

# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

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### 2007 SUBJECT INDEX

#### City Code Provisions

- City Code Citations Issued on behalf of Code Enforcement Inspectors **Jan-Feb**
- Leaving Unattended Vehicles---City Code Sec. 14-221 **Jan-Feb**

#### CMPD Procedures

- "Asked and Answered":  
    B & E Vehicle/*Georgia v. Randolph* **December**
- Guidelines for Dealing with South Carolina Suspects **Summer**
- Officer Reminders:
  1. Felon in Possession of a Firearm
  2. Laser Devices
  3. Reasonable Suspicion for DWLR**Jan-Feb**
- Officer Reminders
  1. Finger(s) alone not a Threat
  2. Requests from Private Attorneys
  3. Subpoenas to Officers-DWI cases
  4. Request from District Attorney's Office**Summer**

#### Courts

- Increased Court Costs and Fees Effective August 1, 2007 **Summer**
- Reminders from the Magistrate's Office:
  1. Arrest Affidavits-Vehicle Information
  2. Dismissal of Traffic Citations
  3. Juvenile Petitions-Citizens**Jan-Feb**
- Pending U.S. Supreme Court Pursuit Case:  
    *Scott v. Harris* (See also *Summer 2007* volume) **Jan-Feb**

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### Courts (continued)

- United States Supreme Court Update:  
Cases pending before the Supreme Court -
  1. *Medellin v. Texas* (Consular Notification)
  2. *District of Columbia v. Heller* (Second Amendment)

**December**

### Motor Vehicle / Traffic Law

- Skateboards/Scooters 

**Summer**

### CASE LAW SUMMARIES – 2007 INDEX

#### Civil Liability

- *Civil Liability Standard In Pursuit Cases: Importance of Video Recording*: There was no Fourth Amendment violation when an officer attempted to terminate a high-speed car chase, which threatened innocent bystanders, by using his push bumper. Additionally, a court does not have to rely on plaintiff's version of events if a video of the events accurately records the pursuit.  
*Scott v. Harris*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 1769 (2007) 

**Summer**
- *Liability for Constitutional Violations/42 U.S.C. §1983/Statute of Limitations*: The statute of limitations for a §1983 claim for false arrest begins to run at the time the claimant becomes detained pursuant to legal process.  
*Wallace v. Kato*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 1091 (2007) 

**Jan-Feb**

#### Right to Confrontation

- *Right to Confrontation/Unavailable Witness/Testimonial Statements*: Statements made to officers during an on-going emergency may be admitted at trial even if the person who made the statement is not present in the courtroom as the statement is considered non-testimonial.  
*State v. Lewis*, 361 N.C. 541, 648 S.E. 2d. 824 (2007) 

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### Robbery

- **Common Law Robbery/Larceny From Person:**  
The use of a diversionary tactic constituted constructive force allowing the defendant to take property from the presence and control of the victim and met the elements of larceny from the person rather than common law robbery.  
*State v. Carter*, \_\_\_ N.C. App. \_\_\_, 650 S.E. 2d. 650 (October 2, 2007)

December

### Search and Seizure

#### Consent:

- **Fourth Amendment/General Consent/Consent of Genital Area:** A general consent to search does not automatically allow a law enforcement officer to directly manipulate clothing to directly observe the genital area of the subject.  
*State v. Stone*, 2007 N.C. LEXIS 1228 (December 7, 2007)

December

#### Exigent Circumstances:

- **Fourth Amendment/Search And Seizure/Warrantless Entry/Exigent Circumstances:** A warrantless entry into a residence by officers, in which a homicide has occurred approximately two days earlier, was not justified on the basis of exigent circumstances.  
*State v. McKinney*, 361 N.C. 53, 637 S.E. 2d 868 (2006)

Jan-Feb

#### Search Incident to Arrest:

- **Fourth Amendment/Search And Seizure/Search Incident to Arrest/Cell phones:** The scope of a search incident to arrest also includes containers that are found on the arrestee's person, such as cell phones.  
*U.S. v. Finley*, 466 F.3d 2007 (5<sup>th</sup> Cir. 2007)

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### Search Warrant Execution:

- *Execution of Search Warrant when there is a mistake and the occupants are not the suspects:* Officers, while serving a valid search warrant at a residence, may detain any occupant in a reasonable manner and for a reasonable period of time to secure the premises.  
*Los Angeles County v. Rettele*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 1989 (2007) Summer

### Stop and Frisk:

- *Fourth Amendment/Stop and Frisk/Reasonable Suspicion:* Reliance only on dispatch information describing a general portion of the population, without specific information as to age, height, weight or other physical characteristics, is insufficient to establish reasonable suspicion to detain a person.  
*State v. Cooper*, \_\_\_ N.C. App. \_\_\_, 649 S.E. 2d 664 (2007) December

### Vehicle Stops

- *DWI Checkpoint/Evasion/Refusal:*  
A motorist, who failed to stop at a DWI checkpoint, gave an officer reasonable suspicion she was engaged in criminal activity which justified the traffic stop.  
*White v. Tippett*, \_\_\_ N.C. App. \_\_\_, 652 S.E. 2d 728 (2007) December
- *Passenger's Right to Contest Vehicle Stop:*  
Once a car is stopped by police, the driver and all occupants have been seized under the Fourth Amendment and may contest the legality of the seizure.  
*Brendlin v. California*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 2400 (2007) Summer

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