



CITY OF BEVERLY HILLS
POLICE DEPARTMENT
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LEGAL UPDATE

TOTALITY OF CIRCUMSTANCES DID NOT PROVIDE OFFICERS WITH THE REQUISITE REASONABLE SUSPICION OF CRIMINAL ACTIVITY TO STOP DEFENDANT

United States v. Brown (2019 U.S. App. LEXIS 16886)

Facts: In January 2016, a YWCA employee called 911 and said that a resident reported someone carrying a gun. Carrying a gun is not a criminal offense in Washington. The employee did not see the gun herself and provided a description of the suspect. The resident wanted to remain anonymous and did not observe any criminal activity by the suspect. Officers saw defendant Brown, who was on foot and matched the description in the 911 call. Brown fled on foot, was pursued, and eventually ordered to the ground. During a search Officers found a firearm in his waistband and also found drugs, cash, and other items.

Legal Proceedings: Brown moved to suppress the evidence found during the search, arguing the officers lacked reasonable suspicion. The District Court denied his motion. He appealed to the 9th Circuit Court.

Holding: The 9th Circuit found the combination of almost no suspicion from the tip and Brown's flight did not equal reasonable suspicion. The officers lacked the requisite reasonable suspicion that criminal activity was afoot before stopping Brown.

Takeaway: There was an anonymous tip that provided little to no inference of criminal activity, the tipster was not upset by the observance of someone with a gun, and such conduct was legal in Washington under most circumstances. Agencies should be aware that although flight might be suggestive of wrongdoing in the reasonable suspicion analysis, the fact of a fleeing suspect alone may fail to meet the standard. Officers must be prepared to articulate **all** facts that would give rise to reasonable suspicion, particularly when responding to an anonymous tip.

Attachments: CPOA Client Alert June 25, 2019