen*[12] a narcotics officer received information from a reliable informant that Jacobsen had driven to Minnesota in a black Chevy S-10 truck, that the purpose of the trip was to purchase an ounce of cocaine, and that he was now back in town with the cocaine.

When the officer saw Jacobsen driving the truck he asked a patrol officer to detain him. As the court noted, the patrol officer "was given no information about the investigation, except that narcotics detectives needed help stopping the truck." During the subsequent detention of Jacobsen, a drug-sniffing dog alerted to the truck which led to a search and the discovery of drugs.

In ruling the stop was lawful, the court noted, "The patrol officer himself need not know the specific facts that caused the stop. Rather, the officer need only rely upon an order that is founded on reasonable suspicion. Here, the order was based upon articulable facts supporting reasonable suspicion."

Similarly, in *People* v. *Ramirez*[13] a narcotics officer radioed a patrol officer and asked him to stop a car driven by Ramirez. The officer wanted to talk with Ramirez because he had just left a house that was under surveillance by the DEA and sheriff's investigators. Although this might not have justified the stop, the narcotics officer had seen the car speeding (40 m.p.h. in a 25 m.p.h. zone). He did not, however, convey that information to the patrol officer. Instead, he simply requested a car stop. During the stop, the driver consented to a search which netted 50 kilos of cocaine.

On appeal, Ramirez claimed the car stop was unlawful because the patrol officer knew nothing about the narcotics investigation or the speeding. It didn't matter, said the court, noting, "Policy considerations strongly suggest officers and investigators need not inform the final arresting officer of the precise nature of the probable cause they possess."

Authorization to search

Officers may also conduct searches based on information transmitted through official channels. For example, many of the officers who assist in the execution of search warrants do not know the legal basis for the warrant. Nevertheless, they are authorized to conduct the search because they were notified that a warrant was issued.

A request to make a warrantless search may also be authorized via official channels. For example, in *People* v. *Ngaue*[14] an officer who had just removed an arrested suspect from his home asked another officer to go back inside the house and retrieve a gun he had seen in the bathroom. Ngaue argued the patrol officer's entry into his home was unlawful because he knew nothing about the basis for the request. The court responded:

> [The patrol officer's] lack of personal knowledge of the gun is irrelevant. He received a radio call from a fellow officer instructing him to retrieve a gun at a certain location. [The patrol officer] was entitled to rely on that information which he had received through "official channels."

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[11] (1995) 34 Cal.App.4th 1499, 1523-4. ALSO SEE *U.S.* v. *Hensley* (1985) 469 U.S. 221, 232.
[12] (8th Cir. 2004) 391 F.3d 904. ALSO SEE *People* v. *Ramirez* (1997) 59 Cal.App.4th 1548, 1556; *U.S.* v. *Cervine* (D. Kansas 2001) 169 F.Supp.2d 1204.
[13] (1997) 59 Cal.App.4th 1548.
[14] (1992) 8 Cal.App.4th 896.

TRANSMISSION OF INFORMATION

Summary requests to detain, arrest, or search are not the only kinds of communications carried through "official channels." They are also used to disseminate factual information that may help officers determine whether there are grounds to take such action.

Transmissions of facts differ from notifications and requests in that officers must exercise judgment in determining whether the quality and quantity of the facts will justify a search or seizure. As noted, officers need not evaluate the legal basis of requests and notifications before acting on them.

As we will now explain, the determination whether facts disseminated through official channels will justify a search or seizure often depends on whether the source of the information was an officer, citizen informant, tested informant, or untested informant.

