



# People v. Reyes

## End of “Reasonable Suspicion” for Parole Searches

*The following was originally published in “Point Of View,” a quarterly publication by the Alameda County District Attorney’s Office. The article discusses the recent California Supreme Court decision regarding the elimination of the “reasonable suspicion” standard for parole searches. Questions regarding this article may be directed to the Legal Training Unit, Training Division, at (310) 342-3075.*

### People v. Reyes (1998) 19 Cal.4th 229

*Issue*

Can officers conduct a parole search of a parolee, his residence, and property under his control if they do not have any reason to believe the parolee has violated the law or is otherwise in violation of parole?

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**INSIDE THIS ISSUE**

Page	Articles
1	Reasonable Suspicion Searches
2	911, introducing 877-ASKLAPD
4	Cops for Tots
5	Commendations
6	Summer Games

*Facts*

Reyes was a parolee who, like all parolees, was subject to a standard search condition; specifically, “You and your residence and any property under your control may be searched without a warrant by an agent of the Department of Corrections or any law enforcement officer.”

One day, Reyes’ parole officer received an anonymous tip that Reyes, a resident of Woodlake, was using drugs. Based on the tip, the parole officer phoned Woodlake police and said, “If you see Reyes, check him out for being under the influence.” Based solely on the request, officers detained Reyes when they saw him coming out of a shed in his backyard. The officers then searched the shed and found methamphetamine. Reyes was subsequently convicted of a drug offense.

*Discussion*

In 1986, the California Supreme Court announced its decision in the landmark case of *People v. Burgener*. In *Burgener*, the court drew a distinction between parole and probation searches, and decided they must be subject to different rules and standards.

Regarding probation searches, the court noted that probationers can choose to accept a search condition or serve out their sentences. Thus, if they voluntarily accept a

*Continued on Page 3*



# Reigning Number in Town: 9-1-1

## Number-in-Waiting: 877-ASKLAPD

Quick. How many 9-1-1 calls were made last year?

A whopping 1.9 million. That is equivalent to well over one half of the people in Los Angeles dialing 911 in 1998.\* A solid 54 percent. But of those calls, about 80 percent were not true emergencies.

“We’ve had our regulars,” said Police Service Representative (PSR) Dawn Danko who had worked the phone lines for 20 years.

Along with fellow PSR Stephanie Nelson, a 10-year veteran of the 9-1-1 system, Danko recounted the nicknames given by the dispatchers to some of those diehard callers: Laser Lady, Cat Lady and Harmonica Man. The Laser Lady called to ask for shields to keep laser beams from infiltrating her brain. The Cat Lady always wanted to talk about her dozens of cats. The Harmonica man simply phoned to play the harmonica for the dispatchers.

“That was on Sundays when he called,” Nelson said.

These quirky encounters — while fodder for interesting dinner conversations — overburden the emergency system, exhaust resources and pose significant risk to public safety.

Last year, to address this problem, the Los Angeles City Council recommended developing a public education campaign on the proper use of 911 and raising public awareness of a new toll free non-emergency number: 877-ASKLAPD (877-275-5273).

This new number was implemented on June 16 to replace the two dozen or so non-emergency numbers currently in use for police and other city services. A media campaign for the new toll free number is slated for late summer or early fall of 1999. There is an ongoing discussion to phase out all other numbers.

In accordance with the City Council’s directive, the Communications Division established a full time Communications Community Relations Unit (CCRU) to educate both Angelenos and Department personnel on the appropriate use of 911 and to promote the new non-emergency number. While a small unit, the five-member crew brings an abundance of talent and expertise to the assignment.

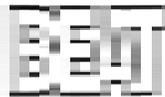
The CCRU conducts two to four public presentations a week. The forums include public and private schools, Neighborhood Watch meetings, Basic Car Plan meetings, the Bureau Citizen Police Academy, Police Station Open Houses, and City and State sponsored community events. Attendance at each event ranges from 25 to more than 3,000. Presentations are also available to Department personnel.

As the City’s population grows, so will the demands on the 911 emergency system. Misuse or abuse of the system will impede its effectiveness. Public education is the only immediate and viable solution. Increased public awareness of the appropriate use of 911 will enhance LAPD’s patrol mission, and ultimately, the image of the Department.

