



**April 2013**

## **Sovereign citizen encounters: What officers should know**

A peace officer patrolling State Route 23 spots a vehicle with no license plates and initiates a traffic stop. When he approaches the car, the driver refuses to roll down his window completely and — when asked to produce a driver's license, registration, and proof of insurance — slides a stack of paperwork through the window. One document indicates the car is registered to "The Kingdom of Heaven." When the officer questions the registration, the driver responds, "I am a freeman traveling on the roads."

Perhaps you've experienced such a scenario, leaving you confused and unsure how to proceed. The characteristics of this situation — the driver's strange conduct and his pile of paperwork — are indicative of an encounter with a "sovereign citizen." While it's important not to generalize, some of these individuals have been known to use violence, and interactions with them may put officers in a vulnerable position.

The Ohio Attorney General's Peace Officer Training Academy (OPOTA) recently collaborated with the State and Local Anti-Terrorism Training Program (SLATT) to present a course on the sovereign citizen movement and how to deal with such individuals' efforts to cause difficulty for law enforcement.

Sovereign citizens are extremists or radicals who claim they are a government unto themselves. They say they have the right to reside in the United States without being under U.S. or state government control. Sovereigns typically don't pay taxes, register vehicles, or obtain driver's licenses. They also create their own "legal papers" and claim they are subject only to English common law.

Sovereigns generally dislike law enforcement, and some have turned to physical violence. For this reason, officers should exercise caution when interacting with them.

Although sovereign citizens share no common physical characteristics, peace officers can look for certain indicators to help identify them. For instance, a sovereign citizen's vehicle may not have a license plate, or it may have a fake plate for a non-existent state or country. The vehicle may have anti-government bumper stickers or window decals that say "Posse Comitatus," meaning "Power of the County."

When an officer approaches a sovereign citizen's vehicle, the citizen may not roll down the window or may roll it down only enough to pass through a lot of papers. This paperwork typically consists of fake documents explaining that the vehicle is registered in a fake country or state or registered under the Uniform Commercial Code.

The sovereign may make statements such as "I am a common law citizen," "I am a non-resident alien," "I am a Christian citizen," or "I am a Moor." Sovereigns contend that the act of driving is

“doing business” and that the government is a corporation, with law enforcement officers serving as agents of that corporation. So rather than “driving,” the citizen may say he is traveling on the land or that his vehicle isn’t being used for business.

The sovereign citizen may even attempt to record his interactions with you, request that you recite portions of the Constitution, or ask you to recite your peace officer’s oath.

If you write a citation, the sovereign may refuse to sign the ticket or may sign the ticket and add “UD” or “TDC,” meaning “under duress” or “threat, duress, coercion.” The citizen also may include symbols in his signature or sign only a first name.

If you determine that you are dealing with a sovereign citizen, the most important thing to do is approach the interaction the same as you would with any other person. If, during the traffic stop, the citizen doesn’t produce a proper license, registration, or proof of insurance, proceed as you would with any other stop.

Sovereign citizens try to confuse law enforcement with their comments and paperwork. It is important that you maintain control of the situation. Also, don’t hesitate to call for backup if you feel it necessary.

It is wise for law enforcement agencies to develop a policy and procedure for responding to interactions with sovereign citizens. With knowledge of sovereign citizens’ tactics and a departmental policy and procedure for responding, officers have a better opportunity to identify these individuals and respond appropriately.

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**For information on OPOTA courses:** Visit [www.OhioAttorneyGeneral.gov/OPOTA](http://www.OhioAttorneyGeneral.gov/OPOTA) or e-mail [askOPOTA@OhioAttorneyGeneral.gov](mailto:askOPOTA@OhioAttorneyGeneral.gov).

## ***Florida v. Jardines, U.S. Supreme Court, March 26, 2013***

**Question:** Can peace officers use a drug-detection dog when entering the curtilage of a person’s home?

**Quick Answer:** No. It’s unconstitutional to approach the curtilage of a home with *any* law enforcement tool with the intent to investigate for evidence of a crime.

