



Handcuffs on residents during a search warrant was held not excessive force

Cannot prolong a detention in handcuffs if there is nothing articulate about a danger

HANDCUFFING RESIDENTS OF A HOUSE DURING EXECUTION OF A SEARCH WARRANT

John R. Budnik, Esq.

In **Mueller v. Mena 125 S.Ct. 1465 (2005)** the Supreme Court addressed an issue familiar to all law enforcement officers which is the detention of residents of a house in handcuffs during the execution of a search warrant. The residents sued claiming a Fourth Amendment violation for the use of handcuffs during the search and for questioning one of the residents about immigration status. The case went to trial with a jury award against the officers. However, the Supreme Court held the officers' actions in handcuffing the residents were "reasonable".

The case states that the detention was proper because the warrant was for an address and the persons detained were occupants at the time of the search. Inherent in the detention is the right to effect the detention using force and the use of handcuffs was reasonable because the government interest outweighs the marginal intrusion under inherently situations. The underlying risk was great since the warrant was a search for weapons arising out of a gang shooting. The residents claimed that the duration of two to three hours in handcuffs was per se unreasonable. The court held that such delay was not unreasonable under the circumstances. Another issue related to questions asked about immigration status. The Supreme Court stated that police may ask general questions even if they have no basis for suspecting an individual. There was no separate Fourth Amendment violation by asking about immigration status. It was important that there was no showing that the detention in handcuffs was prolonged by any questioning. Once the reasons for the detention no longer exist, then the detention must end.

Four of the nine justices indicated strongly that the use of handcuffs, while justified initially, could become a Fourth Amendment violation over the passage of time. The need for the use of handcuffs and the time of detention for handcuffs should be reviewed on a case by case basis. There was concern that the use of handcuffs could be used during the execution of every search warrant simply by asserting officer safety. So, it is important that facts exist to justify officer safety to merit the use of handcuffs, and detention time in handcuffs would also be important.

For instance, contrast the facts in **Mueller v. Mena** with the facts in **Tekle v. U.S. 511 F.3d 839 (2007)**. **Tekle** presented the other extreme factual end of the continuum. In **Tekle**, the individual was barefoot and unarmed, clad in shorts and t-shirt and approximately 11 years old at the time of the detention. He was alone and there were no less than 23 armed officers around. He was not resisting arrest and

was lying facedown. The officers had already searched him for weapons or anything else to warrant further concern for their safety. He was handcuffed for an additional 15 to 20 minutes. Under such circumstances, the prolonged handcuffing of the person was not justified. Often the factual situation faced by the officer will be somewhere in between **Mueller** and **Teke** and the officer must decide right at the moment whether or not his situation merits detention in handcuffs.

This website and its content shall not be considered the practice of law and no attorney client relationship is created by the information presented. The email list of CivilLiabilities.com is confidential and is not available to the public. The email list does not create an attorney client relationship. The information on this site is intended for the benefit of law enforcement professionals. Any reliance upon the information herein should be done in consultation with legal counsel for your department.

CivilLiabilities.com

Must be some grounds for handcuffing and detainment time must also be reasonable.

