

# Research Strategy--Spring 2018

- Finding the Law
- Reading the Law
- Updating the Law
- Christopher & Jill Wren, The Legal Research Manual (2d ed. 1986)

# Goal

- Find mandatory authority. (Wren chart)
- Use persuasive authority when:
  - No mandatory exists
  - Weak mandatory
  - Challenge the mandatory

# Issues

- Was vehicle stop based on “reasonable suspicion” by police officers under Oregon statutes 131.605 and 131.615 (similar car spotted near vandalism scene; suspect slinks down in seat)
- Was officer’s inquiry about the use or possession of drugs within limited scope of the vehicle stop under Oregon statutes 131.605 and 131.615 (not the reason for stop; no warrants; rave t-shirt)

# Thinking about the Problem

- You need search terms. Use TARP (things, action, relief, parties) to determine facts and legal theories
- May not succeed at first, but must start somewhere.

# Finding the Law—Search Methods

- Index
- Topic
- Known authority
- Full text searching (online only)
- Some combination of these

# Terms and Connectors

- Must link **terms** with **connectors** (/p, /s, +3)
- Phrases in quotation marks
- Allows truncation (\* and !)
- Only retrieves docs within search parameters
- No term-dropping

# Natural Language

- String together words that might be relevant
- No truncation or connectors
- Enclose phrases in quotation marks
- String alternative terms together
- Some term-dropping to achieve results

# Finding the Law

- Start with secondary sources? Maybe even Google!
- Check for constitutional provisions and statutes.
- Try to find leading case(s).
- Use leading case(s) to find cases from your jurisdiction.



oregon investigatory stops

Sources use the phrase "investigative stops" and "investigatory stops"

All News Maps Images Video

About 29,600 results (0.66 seconds)

Don't underestimate Google!

In alignment with federal case law (Terry v Ohio), **Oregon** gives police officers the authority to "**stop**" persons for a limited time, for the purpose of brief questioning in order to establish the persons identity and dispel (or confirm) the officers reasonable suspicion that the person has committed, or is about to ...

### Search and Seizure Field Guide

<https://www.aclu.org/.../oregon/.../30012-30050%20Search%20and%20Seizure%20Fiel...>

About this result Feedback

### ORS 131.615 - Stopping of persons - 2015 Oregon Revised Statutes

<https://www.oregonlaws.org> > 2015 ORS > Vol. 4 > Chapter 131

(1) A peace officer who reasonably suspects that a person has committed or is about to commit a crime may **stop** the person and, after informing the person that the peace officer is a peace officer, make a reasonable inquiry. (2) The detention and inquiry shall be conducted in the vicinity of the **stop** and for no longer than a ...

### [PDF] Search and Seizure Field Guide

<https://www.aclu.org/.../oregon/.../30012-30050%20Search%20and%20Seizure%20Fi...>

In alignment with federal case law (Terry v Ohio), **Oregon** gives police officers the authority to "**stop**" persons for a limited time, for the purpose of brief questioning in order to establish the persons identity and dispel (or confirm) the officers reasonable suspicion that the person has committed, or is about to ...

### [PDF] State v. Maciel-Figueroa - Oregon - Appellate Court Opinions

[www.publications.ojd.state.or.us/docs/S063651.pdf](http://www.publications.ojd.state.or.us/docs/S063651.pdf)

Mar 2, 2017 - The sole issue on review is whether that **stop** was lawful under Article I, section 9, of the

# Search and Seizure Field Guide



Good for A Quick Summary

A synopsis of the 2008 Search and Seizure manual

## Search and Seizure - *The Rule*

The laws pertaining to Search and Seizure have been put in place to protect citizens from unreasonable searches and seizures by the government. In other words, these laws give rights to citizens, while restricting the actions of the government. Thus, two questions should immediately come to mind. First, what is a search or a seizure? Second, if it was a search or seizure, how do we determine whether or not it was reasonable? It is important to recognize that searches and seizures are separate events, each requiring their own independent authorities and determinations of reasonableness. In other words, having a valid (reasonable) authority to seize someone or something does not automatically provide a valid authority to search that person or thing. Hopefully, this field guide will assist you in making such determinations within the unique situations you encounter day to day.

Since all search and seizure law is ultimately derived from the 4<sup>th</sup> Amendment to the United States Constitution, and (for Oregonians) Article 1 Section 9 of the Oregon Constitution, it makes sense to start there.

The US Constitution (4<sup>th</sup> Amendment) states: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Federal Courts have interpreted this to mean that:

A search occurs when a person's subjective expectation of privacy (an expectation that society is prepared to consider reasonable) is infringed.

A seizure of property occurs when there is some meaningful interference with an individual's possessory interest in that property.

A seizure of a person occurs when, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave, and, when the officer, by means of physical force or show of authority, has in some way restrained the liberty of that person.

The Oregon Constitution (Article 1, Section 9) states: "No law shall violate the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Oregon Courts have interpreted this to mean that:

A search occurs when a person's privacy interests are invaded.

## Private Party Searches

The courts have not applied the exclusionary rule to searches by private parties acting under their own volition. This is because, while such searches/seizures may indeed intrude upon another's protected privacy interests, the private party is not a government agent. However, if the private party conducts the search under the direction or support of a government agent, the search or seizure will be governed under the laws of search and seizure and, thus, become subject to the exclusionary rule. So, just recognize that in asking or suggesting a citizen take certain actions, you may be engaging them as your agent and, thus, an agent of the government.

## Stop, Frisk and Reasonable Suspicion

There are three generally recognized categories of encounters between police officers and individuals. Arranged in ascending order of justification, they are:

1. **Mere Conversation or Mere Encounter** – questioning without any restraint of liberty, which requires no justification.
2. **Stop** – a temporary restraint of a person's liberty, justified by reasonable suspicion or, if the offense is a traffic violation, probable cause.
3. **Arrest** – justified by probable cause

In this section, we discuss stops and other activities that police can engage in based upon a reasonable suspicion.

*Reasonable suspicion means that an officer holds a belief that is reasonable under the totality of the circumstances that exist at the time and place the officer acts.*

Reasonable suspicion is a lesser standard of proof than probable cause (PC). However, like "probable cause," reasonable suspicion does have both an objective and subjective component. It takes both objective and articulable facts, plus an officer's subjective belief (i.e., that the facts lead to reasonable suspicion) for the courts to conclude that a reasonable suspicion did, in fact, exist.

The fact that there are possible lawful explanations for behavior does not preclude an officer from also being able to conclude there is a reasonable suspicion that the activity is criminal in nature.

Taken alone, furtive gestures, deceptive behavior, or fleeing will not be enough to give an officer reasonable suspicion to stop a person. Neither would an officer's mere hunches, experience or intuition. However, combined with other articulable details, any of these can contribute in the overall analysis of whether a reasonable suspicion exists.

Proximity in time and place to a crime, combined with matching the general description (even if there are minor discrepancies) would constitute a reasonable suspicion to stop a person or vehicle.

When an officer is relying upon information from an informant to establish reasonable suspicion, the officer's report should include some indicia of the informant's reliability, such as: 1) the informant's exposure to criminal liability for making a false statement (i.e., named/known vs. unnamed/unknown informants); 2) whether or not the information is based upon personal observations by the informant; or, 3) independent observations by the officer which corroborate the informant's information.

## Criminal Investigative Stops (AKA: "Stop and Detain")

*Stop: A stop occurs when an officer, by show of authority, restrains the liberty of the person encountered so that a reasonable person would not feel free to refuse to cooperate, or to leave the scene.*

In alignment with federal case law (Terry v Ohio), Oregon gives police officers the authority to "stop" persons for a limited time, for the purpose of brief questioning in order to establish the person's identity and dispel (or confirm) the officer's reasonable suspicion that the person has committed, or is about to commit a crime. ORS 131.615(2) further limits this detention to the vicinity of the stop, and for no longer than a reasonable time. Based on case law, the "vicinity of the stop" would include the area immediately surrounding (or within several yards) of the stop, but does not extend as far as in the case where the detainee was moved three blocks away. A "reasonable time" has been interpreted to mean that the police are "diligently pursuing the investigation." Because there are no set time limits, it is important to document your investigative steps, in order to show your "stop" did not last any longer than was necessary.

If, during the course of an investigation, your reasonable suspicion is dispelled (dissipates), the stop must end. Detention beyond that point will be deemed unlawful.

A stop will be considered reasonable if it is limited to: 1) the immediate circumstances that aroused the officer's suspicion; 2) other circumstances arising during the course of the detention and inquiry that give rise to a reasonable suspicion of criminal activity; and 3) ensuring the safety of the officer, the person stopped or other person's present.

During the course of a criminal investigative stop, an officer has statutory authority to ask for consent to search at any time, as well as make inquiry about the presence of weapons, whether or not the officer has a reasonable suspicion to believe such weapons exist. However, if the officer does not have reasonable suspicion and if the inquiries or search extend the duration of the stop, the court may find the consent was not voluntary and suppress any evidence regardless of the statutory authority.

Reasonable suspicion to detain a person does, as a practical matter, extend to the detention of that person's property (i.e., vehicle, bag, etc.). However, absent consent or some other authority, the mere fact that an officer has conducted a criminal investigative stop does not, in itself, provide the officer with the authority to search a person, their vehicle, or other belongings for evidence of the crime that was the reason for the stop.

TABLE OF CONTENTS

- vehicle stops
- 2.A.5. Canine Sniffs
- 2.B. Investigative Detention
  - 2.B.1. What You Need to Make an Investigative Detention — Reasonable Suspicion
    - 2.B.1.a. Personal Observation and Information Known to Other Officers
    - 2.B.1.b. Tips



suspicion, usually the reasonable suspicion required for an investigative detention.

*Find out how the courts in your jurisdiction view canine sniffs, and write it in the Notes section at the end of this chapter.*

## 2.B. Investigative Detention

Bloomberg Law > Books & Treatises > Bloomberg BNA

### 2.B.1. What You Need To Make An Investigative Detention — Reasonable Suspicion

**If you have knowledge of specific facts that lead you to reasonably suspect that a person is involved in criminal activity, you may stop and briefly detain the person for questioning even without probable cause for an arrest.**

A stop and temporary detention cannot simply be based on a hunch or an educated guess. You must be able to point to specific facts that support your suspicion. Your decision to act may be based on your assessment of the whole picture before you, including the reasonable conclusions your experience enables you to draw from the facts. If you cannot articulate specific facts and conclusions, then any evidence that you uncover as a result of your stop cannot be used in a prosecution.