**Facts:** After a detective received an unverified tip that Joelis Jardines was growing marijuana in his home, the detective’s police department and the DEA set up surveillance of Jardines’ house. The detective surveilled the home for 15 minutes, saw nothing suspicious, and then walked up to the house along with another detective and a drug-detection dog. The second detective kept the dog on a six-foot leash, and as the detectives and dog approached the front porch, the dog began “bracketing,” pacing back and forth quickly over a 6-foot radius, in an attempt to locate the source of the odor he smelled. The dog sat near the bottom of the home’s front door, alerting to the strongest source of the odor. The dog sniff lasted about one to two minutes, and once the dog alerted to the front door, the detectives and dog walked back to the cruisers and left the scene. The detectives used the dog’s alert, along with the earlier tip they received, to obtain a search warrant.

The officers executed the warrant later that day, finding marijuana plants. Jardines moved to suppress the evidence, claiming that using the drug dog to investigate was an unreasonable search.

**Why this case is important:** The officers' conduct violated the Fourth Amendment because they trespassed. The Supreme Court explained that when the detectives approached the front porch with their drug dog, they physically trespassed onto the home's curtilage (the land that immediately surrounds a house and receives the same constitutional protections as the home).

It's important to distinguish between what the officers did here and a "knock and talk." In a knock and talk, an officer simply knocks on the door and tries to start a voluntary conversation with the occupant. This is no different than an ordinary visitor or door-to-door salesman would do. In this case, the officers approached with a drug-sniffing dog trying to find incriminating evidence. A typical visitor or salesman would not bring a drug-sniffing dog to search the premises before entering. The same could be said for other law enforcement tools (infrared binoculars, thermal imaging device, etc.) because a homeowner would not reasonably expect a member of the general public to be on their property using them.

**Keep in mind:** This decision basically prohibits peace officers from taking a drug-detection dog (or any other law enforcement evidence-gathering tool) directly on the property immediately around a person's home without a warrant. It doesn't change an officer's opportunity to conduct a true "knock and talk."

Visit the [U.S. Supreme Court's website](#) to view the entire opinion.

## ***U.S. v. Kinison*, U.S. Sixth Circuit Court of Appeals, March 19, 2013**

**Question:** Can a sparsely written warrant affidavit support a finding of probable cause?

**Quick Answer:** Yes, because there is no set number of criteria for establishing probable cause.

**Facts:** A woman contacted Lexington, Ky., police to report that her boyfriend, Charles Kinison, was possibly involved in criminal sexual activity with children. A Lexington police detective called for the FBI's assistance, and an FBI agent interviewed the girlfriend. She reported that Kinison had sent her disturbing text messages about how he wanted to join a group in Savannah, Ga., that sexually exploited adopted children. The girlfriend consented to a search of her phone, and the police computer forensics unit downloaded 1,646 pages of text messages, many of which corroborated the report of criminal activity. Kinison's girlfriend incriminated herself in a few of the text messages, too.

In a follow-up interview, the FBI agent asked the girlfriend about some videos referenced in some of the texts, and she explained that Kinison viewed videos on his home computer. The girlfriend verified a photograph of Kinison and verified his phone number. The Lexington detective also conducted a records check on Kinison to verify his address. Based on all of the information collected, the detective obtained a search warrant for Kinison's house. While executing that warrant, Kinison arrived in his car. Some officers noticed that Kinison left his phone in his car, so the officers immediately obtained a search warrant for the car. Law enforcement seized Kinison's computer, and a forensic search revealed more than 300 images and 40 videos of child pornography. Kinison

moved to suppress the images, claiming officers lacked probable cause to obtain the warrants for his house and car.

**Why this case is important:** The court of appeals found there was probable cause for the warrants. There is no specific set of criteria that must be met before probable cause can be found. Also, warrant affidavits aren't judged by what's lacking in them, but what's included. Here, the affidavit explained that Kinison's girlfriend was a known informant, which can stand alone as sufficient probable cause. There doesn't even need to be any additional information about the known informant's credibility or past relationship with police.

The girlfriend also incriminated herself in some of the text messages that she turned over. This information only strengthens the warrant affidavit because admissions of crime also carry a particular credibility that would support a finding of probable cause. Plus, the language and nature of many of the text messages demonstrated an intimate relationship between Kinison and the girlfriend and corroborated Kinison's criminal activity. Finally, the girlfriend provided police with Kinison's cell phone number and explained that she had seen him view child pornography on his computer. All of this evidence was sufficient for the magistrate to find probable cause to issue a warrant for Kinison's home and car.

**Keep in mind:** When drafting warrant affidavits, specifically for computer crimes, include as much information as possible. But when you've got a known informant who has an intimate relationship with the suspect, this may be enough for probable cause.

