

Case Law: (Traffic stops)

MILLER'S TOP 25 CASE LAWS YOU SHOULD KNOW!

Atwater v. Lago Vista, Texas (2001), was a United States Supreme Court decision which held that a person's Fourth Amendment rights are not violated when the subject is arrested for a minor misdemeanor offense. The court ruled that such an arrest for a misdemeanor that is punishable only by a fine **does not constitute** an unreasonable seizure under the Fourth Amendment.

*****Ohio prefers arrests that carry jail time, and most police policy will not consider MM offenses arrestable***** But, if you arrest for a MM it is not considered an unreasonable seizure according to SCOTUS. (LAWFUL BUT AWFUL, NOT RECOMMENDED EVER)

Pennsylvania v. Mimms, (1977), is a United States Supreme Court criminal law decision holding that a police officer ordering a person out of a car following a traffic stop and having reasonable suspicion for conducting a pat-down to check for weapons did not violate the Fourth Amendment to the United States Constitution.

Maryland v. Wilson, (1997) Extends Mimms to include passengers.

It was considered common for police officers to ask people inside their vehicle to exit it to prevent any danger that may occur to the officer. It is also much safer to avoid danger from oncoming traffic. Asking occupants to step out of the car was not a violation of the 4th amendment.

*****You may ask the driver and or occupants to exit the vehicle at any time***** You need not have a reason to do so, but most officers cite safety for the exit.

(Tactical tip: Removing multiple occupants at once is unsafe, control one occupant at a time).

Whren v. United States, (1996) This was a unanimous United States Supreme Court decision that declared that any traffic offense committed by a driver was a legitimate legal basis for a stop.

*****Probable cause stop. This means that if a vehicle has violated any primary violation of the traffic code in your jurisdiction, it is not a violation of the 4th amendment to stop and detain that vehicle for a reasonable amount of time (20 minutes is the unwritten rule).**

United States v. Cortez, (1981), was a United States Supreme Court decision clarifying the reasonable suspicion standard for the investigative stop of a vehicle.

Scotus emphasized that reasonable suspicion must be based on the "totality of the circumstances," and does not depend on "hard certainties, but ... probabilities. Officers who stop a vehicle must have a "particularized and objective basis for suspecting the particular person stopped," but are allowed to use their experience and training to draw inferences and make deductions.

*****You may make a traffic stop based on articulable reasonable suspicion***** Remember, this is less than probable cause and requires clear articulation on the part of the officer. Also see US v. Hensley (1985)

Carroll v. U.S. (1925)-Police may conduct a warrantless search of a vehicle stopped on a traffic stop if there is probable cause to believe that the vehicle contains contraband or evidence. The search without a warrant is justified based on the exigent circumstance that a vehicle stopped on traffic could be quickly moved out of the city or jurisdiction of the investigating agency.

*****Odor, visual clues, prior knowledge to some degree, see (Brinegar v. US)*****

South Dakota v. Opperman, (1976)-A vehicle impounded or seized legally, can be unlocked, entered, and inventoried (NOT SEARCHED) by the police as part of their "caretaking" function without violating the Fourth Amendment. Any drugs or other evidence or contraband can be lawfully seized. Vehicle may be searched completely if probable cause exists.

Inventories are legal, but does not mean you can open locked or closed items without probable cause, see agency policy If you call it an inventory search, it must be held to 4th amendment standards. Individual departments are given authority to write policy that includes opening and inventorying locked compartments

Alabama v. White, (1990)-An anonymous tipster's information is completely lacking in reliability when taken by itself. Further police investigation that corroborates the tipster's information is needed, however, can lead to reasonable suspicion that develops into sufficient information to justify at least an investigatory stop.

Use your own probable cause to stop the vehicle/person in question. But not always, see Prado Navarette v. California (2014) Also see California v. Acevedo (1991) and State v. Tidwell out of Ohio supreme court

US v. Hunnicutt, (1997)-Lengthening the detention for further questioning beyond that related to the initial stop is permissible in two circumstances:

1. The officer has an objectively reasonable and articulable suspicion illegal activity has occurred or is occurring.
2. Further questioning unrelated to the initial stop is permissible if the initial detention has become a consensual encounter. (Vehicle operator was free to go but stayed and had conversation with the officer).