The “criminal activity” you wish to investigate can be ongoing at that moment; it can also be crimes that have already been committed or crimes you think the suspect is about to commit.

#### 2.B.1.a. Personal Observation And Information Known To Other Officers



IN THE SUPREME COURT OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Petitioner on Review,*

*v.*

ANTONIO MACIEL-FIGUEROA,  
*Respondent on Review.*

(CC 11P3134; CA A148894; SC S063651)

En Banc

On review from the Court of Appeals.\*

Argued and submitted May 9, 2016.

Susan G. Howe, Assistant Attorney General, Salem, filed the brief for petitioner on review. Also on the brief were Ellen F. Rosenblum, Attorney General, and Paul L. Smith, Deputy Solicitor General.

Ernest G. Lannet, Chief Defender, Salem, filed the brief for respondent on review.

Elizabeth G. Daily, Portland, filed the brief for *amicus curiae* Oregon Justice Resource Center. Also on the brief was Corinne Fletcher.

NAKAMOTO, J.

The decision of the Court of Appeals is affirmed. The judgment of the circuit court is reversed, and the case is remanded to the circuit court for further proceedings.

\* Appeal from Polk County Circuit Court, Monte S. Campbell, Judge. 273 Or App 298, 356 P3d 674 (2015).

In sum, the standard for “reasonable suspicion” required to support the lawfulness of an investigative stop of a person suspected of criminal conduct is well-established. For police officers to make a stop, they must reasonably suspect—based on specific and articulable facts—that the person committed a specific crime or type of crime or was about to commit a specific crime or type of crime. For a court to determine that an investigative stop was lawful under Article I, section 9, the court (1) must find that the officers actually suspected that the stopped person had committed a specific crime or type of crime, or was about to commit a specific crime or type of crime, and (2) must conclude, based on the record, that the officers’ subjective belief—their suspicion—was objectively reasonable under the totality of the circumstances existing at the time of the stop. *See, e.g., Holdorf*, 355 Or at 825; *Ehly*, 317 Or at 79-80.

Turning to the kind of evidence required to establish the lawfulness of a stop, because the officers in this case believed only that defendant may have committed a crime in Velek’s house, we limit our discussion to the evidence needed to support an officer’s belief that the defendant may have committed a crime. All this court’s cases after *Cloman* have consistently required the state to establish the “specific and articulable facts” that led the officer to actually believe that the defendant may have committed a crime or type of crime. The state agrees that an officer is able to point to “specific and articulable facts” that led to the officer’s belief. But, the state emphasizes that a court reviewing the lawfulness of a stop must consider whether the “totality of the circumstances” suggested that criminal activity was afoot and now relies on a theory that defendant may have committed domestic violence crimes, backed by cases from other jurisdictions concerning suspected domestic violence crimes. In making that argument, the state implies that an appellate court may review a stop for whether there was any possibility that any crime may have been committed. In other words, the state suggests that we can affirm the trial court’s denial of defendant’s motion to suppress apart from the officers’ testimony about the factual circumstances leading to the stop and the crimes that they suspected that defendant had committed when they

Note the cases discussed in this recent case on point.

# Finding the Law

- Start with secondary sources?
- Check for constitutional provisions and statutes.
- Try to find leading case(s).
- Use leading case(s) to find cases from your jurisdiction.

# Narrative Secondary Sources

- Books
- American Law Reports
- Encyclopedias (national & state)
- Legal periodicals
- ~~Restatements~~



Home > Secondary Sources > Criminal Law Secondary Sources > Cr

# Searches & Seizures, Arrests

Browse Table of Contents below or search above.

Select all content | **No items selected** | [Clear Selection](#)

## Preliminary Materials

- Chapter 1. Development of Fourth Amendment Principles
- Chapter 2. Coverage of Fourth Amendment
- Chapter 3. Exclusionary Rule
- Chapter 4. Probable Cause
- Chapter 5. Formal Requirements for Issuance of Warrant
- Chapter 6. Execution of Warrant
- Chapter 7. Challenging Search Conducted Pursuant to Warrant
- Chapter 8. Government Conduct Not Covered by Fourth Amendment
- Chapter 9. Consent Searches
- Chapter 10. Exigent Circumstances
- Chapter 11. Searches of Vehicles and Vessels
- Chapter 12. Searches Incident to Arrest

## Looking for this?

[Searches & Seizures, Arrests & Confessions](#)

[Checklists for Searches & Seizures in Public Schools](#)

## Secondary Sources

**Searches** 22 J. Juv. L. 247 | 10/16/2002

**Safety Searches** 2002 WL 25507257 | 11/14/2002

**Employee Searches**

## Cases

**In Re Searches And Seizures**

**Matter Of Searches** O  
1/7/1995 | E.D.N.Y.

**Matter Of Searches** C  
9/23/1980 | E.D.Wis.

## Dockets

Consulting a treatise for background and to find primary sources

- § 11:6. Inventory searches
- § 11:7. --Legitimate impoundment of the vehicle
- § 11:7.10. --Unreasonable impoundment of the vehicle
- § 11:8. --Scope of inventory and container searches
- § 11:9. Forfeiture of vehicle as instrumentality of crime
- § 11:10. --Validity of seizure
- § 11:11. --Search of vehicle legitimately seized
- § 11:12. Other stops of vehicles--Investigative stops
- § 11:13. ----Traffic stops
- § 11:13.10. -----Cases finding reasonable suspicion for stop
- § 11:14. --Traffic stops--Passengers
- § 11:15. ----Pretext stops
- § 11:16. ----Subsequent detention after stop

**§ 11:12. Other stops of vehicles—Investigative stops**

Searches and Seizures, Arrests and Confessions | Searches of Vehicles and Vessels (Approx. 18 pages)

Document

 Reading Mode

View Full TOC



§ 11:12. Other stops of vehicles--Investigative stops

§ 11:13. ----Traffic stops

§ 11:13.10. -----Cases finding reasonable suspicion for stop

§ 11:14. --Traffic stops--Passengers

§ 11:15. ----Pretext stops

§ 11:16. ----Subsequent detention after stop

## § 11:12. Other stops of vehicles—Investigative stops

[Correlation Table](#) | [References](#)

Police officers may stop a vehicle for investigative purposes based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant suspicion of criminal conduct on the part of the occupants of the vehicle.<sup>1</sup> The authority to stop a moving vehicle based upon less than probable cause derives from *Terry v. Ohio*,<sup>2</sup> as applied by the Supreme Court to vehicles.<sup>3</sup> Thus, a routine traffic stop justifies other incidents of a *Terry* search, such as a patdown of the driver and a brief search of the car.<sup>4</sup>

The applicable standard is an intermediate one that defies precise definition. Its existence must be determined case by case, and that determination entails broad-based consideration of all the attendant circumstances. In determining whether a police officer had reasonable suspicion to



**§ 89. Investigatory stop or detention**

George L. Blum, J.D., Romualdo P. Eclavea, J.D., Alan J. Jacobs, J.D., and Eric C. Surette, J.D. **American Jurisprudence**, Second Edition (Approx. 40 pages)

Document

Citing References (21)

Table of Authorities

Powered by KeyCite

Return to list

5 of 10,000 results

Original terms

Reading Mode

View Full TOC

§ 88. Generally

§ 89. Investigatory stop or detention

§ 90. --Duration and scope

§ 91. --Prolonged detention or questioning; reasonable suspicion of criminal activity as justification

State v. Foxx, 2014-Ohio-235, 7 N. Greene County 2014).

Consulting another secondary source – Am. Jur.2d -- for background and to find primary sources

A **stop** is unlawful, and violates the right to free from unreasonable searches and seizures, unless it meets an objective test of reasonableness based on observable facts. U.S.C.A. Const.Amend. 4; West's Or.Const. Art. 1, § 9 ; West's Or.Rev. Stat. Ann. § 131.615(1). State v. Holdorf, 355 Or. 812, 333 P.3d 982 (2014).

Police officer may **stop** and briefly detain and question a person for **investigative** purposes, without treading upon his Fourth Amendment rights, when the officer has a reasonable suspicion supported by articulable facts, short of probable cause for arrest, that the person is



**§ 91. Investigatory stop or detention—Prolonged detention or questioning; reasonable suspicion of criminal activit...**

George L. Blum, J.D., Romualdo P. Eclavea, J.D., Alan J. Jacobs, J.D., and Eric C. Surette, J.D. | American Jurisprudence, Second Edition (Approx. 23 pages)

Document

Citing References (20)

Table of Authorities

Powered by KeyCite

Reading Mode



View Full TOC

**(1) In General; Stops of Persons**

§ 88. Generally

§ 89. Investigatory stop or detention

§ 90. --Duration and scope

§ 91. --Prolonged detention or questioning; reasonable suspicion of criminal activity as justification

U.S.C.A. Const.Amend. 4. State v. Leveck, 196 Ohio App. 3d 26, 2011-Ohio-1135, 962 N.E.2d 316 (2d Dist. Montgomery County 2011).

Police officers responding to report that named man was threatening to break things in a house lacked reasonable suspicion of criminal activity to justify stop of suspect walking away from the house to investigate whether he had committed crime inside the house; although officers reasonably believed that suspect could be the man named in the report, the lone fact that someone yelled and threatened to break things did not give rise to logical inference that person actually broke things, and officers did not hear anything or observe anything else about suspect that suggested he had destroyed property in the house or that he assaulted or threatened harm to homeowner. [Or. Const. art. 1, § 9](#), State v. Maciel-Figueroa, 361 Or. 163, 389 P.3d 1121 (2017).

Under Fourth Amendment, officer had reasonable suspicion to extend the traffic stop to investigate whether the driver had been assaulted by defendant, who was passenger in vehicle; driver had a black eye that appeared to be a few days old, based on its yellow and purple

Found this recent Oregon case through Google too.



