

The Motor Vehicle Exemption from the Warrant Requirement

With respect to vehicles, there is less strict enforcement of the warrant requirement because:

- The mobile nature of automobiles creates exigent circumstances -- situations that require immediate action, and
- A person's expectation of privacy with respect to his or her car is lower than the expectation of privacy with respect to his or her home

What the Police Can Do During a Stop

Once police officers have lawfully stopped a vehicle, either because of probable cause for a traffic infraction or reasonable suspicion of criminal activity, they can:

- Order the occupants out of the vehicle
- Ask to see the driver's license, registration, and other relevant information, such as an insurance card
- Conduct a limited search to gain access to the vehicle identification number ("VIN")
- Conduct a dog sniff ("canine sniff"), so long as the sniff does not extend the length of the stop
- Take actions reasonably related to the original reason for stopping the vehicle or related to suspicions that develop during the stop
- Frisk for weapons if they have or develop a reasonable suspicion that the occupants may be armed or dangerous, and
- Search the vehicle if the stop provides probable cause for the officers to believe it contains illegal or stolen goods or evidence of a crime

Searches Following Traffic Infractions or Violations

As a general rule, a speeding or traffic violation, by itself, will not justify the search of a vehicle. That is so because a driver's excessive speed does not indicate that the driver is violent, and it does not give the police officer any reason to think that he is in danger of being assaulted.

However, this rule is not without exceptions. If, for example, the officer has a reasonable belief that he or she might be assaulted by the driver, or if the motorist fails to produce a driver's license or produces a forged one, a search by the officer normally will be valid.

To stop a vehicle, an officer needs only a **reasonable suspicion** that the driver is committing or has committed a traffic infraction. In most cases, the reasonable suspicion arises from the officer's own observations of the driver's behavior. However, the police have the authority to stop a vehicle based upon the tip of an anonymous driver or pedestrian.

Searches of Cars

A search incident to a suspect's lawful arrest, for the purpose of removing any weapons that might be used to resist arrest or effect escape or preventing concealment or destruction of evidence, is not limited to the suspect's person, but **extends to the area within his her immediate control** where he or she might reach to grab a weapon or evidence.

When a police officer has made a lawful arrest for a traffic infraction, a search of the vehicle is reasonable if it is conducted incident to arrest, that is, the search is at the same time and place of the arrest, or very near to, and the defendant and the vehicle must be within the immediate control of the defendant at the time of the arrest.

What parts of the car can be searched and what can be seized or taken? In most instances, a valid search of a vehicle can include closed and locked containers within the car, such as packages or luggage. In addition, while there must be a nexus, or connection, between the crime and the search, there is no rigid rule that the search be limited only to items relating to crimes leading to the defendant's arrest.

For example, when a driver is stopped for a traffic violation, the police can search the driver's person and the car if the police have a reasonable belief or probable cause to believe that there is a gun in the driver's possession or in the car.