

BOLO

Be On the Lookout

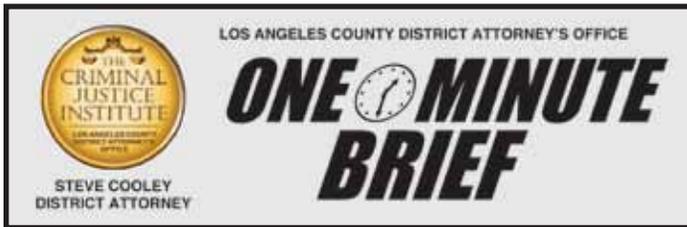
The Newsletter for The Los Angeles Airport Peace Officers Association



www.laapoa.com

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Number: 2012-06 Date: 02-21-12
By: Devallis Rutledge Topic: Noncustody of prisoners

ISSUE: Can an inmate be removed to a separate location for interrogation without triggering the need for *Miranda* warnings?

Miranda warnings are intended to neutralize the compulsion to confess that courts must presume to exist when a person is subjected to apparent police custodial interrogation. *Miranda v. Arizona* (1966) 384 U.S. 436, 444. Nearly 46 years after this rule was announced, judges (and defense attorneys, prosecutors and law enforcement officers) still struggle to understand whether particular circumstances do or do not constitute "custody" for *Miranda* purposes. If a person is incarcerated in jail or prison, is he necessarily in custody whenever officials question him? (See 1MB 2008-02.)

In Michigan, Randall Lee Fields was serving time for one crime when police went to the prison to question him about another one. **He was taken to a conference room.** He was not handcuffed or otherwise restrained. He was initially told, and was later reminded, that he could leave whenever he wanted and return to his cell. He was then interrogated for five to seven hours (past his normal bedtime), during which time he was offered food and water. He eventually confessed.

Fields' confession was used against him at trial, and he was convicted. His conviction was affirmed on appeal in state courts, but the federal district court and the Sixth Circuit granted habeas relief on the grounds of a *Miranda* violation. Prison Warden Carol Howes appealed this order to the U.S. Supreme Court, which has now ruled unanimously that no violation of a clearly established *Miranda* prec-

edent supported habeas relief (three concurring justices dissented as to portions of the majority opinion).

The court pointed out that unlike a person arrested at home and taken into the station for questioning, a prisoner is not subjected to the "shock" of the loss of liberty, nor does he feel himself at the mercy of his interrogators; therefore, he is not subjected to the unfamiliar and stressful environment that "custody" normally entails. As long as the interrogation is free of added restraints not usually imposed on the prisoner (such as handcuffs or shackles), the mere fact of his incarceration does not make the interrogation "custodial," particularly where he is told he can leave whenever he wants and is treated accordingly:

"[S]ervice of a term of imprisonment, without more, is not enough to constitute Miranda custody. ... Taking a prisoner aside for questioning ... does not necessarily convert a noncustodial situation to one in which Miranda applies. ... Taking into account all of the circumstances of the questioning — including especially the undisputed fact that respondent was told that he was free to end the questioning and return to his cell — we hold that respondent was not in custody within the meaning of Miranda." *Howes v. Fields* (2012) 565 U.S. ___, WL 538280. (Citations and internal quotation marks omitted; emphases added.)

- Officers intending to interrogate an inmate must check to see that he has not invoked his *Miranda* "right" to **counsel** within the past 14 days, to any officer, on any case. *Maryland v. Shatzer* (2010) 130 S.Ct. 1213, 1223-24. (See 1MB 2010-05.) If not, they may remove the inmate to an interview room, avoid the use of added restraints, advise him that he can end the interview and return to his cell at any time and take an admissible confession **without *Miranda* warnings.**

- A waiver **would be needed** for questioning on a specific offense to which the **Sixth Amendment** applies (after indictment or arraignment and appointment/retention of counsel). *Montejo v. Louisiana* (2009) 556 U.S. 778. (See 1MB 2009-10.)

Bottom line: "[S]ervice of a term of imprisonment, without more, is not enough to constitute *Miranda* custody." *Howes v. Fields*, *supra*.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.

Congratulations, Team LAX!

