

Vehicle Stops Video

Cleveland Division of Police



Course Date: 2021

Current Revision Date: 8-6-2021

Course Hours: 1 Hour and 20 minutes

Module Goal: Through video assessment and class discussion, officers will make decisions on ordering suspects out of, and searching vehicles on traffic stops.

REFERENCES

1. Cleveland Division of Police GPO Search and Seizure 2.01.02
2. Cleveland Division of Police GPO Investigatory stops 2.02.01
3. Cleveland Division of Police GPO Probable Cause / Warrantless Arrest 3.04.01
4. Cleveland Division of Police GPO Miranda Warning and Waiver 2.02.03
5. <https://thehill.com/regulation/court-battles/239513-court-rules-cops-cant-hold-suspects-to-wait-for-dog>
6. Ultimate supreme court legal reference, Blue to Gold law enforcement training LLC
7. https://casetext.com/case/rodriguez-v-united-states-81/analysis?PHONE_NUMBER_GROUP=P&citingPage=1&sort=relevance
8. [http://ps-sharepoint/cpd/home/PnP%20Documents/General%20Police%20Orders/8.2/8.2.05%20Operating%20a%20Vehicle%20While%20Intoxicated%20\(OVI\)%20Enforcement.pdf](http://ps-sharepoint/cpd/home/PnP%20Documents/General%20Police%20Orders/8.2/8.2.05%20Operating%20a%20Vehicle%20While%20Intoxicated%20(OVI)%20Enforcement.pdf)
9. [file:///Y:/Police%20Training/147th%20Recruit%20Class/BAS-040%20Curriculum%20Eff.%207-1-19%20\(Rav.%207-20-20\)/Unit%2010%20-%20Traffic/10-8%20NHTSA%20SFST/SFST/sfst_full_instructor_manual_2018.pdf](file:///Y:/Police%20Training/147th%20Recruit%20Class/BAS-040%20Curriculum%20Eff.%207-1-19%20(Rav.%207-20-20)/Unit%2010%20-%20Traffic/10-8%20NHTSA%20SFST/SFST/sfst_full_instructor_manual_2018.pdf)
10. <https://casetext.com/analysis/carroll-v-us-case-brief>
11. <https://casetext.com/case/riley-v-cal-united-states-1?>

COURSE MATERIALS

TEACHING AIDS

☒ Erasable Board/Markers

☒ Easel/Notepads

☒ Lectern/Table

☒ Other:

☐ Student Handouts

INSTRUCTIONAL TECHNIQUES

☒ Lecture

☒ Group Discussion

☒ Demonstration

☒ Scenario-based Training

☐ Individual Exercise

☐ Hands-on Techniques

☒ Problem Solving

LEARNING OBJECTIVES

At the end of this topic, the student will be able to:

1. Apply the five search and seizure GPOs to vehicle stops
2. Identify reasonable suspicion to have subjects exit a vehicle during a traffic stop
3. Identify procedures to search closed / locked compartments within a vehicle
4. Identify the difference between a probable cause traffic stop and an investigatory stop involving a motor vehicle
5. Identify when probable cause has been met for an OVI arrest
6. Decide whether the actions in a traffic stop have met Departmental policies, procedures, case law and training standards

I. PREPARATION

I Introduction

- A. The lead instructor will be a member of the Cleveland Division of Police Training Section
- B. Through video assessment and class discussion, officers will understand, cross reference and apply search and seizure General Police Orders to a vehicle stop video

II Instructor Set up

- A. The lead instructor will advise the class they will be watching a video
- B. The video will be stopped at various times. Each time the video stops, questions will be asked of the class. Discussions are expected from the class. Instructors will facilitate the discussions and encourage them if they do not develop sufficiently. As the video unfolds keep these factors in mind:
 - 1. Options for the police officers involved
 - 2. How the options interface with our current search and seizure General Police Orders
 - 3. How the options represent an overall goal of an effective crime prevention strategy that takes into account community values
 - 4. What are the possible outcomes of the decisions that the officers make
 - 5. Have an open, respectful large group class discussion on what options the police officers have in certain moments of the video
- C. Ask the group if they have any questions before the video begins

Lead instructor for the scenario will conduct a check to ensure all participants are present

