

 Blue to Gold

Instructor Manual

Advanced
Traffic Stops

sample

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Major Cases



Case: Carroll v. U.S., 267 U.S. 132 (1925)

Issue: Whether officers had the right to pull over and search individuals who they believed were carrying liquor?

Training Point:

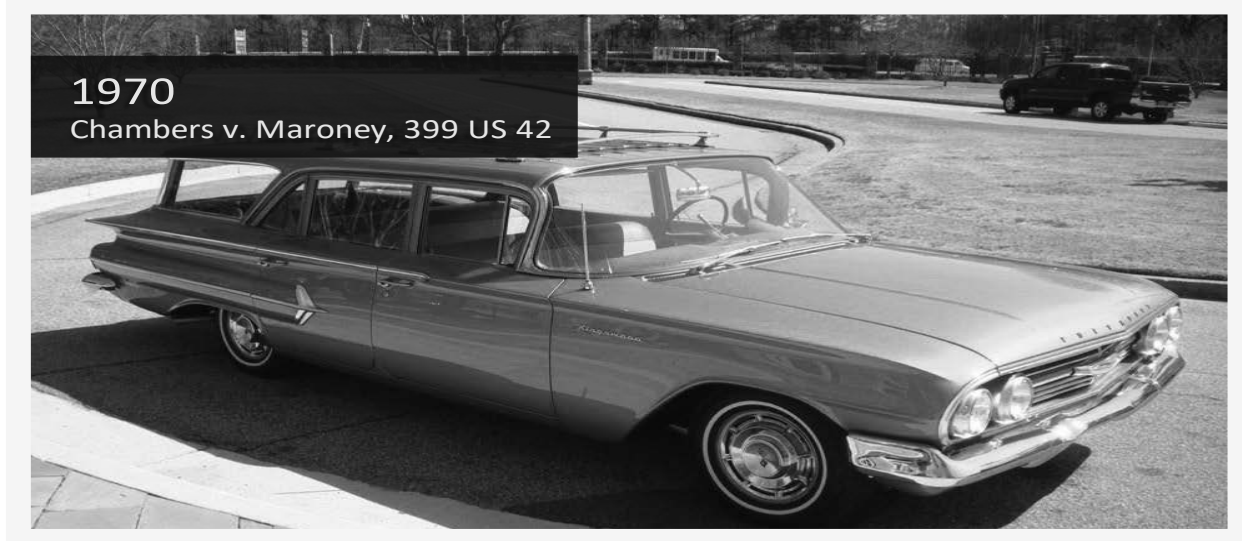
The Fourth Amendment has been construed, practically since the beginning of the government, as recognizing a necessary difference between a search of a store, dwelling house, or other structure in respect of which a proper official warrant readily may be obtained and a search of a ship, motor boat, wagon, or automobile for contraband goods, where it is not practicable to secure a warrant, because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought.

That evidence on defendant's motion for delivery of liquor to them did not show probable cause for its seizure does not warrant reversal, where probable cause is amply established on trial.

Contraband liquor concealed and being illegally transported in automobile or other vehicle may be searched for without warrant by officers having probable cause for suspecting its presence.

Notes:

Officers had previous knowledge of defendants possibly being transporters and sellers of alcohol (this occurred in the prohibition era). One day as the officers are patrolling, they notice an automobile, a distinct car owned by one of the defendants, pass them on the road. The officers turn around, and pull the car over. The officers discover 68 bottles of alcohol hidden behind the upholstered car seats.



Case: Chambers v. Maroney, 399 U.S. 42 (1970)

Issue: Whether evidence is admissible after the automobile was taken to a police station and was there thoroughly searched without a warrant?

Training Point:

Automobiles and other conveyances may be searched without a warrant in circumstances that would not justify search without warrant of house or office, provided that there is probable cause to believe that automobile contains articles that officers are entitled to seize.

