


Fall 10-30-2018

Perceptions, Knowledge and Experiences among Police Officers: Traffic Stops, Vehicle Searches and K-9 Involvement

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Perceptions, Knowledge and Experiences among Police Officers:

Traffic Stops, Vehicle Searches and K-9 Involvement

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Perceptions and Experiences among Police Officers: Traffic Stops, Vehicle Searches and K-9 Involvement

I. INTRODUCTION

The Fourth Amendment is one of the most essential amendments provided by the American Constitution that protects a citizen's possessions and property from unlawful search and seizure from the government. The United States Constitution states the Fourth Amendment as "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized".¹ The ultimate goal of the Fourth Amendment is to protect people's right to privacy and freedom from unnecessary, unreasonable government intrusions.

The main purpose of this thesis study is to gather data through a survey of law enforcement officers in order to better understand police perceptions, experiences and knowledge with citizen's Fourth Amendment rights, in particular in the context of police traffic stops, vehicle searches and the use of K-9 drug units. This context is particularly relevant in light of a recent United States Supreme Court case in this area, *Rodriguez v. United States*, which clarified the law related to police vehicle stops involving searches by canine units.² No other known empirical study of police "line" officer perceptions and experiences with vehicle stops and searches and canine units exists, and therefore this study fills a significant gap in the literature. The specific research questions this study aims to address are: (1) Does this large, south-eastern suburban police department conduct routine police traffic stop within the overall scope or time

¹ United States Constitution, https://www.usconstitution.net/xconst_Am14.html. (last visited May 1, 2017)

² *Rodriguez v. United States* 135 S.Ct. 1609 (2015).

limit set by the Supreme Court in *Sharpe v. United States* and its progeny?; (2) Does the use of K-9 units by police occur during the time the officer completes routine traffic stop tasks, as generally required by *Rodriguez*?; (3) What are examples of how the federal courts of appeals and state of Georgia courts interpret the *Rodriguez v. United States* case and use this ruling as precedent to decide the outcome and ruling of a case presented in their courts?

II. LITERATURE REVIEW

This Part will first address the relevant legal cases for this study. The second Part will turn to previous empirical studies about Fourth Amendment police search and seizure laws.

A. Relevant law/ jurisprudence

In *Rodriguez v. United States*, a United States Supreme Court case decided in 2015, the Court addressed whether police officers may extend the length of traffic stops to perform a search with a trained drug detection police dog.³ In *Rodriguez*, the police interaction began on the evening of March 27, 2012 when the defendant, Dennys Rodriguez, was stopped by police K-9 Officer Struble on a highway near Waterloo, Nebraska. The reason Officer Struble initiated a traffic stop on the defendant was the officer witnessed the defendant swerve in and out of his lane of traffic.⁴ When officer Struble approached the defendant's vehicle, Struble reported an overwhelming scent of air-fresheners originating from the stopped car. After a brief questioning of the two occupants of the vehicle, Officer Struble called for a second squad car and conducted a routine check on the vehicle's occupants. Officer Struble then issued the defendant a written

³ *Rodriguez v. United States* 135 S.Ct. 1609 (2015).

⁴ *Id.* at 1611.

warning for the traffic violation.⁵ Officer Struble then asked permission to have his K-9 partner conduct a sniff search of the vehicle, which the defendant refused. Officer Struble detained the defendant and had his K-9 partner sniff the car. The dog alerted the officer to the presence of drugs.⁶ The defendant was arrested and charged with the possession of methamphetamine. The defendant Rodriguez was indicted in the United States District Court for the District of Nebraska for possession with intent to distribute methamphetamine. The defendant filed a motion to suppress evidence discovered by the drug detection dog. Rodriguez argued that an officer may not extend an already completed traffic stop to conduct a canine sniff without reasonable suspicion or other lawful justification.⁷ Rodriguez's motion was denied by the District Court. The defendant then filed an appeal in the United States Court of Appeals for the Eighth Circuit to review his denied motion to suppress the evidence. The Eighth Circuit Court of Appeals affirmed the lower court's decision to deny the defendant's motion to suppress. The Court of Appeals held that the seven to eight minute extension to conduct the canine sniff was a reasonable extension of time to ensure the police officer's safety.⁸

Rodriguez v. United States was first argued on January 21, 2015 and was decided on April 21, 2015. The Supreme Court vacated and remanded the lower courts' decisions by a vote of 6 to 3. Justice Ginsburg, who wrote the majority opinion of the Court, stated

“a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures. Consequently, a traffic stop becomes unlawful if 'it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket for the violation.'”⁹

⁵ Id. at 1611.

⁶ Id.

⁷ Id.

⁸ Id. at 1609.

⁹ Id. at 1609 (quoting *Illinois v. Caballes*, 543 U.S. 405 (2005))

The justices stated that Officer Struble's authority to continue the traffic stop ended once he issued the warning for the traffic violation and completed his investigation of the infraction.¹⁰ Traffic related tasks include checking the vehicle occupant's driver's license and registration, checking for warrants on occupants, and issuing any legal outcomes, including citations, warnings, or arresting a suspect.¹¹ The Supreme Court remanded the case back to the Eighth District Court of Appeals to determine whether Officer Struble had reasonable suspicion to extend the traffic stop in order to conduct the canine sniff (i.e., since the traffic-related tasks had already been completed by Struble at the time of the sniff).¹²

Another landmark Supreme Court case that is important to this research paper is *United States v. Sharpe*.¹³ The issue raised in *Sharpe* included whether it was reasonable for a law enforcement agent to detain a suspect and his vehicle for 20 minutes, which the officer suspected of carrying illegal contraband while another officer with expertise in drug investigations --- and who was attempting to pull over another fleeing vehicle --- arrived on the scene. The main facts of the case were the defendants, Sharpe and Savage both in separate vehicles, were pulled over by law enforcement for an "investigative stop".¹⁴ The first defendant, Sharpe, was pulled over first while the second defendant, Savage, continued and was pulled over farther down the highway after highway patrol pursued the defendant.¹⁵ After the police officers performed an external investigation of the trailer being pulled by Sharpe's truck, the officer informed the defendant that he would be held until DEA agent Cooke arrived, which made the defendant

¹⁰ *Id.*

¹¹ *Id.* at 1609.

¹² *Id.*

¹³ *United States v. Sharpe* 470 U.S. 675 (1985).

¹⁴ *Id.* at 677.

¹⁵ *Id.*

visibly nervous.¹⁶ Agent Cooke arrived at the scene 15 minutes after the traffic stop had begun. Officer Thrasher then pressed his nose against the closed back window of Sharpe's truck and smelled what he believed to be marijuana coming from the rear of the truck.¹⁷ Agent Cooke then removed the truck's keys from the ignition and opened the rear camper without permission. He discovered multiple burlap-wrapped bales of marijuana.¹⁸ Agent Cooke then arrested the defendant Sharpe and placed him in Officer Thrasher's custody. Agent Cooke then proceeded to arrest the other defendant Savage who was stopped shortly up the road.¹⁹ The defendants were charged with possession of marijuana with intent to distribute. The arrests of the defendants took place approximately 30 to 40 minutes after Officer Thrasher began the traffic stop.²⁰ The defendants were convicted of possession of a controlled substance in the district court of South Carolina, and moved to appeal the ruling to the Court of Appeals to not allow the evidence gathered in the search due the length of the stop being a violation of their Fourth Amendment rights. The Court of Appeals reversed the decision and the government petitioned for certioraris which lead the case to the Supreme Court.

The Supreme Court drew upon the rulings from *Terry v. Ohio* about law enforcement reasonableness of an investigative stop, whether the law enforcement officer's action was justified at its beginning and whether it was reasonably related to the causes that justified the stop in the first place.²¹ The Supreme Court reasoned that DEA agent Cooke diligently pursued the investigation and no unnecessary delay to the investigation occurred. The Court concluded that the 20-minute detention of a suspected individual met the Fourth Amendment's standard of

¹⁶ Id. at 679.

¹⁷ Id. at 672.

¹⁸ Id. at 679.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 689. (referencing *Terry v. Ohio* 392 U.S. 1 (1968)).

reasonableness.²² The Supreme Court reversed the lower court decision and remanded the case back.

Since *Rodriguez* was decided, various federal circuit courts of appeal have interpreted and applied the decision. For example, *United States v. Pena-Gonzalez* was a United States Court of Appeals case that was argued in the Fifth Circuit on July 16, 2015 and was decided on September 2, 2015. The facts of this case included a traffic stop along a portion of U.S. Highway 77 that runs through the southern part of Texas. On March 9, 2011, Kingsville Police Officer Mike Tamez was patrolling Highway 77 southbound when he noticed a Chevy Tahoe speeding.²³ Officer Tamez pulled alongside of the Tahoe and observed three passengers in the vehicle, two adults and one child. Officer Tamez also noticed numerous air fresheners hanging throughout the car, several rosaries located on the rearview mirror, and four bumper stickers showing support for the D.A.R.E. program and general law enforcement.²⁴ Officer Tamez then activated his patrol lights and pulled the vehicle over for speeding two miles over the speed limit. Officer Tamez approached on the passenger side of the vehicle. Mr. Pena-Gonzalez sat in the passenger seat; his wife, Nohemi Pena, was driving the Tahoe.²⁵

When Mr. Pena-Gonzalez rolled down his window, Officer Tamez smelled an overwhelming odor of air freshener and counted four air fresheners hanging throughout the vehicle that he could see.²⁶ Tamez asked for Mrs. Pena's driver's license and insurance, and then went around the vehicle to the driver's side and asked her to step out of the vehicle. Tamez questioned Mrs. Pena and she said she and her family were coming from Houston and traveling

²² *Id.* at 675.

²³ *United States v. Pena-Gonzalez*, 618 Fed.Appx. 195, 197 (5th Cir. 2015).

²⁴ *Id.* at 196.

²⁵ *Id.*

²⁶ *Id.*

home to Mission, which Tamez found odd because her insurance said they lived in Palmview. Mrs. Pena said that they had been in Houston so her husband could attend a car auction.²⁷ Tamez asked if they bought anything while at the auction and Mrs. Pena originally said no, though she quickly changed her answer. She said that her husband did find a car, an Impala, and some other car but her husband was in charge of that.²⁸

When Officer Tamez questioned Mrs. Pena-Gonzalez about how many days they spent in Houston, it took Mrs. Pena four seconds to respond with “one day”. Officer Tamez told Mrs. Pena-Gonzalez he would let her off with a warning. After Mrs. Pena-Gonzalez thanked him, Officer Tamez asked if he could talk to her husband and she agreed with the request. The conversation between the officer and Mrs. Pena-Gonzalez took a total of four minutes.²⁹ The conversation between Tamez and Mr. Pena-Gonzalez lasted for around three minutes once officer Tamez got Mr. Pena-Gonzalez out of the vehicle. During that time Officer Tamez noticed Mr. Pena’s carotid artery visibly pulsed, his faced twitched and his breathing become labored.³⁰ Officer Tamez then asked for permission to search the vehicle and Mr. Pena became hesitant. Eventually, Mr. Pena-Gonzalez gave consent to Tamez to search the Tahoe where Officer Tamez discovered a dozen bundles of cash wrapped in black trash bags that were hidden behind a panel in the back of the Tahoe.³¹ A grand jury indicted Mr. Pena-Gonzalez for charges including money laundering and conspiracy to commit money laundering. Mr. Pena-Gonzalez moved to suppress the evidence, arguing that reasonable suspicion did not exist to extend the stop after Officer Tamez decided to issue a warning to Mrs. Pena-Gonzalez. Mr. Pena-Gonzalez

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id. at 197.

acknowledges that the initial traffic stop by Officer Tamez was legal, but argues that Officer Tamez extended the traffic stop past the time permitted by the Fourth Amendment.³²

The Court of Appeals for the Fifth Circuit in *Pena-Gonzalez* noted that the United States Supreme Court recently clarified in *Rodriguez* that the Fourth Amendment limits the allowable length of a traffic stop. In particular, the Court in *Pena-Gonzalez* noted that *Rodriguez* had emphasized that “[t]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop and attend to related safety concerns.”³³ For example, this principle allows the police officer to examine the driver’s license and vehicle registration and ask about the purpose and route of the driver’s trip. Once the tasks related to the traffic stop are concluded, the authority of the seizure must end; however, if police and prosecutors can show additional, articulable reasonable suspicion of wrongdoing or the presence of an exception to the Fourth Amendment, these considerations can allow the stop to continue.³⁴ Overall, the Court in *Pena-Gonzalez* relies on the concept from *Rodriguez* that a police officer may at times conduct certain unrelated checks during a lawful traffic stop; however, the police officer may not do so in a way that prolongs the stop, without the reasonable suspicion normally required to justify detaining an individual.³⁵

The Court found since the initial stop was determined legal due to the speeding violation, it led to Officer Tamez gaining reasonable suspicion of criminal activity after talking with the Mr. and Mrs. Pena-Gonzalez, whose stories kept changing. In addition, the large amount of air

³² *Id.* at 197.

³³ *Id.* at 197-198. (quoting *Rodriguez v. United States* 135 S.Ct. at 1609).

³⁴ *Id.* at 198.