OFFICER IS THE SOURCE: If the original source of the information was an officer, other officers may rely on it without considering the reliability of the information. This is because an officer who disseminates information based on his personal knowledge is presumed to be a reliable source. As the Court of Appeal pointed out in *People* v. *Alcorn*:

> It is well settled that an officer may reasonably rely on information received through official channels to support an arrest. An officer may rely on information from other officers within his or her own department and from other departments and jurisdictions.[15]

For example, in *People* v. *Taylor*[16] LAPD officers stopped a yellow van at about 4:45 A.M. after receiving a report that a "cat burglary" had just occurred in the area. The officers' decision to stop the van was based largely on "official channels" information that had been disseminated over the police radio, during roll call, and in Daily Occurrence bulletins. Among other things, they had been informed that "a cat burglar was working" in the area; that the burglar was "hitting approximately two to three houses each time he would hit"; that he was taking "large items" such as TV's, and that investigators "suspected the existence of a dolly or multiple suspects because of the large items taken; a yellow van was also mentioned."

The court ruled the car stop was lawful because of the "appearance of defendant in the yellow van in such close proximity in time and space to the 'cat burglary' . . . coupled with the information already possessed by [the officers]."

VICTIM, WITNESS, RELIABLE INFORMANT IS THE SOURCE: When one officer transmits factual information that he obtained from an apparently reliable source, such as victim, witness, or tested informant, officers may rely on that information. As the court explained in *People* v. *Senkir*, "Information from a proven reliable informer given to a peace officer from whom it is transmitted to another officer or series of officers, each of whom was entitled to place reliance on the one from whom he received the information, may give probable cause for arrest."[17]

For example, in *Mueller* v. *Department of Motor Vehicles*[18] a patrol officer met with his lieutenant at the scene of a traffic accident. The lieutenant said that two witnesses told him that Mueller had been driving one of the cars and that Mueller was at fault. The lieutenant also said he thought Mueller was DUI, and he asked the officer to conduct a field sobriety test. When Mueller "indisputably flunked" the test he was arrested for DUI. Although the arresting officer did not see Mueller driving the car, the court ruled the arrest was lawful because, said the court:

> [O]ne police officer who has received a report from a citizen-informant of a crime's commission, and who has passed the information on to a brother officer in the crime's investigation, will be deemed to have reliably done so.

UNTESTED INFORMANTS: Information furnished by anonymous and untested informants does not become reliable merely because it was transmitted through official channels. As discussed in the lead article ("Detentions Based on 911 Calls"), such information may be considered only if there is a rational basis for crediting it.[19]

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[15] (1993) 15 Cal.App.4th 652, 655. ALSO SEE *U.S.* v. *Butler* (9th Cir. 1996) 74 F.3d 916, 920 ["An officer may arrest based on information relayed to him or her through official police channels."].

[16] (1975) 46 Cal.App.3d 513. ALSO SEE *People* v. *Poehner* (1971) 16 Cal.App.3d 481.

[17] (1972) 26 Cal.App.3d 411, 418. ALSO SEE *U.S.* v. *Butler* (9th Cir. 1996) 74 F.3d 916, 921.

[18] (1985) 163 Cal.App.3d 681.

[19] See *Alabama* v. *White* (1990) 496 U.S. 325; *Adams* v. *Williams* (1972) 407 U.S. 143, 147; *Florida* v. *J.L.* (2000) 529 U.S. 266, 270.

POST-ARREST POOLING

Until now, we have been discussing situations in which information was actually transmitted via official channels to the officer who detained, arrested, or searched the suspect. The question arises: Are there any circumstances in which a search or seizure may be based on information that was *not* transmitted? More specifically, if the arresting officer lacks probable cause, can the arrest be upheld on grounds that probable cause would have existed if he had talked with all the other officers who had pertinent information?

Although the answer is usually no, some courts have permitted post-arrest pooling of information when the information was possessed by officers who were generally communicating about the case.