Where police, as result of talking to victim and teen-age observers, had probable cause to believe that robbers, carrying guns and fruits of crime, had fled scene in light blue compact station wagon carrying four men, one wearing a green sweater and another wearing a trench coat, officers had probable cause to stop automobile and search it for guns and stolen money, and search of automobile at station house without a warrant was not improper.

Notes:

A gas station was robbed. “The robbers took the currency from the cash register; the service station attendant, one Stephen Kovacich, was directed to place the coins in his right-hand glove, which was then taken by the robbers.” Some time later, a car matching the description of the car at the robbery was pulled over by the police. The description was initially given by teenagers who had observed the robbery occur. The men in the car were arrested, and the car was taken to the police station, where it was searched. Two revolvers, a glove containing change, and an ID card of the gas station attendant was found in the car.



[T]he justification to conduct such a warrantless search does not vanish once the car has been immobilized; nor does it depend upon a reviewing court's assessment of the likelihood in each particular case that the car would have been driven away, or that its contents would have been tampered with, during the period required for the police to obtain a warrant.

- Michigan v. Thomas, 458 U.S. 259 (1982) -

Case: Michigan v. Thomas, 458 U.S. 259 (1982)

Issue: Whether the police officers were justified in conducting a warrantless search of the respondent's automobile, after they had impounded it and discovered contraband in the glove compartment?

Training Point:

When police officers have probable cause to believe there is contraband inside an automobile that has been stopped on the road, the officers may conduct a warrantless search of the vehicle, even after it has been impounded and is in police custody; thus, the justification to conduct such a warrantless search does not vanish once the car has been immobilized, nor does it depend upon a reviewing court's assessment of the likelihood in each particular case that the car would have been driven away, or that its contents would have been tampered with, during the period required for the police to obtain a warrant.

Notes:

Lamont Charles Thomas was in the front seat of a car that was pulled over by police officers for failing to signal a left turn. During the stop, Thomas was seen bending forward with his head below dashboard level, and an open bottle of malt liquor was found on the floor between his feet. He was subsequently arrested for possessing open intoxicants in a motor vehicle and claimed ownership of the car, which was being driven by a 14-year-old without a driver's license. The officers, following departmental policy, impounded the vehicle and conducted a search, revealing two bags of marijuana in the glove compartment and a loaded revolver concealed in the air vents beneath the dashboard.



Case: U.S. v. Gastiburo, 16 F.3d 582 (4th Cir. 1994)

Issue: Whether a car in an impound lot falls under the automobile exception to the warrant requirement?

Training Points:

Warrantless search of defendant's car following its impoundment and defendant's arrest based upon information from defendant's passenger at time of arrest that there was hidden compartment behind radio in console of car and which contained drugs, money and handgun was valid under automobile exception to warrant requirement, where probable cause existed and officer confined his search to area reported to him by passenger.

Police officer's actual delay in conducting warrantless search of hidden compartment in dashboard of impounded car after receiving tip from owner's passenger 38 days after owner's arrest and impoundment of car was minimal and was not per se unreasonable under automobile exception to warrant requirement, where search was conducted on very same day that officer first had probable cause to believe contraband could be found behind dashboard of car.

Notes:

After pulling over defendant-appellant, Joseph Gastiburo, for a routine traffic stop, a Virginia State Trooper conducted a warrantless consent search of Gastiburo's car. The search produced \$10,000 cash, drug paraphernalia, and several grams of cocaine. The state police arrested Gastiburo and impounded his car. Five weeks later, after receiving a tip from an acquaintance of Gastiburo, the police conducted a warrantless search of a hidden compartment in the car's dashboard and seized a loaded semiautomatic pistol and a much larger quantity of crack cocaine.

Reasons

Why do courts allow so many warrantless vehicle searches?



