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Commercial Motor Vehicle Search and Seizure

Law Enforcement's Authority to Stop and Inspect

*Honorable Christopher J. Turner, Magistrate Judge,
Third Judicial District, Shawnee County*

In 2019, just over 13.86 million semi-trucks traversed American roads and moved about 72% of America's freight by weight, or nearly 11.46 billion tons. The value of these goods is estimated to have been \$940.8 billion.¹ The commercial motor vehicle (CMV) industry is a cornerstone of America's economy. Unfortunately, given its large cargo capacity and ability to reach locations throughout the country, it also lends itself well to certain criminal activities, such as human trafficking and drug trafficking.^{2, 3, 4}

¹ Economics and Industry Data | American Trucking Associations, Economics and Industry Data, available at www.trucking.org/economics-and-industry-data, accessed on June 4, 2024; "When Trucks Stop, America Stops" by American Trucking Associations, 2019, available at [www.trucking.org/sites/default/files/2019-12/When Trucks Stop America Stops.pdf](https://www.trucking.org/sites/default/files/2019-12/When%20Trucks%20Stop%20America%20Stops.pdf), accessed June 4, 2024.

² In Indiana, troopers recovered an estimated \$1.1 million worth of drugs on Interstate 70 in Putnam County on March 21, 2024. The tractor-trailer was

(Footnotes continued on next page)

The industry's vulnerability to criminal activity is one of the reasons the CMV industry and the commercial driver's license (CDL) program are highly regulated. It stands to reason that CDL holders are held to a higher standard, given the implicit risk involved in the operation of a CMV. Under the directives of Congress, the Federal Motor Carrier Safety Administration (FMCSA) has imposed higher standards for issuance of CDLs than for regular drivers' licenses.⁵ CMVs are also governed by more stringent standards with regards to governmental stops and inspections.⁶ This article will explore 1) traditional concepts of search and seizure as they relate to vehicles, 2) the concepts of search and seizure of CMVs, including how and why they are more permissive, and 3) the inspection levels governing the inspection of a CMV.

The Fourth Amendment

Any analysis of search and seizure begins with the Fourth Amendment. The Fourth Amendment does not protect individuals from all searches or seizures, only those that are unreasonable.⁷ The Fourth Amendment applies to traffic stops.⁸ The Supreme Court has said "[A]n ordinary traffic stop constitutes limited seizure within the meaning of Fourth Amendment, and so must be justified by probable cause or, at least, reasonable suspicion of unlawful conduct, based on specific and articulable facts."⁹ Reasonable suspicion and probable cause are elusive concepts because there are no bright lines—no rules for when an officer has attained either. Yet reasonable suspicion or probable cause of unlawful conduct are required for almost every traffic stop.

Reasonable suspicion is an abstract concept that cannot be reduced to "a neat set of legal rules."¹⁰ Rather than a set of rules, the Supreme Court provides "totality of the circumstances" approach,¹¹ "allow[ing] officers to draw on their own experiences and specialized training to make inferences from and deductions about the cumulative information available."¹² When a court makes a reasonable suspicion determination, it looks at the totality of the circumstances to "see whether the detaining officer has a particularized and objective basis for suspecting legal wrongdoing."¹³ The Fourth Amendment is satisfied if the detaining officer's action is supported by reasonable suspicion to believe that criminal activity may be afoot.¹⁴ Reasonable suspicion of unlawful conduct is the minimum legal requirement for initiating a traffic stop.¹⁵

stopped for a "routine DOT compliance" inspection when the inspector noticed "criminal indicators." After obtaining consent for a search, 70 pounds of cocaine, 45 pounds of marijuana, and more than \$47,000 in cash was discovered. Joe Schroeder, "\$1 million worth of drugs moving from LA to Indy found in a semi on I-70," Fox 59 Indianapolis (March 26, 2024), [fox59.com/indiana-news/isp-1-million-worth-of-drugs-moving-from-la-to-indy-found-in-a-semi-on-i-70/](https://www.fox59.com/indiana-news/isp-1-million-worth-of-drugs-moving-from-la-to-indy-found-in-a-semi-on-i-70/), accessed May 27, 2024).