³⁵ *Id.* (citing *Rodriguez v. United States* 135 S.Ct. at 1614).

fresheners contributed to the reasonable suspicion of wrongdoing. Thus, the extended duration of the stop beyond the time the warning was issued to Mrs. Pena, was permissible.³⁶

In turn, Officer Tamez also acquired probable cause to search Pena's vehicle due to the numerous stickers on it favoring police, the multiple air fresheners located throughout the vehicle, and the conflicting stories from the two passengers.³⁷ During the search, the evidence of large sums of money was discovered. This money laundering evidence was determined to be admissible even though the duration of the traffic stop was extended past the usual, acceptable limit of a stop. For example, the Court of Appeals agreed that the purpose of the initial traffic stop had been served once the warning was issued by Officer Tamez.³⁸ However, the U.S. Court of Appeals also found that the extension of the traffic stop was justifiable due to the reasonable suspicion of criminal activity under the totality of the circumstances as well as the fact the extended time of the traffic stop only lasted three minutes before permission to search the vehicle was obtained. The judgments of the lower courts were affirmed.³⁹

United States v. Calvetti is another case that was heard by The Court of Appeals for the Sixth Circuit. *Calvetti* was argued on August 4, 2016 and decided September 8, 2016. The two defendants in *Calvetti* were convicted of conspiracy to distribute five kilograms or more of cocaine.⁴⁰ On March 26, 2014, Michigan State Police Trooper Craig Ziecina was observing traffic from the median of Interstate Highway I-75. Trooper Ziecina observed a minivan driven by defendant Sarah Calvetti suddenly slow down and change lanes without signaling the lane

³⁶ *Id.* at 197.

³⁷ *Id.* at 197-199.

³⁸ *Id.* at 197.

³⁹ *Id.*

⁴⁰ *United States v. Calvetti*, 836 F.3d 654 (6th Cir.2016).

change.⁴¹ Trooper Ziecina noticed that Calvetti's arms were locked in a rigid, unnatural position on the steering wheel. She also had a frozen, cold expression on her face while driving below the minimum speed limit.⁴² Trooper Ziecina initiated a traffic stop to issue a citation. Trooper Ziecina then came up to the minivan, asking Calvetti and her passenger, defendant Demas Cortez, for their driver's licenses, registration, and proof of insurance which Cortez was able to produce. However, Calvetti could not locate her driver's license.⁴³ Trooper Ziecina directed defendant Calvetti to accompany him back to his patrol car while he looked up her driver's license information in his vehicle.⁴⁴ The police database check revealed that the minivan was not registered to Calvetti. Officer Ziecina confronted Calvetti with this discrepancy; Calvetti then explained that she was still in the process of buying the minivan but had not completed the sale at that time.

At this point in the process, the traffic stop had lasted approximately fifteen minutes.⁴⁵ Next, Michigan State Police Officer Jeffery Schrieber arrived as a back-up officer with a drug-sniffing dog following the conversation about the minivan ownership. Officer Schrieber conducted a canine sniff of the vehicle with his drug sniffing K-9 partner. At the same time Officer Ziecina interrogated Calvetti about past criminal history, including drug possession, drug usage, and involvement in a shootout. Officer Ziecina observed that Calvetti acted very nervously throughout their conversation, did not make eye contact, was sweating and shaking,

⁴¹ Id. at 654.

⁴² Id.

⁴³ Id. 655

⁴⁴ Id.

⁴⁵ Id. 656

touched her face, and “searched for answers” to simple questions, which indicated to the officer that she, was not being truthful in her answers.⁴⁶

About thirty-five minutes into the traffic stop, the troopers moved Cortez to the patrol car with Calvetti while the officers conducted a search of the vehicle.⁴⁷ The K9 gave the officer an alert inside the vehicle, specifically on the driver side. Officer Ziecina detected what he called discrepancies in the vehicle’s design, including seats that looked to have been “built upward,” a vehicle floor that appeared “too thick,” and visible sheet metal on the driver's side sliding door that did not look like they belonged in the vehicle.⁴⁸ Trooper Ziecina inserted an optical scope into an opening in the floor, seeing areas where the floor had been welded together. Ziecina then removed a center portion of the floor and inserted his optical scope again and detected five kilogram sized packages. Cortez and Calvetti were then quickly arrested and the officers opened the hidden area and found sixteen kilograms of cocaine hidden inside.⁴⁹ At the District Court, a grand jury indicted Calvetti and Cortez with conspiracy to possess with intent to distribute and to distribute over five kilograms of cocaine and possession of five kilograms of cocaine.⁵⁰ Calvetti moved to suppress the evidence of her statements to the DEA agents and the evidence gathered at her home in Dearborn Heights, due to *Miranda* rights violation. The district court rules that Calvetti waived her right to remain silent by answering the DEA agent’s questions after receiving her *Miranda* warnings and denied the defendant’s motion.⁵¹

⁴⁶ *Id.*

⁴⁷ *Id.* at 660.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 660-661.

⁵¹ *Id.* at 661.

The U.S. Federal Court of Appeals heard the case and ruled that giving consent to search the minivan was not an incriminating statement protected by the Fifth Amendment. Calvetti's consent to search her vehicle was not involuntary.⁵² Officer Ziecina had reasonable suspicion of criminal activity, which supported the prolonging of the traffic stop to around thirty-five minutes. Since the extension of the traffic stop was permissible, the canine sniff was valid. The ruling of the lower court was affirmed.⁵³

The case of *United States v. Evans* was a U.S. Court of Appeals case that was decided in the Ninth Circuit and was first argued September 11, 2014 and submitted May 14, 2015. Between 2012 and 2013, Detective Blaine Beard of the Washoe County Sheriff Office was assigned to the Drug Enforcement Administration (DEA) task force in Reno, Nevada. Deputy Beard received information from two jailhouse sources that the defendant, Evans, was distributing methamphetamine in the Reno–Sparks area.⁵⁴ Deputy Beard acquired authorization from a Nevada state court judge to obtain “pings” showing the location of a cell phone Deputy Beard believed defendant Evans was using for drug distribution activities. Evan's cell phone pinged from a parking lot of a Super 8 Motel in Sacramento. Deputy Beard asked that two officers with the Sacramento County Sheriff's Office drive by the Super 8 Motel to verify that the car suspected to be Evans' was present at the Super 8. The officers confirmed a car that matched defendant Evan's car.⁵⁵ Deputy Beard contacted Deputy Brandon Zirkle, a deputy sheriff in the Washoe County Sheriff's Office whom Beard had known for years. Deputy Zirkle

⁵² *Id.* at 654

⁵³ *Id.*

⁵⁴ *United States v. Evans* 786 F.3d 779 (9th Cir 2015).

⁵⁵ *Id.* at 781.

was canine-certified and had his K-9 police dog, Thor, with him that day. Thor was trained in the detection of controlled substances.⁵⁶

The DEA suspected Evans was traveling from California with narcotics. Also, they had knowledge that Deputy Beard was receiving GPS location information from Evans' phone using the pings. Beard asked Zirkle to assist him by positioning his patrol car on the I-80 highway.⁵⁷ Beard explicitly requested that Deputy Zirkle “develop his own probable cause to stop the car” to “possibly keep this event separate from Beard's ongoing investigation.”⁵⁸ The defendant Evans was traveling eastbound on I-80 highway where Deputy Zirkle observed a Chevrolet El Camino with the described license plate making a lane change that caused the vehicle behind it to quickly apply its brakes to avoid an accident.⁵⁹ After Deputy Zirkle followed Evans for approximately a mile to a safe location, Zirkle pulled Evans over for violating two Nevada traffic laws prohibiting unsafe lane changes and following a vehicle too closely.⁶⁰

The traffic stop began at exactly 7:09 PM local time.⁶¹ After stopping the car, Deputy Zirkle approached the passenger side of the vehicle, and asked Evans for his license and registration. Zirkle testified that he smelled a “very strong odor of methamphetamine” coming from inside the vehicle.⁶² After checking the defendant’s El Camino's vehicle identification number, Deputy Zirkle walked to the car’s passenger side and asked the passenger, September McConnell, for her identification. According to Zirkle, McConnell appeared to be feigning

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id. at 782. (describing a conversation between Officers Beard and Zirkle on how the two officers would follow the suspect and develop probable cause to initiate a traffic stop).

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

sleep.⁶³ Deputy Zirkle also stated on official record that McConnell's hands were shaking and that her pulse was racing in her neck to such a degree that he could see McConnell's heartbeat in her carotid artery.⁶⁴ Deputy Zirkle then returned to his patrol car and told Evans, who remained standing by the officer's patrol car, that he was not going to write a ticket. However, he needed to run a check for outstanding warrants before letting Evans leave.⁶⁵ Evans approached Zirkle twice to inform him that he had had trouble with his license and child support in the past, but that it had been straightened out. Around 7:20 PM, the 911 operator responded to Deputy Zirkle with a clean records check on the car, as well as on Evans' and McConnell's driver's licenses.⁶⁶ Deputy Zirkle then requested an ex-felon registration check on Evans; in particular as he had entered Evans' name into the patrol car computer, and he discovered that Evans had a prior felony arrest record. At 7:26 PM, Deputy Zirkle called in to dispatch to check on the status of the ex-felon check. The dispatch operator informed Deputy Zirkle she was on the phone with the records department to confirm everything.⁶⁷

At exactly 7:28 PM, eight minutes after Zirkle called in the ex-felon registration check, the dispatch operator informed Deputy Zirkle that Evans had been convicted two times for drug related charges and that Evans was correctly registered. Zirkle gave Evans a warning, returned Evans' license and paperwork, and shook his hand; informing Evans that "you're good to go".⁶⁸ Immediately after Evans began to walk away, Deputy Zirkle asked Evans if he could ask him a few more questions. Evans stopped and walked back to Zirkle. Deputy Zirkle questioned

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id. at 783.

⁶⁷ Id.

⁶⁸ Id.

whether Evans had any contraband in the car including listing off different drugs.⁶⁹ Evans denied having any drugs and Deputy Zirkle then asked for Evans' consent to search the car. Evans refused to consent to the search. At this point in the interaction Deputy Zirkle believed he had reasonable suspicion to keep Evans there further to use a narcotic detection dog to sniff around the exterior of Evans' vehicle.⁷⁰

Deputy Zirkle informed Evans he was going to deploy K-9 Thor around the exterior of the car and preceded to order McConnell out of the passenger side of the car. After spending about three minutes preparing Thor, Deputy Zirkle began to walk the dog around the vehicle. Thor then alerted Zirkle to the passenger door of Evans' car, indicating to Zirkle that he was “in the odor of a controlled substance.”⁷¹ According to the dispatch log, Thor's alert was entered at 7:33 PM local time, which was about twenty four minutes after the traffic stop first began.⁷² Deputy Zirkle told Evans and McConnell that they were no longer free to leave, and started prepping to conduct a search of the car. Shortly afterward, several agents from DEA arrived at the scene.⁷³ The resulting search of the vehicle revealed a double bagged zip lock sandwich bag containing methamphetamine and small bags of marijuana and crack cocaine. All of the small zip lock bags were enclosed in a hard sunglass case located in between the driver and passenger seat of the vehicle. Zirkle also discovered an unloaded firearm in McConnell's backpack; Deputy Zirkle then placed Evans and McConnell under arrest.⁷⁴

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id. at 784

⁷² Id.

⁷³ Id.

⁷⁴ Id.

The defendants were charge with conspiracy to distribute and possess with intent to distribute more than 5 grams of methamphetamine and carrying a firearm during a drug traffic crime and Evans moved to suppress the evidence seized from his vehicle arguing that the officer unlawfully extended the traffic stop by running an ex-felon registration and conducting the dog sniff have the traffic stop was completed.⁷⁵ The district court argued that the officer had developed reasonable suspicion of illegal drug activities during the traffic stop and the open air dog sniff was justified, however, the court did not address the defendant's issue regarding the ex-felon registration confirmation.⁷⁶ The district court in the end granted Evans' motion, noting that traffic stop extended for a period of time that resulted in a unlawful seizure and was involution of federal law.⁷⁷

The Court of Appeals used *Rodriguez* precedent to rule in this case. The court stated

Applying *Rodriguez*, we hold that, by conducting an ex-felon registration check and a dog sniff, both of which were unrelated to the traffic violation for which he stopped Evans, Zirkle (prolonged [the traffic stop] beyond the time reasonably required to complete) his traffic "mission," and so violated the Fourth Amendment, unless there was independent reasonable suspicion justifying each prolongation.⁷⁸

Consequently, the Ninth Circuit Court of Appeals ruled that Deputy Zirkle, by conducting the canine sniff, prolonged the traffic stop beyond the time reasonably required to complete his traffic mission, and thus violated the Fourth Amendment of the defendant Evans.⁷⁹ Thus, the lower court ruling was vacated and remanded.⁸⁰

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.* (quoting *Rodriguez v. United States* 135 S.Ct. at 1612) (quoting *Caballes*, 543 U.S. at 407).

⁷⁹ *Id.* at 779.

