



AUDIBLE ALARM AT A RESIDENCE

The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. Deputies need to know when and why they are allowed to enter the curtilage and structure to conduct their search/investigation.

Deputies are allowed to enter the curtilage of a property, to include fenced in property, in order to investigate for signs or evidence related to unlawful entry into a structure. But, the US Supreme Court recently ruled deputies can no longer rely on the community caretaking doctrine to enter the home. See *Caniglia v. Strom*, 141 S.Ct. 1596 (2021). Instead, Deputies must establish that there is an Exigency and Probable Cause or an Emergency Aid exception that would justify the warrantless entry into the home. *Hopkins v. Bonvicino*, 573 F.3d 752 (9th Cir. 2009). The community caretaking function is not, in and of itself, an emergency that justifies warrantless entry. *Calabretta v. Floyd*, 189 F.3d 808, 813 (9th Cir. 1999).

The entry and search of a home are per se unreasonable in the absence of a warrant or exigent circumstances combined with probable cause to enter the home. *Murdock v. Stout*, 54 F.3d 1437, 1441 (9th Cir. 1995). Articulate exigent circumstances alleviate the need for a warrant but not the need for probable cause to enter the home. *Murdock v. Stout*, 54 F.3d 1437, 1441. Probable cause requires only a fair probability or substantial chance of criminal activity.

The totality of the circumstances for consideration in a responding deputy's decision to enter a structure can include:

- A call from the alarm company, requesting a deputy response.
- Any additional signs of possible burglary observed by the deputy.
- Audible alarm with additional signs of forced entry (window smashed, pried door, etc.)
- Audible alarm, open door, and no response to announcements inside home. (*U.S. vs Dighera*)
- Audible alarm, unlocked door, and no response to announcements inside home. (*U.S. vs Tibolt*)
- A broken window and people inside the home with no identification or keys to the house. (*Murdock v. Stout*)
- A reasonable belief that entry into the home is immediately needed to investigate a medical emergency or other immediate risk to life or limb.
- Evidence tending to support a showing that the police had a reasonable belief that a burglary was in progress or had recently occurred.

Bottom Line: Deputies can no longer rely upon the community caretaking function to enter a home based on an audible alarm without identifying and documenting articulable facts to justify exigent circumstances to enter. The key here is for deputies to be able to articulate why they are entering the home when responding to an audible alarm call. See attached flowchart to help guide your response to a 459R Audible Call.