³ In June of 2022, authorities in Texas discovered the bodies of 50 people in what was described as the "deadliest migrant-smuggling operation in memory." Temperatures that month had surpassed 100 degrees on several days leading up to the discovery. 16 survivors, each of whom were "hot to the touch and ... suffering from heat exhaustion and heat stroke," were taken to hospitals. All of the victims were believed to have been migrant workers. Jaden Edison and Patrick Svitek, "At least 50 people found dead in abandoned 18-wheeler in San Antonio," (June 28, 2022), www.texastribune.org/2022/06/27/bodies-18-wheeler-san-antonio-lackland/, accessed May 27, 2024).

⁴ Since inception in 2007, the National Human Trafficking Hotline has identified 82,302 cases of human trafficking and 164,839 victims were identified in those cases. National Human Trafficking Hotline, humantraffickinghotline.org/en/statistics, accessed June 2, 2024. If you are in immediate danger, call 9-1-1. If you or someone you know needs help, call the National Human Trafficking Hotline toll-free hotline, 24 hours a day, 7 days a week at 1-888-373-7888 to speak with a specially trained Anti-Trafficking Hotline Advocate. Support is provided in more than 200 languages. The National Human Trafficking Hotline is available to listen and connect you with the help you need to stay safe.

⁵ Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, enacted December 9, 1999.

⁶ *Id.*

⁷ The text of the Fourth Amendment states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

⁸ See *Carroll v. United States*, 267 U.S. 132, 147 (1925) and *United States v. Whren*, 517 U.S. 806 (1996).

⁹ *United States v. Whren*, 517 U.S. 806 (1996).

¹⁰ *Id.*

¹¹ *United States v. Arvizu*, 534 U.S. 266 (2002).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See, *Whren*, 517 U.S. 806.

Probable cause is something more than reasonable suspicion and is required to search a vehicle without a warrant. For example, the defendants in *Carroll v. United States* were convicted for “transporting in an automobile intoxicating spirituous liquor, to wit, 68 quarts of so-called [sic] bonded whisky and gin, in violation of the National Prohibition Act.”¹⁶ The intoxicating liquor was found after government agents searched the vehicle.¹⁷ The Supreme Court stated the probable cause standard is met “[i]f the facts and circumstances before the officer are such as to warrant a man of prudence and caution in believing that the offense has been committed, it is sufficient.”¹⁸ The Supreme Court reasoned motor vehicles are inherently mobile and may quickly move out of the jurisdiction or destroy evidence.¹⁹ Searching a motor vehicle without a warrant is therefore Constitutional so long as there is probable cause of unlawful conduct.^{20, 21}

How CMVs Are Different and Why It Matters

When a CMV is stopped and inspected by a Commercial Vehicle Safety Alliance²² certified inspector,²³ the traditional analysis described above is not necessarily applicable, depending on state law. Some states, known as “right of entry” states, have statutes and regulations providing the authority to stop a CMV without reasonable suspicion or probable cause of unlawful conduct. In those states, CVSA inspectors routinely stop CMVs for vehicle inspections. During an inspection, a CVSA inspector commonly enters the sleeper berth or a trailer without probable cause, which would normally raise traditional questions of fairness. The commercial motor vehicle industry, however, is a closely regulated industry with a history of pervasive government regulation. As such, courts have determined warrantless searches and seizures of CMVs may be reasonable absent reasonable suspicion or probable cause of unlawful conduct.²⁴

Courts have determined warrantless searches and seizures of CMVs may be reasonable absent reasonable suspicion or probable cause of unlawful conduct.

The Supreme Court recognizes “...[A] limited exception to the Fourth Amendment’s warrant requirement for searches of businesses in ‘closely regulated industries.’”²⁵ Consideration relies on the expectation of privacy in commercial premises being significantly less than an individual’s home or even a passenger vehicle.²⁶ These businesses operate in industries where there is a “long tradition of close government supervision.”²⁷

¹⁶ *Carroll*, 267 U.S. 132.

¹⁷ *Id.*

¹⁸ *Id.* at 161.

¹⁹ See generally *Carroll*, 267 U.S. 132; *Pennsylvania v. Labron*, 518 U.S. 938 (1996). (If car is readily mobile and probable cause exists to believe it contains contraband, Fourth Amendment permits police to search vehicle.)

²⁰ *Id.*

²¹ The warrantless search of a vehicle is commonly referred to as the “automobile exception to the warrant requirement.”

²² The Commercial Vehicle Safety Alliance (CVSA) is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. CVSA’s mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America. CVSA is also responsible for all the non-regulatory CMV inspection items, including inspector certification, as well as defining the levels of inspection and CVSA Out-Of-Service Criteria. Federal transportation agencies like the FMCSA who are responsible for the CMV safety regulations are also partner members of CVSA, as are the Canadian and Mexican transportation regulatory authorities. For additional information about CVSA, visit its website at www.cvsa.org/about-cvsa/, accessed June 4, 2024.

