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TRAINING BULLETIN

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Who is Seized During a Vehicle Traffic Stop?

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The Passenger and the Driver Are Seized During a Traffic Stop and Thus the Passenger May Challenge the Legality of the Stop
People v. Brendlin (2007) 127 S.Ct. 2400

Recently legal update received a call from an officer regarding a car stop. The officer questioned under what scenario during a car stop may an officer detain a passenger during a car stop and what steps can be taken to ascertain the identity of the driver?

A review of three cases should answer the question.

First, the United States Supreme Court in *People v. Brendlin* (2007) 127 S.Ct. 2400, analyzed a car stop where the officer made a car stop for expired tabs. The officer knew that the registration was expired, the permit application was in process and there was a temporary permit in the rear window. The officer decided to investigate whether the permit was valid.

The officer made the car stop and recognized the passenger (Brendlin) and asked him to identify himself. The officer knew either the defendant or his brother were on parole and had absconded. The officer noticed methamphetamine paraphernalia in the car. The defendant falsely identified himself. While the officer was running the defendant and finding out he had a warrant, the defendant briefly opened and then closed the passenger door. The officer then ordered defendant out of the car and arrested him.

The USSC decided that in a traffic stop both the driver and any passengers are detained under the Fourth Amendment. The court made it clear that officers can prevent passengers from leaving or moving around the scene absent any other reasonable suspicion. In other words, officers get to control all occupants in the car stop.

What about the driver or passenger who does not want to be identified? In *People v. Vibanco* (2007) 151 Cal.App.4th 1, the court held that so long as the detention is not

unduly prolonged, consistent with Bredlin above, officers may detain individuals in or outside of the car in order to identify those individuals.

Finally, what steps can officers take to confirm someone's identity during a car stop? The California Supreme Court in *In re Arturo D.* (2002) 27 Cal.4th 60, stated "that in the context of a valid traffic stop during which a driver fails to produce an automobile registration, driver's license, or identification upon an officer's proper demand allows a limited warrantless search of areas within the vehicle where such documentation may be found." In that case, the officers searched the driver's purse and found drugs. The Supreme Court went on to agree that a search of the visor, glove compartment and side door panel would be an acceptable search for identification of the drivers or owners of a vehicle.

In short, everyone in the car is detained during a car stop; officers may detain individuals inside or outside a car in order to identify them as long as lawfully necessary; and officers may conduct a warrantless search inside the passenger compartment of the vehicle to find identification in areas that are likely to contain identification of the driver or owner of the vehicle.