



POLICE / PROSECUTOR UPDATE

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The Indiana Court of Appeals cases are in conflict on the issue of when a police officer has **reasonable suspicion to initiate a traffic stop** after a routine check reveals that the driver's license of the registered owner is suspended. Stated another way, does a police officer's knowledge that the registered owner of a vehicle has a suspended license constitute reasonable suspicion to initiate an investigatory traffic stop?

One line of Court of Appeals cases stands for the proposition that the police officer must verify that the driver of the vehicle matches the description of the owner obtained from the license plate check in order to have reasonable suspicion to initiate the traffic stop. The second line of cases holds that a police officer's knowledge that the registered owner of a vehicle has a suspended license constitutes reasonable suspicion to initiate a traffic stop without matching the driver with the owner's physical description. The officer may stop and approach the vehicle to investigate the identity of the driver.

Two Indiana Supreme Court cases decided on December 18 resolved this conflict and established the rules governing the police in such cases. An officer has reasonable suspicion to initiate a traffic stop when (1) the officer knows that the registered owner of a vehicle has a suspended license *and* (2) the officer is unaware of any evidence or circumstances which indicate that the owner is not the driver of the vehicle. This rule does not require officers to match the physical description of the registered owner from the license plate check to the driver of the vehicle before making the stop. Armfield v. State, 918 N.E.2d 316 (Ind. 2009).

One example of "evidence or circumstances which indicate that the owner is not the driver of the vehicle" would be if the driver were a different gender than the owner.

In one of the Supreme Court cases, the traffic stop was made at 11:30 p.m. because a license plate check indicated the registered owner, an African-American woman, had a suspended license. As the officer approached the vehicle, he observed that the driver was male. He nevertheless asked for the driver's license and discovered that he was a suspended driver. While the initial stop was permissible, the Court stated that once it becomes apparent that the driver of the vehicle is not the owner, then the officer simply has no reason to conduct additional inquiry. Reasonable suspicion to pull a car over does not confer unconditional authority to request the driver's license. Once it was determined that the driver was not the owner, the purpose of the stop was satisfied, and the request for the driver's license exceeded the scope of the stop's underlying justification. Holly v. State, 918 N.E.2d 323 (Ind. 2009).

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A related matter is the surveillance of a person's public movements. The law is that what a person knowingly exposes to the public is not subject to Fourth Amendment protection. Therefore, a person's movements in public places visible to others is not a search because there is no expectation of privacy.

The length of time a public surveillance can continue can be substantial. Also, a federal court has held that police may take photographs and collect data at public meetings.

Prosecuting Attorneys Handbook, Chapter 2, "Surveillance of Public Movements."