

Know Your Rights

During traffic stops on the nation's highways, the U.S. Constitution's Fourth Amendment protects motorists "against unreasonable searches and seizures." The law also gives police the power to investigate and act on their suspicions.

1. Police have a long-established authority to stop motorists for traffic infractions. They can use traffic violations as a pretext for a deeper inquiry as long as the stop is based on an identifiable infraction.
2. An officer may detain a driver only as long as it takes to deal with the reason for the stop. After that, police have the authority to request further conversation. A motorist has the right to decline and ask whether the stop is concluded. If so, the motorist can leave.
3. The officer also has the authority to briefly detain and question a person as long as the officer has a reasonable suspicion that the person is involved in criminal activity. Reasonable suspicion is based on specific and articulable facts but falls short of the legal standard for making an arrest.
4. A traffic infraction or reasonable suspicion alone does not give police authority to search a vehicle or a closed container, such as luggage. Police may ask for permission to search; drivers may decline. Police do not have to tell drivers that they have a right to refuse.
5. An officer may expand a roadside investigation if the driver's responses and other circumstances justify a belief that it is more likely than not that criminal activity is occurring. Under this standard, known as probable cause, an officer can make an arrest or search a vehicle without permission. An alert by a drug-sniffing dog can provide probable cause, as can the smell of marijuana.
6. Police can seize cash that they find if they have probable cause to suspect that it is related to criminal activity. The seizure happens through a civil action known as asset forfeiture. Police do not need to charge a person with a crime. The burden of

proof is then on the driver to show that the cash is not related to a crime by a legal standard known as preponderance of the evidence.

Sources: Jon Norris, criminal defense attorney; David A. Harris, University of Pittsburgh law professor; Scott Bullock, civil liberties lawyer, Institute for Justice; Department of Homeland Security.