**State v. Maciel-Figueroa**

Supreme Court of Oregon, En Banc. | March 2, 2017 | 361 Or. 163 | 389 P.3d 1121 (Approx. 19 pages)

- Document
- Filings (6)**
- Negative Treatment (0)
- History (3)
- Citing References (24)
- Table of Authorities

Powered by KeyCite

**Filings (6) 1-6**

No items selected

**VIEW:**

- Appellate Court Documents 4
- Dockets 2
- All Results 6**

**NARROW:**

Search within results

<input type="checkbox"/>	Title	PDF	Court	Date	Type
<input type="checkbox"/>	<p><b>1. Brief On the Merits of Amicus Curiae Oregon Justice Resource Center</b></p> <p>STATE OF OREGON, Plaintiff-Respondent, Petitioner on Review, v. Antonio MACIEL-FIGUEROA, Defendant-Appellant, Respondent on Review.</p> <p>2016 WL 1718350</p>		Or.	Apr. 04, 2016	Brief
<input type="checkbox"/>	<p><b>2. Brief on the Merits - Respondent on Review</b></p> <p>STATE OF OREGON, Plaintiff-Respondent, Petitioner on Review, v. Antonio MACIEL-FIGUEROA, Defendant-Appellant, Respondent on Review.</p> <p>2016 WL 1532961</p>		Or.	Mar. 28, 2016	Brief
<input type="checkbox"/>	<p><b>3. Brief on the Merits of Petitioner on Review, State of Oregon</b></p> <p>STATE OF OREGON, Plaintiff-Respondent, Petitioner on Review, v. Antonio MACIEL-FIGUEROA, Defendant-Respondent, Respondent on Review.</p>		Or.	Feb. 08, 2016	Brief



**Brief on the Merits - Respondent on Review**  
STATE OF OREGON, Plaintiff-Respondent, Petitioner on Review, v. Antonio MACIEL-FIGUEROA, Defendant-Appellant, Respondent on Review.

Examine the brief's **Table of Authorities** for more primary sources.

Supreme Court of Oregon. (Approx.)

Document

Filings (5)

Negative Treatment (0)

History (3)

Related Opinions/Dockets (2)

**Table of Authorities**

Powered by KeyCite

Go to [dropdown] [bell icon] [link icon] [search icon] [AA icon] [dropdown icon]

<i>State v. Highley</i> , 354 Or 459, 313 P3d 1068 (2013)	10
<i>State v. Holdorf</i> , 355 Or 812, 333 P3d 982 (2014)	2, 11, 12
<i>State v. Jacobus</i> , 318 Or 234, 864 P2d 841 (1993)	17
<i>State v. Maciel-Figueroa</i> , 273 Or App 298, 356 P3d 674 (2015)	1, 2, 4, 7, 11, 19, 21
<i>State v. Valdez</i> , 277 Or 621, 561 P2d 1006 (1977)	11, 14
<b>*iii Constitutional and Statutory Provisions</b>	
Or Const, Art I, § 9	8, 9, 11, 14, 19
Or Laws 1997, ch 866, § 1	14
ORS 131.605 to 131.625	12
ORS 131.605(4)	14
ORS 131.605(6)	12
ORS 131.615	13
ORS 131.615(1)	12
ORS 161.405(1)	16
ORS 163.160	16

A finding of p  
**BRIEF OF**  
1990 WL 50  
State of Ala  
Supreme Co  
Mar. 22, 199  
...On July 6,  
indicted for p  
possession o  
§20-2-70, Cr  
arraignment  
guilty...

See More B

**Trial Court**

**United Sta**

2010 WL 11  
UNITED ST  
FIELDS, D

**Permissibility under Fourth Amendment of detention of motorist by police, following lawful stop for traffic offense...**

American Law Reports ALR Federal | Originally published in 1994 (Approx. 428 pages)

Document

History (0)

Citing References (113) ▾

Table of Authorities

Powered by KeyCite



Part: ◀ 1 of 8 ▶

Secondary source—ALR— not sure it is relevant.

**118 A.L.R. Fed. 567 (Originally published in 1994)**

American Law Reports | The ALR databases are made current by the weekly addition of relevant new cases.  
ALR Federal  
Thomas Fusco, J.D.

**Permissibility under Fourth Amendment of detention of motorist by police, following lawful stop for traffic offense, to investigate matters not related to offense**

Frequently, upon stopping a motorist for a traffic violation, a law enforcement official will question the motorist about matters that are not related to the traffic violation for which the motorist was detained. Such action by law enforcement officials sometimes raises the Fourth Amendment issue of whether the further investigation constituted an unreasonable search or

**SELECTED TOPICS**

Automobiles

Prosecution

[Valid Traffic Stop Police Officer Need](#)

**Secondary Sources**

**THE "ROUTINE TRAFFIC STOP" FROM START TO FINISH: TOO MUCH "ROUTINE," NOT ENOUGH FOURTH AMENDMENT**

102 Mich. L. Rev. 1843

...I. The Start: Lawfulness of the Traffic Stop. 1846 A. Quantum of Evidence. 1846 B. Protection Against Arbitrariness and Pretext. 1852 II. The In-Between: Dimensions of a Lawful Traffic Stop. 1862 A. Th...

**s 9.3(a). Grounds for stop**

4 Search & Seizure § 9.3(a) (5th ed.)

...The primary (indeed, virtually exclusive) inquiry appropriate to determining the

# Statutes and Constitution

- **ORS 131.605, 131.615**
- **U.S. Const. amend. IV** – search and seizure
- **Or. Const. art 1, § 9** – search and seizure

**Use annotated codes** to research statutes & constitutions.

# Reading the Law--Statutes

- Read text carefully
- Note related sections in code's statutory scheme -- Title, Chapter, Section
- Read the annotations



**131.615. Investigatory stops**

West's Oregon Revised Statutes Annotated

Title 14. Procedure in Criminal Matters Generally (Approx. 2 pages)

Oregon statute—known-authority. Consult the secondary source annotations.

- Document
  - Notes of Decisions (852)
  - History (0)
  - Citing References (1,260) ▾
  - Context & Analysis (50) ▾
- Powered by KeyCite

KeyCite. Citing References (14) 1-14 Sort By: Date: Newest First ▾

No items selected

a traffic stop. This annotation...

...tit. 29, § 5–203(B). See 4 Kellog v. State, 1988 OK CR 225, 762 P.2d 993 (Okla. Crim. App. 1988)4 Oregon **Or. Rev. Stat. Ann. § 131.615(1)** . See 5 Or. Rev. Stat. Ann. § 136.432. See 19 Or. Rev. Stat. Ann. § 496.660...

**5. CRUISING THROUGH TRAFFIC STOPS: DOES OREGON SEARCH & SEIZURE LAW PLACE A SUBJECT MATTER LIMITATION ON OFFICER INQUIRIES?**

2012

90 Or. L. Rev. 1389 , 1392+

Introduction. 1390 I. An Introduction to Oregon Search and Seizure Law. 1393 II. Historical Limitations to Traffic Stops in Oregon. 1394 III. The Enactment of ORS 136.432:...

...apparent contradiction between Oregon statutory law and modern Oregon case law regarding a subject matter limitation confuses citizens and police officers alike. On one hand, **ORS 131.615** and ORS 810.410, Oregon's

**CRUISING THROUGH TRAFFIC STOPS: DOES OREGON SEARCH & SEIZURE LAW PLACE A SUBJECT MATTER LI...**

Ben Veralrud | Oregon Law Review (Approx. 38 pages)

Document

Citing References (0)

Table of Authorities

Powered by KeyCite

Cite: 90 Or. L. Rev. 1389 (2012)

[Return to History](#)

◀ 97 of 172 results ▶

Go to ▾



a certain amount of judicial elbow room for the exercise of discretion.”<sup>156</sup>

## Conclusion

This Comment has examined nearly forty years of Oregon state and statutory law to answer the question posed from the start: Is there a subject matter limitation on officer inquiries during routine traffic stops in Oregon? Twenty years ago, the answer would have been “yes,” based on case law, such as *State v. Evans* and *State v. Carter*, and its application of [ORS 131.615](#) and [810.410](#).

However, the enactment of [ORS 136.432](#), in addition to subsequent case law such as *State v. Amaya* and *State v. Gomes*, has collectively answered “no” to whether Oregon law recognizes a subject matter limitation. In sum, Oregon law does not recognize a subject matter limitation to officer inquiries that are unrelated to the traffic reason for the stop--for the time being.



## 131.615. Investigatory stops

West's Oregon Revised Statutes Annotated | Title 14. Procedure in Criminal Matters Generally (Approx. 2 pages)

Document

Notes of Decisions (852)

History (0)

Citing References (1,260) ▾

Context & Analysis (50) ▾

Powered by KeyCite

Go To



Table of Contents



### Credits

Laws 1973, c. 836, § 31; Laws 1997, c. 866, § 1.

For Bluebook Citation

Or. Rev. Stat. Ann. § 131.615 (West, Westlaw through 2017 Reg. Sess. Legis.)

### Notes of Decisions (852)

O. R. S. § 131.615, OR ST § 131.615

Current with 2017 Reg. Sess. legislation effective through Jan. 1, 2018, except for Chs. 358, 489, 512, 642, 651 and 679, pending classification of undesignated material and text revision by the Oregon Reviser. See ORS 173.160.

End of Document

Necessity for  
investigatio

Obstructing

Offense in a  
reasonable

Persons and  
substances

Presumptio

Probable o

Proximity to  
reasonable

Questions o

Reasonable  
or stop-and

Review

Right of



**131.615. Investigatory stops**

West's Oregon Revised Statutes Annotated Title 14. Procedure in Criminal Matters Generally (Approx. 2 pages)

Oregon statute—known-authority. Consult the case annotations.

