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ONE MINUTE BRIEF

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NUMBER: 2018-21 **DATE:** 11-06-18 **BY:** Devallis Rutledge
with Richard Chrystie **TOPIC:** Vehicle Stop and Search

ISSUE: What is the extent of police authority to stop and search vehicles?

Hundreds of US Supreme Court and California appellate rulings have addressed Fourth Amendment issues arising from vehicle stops and searches. Many of these issues have been discussed in greater detail in prior One-Minute Briefs (cited by number below), which may be consulted for additional information. Following are **summaries** of principles that may provide **general** guidance as to the proper scope of law enforcement activity at lawful vehicle stops.

- To justify a vehicle stop, “*officers need only reasonable suspicion*” (**not PC**) of a traffic violation or criminal conduct. *Heien v. North Carolina* (2014) 135 S.Ct. 530, 536; 2015-12.
- Observed **traffic violations** can be used to justify a stop, even if officers want to investigate suspected **criminal activity**. *Whren v. US* (1996) 517 US 806, 813; 2009-05.
- The driver and all passengers may be ordered **out**, or back **in**. *Maryland v. Wilson* (1997) 519 US 408, 415; *People v. Castellon* (1999) 76 Cal.App.4th 1369, 1375; 2013-19.
- On demand, the driver must **hand** license and registration to the officer to examine—not display them through the window. *People v. McKay* (2002) 27 Cal.4th 601, 621; 2015-15.
- Once outside, if the driver fails to produce the documents, officers may **search** places in the vehicle where they are typically found. *In re Arturo D.* (2002) 27 Cal.4th 60, 79. 2015-15.
- Officers may run the driver for warrants, but may only extend a traffic stop with reasonable suspicion of criminality. *Rodriguez v. US* (2015) 135 S.Ct. 1609, 1615; 2015-06.
- **Passengers** may be **detained** during the stop, without individualized suspicion. *Brendlin v. California* (2007) 551 US 249, 263; 2007-07.

- **ID** can be demanded from passengers **only** if related to the justification for the stop, *Hiibel v. Humboldt County* (2004) 542 US 177, 188; 2014-11; or with reasonable suspicion of the passenger's criminality. *Arizona v. Johnson* (2009) 555 US 323, 333; 2009-02.

- Police may make a suspicionless inspection of the VIN, and may enter the vehicle for this purpose, if necessary. *New York v. Class* (1986) 475 US 106, 114; 2008-12.

- With reasonable suspicion of **weapons** in a vehicle, officers may search places and containers that could conceal them. *Michigan v. Long* (1983) 463 US 1032, 1049; 2006-20.

- Police may request **consent** to search, without any suspicion of wrongdoing or any "advisements" to the driver. *Ohio v. Robinette* (1996) 519 US 33, 40; 2013-07.

- A lawfully-stopped vehicle used as the **instrumentality** of a crime can be searched without a warrant for evidence of that crime. *People v. Griffin* (1988) 46 Cal.3d 1011, 1024.

- Under a **driver's probation/parole/PRCS** search terms, the **entire vehicle** may be searched; under a **passenger's** search term, the area into which he could have **placed** or **tossed** evidence is searchable. *People v. Schmitz* (2012) 55 Cal.4th 909, 930; 2012-19.

- **Incident to** the lawful custodial **arrest** of an occupant, the passenger compartment may be searched **only if** (1) the arrestee is **unsecured** and **within reaching distance** of the passenger compartment, **or** (2) there is reason to believe **evidence of the arrest offense** may be in the vehicle. *Arizona v. Gant* (2009) 556 US 332, 343; 2009-07; 2017-06.

- With (1) **lawful access** and (2) **probable cause** to believe a vehicle contains evidence or contraband, police may search any part of the vehicle and any container that could contain the object of their search. *Ross v. US* (1982) 456 US 798, 824; 2018-13.

- Without extending the duration of the stop, police may run a **K-9** around the vehicle, *Illinois v. Caballes* (2005) 543 US 405, 409; a "hit" by a trained dog is **PC to search** the vehicle. *Florida v. Harris* (2013) 568 US 237, 247; 2013-04.

- If **and only if** the department has a **standardized** policy, police may conduct an **inventory** of a vehicle that is left at the scene at the driver's request, or is lawfully impounded or removed to a storage lot. *Colorado v. Bertine* (1987) 479 US 367, 374; 2006-30.

BOTTOM LINE: Police may stop and search vehicles in a variety of circumstances, in conformity with controlling decisional law.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.