Team LAX brought home a Baker to Vegas Challenge Cup last month. The team ranked 9th out of 50 teams in its running category and 80th out of more than 266 teams overall.

California Narcotic Officers' Association Standardized Field Sobriety Testing Classes

May 22-23
San Diego, CA

July 18-19
Brentwood, CA

June 19-20
Commerce, CA

August 7-8
Anaheim, CA

Seats are limited. For more details and to register, visit www.cnoaregionaltraining.org.

Union Updates

- Your LAAPOA Board members are still negotiating at the contract table and hope to have a tentative agreement to present to the members before the end of May.
- We are still requesting that management address and fulfill the promised "Departmental Project Updates," along with equipment, staffing and training concerns.
- In the coming weeks, LAAPOA TV will be launching a YouTube site to deliver weekly and biweekly updates for the membership.
Thank you for your continued support.
— Marshall

LAAPOA 2012 Endorsements

Congressional District 44: Laura Richardson
U.S. Congress: Howard Berman
L.A. County District Attorney: Alan Jackson/Jacqueline Lacey
Assembly District 46: Adrin Nazarian
Assembly District 50: Betsy Butler
Assembly District 59: Jones-Sawyer

LAAPOA's political action committee will be setting up a public safety forum to interview potential L.A. city mayoral candidates in the coming months.



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BOLO is a publication of the Los Angeles Airport Peace Officers Association (LAAPOA). Opinions expressed by individual Board members or contributing authors in this publication do not necessarily reflect the opinions of the entire Board.

The Board of Directors meets on the third Thursday of each quarter at the LAAPOA Headquarters.

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April 17, 2012

Ms. Gina Marie Lindsey
Executive Director
Los Angeles World Airports
1 World Way
Los Angeles, CA 90045



Dear Ms. Lindsey:

I am writing in response to your April 11, 2012, letter regarding MOU 30 negotiations clarifications. LAAPOA has been working diligently for the last two years to come to an equitable resolution to these ongoing negotiations, and I appreciate your clarification that the Office of the Chief Administrative Officer (CAO) represents your interests and intentions. While positive progress has been made during recent negotiations, there remain substantial unresolved issues, mostly focused on matters relating to ensuring a safe airport environment for the traveling public and airport employees and equitable compensation for work performed by airport police vs. contracted officers. As you are aware, LAWA pays the city for "temporary" LAPD staffing at the airport. An abundance of these positions, which began as temporary many years, including decades, ago, have morphed into long-term, de facto permanent positions at the airport for which the city of Los Angeles is being reimbursed at rates of 100% to 200% higher than the compensation of a full-time LAXPD officer. While these contracted officer salaries are paid by the airport, the individual policemen technically still report to the LAPD chief, not the airport police chief. Our officers, whose entire professional focus via extensive airport specialty training and education specifically for hijacking, terrorist and airport criminal offenses is compromised when "temporary" LAPD officers who are being paid by LAWA to be physically working at the airport, are often pulled from their LAX duties and redeployed to perform city police work by the LAPD chief. Beyond the security vulnerabilities associated with the absence of these officers, it is important to note that the airport receives no reimbursement for the work these LAWA-contracted officers perform on behalf of the city while being paid by the airport. Therefore, given the substantial amount of money that is continually expended by LAWA for "temporary" policing services via LAPD, reportedly at least \$68 million in fiscal year 2009-2010, it is inequitable for the CAO and LAWA management to refuse LAXPD equal pay for our work or make any foreseeable arrangements toward replacing those contracted police services with LAWA employees. As you are aware, LAWA funds its officers through airport revenue, and receives no money from the city of Los Angeles to pay its police force. LAX passenger traffic has increased steadily over the last years, and our dedicated officers are capable and willing to support these needs even as they continue to broaden organically and with the physical expansion of LAX.

Issues include the manner in which overtime shifts at the airport are often offered to the much more highly paid contracted LAPD first, despite the fact that the airport specifically trained LAXPD is the primary law enforcement agency charged with patrolling and securing the airport. The fact that our vehicle fleet is more than 80% overdue for salvage, as well as other specific issues that we have raised in negotiations and with you separately as operational matters over the course of your tenure and have remained unresolved and/or been "in the process" of being resolved for years, has led to a deterioration of faith among our members that reasonable and responsible requests are being taken seriously.

