

ISSUE

During a traffic stop, under what circumstances may officers ask questions that are not directly related to resolving the traffic matter?

FACTS

At 4:13 P.M., a Texas state trooper stopped a car because the driver, Brigham, was following another car too closely. There were three other people in the car, two men and one woman. When asked for his driver's license and registration, Brigham produced an Arkansas driver's license and an Avis contract that showed the car had been rented to a 50-year old woman named Dorothy Harris. Because the woman in the car was obviously not 50-years old, the trooper started thinking the car might have been stolen.

Pursuing this possibility, he asked Brigham about his travel plans. Brigham said that he and his friends were coming from Houston where one of his friends had visited family members. Brigham said they had stayed at a La Quinta Inn, but the trooper noticed that he "had difficulty" explaining where it was located. The trooper also noted that Brigham seemed "extremely nervous," and would respond to the trooper's questions by asking other questions.

The trooper then spoke to the passenger who was supposedly visiting relatives in Houston. When asked why they went to Houston, he said to attend an Isley Brothers concert. Next, the trooper asked the remaining two passengers about their travel plans and they "appeared confused" and gave inconsistent answers. The trooper then ran a computer check on the car and the occupants. The car was not reported stolen but it turned out that one of the passengers had produced a phony I.D. card.

At about this point, the trooper obtained Brigham's consent to search the car. In the trunk, he found a cooler containing liquid codeine. All four occupants were arrested.

DISCUSSION

Although Brigham acknowledged that the trooper had grounds to make the traffic stop, he contended the stop became unlawful when the trooper started asking questions that did not pertain to the traffic violation. Thus, he argued that the codeine should have been suppressed because he had consented to the search while being detained illegally.

Although there are no rigid time limits after which a traffic stop becomes unlawful,¹ officers must be diligent and may generally do only those things that are reasonably

¹ See *U.S. v. \$404,905* (8th Cir. 1999) 182 F.3d 643, 648 ["Given the myriad situations in which traffic stops occur, it is not reasonable to subject them to the length-of-detention analysis we use in evaluating investigatory stops."]; *United States v. De Hernandez* (1985) 473 U.S. 531, 543 ["(C)ommon sense and ordinary human experience must govern over rigid [time] criteria."]; *People v. Dasilva* (1989) 207 Cal.App.3d 43, 50 ["There is no rigid time limitation imposed on a detention. The court must determine the purpose of the stop as well as the time reasonably needed to effectuate the purpose."].

necessary to carry out their duties and ensure their safety.² The stop may, however be prolonged and expanded if officers develop grounds to investigate other matters.³

At the outset, the court rejected the argument that the trooper could not lawfully ask Brigham about his travel plans. As the court explained, itinerary questions are, in fact, relevant to the officer's duties. Said the court, "Such questions may efficiently determine whether a traffic violation has taken place, and if so, whether a citation or warning should be issued or an arrest made. All these inquiries are within the scope of investigation attendant to the traffic stop."⁴

Moreover, the court ruled the trooper's questions were justified by the various suspicious circumstances that arose during the course of the stop. In the words of the court:

[The trooper's] questioning of Brigham and his companions was fully within the scope of the detention justified by the traffic stop, particularly after [the trooper] ascertained that (1) Brigham was not the owner or lessee of the vehicle, (2) the lessee was not present in the [vehicle], and (3) Brigham's and [one of the passenger's] versions of their itinerary conflicted. . . . [The trooper's] increasing suspicion was also fueled by Brigham's extreme nervousness, his avoidance of eye contact, and his pattern of answering the officer's questions with questions of his own.

Finally, the court pointed out that the trooper's questioning lasted only about seven minutes and that it "exemplified a graduated response to emerging facts." Thus, the court concluded, "[The trooper's] actions were reasonable under the circumstances and the detention as a whole was reasonable."

Brigham's conviction was affirmed.

² See *People v. Miranda* (1993) 17 Cal.App.4th 917, 928; *Terry v. Ohio* (1968) 392 U.S. 1, 23; *United States v. Hensley* (1985) 469 U.S. 221, 235]; *Gallegos v. Los Angeles* (9th Cir. 2002) 308 F.3d 987, 991 ["(We must) consider all the circumstances surrounding the encounter between the individual and the police, by evaluating not only how intrusive the stop was, but also whether the methods used by police were reasonable given the specific circumstances."].

³ See *People v. Huerta* (1990) 218 Cal.App.3d 744, 750; *People v. Lingo* (1970) 3 Cal.App.3d 661, 664; *United States v. Sharpe* (1985) 470 U.S. 675, 687-8; *Pendergraft v. Superior Court* (1971) 15 Cal.App.3d 237, 242.

⁴ Citing *U.S. v. Holt* (10th Cir. 2001) 264 F.3d 1215, 1221 ["Travel plans typically are related to the purpose of a traffic stop because the motorist is traveling at the time of the stop. For example, a motorist's travel history and travel plans may help explain, or put into context, why the motorist was weaving (if tired) or speeding (if there was an urgency to the travel."]; *U.S. v. Linkous* (8th Cir. 2002) 285 F.3d 716, 719 ["An officer does not violate the Fourth Amendment by asking the driver his destination and purpose"]; *U.S. v. Hill* (6th Cir. 1999) 195 F.3d 258, 268 [officer's inquiry pertaining to the driver's "moving plans at the outset of the stop was reasonable in that the questions related to [the defendant's] purpose for traveling."].