⁸⁰ *Id.*

The next case appeared in the Fourth Circuit Court of Appeals. The case is *United States v. Williams*. Deputy Soles stopped the lead vehicle, driven by the defendant's brother, and Deputy Russell stopped the second vehicle, a rental car driven by the defendant Williams with a passenger later identified as MacMullen. The stop took place at 12:37 a.m.⁸¹ Deputy Russell informed Williams that he driving 80 mph in a 70 mph zone and requested Williams' driver's license and vehicle registration. Deputy Russell requested that the defendant Williams exit his vehicle and sit in his patrol car while he checked Williams' documentation.⁸² While Deputy Russell checked the information on his computer he began speaking with the defendant about where he and his brother were and what they were doing. Deputy Russell believed he smelled alcohol coming from Williams and asked the defendant if he had been drinking; Williams said he had drunk a beer with supper that night.⁸³ Deputy Russell then asked Deputy Soles, who had stopped the lead vehicle less than 100 yards away, to administer a breathalyzer test to defendant Williams. Consequently, Deputy Soles terminated his traffic stop of the lead vehicle driven by the defendant's brother, by providing the brother a verbal warning, and proceeded to assist Russell.⁸⁴

At approximately 12:45 a.m., Deputy Soles moved his police car, which contained the officer's drug dog Dakota, to a point along the shoulder of I-85 just behind Deputy Russell's patrol car. Deputy Soles administered the breathalyzer test as the defendant sat in Deputy Russell's patrol car.⁸⁵ Deputy Soles informed Deputy Russell that Williams had passed the breathalyzer test after Russell returned from questioning the other driver. While Deputy Soles

⁸¹ *United States v. Williams* 808 F.3d 238 (4th Cir. 2015).

⁸² *Id.* at 241.

⁸³ *Id.* at 242.

⁸⁴ *Id.*

⁸⁵ *Id.*

listened, Deputy Russell advised the defendant that he had passed the test and would receive a written warning for speeding.⁸⁶ Deputy Russell finished the written warning and gave it to the defendant at 12:54 a.m.

Just a moment later, as Williams was exiting the patrol car; Deputy Russell asked if there was anything illegal in the defendant's car.⁸⁷ Upon seeking Williams' permission to search his vehicle, Williams equivocated. The defendant then approached the Hyundai, opened the rear-driver-side door, and gestured to the deputies that they could look inside the vehicle. Deputy Soles then asked for a clear yes or no answer on whether the defendant was consenting to a search of the vehicle. Williams firmly replied no.⁸⁸ At 12:56 a.m., a minute and twenty-three seconds after Deputy Russell issued the written warning to the defendant, Deputy Soles informed the defendant Williams to wait and that a dog sniff would be performed on the vehicle. Dakota, the K-9, alerted Deputy Soles toward the driver's side of the trunk after finishing a full circle of the vehicle.⁸⁹ Dakota's alert was at 12:59 a.m.; two minutes and forty seconds after Deputy Soles instructed the defendant to hold on so that Deputy Soles could conduct the dog sniff with Dakota, and approximately 22 minutes into the stop. Crack cocaine was subsequently found by police in an unlocked safe in the vehicle's trunk.⁹⁰ The defendants were then arrested.

The district court denied the Defendant's motion to suppress the evidence due to the facts that the defendants were traveling in a rental car, traveling on a known drug corridor early in the morning, Williams' travel plans with inconsistent and his inability to provide a home address in

⁸⁶ Id.

⁸⁷ Id. at 243.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

New York while holding New York driver's license.⁹¹ The district court also ruled that the two-minute and forty-second extension to the traffic stop for the dog sniff did not violate the Fourth Amendment. On appeal, Williams claimed that the deputies lacked the reasonable suspicion to extend his traffic stop beyond its initial purpose and the evidence should be thrown out.⁹²

The Fourth Circuit Court of Appeals noted that the Supreme Court ruled in *Rodriguez* that the “[a]uthority for the seizure ... ends when tasks tied to the traffic infraction are—or reasonably should have been—completed”.⁹³ The Court of Appeals also referenced the Supreme Court in *Rodriguez*: “Lacking the same close connection to roadway safety as the ordinary inquiries, a dog sniff is not fairly characterized as part of the officer's traffic mission.”⁹⁴ The Court of Appeals held that Deputies Soles and Russell lacked reasonable, articulable suspicion of criminal activity to detain the defendant Williams beyond completion of the traffic stop to conduct a dog sniff of the vehicle revealing the hidden narcotics.⁹⁵ The Court of Appeals stated: “Pursuant to the foregoing, we vacate Williams's conviction and sentence and remand for such other and further proceedings as may be appropriate”.⁹⁶

The next case was heard in the Sixth Circuit Court of Appeals. The case of *U.S. v. Collazo* was argued on March 8, 2016 and decided on March 29, 2016. On October 9, 2013, West Tennessee Drug Task Force Special Agents Preston Hill and David Montgomery were patrolling Interstate 40 in Tennessee while driving in separate patrol vehicles. Officer Hill decided to conduct a traffic stop after deciding that the defendant Collazo's van was driving too

⁹¹ *Id.*

⁹² *Id.* at 245.

⁹³ *Id.* at 245 (quoting *Rodriguez v. United States* 135 S.Ct. at 1614).

⁹⁴ *Id.* at 245 (quoting *Rodriguez v. United States* 135 S.Ct. at 1614).

⁹⁵ *Id.* at 238.

⁹⁶ *Id.* at 253.

closely behind a tractor trailer that was just ahead of Collazo's vehicle.⁹⁷ The speed function on Officer Hill's camera was not working, but he projected that the Collazo's vehicle was travelling about 70 miles per hour. Officer Hill testified that the defendant's van was less than four car lengths behind the tractor trailer shortly before Officer Hill decided to pull the van over.⁹⁸ After the defendant pulled over onto the highway's shoulder, Officer Hill approached the passenger side of the van and asked the defendant for his license, registration, and proof of insurance. Officer Hill noticed a jar of what appeared to be urine located between the driver and front passenger seats.⁹⁹ Officer Hill also witnessed Cinthia, Collazo's wife, the passenger in the front of the van, behaving erratically; in particular, she was moving around quite a bit and being very animated in her speaking. Approximately two minutes after approaching the van, Officer Hill asked Collazo to exit the vehicle and stand next to the patrol car because Hill was having trouble hearing Collazo due to traffic noise.¹⁰⁰ Officer Hill informed Collazo that he was being stopped for following too closely to the semi-tractor trailer that was in front of him while driving. Approximately six minutes into the traffic stop, Officer Hill asked Collazo for permission to speak with Cinthia, which was given by Collazo.¹⁰¹ Officer Hill asked Cinthia about their travel plans and then asked if she had ever been arrested for narcotics; Cinthia replied that she had.¹⁰² After finishing speaking with Cinthia for about five minutes, Officer Hill returned to his patrol car and explained to Collazo that dispatch had not yet replied back with the check on his driver's license.

⁹⁷ United States v, Collazo 818 F.3d 247, 250 (6th Cir. 2016).

⁹⁸ Id. at 251.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Id.

Approximately 13 minutes into the traffic stop, Officer Hill called Officer Montgomery for assistance with the stop. Officer Montgomery arrived roughly two minutes later and spoke briefly with the defendant and then his wife.¹⁰³ Officer Hill started explaining the warning citation to the defendant while Officer Montgomery talked with the wife. A few minutes later, after the license check was complete, Collazo signed the warning citation given to him by Officer Hill.¹⁰⁴ Approximately 21 minutes after Officer Hill began the traffic stop on Collazo, Officer Hill shook Collazo's hand to complete the traffic stop for following too closely and informed the defendant he was free to go.¹⁰⁵

However, Officer Montgomery, while talking with the wife, concluded that her answers and body language indicated dishonesty. Specifically, Officer Montgomery noted Cinthia's "pronounced carotid pulse," "very rapid belly breathing," inability to keep her hands steady, and refusal to make eye contact.¹⁰⁶ Officer Montgomery then questioned Cinthia if she was nervous because something illegal was in the van. At first Cinthia hesitated, so Officer Montgomery repeated the question and asked, "If it is illegal, is it a little bit, or is it a lot?" Cinthia said that it was a lot and handed her purse to the officer.¹⁰⁷ Officer Montgomery asked if something illegal was in the purse, and Cinthia nodded her head affirmatively. After the officer asked for consent to search, Cinthia consented to a search of the purse. Officer Montgomery discovered a prescription bottle for Suboxone and several loose Suboxone strips within Cinthia's purse.¹⁰⁸ Cinthia began crying, and Officer Montgomery spent the next few minutes attempting to calm her down.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Id. at 252.

¹⁰⁶ Id.

¹⁰⁷ Id.

¹⁰⁸ Id.

Approximately 28 minutes after the traffic stop, Officer Montgomery returned to Officer Hill's patrol car with the purse where he questioned Collazo about the medication. The defendant said that he thought that Cinthia had a doctor's prescription because of several past surgeries. Officer Montgomery testified later that having almost the entire prescribed amount over a month after the prescription was originally filled was odd.¹⁰⁹ Officer Hill walked back to the defendant's vehicle and asked for Cinthia's consent to search the van for additional narcotics, which was approved by Cinthia.¹¹⁰ The two officers then began a search of the van, where they discovered three kilograms of cocaine approximately 90 minutes after the traffic stop began. A subsequent search of the defendant's vehicle, following an attempted controlled delivery of the cocaine to its intended receiver, turned up 14 more kilograms of cocaine¹¹¹. The defendant was indicted on one count of conspiracy to possess five kilograms of cocaine with intent to distribute.¹¹² The district court denied Collazo's motion to suppress evidence seized by the officers during the search of the vehicle, which caused Collazo to enter a conditional pleas of guilty to preserve his right to appeal the district court's denial of the original motion to suppress the evidence gathered.¹¹³

The Court of Appeals began its analysis by pointing out that The United States Supreme Court held in *Rodriguez v. United States* "that a police stop exceeding the time needed to handle the matter for which the stop was made violates" a defendant's Fourth Amendment rights.¹¹⁴ The Court of Appeals ruled that the evidence shown does not support the argument that 21 minutes was an unreasonable amount of time to complete the traffic stop and issue a warning for

¹⁰⁹ Id.

¹¹⁰ Id. at 253.

¹¹¹ Id.

¹¹² Id. at 249.

¹¹³ Id.

¹¹⁴ Id. at 257 (quoting *Rodriguez* 1614, at 1616–17 (2015)).

following too closely. In addition, the questions that Officer Hill asked Collazo before he first spoke with Cinthia were examinations related to the traffic stop, and none of them prolonged the traffic stop beyond a reasonable time.¹¹⁵ This sustained seizure did not violate the defendant's Fourth Amendment rights because before 21 minutes had passed, Officer Montgomery had established a reasonable suspicion of criminal activity based on the interactions with the defendant's wife, Cinthia. The Court of Appeals held that the police officers had probable cause to stop the defendant's vehicle and that twenty-one minutes was not an unreasonable amount of time for the officers to complete the traffic stop.¹¹⁶ In addition, the officers had reasonable suspicion of criminal activity justifying extending the traffic stop beyond the original 21 minutes and police furthermore had probable cause to search defendant's van. The court affirmed the lower court's ruling.¹¹⁷

The next case, *United States v. Walton*, was heard in the Seventh Circuit Court of Appeals. At around 8:43 a.m. on August 29, 2012, Police Officer McVicker pulled over a 2012 Chevrolet Suburban bearing Colorado license plates that was heading eastbound on Interstate 70 in Madison County, Illinois. The SUV contained two people: the driver Darrallyn Smoot and the defendant Walton, a passenger in the vehicle.¹¹⁸ Officer McVicker pulled the vehicle over for a speeding violation, following the vehicle in front too closely, and for the passenger not wearing a seatbelt. Once Officer McVicker approached the SUV and talked to the occupants, he stated that he would only issue a written warning.¹¹⁹ Defendant Walton informed Officer McVicker that they had been stopped by police in Kansas the previous evening and had been given a written

¹¹⁵ Id.

¹¹⁶ Id. at 247.

¹¹⁷ Id.

¹¹⁸ *United States v. Walton* 827 F.3d 682, 684 (7th Cir 2016).

¹¹⁹ Id.

warning for an improper signal violation. Walton gave the written warning received from the Kansas police to Officer McVicker. The written warning noted that Walton was driving at the time of the stop with a suspended driver's license.¹²⁰ Officer McVicker testified that during this conversation, Smoot appeared “extremely nervous,” as “her heartbeat [became] visible through her chest” and “her breathing pattern was extreme”.¹²¹ Around three minutes into the traffic stop, Officer McVicker testified that he could not shake the impression that Smoot and Walton were involved in criminal activity. Officer McVicker asked Smoot to go with him to the squad car while he prepared the written warning.¹²² Officer McVicker and Smoot both entered the squad car around six minutes after Officer McVicker had initially pulled the SUV over. As McVicker prepared the warning, he continued to ask Smoot questions and watch her body language.¹²³

Officer McVicker continued to prepare the written warning for several minutes, while making general conversation with Smoot. Officer McVicker completed the paperwork for the written warning. He then gave Smoot a copy of the warning, but asked her to remain in the patrol car while he went to speak with Walton. At this point, about 22 minutes had passed since the initial stop.¹²⁴ Officer McVicker asked Walton why he rented such a large vehicle to drive. The defendant replied that it was the only one available which Officer McVicker found implausible since the vehicle was rented from the Denver Airport. McVicker then returned to his police car and asked Smoot if she had any questions about the warning or anything else. She replied she did not and Officer McVicker then shook her hand, told her to drive safe and she headed back to the

¹²⁰ Id.

¹²¹ Id.

¹²² Id. at 685.

¹²³ Id.

¹²⁴ Id. at 686.