III Video Presentation

- A. The lead instructor will advise the class; a two

<p>Patrol Officer zone car will be making a traffic stop</p> <ol style="list-style-type: none"> 1. (This is what is shown in the video, this is an instructor note, do not say this to the class) A white vehicle is swerving, speeding up and slowing down. The vehicle will cross the center lane. Officers will observe this and decide to conduct a traffic stop. 2. Stop the video and asks the class these questions 	
<div data-bbox="212 604 1026 709" style="border: 1px solid black; padding: 5px;"> <p>Can officers stop the vehicle? Is the traffic stop based on reasonable suspicion or probable cause?</p> </div> <ol style="list-style-type: none"> a. Yes, the officer observes a traffic violation, signals to his partner and performs a traffic stop b. This traffic stop is based on probable cause c. A vehicle stop for a traffic code violation is not an investigative stop. An officer shall have probable cause to conduct a vehicle stop for a traffic code violation or completed misdemeanor. d. This is a vehicle stop for a traffic code violation 	<p>Examples of a completed misdemeanor include loud music, littering that the officer does not witness</p>
<div data-bbox="212 1360 1026 1486" style="border: 1px solid black; padding: 5px;"> <p>Can officers ask the driver travel-related questions? Ask officers to explain their answers.</p> </div> <ol style="list-style-type: none"> e. Yes, as long as the questioning does not cause the stop to exceed a reasonable amount of time 	<p>State v. batchili 113 ohio st.3d 403</p>

Class Question, what is a reasonable amount of time?
Answers below

3. The case, Rodriguez v. United States, was brought by a man who was pulled over for driving on the shoulder of a Nebraska highway. After the police pulled him over, checked his license and issued a warning for his erratic driving, the officer asked whether he could walk his drug-sniffing dog around the vehicle
 - a. The driver, Dennys Rodriguez, refused. However, the officer nonetheless detained him for “seven or eight minutes” until a backup officer arrived. Then, the original officer retrieved his dog.
 - b. After sniffing around the car, the dog detected drugs, and Rodriguez was indicted for possessing methamphetamine. In all, the stop lasted less than 30 minutes.
 - c. According to the Supreme Court, the search of Rodriguez’s car was illegal, and the evidence gathered in it should not be used at trial. While officers may use a dog to sniff around a car during the course of a routine traffic stop, they cannot extend the length of the stop in order to carry it out.
 - d. **Answer**-The court held that a police stop exceeding the time needed to handle the matter for which the stop was made constitutes an unreasonable amount of time
 - e. When conducting a traffic stop, officers may check the driver’s license, determine whether there are outstanding warrants against the driver and inspect the automobile registration and proof of insurance. The court noted these tasks are related to the law enforcement objective
 - f. You can ask travel related questions during the stop but it must not take you away from your

<https://thehill.com/regulation/court-battles/239513-court-rules-cops-cant-hold-suspects-to-wait-for-dog>

Rodriguez v. United States, 135 S. Ct. 1609 (2015)

Ultimate Supreme Court Reference

These questions CANNOT extend the stop

CLEVELAND POLICE ACADEMY

	mission of completing a lawful, law enforcement objective	
	<p>4. (This is what is shown in the video, this is an instructor note, do not say this to the class) Vehicle is occupied with 3 occupants. When the officers approach, the driver gives his license. The driver of the vehicle has blood shot eyes and gives delayed responses, Also the driver is swaying inside the vehicle and has low control of body The driver is speaking very slowly and appears to be under the influence of something. Officer asks if the driver has any medical conditions, he does not. The driver has a valid license and Insurance. Driver is asked to step out of the vehicle.</p> <p>5. Stop the video at 2:25</p> <ul style="list-style-type: none"> a. The instructor will ask the students what was observed in the video. This will ensure the students are aware the vehicle is occupied by 3 individuals. b. If the students do not respond with all the correct answers. The instructor will advise them of the below response <ul style="list-style-type: none"> i. The driver has slurred speech ii. Delayed responses iii. The driver has valid license and insurance iv. Driver has no medical conditions 	Continue the video
	Can we ask the driver to exit the vehicle? Ask the students to explain their answers, anchor those responses with the below information	DWI Detection and Standardized Field Sobriety Testing (SFST)
	<ul style="list-style-type: none"> a. Answer, yes b. The officers have Probable Cause that the driver is intoxicated 	Both front seat passengers are wearing seat belts