Document

Notes of Decisions (852)

History (0)

Citing References (1,260)

Context & Analysis (50)

Powered by KeyCite

**Notes of Decisions (852)**

Grounds, generally, motor vehicle searches

Grounds and purpose generally

Grounds for stop or investigation, investigatory stop or stop-and-frisk

Intoxication, generally, motor vehicle searches

Inventory or booking search

Probable or reasonable cause - Arrest without warrant

Probable or reasonable cause - Motor vehicle searches

Probable or reasonable cause - Offense in officer's presence

Probable or reasonable cause - Proximity to crime

Proximity to crime, probable or reasonable cause

Sort By: Choose a sort type...

**Grounds for stop or investigation, investigatory stop or stop-and-frisk**

Also listed as **Investigatory stop or stop-and-frisk - Grounds for stop or investigation**

A reliable report from a citizen informant that criminal activity is imminent may be sufficient on its own to provide the required specific and articulable facts supporting an investigatory stop. [State v. Mitchele \(2010\) 251 P.3d 760, 240 Or.App. 86.](#) Arrest 60.2(10)

Police officer, in determining existence of reasonable suspicion necessary to justify investigatory stop of passenger in vehicle, could consider information that he received from other officers, including information that driver was known felon with an outstanding warrant who was under investigation as a suspect in a local methamphetamine distribution ring. [State v. Holdorf \(2014\) 333 P.3d 982, 355 Or. 812](#). Arrest 🔑 60.2(13)

Officer intuition and experience alone are not sufficient to meet the objective test of reasonableness necessary for a lawful stop; however, if an officer is able to point to specific and articulable facts that a person has committed a crime or is about to commit a crime, the officer has a reasonable suspicion and may stop the person to investigate. [State v. Holdorf \(2014\) 333 P.3d 982, 355 Or. 812](#). Arrest 🔑 60.2(10)

The standard of reasonable suspicion justifying a police intrusion on the liberty interest to be free from unreasonable searches and seizures when a person is stopped was intended to be less than the standard of probable cause to arrest. [State v. Holdorf \(2014\) 333 P.3d 982, 355 Or. 812](#). Arrest 🔑 60.2(10)

Following stop of vehicle for traffic infraction, police officer had reasonable suspicion to investigate crimes of furnishing alcohol to minor and minor in possession of alcohol at time that he asked defendant and other passengers for their identifying information, even though defendant provided information that indicated he was not a minor; vehicle was in remote location frequented by people using drugs and alcohol, when officer spoke with driver about reason for traffic stop, he could smell alcohol emanating from vehicle, front-seated passenger appeared to be under the influence of a stimulant, driver was 18 years old, and other passengers all appeared to be between ages of 18 and 25. [State v. Faubion \(2013\) 308 P.3d 337, 258 Or.App. 184](#). Automobiles 🔑 349(14.1); Automobiles 🔑 349(18)

Courts examine objective facts known to the police officer at the time of the stop to determine if officer had reasonable suspicion to conduct investigatory stop. [State v. Faubion \(2013\) 308 P.3d 337, 258 Or.App. 184](#). Arrest 🔑 60.2(10)

Relevant case, and topic and key number for issue #1

Reasonable suspicion to conduct investigatory stop does not require that facts as observed by police officer conclusively indicate illegal activity but, rather, only that those facts support reasonable inference of illegal activity by that person. [State v. Faubion \(2013\) 308 P.3d 337, 258 Or.App. 184](#). Arrest 🔑 60.2(10)

An investigatory stop must be based on the police officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances. [State v. Wiseman \(2011\) 261 P.3d 76, 245 Or.App. 136](#). Arrest 🔑 60.2(10)



**State v. Wiseman**

Court of Appeals of Oregon | August 17, 2011 | 245 Or.App. 136 | 261 P.3d 76 (Approx. 6 pages)

**State v. Wiseman: One Good Case (Known-Authority)**

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (43)

Table of Authorities

Powered by KeyCite

Most of the cases cited in Maciel-Figueroa are listed under 35k60.2(10).

**1 Arrest**

An investigatory stop must be based on the police officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances. U.S.C.A. Const.Amend. 4; West's Or.Const. Art. 1, § 9; West's Or.Rev. Stat. Ann. § 131.615(1); ORS 131.605(5) (2010).

4 Cases that cite this headnote



35	Arrest
35II	On Criminal Charges
35k60.2	Investigatory Stop or Stop and Frisk
35k60.2(6)	Grounds for Stop or Investigation
35k60.2(10)	Reasonableness; reason or founded suspicion, etc

**2 Arrest**

Police officer had objective reasonable suspicion under state statute, and state and federal constitutions, that defendant was engaged in criminal activity, supporting investigatory stop of defendant, where officer viewed defendant loading bicycle into back of truck at 1:50 in the morning, named homeowner's report to police of defendant's activity was reliable, defendant exhibited furtive behavior, including slouching in passenger seat of vehicle. When officer approached, and defendant was in high-crime area. U.S.C.A. Const.Amend. 4; West's Or.Const. Art. 1, § 9; West's Or.Rev. Stat. Ann. § 131.605.

5 Cases that cite this headnote



35	Arrest
35II	On Criminal Charges
35k60.2	Investigatory Stop or Stop and Frisk
35k60.2(6)	Grounds for Stop or Investigation
35k60.2(13)	Particular cases

and "unclassified service" state employees (Ala. Admin. Code §670-X-3), meaning positions in state service not desi...

[See More Secondary Sources](#)

**Briefs**

**Brief of National Black Police Association, National Association of Black Law Enforcement Officers, Women in Federal Law Enforcement, the National Center for Women & Policing, and Americans for Effective Law Enforcement, Inc., as Amici Curiae Supporting Respondent**

2005 WL 328203  
TOWN OF CASTLE ROCK, COLORADO, Petitioner, v. Jessica GONZALES, individually and as next best friend of her deceased minor children, Rebecca GONZALES, Kathryn GONZALES, and Leslie GONZALES, Respondent.  
Supreme Court of the United States  
Feb. 10, 2005

...The undersigned amici curiae are the National Black Police Association, National Association of Black Law Enforcement



**131.615. Investigatory stops**

West's Oregon Revised Statutes Annotated

Title 14. Procedure in Criminal Matters Generally (Approx. 2 pages)

Document

Notes of Decisions (852)

History (0)

Citing References (1,260) ▾

Context & Analysis (50) ▾

Powered by KeyCite

**Notes of Decisions (852)**

Statute -- known authority -- case annotation index

View All

Search Notes of Decisions

Search

**Hierarchical View**

List View

Controlled substances

Controlled substances - In general

Controlled substances - Motor vehicle searches

Controlled substances - Persons and personal effects

Controlled substances - Use of dogs

Duration and extent, investigatory stop or stop-and-frisk

Factual basis, investigatory stop or stop-and-frisk

Motor vehicle searches - Sobriety tests

Motor vehicle searches - Weight and sufficiency of evidence

Necessity for cause for arrest, investigatory stop or stop-and-frisk

Obstructing justice

Offense in officer's presence, probable or reasonable cause

Persons and personal effects, controlled substances

Presumptions and burden of proof

officer, that such a container could hold weapons, including knives, razor blades, and “sticking items such as dirks.” [State v. Gilkey \(2001\) 18 P.3d 402, 172 Or.App. 95.](#) Arrest  60.2(20)

Arresting officer's testimony that he “usually regard[ed] pretty much everybody” he took a police action against, or made contact with in an official capacity, “as being a potential threat” to the officer did not establish reasonable suspicion for arresting officer to search inside defendant's wallet to determine if it contained a weapon that a member of the crowd could have used to facilitate defendant's escape if officer delivered the wallet to a bystander. [State v. Komas \(2000\) 13 P.3d 157, 170 Or.App. 468.](#) Arrest  60.2(20)

A pat-down or a limited search for weapons to protect an arresting officer or to prevent an escape is a permissible search. [State v. Komas \(2000\) 13 P.3d 157, 170 Or.App. 468.](#) Arrest  60.2(19)

An arresting officer may conduct a further protective search, beyond a pat-down or a limited search for weapons, if he or she develops a reasonable suspicion, based on specific and articulable facts, that the person in custody poses a serious threat of harm or escape and that a search would lessen or eliminate that threat. [State v. Komas \(2000\) 13 P.3d 157, 170 Or.App. 468.](#) Arrest  60.2(20)

Relevant case annotation and topic and key number for issue #2

When viewing the totality of the circumstances, an officer's conduct after stating that a driver is free to go may negate such a statement. [State v. Toevs \(1998\) 964 P.2d 1007, 327 Or. 525.](#) Arrest  60.3(3)

Where defendant was lawfully stopped for suspicion of having participated in a car break-in, officer's question whether defendant possessed any weapons was reasonably related to purpose of the stop. [State v. Strawn \(1998\) 963 P.2d 34, 154 Or.App. 460.](#) Arrest  60.2(20)

Purpose of the statute limiting inquiry pursuant to investigatory stop is to invalidate random intervention into the liberty and privacy of a person by asking questions that have nothing to do with the circumstances leading to the stop. [State v. Strawn \(1998\) 963 P.2d 34, 154 Or.App. 460.](#) Arrest  60.2(20)

Police officer safety measures in the context of a stop are circumscribed by principles of reasonableness. [State v. Rickard \(1997\) 947 P.2d 215, 150 Or.App. 517, review denied 952 P.2d 61, 326 Or. 234.](#) Arrest  60.2(20)

Safety precautions taken in context of a stop must be reasonable under the circumstances as they reasonably appeared at time that decision was made. [State v. Rickard \(1997\) 947 P.2d 215, 150 Or.App. 517, review denied 952 P.2d 61, 326 Or. 234.](#) Arrest  60.2(20)

Although brevity of stop is important factor in determining whether investigative stop meets requirements of Fourth Amendment, court must also consider law enforcement purposes to be served by stop as well as time reasonably needed to effectuate those purposes. [U.S. v. \\$64,765.00 in U.S. Currency, 1991, 786 F.Supp. 906.](#) Arrest 🗝️ 60.2(20)

Investigation as to source of money found in vehicle subsequent to stop and consent to search was not excessive, even though it lasted 90 minutes, for purposes of determining whether evidence seized was subject to suppression in civil forfeiture proceeding. [U.S. v. \\$28,980 in U.S. Currency, 1990, 786 F.Supp. 899.](#) Arrest 🗝️ 60.3(3)