²³ A Commercial Vehicle Safety Alliance certified inspector is also referred to a CVSA inspector in this article.

²⁴ See, e.g., *United States v. Maldonado*, 356 F.3d 130, 135 (1st Cir.2004); *United States v. Vasquez-Castillo*, 258 F.3d 1207, 1210 (10th Cir.2001); *United States v. Fort*, 248 F.3d 475, 480 (5th Cir.2001); *United States v. Dominguez-Prieto*, 923 F.2d 464, 468 (6th Cir.1991). Each of these cases relied on the test outlined by the U.S. Supreme Court in *New York v. Burger*, 482 U.S. 691 (1987).

²⁵ *Huber v. New Jersey Department of Environmental Protection*, 562 U.S. 1302 (2011).

²⁶ *New York v. Burger*, 482 U.S. 691 (1987); see also, *supra*, note 20.

²⁷ *Huber v. New Jersey Department of Environmental Protection*, 562 U.S. 1302 (2011).

Courts determine whether a statutory and/ or regulatory scheme allowing for the warrantless inspection in a pervasively regulated business is reasonable using a three-part test:²⁸

First, there must be a “substantial” government interest that informs the regulatory scheme pursuant to which the inspection is made... Second, the warrantless inspections must be ‘necessary to further [the] regulatory scheme’... Finally, ‘the statute’s inspection program, in terms of the certainty and regularity of its application, [must] provid[e] a constitutionally adequate substitute for a warrant’... In other words, the regulatory statute must perform the two basic functions of a warrant: it must advise the owner of the commercial premises that the search is being made pursuant to the law and has a properly defined scope, and it must limit the discretion of the inspecting officers.²⁹

When applying the Court’s test to a state’s CMV statutory and/or regulatory scheme, the first two parts of the test, requiring 1) a substantial governmental interest in the inspection, and 2) the inspection is necessary to further the regulatory scheme, are generally satisfied by the FMCSA’s establishment of regulations for CMVs in commerce, or a similarly adopted state regulatory scheme.³⁰ The regulations are intended to decrease crashes and save lives,³¹ and inspections are necessary to ensure compliance with those regulations. States either adopt by reference or enact substantially similar laws/regulations, as required by FMCSA. To determine compliance with the final part of the test, the state statutes must be examined in conjunction with the federal definition of a “certified inspector” and their authority to inspect a CMV underneath the umbrella of CVSA policies and procedures.³² This can be quite cumbersome as there are usually numerous statutes and regulatory authorities governing these schemes.³³

In addition to the three-part test, the person conducting the inspection must do so in accordance with the state’s statutory and/ or regulatory inspection program.³⁴ If the inspector deviates from the parameters of the inspection program, their actions will likely be challenged in court and found unreasonable under the Fourth Amendment.³⁵ The Tenth Circuit explained in *United States v. Herrera*, “... a regulatory inspection is not premised on an officer’s on-the-spot perception that he has an individualized suspicion that the specific individual to be seized and searched is involved in criminal activity. An administrative search is instead premised on the individual subject to the warrantless seizure and search knowingly and voluntarily engaging in a pervasively regulated business, and on the existence of a statutory scheme that puts that individual on notice that he will be subject to warrantless administrative seizures and searches.”³⁶

²⁸ Different terms are used in court rulings and include pervasively, heavily, or closely regulated businesses.

²⁹ *New York v. Burger*, 482 U.S. 691, 702-03 (1987).

³⁰ See generally, *U.S. v. Orozco*, 858 F.3d 1204, 1206 (9th Cir. 2017) (stating the administrative scheme was valid on its fact because its purpose is to ensure the safe operation of commercial vehicles); *United States v. Steed*, 548 F.3d 961 (11th Cir. 2008) (stating in a case involving the stop and search of a CMV, “[A]n administrative inspection of closely regulated business is a well-established exception to the warrant requirement for a search.”). See also the cases identified, *supra*, note 24.

³¹ See Motor Carrier Safety Improvement Act of 1999, *supra* note 5.