SUV.¹²⁵ As Smoot was heading back to the SUV, Officer McVicker then asked her if there was anything illegal in the vehicle. Officer McVicker said that Smoot hesitated and looked back at the SUV before answering that there was not.¹²⁶ McVicker then asked specific questions about any items that could possibly be in the car, such as large sums of money, heroin, marijuana, cocaine, or weapons. Smoot answered no to each, but Officer McVicker stated that she faltered and looked back at the suspect's vehicle again when the officer asked her if there was any cocaine in the SUV.¹²⁷ McVicker asked Walton if he could perform a search of the vehicle, which Walton refused.

Officer McVicker told Walton that he was calling a canine unit to perform a drug sniff around the vehicle, based on the reasonable suspicion that McVicker had established by this point in the stop that the two individuals were involved in criminal activity. This was approximately 29 minutes into the traffic stop.¹²⁸ McVicker had Smoot go with him back to the police car. Once they were both inside the vehicle, McVicker telephoned dispatch to request a canine unit. This call occurred around 33 minutes after the initial traffic stop.¹²⁹ The K-9 unit arrived around 22 minutes after Officer McVicker's request to dispatch. The canine officer then walked his drug dog around the SUV, which took less than one minute to complete. The drug dog alerted the officers that drugs were present in the SUV. Officer McVicker then searched the interior of the vehicle. About seven minutes into the search, Officer McVicker located cocaine concealed in bags hidden in a void within the driver side door.¹³⁰ The defendant Walton argued to the district court that the officer did not have reasonable suspicion prior to issuing the written

¹²⁵ Id.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Id.

warning and thus violated his Fourth Amendment rights by continuing to detain him.¹³¹ The court denied the motion, stating that the officers had reasonable suspicion at the time of writing the warning. Walton argued again that the officer violated his Fourth Amendment rights by prolonging the traffic stop after it was completed; the court denied the motion, stating that the timeline of the stop did not suggest that the officer did not act diligently in requesting K9 assistance.¹³²

Since *Rodriguez v. United States*, “an officer may not [act] in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual.”¹³³ The Court of Appeals ruled since Officer McVicker gathered enough information to obtain reasonable suspicion before completing the traffic stop, it was not a violation of the defendant’s Fourth Amendment rights to call in a drug dog after the defendant refused a search of the vehicle. The Court ruled that there was no evidence that Officer McVicker did not act diligently in requesting the canine unit and the ruling of the lower court was affirmed.¹³⁴

The next case, *United States v. Ramirez-Jimenez* was heard by the Fourth Circuit Court of Appeals. It was argued on May 12, 2016 and decided on June 20, 2016. On September 27, 2012, Drug Enforcement Administration (DEA) agents, aided by a Richland County Sheriff’s Department task force, set up a controlled drug acquisition.¹³⁵ The intended target of their search was Eduardo Valencia–Gaeta, a methamphetamine dealer who was known on the streets as Lelo. The federal agents equipped their confidential informant, Dennis Kasabian, with a concealed

¹³¹ Id. at 688.

¹³² Id. at 689.

¹³³ Id. at 687 (quoting *Rodriguez*, 135 S.Ct. at 1615).

¹³⁴ Id. at 682.

¹³⁵ *United States v. Ramirez-Jimenez*, 652 Fed.Appx. 211, 212, 214, (4th Cir. 2016).

audio and video device, and sent him to a local Lowe's parking lot to meet with Lelo.¹³⁶ Lelo told the informant that they would need to go to a nearby restaurant, to break down the package of methamphetamine to be bought. Once the drug dealers and the informant arrived at the restaurant, Lelo and the occupants of the vehicle went inside. A short time later Lelo returned outside to complete the transaction with Kasabian. After the buy, DEA agents met the informant at a secure site to debrief and retrieve the purchased drugs.¹³⁷ The federal agents had the informant call Lelo to negotiate another purchase for later that same day, and it was decided that Kasabian would acquire four ounces of methamphetamine for about \$5,400. Following the second controlled acquisition, the DEA continued nonstop surveillance on the defendant's vehicle.¹³⁸ In order to identify the passengers in the vehicle, the DEA agents ask that the South Carolina Highway Patrol initiate a traffic stop of the suspected car.

At approximately 4:02 p.m., Trooper Michael Shank spotted a littering violation and pulled the vehicle over to start a traffic stop.¹³⁹ The driver of the truck was identified as Omar Gomez–Suarez, and the passenger was identified as the defendant, Rene Ramirez–Jimenez. Trooper Shank then asked the two occupants to exit the truck and stand to the side of the vehicle. At around 4:06 p.m., Trooper Shank asked Gomez–Suarez for consent to search the truck, and the defendant Gomez–Suarez gave.¹⁴⁰ Around this time, another South Carolina Highway Patrol officer, Trooper Derrick Melton, arrived on the scene to back up Trooper Shank and took charge of the traffic violation aspect of the traffic stop in order that Trooper Shank could continue his

¹³⁶ Id. at 212.

¹³⁷ Id.

¹³⁸ Id.

¹³⁹ Id.

¹⁴⁰ Id. at 213.

search.¹⁴¹ At about 4:22 p.m., once the citations for the littering on the road were complete, Trooper Melton called dispatch to confirm the suspect's identification cards. After failing to discover any contraband in his first pass through of the truck, Shank called on the York County Interdiction Team to perform a more complete search of the vehicle with the use of K9 units.¹⁴² The police search continued until the troopers discovered a wad of money secured in a washcloth, just under one hour after the vehicle originally was stopped by Trooper Shank. The DEA agents requested that the troopers not arrest the truck's occupants and the troopers gave the money back to the defendants and told them to pay bond for not having a valid driver's license. The occupants were permitted to leave.¹⁴³ The defendants would later be charged and arrested. The District Court for the District of South Carolina later charged the defendants with two methamphetamine-related charges, conspiracy to possess with intent to distribute 50 grams of meth, and one count of possession with intent to distribute 50 grams or more of meth.¹⁴⁴ In April 2014, Ramirez-Jimenez was arrested.¹⁴⁵ Ramirez-Jimenez moved to suppress the evidence, arguing that the traffic stop duration was about an hour-long, which violated his Fourth Amendment rights. The district court denied the motion to suppress, stating that the traffic stop was justified due to probable cause of a traffic violation and that the officers have probable cause to believe the defendants were engaged in drug-trafficking.¹⁴⁶

According to the Fourth Circuit Court in *Ramirez-Jimenez, Rodriguez* established that once "tasks tied to the traffic infraction have been completed, the purpose of a traffic stop has

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ Id.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id.

been fulfilled and a vehicle's occupants generally are free to go.”¹⁴⁷ The defendants argued that an hour long traffic stop was constitutionally excessive and that the troopers extended the stop beyond the time allotted for the officers to prepare citations and check the defendant’s identifications.¹⁴⁸ The Court of Appeals held that the State Troopers had probable cause of drug trafficking adequate to validate prolonged detention of the vehicle's occupants, and admission of any tainted evidence found during the prolonged traffic stop was harmless error. The Court of Appeals affirmed the lower court’s decision.¹⁴⁹

The next case, *United States v. Frierson* was heard in the Third Circuit Court of Appeals. The case was argued on January 12, 2015 and decided on June 2, 2015. At approximately 10:30 a.m. on January 15, 2010, Pennsylvania State Trooper Justin Hope pulled over the defendant Frierson for a speeding violation.¹⁵⁰ When Trooper Hope ran a criminal history check, he discovered that the driver, Frierson, had an extensive prior history record. Crimes included voluntary manslaughter, possession of an assault weapon and body armor, and cocaine possession, transportation, or sale.¹⁵¹ As a result of these prior charges, Trooper Hope radioed for backup which arrived at around 11:10 a.m. Trooper Hope also tried to locate a K-9 sniffing unit to perform a drug sniff of the vehicle. The troopers then moved toward the SUV and requested Frierson to exit the vehicle and speak with them.¹⁵² After the defendant declined to agree to a frisk or reply to questions concerning his criminal history, Trooper Straniere, the backup Trooper, patted the defendant down and discovered a gun on the defendant’s right side. The defendant had felony convictions so he was then arrested for being a felon in possession of a

¹⁴⁷ Id. at 214 (quoting *Rodriguez*, 135 S.Ct. at 1615)

¹⁴⁸ Id.

¹⁴⁹ Id. at 211.

¹⁵⁰ *United States v. Frierson*, 611 Fed.Appx. 82, 84 (3rd Cir. 2015).

¹⁵¹ Id. at 84.

¹⁵² Id.

firearm. The troopers later seized almost one kilogram of cocaine from baggage in the defendant's vehicle.¹⁵³ The defendant was convicted of conspiracy to possess with the intent to distribute 500 grams of cocaine and possession of a firearm as a felon by the district court. The defendant moved to suppress the evidence due to the length of the traffic stop violating his Fourth Amendment rights. The district court denied the appeal.

The Third Circuit Court of Appeals noted that *Rodriguez* stated that the “tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's ‘mission’—to address the traffic violation that warranted the stop and attend to related safety concerns”.¹⁵⁴ In other words, a traffic stop must only consist of the mission of the stop. The defendant argued that extension of the stop violated his Fourth Amendment rights because the stop was for speeding. The Court of Appeals ruled that the trooper's actions during the traffic stop, including waiting 26 minutes for the trooper's backup to arrive and searching the defendant for weapons, was justified.¹⁵⁵ The Court also ruled that the troopers had reasonable suspicion to continue the stop because of suspicion the passengers were trafficking drugs as well as reasonable suspicion that the defendant was armed and dangerous, which justified frisking the defendant.¹⁵⁶ The Court of Appeals affirmed the lower court's decision.¹⁵⁷

The next case, *United States v. Lash* was heard by the Sixth Circuit Court of Appeals. One night in December of 2014, Detectives Middaugh, Schroeder, and Periandri were patrolling in an unmarked police vehicle. The officers pulled a vehicle over for failure to signal a lane

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 85. (quoting *Rodriguez*, 135 S.Ct. at 1614, (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005))

¹⁵⁵ Frierson 611 Fed Appx.. at 82.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

change and noticed suspicious behavior, such as erratic movement with hands and upper bodies.¹⁵⁸ The officers noticed the defendant was acting nervous and sweating while talking with them. After returning the defendant's driver's license, the officers noticed a small plastic baggy hidden under the defendant's leg just before the officers were going to let him go.¹⁵⁹ As the defendant went to grab the rental agreement to show the officers prove of ownership over the rental vehicle, the officers saw a gun in the plastic baggy, and the officers instructed the defendant to get out of the vehicle. Lash refused, put the car into drive, and sped off, almost striking the other two officers.¹⁶⁰ The defendant lost control of the car, ending up stalled on top of a tree stump only about four houses down from where the officers were located. The officers arrested the defendant, and a later search of the defendant's vehicle discovered a .38 caliber handgun in a plastic bag that was hidden by the defendant's leg.¹⁶¹ The defendant moved to suppress the evidence due to the fact the officer had released him from the traffic stop before seeing the baggie that hid the gun and this violated his Fourth Amendment rights. The district court denied the motion and allowed the evidence.

The defendant argued his Fourth Amendment rights were infringed upon because the purpose of the stop was failure to signal a lane change and the officers unreasonably extended the traffic stop by requesting to see his rental car agreement which was not the original purpose of the stop. In particular, the Court of Appeals noted that *Rodriguez* states a traffic stop must be related to the original mission of the stop.¹⁶² The Court of Appeals ruled that since the officers had plain view of the baggy and the defendant did not meet the threshold requirement for plain

¹⁵⁸ United States v. Lash, 665 Fed.Appx. 429 (6th Cir. 2016).

¹⁵⁹ Id.

¹⁶⁰ Id. at 430.

¹⁶¹ Id.

¹⁶² Id. (quoting *Rodriguez*, 135 S.Ct. at, 1614)

error review, the evidence of the firearm would not be excluded.¹⁶³ The officers also had not written a ticket, issued a verbal warning, or told the defendant that the officer would not do any of those actions, thus The Court ruled the stop was not completed at the time of the bag being noticed. The Court affirmed the lower court's decision.¹⁶⁴

United States v. Moore was decided on July 20, 2015 by the Circuit Court of Appeals for the Tenth Circuit. On April 8, 2013, Oklahoma Highway Patrol Trooper Matt Villines pulled the defendant Moore over for a speeding violation in a 70 mph zone.¹⁶⁵ Villines noticed that the defendant appeared nervous. The defendant's hands were shaking as he handed over his driver's license and would seldom make eye contact with the police officer. Officer Villines asked the defendant to wait in his patrol car while he wrote up the warning, to which the defendant gave his agreement.¹⁶⁶ The officer noticed that the vehicle the defendant was driving was listed not only to Moore, but also to a female with a different last name. The officer finished the warning ticket, returned all of the defendant's documents to him, and told Moore to have a nice day, which completed the traffic stop mission. Villines asked Moore for permission to search his vehicle which the defendant refused. Following the refusal, Trooper Villines informed Moore that he would be detaining him to perform a dog sniff of the vehicle.¹⁶⁷ After the K-9 officer arrived the officers began a sniff around the vehicle. Subsequently, the officers discovered a 12 gauge shotgun and shells in the center compartment once inside the vehicle. A quick prior criminal history check on the defendant showed he was an ex-felon and the defendant was

¹⁶³ Id. at 429.

¹⁶⁴ Id.