IF INFORMATION WAS NOT TRANSMITTED: As a general rule, a detention without reasonable suspicion or a warrantless arrest or search without probable cause cannot be validated later by showing that reasonable suspicion or probable cause would have existed if the officers who detained, arrested, or searched the suspect had been aware of information known to other officers.[20] In the words of the Court of Appeal:

> [T]he People must prove not only that the collective knowledge of the investigating authorities justified the arrest, but that such knowledge was funneled to the arresting officer either by imparting it to him or, more simply, by the giving of an order or request to make the arrest by someone who, in turn, was possessed of such collective knowledge.[21]

Or, as the Tenth Circuit explained:

> We have said that in assessing the justification for an investigatory stop, we look to the knowledge of all the police involved in the criminal investigation. However, this concept has limits. The cases in which we have applied the "collective knowledge" rule all have involved actual communication to the arresting officer of either facts or a conclusion constituting probable cause, or an arrest order.[22]

For example, in *United States* v. *Colon*[23] a woman phoned New York City 911 and reported that a man whom she described had just hit her over the head with a gun inside a certain bar. Although the woman would not give her name, she told the operator that the "same guy" hit her about three weeks earlier. She also said, "The cops know about the incident so I don't have to give you my name. They know who I would be." The operator transmitted the call to a dispatcher but did not include the information about the prior incident. When the responding officers spotted a man inside the bar who matched the description, they pat searched him and discovered a handgun.

As discussed in the accompanying article "Detentions Based on 911 Calls" (beginning on page 1), if the officers had been notified that the woman had effectively identified herself, the pat search would have been lawful. But because this information was not disseminated, the court ruled the gun must be suppressed. Said the court:

> Imputing information known only to the civilian operator and not conveyed to the dispatching and then arresting officers would extend the ["imputed knowledge"] doctrine beyond its current jurisprudential parameters . . . .

IMPLIED TRANSMISSION OF INFORMATION: Some courts have permitted a type of post-arrest pooling when officers were working closely together on a case. Specifically, they have ruled that, in the absence of testimony that certain information was actually transmitted to the arresting officer, they would presume it had occurred if there was testimony that the officers were working closely together and were

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[20] See *People* v. *Coleman* (1968) 258 Cal.App.2d 560, 563, fn.2 ["The police cannot pool their information after an arrest made on insufficient cause."]; *People* v. *Ford* (1984) 150 Cal.App.3d 687, 698 ["(W)here an officer makes an arrest without a directive or request from another officer or agency, he may not justify the arrest on the existence of probable cause in the hands of the other officer or agency."]; *Giannis* v. *San Francisco* (1978) 78 Cal.App.3d 219, 224 ["(T)he knowledge which may have been possessed by anyone besides the arresting officers is irrelevant."]; *People* v. *Jordan* (2004) 121 Cal.App.4th 544, 560, fn.8.

[21] *People* v. *Rice* (1967) 253 Cal.App.2d 789, 792.

[22] *U.S.* v. *Shareef* (10th Cir. 1996) 100 F.3d 1491, 1503.

[23] (2d Cir. 2001) 250 F.3d 130. ALSO SEE *North Dakota* v. *Miller* (1994) 510 N.W.2d 638, 643 ["We have found no law to support the proposition that information known to the dispatcher but not communicated to the investigating officer nevertheless should be imputed to the officer."].

generally communicating about developments in the matter.[24] This makes sense because, as the Tenth Circuit noted, a "presumption of communication often will reflect what has actually taken place and communication among officers during the exigencies of a stop or arrest may often be subtle or nonverbal."[25]

For example, in *U.S.* v. *Sawyer*[26] two U.S. Marshals who were taking part in a federal-state fugitive task force operation in East St. Louis, Illinois noticed Sawyer standing in front of a vacant building in a high crime area. The time was 10:30 P.M., and Sawyer was dressed in all black clothing.

One of the marshals, Woods, got out of the car, identified himself as an officer, and told Sawyer he wanted to speak with him. Sawyer immediately ran toward the back of the building. Woods gave chase and, while doing so, saw Sawyer drop a handgun to the ground. According to the court, "Woods was in verbal contact with the other task force officers and told them what had happened." About a minute later, Woods saw that another marshal, Nelson, had apprehended Sawyer and was handcuffing him. Nelson also pat searched Sawyer and, in the process, found a bag containing .45 caliber bullets. Woods later found the gun Sawyer had tossed and determined that the bullets in the gun matched those that were in his pockets. Sawyer was charged with being a felon in possession of a firearm.