³² U.S. Department of Transportation, Federal Motor Carrier Safety Administration, Memorandum on Certification Policy for Employees Who Perform Inspections, Investigations, and Safety Audits, dated December 29, 2015, updates the operational procedures for certification of Federal Motor Carrier Safety Administration (FMCSA) employees and non-FMCSA employees. It cites to Section 211 of the Motor Carrier Safety Improvement Act of 1999 for requiring certification for all motor carrier safety auditors, including private contractors, who conduct safety inspection audits and reviews. Additionally, it adopts the roadside inspector certification standards as developed and maintained by the Commercial Vehicle Safety Alliance (CVSA) and required by Section 5202 of the Fixing America’s Surface Transportation (FAST) Act of 2015.

³³ See, Kan. Stat. Ann. § 74-2108 (West) (Police powers of patrol members; enforcement of laws relating to motor carriers; authority to inspect); Kan. Stat. Ann. § 66-1319 (West) (Powers granted to members of highway patrol; inspection and registration of vehicles; cooperation of state agencies); Kan. Stat. Ann. § 66-1,129 (West) (Motor carriers; safety rules and regulations adopted by commission; exceptions); Kan. Admin. Regs. 82-4-1 (Motor Carriers of Persons and Property Definitions); Kan. Admin. Regs. 82-4-2a (Authority of agents, employees, or representatives authorized by commission).

³⁴ *United States v. Herrera*, 444 F.3d 1238, 1244 (2006) (involving the stop of a vehicle that did not fall within Kansas’ statutory definition of a CMV).

³⁵ See *Id.*

³⁶ *Herrera*, 444 F.3d at 1246.

In *Herrera*, a Kansas Trooper stopped a Ford F-350 believing it was a commercial motor vehicle.³⁷ The truck has “utility bed with a heavy lift hydraulic lifter on the back, and also there was a sign on the back, a paint sign for a paint company.”³⁸ Ultimately, Herrera was arrested for failing to provide valid insurance. During an inventory search of the truck, 23 kilograms of cocaine were discovered hidden in the building materials contained in the bed of the truck.³⁹ The truck did not display a United States Department of Transportation (DOT) number as CMVs are required to display.⁴⁰ While the Trooper testified he had stopped other similar vehicles whose GVWR was 10,000 pounds or more, Herrera’s truck was not a commercial motor vehicle as it did not meet the minimum gross vehicle weight (GVWR) requirement of more than 10,000 pounds.⁴¹ The court found this to violate Herrera’s Fourth Amendment rights; his vehicle was not of the type which would fall under the Kansas regulatory scheme, and Herrera was not engaging in a closely regulated business. He would not have any reason to know his truck was, therefore, subject to a random inspection.⁴² The Government argued, even though Herrera’s truck did not qualify as a CMV, the “[S]tate trooper had an objectively reasonable, yet mistaken, belief that it did.”⁴³ The court rejected the Government’s argument, holding:

Evidence of criminal activity is typically discovered by CVSA-certified CMV inspectors during random CMV stops and inspections.

“The validity of an administrative seizure and search does not turn on whether or not the *trooper* had an objectively reasonable belief that Herrera’s truck qualified as a commercial vehicle subject to random inspections. Rather, it turns on Herrera’s decision to engage in a pervasively regulated business, knowing that by doing so he would be subject to random warrantless inspections. The validity of an administrative inspection is premised on the fact that the *owner* of the property subject to the search “cannot help but be aware that his property will be subject to periodic [administrative] inspections undertaken for specific purposes.”⁴⁴

Inspection Levels and What They Mean

Evidence of criminal activity is typically discovered by CVSA-certified CMV inspectors during random CMV stops and inspections.⁴⁵ CVSA, with the authority of the Federal Motor Carrier Safety Administration, establishes the levels of inspection as well as the requirements for officer training and certification for each level.⁴⁶

³⁷ *Herrera*, 444 F.3d at 1240–41.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* (Herrera’s vehicle had a GVWR of exactly 10,000 pounds).

⁴² *Id.* at 1245.

⁴³ *Id.* at 1246.

⁴⁴ *Id.* at 1247.

⁴⁵ In addition to the criminal charges faced by drug and human traffickers, the Federal Motor Carrier Safety Administration (FMCSA) has designated that a commercial vehicle driver convicted of these criminal acts will have mandatory disqualification of their commercial driver’s license (CDL). Further, a driver who uses the commercial vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance will have their driver’s license suspended permanently. See 49 C.F.R. § 383.51. Likewise, a CDL driver using a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 reinstatement U.S.C. 7102(11) will also have their CDL permanently disqualified. FMCSA considers these to be violations of state or local law. The masking of these violations would be a violation of 49 C.F.R. § 384.226. See, Elizabeth Earleywine, “Mastering Masking: Why & How to Avoid Masking CDL-Holder Convictions,” *Between the Lines*, National Traffic Law Center (July 2019 Volume 27, Issue 6).