Vehicles can take off before search warrant is obtained



Vehicles are highly regulated and that means less privacy



Roadside searches are often better for suspects



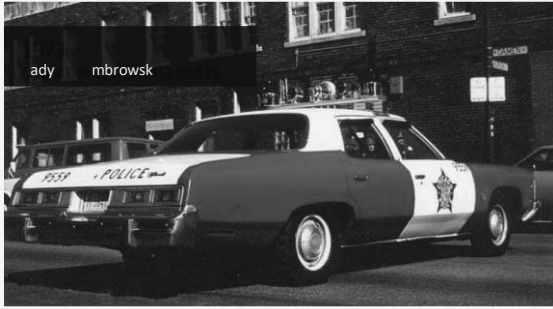
Judges wouldn't get any sleep if warrants were required



Pro Tip

We don't want to lose the motor vehicle exception..get a search warrant when there's **plenty of time** or for **big cases**





Case: Cady v. Dombrowski, 413 U.S. 433 (1973)

Issue: Whether a search of a car, to find the officer defendant's service revolver, was a violation of the defendant's fourth amendment rights?

Training Point:

Where accused's vehicle was disabled as result of accident and constituted a nuisance along highway and accused, being intoxicated and later comatose, could not make arrangements to have the vehicle towed and stored and at direction of police and for elemental reasons of safety automobile was towed to private garage, search of trunk pursuant to standard procedure of that police department to retrieve revolver which officer reasonably believed to be contained therein was not unreasonable within meaning of Fourth and Fourteenth Amendments solely because a warrant had not been obtained.

Fact that police search of trunk of disabled automobile for weapon which police reasonably believed to be in the vehicle, which police conducted for the protection of the general public, might have been accomplished by less intrusive means did not, by itself, render the search unreasonable.

Notes:

A Chicago PD officer, while off-duty, got into an accident. The officers who responded to the accident believed that the officer was drunk. The responding officers believed that Chicago PD officers had to carry their service revolver, even when not on duty. The revolver was not found on the off-duty officer, so the responding officers searched the car. There they found the service revolver, as well as clothing and a bloody flashlight. These items eventually led officers to find a dumped body.



Case: S. Dakota v. Opperman, 428 U.S. 364 (1976)

Issue: Whether police violated the Fourth Amendment when they conducted a routine inventory search of an automobile lawfully impounded by police for violations of municipal parking ordinances

Training Point:

Routine practice of securing and inventorying contents of impounded automobiles developed in response to three distinct needs: the protection of the owner's property while it remained in police custody, protection of the police against claims or disputes over lost or stolen property and protection of the police from potential danger; also, such practice is viewed as essential to respond to incidents of theft or vandalism and in determining whether a vehicle has been stolen and thereafter abandoned.

Routine inventory search of defendant's automobile, which had been lawfully impounded for multiple parking violations, was not exclusively for defendant's protection since protection of the municipality and public officers from claims of lost or stolen property and protection of the public from vandals who might find firearm or contraband drugs, such as were discovered in the glove compartment, were also crucial in determining reasonableness of the search.

Notes:

A vehicle was parking in a "no park" zone of the city. An officer issued the unoccupied vehicle one parking ticket at 3 a.m., and then another parking ticket at 10 a.m., since the car had not been moved. These circumstances are reported to police headquarters, leading the vehicle to be inspected and towed to an impound lot. In the lot, the officer conducted a standard inventory search, which produced marijuana, found in the glove compartment.



Case: California v. Carney, 471 U.S. 386 (1985)

Issue: Whether law enforcement agents violated the Fourth Amendment when they conducted a warrantless search, based on probable cause, of a fully mobile “motor home” located in a public place?

Training Point:

When vehicle is being used on highways or is capable of that use and found stationary in place not regularly used for residential purposes, justifications for vehicle exception to warrant requirement that vehicle is readily mobile and there is reduced expectation of privacy stemming from pervasive regulation of vehicles capable of traveling on highways comes into play, and warrantless search is justified.

