

**YOU HAVE TO KNOW THE LIMIT OF YOUR EMPLOYEE'S JURISDICTION IN ORDER TO HAVE A SNOWBALL'S CHANCE IN HELL OF LEVELING THE PLAYING FIELD IN THE DEFENSE OF YOUR SECURED, GOD GIVEN RIGHTS.**



The only title in our democracy superior to that of President is the title of citizen.

**Louis Brandeis**, Supreme Court justice

It's imperative to understand that the police officer, Highway Patrol Officer, Sheriff Deputy, are servants. They wanted to assist the people protect and defend their secured fundamental rights secured by both State and federal constitutions. They swore an oath and that oath imposes limits on what they can validly do when on the clock.



**- WITHIN THE SCOPE -**

**Penal Code sec. 836(a)(1)**

Penal Code §836(a)(1) defines the *scope* of the officer's "constitutional authority" to act. The "constitutional authority" is conditioned and is not absolute, it's limited or restricted by the Legislature to a crime being committed in the officer's presence. Penal Code §836 is the *circle* surrounding the image of the officer.

*Within* their jurisdiction (inside the circle), they have *qualified immunity* from prosecution when screwing up on the job. They can *damage you* without fear of being prosecuted or sued *as long as* they act *within* their jurisdiction.

The corollary is also true.

...**the police officers acted beyond the scope of their constitutional authority** in detaining Nicholas for questioning.

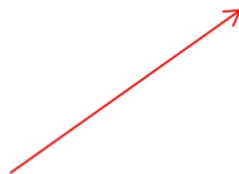
It is clear that the police did not have probable cause to arrest Nicholas at the time they stationed themselves on either side of his automobile.

**UNITED STATES of America, v. George Willie NICHOLAS, Jr.** (1971), 448 F.2d 622, United States Court of Appeals, Eighth Circuit

The officer who acts beyond the scope (outside the circle), of their constitutional authority is a trespasser. The trespasser forfeits their qualified immunity when acting beyond the scope of their constitutional authority and are liable in damages to the party damaged.



**WITHOUT THE SCOPE**



**TRESPASSER!**  
**FORFETS THEIR QUALIFIED IMMUNITY!**

"...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office... The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..."

**70 Am. Jur. 2nd Sec. 50, VII Civil Liability**

If the officer acts in a way that is *not* a duty connected with his office (outside the circle), he has no qualified immunity, in fact he has no immunity at all.

The officer agreed, swore an oath, *not* to act beyond the scope of their constitutional duties. That's the people's insurance policy that the officer will do his job (stay within the circle).

The officer has no power, duty, or authority to violate, disparage, deny, or prejudice the people's secured fundamental rights. Penal Code §836 limits and restricts the officer's power to arrest, again it is the circle within which the officer is authorized to act and his conduct is valid. When an officer makes an arrest without a warrant secured fundamental rights of the party subjected to the arrest are affected. If the arrest is not authorized the officer acts beyond the scope (outside the circle), of his constitutional duty. Again, Penal Code §836 limits and restricts the officer's arrest power to crime.

Interestingly enough the law acknowledges the *people's* right to arrest without a warrant based on the same conditions as a peace officer, crime committed in their presence. Like the officer's power to arrest being restricted and limited to crime, the *people's power* to arrest is also restricted and limited to crime.

The *key* condition or element for a valid warrantless arrest related to both the peace officer and the people is *crime*. Hence, arrests are for crime and in order for the arrest, with or without a warrant, to be valid, the party subjected to arrest must have committed a crime or the arrest is false and the arresting officer acts beyond the scope of their constitutional duty (outside the circle).

The purpose of the limitation and restriction on the officer's power is to prevent the loss, disparagement, or prejudice of the people's secured fundamental rights and prevent the officer and municipality from being sued.

The good news is that the people have the upper hand. Federal courts have held that even the *threat* by a peace officer (municipal employee), to violate a clearly established constitutional right or clearly established law, is beyond the scope of their constitutional authority. So in keeping with the image of the cop in the circle, when that cop *threatens* to move out of it the people should take alarm.

We are right to take alarm at the first experiment upon our liberties.  
James Madison

You're the first line of defense when it comes to your secured fundamental rights and you have the right to reasonably defend and protect them. Police and other municipal servants have no power or authority to experiment on our liberties and clearly established constitutionally secured rights or clearly established law. They agreed to comply with the law enacted by the Legislature and swore an oath of fidelity to the law. So again, without a requisite understanding of the municipal servant's duty and the limits and restrictions imposed on that duty by the Constitution and the statutes, because Government is instituted for the protection, security and benefit of the people; the people can not run it nor properly manage their employees and their secured rights will be in constant jeopardy from incompetent, criminally negligent or abusive servants.