Terry investigatory stop of defendant had ended by the time police asked about contents of box, given evidence that police, before inquiring, had told defendant and companion that they were free to leave, inasmuch as reasonable person would have felt free to leave when told he could do so in course of friendly encounter with police officers; therefore, suppression was not warranted on grounds that question about contents of box exceeded justifiable scope of stop. [U.S. v. Brown \(2002\) 38 Fed.Appx. 449, 2002 WL 505932, Unreported.](#) Arrest 🗝️ 60.2(20)

Evidence was insufficient to support finding that officer subjectively believed that lump in defendant's pocket contained a weapon, and thus to support finding that officer had reasonable suspicion to remove lump from defendant's pocket during pat down search; officer testified that he removed the lump, a cigarette pack, because he believed it might contain drugs, and officer did not testify that he was concerned that the pack concealed any firearms. [State v. Wiggins \(2002\) 56 P.3d 436, 184 Or.App. 333.](#) Arrest 🗝️ 60.2(20)

Another relevant case annotation and topic and key number for issue #2

Seizure of an item on officer safety grounds pursuant to a pat down is valid only if there exists reasonable suspicion that the object might contain a weapon; such reasonable suspicion exists if the container has the physical capacity to conceal a weapon and, under the totality of the circumstances, there was a reasonable suspicion that it did contain a weapon. [State v. Wiggins \(2002\) 56 P.3d 436, 184 Or.App. 333.](#) Arrest 🗝️ 60.2(20)

Police cannot continue to lawfully detain defendant after legal stop has ended without reasonable suspicion that he or she has engaged in some criminal activity. [State v. Ehret \(2002\) 55 P.3d 512, 184 Or.App. 1](#) Arrest 🗝️ 60.2(20)

When officers enter a residence to execute a search warrant and have reason to believe that some of the occupants may be armed and dangerous, officer safety concerns permit them to handcuff persons who are present but not named in the warrant and detain them long enough to ensure both the officers' and the occupants' safety; that is true even though the officers may not be able to identify anything about the persons other than their presence in such a place. [State v. Swibies \(2002\) 53 P.3d 447, 183 Or.App.](#)

**NARROW:**

Select Multiple Filters

Search within results

Key Number Select

Jurisdiction 420  
Oregon

Date All

Select Multiple Filters

Back to (10) —Reasonableness; reason or founded suspicion, etc

# (10) —Reasonableness; reason or founded suspicion, etc (420)

Jurisdiction: Oregon Change

1 - 20 Sort by: Topic then Date  
Topic then Date  
Topic then Most Cited

Select all items No items selected

35 ARREST 3,155

- 35II On Criminal Charges 3,129
  - 3560.2 Investigatory Stop or Stop and Frisk 1,151
    - 3560.2(6) Grounds for Stop or Investigation 514
      - 3560.2(10) Reasonableness; reason or founded suspicion, etc 420

Use controlled indexing to find more cases

- 1. State v. Chambers**  
Court of Appeals of Oregon. | September 20, 2017 | 287 Or.App. 840  
**Headnote:** Generally, a stop violates State Constitution unless justified by, for example, necessities of a safety emergency or by reasonable suspicion that the person has been involved in criminal activity. Or. Const. art. 1, § 9.  
**Document Preview:** CRIMINAL JUSTICE - Investigatory Stop. Deputies' reasonable suspicion that defendant was in violation of diversion agreement did not provide a lawful basis for stopping defendant.
- 2. State v. Davis**  
Court of Appeals of Oregon. | July 6, 2017 | 286 Or.App. 528  
**Headnote:** The Oregon constitution requires a temporary restraint of a person's liberty for an investigatory purpose, i.e., a stop, to be justified by necessities of a safety emergency or by reasonable suspicion that the stopped person has been involved in criminal activity. Or. Const. art. 1, § 9.



- ▾  **60.2 Investigative stop or stop and frisk**
  - (1) In general
  - (2) What is a stop or investigatory stop
  - (5) Necessity for cause for arrest
  - (6) Grounds for stop or investigation
    - (7) —In general
    - (8) —Profiling
    - (9) —Collective knowledge
    - (10) —Reasonableness; reason or founded suspicion, etc
    - (11) —After-acquired information
    - (12) —Pursuit
    - (13) —Particular cases
  - (14) Mode of stop
  - (15) Warnings
  - (16) Arrest distinguished
    - (17) —In general
    - (18) —Particular cases
  - (19) Justification for pat-down search
  - (20) Duration of detention and extent or conduct of investigation or frisk
- 60.3 Motor vehicle stops**
- 60.4 What constitutes a seizure or detention**
- 62 Authority to arrest without warrant in general**

Relevant topic and key numbers for the two issues

**State v. Davis**

Court of Appeals of Oregon | July 6, 2017 | 286 Or.App. 528 | 400 P.3d 994 (Approx. 12 pages)

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (2) ▾

Table of Authorities

Powered by KeyCite

[Return to list](#)

◀ 2 of 163 results ▶

Go to ▾



that defendant possessed drugs.

4 5 6 [Article I, section 9, of the Oregon Constitution](#), requires a temporary restraint of a person's liberty for an investigatory purpose—*i.e.*, a “stop”—to be justified by “necessities of a safety emergency or by reasonable suspicion that the [stopped] person has been involved in criminal activity[.]” [State v. Ashbaugh](#), 349 Or. 297, 308-09, 244 P.3d 360 (2010). When a stop is initially lawful, “it may endure only for the time it takes an officer to complete an investigation that is reasonably related to the basis for the stop.” [State v. Sherman](#), 274 Or.App. 764, 773, 362 P.3d 720 (2015). When a stop extends past that point, “it must be justified by at least reasonable suspicion of some other **\*\*998** criminal activity.”<sup>1</sup> *Id.* Here, as the parties have framed the issue, the dispositive question is whether Powers had reasonable suspicion of drug possession when he asked defendant whether a drug detection canine would alert “on his pickup.”<sup>2</sup>

7 8 9 10 Reasonable suspicion exists if a police officer “subjectively suspects that an individual has committed, or is about to commit, a crime, and that belief is ‘objectively reasonable under the totality of the circumstances.’ ” [State v. Huffman](#), 274 Or.App. 308, 312, 360 P.3d 707 (2015), *rev. den.*, 358

See footnote 1 from [State v. Davis](#)

**State v. Davis**

Court of Appeals of Oregon. July 6, 2017 286 Or.App. 528 400 P.3d 994 (Approx. 12 pages)

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (2) ▾

Table of Authorities

Powered by KeyCite

Return to list

◀ 1 of 107 results ▶

Go to ▾



286 Or.App. 528, 400 P.3d 994

**Footnotes**

1 The state implicitly acknowledges that the record lacks evidence that Powers's investigation into whether defendant possessed drugs occurred during an “unavoidable lull” in Powers's theft investigation. See [State v. Kimmons](#), 271 Or.App. 592, 601-02, 352 P.3d 68 (2015) (acknowledging that a request for consent to search for items unrelated to reason for initial stop during an “unavoidable lull” does not unlawfully extend the stop).

2 The state argues that we should decline to consider defendant's argument that reasonable suspicion did not support Powers's investigation into drug possession because “to the extent that [defendant] raised it in the trial court, he did so in a way that frustrates the purposes of the preservation rule.” Without further written discussion, we reject the state's suggestion that defendant failed to preserve the argument he makes on appeal.

**“Unavoidable lull” exception**

**State v. Kimmons**

Court of Appeals of Oregon | June 10, 2015 | 271 Or.App. 592 | 352 P.3d 68 (Approx. 10 pages)

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (29)

Table of Authorities

Powered by KeyCite

Go to



have developed differently. ). Accordingly, the record is not sufficiently developed to support that argument as a possible alternative ground for affirmance.

3 4 5 Our consideration thus narrows to whether the trial court erred in concluding that the stop was not unlawfully extended. We begin with an overview of the applicable legal principles. “Seizures or searches for evidence to be used in a criminal prosecution, conducted without a warrant or without an exception to the warrant requirement, violate [Article I, section 9](#) [.]” [Rodgers/Kirkeby](#), 347 Or. at 623, 227 P.3d 695. A \*601 temporary restraint of a person’s liberty for the purpose of criminal investigation—viz., a stop—qualifies as a seizure, and, therefore, must be justified by a reasonable suspicion of criminal activity. *Id.* at 621, 227 P.3d 695; [Ehly](#), 317 Or. at 79–80, 854 P.2d 421. For that reason, police may not unreasonably delay, or extend the duration, of an otherwise lawful stop to investigate unrelated matters for which they lack reasonable suspicion, [Rodgers/Kirkeby](#), 347 Or. at 621–24, 227 P.3d 695, but investigations into unrelated matters that occur during an “unavoidable lull” are permissible, [Hall](#), 238 Or.App. at 77, 241 P.3d 757.

6 Consistently with those principles, a stop is unlawfully extended, effectuating an unconstitutional seizure, when

“an officer, without letting the person know expressly or by implication that he or she is free to leave, detains the person beyond the time reasonably required to investigate the initial basis for the stop and to issue a citation, without the requisite reasonable suspicion.”

**“Unavoidable lull” exception**

[State v. Huggett](#), 228 Or.App. 569, 574, 209 P.3d 385 (2009), rev. dismissed, 348 Or. 71, 228 P.3d 582 (2010) (citations omitted).

**State v. Kimmons**

Court of Appeals of Oregon. June 10, 2015 271 Or.App. 592 352 P.3d 68 (Approx. 10 pages)

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (29) ▾

Table of Authorities

Powered by KeyCite

Another topic and key number to find more cases

1

**Arrest**

Officers' request for consent to search, pertaining to matter unsupported by reasonable suspicion, could effect an unlawful extension of stop and, concomitantly, an unconstitutional seizure, even though defendant was stopped for criminal matter, rather than for traffic offense. West's [Or.Const. Art. 1, § 9](#).

