



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is now available for purchase in print and eBook formats.

The manual is published by [Kendall Hunt Publishing Co.](http://www.kendallhunt.com). Copies may be ordered online at https://www.kendallhunt.com/michigan_criminal_law/ or by calling Kendall Hunt Customer Service at (800) 228-0810.

SEARCH AND SEIZURE

Absent reasonable suspicion, extension of a traffic stop in order to conduct a dog sniff violates the Fourth Amendment

In [Rodriguez v. United States](#), a K-9 police officer stopped Rodriguez for a traffic violation. The officer questioned Rodriguez and his passenger, conducted records checks on both individuals, and issued Rodriguez a written warning. The officer explained the warning to Rodriguez and gave him and his passenger back all the documents he obtained from them.

After the officer got all of the reasons for the traffic stop out of the way, the officer asked Rodriguez for permission to walk his police dog around Rodriguez's vehicle. Rodriguez denied consent. The officer then ordered Rodriguez out of his vehicle, retrieved his police dog, and ran the dog twice around the vehicle. The police dog alerted to the presence of drugs. About eight minutes passed from the time the officer issued the written warning and the dog alerted. A search of the vehicle revealed methamphetamine.

Rodriguez was indicted on drug charges. Rodriguez moved to suppress the evidence seized from his vehicle and argued the officer prolonged the traffic stop without reasonable suspicion in order to conduct the dog sniff.

The United States Supreme Court held that a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's protections against unreasonable seizures. The tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's "mission"—to address the traffic violation that warranted the stop and attend to related safety concerns.

Beyond determining whether to issue a traffic citation, police officers may conduct ordinary inquiries (e.g., checking the driver's license, checking for outstanding warrants, inspecting the vehicle's registration and proof of insurance) as the Court found these inquiries help ensure that vehicles on the road are operated safely and responsibly. The Court distinguished a dog sniff as a measure aimed at detecting evidence of ordinary criminal wrongdoing, unrelated to traffic safety and outside the purpose of the stop. Authority for the seizure ends when tasks tied to the traffic infraction are, or reasonably should have been, completed.

Officers are reminded the Court previously decided that police may lawfully conduct a dog sniff *during* a traffic stop as long as doing so did not prolong the stop beyond the time reasonably required to complete the mission of issuing a citation or warning. This case addressed whether an officer could continue to detain a vehicle *after* an otherwise-completed traffic stop in order to conduct a dog sniff. Absent reasonable suspicion to support the continued detention, an officer may not lawfully do so.

STATUTES

Provisions of the Michigan Vehicle Code relating to "preliminary roadside analysis" eliminated

[Legal Update No. 113](#) previously described various amendments to the Michigan Vehicle Code (MVC), including an added definition for the term "preliminary roadside analysis" in [MCL 257.43a](#). [Public Act 11 of 2015](#), effective April 9, 2015, removed the recently added definition for a "preliminary roadside analysis" and replaced it with a definition for a "preliminary chemical breath analysis." Additionally, all other references to a "preliminary roadside analysis" in the MVC have been removed and replaced with the previous references to a "preliminary chemical breath analysis."

Officers should note that the authority to require a person to submit to a preliminary chemical breath analysis and take enforcement action for a refusal pursuant to [MCL 257.625a](#) is now the same as it was before the relatively brief enactment of provisions in the MVC for a "preliminary roadside analysis." Like before, in addition to requiring a person submit to a preliminary breath test, officers may *request* a person to perform field sobriety tests during an investigation; however, a person cannot be cited or arrested for failing to submit to field sobriety tests.

SUBSCRIPTIONS

To receive the Update via email, click [here](#) or go to www.michigan.gov/msp-legal and click on "subscribe to legal updates."

This update is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update.