



Las Vegas Police Protective Association Metro, Inc.



To: LVPPA Members
From: David Roger, General Counsel 
Re: Emergency Aid Exception to Warrant Requirement and Domestic Violence Calls
Date: October 7, 2014

A recent memo discussed the Emergency Aid exception to the search warrant requirement. Several officers have asked whether case law allows peace officers to enter a residence, in response to a domestic violence call, without a warrant, consent, or exigent circumstances. The short answer is no.

The U.S. Supreme Court, in *Brigham City, Utah v. Stuart*,¹ held that officers may enter a home, without a warrant, when they have an objectively reasonable basis to believe that an occupant may be seriously injured or threatened with imminent serious harm.

The Court explained:

One exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury. The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency. Accordingly, law enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury. (internal quotation and citations omitted).²

On the other hand, the Nevada Supreme Court held that officers did not have an objectively reasonable basis to believe the occupants were in immediate risk of injury.³ While the opinion should be limited to the unique facts, the decision does provide guidance about what circumstances the Nevada court will deem objectively reasonable.

Contrary to the training some officers have received, police may not enter a residence, in response to a family disturbance call, without a warrant, consent or an objectively reasonable belief that occupants are in danger.

¹ *Brigham City, Utah v. Stuart*, 547 U.S. 398, 126 S.Ct. 1943 (2006).

² *Id.* 547 U.S. at 403, 126 S.Ct. at 1947.

³ *Hannon v. State*, 125 Nev. 142, 207 P.3d 344 (2009)

Officers who elect to force their way into a residence, should be careful to articulate facts that support their belief that an occupant is in risk of immediate physical danger.

Additionally, concerning a related matter, police must be lawfully in a residence before they may arrest an individual for domestic violence.⁴ Officers must either have an arrest warrant, consent or be in hot pursuit of a felony suspect to arrest a person in his residence.⁵

⁴ See, *Warrantless Entry into Residences- Hot Pursuit* memo (September 12, 2014).

⁵ NRS 171.137(1), which requires officers to arrest a domestic violence suspect within 24 hours of the alleged crime, does not give police authority to enter a residence without consent or an arrest warrant.