[1 Case that cites this headnote](#)

		
<a href="#">35</a>		Arrest
<a href="#">35II</a>		On Criminal Charges
<a href="#">35k60.3</a>		Motor Vehicle Stops
<a href="#">35k60.3(3)</a>		Duration of detention and extent or conduct of investigation

2

**Criminal Law**

State's contention, on defendant's appeal from denial of her motion to suppress evidence discovered as result of search of her vehicle

		
<a href="#">110</a>		Criminal Law
<a href="#">110XXIV</a>		Review

...Under the Fourth Amendment of the United States Constitution, as well as under all state constitutions, the right of individuals to be free from unreasonable searches and seizures is guaranteed. By vir...

[See More Secondary Sources](#)

**Briefs**

**BRIEF FOR RESPONDENT**

1999 WL 607000  
State of Illinois v. William Wardlow a/k/a Sam Wardlow  
Supreme Court of the United States  
Aug. 06, 1999

...On September 10, 1995, a complaint was filed in the Circuit Court of Cook County charging Sam Wardlow ("Wardlow") with unlawful use of a weapon by a felon. App. 1. A finding of probable cause was made ...



**§ 9. Unreasonable search or seizure**

West's Oregon Revised Statutes Annotated | Constitution of Oregon (Approx. 2 pages)

Document

Notes of Decisions (4,024)

History (0)

Citing References (6,699) ▾

Context & Analysis (423) ▾

Powered by KeyCite

**Notes of Decisions (4,024)**



[View All](#)

Search Notes of Decisions

Search

**Hierarchical View**

[List View](#)

**Oregon Constitution -- known authority -- case annotation index**

Inventory or booking search

Investigatory stop or stop-and-frisk

Investigatory stop or stop-and-frisk - In general

Investigatory stop or stop-and-frisk - Checkpoints or roadblocks

Investigatory stop or stop-and-frisk - Consent

Investigatory stop or stop-and-frisk - Dog sniff

Investigatory stop or stop-and-frisk - Duration

Investigatory stop or stop-and-frisk - Identification

Threat of injury or escape, investigatory stop or stop-and-frisk

Time for application or issuance, warrants

Time of search, motor vehicle searches

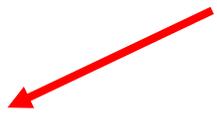
Time of search or seizure in relation to arrest, search or seizure incident to arrest

Use of dogs for odor detection

Use of force

Valid search incident to arrest

Validity, warrants



Sort By: Choose a sort type...



## § 9. Unreasonable search or seizure

West's Oregon Revised Statutes Annotated | Constitution of Oregon (Approx. 2 pages)

[Document](#)[Notes of Decisions \(4,024\)](#)[History \(0\)](#)[Citing References \(6,699\)](#)[Context & Analysis \(423\)](#)

Powered by KeyCite

### Notes of Decisions (4,024)

#### Investigatory stop or stop

Investigatory stop or stop-and-frisk - Duration

Oregon Constitution -- known authority -- recent case annotations

Also listed as **Duration, investigatory stop or stop-and-frisk**

Police officers' request to search defendant's person did not take place during an unavoidable lull in traffic stop while owner of vehicle that defendant was driving looked for insurance information, and thus the request impermissibly extended the traffic stop, where the officers could have asked owner to continue looking for the insurance or could have run defendant's information through dispatch, but instead officers switched their focus to investigate possession of controlled substances and requested permission to search the vehicle, which prompted owner to cease looking for insurance information and exit vehicle along with defendant. [State v. Reich \(2017\)](#), 403 P.3d 448, 287 Or.App. 292. [Automobiles](#) 🔑 349(18)

Police officer did not have reasonable suspicion to extend traffic stop to investigate drug trafficking, and thus officer unlawfully extended stop; officer knew only that defendant was driving on a suspended license on an interstate highway in a messy car with his mother driving behind him, that defendant was nervous to talk to officer, and that defendant's mother appeared to deliberately weave her car when officer first started following them. [State v. Tapp \(2017\)](#), 493 P.3d 262, 284 Or.App. 583. [Automobiles](#) 🔑 349(17)

A question may be reasonably related to a criminal investigatory stop, such that it does not unlawfully extend the stop in violation of the state there must, however, be a reasonable, circumstance-specific relationship between the question and the purpose of the stop. [State v. Pichardo \(2017\)](#), 488 P.3d 320, 360 Or. 754. [Arrest](#) 🔑 60.2(20)

At the time that officer extended the traffic stop, by returning to question defendant about his connection to owner of the car, the officer did not have reasonable suspicion that defendant was committing the crime of unauthorized use of vehicle so as to lawfully extend the stop; defendant's vague, or possibly evasive, statement that he was borrowing the car from friend was a fact that did



Document: **ORS § 131.615**



Actions ▾



Go to ▾

131.615



Search Document

Top of document

History

Annotations

Case Notes

Research References &

Practice...

State Notes



◀ Previous

Next ▶

Table of Contents

The Oregon Annotated Statutes is updated through October 6, 2017 with the exception of chapters 610 and 750. Some sections may be more current. Some sections may have multiple variants due to amendment by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents.

[LexisNexis® Oregon Annotated Statutes](#) > [Title 14 Procedure in Criminal Matters Generally](#) > [Chapter 131-Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention](#) > [Crime Prevention](#) > [\(Stopping of Persons\)](#)



📁 ▾ | 🖨️ ⚙️ | 📧 | 📄 ⚙️ | 📁 ⚙️ | 📄 | Go to ▾ | 131.615 ^ ▾ | 🔍 Search Document

### [1325 \(1989\)](#)

Police had reasonable suspicion defendant was cultivating marijuana because he was only person seen in vicinity of marijuana patch during two-day surveillance, was there for approximately two hours and carried tool that looked like clippers, so stop was lawful. [State v. Brown, 100 Or App 204, 785 P2d 790 \(1990\)](#), Sup Ct **review denied**

#### **Based on behavior, description or other**

Evidence that, upon seeing marked po **Found under Supplemental Annotations: Notes of Decisions: Reasonable suspicion** when officer again followed car, former driver kept glancing back, was sufficient "reasonable suspicion" for stop. [State v. Albertsen, 37 Or App 679, 590 P2d 615 \(1978\)](#), Sup Ct **review denied**

Where officers heard CB transmissions allegedly concerning illegal fishing between defendant and others and observed furtive conduct there was sufficient grounds for stop under this section. [State v. Pratt, 41 Or App 149, 597 P2d 842 \(1979\)](#), Sup Ct **review denied**

Unusually slow speed of vehicle that only partially matched description of suspect vehicle did not provide reasonable suspicion justifying stop. [State v. Ponce, 43 Or App 665, 603 P2d 1243 \(1979\)](#)

Where police officer knew that robbery had been committed five hours before, defendant's car matched description of car involved in robbery and defendant sought to evade officer after officer began to trail him, reasonable suspicion existed to stop defendant. [State v. Armstrong, 52 Or App 161, 628 P2d 1206 \(1981\)](#), Sup Ct **review denied**

Officer's knowledge that serious crime, robbery at credit union, had been committed, coupled with circumstances he had observed, made it reasonable to suspect that people in automobile were connected with crime and investigatory

About

▶ *Shepard's*®

Source Information

[OR - LexisNexis  
Annotated Statutes](#)

Related Content

[Find references](#)

[Archived code versions](#)

Topic Summaries

[View reports \(1\)](#)



Named citizen informant's conclusional statement that bag of cocaine fell out of wallet was shorthand relation of objective observations upon which officer could rely to form reasonable suspicion substance was cocaine. [State v. Lichty, 313 Or 579, 835 P2d 904 \(1992\)](#)

### **Based on presence in area**

Stop of only vehicle observed traveling in general area where crime had just occurred was reasonable. [State v. Jones, 23 Or App 706, 543 P2d 1103 \(1975\)](#); [State v. Teal, 94 Or App 381, 765 P2d 827 \(1988\)](#); [State v. Nguyen, 176 Or App 258, 31 P3d 489 \(2001\)](#)

Notwithstanding that defendant was walking in area of high vice activity and talking to known prostitute, stop of defendant for suspicion of attempted prostitution was not reasonable. [State v. Brown, 31 Or App 501, 570 P2d 1001 \(1977\)](#)

Where officer received police dispatch that burglary had been committed in last half hour within approximately three miles of place officer observed defendant's car, and car was driven evasively, there was justification for officer to reasonably suspect criminal activity. [State v. Bartosz, 34 Or App 123, 578 P2d 426 \(1978\)](#)

Where crime had just occurred in low traffic area at late hour, stop of nearby vehicle partially matching and partially contradicting description of suspect vehicle was justified. [State v. Ragsdale, 34 Or App 549, 579 P2d 286 \(1978\)](#), Sup Ct **review denied**

Where police officer was guarding mayor's home in response to threats against mayor, defendant's visit to neighboring house did not provide grounds to stop and frisk. [State v. Gaffney, 36 Or App 105, 583 P2d 582 \(1978\)](#), Sup Ct **review**



State Notes ▾

131.615



[ORS 810.410](#) and this section provided authority for officer to open door of motor vehicle when officer observed motor vehicle oddly parked and discovered defendant slumped in driver's seat with driver's door slightly open and engine running. [State v. Rhodes, 315 Or 191, 843 P2d 927 \(1992\)](#)

Where two officers present did not draw weapons, did not use or threaten use of force, did not make promises or use other means of coercion, consent to search was voluntary. [State v. Jacobus, 318 Or 234, 864 P2d 861 \(1993\)](#)

### Scope of

Detention and inquiry beyond time, place and subject-matter limits codified in this section, which are all components of "intrusiveness," constitute invalid random intervention into liberty and privacy of a person. [State v. Carter/Dawson, 34 Or App 21, 578 P2d 790 \(1978\)](#),aff'd [287 Or 479, 600 P2d 873 \(1979\)](#)

Where display of wad of money at tavern had been explained to officer's satisfaction, continuation of stop was not proper. [State v. Warner, 284 Or 147, 585 P2d 681 \(1978\)](#)

Search of car was impermissible intrusion in traffic stop after defendant had been frisked, was outside car, and had cooperated with officers. [City of Portland v. Poindexter, 38 Or App 551, 590 P2d 781 \(1979\)](#)

Where police officer had reasonable cause to stop vehicle, but ascertained that driver had no criminal record or outstanding process against him, further detention was unreasonable and evidence obtained after defendant's proper identity was ascertained was properly suppressed. [State v. Perry, 39 Or App 37, 591 P2d 379 \(1979\)](#)

Permissible scope of questioning was exceeded where defendant was questioned about possible presence of weapons in vehicle when immediate circumstance that aroused officer's suspicion was that vehicle was apparently parked in



Go to  Search Document

- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Detainee & Inmate Searches: Inventory Searches](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Dog Sniff Searches](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: General Overview](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: Absence of Probable Cause](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: Destruction of Evidence](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: Hot Pursuit](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: Opportunity to Obtain Warrant](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Exigent Circumstances: Protection of Officers & Others](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Inventory Searches](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Investigative Stops](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Open Fields](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Plain View](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Private Searches](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Search Incident to Lawful Arrest](#)
- [Criminal Law & Procedure: Search & Seizure: Warrantless Searches: Search Incident to Lawful](#)

Oregon Constitution -- known authority -- case annotation index on Lexis Advance



About
Notes

---

▼ *Shepard's*<sup>®</sup>

Shepardize<sup>®</sup> this document

---

▶ About This Document





Go to ▾

Search Document

traffic stop. [State v. Espinoza-Barragan, 253 Ore. App. 743, 293 P.3d 1072, 2012 Ore. App. LEXIS 1467 \(Or. Ct. App. 2012\)](#).