¹⁶⁵ *United States v. Moore*, 795 F.3d 1224, at 1227 (10th Cir. 2015).

¹⁶⁶ Id.

¹⁶⁷ Id.

arrested for possession of a weapon as a felon.¹⁶⁸ Moore moved to suppress the evidence gathered in the stop due to the fact Moore believe himself unlawfully detained by the police without reasonable suspicion after the stop was completed which violated his Fourth Amendment rights.¹⁶⁹ The district denied the motion, stating that the traffic stop was justified and the officer had reasonable suspicion of criminal activity due to the defendant's nervousness and past criminal history; which allowed the trooper reasonable suspicion to detain the defendant after the mission of the stop was completed.¹⁷⁰

The defendant argued under *Rodriguez* that his Fourth Amendment rights were violated when the traffic stop was concluded and the officer extended the stop which lead to the officers discovering the gun. The Court ruled using *Rodriguez* by stating that a police investigative detention of a suspect must be temporary, “last [ing] no longer than is necessary to effectuate th[e] purpose” of the stop, which, in the case of a traffic stop, is “to address the traffic violation that warranted the stop’ in the first place.”¹⁷¹ The Court of Appeals ruled that the police officer had reasonable suspicion to validate detaining Moore after completing the purpose of traffic stop in order to conduct the dog sniff because of his nervousness throughout the conversations with Officer Villines.¹⁷² The Court also ruled that since the drug dog gave an alert outside of the defendant's vehicle the troopers had reasonable suspicion to search the vehicle which led to the evidence being discovered. The Court affirmed the lower court decision to allow the evidence.¹⁷³

¹⁶⁸ Id.

¹⁶⁹ Id. at 1228.

¹⁷⁰ Id.

¹⁷¹ Id. at 1228 (quoting *Rodriguez*, 135 S.Ct. at 1614).

¹⁷² Id. at 1224.

¹⁷³ Id.

The following case was heard by the Ninth Circuit Court of Appeals. The case was *United States v. McDuffie*, which was argued on November 10, 2016 and decided on December 1, 2016. In *McDuffie*, the initial stop was done by Trooper Quinnell when he observed the defendant McDuffie change lanes without signaling.¹⁷⁴ Trooper Quinnell extended the traffic stop consisting of a basic failure to signal lane change because the defendant was driving a rental car that was in another person's name. The defendant was also driving from Nevada to Montana without staying in a hotel and reported sleeping within the vehicle.¹⁷⁵ The extension of the traffic stop concluded when the Trooper conducted a drug search and discovered drugs on the defendant. The Court of Appeals ruled that under *Rodriguez*, since traffic stops must relate to the original mission of the stop, the trooper did not have probable cause or reasonable suspicion to prolong the stop and search the defendant.¹⁷⁶ The district court found that the officer had reasonable suspicion to conduct the traffic stop and thus evidence gathered was lawful. In the holding, the Court states the following principle from *Rodriguez*: “the officer must be reasonably diligent in pursuing the traffic-related purpose of the stop, and the overall duration of the stop [must] remain reasonable in relation to the duration of other traffic stops involving similar circumstances.”¹⁷⁷ The Court then reversed the ruling of the lower court in regards to the lawfulness of the seizure of the drug evidence and remanded the case to back the District Court to continue proceedings with the new ruling from the Court of Appeals.¹⁷⁸

¹⁷⁴ *United States v. McDuffie*, 671 Fed.Appx., at 490 (9th Cir. 2016).

¹⁷⁵ *Id.* at 491.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* (quoting *Rodriguez*, 135 S.Ct. at 1616).

¹⁷⁸ *Id.* at 490.

The next case is *United States v. Vargas* which was heard in the Eleventh Circuit Court of Appeals. The case was decided on February 16, 2017.¹⁷⁹ Police Corporal Shone Minor of the Alabama Law Enforcement Agency pulled over the suspect's SUV with a Texas license plate to the side of Interstate 20/59 for tailgating and for failing to maintain its lane. The defendant, Antonio Castro, acknowledged that he did not have a driver's license. Officer Minor then asked Castro to come back to his patrol car, where the officer asked him a series of routine questions.¹⁸⁰ When Officer Minor asked the defendant where he was going, Castro said Alabama. The defendant then changed his answer to Georgia, before finally clarifying that he was going to Atlanta exactly.¹⁸¹ Two minutes and fifty-seven seconds after Officer Minor made the traffic stop, the officer informed the defendant that he was issuing him a warning for following another vehicle too closely. Officer Minor continued asking Castro questions for an additional three minutes in order to fill out the written warning.¹⁸² Officer Minor approached the defendant's passenger, Mr. Vargas, to decide whether Mr. Vargas could legally operate the vehicle after the traffic stop was concluded. Mr. Vargas confessed that he did not have a driver's license either. Officer Minor then spent around twelve minutes working with Defendants Castro and Vargas in an effort to determine how to safely and legally get the defendant's car moved.¹⁸³

Eighteen minutes and thirty-four seconds into the traffic stop, around fifteen minutes after Minor first informed Castro that he was issuing a warning, Officer Minor asked Defendant

¹⁷⁹ *United States v. Vargas*, 848 F.3d 971 (11th Cir. 2017).

¹⁸⁰ *Id.* at 973.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

Castro for consent to search the SUV, which the defendant then provided.¹⁸⁴ The vehicle search, conducted by Officer Minor and a fellow officer that had just arrived as backup to Officer Minor, discovered cocaine and methamphetamine hidden in the defendant's SUV.¹⁸⁵ Officer Minor noted that he eventually asked for consent to search the vehicle because he found several aspects of Castro's and Vargas' trip to be suspicious. Officer Minor also suspected the defendants may have been involved in illegal activity.¹⁸⁶ Vargas, before his trial began, began a motion to suppress the evidence, due to the officer violating his Fourth Amendment rights by continuing the traffic stop after issuing the defendant his warning. The district court denied the motion to suppress and the defendant appealed the court's ruling on the motion to suppress the evidence.

According to the Court of Appeals, the United States Supreme Court has stated that as a general matter, a traffic stop "exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures."¹⁸⁷ The Court of Appeals ruled that Officer Minor did not complete his duties between the time the stop was made and the time the other defendant Castro agreed to the search of the SUV, or for that matter at any time during the search during the traffic stop.¹⁸⁸ As the Court of Appeals explained, Officer Minor had stopped Defendant Castro because he was not operating his vehicle in a safe manner. Once Officer Minor determined that neither man was lawfully able to drive the vehicle, under state law Officer Minor had a duty as a law enforcement officer not to allow the defendants to

¹⁸⁴ Id.

¹⁸⁵ Id.

¹⁸⁶ Id.

¹⁸⁷ Id. at 974 (quoting *Rodriguez*, 135 S.Ct. at, 1612).

¹⁸⁸ Id.

drive the SUV.¹⁸⁹ Preventing the defendants from driving off without a license is lawful enforcement of the law, not unlawful detention. In sum, the Court of Appeals affirmed the District Court ruling that the seizure of the contraband did not violate the defendant's Fourth Amendment rights and found the evidence admissible at defendant's trial.¹⁹⁰

United States v. Spears was decided by the Court of Appeals for the Fourth Circuit on Jan. 21, 2016.¹⁹¹ On the day of the search and seizure operation, the defendant Spears visited a house located on New York Avenue in Fort Worth, Texas. The house was nicknamed the "New York House" that law enforcement officers were monitoring for drug activity.¹⁹² After approximately thirty minutes of surveillance, the second defendant Loera arrived at the monitored drug house driving his silver SUV. Shortly after his arrival, defendant Spears arrived at the New York House driving a white truck. Defendant Spears drove away from the drug house ten to twenty minutes after he arrived and another officer followed him.¹⁹³ Officers pulled Spears over after another police officer witnessed him commit a traffic violation. The officer that initiated the traffic stop asked Spears for his identification, along with his passenger, and insurance and a few other questions. After speaking with the defendant for around one minute, the officer returned to his patrol car to perform traffic stop tasks.¹⁹⁴ The officer, after about four and half minutes in the patrol car, exited the patrol car and began speaking with the defendants again. The officer testified that while he was questioning Spears, he appeared nervous, was not

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 971.

¹⁹¹ *United States v. Spears*, 636 Fed.Appx. 893 (4th Cir. 2016).

¹⁹² *Id.* at 895.

¹⁹³ *Id.* at 896.

¹⁹⁴ *Id.*

giving clear answers, was evasive in replying to questions from the officer, and was non-compliant.¹⁹⁵

The first officer asked the defendant to exit his vehicle, which was refused by the defendant. A second police officer arrived as backup and the officers again asked Spears to step outside of his truck. Once more Spears initially refused, but he complied approximately one minute after being asked a second time. The police officers then instructed the defendant to sit in the back of the first patrol car to wait for a drug-sniffing dog to arrive. The defendant obeyed after protesting the order for approximately two minutes.¹⁹⁶ When Spears first entered the back of the officer's patrol car, roughly sixteen and a half minutes had passed since Spears was first pulled over. While still unable to locate a drug sniffing dog, the police officers detaining Spears were informed by other officers at the New York House that they had found a large, vacuum-sealed bag of money in Loera's vehicle after stopping Loera.¹⁹⁷ The officers at the traffic stop jointly decided there was probable cause to search Spears's truck. The officers then proceeded to search the defendant's vehicle. Almost forty minutes had passed from the time Spears was initially stopped until the time the search of his vehicle began.¹⁹⁸ In their process of the search, the officers found a semiautomatic handgun in the vehicle's center console, a backpack that contained around \$59,800 in cash, a counterfeit money indicator, and a laundry bag that smelled of marijuana. Spears filed a motion to suppress the evidence gathered from the search and

¹⁹⁵ Id.

¹⁹⁶ Id.

¹⁹⁷ Id. at 897.

¹⁹⁸ Id.

seizure of his vehicle, cell phone, and his admissions.¹⁹⁹ The district court denied the motion, stating the law enforcement officers had probable cause to search the defendant's vehicle and that the defendant's detention during the traffic stop until there was probable cause to search the defendant's truck was reasonable and did not violate Fourth Amendment rights.²⁰⁰

The Court of Appeals addressed the purpose of a traffic stop as detailed in *Rodriguez* which stated:

The time reasonably required to complete the mission of issuing a traffic ticket can include the time it takes to inspect the driver's license, automobile registration, and proof of automobile insurance; run computer checks; determine whether there are outstanding warrants against the driver; and ask the purpose and itinerary of the trip.²⁰¹

The Court ruled that there is a vast difference between a situation in which a canine has already arrived and one in which a canine has not even been located. Also, any police canine that is found at this late stage of the traffic stop is likely to have been far away as it would have been rational for officers to first contact a nearby canine.²⁰² The Court of Appeals ruled that the police officer had reasonable suspicion that the defendant had committed a traffic violation, but not that the defendant had committed a drug crime.²⁰³ The officers detained the defendant longer than the time reasonably required to issue a ticket for a traffic violation, and attend to related safety concerns, without reasonable suspicion of additional criminal activity. The Court of Appeals vacated the lower court's decision refusing to suppress the evidence and remanded the case to that court.²⁰⁴

¹⁹⁹ Id.

²⁰⁰ Id.

²⁰¹ Id. at 901 (quoting *Rodriguez*, 135 S.Ct. at 1612, 1614–16)

²⁰² Id.

²⁰³ Id. at 893.

²⁰⁴ Id.

The next case, *United States v. Coker* was heard in the Sixth Circuit Court of Appeals. The case was decided May 12, 2016.²⁰⁵ In Rockford, Tennessee, Officer Reginald McCullough witnessed a vehicle cross the double-yellow centerline numerous times, including while making a turn. Officer McCullough pulled the car over about twenty seconds after the officer activated his patrol lights. After asking some routine questions and hearing Coker's answers, McCullough returned to his patrol car to call in the traffic stop and began writing a traffic ticket for the defendant.²⁰⁶ Officer McCullough observed the defendant staring at him from his vehicle, which the officer considered strange behavior based on the hundreds of similar traffic stops he had completed over the course his career. After learning from police dispatch that Coker had no outstanding warrants, Officer McCullough had to choose whether to finish the traffic ticket or extend the traffic stop.²⁰⁷ Officer McCullough decided to extend the traffic stop to investigate further. Officer McCullough had reasonable suspicion to extend the stop because of the erratic behavior of the suspect and the answer he received when asked if a drug dog would give a signal if they sniffed his vehicle.

As the Supreme Court of the United States ruled in *Rodriguez*, Officer McCullough had authority to detain Coker until the “tasks tied to the traffic infraction [were]—or reasonably should have been—completed.”²⁰⁸ From his patrol car, Officer McCullough observed the defendant move around. Now fearing for his safety, Officer McCullough requested Coker to step

²⁰⁵ *United States v. Coker*, 648 Fed.Appx. 541 (6th Cir. 2016).

²⁰⁶ *Id.* at 543.