<p>i. Smell of alcoholic beverage</p> <p>ii. Slurred speech</p> <p>iii. Slow responses, lack of bodily control ie. Swaying.</p> <div data-bbox="217 457 1019 592" style="border: 1px solid black; padding: 5px;"> <p>What is the legal justification and reason for having the driver step out of the vehicle? Answer below</p> </div>	<p><i>The odor of an alcoholic beverage is on the drivers breath (this needs to be told to the students as it is essential to the scenario)</i></p>
<p>c. Probable cause exists that the driver is under the influence of alcohol or drugs</p> <p>6. (This is what is shown in the video, this is an instructor note, do not say this to the class) The Driver is asked to exit the vehicle and complies. Once the driver exits the vehicle the officer reads him his <i>Miranda</i> rights. The officer states the driver is not under arrest but he “wants to make the driver aware of their rights.” The officer asks the driver if he has any weapons on him.</p> <p>7. Built in stop</p>	
<div data-bbox="217 1234 1019 1369" style="border: 1px solid black; padding: 5px;"> <p>Class question, Can the officer pat down the driver? Why or Why not? Students should explain answer, answers below</p> </div> <p>a. Yes</p> <p>b. Officer safety, they must secure an observed weapon</p>	<p><i>Continue the video</i></p>
<div data-bbox="198 1570 1016 1667" style="border: 1px solid black; padding: 5px;"> <p>Class question, what case law allows the pat down? Answer below</p> </div>	

c. <i>Terry v. Ohio</i> , 392 U.S. 1 (1968)		Miranda Warning 2.02.03
<div><div>Class question, when should Miranda Warnings be read? Why? Answer below</div></div>		
<div><div><div>d. The subject is in custody AND</div><div>e. The officer is to question or interrogate the suspect about any crime</div><div>f. In this scenario issuing <i>Miranda</i> early is always preferable<div><div>a. If any doubt exists whether custody and/or interrogation is/are present, officers shall resolve the doubt in favor of giving the Miranda warning.</div></div></div><div>g. It is best practice to <i>Mirandize</i> the individual upon their exit from the vehicle. Not instantly placing them under arrest, but advising them of their constitutional rights.</div></div></div>		
<div><div><div>12. Continue the video</div><div>a. (This is what is shown in the video, this is an instructor note, do not say this to the class) The officer then conducts a <i>Terry</i> Pat Down for other weapons and to secure the knife. The officer asks the driver to conduct standardized field sobriety tests. The Driver refuses and states he is not drunk.</div></div><div><div>13. Stop the video</div><div><div><div>Class Question, can the police legally detain the driver and place them in the back seat? Answer below</div><div>a. Yes</div><div>b. The contributing factors establishes</div></div></div></div></div>		Administrative License Suspension: When a driver refuses a chemical test or tests over the legal limit the driver shall have their license immediately seized and suspended. This is an Administrative License Suspension

<p>probable cause the driver is under the influence.</p>	<p>(ALS). GPO 8.2.05</p>
<p>Class Question, what should the officers next course of action be? Answer below</p>	
<p>c. Male should be arrested d. <i>Miranda</i> has already been read</p>	
<p>Class Question, should the officer have read Miranda directly from the card provided to him at 2019 in-service? Answer below</p>	
<p>e. Answer, yes d. This will ensure consistent compliance with Miranda Warnings and Waivers</p>	<p>Continue the video</p>
<p>14. (This is what is shown in the video, this is an instructor note, do not say this to the class) Officer places driver into handcuffs, and then conducts a search of the driver. Their pockets are emptied and a small baggie filled with white powder is revealed.</p> <p>15. Stop the video</p>	
<p>Class Question, what type of search just took place? Answer below</p>	

