




Ohio Attorney General's  
**Law Enforcement  
Bulletin**



**March 2012 issue**

## **A Message from the Ohio Attorney General**

Dear Colleagues,

I am proud to introduce the Ohio Attorney General's Law Enforcement Bulletin.

Supporting Ohio's hardworking law enforcement officers is one of my top priorities as Attorney General. With that in mind, we have developed this monthly newsletter to keep you and your fellow officers informed of important legal cases and trending topics.

I've heard from many of you during my first year in office, and I know that staying on top of state and federal cases is one of your primary concerns. But with all of your other responsibilities, it isn't always easy. That's why we're taking the initiative to bring the law to you.

This newsletter contains important case updates in an easy-to-click-through format. We've also given you the ability to print a full version of the Law Enforcement Bulletin so you needn't be tethered to a computer. Simply visit [www.OhioAttorneyGeneral.gov/LawEnforcementBulletin](http://www.OhioAttorneyGeneral.gov/LawEnforcementBulletin) to access printable PDFs and archived issues as they become available.

We'd also like your feedback. Tell us what works, and what doesn't. That will help us better inform you and other officers across the state of the laws that affect you every day.

As Ohio's Attorney General, I am committed to helping you stay up to date on the most important cases that impact your profession.

If you have any questions, comments, or feedback, please direct them to Morgan Linn, assistant attorney general, who compiles the Law Enforcement Bulletin. You can reach her at [Morgan.Linn@OhioAttorneyGeneral.gov](mailto:Morgan.Linn@OhioAttorneyGeneral.gov) or 614-728-2280.

Very respectfully yours,

Mike DeWine  
Ohio Attorney General

## Don't miss the 'red flags' of human trafficking

The average person might see a "massage parlor" as a front for prostitution. A trained peace officer, though, could recognize it as the most visible aspect of an underground human trafficking ring.

By looking below the surface, you may be able to identify large criminal organizations that are trafficking in Ohio. Online and in-class trainings available through the Ohio Peace Officer Training Academy can give you the tools to do so. The concepts discussed here provide a broad overview of the training available.

The most obvious "red flags" of a human trafficking operation are specific crimes such as prostitution, illegal operation of strip clubs or massage parlors, domestic violence, and crimes involving immigrant children with no guardians.

In these and other situations, look into the living or work conditions of the workers. Do they live and work in the same place? Do they appear to be confined to this living or work area? Are there signs of physical abuse such as bruising, bite marks, burns, or broken bones that have not healed properly?

Note whether these potential victims seem malnourished or have rotting teeth. Watch their behavior, as trafficking victims typically are very submissive and refuse to make eye contact. Finally, when encountering potential sex trafficking victims, look for specific tattoos on workers' bodies, such as ones on their chests or necks that spell a man's name or simply "Daddy."

If you see these signs, treat the suspect like a victim to build trust. Begin seeking more information with questions such as:

- How did you get your job?
- Are you getting paid for your work?
- Do you get to keep the money you make?
- Is your work different than what you thought it would be?
- Where do you live?
- How do you get to work?
- Do you live and work at the same place?
- Do you have keys to let yourself in and out of your home?
- Do you have a phone or ID?
- Who is your employer?
- Have you ever been threatened or hurt by your employer?

Sex and labor trafficking are the most common forms of this crime. Almost 70 percent of the victims are women, and about 50 percent are juveniles. They frequently do not speak, read, or write in English, and some are mentally challenged. They often are recruited into trafficking by acquaintances, fake employment agencies, the Internet, and word of mouth.

Traffickers also make their victims false promises of better opportunities. They are almost never given money and are not in control of their own identification or legal documentation. This severe

treatment causes the victims to develop depression, hopelessness, and self-destructive behaviors. They do not identify themselves as victims, but as criminals.

Many traffickers compound these mental stresses by telling victims they should distrust law enforcement because they will arrest or deport them. Peace officers should consider a trafficking victim's past experience when investigating the crime.