⁴⁶ CVSA Operational Policy North American Standard Inspection Program, Operational Policy 4, Inspector Training and Certification, Revised Date April 4, 2019, available at www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/398106/cvsa-operational-policy-04-revised-04-04-2019implemented-0919.pdf (last visited June 2, 2024).

The levels of inspection are very specific and vary in levels of intrusiveness as to what they allow a certified inspector to view as described below.

The most intrusive CVSA inspection is Level I. This inspection includes an examination of the driver’s license, medical certifications, a check for impairment and the driver’s record of duty status, as well as numerous vehicle components.⁴⁷ During a Level I inspection, an inspector will check the driver’s seat belt, sleeper berth, engine, brakes, and load securement in or on the trailer to ensure all requirements of the federal regulations are met.⁴⁸ An inspection of the sleeper berth includes inspection of the mattress and the seatbelt connections underneath the mattress.⁴⁹ The inspection of the engine requires the inspector to lift the hood of the tractor⁵⁰ and to also inspect the components underneath the CMV.⁵¹ When inspecting the CMV cargo or “load,” inspectors have the authority to enter an enclosed trailer to ensure the load is properly secured and conforms with the cargo securement standards.⁵² Depending on what is being transported, this may be as simple as opening the rear of the trailer for visual observation.⁵³ If a CMV is transporting hazardous materials, each container may be individually inspected requiring the inspector to enter the trailer to conduct a more intrusive search of the goods and load.⁵⁴

Compare a Level I inspection to the least intrusive, a CVSA Level III Inspection. A Level III inspection is only a driver/credential/administrative inspection.⁵⁵ Here, the inspector will only inspect the driver’s credentials, medical certification, hours of service, and seat belt.⁵⁶ The scope of a CVSA Level III inspection does not include inspection of the sleeper berth, open the engine compartment, crawl underneath the truck and trailer or open the trailer to enforce load securement.⁵⁷

CVSA Levels of Inspection⁵⁸

Level I	North American Standard Inspection
Level II	Walk Around Driver/ Vehicle Inspection
Level III	Driver/Credential/ Administrative Inspection
Level IV	Special Inspections
Level V	Vehicle-Only Inspection
Level VI	North American Standard Inspection for Transuranic Waste and Highway Route Controlled Quantities (HRCQ) of Radioactive Material
Level VII	Jurisdictional Mandated Commercial Vehicle Inspection
Level VIII	North American Standard Electronic Inspections

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 49 C.F.R. § 393.76.

⁵⁰ CVSA website, All Inspection Levels, available at www.cvsa.org/inspections/all-inspection-levels/ (last visited June 2, 2024).

⁵¹ *Id.*

⁵² *See*, 49 C.F.R. § § 393.100–.136.

⁵³ *Id.*

⁵⁴ *See*, 49 C.F.R. § 177.802.

⁵⁵ *All Inspection Levels*, *supra* note 50.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ For additional information on CVSA’s inspection levels, please visit its website at www.cvsa.org/inspections/all-inspection-levels/ (last visited June 2, 2024).

A common example illustrating the rules for a CMV stopped by a CVSA-certified inspector include the following:

An inspector observes a CMV traveling on the roadway. The inspector initiates a traffic stop to complete an inspection. The inspector is certified to complete a **CVSA Level I** inspection. The inspector enters the sleeper berth to ensure compliance with the sleeper berth regulations.⁵⁹ During the inspection, the inspector opens the trailer to ensure compliance with load securement regulations.⁶⁰

In this example, the CVSA inspector stopped the CMV without reasonable suspicion or probable cause and entered the sleeper berth and opened the trailer without a warrant. The CVSA-certified inspector did so to complete the inspection, which was necessary to further the regulatory scheme. The inspector's actions are legal and satisfy the Fourth Amendment. Had the inspector found anything illegal, the evidence would be admissible in a criminal case because it was discovered during the inspection. If, in the same example, the CVSA inspector was only certified to complete a CVSA Level III (driver only) inspection, the inspector would not have been legally privileged to check for compliance with the sleeper berth requirements or to open the back of the trailer during the inspection. In that scenario, when an inspector exceeds their certification, any illegal items found would likely be inadmissible in a criminal case.