Reasonable suspicion to extend a traffic stop was not provided by the facts that defendant was nervous and his actions could be seen as reflecting a desire to avoid police contact and that he was driving a used car that he had recently bought for cash and for which he did not have registration or insurance information. [State v. Espinoza-Barragan, 253 Ore. App. 743, 293 P.3d 1072, 2012 Ore. App. LEXIS 1467 \(Or. Ct. App. 2012\)](#).

Police officer had reasonable suspicion of criminal activity for purposes of [Or. Const. art. I, § 9](#) to stop a vehicle based on a homeowner's report that she observed the truck outside her house in a high crime area at 1:50 a.m. and saw someone place a bike in the back of the truck. The officer confirmed the homeowner's description and the license plate number; the officer also observed the driver's and defendant's furtive behavior as they saw the patrol car pass. [State v. Wiseman, 245 Ore. App. 136, 261 P.3d 76, 2011 Ore. App. LEXIS 1140 \(Or. Ct. App. 2011\)](#).

Defendant's refusal to permit an officer to search her purse could play no role in establishing reasonable suspicion to search the purse. Reasonable suspicion was also not established by the circumstances that defendant had just left a motel that the police believed was involved in drug activity, was in a car with a person suspected of drug activity, and acted nervously when asked about her purse. [State v. Rutledge, 243 Ore. App. 603, 260 P.3d 532, 2011 Ore. App. LEXIS 859 \(Or. Ct. App. 2011\)](#).

Reasonable person would believe that an officer who is maintaining possession of the person's property while asking questions about it was significantly interfering with the person's freedom of movement. [State v. Rutledge, 243 Ore. App. 603, 260 P.3d 532, 2011 Ore. App. LEXIS 859 \(Or. Ct. App. 2011\)](#).



File Print Settings Download Settings Document Go to Page Page # Search Document

Criminal Law & Procedure > ... > Standards of Review > Deferential Review > General Overview > Evidence > Weight & Sufficiency

HN1 Standards of Review, Deferential Review

The appellate court defers to the trial court's findings of historical fact, which are supported by constitutionally sufficient evidence. More like this Headnote

Shepardize - Narrow by this Headnote (0)

Lexis topic summaries

Criminal Law & Procedure > Search & Seizure > Warrantless Searches > Investigative Stops > View more legal topics

HN2 Warrantless Searches, Investigative Stops

Under Or. Rev. Stat. § 131.615(1), a police officer has authority to stop a person if the officer reasonably suspects that the person has or is about to commit a crime. A person is about to commit a crime if the person engages in unusual conduct that leads a peace officer reasonably to conclude in light of the officer's training and experience that criminal activity may be afoot. Or. Rev. Stat. § 131.605(4). An officer has reasonable suspicion that a person has or is about to commit a crime if the officer holds a belief that is reasonable under the totality of the circumstances existing at the time and place the peace officer acts. Or. Rev. Stat. § 131.605(5). Thus, reasonable suspicion involves both a subjective and objective component: A stop must be based on the officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances. More like this Headnote

Shepardize - Narrow by this Headnote (2)

About Notes

Shepard's®

Reason for Shepard's Signal™? View the top citing reference

No subsequent appellate history.

Citing Decisions (7)

Positive (1) Cited By (6)

Other Citing Sources (45)

Shepardize® this document

About This Document

## Topic Summary: Investigative Stops

**Practice Area:** Criminal Law & Procedure

**Jurisdiction:** U.S. Federal

**Context:**

Criminal Law & Procedure > Search & Seizure > Warrantless Searches > **Investigative Stops**

### Definitions (1)

---

1. The basic requirement [is] that an investigative stop must be predicated on reasonable suspicion that criminal activity is afoot. [United States v. Simmons, 560 F.3d 98](#)

Lexis topic summaries for federal law, but some states too.

### Seminal Cases (9)

---

1. [Ala. v. White, 496 U.S. 325](#)
2. [United States v. Sokolow, 490 U.S. 1](#)
3. [Berkemer v. McCarty, 468 U.S. 420](#)
4. [Fla. v. Royer, 460 U.S. 491](#)
5. [United States v. Hensley, 469 U.S. 221](#)
6. [United States v. Sharpe, 470 U.S. 675](#)

About

Notes

▶ Actions

▼ Other Jurisdictions

California

Dist. of Columbia

Florida

Georgia

Illinois

Massachusetts

Maryland

Michigan

Minnesota

Missouri

New Jersey

New York

Ohio

Pennsylvania



File, Print, Settings, Mail, Download, Settings, Settings, Document, Go to Page #, Up/Down arrows, Search Document

LexisNexis® Headnotes

Criminal Law & Procedure > ... > Standards of Review > Deferential Review > General Overview > Evidence > Weight & Sufficiency

HN1 Standards of Review, Deferential Review

The appellate court defers to the trial court's findings of historical fact, which are supported by constitutionally sufficient evidence. More like this Headnote

Shepardize - Narrow by this Headnote (0)

Use controlled indexing to find more cases

Criminal Law & Procedure > Search & Seizure > Warrantless Searches > Investigative Stops

View more legal topics

HN2 Warrantless Searches, Investigative Stops

Under Or. Rev. Stat. § 131.615(1), a police officer has authority to stop a person if the person has or is about to commit a crime. A person is about to commit a crime if the person engages in unusual conduct that leads a peace officer reasonably to conclude in light of the officer's training and experience that criminal activity may be afoot. Or. Rev. Stat. § 131.605(4). An officer has reasonable suspicion that a person has or is about to commit a crime if the officer holds a belief that is reasonable under the totality of the circumstances existing at the time and place the peace officer acts. Or. Rev. Stat. § 131.605(5). Thus, reasonable suspicion involves both a subjective and objective component: A stop must be based on the officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances. More like this

- Get documents
Create an alert
View in topic index
View topic summary report



Shepard's®

Reason for Shepard's Signal? View the top citing reference

No subsequent appellate history.

Citing Decisions (7)

Positive (1)

Cited By (6)

Other Citing Sources (45)

Shepardize® this document

About This Document



- Cases 542
- Statutes and Legislation 976
- Secondary Materials 4184
- ⌵ Show more

Narrow By

Oregon ✕

Clear ☆

Search Within Results

Enter search terms 🔍

Court

Select courts to display at the top of this list. [Edit Settings](#) ✕

State > Oregon	542
Appeals Court	491
Supreme Court	51

## Cases (542)



1. ▲ **State v. Ehly**  
 Supreme Court of Oregon | Jul 01, 1993 | 317 Ore. 66

**Overview:** Police had right to search first bag probable cause to arrest defendant for being a search incident to a lawful arrest.

Defendant appealed the affirmation of his convictions by the Court of Appeals (Oregon) of a firearm under Or. Rev. Stat. § 166.270(1) and for unlawful possession of a controlled substance under Or. Rev. Stat. § 475.992(4)(b). Defendant rented a room from a motel. An argument ensued between defendant and two women who were there. The police were called. After the police arrived, defendant attempted to find the key to return to the manager. The police became concerned

2. 🔍 **State v. Valdez** 🔗  
 Supreme Court of Oregon | Mar 24, 1977 | 277 Ore. 621

**Overview:** Police officers who stopped a vehicle in which defendant was riding did not have grounds for reasonable suspicion that the persons in the vehicle had committed a crime; therefore, it was error to reverse the trial court's suppression of evidence.

Sort by: Relevance

- Relevance
- Document Title (A-Z)
- Document Title (Z-A)
- Jurisdiction (Z-A)
- Court (highest) by date (newest)
- Court (highest-lowest)
- Court (lowest-highest)
- Date (newest-oldest)
- Date (oldest-newest)
- [Edit default order](#)

Most of the cases cited in Maciel-Figueroa are listed under **Investigative Stops**



Go to ▾

Search Document

unlawful extension of a traffic stop in violation of [Or. Const. art. I, § 9](#), and defendant showed that if not for the unlawful extension of the stop, the officer would not have been in a position to request defendant's consent or to obtain acquired evidence. [State v. Foland, 224 Ore. App. 649, 199 P.3d 362, 2008 Ore. App. LEXIS 1801 \(Or. Ct. App. 2008\)](#).

Trial court erred in denying defendant's motion to suppress, because the officer's actions constituted an unlawful extension of an otherwise lawful stop, when defendant was stopped for having a nonfunctioning headlight and without reasonable suspicion that defendant had engaged in some further criminal activity, the officer asked defendant to step from the car and asked her whether she was in possession of any controlled substances. [State v. Stone, 223 Ore. App. 724, 196 P.3d 95, 2008 Ore. App. LEXIS 1692 \(Or. Ct. App. 2008\)](#).