Drug Enforcement Agency agents, based on uncontradicted evidence that defendant was distributing a controlled substance from mobile motor home, had abundant probable cause to enter and search home; thus, warrantless search of mobile motor home was not unreasonable.


Notes:

A DEA agent received information that a mobile motor home was being used to exchange marijuana for sex. The agent watched as the respondent approached a youth who went with him to the motor home. The agent and other agents kept the vehicle under surveillance and stopped the youth after he left the vehicle. The youth told them that he received marijuana in return for allowing respondent sexual contacts. At the agents' request, the youth returned to the motor home, and without a warrant or consent, one agent entered and observed marijuana. A subsequent search at the police station revealed additional marijuana, and the respondent was charged with possession of marijuana for sale.


Jones Search

Blue to Gold Law Enforcement Training
Advanced Traffic Stops


Two Searches



Reasonable expectation of privacy




Trespass into a protected area




Blue to Gold Law Enforcement Training
Advanced Traffic Stops


Two Requirements



Police trespass into a protected area



Plus



They have a intent to gather information



Case: U.S. v. Jones, 565 U.S. 400 (2012)

Issue: Whether the attachment of a Global–Positioning–System (GPS) tracking device to an individual's vehicle, and subsequent use of that device to monitor the vehicle's movements on public streets, constitutes a search or seizure within the meaning of the Fourth Amendment?

Training Points:

Vehicle is an “effect” as that term is used in Fourth Amendment, which provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

Where Government obtains information by physically intruding on constitutionally protected area, “search” within original meaning of Fourth Amendment has occurred.

Fourth Amendment's guarantee against unreasonable searches must provide at a minimum the degree of protection it afforded when it was adopted.

Notes:

In 2004, Antoine Jones was suspected of trafficking drugs and was investigated by the FBI and Metropolitan Police Department. Officers used various methods including surveillance and wiretapping to gather information. In 2005, the government obtained a warrant to install a GPS tracking device on Jones' wife's car in Washington D.C. Within 10 days, the device was installed in Maryland, and it was used to track the car's movements for 28 days. The device relayed over 2,000 pages of data to a government computer.

C
Consent

R
Recognized

E
Exception

W
Warrant

Every Search & Seizure Requires C.R.E.W.
There are no exceptions!

⊘

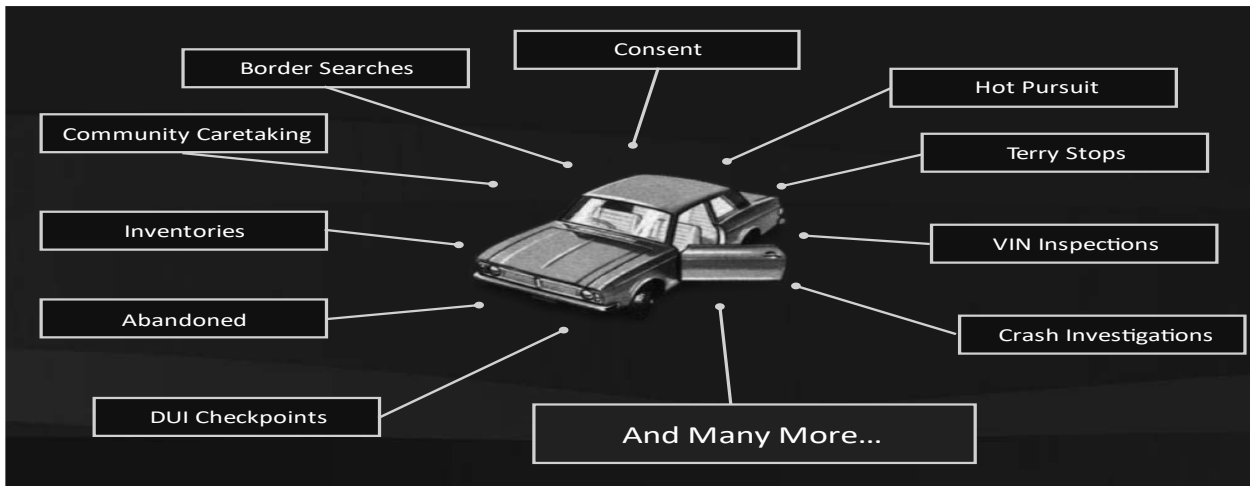
C
Can't

R
Really

E
Explain

W
Why

Not "Can't Really Explain Why"