Visit the [U.S. Sixth Circuit Court of Appeals website](#) to view the entire opinion.

## ***State v. Lockett*, Seventh District Court of Appeals (Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe, Noble counties), March 8, 2013**

**Question:** Must a peace officer determine the victim and the aggressor of a fight before detaining and frisking the parties involved?

**Quick Answer:** No, as long as the officer has reasonable suspicion to believe that a fight has occurred.

**Facts:** Police were dispatched about 1:30 a.m. to a local bar, where a fight had been reported. Dispatch explained that the fight involved two or three people and that one person was carrying a gun. As one officer arrived, he saw many people leaving the bar to get away from the fight. The officer entered the bar by himself and heard "screaming and hollering" inside. He spoke with security about what was going on and then began telling people to leave the bar. From here, the police officer's version of events differed from that of the bar patrons.

The officer said he saw John Lockett slap a woman, Sena Williams, in the face. The officer grabbed Lockett and passed him off to another officer, giving instructions to take Lockett outside. However, it was unclear whether the first officer told the second officer that Lockett was to be arrested or just detained. The second officer took Lockett outside and handcuffed him, but said that he didn't intend to arrest Lockett at that time. Lockett began to run from the second officer, so the officer used his Taser to stop Lockett. The officer then frisked Lockett and discovered a firearm and 11 bags of marijuana. The bar patrons, including Sena Williams, told police it was Williams who hit Lockett and

that Lockett didn't retaliate. Lockett later moved to suppress the evidence found during the stop-and-frisk, based on a lack of reasonable suspicion that Lockett committed any crime.

**Why this case is important:** The court held that the officers' actions in seizing Lockett weren't unreasonable. Lockett had been involved in an altercation. Even if there was uncertainty as to who was the aggressor, the fact that Lockett was involved in a fight gave officers a reasonable suspicion to believe that criminal activity may have occurred. Peace officers have a duty to investigate reports concerning altercations and can stop individuals said to be involved in a fight, regardless of whether they are the suspect or the victim. Reasonableness is based on the totality of the circumstances. In this case, it was reasonable to detain Lockett: Police were responding to a call about a bar fight that may have involved a gun, the bar was very crowded, and most of the patrons were intoxicated. One of the officers believed he saw Lockett hit Williams, and other bar patrons confirmed there was a fight between Lockett and Williams.

**Keep in mind:** When you believe an altercation has occurred, you can detain everyone who may have been involved and conduct a frisk for weapons. Safety is your main concern. There's no need initially to sort out who was the victim and who was the aggressor as long as you've got reasonable suspicion to believe a crime has occurred.

Visit the [Ohio Supreme Court's website](#) to view the entire opinion.

## ***State v. Rich*, Twelfth District Court of Appeals (Brown, Butler, Clermont, Clinton, Fayette, Madison, Preble, Warren counties), March 11, 2013**

**Question:** Do peace officers violate the Fourth Amendment by attaching (and monitoring) a GPS device to a confidential informant's rented vehicle that's driven by a suspect?

**Quick Answer:** No, if the GPS was placed on the vehicle before the suspect took possession of it.

**Facts:** A police detective investigating a drug operation received a tip from his confidential informant (CI) that one of the suspects wanted the CI to rent a vehicle for a drug transport. The detective rented a Chevy HHR and attached a GPS device underneath the car's rear bumper for tracking the vehicle's movements and arranged for police to conduct visual surveillance on the vehicle. He delivered the car to his CI.

A few days later, two suspects, Daniel Rubio and Santiago Sanchez drove the vehicle to a grocery store parking lot, where they met up with others, including Aron Rich, who arrived in a separate vehicle. Rich went inside the grocery store and left 20 minutes later. He got into the Chevy HHR by himself and drove it away. The officers who were conducting surveillance on the vehicle followed Rich and the other suspects' vehicle, but at some point the two cars split up. Rich then pulled into another grocery store and met up again with Rubio, Sanchez, and two other suspects. They all left the second grocery store in three separate vehicles a short time later. At that time, police stopped all the suspects' vehicles and found a locked toolbox with eight kilograms of cocaine in the back of the Chevy HHR. Rubio was driving the HHR at that time, but different police officers conducting physical surveillance observed Rich driving it at some point. Rich moved to suppress the evidence, arguing that placing the GPS on the HHR's bumper violated Rich's Fourth Amendment rights.