*By Monika Giles  
Communications Division*

\*Communications Division handled over 3.5 million calls for service during 1998, including calls referred from other agencies and private companies such as the local telephone 411 operators.

**Communications Division will be a front-page feature on the Department Web site for a week, from Aug. 30 to Sept. 3. Featured highlights will include a brief history of the division, interviews with longtime employees, updated audio, photographs and preview of the new Communications Center being built next to Parker Center and in the San Fernando Valley.**



## Parole Search

*Continued from Page 1*

suspicionless search condition, they have given up any reasonable expectation of privacy as to places and things they agreed could be searched at any time. In fact, it has been noted that officers can conduct a probation search just to make sure the probationer is not engaging in further criminal behavior. On the other hand, parolees, according to the court, retained some expectation of privacy because search conditions are imposed on them by the Department of Corrections. Parolees do not have any choice in the matter.

Consequently, the court came to the conclusion that because parolees had a diminished — but not nonexistent — expectation of privacy, they could not be searched without a warrant unless officers were aware of facts that constituted reasonable suspicion to believe the parolee was again involved in criminal activity, or was otherwise in violation of parole.

To many people, these different standards did not make sense. After all, parolees as a group are probably more of a threat to society than probationers because parolees, as the result of the seriousness of their crimes or their criminal records, were determined to be unfit for probation. Nevertheless, parolees were given more protection against warrantless searches than probationers. That is, until now.

In *Reyes*, the California Supreme Court decided it was time to reverse *Burgener* and acknowledge that neither parolees nor probationers can have a reasonable expectation of privacy in places and things which are lawfully subject to a warrantless search. Consequently, the court ruled that officers may now conduct unprovoked searches of parolees. Said the court, “[T]he purpose of the search condition is to deter the commission of crimes and to protect the public, and the effectiveness of the deterrent is enhanced by the potential for random searches. We thus conclude a parole search may be reasonable despite the absence of particularized suspicion.”

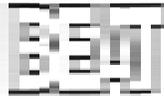
The court added that, like probation searches, a parole search will be unlawful if it was unreasonably prolonged, arbitrary, or oppressive. For example, a parole search would be invalid if the motivation for the search was “unrelated to rehabilitative, reformatory or legitimate law enforcement purposes, or when the search is motivated by personal animosity toward the parolee.”

Thus, the court ruled the search of *Reyes* was lawful because it was conducted for a “proper purpose.” *Reyes*’ conviction was affirmed.

### *Prosecutor’s Note*

The question remains whether a warrantless search of a parolee will be upheld as a parole search if officers were unaware the suspect was on parole. Although the court in *Reyes* did not specifically rule on this issue, it did expressly adopt the reasoning of *In re Tyrell J.* In *Tyrell*, the court held that a minor who was subject to a probation search condition that was imposed on him by the juvenile court (i.e., it was not a consensual search condition) did not have a reasonable expectation of privacy with regard to places and things that were specifically covered under the search condition.

Consequently, the court upheld the search even though the officers who conducted it were unaware that *Tyrell* was subject to a warrantless search. As the court in *Reyes* observed, “The logic of *Tyrell J.* applies equally, if not more so, to parolees. Because of society’s interest both in assuring the parolee corrects his behavior and in protecting its citizens against dangerous criminals, a search pursuant to a parole condition, without reasonable suspicion, does not intrude on a reasonable expectation of privacy, that is, an expectation that society is willing to recognize as legitimate.”



## Cops for Tots

The popular "Cops for Tots Car Show" is gearing up for its 4<sup>th</sup> annual charitable fund-raiser at Elysian Park Police Academy in late August and hopes to raise more than \$30,000 for Children's Hospital Los Angeles.

The LAPD's Central Traffic Division (CTD), American Red Cross and Officer Needs Help Foundation joined forces for the event slated from 8 a.m. to 4 p.m., Aug. 22. CTD is hoping this year will be the most successful yet. The proceeds will help Children's Hospital Los Angeles Bone Marrow Transplant Unit to purchase much needed medical equipment and host birthday and holiday parties to cheer up sick children.