It is important to be patient when asking questions of potential victims. They often do not know their location, and they probably can't give a complete history of how they got there. They may be distrustful of law enforcement, so it's important to make victims as comfortable as possible.

Let them know they are victims, they are safe, and that no one will hurt them anymore. Building trust will help the victims and increase the likelihood they will be cooperative witnesses if a case goes to trial.

**Morgan A. Linn**  
**Assistant Attorney General and Legal Analyst**

### **Important resources**

- Trafficking victims have very specific needs. Call the National Human Trafficking Resource Center at 888-373-7888 to connect them with the nearest victim services provider.
- The Attorney General's Ohio Bureau of Criminal Investigation (BCI) can assist local law enforcement in investigating these difficult and time-consuming cases. The BCI hotline is 855-BCI-OHIO (224-6446).
- Brent Currence, director of BCI's Missing Persons Unit, can assist law enforcement with human trafficking investigations. He can be reached at [Brent.Currence@OhioAttorneyGeneral.gov](mailto:Brent.Currence@OhioAttorneyGeneral.gov).
- Emily Pelfrey, an associate assistant attorney general in the Special Prosecutions Unit, can offer guidance in the evidence necessary to prosecute a human trafficking case. She can be reached at [Emily.Pelfrey@OhioAttorneyGeneral.gov](mailto:Emily.Pelfrey@OhioAttorneyGeneral.gov).
- For information on OPOTA courses covering human trafficking, visit [www.OhioAttorneyGeneral.gov/OPOTA](http://www.OhioAttorneyGeneral.gov/OPOTA) or e-mail [askOPOTA@OhioAttorneyGeneral.gov](mailto:askOPOTA@OhioAttorneyGeneral.gov).
- Additional resources are available at [www.OhioAttorneyGeneral.gov/HumanTrafficking](http://www.OhioAttorneyGeneral.gov/HumanTrafficking)

## Key cases

### *United States v. Jones*

U.S. Supreme Court, Jan. 23, 2012

**Question:** Is attaching and monitoring a GPS device on a suspect's vehicle a Fourth Amendment "search"?

**Quick answer:** Yes. You should get a warrant first.

**Facts:** The FBI suspected Jones of drug trafficking. The agency arranged for surveillance of Jones' nightclub, placing cameras on the front entrance of the nightclub and wiretapping Jones' cell phone. A joint task force also got a warrant to install a GPS device on Jones' Jeep Grand Cherokee. But the task force did not install the GPS until the day after the warrant expired. The task force then monitored Jones' movements for the next 28 days. Based on the evidence collected from the GPS, Jones was convicted of conspiracy to commit drug trafficking.

**Why the case is important:** While most officers are trained on the "reasonable expectation of privacy" test, the Supreme Court instead found that the government violated the Fourth Amendment on a more basic level — **by physically trespassing on a private citizen's property to collect information.** But the court explained that, depending on the type of government intrusion, a physical trespass test or a "reasonable expectation of privacy" test could apply to the intrusion.

**Keep in mind:** Under this case law, you should remember that an intrusion on a person's physical property will be a Fourth Amendment violation even when the property is in public and there is no "expectation of privacy." So before installing a GPS device on a suspect's vehicle, get a warrant and make sure to install and monitor the GPS within the limits of the warrant.

You also should speak with legal counsel about whether to end all current warrantless GPS monitoring because that evidence now may be suppressed and the case may get dismissed. Also, if warrantless GPS evidence was used as probable cause to arrest a suspect, you should mention this to counsel because it also may cause a future legal problem.

Click [here](#) to read the entire opinion.

### *Ryburn v. Huff*

U.S. Supreme Court, Jan. 23, 2012

**Question:** Does a warrantless entry into a home make you civilly liable if you entered only because you thought someone might be in imminent danger?