Case: United States v. Richmond, 915 F.3d 352 (5th Cir. 2019)

Issue: Was the “tap of the tires,” a search under the meaning of the Fourth Amendment?

Training Points:

Probable cause to believe a vehicle contains contraband allows a warrantless search because of the car’s mobility.

State trooper's physical inspection of tires of defendant's truck was justified by interest in ensuring that vehicles on road were operated safely and responsibly, and thus, although inspection constituted search and trooper lacked probable cause to search for drugs, inspection did not violate defendant's Fourth Amendment rights; trooper observed that tires were shaking, wobbly, and unbalanced, and that wheels had stripped bolts, and truck veered out of its lane, which would give reasonable officer probable cause to believe that tire posed safety risk.

Notes:

Texas State Trooper Manuel Gonzales initiated a traffic stop on a blue pickup truck driven by Jennifer Richmond due to wobbly and unbalanced tires and a broken brake light. During the stop, Gonzales became suspicious of drugs in the vehicle, as Richmond was nervous and could not remember basic information. After obtaining Richmond's consent to search the truck, Gonzales found suspicious items and detected a chemical cleaning odor coming from the tires. Technicians at a local car dealership found secret compartments containing methamphetamine in the tires.



The Fourth Amendment prohibits “unreasonable actions, not improper thoughts”

- State v. Bruzzese, 94 N.J. 210 (1983) -

Case: State v. Bruzzese, 94 N.J. 210 (1983)

Issue: Whether the actions of the officer were reasonable?

Training Points:

The constitutionality of a search and seizure is determined by whether the conduct of the law enforcement officer who conducted the search was objectively reasonable, regardless of their underlying motives or intent. In this specific case where an officer had the right to be in a defendant's bedroom while he dressed and discovered boots with a unique sole pattern matching a pattern at a burglary scene in plain view, the officer had the right to turn over and examine the boots without a warrant, as the warrantless seizure and inspection of the boots was reasonably and constitutionally valid.

Notes:

In 1980, the police investigated a burglary and regarded the defendant as a suspect based on information received. The police went to the defendant's home to pick him up on an active warrant for contempt of court, and while there, the detective noticed a pair of black work boots that he believed matched the impression on the door panel from the burglary. The detective seized the boots, and the defendant argued that the seizure was unlawful. The trial judge found that the police had an ulterior motive to find evidence related to the burglary and that the seizure was not justified as a search incident to the arrest.