Drug evidence was properly suppressed because a request for consent to a patdown search was unrelated to the basis for an initial traffic stop and extended the duration of the stop in violation of [Or. Const. art. I, § 9](#). The request for consent did not occur during an unavoidable lull in the investigation, given that officer had not asked for information that was purportedly needed to issue a citation. [State v. Kirkeby, 220 Ore. App. 177, 185 P.3d 510, 2008 Ore. App. LEXIS 700 \(Or. Ct. App. 2008\)](#), aff'd, [347 Ore. 610, 227 P.3d 695, 2010 Ore. LEXIS 61 \(Or. 2010\)](#).

After stopping defendant for trespassing, officer unlawfully prolonged the duration of the stop when he asked defendant to consent to a search without reasonable suspicion of other criminal activity. However, because defendant had already spontaneously offered to allow the officer to search him, the discovery of the evidence did not derive from the illegality and the evidence was admissible. [State v. Hendon, 222 Ore. App. 97, 194 P.3d 149, 2008 Ore. App. LEXIS 1150 \(Or. Ct. App. 2008\)](#).

Officer did not violate [Or. Const. art. I, § 9](#) when he stopped defendant and asked him if he had been drinking because the officer had a reasonable suspicion that defendant had been engaged in the criminal activity of driving under the influence of intoxicants under [Or. Rev. Stat. § 813.010](#) as the officer: (1) observed defendant's bloodshot, watery eyes,

# More on Finding the Law

- Use Shepard's and KeyCite
- Use **More like this Headnote** and **Research Recommendations**  
-- to find additional cases and secondary sources

🗑️ ▾ | ✉️ ▾ | Go to ▾ Page  ⬆️ ▾ | 🔍 Search Document

[View more legal topics](#)

**HN2** **Warrantless Searches, Investigative Stops**

Under [Or. Rev. Stat. § 131.615\(1\)](#), a police officer has authority to stop a person if the officer reasonably suspects that the person has or is about to commit a crime. A person is about to commit a crime if the person engages in unusual conduct that leads a peace officer reasonably to conclude in light of the officer's training and experience that criminal activity may be afoot. [Or. Rev. Stat. § 131.605\(4\)](#). An officer has reasonable suspicion that a person has or is about to commit a crime if the officer holds a belief that is reasonable under the totality of the circumstances existing at the time and place the peace officer acts. [Or. Rev. Stat. § 131.605\(5\)](#). Thus, reasonable suspicion involves both a subjective and objective component: A stop must be based on the officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances. 🔍 [More like this Headnote](#)

[Shepardize - Narrow by this Headnote \(2\)](#)

Use Shepard's and "More like this Headnote" to find more cases

**About**

▾ *Shepard's*®

Reason for Signal™? [View the top](#)

No subsequent history.

[Citing Decision](#)

Positive (

Cited By (

[Other Citing So](#)



**State v. Wiseman**

Court of Appeals of Oregon | August 17, 2011 | 245 Or.App. 136 | 261 P.3d 76 (Approx. 6 pages)

Document

Filings (3)

Negative Treatment (0)

History (0)

Citing References (43)

Table of Authorities

Powered by KeyCite

Go to



**1 Arrest**

An investigatory stop must be based on the police officer's subjective belief that a crime has been or is about to be committed, and that subjective belief must be objectively reasonable under the totality of the circumstances.

[U.S.C.A. Const.Amend. 4](#); [West's Or.Const. Art. 1, § 9](#); [West's Or.Rev. Stat. Ann. § 131.615\(1\)](#); [ORS 131.605\(5\)](#) (2010).

[4 Cases that cite this headnote](#)



35

Arrest

3511

On Criminal Charges

35k60.2

Investigatory Stop or Stop and Frisk

35k60.2(6)

Grounds for Stop or Investigation

**Use KeyCite to find more cases**

**2 Arrest**

Police officer had objective reasonable suspicion under state statute, and state and federal constitutions, that defendant was engaged in criminal activity, supporting investigatory stop of defendant, where officer viewed defendant loading bicycle into back of truck at 1:50 in the morning, named homeowner's report to police of defendant's activity was reliable, defendant exhibited furtive behavior, including slouching in passenger seat of vehicle, when officer approached, and defendant was in high-crime area. [U.S.C.A. Const.Amend. 4](#); [West's Or.Const. Art. 1, § 9](#); [West's Or.Rev. Stat. Ann. § 131.605](#).

[5 Cases that cite this headnote](#)



35

Arrest

3511

On Criminal Charges

35k60.2

Investigatory Stop or Stop and Frisk

35k60.2(6)

Grounds for Stop or Investigation

35k60.2(13)

Particular cases

...Alabama has family leave and maternity leave rules that apply to "classified service" and "unclassified service" state employees (Ala. Admin. Code §670-X-3), meaning positions in state service not desi...

[See More Secondary Sources](#)

**Briefs**

[Brief of National Black Police Association, National Association of Black Law Enforcement Officers, Women in Federal Law Enforcement, the National Center for Women & Policing, and Americans for Effective Law Enforcement, Inc., as Amici Curiae Supporting Respondent](#)

2005 WL 328203  
TOWN OF CASTLE ROCK, COLORADO, Petitioner, v. Jessica GONZALES, individually and as next best friend of her deceased minor children, Rebecca GONZALES, Kathryn GONZALES, and Leslie GONZALES, Respondent.  
Supreme Court of the United States  
Feb. 10, 2005

...The undersigned amici curiae are the National Black Police Association, National Association of Black Law Enforcement

### State v. Kimmons

Court of Appeals of Oregon. June 10, 2015 | 271 Or.App. 592 | 352 P.3d 68 (Approx. 10 pages)

- Document
- Filings (3)
- Negative Treatment (0)
- History (0)
- Citing References (29)
- Table of Contents

Original Image of 352 P.3d 68 (PDF)

271 Or.App. 592

**Use Research Recommendations to find more sources**

STATE of Oregon, Plaintiff–Respondent

v.

Jasmine Shree KIMMONS, Defendant–Appellant

101253979; A148641.

Argued and Submitted July 30, 2013.

Decided June 10, 2015.

### Synopsis

**Background:** Defendant was convicted following a bench trial in the Multnomah County Court of Appeals for the unlawful possession of a firearm and possession of a loaded firearm in public. She appealed her conviction.

**Holdings:** The Court of Appeals, [Haselton](#), C.J., held that: 1 officers' request for consent to search, pertaining to matter unsupported by reasonable

# Research Recommendations

Why are these my results?

- Cases
- Statutes
- Secondary Sources**

Select all items | No items selected

### 1. § 9.5(a)Of vagueness and subjectivity

Search And Seizure: A Treatise On The Fourth Amendment | October 2017 Update | 4 Search & Seizure § 9.5(a) (5th ed.)

The pre-Terry critics of stop and frisk, it was said, “deplore the abandonment of probable cause, the traditional constitutional standard necessary to deprive a person of his liberty, in favor of reasonable suspicion, which they find too vague.” Most of this criticism centered upon the New York statutory test of whether the officer “reasonably...

### 2. § 89.Investigatory stop or detention

American Jurisprudence, Second Edition | November 2017 Update | 68 Am. Jur. 2d Searches and Seizures § 89

The Fourth Amendment prohibits unreasonable searches and seizures by the government, and its protections extend to brief investigatory stops of persons or vehicles that fall short of traditional arrest. However, an investigatory or Terry stop usually involves only temporary questioning and thus constitutes only a minor infringement on personal...

### 3. § 9.4(a)The Mendenhall-Royer “free to leave” test

Search And Seizure: A Treatise On The Fourth Amendment | October 2017 Update | 4 Search & Seizure § 9.4(a) (5th ed.)

# Updating the Law

- Cases -- Shepard's or KeyCite or BCite
  - Watch for negative **history** and **treatment** cases.
- Statutes -- or use Shepard's or KeyCite
  - Watch for legislative and judicial treatment



Filter the Shepard's display

Select multiple

**State Courts** 8

- ⊕ Oregon 8

Select multiple

▼ Publication Status

- Unreported 1
- Reported 8

Select multiple

▼ Discussion

- Discussed 1
- Cited 6

Select multiple

2. [State v. Booth](#), 272 Ore. App. 192, 355 P.3d 181, 2015 Ore. App. LEXIS 855

**Cited by:** 272 Ore. App. 192 p.197 355 P.3d 181 p.185

... State v. Dennis , 250 Ore. App. 732 , 737 , 282 P3d 955 (2012) (state has burden of proving that investigation of unrelated criminal matter during traffic stop occurred during unavoidable lull in investigation of the traffic stop); **State v. Hendon, 222 Ore. App. 97, 106, 194 P3d 149(2008)** (where there was no evidence that the request for consent to search occurred during an "unavoidable lull" in the investigation, "the state has not established that [the officer] did not detain defendant ...

Discussion

Court  
Or. Ct. App.

Date  
July 8, 2015

Headnotes  
[HN6](#) | [HN7](#)

3. [State v. Kimmons](#), 271 Ore. App. 592, 352 P.3d 68, 2015 Ore. App. LEXIS 736





Sort by: Court (highest-lowest) ▾



### Legend

Citing references in the Shepard's Citations Service contain strong negative history or treatment of your case (for example, overruled by or reversed).

**Warning**  
The red Shepard's Signal™ indicator indicates that citing references in the Shepard's® Citations Service contain strong negative treatment of the section (for example, the section may have been found to be unconstitutional or void).

**Questioned: Validity questioned by citing reference.**  
The orange Shepard's Signal™ indicator indicates that the citing references in the Shepard's® Citations Service contain treatment that questions the continuing validity or precedential value of your case.

	<b>Yellow</b>	Caution
	<b>Green</b>	Positive
	<b>Blue</b>	Neutral
	<b>Light Blue</b>	No phrase exists

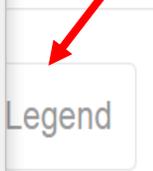
Depth of Discussion

Analysed

Discussed

Refer to the [Help](#) section for more information

**Close**



# When Should I Stop?

- Stop when find same sources through independent means.
- Have you looked in the really important places?
- Did you update everything?
- Do you understand the law? If not, you are definitely not done!
- You are not going to find all law on an issue!

There is no **one** right way to do research.

Master a wide variety of research tools  
to develop an effective method.