I appreciate you taking the time to inform me directly that you are familiar with the aforementioned matters as they have been discussed in our negotiations (and some have been conveyed to you directly outside of the bargaining table as well) and that you are being kept fully informed on the details of our negotiations and are satisfied that your intentions are being conveyed fairly and accurately. I remain hopeful we will be able to move ahead with a beneficial outcome for all parties involved, and I look forward to continuing to work with you and your representatives to achieve our mutual goals of ensuring the highest level of safety and security for our airports and providing the traveling public with a positive experience.

Sincerely,

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BOOK 'Em While You Can Because These Deals Won't Last



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Los Angeles Police Federal Credit Union is giving you a limited-time chance to slap the cuffs on the car of your dreams and make it yours!

- ✓ **SAVE!**
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Give your payments the summer off
- ✓ **LOW PAYMENT GUARANTEE!**
We'll beat dealership monthly loan payments – even with 0% financing – or we'll pay you **\$100⁴**

WIN!

Automatically enter to win⁵ one of three fantastic prizes in our **"You Drive, We Pay" Sweepstakes** when you apply for an LAPFCU auto loan:

- **FREE** gas for one year
- **FREE** insurance for one year
- **FREE** car washes for one year

- ✓ **FREE QUOTE, FREE GIFT!**
After you've applied for your LAPFCU auto loan, get a **FREE** auto insurance quote from LAPCUSO Insurance Services and receive a free gift!⁶

Attention All Units!

**MEMBER CAR SALE
MAY 19 - 20**

→ Check lapfcu.org for details.



Don't miss your chance to "book 'em," because these special offers expire on July 31!

Go to lapfcu.org to apply for your auto loan now, or call **877-MY-LAPFCU (877-695-2732)**.



Your savings federally insured to at least \$250,000 and backed by the full faith and the credit of the United States Government.



¹APR = Annual Percentage Rate. ²Special promotional 0.50% Annual Percentage Rate discount on fixed rate financing April 16, 2012 through July 31, 2012. Special promotional 0.50% APR discount includes 0.25% promotional discount and 0.25% automatic payment discount. Cannot be combined with any other offer. Cannot be used to refinance an existing LAPFCU loan. All rates, terms, and promotional offers are subject to change without notice. Restrictions may apply, ask for complete details. ³Number of total payments on your loan remains the same, and interest continues to accrue during deferred payment months. Deferring a payment may void your GAP insurance during the month(s) you defer. Please consult your insurer for complete details. ⁴Applies to new vehicle purchased within past six months only. Excludes leases and used vehicles. Must provide proof of approved 0% financing. LAPFCU may extend repayment period in order to provide lower payment than dealerships. Offer expires July 31, 2012. Cannot be combined with any other offer. Restrictions may apply, ask for complete details.

⁵Consumer Disclosure: **NO PURCHASE OR PAYMENT OF ANY KIND IS NECESSARY TO ENTER OR WIN SWEEPSTAKES.** One LAPFCU member will be awarded up to \$2,500 in gas reimbursement for up to one year one LAPFCU member will be awarded up to \$1,500 in auto insurance reimbursement for insurance with LAPCUSO Insurance Services for up to one year, and one LAPFCU member will be awarded up to \$250 in car washes (reimbursement at a location convenient to you) for up to one year. All prizes must be redeemed by December 31, 2012. Any eligible member 18 years of age or older may enter. LAPFCU employees, volunteers and family members, not eligible. An entry may be submitted by printing your name, address, member number, phone number and email address (if applicable) on a 3" x 5" card or complete a coupon at any LAPFCU branch. Mail entry in a sealed envelope to: LAPFCU, Attention: "You Drive, We Pay Sweepstakes", P.O. Box 10188, Van Nuys, CA 91410-0188. Only one entry per member. Odds of winning for each prize dependent upon the number of entries received. All mail entries must be postmarked by July 31, 2012.

⁶Free gift valued at under \$10.00. Insurance services provided by Bichlmeier Insurance Services, Inc., California license #OB26427. 0412-20