<p>a. Search incident to arrest.</p> <div><p>Class Question, what else could the driver be charged with if anything? Answer below</p></div> <p>b. VSDL, Violation of State Drug Law OCR 2925.01</p> <div><p>Class question, how should the officer handle the narcotics?</p></div> <p>c. They should be put on PPE (nitrile gloves)</p> <p>d. Narcotics should be secured in a drug bag</p> <p>16. (This is what is shown in the video, this is an instructor note, do not say this to the class) Driver is searched and no other contraband is found. The driver is placed in the back seat of the zone car and asked, is there anything else illegal in the vehicle or on either of the passengers. Driver states that he wants a lawyer. The officer approaches passenger 1 (front seat, female). Passenger 1 is looking straight forward</p> <p>17. Stop the Video</p> <div><p>Class Question, can you request ID from passenger #1? Student should explain their answer Answer below</p></div> <p>a. You can request ID from the passenger</p>	<p>Continue the video</p>
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<p>Class Question, do they have to give you their ID? Answer below</p>	<p><i>Maryland v. Wilson, 519 U.S. 408 extended to passengers the holding set in Pennsylvania v. Mimms, 434 U.S. 106 that a driver stopped lawfully may be ordered to exit</i></p>
<p>b. No, However, they do have to identify themselves by providing name, address or date of birth</p>	
<p>Class Question, can you have the passengers exit the vehicle? Why or why not? Answer below</p>	
<p>c. Yes, the vehicle will be lawfully impounded. An inventory search of the vehicle will take place</p>	
<p>Class Question, can you search passenger #1? Why or Why not? Answer below</p>	
<p>d. No, PC to search the vehicle does not extend to body searches of passengers</p>	
<p>Class Question, can you conduct a Terry pat down of passenger #1? Why or why not? Answer below</p>	
<p>e. Answer, no-there is no reasonable articulable suspicion that the passenger is committing or has committed a crime and is armed with a deadly weapon</p>	

Class Question, Can you conduct a Terry pat down of passenger #1, Can you place Passenger #1 into handcuffs? Why or why not?
Answer below

- f. Answer no, this is an improper seizure. Not only is this not a valid seizure, placing the female in handcuffs triggers custody and is a de-facto arrest

18. (This is what is shown in the video, this is an instructor note, do not say this to the class)
Passenger #1 exits the vehicle and complies with giving ID and a pat down, (they are not a valid driver). There is no contraband found on Passenger #1. Passenger #1 is placed into handcuffs. The Officer observes a bag/purse on the floor of the front passenger side. Passenger #1 states that the bag is hers and they do not consent to a search of their property. They also state they were getting a ride and "kind of" know the driver and other occupant

19. Built in stop

- a. It is worth repeating the placing of handcuffs on passenger #1 is improper

Class Question, can you search the bag? Why or Why not?
Answer below

- b. Answer-no, In Wyoming v. Houghton, 526 U.S. 295 (1999), the USSC held that passengers, no less than drivers, possess a reduced expectation of privacy with regard to the property that they transport in cars. Their property is subject to the automobile exception in PC searches of vehicle, just as much as the driver. Therefore, if PC exists

Continue the video

suggesting that the contents of that purse may conceal the object of the search – then yes officers may search the purse. In this incident, though, there is no PC that the purse may conceal the object of the search.

Class Question, is the traffic stop alone enough reason to search the bag? Why or Why not?

c. No

d. *Arkansas v. Sanders*, 442 U.S. 753 (1979), the automobile exception would not be extended to the warrantless search of personal luggage “merely because it was located in an automobile lawfully stopped by the police

20. The automobile exception

- a. *Carroll v. U.S.* 267 U.S. 132 (1925) – permitted warrantless searches of automobiles
- b. The reasoning of *Carroll* concerning the need to permit warrantless search when the evidence or contraband may possibly be removed from the scene due to the mobility of a vehicle “where it is not practicable to secure a warrant” suggested that a warrantless search of a car would be permissible with respect to any type of object for which a warrant to search could be obtained were there time to secure a warrant

21. (This is what is shown in the video, this is an instructor note, do not say this to the class) The bag is searched and no contraband is found. Passenger #1 then asks if they are free to go.

22. Stop the video

- a. Question to the class: is Passenger #1 free to go?