**Quick answer:** Most likely, no, because you probably would have qualified immunity.

**Facts:** Vincent Huff allegedly threatened to "shoot up" his school. Vincent had been absent from school for two days and had been bullied by other classmates, so officers visited the Huffs' home to speak with him. Officers repeatedly knocked and announced themselves, but no one came to the

door. The officers also called the Huffs' home phone, but no one answered. Finally, they called Vincent's mother's cell phone. She answered, but quickly hung up once officers asked to speak with her in person. Then, one or two minutes later, Mrs. Huff and Vincent walked out of the house and onto the front porch. She did not ask the officers why they wanted to talk to Vincent. They asked if they could speak to Vincent inside, but Mrs. Huff refused to let them in the house. Finding her behavior odd, one officer asked her if there were weapons in the home. She quickly ran into the house. Fearing someone might be in danger, the officers followed her inside. They were met by Vincent's father, who challenged their authority to enter his home. The officers remained in the house 5 to 10 minutes and did not search the home or the occupants.

**Why the case is important:** The Supreme Court found that the officers' entry was reasonable: The Fourth Amendment allows an officer to enter a home if the officer has a reasonable basis for believing there could be "an imminent threat of violence." From Vincent's alleged threat and Mrs. Huff's odd behavior, the officers' decision to enter the home without a warrant was reasonable, and they were protected by qualified immunity.

**Keep in mind:** You can follow your instincts when you think there is an immediate threat of violence, but only go as far as necessary to confirm the threat. Do not overstay your welcome. Even with the favorable outcome in *Ryburn*, a citizen's privacy in her home is a fundamental right, so you should seek a warrant or consent to enter whenever possible. Consult legal counsel to help determine if you may be entitled to qualified immunity.

Click [here](#) to read entire opinion.

### ***State v. Gould*** **Ohio Supreme Court, Jan. 17, 2012**

**Question:** Do the U.S. and Ohio Constitutions protect abandoned property from warrantless search and seizure?

**Quick answer:** No. Abandoned property is fair game for a warrantless search.

**Facts:** In December 2005, Gould moved into his mother's house and gave her a computer hard drive, asking her to "not let anybody get their hands on it." She kept the hard drive until June 2006, when Gould's brother warned that it might contain child pornography. She then gave the hard drive back to Gould, who had since moved into his brother's apartment. But in August 2006, Gould stole his brother's truck and left town without taking any of his belongings. Gould's mother got the hard drive and gave it to Toledo police. She told a detective she had kept the drive with her since December 2005 and that she believed her son had abandoned it. The detective booked the drive in the department's property room and attempted to locate Gould. About three months later, after police had no success finding Gould, Gould's mother gave her consent to search the hard drive. A forensic search revealed child pornography, including pictures of Gould having sex with his ex-girlfriend's 7-year-old daughter. Gould was later found living in Michigan and was charged with various sex crimes, including rape.

**Why the case is important:** Officers can search property that they reasonably believe is abandoned because there is no personal or societal expectation of privacy for **abandoned property**. The Ohio

Supreme Court found that, because Gould left his hard drive behind and did not contact his family for months, law enforcement had solid evidence to believe Gould had abandoned the drive.

**Keep in mind:** Before conducting a warrantless search of someone’s personal property, investigate whether that person abandoned the property. How long has the owner been without possession of the property? Has anyone made contact with the owner? If any, how long ago was the contact made? Has the owner given any indication that he would return for the property? The important point here is “reasonableness.” For example, unlike the facts in *Gould*, a purse sitting on a bench in a busy park is probably not “abandoned” because the owner intends to come back and get it.

Click [here](#) to read entire opinion.

### ***State v. Hoskins***

**Ohio Court of Appeals, Second District (Champaign, Clark, Darke, Greene, Miami, and Montgomery counties)**

**Jan. 6, 2012**

**Question:** When you take multiple suspects into custody, should you immediately read the suspects their *Miranda* rights before asking **any** questions?