A variety of factors may contribute to the formation of an objectively reasonable suspicion of illegal activity. Some of these factors include:

- a. No proof of ownership of the vehicle.
- b. Having no proof of authority to operate the vehicle.
- c. Purchasing vehicle from someone that is not the registered owner.
- d. Inconsistent statements about destination.
- e. Driving under suspension.
- f. Reluctance to stop.

Do not worry about time frames when you have reasonable suspicion from the actions or inactions from the driver or occupants. Keep digging Example: Extremely nervous, no eye contact, inconsistent statements.

U.S. v. Downs, (1998)-The court said that there is a distinct difference between the scope of a vehicle search due to the smell of raw marijuana as opposed the smell of burnt marijuana. In this case, the court held that with the strong smell of raw marijuana there is a fair probability that the car is being used to transport large quantities of marijuana and that the marijuana has been secreted in places other than the passenger compartment. The officer, therefore, is not limited to searching just the passenger compartment. See US v. Nielsen, (1993) for further information.

The smell of burnt and raw marijuana make a difference on how you can search the vehicle

Wyoming v. Houghton, (1999)-If there is probable cause to search a car, then police officers may inspect all areas capable of concealing the object of the search, **including all passengers and their belongings.**

*****Follow policy, but yes you can search all passengers if you have probable cause without violating the 4th amendment*****

US v. Williams, (2005) States that the officer can order a passenger in a vehicle, who was trying to exit and leave a traffic stop, back into the vehicle. "Allowing a passenger, or passengers, to wander freely about while a lone officer conducts a traffic stop presents a dangerous situation by splitting the officer's attention between two or more individuals, and enabling the driver and/or the passenger(s) to take advantage of a distracted officer." The need for the officer's safety and ability to exercise control over the occupants in a vehicle stopped on traffic outweigh the minimal intrusion into the passenger's liberty.

*****You definitely want to control your occupants, but if they are trying to leave the scene, you should absolutely stop that passenger and ask questions*****

Scott v. Harris, (2007)-Deputy Timothy Scott, petitioner here, terminated a high-speed pursuit of respondent's car by applying his push bumper to the rear of the vehicle, causing it to leave the road and crash. Respondent was rendered quadriplegic. Harris filed suit alleging the use of excessive force resulting in an unreasonable seizure under the Fourth Amendment.

A police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders **does not violate the Fourth Amendment**, even when it places the fleeing motorist at risk of serious injury or death.

Points of the court's reasoning:

1. The respondent placed himself and the public in danger by fleeing the police in a reckless and high speed manner in his vehicle.
2. He ignored the lights and sirens of many police cars for several miles.
3. The police dash video showed the suspect placed numerous people in danger by the manner of his driving.
4. Purely innocent citizens might have been hurt if the officer did not stop the suspect.
5. The citizens would not be equally protected if the police quit chasing the suspect. The police need not have to take that chance and hope that the suspect would slow down and drive normally if they quit chasing.
6. There was no way to convey to the suspect he was free to go after the officers ended the pursuit. The suspect may think the officers were just changing tactics and continue to drive in a reckless manner.
7. The officer's actions to use a tactical maneuver would insure that the suspect would no longer threaten the safety of innocent citizens.

The court refuses to create a rule that that puts within a suspect's grasp the means to escape the police just by fleeing in a reckless and dangerous manner. The Constitution assuredly does not impose this invitation to impunity-earned-by recklessness.

*****Follow your pursuit policy, but it is not a violation of the fourth amendment to end a dangerous pursuit, however, make sure many of the above factors apply before acting*****

US v. Legge, (2011)-The separating of the driver from the passenger and questioning both about their travel plans is a permissible activity for a law enforcement officer to pursue during a traffic stop. This activity is not restrained by the decision in *US v. Hunnicutt* (see above).

Divide and conquer is a great way to determine the honesty of your vehicle occupants

United States v. Trestyn, (2011)-A Wyoming trooper stopped a vehicle for having only one (rear) California vehicle plate. California requires both a front and rear tag. Wyoming, however, requires only a rear tag. The trooper approached the vehicle and observed that the decals were current on the tag. The trooper detained the driver and ran a driver license check and other checks. He also questioned the driver and passenger. The Court ruled that the vehicle only had to comply with Wyoming law. The trooper discovered upon approaching the vehicle that the tag was in proper order. He had no reason to delay the driver and passenger any longer even to run routine checks.