<https://casetext.com/analysis/carroll-v-us-case-brief>

Continue the video

<p>b. Answer-yes, the passenger is now improperly seized. There is no reasonable articulable suspicion that the passenger is or was involved in criminal activity</p> <p>c. Also, PC to search the vehicle does not extend to body searches of passengers</p> <p>23. (This is what is shown in the video, this is an instructor note, do not say this to the class) Passenger #1 is told they are not yet free to leave and Passenger #2 (in back seat) is told twice to step out of the vehicle. They then exit the vehicle reluctantly. The Officer observes that Passenger #2 was sitting on a jacket in the back seat.</p> <p>24. Stop the video</p>	<p>Continue the video</p>
<div data-bbox="212 1003 1019 1140" style="border: 1px solid black; padding: 5px;"> <p>Class question, can you request ID from passenger #2? Do they have to give you their ID? Can you conduct a Terry pat down of passenger #2? Why or Why not?</p> </div> <p>a. You can request ID from the passenger, but lawfully the passenger can refuse. Probable cause to search the vehicle does not extend to the body searches of passengers.</p>	
<div data-bbox="212 1451 1019 1549" style="border: 1px solid black; padding: 5px;"> <p>Class Question, can you place Passenger #2 into handcuffs? Answers below</p> </div> <p>b. No, this would convert this now consensual encounter into a de-facto arrest</p> <p>25. (This is what is shown in the video, this is an instructor note, do not say this to the class) Passenger #2 complies with giving ID and a pat down. The officers conduct a search and no contraband found on Passenger #2. Passenger</p>	

#2 is placed into handcuffs he asks if he can leave since they don't have anything.

26. Built in stop

Class question, what type of search just took place?

- a. Pat down frisk, keep in mind this is not a consensual search. A reasonable person in this situation would not feel free to leave after the officer's action
 - i. Physical contact
 - ii. Ordering him out of the vehicle
 - iii. Taking his ID out of his pocket

Class question, Is passenger # 2 free to leave? Why or Why not?

- b. Yes, at this point the legal basis of the stop (if not for the officers actions) would have been a consensual encounter

27. (This is what is shown in the video, this is an instructor note, do not say this to the class) The driver and passenger are seated in the zone car. One officer watches the two sitting in the vehicle while the other officer begins to search the suspect's vehicle

28. Built in stop

- a. Advise the class
- b. Unless justified by the reasons articulated for the original stop, officers must have additional articulable justification for further

Continue the video

GPO 2.02.01
B2

<p>limiting a person's freedom during an investigatory (Terry) stop. Actions that would further limit a person's freedom of movement may include actions such as:</p> <ul style="list-style-type: none"> c. Directing a person to stand or remain standing, or to sit on a zone car bumper or any other place not of their choosing; d. Directing a person to lie or sit on the ground; e. Applying handcuffs; f. Transporting any distance away from the scene of the initial stop, including for the purpose of witness identification <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Class Question, can the officer search the vehicle? Why or Why not?</p> </div> <ul style="list-style-type: none"> a. Yes, the officer can do an inventory prior to a tow. At this point the vehicle will be lawfully impounded. The driver will be going to the county jail and the vehicle will be towed in connection with the arrest i. Lets be clear, an inventory search of a vehicle is incident to a tow. If officers are not going to tow the vehicle, a inventory search is improper <p>29. (This is what is shown in the video, this is an instructor note, do not say this to the class) The Officer searches the front passenger compartment. No other contraband is found in the front of the passenger compartment. Officer then looks to the glove box and the center console.</p> <p>30. Built in stop</p>	<p><i>Individuals may be stopped for only that period of time necessary to affect the purpose of the stop</i></p> <p><i>Officers shall not extend a detention solely to await the arrival of a supervisor</i></p> <p><i>Continue the video</i></p>
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<p>Class question, can officers search the unlocked glove box and the center console of the vehicle? Why or Why not?</p> <p>a. Yes, this in connection with the lawful impoundment of the vehicle incident to the tow</p> <p>31. (This is what is shown in the video, this is an instructor note, do not say this to the class) No contraband is found in the glove box or center console. The search of the back seat begins and the officer finds a jacket that passenger #2 was sitting on. Passenger #2 states "Hey, that jacket isn't mine."</p> <p>32. Built in stop</p>	<p>Continue the video</p>
<p>Class question, can you move the jacket? Can you search the jacket? Why or Why not?</p> <p>a. Answer, Yes incident to complete the inventory tow</p> <p>b. Yes, passenger #2 states the jacket is not his, the jacket needs to be inventoried for property</p> <p>33. (This is what is shown in the video, this is an instructor note, do not say this to the class) Another baggie of a white powder is located stuffed in the backseat cushion underneath the jacket. Along with more apparent drugs within the jacket. The officer comes out of the vehicle and Passenger 2 begins to explain that the jacket is not theirs. (Passenger 2 sounds panicked) A cell phone then starts ringing.</p> <p>34. Built in stop</p>	<p>Continue the video</p> <p>Riley v. California, 573 U.S. 373 (2014)</p> <p>https://casetext.com/case/riley-v-cal-united-states-1?</p>