When the plaintiff has shown that he was arrested, imprisoned or restrained of his liberty by the defendant, "the law presumes it to be unlawful."

**People v. McGrew** (1888) 77 Cal. 570

... one who interferes with another's liberty does so at his peril."

**Knight v. Baker**, 117 Ore. 492, (1926)

#### **CIVIL CODE SECTION**

**1708.** Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his or her rights.

We thus require citizens to apprise themselves not only of statutory language but also of legislative history, subsequent judicial construction, and underlying legislative purposes (*People v. Grubb* (1965) 63 Cal.2d 614, 620 [47 Cal.Rptr. 772, 408 P.2d 100]). (See generally *Amsterdam, The Void-For-Vagueness Doctrine in the Supreme Court* (1960) 109 U. Pa. L.Rev. 67.)

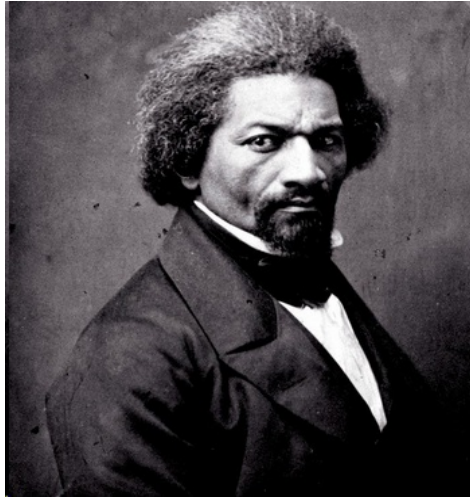
**Walker v. Superior Court** (1988) 47 Cal.3d 112

One way of keeping the municipal servant in the circle is to know the law, which more than a few courts have held is a mandatory duty imposed on all, and seek lawful retribution when they trespass. The purpose of fines meted out in Traffic and other courts is to discourage bad or negligent behavior. If that method of persuasion has been determined effective by the courts then the people should use it when their servants trespass. Paying them to trespass is not a deterrent, damages is.

"It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon."

**Boyd vs. United States** (1886) 116 US 616

Perhaps it may be in our best interest to bring to the court's attention a municipal servant encroached upon one or more of the very rights they swore an oath not to violate given their duty to be watchful of same.



"Those who profess to favor freedom, and yet deprecate agitation, are men who want crops without plowing up the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its waters. This struggle may be a moral one; or it may be a physical one; or it may be both moral and physical; but it must be a struggle! Power concedes nothing without a demand. It never did, and it never will. Find out just what people will submit to, and you have found out the exact amount of injustice and wrong which will be imposed upon them; and these will continue until they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress."

Frederick Douglass, August 4, 1857



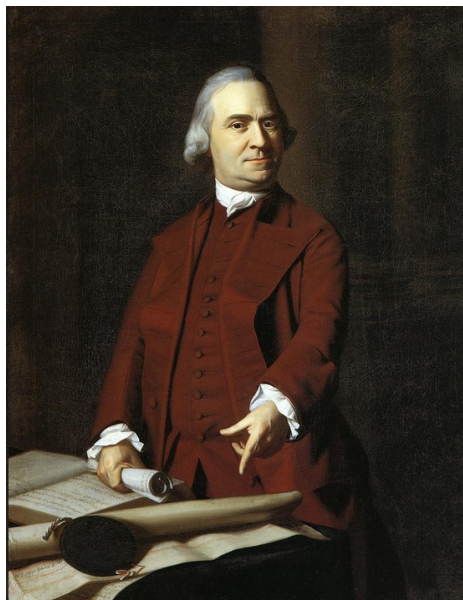
"Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are ruined."

Patrick Henry



"So long as the people do not care to exercise their freedom, those who wish to tyrannize will do so; For tyrants are active and ardent, and will devote themselves in the name of any number of gods, religious and otherwise, to put shackles upon sleeping men."

Voltarine de Cleyre



"If ye love wealth greater than liberty, the tranquility of servitude greater than the animating contest for freedom, go home from us in peace. We seek not your counsel, nor your arms. Crouch down and lick the hand that feeds you. May your chains set lightly upon you; and may posterity forget that ye were our countrymen."

Samuel Adams