The Car Show is the brainchild of two avid car buffs, CTD Officers John Nichols and Joe Wynkoop. They tried a number of fund-raisers but none was as successful as the Car Show. Last year's event pulled in nearly 500 vehicles, 3,000 spectators and raised more than \$28,000. The show featured street rods, muscle cars, trucks and motorcycles and a variety of antique and vintage cars.

**Cops for Tots Car Show  
Fourth Annual Fund-raiser  
Elysian Park Police Academy  
8 a.m. to 4 p.m., Sunday, August 22  
Free Admission**

\$25 pre-registration fee for display autos by Aug. 15  
Registration after Aug. 15 subject to space availability

At the show, the American Red Cross will set up a booth to test spectators for potential bone marrow donors. Unlike blood transfusions, a bone marrow match is most successful from a donor who is a member of the recipient's ethnic group. There is currently a push to expand the pool of donors from African-American, Latino and Asian-American communities.

The donors have their blood categorized, typed and rated. The donors are also placed on the National Bone Marrow Donors Registry for the duration of their lives. Chief Bernard Parks was tested two years ago and received top scores in all six bone marrow categories, making him an ideal donor. Such a match literally means a life saved. As some of you may recall, LAPD's own Officer Diane Alonzo was diagnosed with leukemia. Alonzo is alive and well today, thanks to a successful donor match and bone marrow transplant operation.

Come join CTD at this year's Car Show and remember to follow Chief Parks' example and spend a few minutes being tested. It is fast and painless. Perhaps the few minutes you spare could give someone like Alonzo a second chance at a happy and productive life. And not in the least, you will also enjoy one of the best car shows in Southern California!

*By Officer Mike Partain  
Media Relations Section*

*This article is dedicated to the memory of Los Angeles Sheriff's Department Sgt. Sylvia Smith, who lost her battle with leukemia last year.*

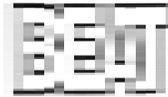
**Captain Examination:**

Filing Period for Captain exam will open Aug. 6 and written test is scheduled for Sept. 18.

**Sergeant Examination:**

Career Development Center held seven seminars to assist candidates preparing for the oral exam. Videotapes and audiotapes are available for most of these seminars.

For details on both examinations, contact Career Development Centers at (213) 207-3000 or (310) 342-3172.



# Commendations

The Chief of Police received the following personnel commendations from June 21-June 30.

<b>Rank</b>	<b>Name</b>	<b>Assignment</b>
Captain II	Kim, Paul Myungchyun	West Traffic
Lieutenant II	Markloff, James David	West Los Angeles
Lieutenant II	Roper, Charles Gregory	Uniformed Support
Detective II	Berdin, John	Northeast
Detective II	Galvan, Frank Xavier	Narcotics
Detective II	Speer III, Clarence William	Robbery-Homicide
Detective I	Hays, Jr., James Richard	West Los Angeles
Sergeant II	Dickerson, Ronald Gene	Internal Affairs
Sergeant II	Mora, Heriberto	Internal Affairs
Sergeant II	Myers, Douglas James	Uniformed Support
Sergeant II	Smith, Jr., Robert	West Los Angeles
Sergeant I	Arneson, Mark Joseph	Pacific
Sergeant I	Brown, Craig Joseph	Pacific
Police Officer III	Allen, Ronald Leo	Van Nuys
Police Officer III	Melendez, Richard Serial	DARE
Police Officer III	Cabunoc, Anthony	Van Nuys
Police Officer III	Chan, Phillip Seton	Rampart
Police Officer III	Hajewski, Alicia Alcantar	DARE
Police Officer III	Hillman, Brian Scott	Van Nuys
Police Officer III	Tennison, Martin Edward	Hollywood
Police Officer III	Walsh, Lorena Guajardo	DARE
Police Officer II	Albright, Joseph Foster	Uniformed Support
Police Officer II	Alvarez, Manuel	Pacific
Police Officer II	Bissett, Michael David	Uniformed Support
Police Officer II	Carr, Wallace	Uniformed Support
Police Officer II	Garde, Mariano	Hollywood
Police Officer II	Guevara, Robert Armando	Pacific
Police Officer II	Gurrola II, Richard Bob	Pacific
Police Officer II	Hanson, James Everett	Uniformed Support
Police Officer II	Hickey, Lawrence Frank	Southwest
Police Officer II	Higareda, Frank Sanchez	Central

*Continued on Page 7*



## LAPD Dominates California Police Games

Six thousand athletes representing 360 California law enforcement agencies descended on the usually sedate City of Pasadena in June and tested their mettle in the 33rd Annual California Police Summer Games.