Vehicles from other states do not have to follow the tag laws of Ohio, and you cannot enforce another states tag laws in Ohio

Plumhoff v. Rickard, (2014)-Rickard fled police in a high-speed chase. Rickard spun out in a parking lot, but tried to flee again. His bumper was flush against a police car. Rickard was spinning his tires trying to get away. An officer fired 3 rounds at Rickard. Rickard managed to drive away, almost striking an officer in the process. Officers fired 12 more rounds at him. He and his passenger were struck. Both died from a combination of their gunshot wounds and injuries from the eventual crash. The family sued claiming that the Fourth Amendment did not allow the use of deadly force to end the pursuit, and that the officers shot too many rounds. The Court considered:

1. Speeds over 100 mph
2. The length of the pursuit over several minutes
3. Many motorists were put into danger

Careful, see *Cleveland Brelo* case. You better be sure lives were in danger before pulling the proverbial trigger. Look at the totality of the case, was he fleeing or was he fleeing and trying to strike an officer or others...Think fast...

Kansas v. Glover, (2020), was a United States Supreme Court case in which the Court held when a police officer lacks information negating an inference that the owner is driving a vehicle, an investigative traffic stop made after running a vehicle's license plate and learning that the registered owner's driver's license has been revoked is **reasonable under the Fourth Amendment**.

If you run a tag that states the owner of the vehicle is suspended or is not valid, your driver should match the description of the owner, if the car is registered to an unlicensed female and a male is driving, that is not enough to stop the vehicle in question

Tennessee v. Garner, (1985), is a civil case in which the Supreme Court of the United States held that, under the Fourth Amendment, when a law enforcement officer is pursuing a fleeing suspect, the officer may not use deadly force to prevent escape unless "the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others."

It was found that the use of deadly force to prevent escape is an unreasonable seizure under the Fourth Amendment, in the absence of probable cause that the fleeing suspect posed a physical danger.

Objectively reasonable standard for use of force encounters. Follow agency use of force policy

Chimel v. California, (1969), A United States Supreme Court case in which the Court held that police officers arresting a person at home could not search the entire home without a search warrant, but police may search the area within immediate reach of the person without a warrant. The rule on searches incident to a lawful arrest within the home is now known as the Chimel Rule. *****Think domestic violence...you MAY search the immediate area of suspects for weapons without a warrant. Cars too*****

Minnesota v. Dickerson, (1993), was a decision by the Supreme Court of the United States. The Court unanimously held that, when a police officer who is conducting a lawful pat down search for weapons (Terry search) feels something that plainly is contraband, the object may be seized even though it is not a weapon. *****Due to your training and experience, I was able to ascertain that I was able to plain feel that a baggie was in the defendant's right front pocket and usually contains illegal drugs*****

Illinois v. Wardlow, 528 U.S. 119 (2000), is a case decided before the United States Supreme Court involving U.S. criminal procedure regarding searches and seizures.

Is a person's sudden and unprovoked flight from identifiable police officers, patrolling a high crime area, sufficiently suspicious to justify the officers' stop of that person? **YES**

Case law for unprovoked flight.

According to the Supreme Court's decision in Illinois v. Wardlow, a person's presence in a "high-crime area" coupled with "unprovoked flight" from the police can constitute the reasonable suspicion necessary for a police stop.

*****Key points, "high crime area" and "un-provoked"*****

Miranda v. Arizona, (1966). The prosecution may not use statements, whether exculpatory or inculpatory, stemming from **custodial interrogation** of the defendant unless it demonstrates the use of **procedural safeguards effective to secure the privilege against self-incrimination**. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right to silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently.