If an officer is not certified by CVSA Operational Policy 4, randomly stopping the CMV and the subsequent inspection would not meet the court's test allowing for a warrantless search and seizure because there is no defined scope for the inspection and no principals limiting the officer/inspector during the inspection. Thus, officers who are not CVSA-certified, must have reasonable suspicion or probable cause to stop a CMV, just like they would any other vehicle. To search the CMV, the non-certified CVSA officer would need consent, a search warrant, or some other legal exception to justify the search.

Conclusion

In conclusion, there are significant numbers of drugs and human beings being trafficked on our nation's highways.⁶¹ The validity of warrantless inspections of CMVs are determined utilizing the three-part test; 1) a substantial governmental interest must inform the regulatory scheme, 2) the inspection must necessarily further the regulatory scheme, and 3) the inspection program must adequately substitute for a warrant by including guidance such "that the search is being made pursuant to the law and has a properly defined scope, and it must limit the discretion of the inspecting officers."⁶² An officer's subjective intent, or mistake of law or fact, will not govern the analysis; rather the analysis will focus on the notice requirement for the reduced expectation of privacy and being subject to an inspection pursuant to the CMV regulations. Also, the inspector must be CVSA-certified according to the state's regulatory scheme and must have found the illegal contraband in a location within the specific scope of the inspection. Ultimately, CVSA-certified inspectors may randomly stop and inspect (seize and search) CMVs (highly regulated vehicles). However, the stops and inspections must to be undertaken pursuant to a valid statutory and/ or regulatory scheme, and courts will strictly hold inspectors to the parameters of the inspection program.⁶³

⁵⁹ See 49 C.F.R. § 393.76.

⁶⁰ See, 49 C.F.R. § § 393.100–.136.

⁶¹ National Human Trafficking Hotline website, National Statistics, available at humantraffickinghotline.org/en/statistics, (last visited June 2, 2024).

⁶² *United States v. Herrera*, at 1244.

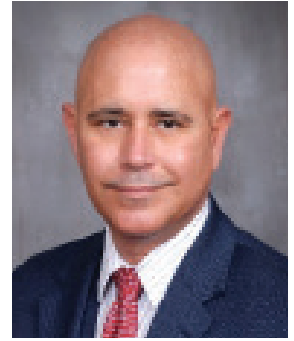
⁶³ See, *U.S. v. Orozco*, 858 F.3d 1204, 1216 (9th Cir. 2017) ("State troopers' stop of tractor-trailer truck pursuant to Nevada's administrative scheme was pretext for criminal investigation based on tip that truck was being used to haul drugs, since stop was based solely on troopers' belief that truck was possibly hauling drugs, and, thus, the stop was not justified under the administrative search doctrine; troopers received tip about location of truck and immediately went to location to "be on the lookout for" truck, but for the tip troopers would not have been in a position to stop the truck, arrangements were made for drug-sniffing dog to be nearby, when truck arrived trooper pulled out behind different commercial truck and drove past it to stop truck in question, and trooper admitted it was "common knowledge" that administrative inspections were used as pretext to investigate criminal activity.")

About the Author

The Honorable Christopher J. Turner is a Magistrate Judge of the Third Judicial District, Shawnee County, Kansas. He is a graduate of Benedictine College with a Bachelor of Arts in Sociology focusing on philosophy and religious studies. He obtained his law degree from Washburn University School of Law.

Judge Turner was formerly the Director Enforcement Data and Judicial Outreach for the Commercial Vehicle Safety Alliance, a Captain with the Kansas Highway Patrol, and was engaged in the private practice of law in Topeka.

In his prior roles, Judge Turner testified before the United States Senate, House of Representatives, Kansas Senate, and House, and worked on Congressional Highway Bills, state laws, federal, and Kansas administrative regulations. While he was with the Kansas Highway Patrol, he oversaw the Patrol's Motor Carrier Safety Assistance Program (MCSAP), weight enforcement (fixed and mobile), crash reconstruction teams, and the Drug Recognition Expert, and Standardized Field Sobriety Testing programs. Among other duties, he served the Patrol as a Drug Recognition Expert, Standardized Field Sobriety Instructor, and crash reconstructionist. Judge Turner is a member of the American, Kansas, and Topeka Bar Associations, the Sam A. Crow American Inn of Courts, and the National Academy of Sciences.



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