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 543-544 (quoting *Rodriguez*, 135 S.Ct. at 1614)

out of the vehicle so he could conduct a pat-down for weapons.²⁰⁹ After discovering an empty gun holster on the defendant's hip, the officer handcuffed him. After handcuffing the defendant, Officer McCullough began searching around the outside of the defendant's vehicle. The officer also continued to fill out the original traffic ticket for the moving violation, finishing it and time stamping the ticket at 3:10 AM.²¹⁰ The drug dog arrived with an additional police officer at 3:19 AM. The dog conducted a sniff test around the perimeter of the defendant's vehicle and gave an alert at 3:24 AM. The two officers then performed a search the car, finding a firearm within. The trained drug dog's alert gave the two officers probable cause to search the defendant's vehicle, and that search resulted in discovery of a loaded firearm. The defendant moved to suppress the evidence gathered during the search of his vehicle, but the district court denied the motion to suppress the evidence, ruling that the search of the car was constitutional and the drug dog's alert gave the officers reasonable suspicion to search the vehicle.²¹¹

The Appeals Court ruled that police officer had probable cause to initiate the traffic stop from the officer observing the traffic violation first hand.²¹² Officer McCullough had reasonable suspicion to extend the traffic stop to investigate for ordinary criminal wrongdoing due to defendant's erratic behavior and the answers he received from questioning. Officer McCullough had reasonable suspicion that the motorist was armed and dangerous and was justified to perform a pat-down of the defendant for officer safety.²¹³ Finally, the two officers had probable cause to search the automobile following the traffic stop due to the drug dog alert performed on the

²⁰⁹ Id. at 545.

²¹⁰ Id.

²¹¹ Id. at 546.

²¹² Id. at 541.

²¹³ Id.

outside of the vehicle. The court affirmed the lower court's decision to allow the evidence found inside the vehicle to be used in trial.²¹⁴

Now, we review state level cases that cite *Rodriguez* in a substantial manner. This allows us to review how Georgia state courts are interpreting *Rodriguez* in their rulings. In the Georgia State Court of Appeals the case of *Watts v. The State* was decided on November 20, 2015. In *Watts*, the defendant was convicted in a bench trial in the Superior Court of Cherokee County of possession of marijuana with intent to distribute, possession of a firearm during the commission of a felony, and theft by receiving, for which he was sentenced to a probated eight-year sentence.²¹⁵ During the pendency of his appeal to the Georgia Court of Appeals, the defendant's probation was revoked. The defendant filed a motion to dismiss the probation warrant and a motion for appellate bond; however, both motions were denied.²¹⁶

At about 1:30 a.m. on June 16, 2012, Sergeant Wayne Franco of the Woodstock Police Department initiated a traffic stop of a vehicle driven by Tremayne Gay in which defendant Watts, Chasmine Johnson, and Alma Rico were passengers. The traffic stop began after the police officer observed that the license plate on Gay's truck was obscured by a piece of tinted plastic.²¹⁷

When the officer approached Gay's truck, both Gay and the defendant Watts, who was the front-seat passenger, were smoking cigars that seemed to be freshly-lit. Officer Franco explained that, in his experience as a law enforcement officer, individuals in possession of drugs

²¹⁴ Id.

²¹⁵ *Watts v. State*, 334 Ga. App. 770 (2015).

²¹⁶ Id.

²¹⁷ Id. at 771.

will often “chain smoke” either cigarettes or cigars to disguise the odor of any contraband.²¹⁸ The officer testified that Gay appeared to have “cotton mouth” and the eyes of both men looked bloodshot. Based on these observations, the police officer believed there was a possibility that both men were under the influence of marijuana.²¹⁹ Directly after making contact with Gay, the officer explained to Gay the cause for the traffic stop and requested both Gay and Watts to provide the officer with their driver's licenses. The defendants did so, and the officer returned to his patrol car and transmitted the license information to dispatch.²²⁰ Less than one minute later, dispatch conveyed that Gay's license had been revoked, that Watts's license was valid, and that neither man had any outstanding warrants. After receiving this information, Officer Franco remained in his patrol car for approximately two and half minutes, awaiting the arrival of a second officer as backup.²²¹ About one minute after the backup officer’s arrival and approximately seven and half minutes after the traffic stop began, police arrested Gay for driving without a license and also charged him with a misdemeanor tag violation.²²² Following the arrest, police questioned Gay about his passengers and where they lived, as well as about the contents of Gay's car.

During this process, the two officers twice asked Gay whether he would consent for the defendant Watts to drive Gay's truck from the scene.²²³ The defendant Gay did consent that Watts could drive his vehicle. Officer Franco asked the defendant Gay to exit the vehicle. The defendant complied with this request, exited the truck with his hands in front of him, and agreed

²¹⁸ Id at 772.

²¹⁹ Id.

²²⁰ Id. at 773.

²²¹ Id.

²²² Id.

²²³ Id.

to a search of his person.²²⁴ Officer Franco then asked Watts to accompany him to his patrol car while Officer Franco questioned defendant Watts about his relationship to Gay, whether he knew the female passengers, and the contents of the truck.²²⁵ According to the officer, Watts appeared nervous and after the questioning, Officer Franco then instructed Watts to remain next to the patrol car, and he returned to the vehicle and told the female passengers they needed to exit the vehicle because the officers needed to search the vehicle for alcohol.²²⁶ After having the women exit the vehicle, and about fourteen minutes into the traffic stop and between six and seven minutes after Gay's arrest, Officer Franco asked the women for identification. Both women responded they had no identification but each of the females provided the relevant information, with one of the women explaining that she had a South Carolina driver's license and the other stating that she lived in South Carolina.²²⁷ Officer Franco sent this information to dispatch and asked the dispatcher to run a check.²²⁸

While Officer Franco was running the identity checks of the female occupants, the backup officer read Gay his Miranda rights and then asked Gay for permission to search the vehicle.²²⁹ Gay refused consent to search, and Officer Maddox relayed this information to Officer Franco. Officer Franco then requested a K-9 unit to come to the traffic stop just before he began his search of one of the female occupant's bag for her identification documents.²³⁰ Around two minutes after police had finished determining the identity and legal status of all of the truck's passengers, the K-9 unit arrived on the scene. About two minutes later, and fourteen

²²⁴ Id.

²²⁵ Id.

²²⁶ Id.

²²⁷ Id.

²²⁸ Id.

²²⁹ Id. at 774.

²³⁰ Id.

to fifteen minutes after the conclusion of Gay's arrest and the police determination that the defendant Watts could drive Gay's car from the scene, the K-9's handler had the dog complete a free-air sniff around Gay's truck.²³¹ The police K-9 alerted on the vehicle, and when police allowed the K-9 into the vehicle, the police dog alerted on a black backpack.²³² The police officers removed the backpack from the vehicle, searched it, and discovered it contained an unknown amount of marijuana, a bundle of plastic sandwich bags, scales to weigh drugs, and a 9mm handgun.²³³ When police ran a computer check on the discovered gun's serial number, the police learned that the gun had been reported stolen from a residence in Gwinnett County.²³⁴

The Superior Court when applying that law concluded that “the ‘7 to 10 minutes’ added to the stop by the dog sniff ‘was not of constitutional significance’.”²³⁵ However, the Court of Appeals determined, when applying *Rodriguez* to the current case, that, “the four-minute extension of the traffic stop at issue for the purpose of allowing the drug dog to perform a free-air sniff around Gay's car violated Watts's Fourth Amendment rights.”²³⁶ In particular, the Court of Appeals held that the four-minute extension of the traffic stop to allow a drug dog to arrive at the scene and perform a free-air sniff around the vehicle in which defendant was riding as a front seat passenger impermissibly exceeded the scope of an otherwise lawful stop.²³⁷ The Court also held that a remand was necessary for the trial court to make conclusions as to whether facts and circumstances involving the traffic stop gave rise to reasonable suspicion of criminal activity

²³¹ Id.

²³² Id.

²³³ Id.

²³⁴ Id.

²³⁵ Id. at 778 (citing *Rodriguez v. State*, 295 Ga. at 371, 761 S.E.2d 19 (holding that the length by which the police prolonged the detention “is relevant to [the] inquiry” of whether the detention violated the Fourth Amendment), (citing *United States v. Digiovanni*, 650 F.3d 498, 509(II) (4th Cir. 2011)).

²³⁶ Id.

²³⁷ Id. at 770.

necessary to extend the traffic stop. Nonetheless, the Court made clear that the varying responses given by the driver and the defendant regarding their relationship with one another did not provide reasonable suspicion of criminal activity sufficient to extend the stop. Finally, the Court of Appeals noted that it lacked jurisdiction to review orders entered after defendant filed a notice of appeal.²³⁸ The Court of Appeals ruled that the judgment of the lower court be vacated and the case remanded.²³⁹

The next case, also from Georgia, is *Lewis v. The State*. The case was decided on June 11, 2015. Defendant Richard Lewis was convicted of possession of drugs and drug related objects.²⁴⁰ The defendant was found to have less than one ounce of marijuana, discovered by Cherokee County sheriff deputy Jerry Jackson.²⁴¹ The officer and he's backup conducted a traffic stop on the defendant's vehicle after observing the vehicle crossing the solid white line multiple times and almost colliding with a construction barrel on the side of the interstate.²⁴² The defendant was asked by the officers to locate his registration that was somewhere within the Recreational Vehicle (RV) and once located was asked to step out of the vehicle and join the officers outside the RV.²⁴³

The officers informed the defendant that they would issue him a warning for failure to maintain his lane and then Officer Jackson asked if he could perform a pat down on the defendant before writing the warning, which the defendant gave consent.²⁴⁴ After searching the defendant and not finding any weapons or contraband, Officer Jackson asked to search the RV

²³⁸ Id.

²³⁹ Id.

²⁴⁰ *Lewis v. State* 332 Ga.App. 466, (2015).

²⁴¹ Id. at 467.

²⁴² Id.

²⁴³ Id.

²⁴⁴ Id. at 468.

which the defendant denied. Officer Jackson then gave the warning slip to his partner, Officer Cash, to continue to fill out while Jackson retrieved his narcotics K9 from his vehicle to perform a free air search around the RV.²⁴⁵ The K9 alerted Jackson to the presence of contraband and when confronting the defendant, Lewis confessed that he had a small amount of marijuana in the RV along with a firearm to protect himself while carrying large amounts of cash due to his profession as an antler carver.²⁴⁶ The officers searched the vehicle and discovered marijuana under the driver's seat and two other locations throughout the vehicle, along with a smoking pipe.²⁴⁷ The defendant was then placed under arrest and charged with the possession of the smoking pipe and the small amount of marijuana.²⁴⁸ The defendant moved to suppress the evidence due to Fourth Amendment rights violation, however, the State Court denied the motion to suppress and convicted the defendant; Lewis then appealed the court's ruling.

The Supreme Court of Georgia ruled that the open air dog sniff did not prolong the traffic stop due to the fact the warning ticket was not completed nor had dispatch returned with the information on the defendant's driver's license at the time of the K9 sniff.²⁴⁹ The Court also ruled that under *Rodriguez*, the stop was justified by the officer's observation of the defendant failing to maintain his lane. Since the mission of the traffic stop was being carried out when the open air canine sniff was conducted, the stop was not extended for a K9 search.²⁵⁰ The Court showed that from the time Officer Jackson viewed Lewis swerving on the highway to the time the defendant was placed under arrest was less than 19 minutes; therefore, the duration of the

²⁴⁵ Id. at 466.

²⁴⁶ Id. at 468.

²⁴⁷ Id.

²⁴⁸ Id.

²⁴⁹ Id. at 466 and 470.

²⁵⁰ Id. at 469 and 470., (referencing *Rodriguez*, 135 S.Ct. at 1614).

traffic stop did not violate the ruling set forth by *Sharpe*.²⁵¹ The Court ruled that the evidence would not be suppressed and affirmed the Court of Appeal's decision.²⁵²

The final case reviewed was *The State v. Allen*, which was heard by the Georgia Supreme Court and decided on November 2, 2015. The defendants in the case were charged with possession of more than a single ounce of marijuana and moved to suppress the evidence due to its method of discovery by police.²⁵³ Officer Nicholas Jackson pulled the defendant's vehicle over after witnessing an improper lane change and what the officer viewed as arguing between the driver and the passenger.²⁵⁴ After making contact with the driver and passenger, Officer Jackson informed them that he was going to issue a written warning for improper lane changes. At this point it was only two and one half minutes into the traffic stop.²⁵⁵ Officer Jackson asked the driver to come out of the car and conduct a pat down and sobriety check to make sure the driver was not intoxicated,. Next, Jackson approached the vehicle and spoke with the passenger to determine where they were headed; this all occurred within about four and one half minutes.²⁵⁶ Within eight minutes of the traffic stop starting, Officer Jackson got the all clear on the driver's criminal history but not the passenger's history, Jackson then asked the passenger to step out of the vehicle and performed a pat down. When no weapons were found, Jackson asked for permission to search the vehicle and was denied.²⁵⁷

Officer Jackson then retrieved his K9 and performed an open air sniff of the vehicle and received an alert from the K9. At the time of the K9 alert for drugs, eleven and half minutes had

²⁵¹ *Id.* at 471..

²⁵² *Id.* at 466.

²⁵³ *State v. Allen*. 298 Ga. 1, (2015).

²⁵⁴ *Id.* at 2.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.* at 3.

passed since the start of the traffic stop.²⁵⁸ After another three minutes, the Officer received word from dispatch that the passenger's history was clear; however, Jackson searched the vehicle after getting probable cause due to the K9 alert, and discovered 9.8 pounds of marijuana in the vehicle.²⁵⁹ Jackson arrested the defendants and charged them with possession of marijuana. The defendant motioned to suppress the evidence due to Fourth Amendment right violations at the State Court and was granted the motion. The stat appealed the decision and at the Court of Appeals of Georgia, the court affirmed the State Court's ruling which lead the State to certiorari review.

