



# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

December 2005

Volume 24, Issue 6

Page 1 of 4

**Forward:** In this year's Index to the Police Law Bulletin we provide a **Subject Index** for topics in addition to a separate index for **Case Law Summaries**. The Case Law Summaries begin on page 3.

### 2005 SUBJECT INDEX

#### **CMPD Procedures**

- Administrative Inspection Procedures Oct/Nov
- Authorization to Act as Agent June/July
- Cell Phone Use During Traffic Stops Oct/Nov
- Citation Forms Update Winter
- Dealing with Service Animals (Guide Dogs, Etc.) Aug/Sep
- Intoxilyzer Room – Videotaping Aug/Sep
- Involuntary Commitment – Transporting Adults and Juveniles to Mental Health Without a Custody Order Winter
- Knock and Talk Procedure Oct/Nov
- Magistrate's Office Reminders: Oct/Nov
  - 1. Arrest Warrants for Traffic Offenses
  - 2. Arrest Worksheets
  - 3. 50C Civil No-Contact Orders
- Medic Transports Apr/May
- **Note:** "Tenant or Guest – Eviction or Trespass?" Article In *November – December 2004* Issue Has Been Changed Winter
- Officer Reminders: Aug/Sep
  - 1. Citations /Arrests
  - 2. Increase in Court Costs

[Return to top](#)



# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

December 2005

Volume 24, Issue 6

Page 2 of 4

### **CMPD Procedures (Continued)**

- Off-Duty Officers – Banning From Employer’s Property **Apr/May**
- Subpoenas for the Production of Documents **Winter**
- Transporting Officers and Arrest Affidavits **Aug/Sep**
- Waiver of Rights Forms **Oct/Nov**

### **Domestic Law**

- Civil No-Contact and Workplace Violence Protective Orders **Apr/May**

### **Juveniles**

- Juveniles and Firearms **Oct/Nov**
- Temporary Custody of Juveniles Without a Court Order **Winter**

### **Motor Vehicle / Traffic Law**

- Exemptions From Wearing Seat Belts **Apr/May**
- Handicapped Parking **June/July**
- High Occupancy Vehicle (“HOV”) Lanes – I-77 **Apr/May**
- Intoxilyzer Room – Videotaping **Aug/Sep**
- Passing a Stopped School Bus **Aug/Sep**
- Seizing Revoked Driver’s Licenses – DMV Form **Winter**

[Return to top](#)



# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

December 2005

Volume 24, Issue 6

Page 3 of 4

### CASE LAW SUMMARIES – 2005 INDEX

#### Criminal Law and Procedure

##### Search and Seizure

- *Fourth Amendment/Probable Cause/Deference to Magistrate's Finding:* "Great deference" should be paid by courts to a magistrate's finding of probable cause to issue a search warrant.  
State v. Sinapi, 359 N.C. 394, 610 S.E. 2d 362 (2005) Apr/May
- *Fourth Amendment/Search Warrant/Use of Force:* Handcuffing an occupant during the search of a residence was a reasonable use of force during a detention and not a violation of the Fourth Amendment.  
Muehler v. Mena, \_\_\_ U.S. \_\_\_, 125 S. Ct. 1465 (2005). Winter
- *Fourth Amendment/Traffic Stop/Consensual Encounter:* A consensual encounter is lawful if, upon reviewing the totality of the circumstances, a reasonable person would feel free to decline the officer's requests or otherwise terminate the encounter.  
United States v. Meikle, 407 F.3d 670 (4<sup>th</sup> Cir. 2005) Apr/May
- *Fourth Amendment/Vehicle Checkpoint/Primary Purpose:* In order for a vehicle checkpoint to be lawful, its primary purpose must be something other than the "ordinary enterprise of investigating crimes."  
State v. Rose, \_\_\_ N.C. \_\_\_, 612 S.E. 2d 336 (2005) Apr/May
- *Fourth Amendment/Vehicle Search/Community Caretaking Doctrine:* The search of a motor vehicle's glove box, was found to be justified under the community caretaking doctrine.  
United States v. Johnson, 410 F.3d 137 (4<sup>th</sup> Cir. 2005) June/July
- *Supreme Court Preview:* Previewed an upcoming case dealing with the issue of whether a wife's consent to search a residence overrides the husband's refusal to give consent when both spouses are present at the residence.  
Georgia v. Randolph, Docket No.: 04-1067 Oct/Nov

[Return to top](#)



# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

December 2005

Volume 24, Issue 6

Page 4 of 4

### Statutes

- *Crime Against Nature/Constitutionality:* The North Carolina crime against nature statute is constitutional in situations where the conduct involves minors, public conduct or prostitution.  
State v. Pope, 168 N.C App. 592, 608 S.E. 2d 114 (2005)

Winter

### Use of Force

- *Fourth Amendment/Use of Force/Fleeing Vehicle:* Shots fired by officers from behind a fleeing moving vehicle were found to be unconstitutional; however, the officers were entitled to qualified immunity.  
Waterman v. Batton, 393 F.3d 471 (4<sup>th</sup> Cir. 2005)

June/July

### Vehicle Stops

- *Fourth Amendment/Dog Sniff:* As long as the initial traffic stop is not prolonged beyond the time required to complete the stop, a dog sniff of the exterior of a vehicle does not constitute a new search requiring independent suspicion.  
Illinois v. Caballes, \_\_\_ U.S. \_\_\_, 125 S.Ct. 834 (2005)
- *Fourth Amendment/Vehicle Stop/Control of Passenger:* Officers may not only order a passenger out of a vehicle pursuant to a lawful vehicle stop, but may, in the officer's discretion, also order the passenger to temporarily remain in the vehicle.  
State v. Shearin, \_\_\_ N.C. App. \_\_\_, 612 S.E. 2d. 371 (2005)

Winter

June/July

[Return to top](#)