**Quick answer:** Yes, probably. This helps avoid violating a suspect’s right against self-incrimination.

**Facts:** Several cruisers pulled over a known stolen vehicle. Officers told all five suspects in the car to get out and lie down on their stomachs, with their heads pointing away from the car. None of the officers gave the suspects a *Miranda* warning. In “a loud and controlling voice,” one officer asked the front-seat passenger if he had any weapons on him. At that point, Hoskins, who was lying on the opposite side of the car near the backseat, rolled over and admitted to another officer that he had a gun in the waistband of his pants. Hoskins was charged with carrying a concealed weapon and improperly handling a firearm in a motor vehicle.

**Why the case is important:** Because Hoskins was told to lie on the ground while surrounded by officers, the Ohio court held that he was in “custody.” The court explained that the officers should have given Hoskins and the other suspects a *Miranda* warning before asking **any** suspect a question. It held that it was reasonable for Hoskins to think he was being asked about weapons. Since he had not been given a *Miranda* warning, his admission was not “voluntary.” Rather, it was an answer to one officer’s loudly asked question. Here, the police violated Hoskins’ Fifth Amendment right against self-incrimination, so his statement was suppressed.

One judge dissented and found that the officers had reasonable suspicion to ask about weapons: The officers pulled over a known stolen vehicle; it was after dark; and the arrest was in a high-crime area known for drugs, gangs, and gun violence.

**Keep in mind:** Asking a global question — or even what a court might interpret as a global question — to multiple suspects without giving a *Miranda* warning can lead to suppression of the statements and possible dismissal of the case.

Click [here](#) to read entire opinion.

***State v. Battle***  
**Ohio Court of Appeals, Tenth District (Franklin County)**  
**Dec. 22, 2011**

**Question:** If a car is parked, locked, and otherwise secure, do you need a warrant to search the car if you have probable cause to believe it contains drugs?

**Quick answer:** No. You may conduct a warrantless search under the automobile exception.

**Facts:** The Columbus Division of Police obtained a search warrant for a suspected drug house. Earlier in the day, a confidential informant (CI) told officers that a drug delivery was on its way to the house. Officers had been staking out the house for a few hours when Chaswan Battle pulled up in a black SUV. A passenger from the SUV carried a white shoebox into the house. The CI then entered the house, leaving shortly afterward. Only the CI's feet could be seen at that time because a van blocked the front door, but officers noticed another person follow the CI outside. Once the van pulled away, they learned that the other person was Battle, and he was standing at his SUV with the back car door open. Officers could not see what Battle was doing inside the car. A few minutes later, the CI told police he had seen drugs in the house, so they began their raid, arresting Battle and others inside but finding no drugs. Officers specifically looked for the white shoebox because they believed it contained drugs. They could not locate the box in the house, leading them to believe the drugs were in Battle's car. Officers searched Battle's parked SUV and found the white shoebox, containing one kilo of cocaine, in the back seat. The trial court suppressed the drugs, finding that the automobile exception did not apply because there was no "exigent circumstance" preventing them from getting a warrant.

**Why the case is important:** The officers reasonably followed all of the evidence to the most logical conclusion: The drugs were in the car. Therefore, the Ohio court of appeals found there was probable cause to allow a warrantless search of Battle's SUV under the automobile exception. Several facts provided officers with probable cause to search the car: (1) Officers were told by an informant that the drugs were "on their way." (2) Battle pulled up and entered the home with someone carrying a shoebox. (3) The informant reported seeing drugs in the home. (4) A van blocked officers' view of Battle leaving the apartment, but shortly afterward, they saw him in the back of his SUV with the car door open. (5) During the drug raid, no drugs were found in the home. Unlike the trial court, the court of appeals ruled there is no "exigency" requirement for the automobile exception. If a car is readily mobile and there is probable cause to believe the car contains contraband, the Fourth Amendment allows police to search it without a warrant.