The Supreme Court of Georgia ruled that the mission of the stop was to issue the warning and perform checks on the driver and passenger with the computer, which is allowed under "ordinary inquiries incident to [the traffic] stop."²⁶⁰ The Court decided that the computer check on the vehicle occupants was an ordinary officer safety measure that allowed for an extension of the traffic stop for a reasonable amount of time. In addition, the Court found that the dog sniff around the vehicle while the officer waited for the return of the computer records was not improper and the overall duration of the traffic stop was reasonable and did not violate the defendant's Fourth Amendment rights.²⁶¹

²⁵⁸ Id.

²⁵⁹ Id.

²⁶⁰ Id. at 5. (quoting ruling in *Rodriguez* 135 S.Ct. at 1614).

²⁶¹ Id. at 1.

B. Empirical Research

Prior research that studied Fourth Amendment issues with law enforcement officers included a study conducted by Perrin, Caldwell, Chase and Fagan.²⁶² Their survey study focused on search and seizure law. The study was conducted on mostly officers that held the ranks and statuses of police officers and police detectives.²⁶³ Their survey questionnaire targeted whether the officers had any training or education in classroom settings on search and seizure laws before joining police or after leaving the police academy.²⁶⁴ Questions also were included about evidence handling and suppression.²⁶⁵ The final questions included written scenarios that the officers had to determine if the evidence was admissible or inadmissible.²⁶⁶

In addition, Orfield conducted a study of Chicago narcotics officers on the exclusionary rule and its deterrence potential.²⁶⁷ Orfield concluded that the officers understood why evidence had been suppressed in their court cases and that the officers conducted certain searches more carefully in response to the exclusion of evidence in their cases.²⁶⁸ Orfield's questions addressed the officer's perceptions about when evidence was suppressed in their cases and how superiors reacted to that suppression.²⁶⁹ Orfield also asked about how the officers themselves dealt with evidence being suppressed and how often it occurred.²⁷⁰

²⁶² L. Timothy Perrin, H. Mitchell Caldwell, Carol A. Chase & Ronald W. Fagan, *If It's Broken, Fix It: Moving Beyond the Exclusionary Rule*, 83 IOWA L. REV. 669 (1998).

²⁶³ *Id.* at 719.

²⁶⁴ *Id.* at 757-765.

²⁶⁵ *Id.* at 763.

²⁶⁶ *Id.* at 763-764.

²⁶⁷ Myron Orfield, Jr., *The Exclusionary Rule and Deterrence: An Empirical Study of Chicago Narcotics Officers*, 54 U. CHI. L. REV. 1016 (1987).

²⁶⁸ *Id.* at 1017-18, 1027-29.

²⁶⁹ *Id.* at 1056-1069.

²⁷⁰ *Id.* at 1056-1069.

Then next study, which interviews police chiefs rather than line or beat officers was analysis due to the nature that there is no previous empirical research on K9 use in traffic stops and searches and because of this, the researcher looked at all empirical studies prior to this one involving police departments about the general topic of search and seizures. Covering previous search and seizure empirical studies gives a base knowledge of prior work by researchers and shows the need for this study to fill in a gap in the empirical research, since empirical data involving line or beat officers originated from the 1970s and 1980s and requires updated studies.

Another empirical study that was conducted with police departments was performed by Christopher Totten and Sutham Cobkit. The authors wanted to study the impact of the United States Supreme Court case *Hudson v. Michigan* on police departments around the country and in particular police perceptions of the effectiveness and value of deterrents to knock-and-announce misconduct by police officers.²⁷¹ The study surveyed police chiefs on their departmental policies and procedures that related to the knock-and-announce rule, which also included police searches.²⁷² The knock-and-announce rule states that police officers, before entering a dwelling, must give notice of their presence and authority to any occupants inside the location. If police give the verbal announcement and identification and are denied entrance into the dwelling, police may forcibly enter the dwelling, using methods such as destroying a door or window to gain entry.²⁷³

²⁷¹ Totten, C and Cobkit, S, The Knock-and-Announce Rule and Police Searches After *Hudson v. Michigan*: Can Alternative Deterrents Effectively Replace Exclusion For Rule Violations? Vol. 15: New Crim. L. Rev 414 (2012).

²⁷² Id.

²⁷³ Id. at 420.

The methodology of the study was sending a survey to police chiefs from 250 large cities that had a population of 100,000 or more residents.²⁷⁴ The list that the cities were collected from was gathered from the 2010 National Directory of Law Enforcement Administrators. The study was mailed out to the police chiefs of these cities and of the 250 selected cities, 133 usable surveys were returned to the researchers, resulting in a 53.2 percent response rate for the survey.²⁷⁵ The survey administered to the police chiefs was a detailed survey on police policies and practices related to the knock-and-announce rule. The questionnaire measured the chiefs' knowledge about knock-and-announce, police policies and practices on knock-and-announce, training support, and deterrent factors related to knock-and-announce violations.²⁷⁶

The study found that on practices and policies concerning the knock-and-announce rule, under two-thirds of the chiefs (63%) responded that their department had a clearly written policy and procedure covering knock-and-announce rule.²⁷⁷ A third of the chiefs (37%) reported having a written policy involving internal disciplinary measures and procedures that related to knock-and-announce violations by police.²⁷⁸ The majority of chiefs (79%) reported having knowledge of the case *Hudson v. Michigan*, and nearly all respondents (96%) had prior experience conducting a police search using the knock-and-announce rule in their career.²⁷⁹ Data gathered from the study indicated that the overwhelming majority (94%) of chiefs showed in general proper knowledge of the legal use of knock-and-announce rule; however, approximately a third of the respondents (39%) reported that the waiting time before entering a dwelling was less than

²⁷⁴ Id. at 436.

²⁷⁵ Id.

²⁷⁶ Id. at 437.

²⁷⁷ Id. at 439.

²⁷⁸ Id.

²⁷⁹ Id.

15 seconds, which appears to violate the ruling set by *Hudson*.²⁸⁰ 82 chiefs (62% reported that their officers receive some form of training on conducting searches that included training on the knock-and-announce rule.

The researchers concluded that the majority of surveyed police chiefs had both a general knowledge and understanding of the knock-and-announce rule and the ruling under *Hudson* that removed exclusion as a correction for rule violations done by police officers.²⁸¹ Data showed that 94% of chiefs understand the basic requirements of knock-and-announce rule, along with 79% of chiefs understand the basic ruling set forth under *Hudson*.²⁸² 85 out of the 128 respondents reported that the correct amount of time to wait after conducting the knock-and-announce at a dwelling is dependent on the circumstances of the situation where the knock-and-announce is being used; such circumstances include imminent destruction of evidence.²⁸³ With regard to data on deterrence with knock-and-announce, the surveyed police chiefs' perception of the usefulness of training, education, and discipline showed to be stronger than the other deterrent factors that were part of the study, such as community oversight or exclusion.²⁸⁴ While the majority of the chiefs reported the presence and use of discipline by internal police units for misconduct with knock-and-announce, just 37% of chiefs' reported having written departmental disciplinary policies regarding misconduct with knock-and-announce procedure.²⁸⁵

The authors concluded that the data gathered from this study reflects that police chiefs are knowledgeable about the Fourth Amendment knock-and-announce rule in regard to searching

²⁸⁰ *Id.* at 440.

²⁸¹ *Id.* at 446.

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ *Id.* at 447.

²⁸⁵ *Id.* at 449.

dwellings and knowledgeable about the legal case of *Hudson v. Michigan*.²⁸⁶ Chiefs, however, do not perceive community oversight to be an effective deterrence to stopping knock-and-announce violations by police.²⁸⁷

The next empirical study looked at a group of police officers in California and their knowledge and understanding of search and seizure law, along with the law's impact on law enforcement.²⁸⁸ The study showed a need for workable alternatives to the exclusionary rule for police officers.²⁸⁹ The study itself questioned 11 police agencies in Narvana County, California with the target participant being law enforcement agents holding a rank of sergeant or lower, since higher ranking officers typically conducted reviews on searches and seizures for the line officers.²⁹⁰ The participants that returned the survey had an average rank of police officer or deputy sheriff, an average age of 32.4 years, and an average of 8.4 years in law enforcement, leading the author to conclude the county's law enforcement officers were composed of relatively young officers that accumulated a moderate amount of law enforcement experience.²⁹¹ Over 97% of the officers reported having at least one year of college study and 45% reported having four or more years, showing a large percentage of officers having some form of higher education. Over 90% of respondents stated they read at least one legal periodical for information about criminal procedure regularly.²⁹² The author believed that the more educated, more experienced, older, higher ranking law enforcement agent would score higher on knowledge of

²⁸⁶ Id. at 456.

²⁸⁷ Id. For the purpose of the study, the researchers defined civilian oversight boards as "citizen review boards" who are "independent agencies or entities set up to review and oversee how police departments handle citizen complaints about police misconduct". Id.

²⁸⁸ Eugene Michael Hyman, "In Pursuit of a More Workable Exclusionary Rule: A Police Officer's Perspective," 10 Pacific Law Journal, 33 (1979).

²⁸⁹ Id. at 34.

²⁹⁰ Id. at 44.

²⁹¹ Id. at 45.

²⁹² Id.

the law; however, results show that only a few officers got significantly higher scores on law knowledge.²⁹³ Reviewing the data tables, the author drew the conclusion that the average police officer did not know proper search and seizure rules, and more education, age, experience, or other factors did not lead to achieving a high score on the survey.²⁹⁴ The data shows that the regular officer lacks knowledge on legal matters dealing with search and seizure law and the senior officers do not show to have any higher scores than their junior officers on questions related to this law.²⁹⁵

The final empirical study is included since it is one of the foundational studies on the exclusionary rule for constitutional criminal procedure violations, including Fourth Amendment search and seizure violations. . The study was conducted by Dallin Oaks, which focused on the effect of the exclusionary rule on law enforcement officers and the criminal justice system as a whole.²⁹⁶ The researcher looked at data from arrests and convictions in Cincinnati, Ohio for crimes such as firearm, weapon, and narcotics possession before and after the United States Supreme Court case of *Mapp v. Ohio*.²⁹⁷ After looking at the conviction rates before and after *Mapp*, Oaks concluded that the exclusionary rule had little to no effect on the Cincinnati police and its overall arrest and conviction numbers for the studied crimes.²⁹⁸ The author did note that some change occurred in the number of convictions over the 12-year period but the change did not appear to be related to the decision made in *Mapp*.²⁹⁹

²⁹³ Id. at 47.

²⁹⁴ Id.

²⁹⁵ Id.

²⁹⁶ Oaks, D. H., *Studying the Exclusionary Rule in Search and Seizure*, 37 U. Chi. L. 665, (1970).

²⁹⁷ Id. at 692.

²⁹⁸ Id. at 690 -691.

²⁹⁹ Id. at 690.

Data on crimes such as gambling arrests, which dropped from 771 at the beginning of the study, to 303 at the end of the study, showed a significant change in police behavior, which Oaks attributes to the stricter following of the rules governing search and seizure in the post- *Mapp* period.³⁰⁰ Police raids on criminal areas also decreased during the study, with a total of 242 raids prior to *Mapp* and a total of 73 during the six year period after *Mapp*. Oaks concluded that the *Mapp* ruling had an effect on the number of police raids that ended in arrests and convictions of certain crimes, even though there was a decrease in raids just prior to the *Mapp* decision and a steady decrease following the case.³⁰¹ Oaks theorized that the exclusionary rule did have a deterrent effect on police misconduct during police searches because both the arrest and conviction numbers of the studied crimes were declining while *Mapp* was being decided. Other findings showed that more than half of the motions to suppress evidence gathered by police in D.C. and Chicago were involving narcotics and weapons offenses.³⁰² The researcher states that these targeted crimes are supposed to be affected by the exclusionary rule ruling in *Mapp*.³⁰³

Other data showed that in 1969, which was after the *Mapp* decision, 45% of all individuals charged with gambling offenses had their cases dismissed after a motion to suppress evidence was granted due to an illegal search and seizure by Chicago police. In addition, while the percentage of cases “dropped” for narcotics offenses was 33% and for carrying a concealed weapon was 24%,³⁰⁴ Oaks stated that this level of dismissed cases showed illegal searches and seizures by Chicago law enforcement were commonplace in investigations of gambling, narcotics and weapons-related offenses. This led the researcher to conclude that the exclusionary

³⁰⁰ Id. at 691.

³⁰¹ Id.

³⁰² Id. at 706.

³⁰³ Id.

³⁰⁴ Id.

rule instituted in *Mapp* for state-level courts did not deter police from making illegal searches and seizures for a large proportion of the cases that made it to court.³⁰⁵ Oaks concluded the study by stating that the evidence gathered showed the exclusionary rule did not have a significant impact on Cincinnati police search and seizure practices for the studied crimes; however, the exclusionary rule might have a long term effect on creating greater conformity to legal rules in searches for stolen property by law enforcement.³⁰⁶

III. Methodology

My first hypothesis for this study is that police officers with more years of experience in law enforcement will exhibit higher levels of knowledge of the legal case of *Rodriguez v. United States*, including its underlying principles related to vehicle stops and canine searches. My second hypothesis is that officers with exposure to training on vehicle stops and searches, including the use of K9 units, will have greater levels of proper knowledge on *Rodriguez*.

