

## Handy Reminders When Analyzing Law Enforcement Traffic Stops

Below are key U.S. Constitutional protections as they apply in traffic stops. Decisions of the U.S. Supreme Court identify basic requirements in protecting individual rights during police traffic stops. No state constitution or legislature can override these protections, but state constitutions and legislatures may provide greater protections. Be sure to check your state constitution and code to see if they provide more protections to your local citizens.

### Police Stop:

Officers may stop a car when they have:

- **Reasonable and Articulable Suspicion** that a crime has occurred. *Delaware v. Prouse*, 440 U.S. 648 (1979); *United States v. Cortez*, 449 U.S. 411 (1981);
- **Probable Cause** to believe that a traffic violation has occurred. *Whren v. US.*, 517 U.S. 806 (1996); or
- **Proper Sobriety Checkpoints.** When established and justified by public interest, sobriety checkpoints dispense with the requirement for individual suspicion. The department must document in writing appropriate procedures to be followed in establishing and conducting a checkpoint, and law enforcement must implement those procedures. *Michigan Dep't of State Police v. Sitz*, 496 U.S. 444 (1990); *City of Indianapolis v. Edmond*, 531 U.S. 32 (2000).
- **Checking Personal Information & VIN:** During a traffic stop, officers may detain a driver to check for outstanding warrants and ask for relevant information about license, vehicle ownership, registration, insurance, and the driver's destination. *Pennsylvania v. Mimms*, 434 U.S. 106 (1978). Also, there is no reasonable expectation of privacy in the VIN number and officers are allowed to remove obstacles that obstruct the view of the number. *New York v. Class*, 475 U.S. 106 (1986).



**Asking Questions:** Roadside questioning as the result of a routine traffic stop does not constitute custodial interrogation for purposes of the Fifth Amendment. *Berkemer v. McCarty*, 468 U.S. 420 (1984).

**Searching the Car: Exceptions to a Warrant Requirement:** See *Preston v. United States*, 376 U.S. 364 (1964) as background, allowing contemporaneous searches incident to arrest as justified by the need to (1) seize weapons and other items that might be used to harm an officer; or (2) prevent the destruction of evidence of a crime.

- **Safety considerations.** A protective search of the passenger compartment, limited to those areas in which a weapon may be placed or hidden, is permissible during an investigative stop where the police officer reasonably believes the suspect may be dangerous and may gain immediate control of a weapon. *Michigan v. Long*, 463 U.S. 1032 (1983).
- **Plain view.** Objects falling within the plain view of a police officer who has the right to be in the position to have that view is subject to seizure and can be introduced as evidence. *Harris v. United States*, 390 U.S. 234 (1968).
- **Drug dog.** The "sniff" of an automobile's exterior, such as that conducted by drug-detection dogs, does not constitute a "search" within the meaning of the Fourth Amendment. *City of Indianapolis v. Edmond*, 531 U.S. 32 (2000).
- **Exigent circumstances.** The right to search an automobile without a warrant is based upon the reasonable belief of an officer that the car contains illegal contraband, coupled with the

impracticality of requiring a search warrant for a car that can be quickly moved out of the jurisdiction before a warrant can be secured. *Carroll v. United States*, 267 U.S. 132 (1925); *Welsh v. Wisconsin*, 466 U.S. 740 (1984).

- **Incident to arrest.** May be done shortly before, during or after the arrest, which is predicated upon a lawful, full custody arrest; officer may not make a warrantless search of a car after issuing a citation alone. *Chimel v. California*, 395 U.S. 753; *Knowles v. Iowa*, 525 U.S. 113 (1998).
- **Inventory.** A valid, agency-wide policy must be in place, and the search must follow that policy. *South Dakota v. Opperman*, 428 U.S. 364 (1976); see *Florida v. Wells*, 495 U.S. 1 (1990), which ruled that a garbage bag of marijuana was inadmissible due to an invalid inventory search conducted in the absence of an established policy. See also *Cady v. Dombrowski*, 413 U.S. 433 (1974), where circumstances created a duty for an officer to protect the welfare of an individual or the community by searching a trunk after impounding a car.
- **Consent.** Must be voluntary and knowing. *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).

### Obtaining Prior Conviction Information from Canada

Need a prior conviction from Canada? While you may not be able to get the court to grant full faith and credit to that conviction for enhancing the mandatory minimums, the court may consider a Canadian conviction as evidence in making decisions regarding treatment and sentencing. In Canada, driver abstracts are kept by the Ministry of Transportation at the provincial level. For information on how to contact each Canadian provincial agency, visit our website [www.ndaa-apri.org](http://www.ndaa-apri.org) and click on [NTLC-Traffic Law](#).