

I SAW THE LIGHT—IN MY REAR VIEW MIRROR

A guide on what to do when the police pull you over.

Under What Circumstances Can the Police Pull Me Over?

The police need **reasonable suspicion** of criminal activity to pull you over. It is a very low standard. Simply going over the speed limit by one mile per hour is enough. Almost any traffic infraction will be enough to stop your vehicle.

What Should You Do When Pulled Over

When the police activate their lights, begin to slow down and look for a safe place to pull over. Put on your signal indicating where you are pulling over. If necessary, drive really slow until you reach a safe place or a well lit area.

Stay calm. Turn off your engine and turn on your interior car light if it is dark out. Keep your hands on the steering wheel. Make no sudden movements to grab your license or registration or any other sudden movements. Inform the officer any movement you intend on making with your hands and make them slowly.

DO NOT get out of the car—that is considered an act of aggression! Wait with your hands on the wheel until the police come up to your window. Be prepared to show your license and registration and proof of insurance for the vehicle. Try not to act suspicious or nervous. Obey the officer's instructions and be polite, even if the officer isn't being nice to you in return. If the officer is being rude to you, ask for his name and badge number.

If the officer has given you a command that you believe to be unlawful, it is always better to obey the officer's commands than risk injury or being charged with "resisting and obstructing." You can always challenge the officer's decisions and evidence later in court.

Do not give any incriminating statements to the police. If they ask you why they pulled you over, do not tell them anything incriminating. Simply tell them that you do not know or not sure. Be polite and do not have an attitude with them. Ordinarily traffic stops are not considered police custody which would trigger *Miranda* Warnings so you have to be careful about incriminating statements.

Police can order the driver and any passenger outside of the car for any reason—they don't have to have one (it's for officer's safety).

Do I Have the Right to See the Radar Reading? No, you do not. A lot of police won't show it to you if you ask because they don't have to. Some might show you, but most usually will not.

Plain View

The police have the right to seize any illegal property or contraband that is in “plain view” as long as they have the legal right to be there. That includes obvious smells such as marijuana smoke or drugs in the car or open containers of alcohol. But the police cannot move or manipulate the evidence in order to uncover it.

Police can search the vehicle if they believe that there is a reasonable suspicion of weapons in the vehicle. But that search is limited to where weapons can be found and where the driver has access. Incriminating evidence that is obtained while lawfully searching the vehicle is admissible.

If they police do not have reasonable suspicion or probable cause to search your vehicle, they cannot lawfully do so without your permission. Do not let them bluff you by telling you that they will go get a warrant so you might as well let them search. There is an **automobile exception** to search warrants meaning that if the police have probable cause to search your vehicle then they never need a warrant because your car is likely to drive away.

The police can search anywhere in your car except the trunk. They may however search the trunk if the flop seat is open from the inside. **Trunk Exception**—Police may search your trunk if they have probable cause that something illegal is in the trunk.

You may give the police permission to search your car but you don’t have to and that will not and cannot be used against you. The police can ask you but may not force you but they may trick you and they do not have to tell you that you can refuse. Scope of the search must be reasonable and you can revoke consent anytime during search. Police may search objects in the vehicle if they have PC and they do not have to worry about if the driver or passenger is owner of the objects.

Drug Dogs

Police can have drug dogs sniff around a stopped vehicle even if they have no reasonable suspicion to believe that drugs exist. If the drug dog indicates that drugs are present, that is enough probable cause for the police to start searching your car and your person and the car’s passengers for drugs.

DUI

If police suspect that you are operating a motor vehicle under the influence of alcohol they can order you out of the car and submit to **Field Sobriety Tests** (FST) which frequently consist of touching your nose, walking a straight line, standing on one foot, counting forwards or backwards from 100 or reciting the alphabet forwards or backwards. Watch out for the backwards alphabet trick where sometimes people blurt out “I can’t even do that when I’m sober.” Pay attention to any road conditions that may make the road difficult to perform FST on such as unevenness, bumps, etc. that may be

useful later on to tell your lawyer. Also if you are wearing tight shoes or high heels you may want to ask the officer to take them off before performing a FST but always remember to **ask first!** Don't reach down without asking or it may be considered an act of aggression or that you are searching for a weapon.

Also the police can require you to submit to a **Blood Alcohol Content Test (BAC)** which the officer has a choice of: blood, breath, or urine. You must submit to the test of the officer's choice because refusal results in a six-month license suspension. After you submit to a test of the officer's choice you then have a choice of submitting to a BAC test of your choosing. Urine tests are considered the most unreliable and therefore the easiest to beat in court. Blood tests are considered the most accurate and the driver should choose a blood test if they believe they are under the legal limit OR a breath test since the results will yield right away and if under the legal limit then the police will likely send you on your way. However, if it has been less than an hour since your last drink (more if you've eaten food), then your body is still absorbing the alcohol. While your body is still absorbing alcohol, a breath test can give an erroneously high value.

Bottom Line: If you're sure you are under the limit, then choose the blood test. If you drank less than an hour before the test request and more time if you've eaten, don't take the breath test.

Is there ever a tactful advantage to refusing a BAC? Yes, but rarely. Sometimes it makes sound strategic sense to refuse a BAC if you have a prior DUI because that could deprive the officer of the evidence needed to obtain a conviction. But caution, because even without the scientific evidence you still could be convicted for DUI if the surrounding evidence is strong enough to demonstrate that you are in fact drunk.



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