Case: State v. Speights, 2021 UT 56, 497 P.3d 340

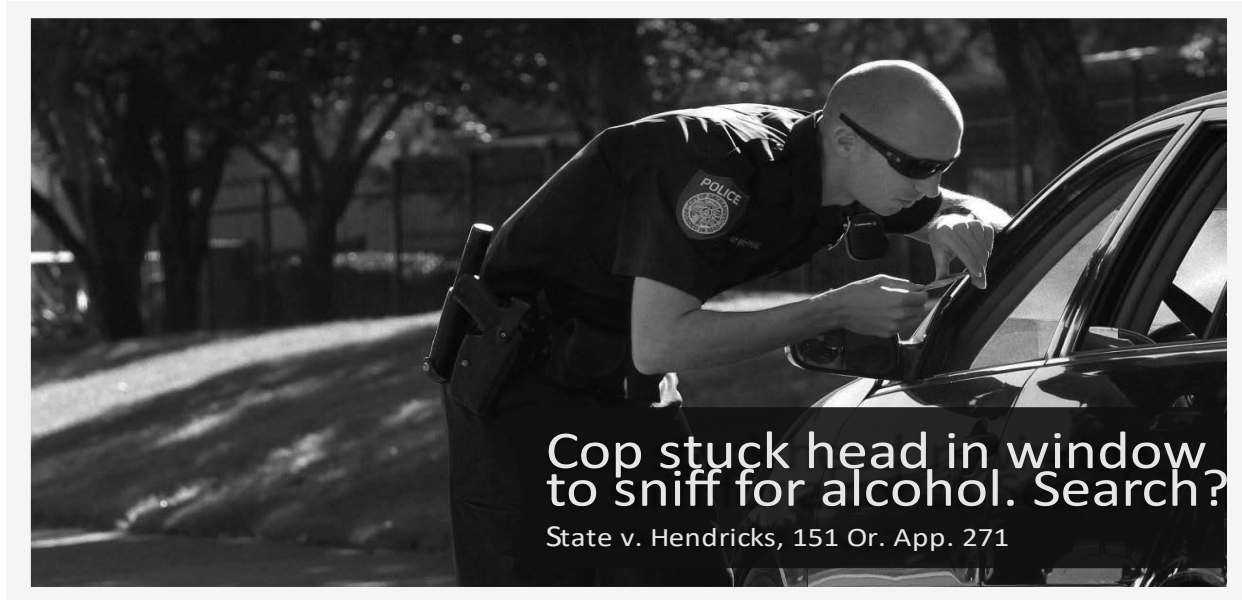
Issue: Whether the police officers' touches of the exterior of the defendant's vehicle, to determine if it had been recently driven, was unconstitutional?

Training Points:

Assuming that police officer's touch of vehicle's wheel well for heat to see if vehicle was recently driven was a search, officer had probable cause for the warrantless search, where officers responded to 911 call about a disturbance in neighborhood in early morning hours, officers encountered a recklessly parked vehicle that was partially on grass and partially on sidewalk, officers observed that the vehicle's interior dome light was on and that driver's side door was latched but not fully closed, officers saw a partially full bottle of liquor on floor, and, after returning from searching area, officers saw that vehicle's interior light was off but that vehicle was undisturbed, thus signifying that the vehicle was occupied recently.

Notes:

Defendant is facing a driving under the influence charge, stemming from an incident where she was discovered lying on a child's inflatable bouncy house in a garage following a 911 call about a disturbance in a townhome. During their response, officers touched the exterior of Speights's Ford Explorer to check if it had been recently driven. They observed that the engine was still hot, and also found a partially full bottle of liquor on the vehicle's floorboard.



Case: State v. Hendricks, 151 Or.App.271 (Or. Cr. App. 1997)

Issue: Did the officer sticking his head in the car constitute a search under the Fourth Amendment?

Training Points:

Defendant, who was stopped for a lane violation, had a protected privacy interest in his truck, and when police officer inserted his head into defendant's truck, this interest was invaded, which constituted a "search" from an unlawful vantage point, despite officer's claim that his intention was merely to deliver, and explain, citation.

Arresting officer exceeded scope of traffic stop when he inserted his head into defendant's truck where officer did not suspect defendant of engaging in criminal conduct prior to that action.

Notes:

Trooper pulled over a person for a lane travel violation. After running the person's name, the Trooper found the defendant had a number of prior DUIs. The Trooper wrote the citation, walked the citation to the defendant's car, and leaned into the window when he handed defendant his citation. This is when the Trooper smelled alcohol. He then looked at the defendant more carefully and observed that the defendant's eyes were bloodshot and watery. Trooper asked defendant how much he had to drink that day, and defendant responded that he had four beers. Defendant was eventually arrested for DUI.



Case: Taylor v. City of Saginaw, 922 F.3d 328 (6th Cir. 2019)

Issue: Is chalking considered a search, or an unreasonable search under the Fourth Amendment?