**Keep in mind:** Whenever possible, always obtain a search warrant. But when you have probable cause to believe there are drugs in a vehicle, you can search the vehicle without a warrant even if it is parked and locked. You do not need an "exigent circumstance" before conducting a warrantless search of a secure car.

Click [here](#) to read entire opinion.

***United States v. Rochin***  
**Tenth Circuit Court of Appeals (New Mexico)**  
**Dec. 13, 2011**

**Question:** Is the scope of a *Terry* frisk limited to removing traditional weapons that are immediately known during the frisk?

**Quick answer:** No. You may remove any object that you reasonably believe could be used as a weapon against you.

**Facts:** During a valid traffic stop, a New Mexico police officer had reasonable suspicion to *Terry* frisk Rochin because the radio dispatcher warned that both Rochin and his vehicle may have been involved in a recent drive-by shooting. While frisking Rochin, the officer felt a long bulky object in each front pocket of Rochin's pants, but could not identify the objects. The officer asked him what they were, but Rochin responded in Spanish that he did not know. At that point, the officer chose to remove the objects from Rochin's pants and learned they were glass smoking pipes. The officer arrested him for drug possession.

**Why the case is important:** The scope of a *Terry* frisk is not limited to traditional weapons. A federal court of appeals found that, during a frisk, an officer may remove guns, knives, or any other objects that he reasonably thinks could be used to assault him. Here, it did not matter that the officer could not identify the objects. The Fourth Amendment focuses on reasonableness, not what a specific officer may have been thinking.

**Keep in mind:** A *Terry* frisk is designed for officer safety, so you should frisk a suspect when you have a reasonable suspicion that your safety may be threatened. But when a frisk reveals an unknown object in the suspect's clothing, you should not remove it **unless** you reasonably believe it could be used as a weapon against you.

Click [here](#) to read entire opinion.

***Williams v. Commonwealth of Kentucky***  
**Kentucky Supreme Court**  
**Nov. 23, 2011**

**Question:** Can you find reasonable suspicion to stop and frisk a suspect based on his association with others who are committing a crime?

**Quick answer:** Yes. You may do so as long as you are not relying solely on the suspect's association with others.

**Facts:** Police officers received a call that a group of young men were loitering and using drugs on a public street. The officers responded and approached the suspects after witnessing some of them smoking marijuana in front of an abandoned building. Upon questioning, one of the suspects admitted that the large bulge in his front pants pocket was a bag of marijuana. A few officers also noticed handguns tucked in some of the suspects' pants. At that point, a few suspects tried to walk away from police, so officers told the group to stop and lie on the ground. The officers frisked everyone, including Williams, even though they did not see everyone smoking marijuana or carrying



a gun. Once on the ground, an officer noticed that Williams had a bulge in the back of his pants waistband, which turned out to be a handgun. Williams was charged with possession of a handgun by a convicted felon, carrying a concealed deadly weapon, and loitering.

**Why the case is important:** The officers had reasonable suspicion to conduct a *Terry* “stop-and-frisk” of the nine suspects. The Kentucky Supreme Court disagreed with Williams’ argument that police stopped and frisked him only because of his association with the other men. Even though officers did not see Williams smoking marijuana or carrying a weapon, the court found that he was not simply a bystander in a public place. He was part of a group that police knew to openly use drugs and carry illegal firearms. Of course, Williams’ association with the group by itself was not enough to permit a *Terry* stop and frisk. But the officers could consider that association along with other observations in order to find reasonable suspicion.

**Keep in mind:** In finding reasonable suspicion to stop and frisk a potential suspect, you need more than the person’s mere presence among others committing a crime. Does the person seem to be a part of the group? Or does the person seem to be a bystander? Have you made any additional observations of the person that would justify a stop and frisk?

Click [here](#) to read entire opinion.