Sawyer contended that Nelson's pat search was unlawful because there was no testimony at the motion to suppress that he had heard Woods' report about the gun. It did not matter, said the court, explaining:

> [B]ecause Woods was in communication with the other task force officers at the scene, including Nelson, Woods's knowledge can be imputed to Nelson. It does not matter that we do not know what Nelson knew when he initiated Sawyer's arrest, because we do know what Woods knew.

Similarly, in *U.S.* v. *Nafzger*[27] several federal and state officers were conducting an investigation into an interstate car theft ring which they suspected was being run by Roy and Ralph Nafzger. One day, an FBI agent passed along information to officers in the command post that would have provided grounds to detain Roy. Later that day, other investigators who had been staying in touch with the command post, asked a county detective to detain Roy. Although there was no testimony that the FBI agent's information had been transmitted to the detective, the court ruled it was reasonable to infer it had been disseminated. Said the court:

> Though the government failed to present evidence at the suppression hearing demonstrating that the briefing officials knew of what [the FBI agent] had told the command post, we hold that it is proper to impute [the agent's] knowledge to these officers who, like [the agent], were in close communication with the command post, the "nerve center" of the investigation.

Note that a presumption of communication may be rebutted if the defense proves that the officer who detained, arrested, or searched the suspect was not, in fact, in communication with the other officers who possessed the information.[28]

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[24] See *People* v. *Rodgers* (1976) 54 Cal.App.3d 508, 518; *U.S.* v. *Nafzger* (7th Cir. 1992) 974 F.2d 906, 911 ["(W)hen officers are in communication with each other while working together at a scene, their knowledge may be mutually imputed even when there is no express testimony that the specific or detailed information creating the justification for a stop was conveyed."]; *People* v. *Ford* (1984) 150 Cal.App.3d 687, 699 [court notes that "a well considered line of cases" has held "that if the officers are working together as a closely coordinated team, the collective knowledge of all of the officers may be utilized in determining probable cause."]; *U.S.* v. *Shareef* (10th Cir. 1996) 100 F.3d 1491, 1504; *Collins* v. *Nagle* (6th Cir. 1989) 982 F.2d 489, 495; *U.S.* v. *Twiss* (8th Cir. 1997) 127 F.3d 771, 774; *U.S.* v. *Sawyer* (7th Cir. 2000) 224 F.3d 675, 680; *U.S.* v. *Edwards* (7th Cir. 1989) 885 F.2d 377, 382; *U.S.* v. *Cook* (1st Cir. 2002) 277 F.3d 82, 86-7; *U.S.* v. *Lee* (5th Cir. 1992) 962 F.2d 430, 435 ["(P)robable cause can rest upon the collective knowledge of the police, rather than solely on that of the officer who actually makes the arrest, when there is some degree of communication between the two."]; *U.S.* v. *Taylor* (1st Cir. 1998) 162 F.3d 12, 18, fn.3; *U.S.* v. *Fiasconaro* (1st Cir. 2002) 315 F.3d 28, 35-6.

[25] *U.S.* v. *Shareef* (10th Cir. 1996) 100 F.3d 1491, 1504.

[26] (7th Cir. 2000) 224 F.3d 675. ALSO SEE *U.S.* v. *Swift* (7th Cir. 2000) 220 F.3d 502, 508; *U.S.* v. *Ledford* (7th Cir. 2000) 218 F.3d 684, 689 ["These facts suggest that the officers were acting jointly in the search of the trunk. [B]ecause the search was a joint endeavor, the court may properly consider what Page and the other officers knew."].

[27] (7th Cir. 1992) 974 F.2d 906.

[28] See *U.S.* v. *Shareef* (10th Cir. 1996) 100 F.3d 1491, 1504 [However, in this case, the presumption of communication is rebutted, because the district court found that in fact the information had not been shared."].