Class question, can officers answer the phone that is ringing in the vehicle? Answer below

- a. No, a search warrant is required
- b. Holding that individuals have a reasonable expectation of privacy in the contents of their cell phones under the Fourth Amendment due to the large amount of personal data stored therein

Class question, who all should be charged and with what offense?

Answers below

- c. The Driver. Narcotics were found on his person.
- d. Passenger #2. Contraband was located within the area of immediate control of Passenger #2
- e. Driver: VSDL 2925.01 and OVI 433.01
- f. Passenger 2: VSDL 2925.01

35. (This is what is shown in the video, this is an instructor note, do not say this to the class) The officers do not answer the phone. Passenger #2 is informed they are under arrest. *Miranda* is read. The handcuffs are removed from Passenger #1 and they are told that they're free to go.

36. Built in stop

Continue the Video

Class question, what else should be done by the officers?
Answers below

- a. Complete UTT for Wrong side of road, driving on 431.01 and OVI 433.01
- b. Collect evidence: A Urinalysis request for the driver, it is important to check for drugs in their system.
- c. Inventory and tow vehicle
- d. Complete pre-booker
- e. Transport suspects to County Jail
- f. Complete required paperwork

37. Video End

VII. Review of mistakes made by the officers during the traffic stop

- A. The detention, searching and handcuffing passengers number 1 and 2. Both passengers asked the officers if they were free to leave. The response from the officer should have been yes. The officer had no reason to further detain these individuals.
- B. The search of the purse
- C. There was no reasonable suspicion on the video that could indicate the passengers committed or were about to commit a crime.
- D. These factors triggered a Fourth Amendment violation and could result in disciplinary charges, and civil or criminal litigation against the city or officers

VIII. Documenting the Reporting/Review of Searches and Seizures

What is the reporting requirements of this scenario?

See answers below

- A. Incident report
- B. Data collection forms
- C. Mark tag enter property
- D. MCAD entry
- E. Pre-booker
- F. Anchor with the below information
- G. Officers shall articulate the justification for a search or seizure in a specific and clear manner articulating the reasonable suspicion and/or probable cause in specific, clear language based on information not influenced by bias or prejudice in their reports. Officers shall not use “canned” or conclusory language without supporting detail in reports documenting searches or seizures.

Assuming the officers complete all required paperwork relating to this arrest, what is the reviewing supervisors responsibilities?

- A. Supervisors shall review all documentation of searches and seizures for completeness and adherence to law and Division policy including, but not limited to:
- B. Searches and seizures that were not supported by reasonable suspicion or probable cause.

<p>a. Use canned or conclusory language without supporting detail in reports documenting searches or seizures.</p> <p>C. Within seven calendar days, supervisors shall document and report through their chain of command:</p> <p>a. Searches and seizures unsupported by reasonable suspicion or probable cause.</p> <p>a. Searches and seizures that are in violation of Division policy.</p> <p>b. Searches and seizures that, while comporting with law and policy, indicate a need for corrective action or review of agency policy, strategy, tactics, or training.</p> <p>D. Supervisors shall take appropriate action to address all apparent violations or deficiencies in arrests. Appropriate action may include recommending non-disciplinary corrective action for the involved officer and documenting such action in the tracking software, or referring the incident for administrative or criminal investigation.</p>	
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II. CONCLUSION

A. Summarize material