

Criminal procedure essay example

[Law](#), [Evidence](#)



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Reasonable Suspicion

According to the Institute of Government (2002), an officer can make a brief investigative stop of an individual if he or she has reasonable suspicion of criminal activity. The same applies to traffic stops whereby an officer may randomly stop a motorist to check his or her driver’s license or vehicle registration. So did Officer Smith have reasonable suspicion? Reasonable suspicion is determined by a number of factors such as time of day or night, officer’s personal observations, the proximity of a suspect to where a recent crime has been committed, dress code, or reasonable suspicion of a traffic violation. Therefore, Officer Smith has reasonable suspicion to make the initial stop because she notices what appears to be a broken taillight, and appears to be covered with colored tape. At the same time, it is during the night. In reasonable suspicion for traffic violations, equipment violations may justify a stop, and they include license tag light out, cracked windshield, brake light out, missing mirror, and wobbly wheel among others. A broken taillight falls under this category of equipment violations and thus the Officer had reasonable suspicion to make the initial stop.

Legality of ‘ Pat Down’

Usually, an officer has the right to undertake a pat-down of a suspect’s outer garments to search weapons if the stop is legitimate and with reasonable suspicion. There are a number of circumstances that form reasonable grounds for frisk. One of such circumstances is the nature of the suspected offense (Institute of Government, 2002). In this case, as Officer Smith approaches the driver’s side of the vehicle, she recalls that this car fits a general description of a car suspected to have been involved in a recent roadside killing a police officer. Therefore, the pat-down by Officer Smith was legal because of two aspects: first, there was reasonable suspicion to make the initial stop and two; there was a recent reported criminal activity in the area.

Exigent Circumstances

Exigent circumstances are those that warrant immediate response. It happens when officers feel that there is probable cause, and a warrant cannot be obtained in time. Exigent circumstances exist when there is an imminent escape of the suspect, or evidence is about to be destroyed. Therefore, exigent circumstances existed for Officer Smith to give chase to the vehicle because there was the possibility of the suspect escaping. Rather than providing her license and registration, the driver sped away. The suspect could have escaped and any probable evidence could have been lost, and thus a car chase was necessary.

Gun in Plain-View and Legally Obtained and Marijuana

According to the Institute of Government (2002), a seizure is lawful if the officer is in a position to observe the items and it's immediately apparent to the officer that the items are evidence of a crime. Objects that officers observe are considered to be in plain view (see Texas v. Brown, 460 U. S. 730 (1983))Therefore, the gun was in plain view because the glove compartment was already open and gun lay underneath some documents. Also, the initial stop was valid. The marijuana baggie cannot be admissible as evidence because Officer Smith went beyond her authority by searching the suspect's purse. The officer was searching for the driver's license and registration, but was not searching for contraband. At the same time, the stop and frisk was not related to possession of drugs. Therefore, the marijuana baggie cannot be admissible as evidence.

References