

Traffic Stops

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Tagged as : [fourth amendment](#), [Search and Seizure](#), [traffic stops](#)

Date : October 27, 2009

As one eminent Fourth Amendment scholar has observed, “[i]n recent years more Fourth Amendment battles have been fought about police activities incident to . . . what the courts call a ‘routine traffic stop’ than in any other context.” 4 Wayne R. LaFare, *Search and Seizure* § 9.3 (4th ed. 2004). Because so many criminal cases arise out of traffic stops, and because the law in this area is evolving fairly quickly, I was asked to teach a short session on traffic stops at the recent conference of superior court judges.

I learned a lot while preparing for the session, and I created a short handout, in the form of a scenario, that summarizes the law on some of the common-yet-difficult issues that arise in connection with traffic stops. For example, when can an officer ask about matters unrelated to the purpose of the stop? When can an officer frisk the occupants of the vehicle? When can an officer have a drug dog sniff the exterior of the vehicle?

Since the answers to some of these questions are unclear, while the answers to others were surprising to me, I thought I'd share the handout, which may be of interest not just to judges and lawyers, but to officers and others as well. To whet your appetite, the beginning of the handout is cut and pasted below. The full handout is available [here](#).

[Beginning of handout]

Officer Ollie Ogletree is on patrol one Saturday night at about 10:00 p.m. He's driving along a major commercial road in a lower-middle-class section of town when he sees a 2002 Chevrolet Malibu with three occupants turn without signaling, causing a following car to brake suddenly. Although an accident does not result, Officer Ogletree activates his blue lights and pulls the Malibu over for unsafe movement in violation of G.S. 20-154. The Malibu pulls over promptly. The driver is a male in his late 20s. The front-seat passenger is a female of the same age. The rear-seat passenger is a teenage female.

1. Officer Ogletree orders all of the occupants out of the vehicle. OK?

Yes. In the interest of officer safety, an officer may order any or all of a vehicle's occupants out of the vehicle during a traffic stop. [Pennsylvania v. Mimms](#), 434 U.S. 106 (1977) (driver); [Maryland v. Wilson](#), 519 U.S. 408 (1997) (passengers).

The occupants comply with Officer Ogletree's order to exit the vehicle. Although they are compliant, he is concerned for his safety. A fellow officer was shot the week before during a traffic stop, it is nighttime, and the vehicle has multiple occupants. Officer Ogletree decides to frisk the two adults. OK?

[Read the handout to find out.]