

TRAFFIC STOPS

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I. Justifications for the Stop

- A. Probable Cause of a Traffic Violation
- B. Reasonable Suspicion of a Crime
- C. Suspicionless Stops (i.e., Checkpoints)

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A. Probable Cause of a Traffic Violation

So long as there is probable cause of any traffic (or equipment) violation, no matter how minor, the stop will be upheld even if the reason for the stop was pretextual.

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

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B. Reasonable Suspicion of Crime (*Terry* Stop)

A traffic stop can be initiated if the officer has a reasonable and articulable suspicion that the driver or a passenger is committing, is about to commit, or has recently committed, any crime.

--*Navarette v. California*, 572 U.S. 393 (2014)

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C. Suspicionless Stops

A suspicionless stop (i.e., a border checkpoint, sobriety checkpoint) is justifiable if the need for the brief stop outweighs the intrusion on those stopped.

--*City of Indianapolis v. Edmond*, 531 U.S. 32 (2000)

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II. Length and Intrusiveness of the Stop

- A. Length of the Stop
- B. Searches of the Persons Stopped and Exterior of Car
- C. Arrest

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A. Length of the Stop

A stop for a traffic violation can last only as long as it takes for the officer to check the documents, issue the ticket, etc., but the officer doesn't have to tell the driver she is free to go.

--*Ohio v. Robinette*, 519 U.S. 33 (1996)

A stop on reasonable suspicion of a crime can last as long as it reasonably takes for the officer to dispel or confirm the suspicion.

--*United States v. Sharpe*, 470 U.S. 675 (1985)

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B. Searches of the Person and Exterior of Car

The police can frisk a person during a traffic stop if they have a reasonable suspicion the person is armed and/or dangerous.

--*Arizona v. Johnson*, 555 U.S. 323 (2009)

The police can have a drug dog sniff the exterior of the car, so long as the stop is not involuntarily extended.

--*Rodriguez v. United States*, 575 U.S. 348 (2015)

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C. Arrest

If the traffic violation amounts to a “crime,” the police can arrest (and then thoroughly search) the driver even if the “crime” is non-jailable.

--*Atwater v. City of Lago Vista*, 532 U.S. 318 (2001)

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III. Searches of the Vehicle

- A. Consent Searches
- B. Search Incident to Arrest
- C. The Automobile Exception
- D. Inventory Searches

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A. Consent Searches

The police can always ask for “consent” to search the vehicle and need not tell the owner that they have the right to refuse.

--*Schneckloth v. Bustamonte*, 412 U.S. 218 (1973)

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B. Search Incident to Arrest

If the police take the driver or passenger into custody, they may search the interior of the car if they have reason to believe that contraband or evidence of the crime of arrest may be found in the vehicle.

--*Arizona v. Gant*, 556 U.S. 332 (2009)

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C. The Automobile Exception

If the officer has probable cause to believe there is contraband or evidence of a crime in a vehicle, she may search the areas of the car (including passenger's possessions) where the evidence or contraband could be found without a warrant.

--*Wyoming v. Houghton*, 526 U.S. 295 (1999)

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D. Inventory Searches

If the police have lawfully impounded a vehicle, they may inventory the contents of the vehicle pursuant to a written policy.

--*Colorado v. Bertine*, 479 U.S. 367 (1987)

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