*****Traffic stops in general are investigatory stops that will not need Miranda, but the second you have probable cause of a crime and place the subject under arrest, it is a good idea to advise them of their constitutional rights*****

REASONABLE SUSPICION

HUNCH

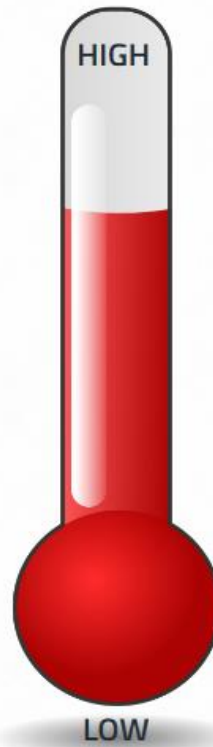
- Do not go far enough for purposes of establishing a justification for Fourth Amendment intrusion
- Do not satisfy the need for articulable facts

REASONABLE SUSPICION AND PROBABLE CAUSE

- Primary standards used for Fourth Amendment intrusion
- Officers must be able to cite specific and articulable facts to support their judgement

PROOF BEYOND A REASONABLE DOUBT

- Not relevant to arrests, searches, and seizures



6 Proof Beyond a Reasonable Doubt

5 Probable cause to believe suspect is guilty

4 Probable cause to believe that evidence or contraband currently exists

3 Reasonable suspicion suspect is armed and dangerous and poses a risk of harm to officer

2 Reasonable suspicion that suspect is involved in criminal activity

1 Hunch

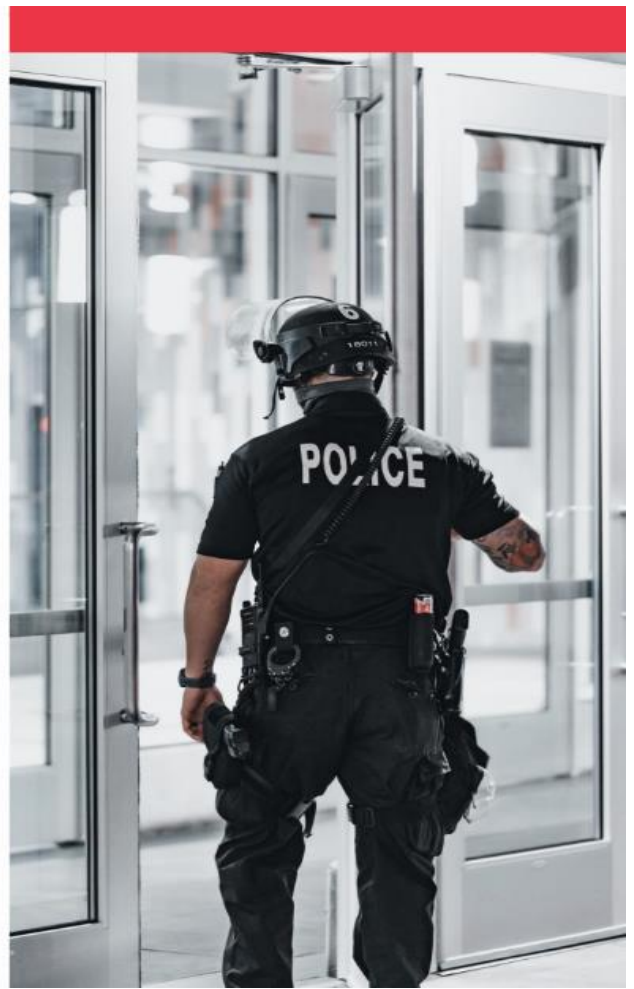
PROBABLE CAUSE

EXISTS WHEN...

- A reasonably prudent person would believe that the person to be arrested has committed a crime
- The place to be searched contains evidence of a crime or contraband
- Requires a higher probability of guilt

FOURTH AMENDMENT REQUIRES PROBABLE CAUSE TO:

- Obtain an arrest warrant
- Make an arrest without a warrant
- Obtain a search warrant
- Conduct some searches without a warrant



ESTABLISHING PROBABLE CAUSE

TO SEARCH

Concerned with the present location of evidence or contraband

TO ARREST

Focuses on the current or prior activities of the person to be arrested

TWO CATEGORIES

OBSERVATIONAL

- Perceived through natural senses
- Could be criminal actions observed, physical evidence, or admissions
- Experience, training, and expertise may lend credibility

INFORMATIONAL

- When an officer does not witness the crime
- Gained through victim statement
- Can also come from official and unofficial sources
 - Roll calls, dispatch bulletins
 - Citizen informants, police informants, anonymous informants

ARRESTS

Probable cause is required to arrest

Formal Arrests

Intentionally conducted by the officer

De Facto Arrests

- Unintentionally conducted by the officer.
- Happens when an officer exceeds the boundaries set for a Terry stop.
- If a stop lasts too long or is too intrusive, the seizure escalates into an arrest.