Training Points:

Parking enforcement officer's act of marking tire of legally parked vehicle with chalk to determine whether vehicle remained in same location for longer period of time than allowed under city's parking regulations was "search" under Fourth Amendment, even though officer did no damage to the vehicle; officer committed common law trespass by intentionally initiating contact with chattel in possession of another, and officer committed the trespass for the purpose of obtaining information, which was then used to issue parking citations.

Officer did not show probable cause to perform the search, purpose of chalking tires was to raise revenue through parking citations rather than to mitigate public hazards, and, at time of the search, vehicle was lawfully parked in a proper parking location.

Notes:

Citizen Taylor had her tires "chalked" (a parking enforcement officer's method to mark, and track how long a car has been parked). She had her tires chalked 15 times between 2014 to 2017. Taylor filed a complaint alleging this was a violation of her Fourth Amendment right.



Case: State v. Roller, 2019 WL 2153299 (2019)

Issue: Whether the VIN of the motorcycle was retrieved through an unreasonable search?

Training Points:

Officer Churchfield's search was authorized under the automobile exception. The prior investigation provided sufficient probable cause to believe the partially covered motorcycle was stolen. Therefore, the district court did not err in denying Roller's motion to suppress. The district court's denial of Roller's motion to suppress and the judgment of conviction on the determination of probable cause and need not address the open view determination. The district court's determination on probable cause means it need not reach the merits of the open view argument.

Notes:

In a Walmart parking lot, a Ford Range with a motorcycle in the back caught the patrol officer's attention. The officer ran the plates and found that the owner had outstanding warrants. After seeing the driver asleep in the cab, he recognized the person from a previous encounter, and suspected that the motorcycle was stolen. The motorcycle was partially covered with a tarp. The officer took some photos of the VIN, with his phone, which "involved reaching through the tarp and straps used to secure it."

Pretext Stops

Blue to Gold Law Enforcement Training
Advanced Traffic Stops

Courts Look at Objective Facts

Court's don't use the would you have test

Instead, courts use the could you have test



Case: Whren v. U.S., 517 U.S. 806 (1996)

Issue: Whether the temporary detention of a motorist who the police have probable cause to believe has committed a civil traffic violation is inconsistent with the Fourth Amendment's prohibition against unreasonable seizures unless a reasonable officer would have been motivated to stop the car by a desire to enforce the traffic laws?

Training Points:

Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes “seizure” of persons within the meaning of Fourth Amendment.

Temporary detention of motorist who the police have probable cause to believe has committed civil traffic violation is consistent with Fourth Amendment's prohibition against unreasonable seizures regardless of whether “reasonable officer” would have been motivated to stop the automobile by a desire to enforce the traffic laws.

Notes:

In 1993, plainclothes officers in Washington, D.C. were patrolling a high drug area when they saw a Pathfinder truck with temporary license plates and young occupants. The driver appeared to be looking down into the passenger's lap for an unusually long time. When the officers turned their car around to approach the truck, the truck sped off without signaling. The officers followed and pulled over the truck when it stopped at a red light. One of the officers observed two bags of crack cocaine in the hands of one of the occupants, leading to their arrest and the seizure of illegal drugs from the vehicle.



Instructor Manual

Advanced Traffic Stops

Blue to Gold Law Enforcement Training was developed around the concept that expensive legal mistakes can be avoided by offering relevant, high-energy training that is relatable to every street officer. Our legal instructors have law enforcement experience and the ability to translate vital doctrines into ways that are easy to understand and cops “just get it.” As a result, officers become more confident in their legal decisions and don’t return to the business-as-usual method.

Please be advised that the materials contained herein are confidential and intended only for Blue to Gold instructors.

If you have received or found these materials, please notify Blue to Gold LLC immediately. We will arrange for a postage-paid return envelope to be sent to you. Your cooperation in maintaining the confidentiality of these materials is greatly appreciated.

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