

# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

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**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 2.

### 2008 SUBJECT INDEX

#### **CMPD Procedures**

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#### **Criminal Law**

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#### **Legislation**

- New Legislation Spring
  1. Electronic Recording Of Interrogations Required
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- North Carolina Electronic Vehicle Inspection Program Fall
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- How Should Tow Trucks Be Labeled? Summer
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- The New Division Wrecker Contract Summer
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### CASE LAW SUMMARIES – 2008 INDEX

#### Reasonable Suspicion

- *Fourth Amendment / Investigative Stops / Reasonable Suspicion:* Spotting a suspect in an area where drug-related arrests have occurred and observing an unconcealed firearm, did not give an officer reasonable suspicion to justify an investigative detention. An investigative detention requires specific and articulable facts that create a reasonable suspicion that the person committed a crime.  
*State v. Hayes*, 655 S.E.2d 726, 2008 N.C. App. LEXIS 84 (2008) Spring
- *Fourth Amendment / Reasonable Suspicion / Plain Feel:* There was reasonable suspicion to justify an investigatory detention and frisk because the officer had specific and articulable facts (suspect's behavior and knowledge of past convictions, etc.), to infer the suspect committed a crime.  
*State v. Robinson*, 658 S.E.2d 501, 2008 N.C. App. LEXIS 648 (2008) Spring
- *Fourth Amendment / Resisting Arrest / Reasonable Suspicion:* When voluntary contact occurs between the police and a citizen there is no obligation to talk to the officer or submit to a search; therefore, flight from the voluntary contact by the citizen is not evidence of resisting, delaying or obstructing arrest.  
*State v. Sinclair*, 663 S.E.2d 866, 2008 N.C. App. LEXIS 1473 (2008) Fall

#### Right to Counsel

- *Sixth Amendment Right To Counsel / Attachment / Initial Appearance Before A Magistrate:* A criminal defendant's initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversarial judicial proceedings and triggers attachment of the Sixth Amendment right to counsel.  
*Rothery v. Gillespie County*, \_\_\_ U.S. \_\_\_, 128 S. Ct. 2578 (2008) Summer
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### Search and Seizure

- *Fourth Amendment / Due Process / Firearms / Search and Seizure / Exigent Circumstances:* Police were entitled to the warrantless search and seizure of firearms from the residence of an individual who had stated he was suicidal and that he could understand shooting people at work, because in circumstances that suggest a grave threat and true emergency, law enforcement is entitled to take whatever preventative action is needed to defuse it.  
*Mora v. City of Gaithersburg, et.al.*, 519 F.3d 216 (4<sup>th</sup> Cir. 2008) Spring
- *Fourth Amendment / Search And Seizure / Warrantless Searches / Plain View:* While hotel guests give implied permission to agents of the hotel to enter the room in the performance of their duties, this implied consent does not extend to others, even law enforcement.  
*State v. McBennett*, 664 S.E.2d 51, 2008 N.C. App. LEXIS 1486 (2008) Fall
- *Fourth Amendment / Warrantless Search /Entry Into Private Premises:* Officers cannot rely on exigency to justify a forced entry and a warrantless search of an apartment when the officers were responsible for creating the exigent circumstances by initiating a physical struggle with the tenant after he insisted that the officers leave because they didn't have a search warrant.  
*U.S. v. Mowatt*, 513 F.3d 395 (4<sup>th</sup> Cir. 2008) Spring
- *Search And Seizure / Search Warrant / Confidential Informants:* An application for a search warrant, which described the buildings to be searched, but did not provide facts which supported a search, was insufficient in showing probable cause for the issuance of the warrant.  
*N.C. v. Taylor*, 664 S.E. 2d 421, 2008 N.C. App LEXIS 1504 (2008) Fall

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### Traffic Stops

- *Fourth Amendment / Anonymous 911 Call / Reasonable Suspicion:* A traffic stop based solely on an anonymous 911 call, without corroborating factors that established the caller's reliability, did not create reasonable suspicion and was therefore, not valid under the Fourth Amendment.  
*U.S. v. Reaves*, 512 F.3d 123 (4<sup>th</sup> Cir. 2008)
- *Fourth Amendment / Traffic Stops / Search And Seizure / Warrantless Searches:* A 30 second delay after a traffic light turns green created a reasonable, articulable suspicion to stop the vehicle based on the "totality of the circumstances" (12:15 a.m., high crime area, bars in vicinity).  
*State v. Barnard*, 362 N.C. 244, 658 S.E.2d 643 (2008)
- *Traffic Stops / Reasonable Suspicion:* Reasonable suspicion is the standard for all traffic stops. Observing a motorist change lanes immediately in front of another vehicle without signaling creates reasonable suspicion.  
*State v. Styles*, 362 N.C. 412, 665 S.E.2d 438 (2008)

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