Terry v. Ohio, (1968), was a landmark U.S. Supreme Court decision in which the Court ruled that it is constitutional for American police to "**stop and frisk**" a person they reasonably suspect to be armed and involved in a crime. Specifically, the decision held that a police officer does not violate the Fourth Amendment to the U.S. Constitution's prohibition on unreasonable searches and seizures when questioning someone even though the officer lacks probable cause to arrest the person, so long as the police officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime. The Court also ruled that the police officer may perform a quick surface search of the person's outer clothing for weapons if they have reasonable suspicion that the person stopped is "armed and presently dangerous." This reasonable suspicion must be based on "specific and articulable facts," and not merely upon an officer's hunch.

*****On traffic stops, it is permissible to search within the drivers wingspan of reach if you have reasonable suspicion that occupants may be armed*****

Ohio Peace Officer Training Academy

TERRY STOPS

TWO PRINCIPLES

1. Police may detain persons for **investigation of conduct** that establishes reasonable suspicion of criminal activity.
2. Police may conduct a Terry pat-down if they have reasonable suspicion that the **detainee may be armed and dangerous** and pose a risk to the safety of the officer.

INVESTIGATIVE DETENTION AKA TERRY STOPS

- Terry stops require a **minimum of reasonable suspicion** of criminal activity.
- Used interchangeably with investigative stops or detentions.
- In appropriate circumstances and manner, an officer can **approach and detain a person** to investigate possible criminal activity even without probable cause to make an arrest.

TOTALITY OF CIRCUMSTANCES

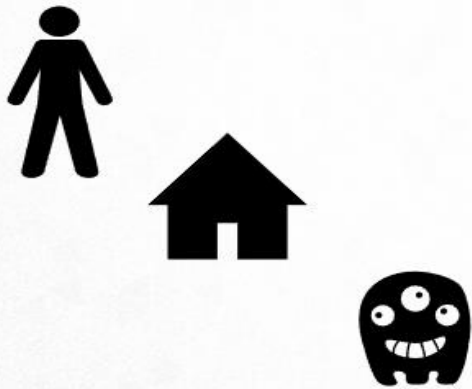
- Any one of the circumstances alone may not justify a Terry stop, but **together they may amount to reasonable suspicion**.
- An officer can give weight to **their experience and to the reasonable inference** they're entitled to draw from the circumstances and facts.

WARRANTS | EXIGENT CIRCUMSTANCES

WARRANTS

Probable cause must exist for warrants.





Best practice: If a warrant can be secured, it should be obtained prior to searching anyone, anyplace, or anything.



WARRANTLESS SEARCHES

Exigent circumstances = Exceptions to the general requirement of a warrant.

Exigent circumstances are circumstances that would cause a reasonable person to believe that entry was necessary to prevent:

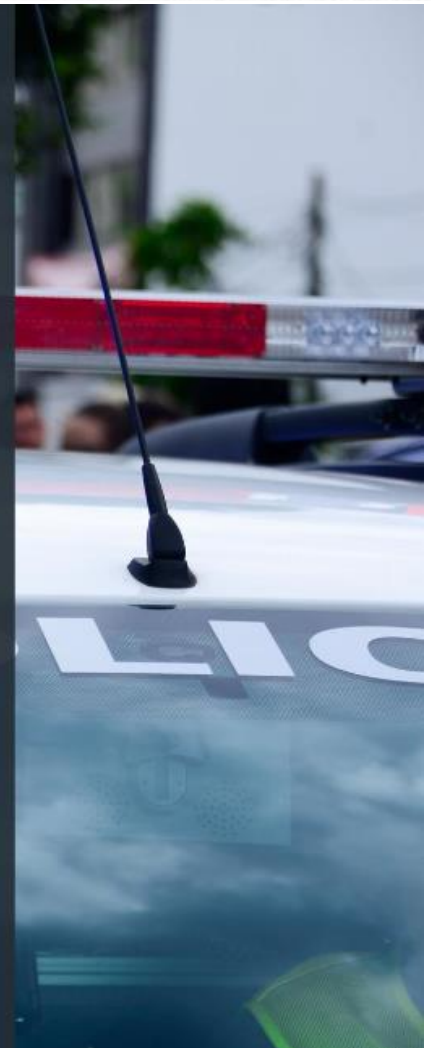
-  • Physical harm to officers or other people
-  • Destruction of evidence
-  • Escape of suspects
-  • Other consequence interfering with law enforcement