And once again, LAPD ruled the week.

First known as "California Police Olympics," the event organized in 1967 by Duke Nyhus and LAPD athletic legend Bob Burke has expanded to become one of the largest law enforcement athletic meets in the world. Back then in the days of bell bottoms, Lyndon Johnson and Jack Webb's second "Dragnet" series, the relatively small undertaking drew 200 athletes competing in 16 events over a weekend in San Diego.

Since the first blast of the starter pistol, LAPD officers have dominated the turf, grass or astro. This year's Summer Games included more than 600 participants carrying the LAPD badge in their wallets, giving the Department the largest representation in the state, including our friends in green and tan.

While Pasadena served as the hosting city, the various competitions were scattered throughout the San Gabriel Valley. The meets ranged from the traditional — basketball, bench press, pistol, softball and tennis, to the more eclectic — darts, horseshoes, pocket billiards, surfing and water skiing.

**In the Next Issue:**  
**Highlights of the**  
**1999 World Police and Fire Games**

**Stockholm, Sweden**  
**July 16 - July 24**

**50 Participating Countries**  
**9,000 Public Safety Personnel**  
**27 LAPD Athletes**

The LAPD racked up a solid winning streak in team competitions:

Pistol: gold and silver

Action shooting: gold

Women's basketball: silver

Soccer: gold for men and silver for women

Track and Field: at least a dozen gold and silver combined

Roller Hockey: gold

Volleyball: gold for men and silver for women

LAPD teams also dominated men's softball by winning gold for the Red Team in the Open Division, gold for the Grey Team in the Masters Division, gold for the Stick Time team in the Coed Division, and bronze for the L.A. Lawmen in the Open Division.

Dozens of LAPD athletes won individual gold, silver and bronze medals in action shooting, track and field, tennis and cycling events including Mountain Bike and Triathlon. Chief Bernard Parks was spotted at the Rose Bowl cheering on his LAPD pugilists who also snared medals.

On the evening of the boxing finals at the Rose Bowl, a moving memorial service was held to honor officers who sacrificed their lives to protect the people of California since the 1998 Summer Games, including two of our own, Officers Filbert Cuesta and Brian Brown.

The year 2000 will usher in a new era for the California Police Summer Games. The 34<sup>th</sup> annual event will be renamed the California Police and Fire Games to reflect inclusion of fire department personnel.

Still, with the continued support of Chief Parks and the Los Angeles Police Revolver and Athletic Club, the LAPD's decades-old reputation as the best law enforcement athletes will live on into the new millennium.

*By Officer Tony Adler*

*Los Angeles Police Revolver and Athletic Club*



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**Commendations**

*Continued from page 5*

<b>Rank</b>	<b>Name</b>	<b>Assignment</b>
Police Officer II	Hillman, Steven Vincent	Uniformed Support
Police Officer II	Hinson, Darrell D.	Uniformed Support
Police Officer II	Kane, Jesse Mark	Van Nuys
Police Officer II	Meyer, Gregg Thomas	Hollywood
Police Officer II	Quechenberger, Engelbert Rudolph	Uniformed Support
Police Officer II	Rolsen, Timothy Thomas	West Traffic
Police Officer II	Siel, Jerry Lee	West Traffic
Police Officer II	Topete, Luis	West Valley
Police Officer II	Wienckowski, Timothy John	Uniformed Support
Clerk Typist	Bourne, Beryl J.	Uniformed Support
Equipment Mechanic	Woolery, Robert Allen	Motor Transport

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P.O. BOX 30158  
LOS ANGELES, CA 90030

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