**Why this case is important:** The court found no Fourth Amendment violations here. First, even though Rich claimed he had a possessory interest in the HHR that allowed him to challenge law enforcement's placement and use of the GPS, the court held that Rich's permission to drive the vehicle didn't give him a "legitimate (objective) expectation of privacy" in the vehicle. Therefore, he technically had no standing to claim his rights were violated. Also, when applying the U.S. Supreme Court's analysis from the *Jones* GPS case, the police here didn't commit any trespass by placing a GPS on the vehicle. The device was attached to the vehicle *before* Rich took possession and drove it. Finally, Rich was "several times removed" from having a reasonable expectation of privacy in the HHR, because he received permission to drive the vehicle from two of the other suspects. They got permission from the police CI, who got the car from the police detective.

**Keep in mind:** This case seems to give the green light for law enforcement to place GPS devices on a CI's vehicle as long as it's placed on the vehicle before a suspect would have the opportunity to take possession of it.

Visit the [Ohio Supreme Court's website](#) to view the entire opinion.

## ***State v. Carr*, Eleventh District Court of Appeals (Ashtabula, Geauga, Lake, Portage, Trumbull counties), March 4, 2013**

**Question:** Can a peace officer have a suspect's blood drawn without consent or a warrant in order to collect evidence of a crime?

**Quick Answer:** Yes, but only if there's probable cause to arrest and exigent circumstances exist, which strongly depends on the facts and circumstances.

**Facts:** A police officer was dispatched to a traffic accident on an interstate highway. When he arrived, the officer saw one vehicle on the road's left shoulder and a second car in a ditch off the right shoulder. The officer spoke to one of the drivers, Michael Carr, who had blood running down the front of his face, slurred speech, and seemed confused. EMTs placed Carr in an ambulance, and at that point, the officer noticed that Carr had a very strong odor of alcohol on his breath. The ambulance took Carr to the hospital, and the officer finished up his investigation at the scene before stopping by the police station to grab a blood sample kit. He took the kit to the hospital to see Carr because he believed Carr was under the influence of alcohol at the time of the wreck.

Sometime later, the officer was able to speak to Carr. He gave Carr a *Miranda* warning. Carr admitted to drinking a glass of wine, but he denied being in an accident. He also refused to take any blood alcohol test despite being told that he was under arrest and that a refusal would mean automatic suspension of his license. Carr's doctor later told the officer that he didn't believe Carr was in the right frame of mind to consent or refuse, so the officer had hospital staff draw blood. Carr's blood alcohol level was .202. Carr moved to suppress the results of his blood test because he refused consent to the warrantless blood draw.

**Why this case is important:** The court held that Carr's blood draw was constitutional. According to the U.S. Supreme Court's decision in *Schmerber v. California*, if a peace officer has probable cause to arrest a driver for an OVI, and exigent circumstances exist, a warrantless blood draw may be taken from the suspect without the suspect's consent. Here, the officer noted how Carr had slurred speech, acted confused, had a strong odor of alcohol, and admitted to drinking wine. Also,

witnesses of the car wreck told the officer that Carr was driving aggressively and erratically, so, under the totality of the circumstances, there was probable cause to arrest Carr for OVI.

Further, the fact that alcohol quickly dissipates in a person's body creates an exigency that permits a warrantless blood draw from someone who is under arrest (or there is probable cause to arrest) for OVI. Because Carr was taken to the hospital for injuries, and the officer was made to wait before speaking with Carr, an hour had gone by since the accident had been reported. This created an exigent circumstance that the alcohol content in Carr's body was dissipating, destroying evidence of OVI. These specific circumstances also made it difficult to obtain a warrant. Therefore, the officer was constitutionally permitted to have Carr's blood drawn without a warrant.

**Keep in mind:** This case has an almost identical set of facts to the Supreme Court's case in *Schmerber*. The holding in *Schmerber* was based on the specific facts of the case, which involved a suspect who was in a car accident and was rushed to the hospital with injuries. Under these circumstances, it was OK to have the suspect's blood drawn without a warrant. However, under a different set of facts, a blood draw without consent or a warrant may not be constitutionally permitted, as exigent circumstances may not exist. In fact, the Supreme Court soon will decide *Missouri v. McNeely*, which will determine if exigent circumstances exist for a warrantless blood draw when a peace officer orders medical personnel to show up at the crash scene and draw the blood of a suspect who refuses consent.

Visit the [Ohio Supreme Court's website](#) to view the entire opinion.