LANGE V. CALIFORNIA

READ THE JUSTIFICATION

The US Supreme Court ruled that NO, the pursuit of a fleeing misdemeanor does not always qualify as an exigent circumstance.

Therefore, if a suspect who is only being pursued for **misdemeanor** offenses has fled into a private residence, and no other exigent circumstances are present, an officer must obtain a warrant prior to entering the private residence.



Section 2921.29 | Failure to disclose personal information.

(A) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who **reasonably suspects either of the following**:

(1) The person is committing, has committed, or is about to commit a criminal offense.

(2) The person witnessed any of the following:

(a) An offense of violence that would constitute a felony under the laws of this state;

(b) A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;

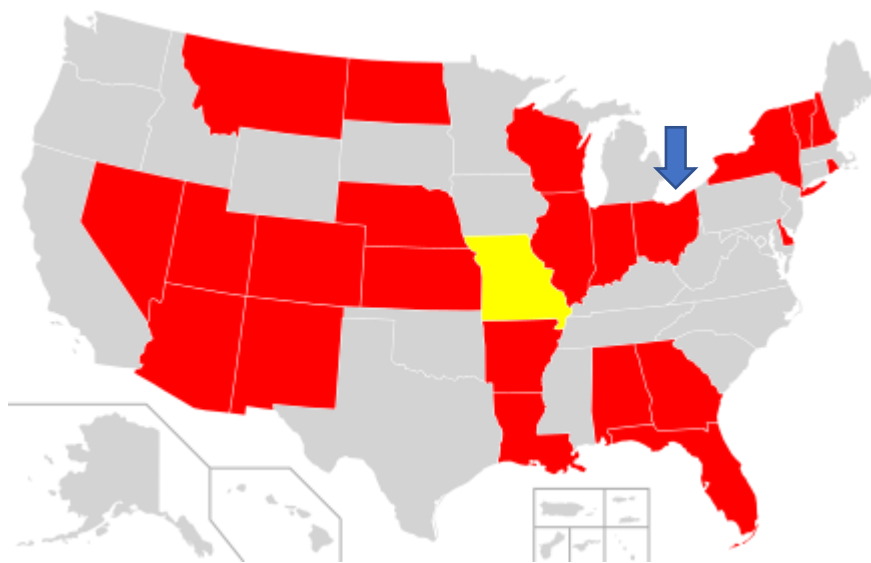
(B) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree. **(M-4)**

(C) **Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.**

(D) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing.

*****Drivers of a vehicle legally stopped must identify themselves with a license or verbally giving name and date of birth and address. You must have at least reasonable suspicion to compel ID from a passenger*****

States in red have ID laws in place. In Ohio, you must ID if operating a motor vehicle or suspected of a crime.



Firearm laws in Ohio (Constitutional carry) Eff. June 12, 2022 (ORC 2923.111)

Any qualified adult 21 years of age or older may carry a handgun in any manner they choose while in public and or operating a motor vehicle. (A qualified adult is someone who is not under a weapons disability and is legally allowed to own a firearm). The Ohio constitutional carry law does not have a residency requirement meaning that any US citizen may carry concealed or in the open in Ohio regardless of what state they reside. Those who choose to carry must still follow the rules and not carry while on school or government properties as well as places that display signs prohibiting handguns. There is a law enforcement and military exception.

Citizens **DO NOT HAVE A DUTY TO INFORM A LAW ENFORCEMENT OFFICER THAT THEY ARE ARMED, but, if asked by law enforcement, they must answer truthfully.** All citizen encounters should include the question "Do you have any weapons on you or in this vehicle"

Long guns. The new law does not apply to rifles or shotguns, which must still be transported unloaded in a closed container, with ammunition in a separate container or closed compartment, in the vehicle's trunk or in an area not accessible without leaving the vehicle.