A. Survey

The methodology of the study consists of a self-administered, in-person survey to gather the relevant data to address the study's research questions. The data will be gathered with a self-administered questionnaire given in-person to the different shifts of police officers across four police precincts in a large, populated suburban county in the southeastern United States. The officers consist of line or beat officers from all the day's shifts whose ranks include patrol officer to sergeant. A total of 137 officers were surveyed during the study out of 168 officers who are line or beat officers to be given the questionnaire, giving the researchers an 82% response rate. While 168 department beat officers could have taken the survey, all of the officers did not take

³⁰⁵ *Id.* at 707.

³⁰⁶ *Id.*

the survey since they were not assigned to work the day the survey was administered, so were not given the questionnaire. Of the officers assigned to work the day the researchers visited, all of them (137) took part in the study and answered the questionnaire. The average police officer that was surveyed was male (121 officers, 92%), white (100 officers, 79%), and late 20s. The officers took part in the study after the study was approved by the police department's command staff and their shift officers encouraged the officers to participate; however, participation was voluntary and not mandated. No incentive was given to the officers that participated.

A paper and pencil questionnaire was used to gather the data. The independent variables included knowledge of *Rodriguez*, training in the use of K9s, and other questions such as age, time as an officer, sex, race, and time in the surveyed department. The dependent variables included average traffic stop length, when officers conduct K9 sniff around vehicles, when officers can detain individuals to conduct a K9 sniff during a stop, and when do officers conduct K9 sniffs during traffic stops.

The self-administered survey was given in-person to beat officers assigned. The survey contained questions about police officer's perceptions and experiences with Fourth Amendment legal issues, including procedural issues related to traffic stops, vehicle searches and the use of K-9 units. The survey concluded with basic demographic questions about length of time in law enforcement, educational level, and frequency of involvement in conducting traffic stops, canine searches, and training programs. Officers were able to answer the questions in approximately 10 minutes on average. The researcher explained the purpose of the study and that the participation was voluntary before handing out the surveys to any officer that wanted to participate. The researcher visited the first precinct on July 12, 2017 and attended the three different shifts, with each shift having two meetings, group A and group B. The three shifts were broken into 3

different groups, day watch, evening watch, and morning watch. The examiner visited the second precinct on July 13, 2017 which had the same shift schedule and breakdown. The third precinct was visited on July 31, 2017 and the final precinct was visited on August 11, 2017. All precincts had the same schedule and breakdown of shift times and groups A and B.

The researcher was able to get IRB approval and the study was allowed with the study number 17-598. With the use of the SPSS system, the researcher was able to explore and analyze any relationships or connections between police perceptions and the procedural use of K-9 units during traffic stops, in particular the extent to which routine police stops are extended to conduct K-9 unit searches. In addition, data was analyzed on traffic stop length, time limitations placed on stops by police, and police knowledge of the *Rodriguez* case. The data was presented in graphs and tables and any relevant connections or relationships were identified and explained at length.

B. Legal case studies

The database used for gathering information about the legal case studies was WestLaw. In particular, Westlaw's case finding and checking tool, KeyCite, was used. KeyCite is a legal citator. A citator is a tool that helps the researcher find legal sources including cases, secondary sources, regulations, and legal statutes, that cite or rely upon a particular legal source.³⁰⁷

For this project, KeyCite was used to find specific cases mentioning and using the ruling set forth in *Rodriguez v. United States*. The search parameters or criteria selected in Keycite included searching for federal appellate and state of Georgia court cases, specifically federal courts of appeal and all state level cases in Georgia that significantly relied upon *Rodriguez v.*

³⁰⁷ Amy E. Sloan, *Basic Legal Research: Tools and Strategies* 143 (5th ed. Aspen Pub. 2012).

United States. This included court cases with ratings of three or four stars, which are the rating notations used by WestLaw to denote significant treatment provided by the citing cases to the case in question (i.e., here *Rodriguez*).³⁰⁸ For the purpose of the main text of the literature review, only three and four star cases that the researcher determined contained material relevant to *Rodriguez v. United States* were used. For example, certain cases bearing three and four stars that were generated from the citator search needed to be eliminated because, based upon further review, they failed to provide significant treatment of *Rodriguez*.

When using KeyCite, the researcher first examined federal appeals court cases. Nineteen (19) federal appellate court cases with either three or four stars were located. Five cases were eliminated because they did not address *Rodriguez* in any substantial manner. These cases included: *United States v. Asghedom*, *United States v. Zuniga*, *United States v. Davis*, *United States v. Bah*, and *United States v. Walker*.³⁰⁹ While these cases did mention *Rodriguez* and cited the ruling from the case as precedent, they did not elaborate upon *Rodriguez* in any substantial way. As a result, the study includes fourteen (14) total federal appellate court cases providing significant treatment to *Rodriguez*. When investigating Georgia state cases using the citator, only three cases were identified providing substantial treatment of *Rodriguez* (i.e., cases bearing three or four stars). These three cases were addressed in the study. This research using the citator was conducted in August 2016 to April 2017

³⁰⁸ Id. at 155-157.

³⁰⁹ *United States v. Asghedom* 646 Fed.Appx. 830 (11th Cir, 2016), *United States v. Zuniga* 613 Fed.Appx. 501 (6th Cir. 2015), *United States v. Davis* 620 Fed.Appx. 295 (5th Cir. 2015), *United States v. Bah* 794 F.3d 617 (6th Cir. 2015), and *United States v. Walker* 840 F.3d 477 (8th Cir. 2016).

IV. Findings

Table 1 show the results from the surveyed officers when the officers conduct a K9 sniff around a suspect vehicle during the process of completing a routine traffic stop.

Table 1- When does officer conduct K9 sniff of vehicle during routine traffic stop*;

	Frequency	%
Before or while writing up a traffic ticket	67	48.9
After writing up the traffic ticket	20	14.6
Before or while checking vehicle registration	46	33.6
After checking vehicle registration and license	58	42.3

*Officers can select multiple answers for the question (N=137)

Table 1 show the results from the surveyed officers when the officers conduct a K9 sniff around a suspect vehicle during the process of completing a routine traffic stop. Data from this question showed that twenty officers (14.6%) report that they conduct a K9 sniff during a routine traffic stop after writing up the traffic ticket, which appears to violate the ruling from *Rodriguez*.³¹⁰ 67 officers (48.9%) report that they conduct K9 sniff during a routine traffic stop before or while writing a traffic ticket, which appears to agree with Fourth Amendment procedures established by *Rodriguez*.³¹¹ Table 1 also shows that 58 officers (42.3%) report that they conduct K9 sniff of a vehicle after checking vehicle registration and license which may or

³¹⁰ *Rodriguez v. United States* 135 S.Ct. 1609 (2015).

³¹¹ *Id.*

not agree with Fourth Amendment procedures under *Rodriguez*.³¹² 46 officers (33.6%) report conducting the K9 sniff of the suspect vehicle before or while checking the suspect's vehicle registration which is permitted under the ruling set forth in *Rodriguez*.³¹³

Table 2- How long into routine traffic stop do officers conduct K9 sniffs

	Frequency	%
Less than 10 Minutes	12	10.3
11-15 Minutes	35	29.9%
16-20 Minutes	37	31.6%
21-25 Minutes	21	17.9
More than 25 Minutes	12	10.3
Total	117	100

Table 2 shows the time during a routine traffic stop when officers conduct K9 sniffs. The majority of officers surveyed (71.8% of officers) reported that they conduct their K9 sniff of a vehicle during a traffic stop within 20 minutes, a time limit that is in general acceptable under the Fourth Amendment as established in *Sharpe* and subsequent, interpretive lower court cases.³¹⁴

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Sharpe v. United States*. 470 U.S. 675 (1985). The issue at play in *Sharpe* was if an individual that was reasonably suspected of engaging in criminal activity may be detained for a period of 20

However, 12 officers (10.3%) reported conducting K9 sniffs at traffic stops after more than 25 minutes elapsed, which may be a violation of the time standards established by *Sharpe* and its progeny absent additional reasonable suspicion of wrongdoing to extend the stop.

Table 3- The frequency and percentage of officers indicating agreement on whether allowed to detain occupant after routine traffic stop “mission” over to wait for K9 arrival

	Frequency	%
Strongly Agree	3	2.5
Agree	26	21.3
Disagree	58	47.5
Strongly Disagree	35	28.7
Total	122	100

Table 3 shows the frequency and percentage of officers who agreed (or disagreed) on whether they are allowed to detain a vehicle occupant to wait for K9 assistance after the mission or purpose of a routine traffic stop has been completed. The correct responses under *Rodriguez*

minutes by law enforcement officials during a traffic stop, in which law enforcement agents need further time to conduct a limited investigation to uncover evidence of suspected criminal activity. The ruling of the case looked to see if a 20 minute detention period met the Fourth Amendment’s standard of reasonableness. The Supreme Court of the United States held that this 20 minute window met the Fourth Amendment’s standard of reasonableness and did not violate an individual’s Fourth Amendment rights, thus creating precedent that traffic stops should not extend beyond a detention period of around 20 minutes without articulable reasonable suspicion to continue a traffic stop. *Sharpe*, 470 U.S. at 675.

were disagree or strongly disagree, which 93 officers (76.2%) indicated in response to the question. However, 29 officers (23.8%) agreed or strongly agreed that officers can detain a vehicle occupant after the routine traffic stop mission is complete to wait for K9 assistance to arrive, which appears to violate *Rodriguez*.

Table 4. Frequency and percentage distribution of the knowledge of *Rodriguez*, training on vehicle stop and searches, experience in law enforcement, and education levels

Variable	N	%
1. Knowledge of Rodriguez vs. U.S.	122	
No Proper Knowledge	29	23.8%
Proper Knowledge	93	76.2%
2. Training on Vehicle Stop and Searches	127	
No Training	29	21.2%
Training	98	71.5%
3. Experience in Law Enforcement	137	
5 years or less	77	56.2%
More than 5 years	60	43.8%
4. Education Levels	137	
High School	18	13.1%
Some College/Associate	55	40.1%
Bachelor or Master's	64	46.7%

Table 4 shows the variables the variables that were used when conducting correlations for the hypothesis variables in the study. The variables included the knowledge of the Supreme Court decision of *Rodriguez*, training on vehicle stop and searches by the police department, experience in law enforcement, and the education of the surveyed officers. As stated in the method section, knowledge of *Rodriguez* is measured by whether the surveyed officers had knowledge of the case due to training or instruction from the police department that participated

in the study. A total of 122 officers responded to the question about knowledge of *Rodriguez*, with 93 officers reporting having knowledge of the case. This shows that 76.2% of surveyed officers knew of the case and showed that officer awareness of this legal case was moderate to high.³¹⁵ Training in the department is also moderate to high, with 98 officers (71.5%) out of 127 responses reported having received training on vehicle stops and searches while in the department. 56.2% of officers reporting having 5 years of less time in law enforcement while 43.8% of officers reported having more than 5 years. Education levels varied greatly and showed higher amounts of higher education, such as college degrees. 46.7% of surveyed officers (64 officers) reported having a Bachelor's or Master's degree while 40.1% of officers (55 officers) reporting having some amount of college experience. Only 13.1% of officers (18 officers) reported having high school level education.

Table 5. Knowledge of *Rodriguez* v. U.S. and training on vehicle stop and searches

	Training on Vehicle Stop and Searches			
	No Training		Training	
Knowledge of Rodriguez vs. U.S.	N	%	N	%
No Proper Knowledge	5	17.9	23	25.8
Proper Knowledge	23	82.1	66	74.2
Total	28	100.0	89	100.0

Chi-Square (1) = .746, (N/S)

Table 5 shows the correlation between officer training on vehicle stop and searches and the officer's knowledge of *Rodriguez*. 66 officers (74.2%) who had vehicle stop and search

³¹⁵ L. Timothy Perrin, H. Mitchell Caldwell, Carol A. Chase & Ronald W. Fagan, *If It's Broken, Fix It: Moving Beyond the Exclusionary Rule*, 83 IOWA L. REV. 669 (1998).

training demonstrated proper knowledge of Rodriguez (Disagreed or Strongly Disagreed on the statement of “you could detain suspect to wait for K9 unit to arrive after a traffic stop was completed”). Still, 23 officers (25.8%) who had training on vehicle stops and searches lacked proper knowledge of Rodriguez. However, this relationship between knowledge of Rodriguez and training on vehicle stop and search procedures is not statistically significant (Chi-square with 1 df = .746, N/S).

Table 6. Knowledge of *Rodriguez* v. U.S. and police officer's education level

	Officer's Education Level					
	High School		Some College		Bach. or Master	
Knowledge of Rodriguez vs. U.S.	N	%	N	%	N	%
No Proper Knowledge	4	30.8	12	23.5	13	23.8
Proper Knowledge	9	69.2	39	76.5	45	76.2
Total	13	100.0	51	100.0	58	100.0

Chi-Square (2) = .412, (N/S)

Table 6 shows the relationship between proper knowledge of Rodriguez vs. U.S. and the level of the police officers' education. Data gathered showed that officers in the surveyed department have a larger number of higher education degrees than was originally predicted. Overall, compared to officers with only a high school diploma (69.2%), a higher percentage of officers with some college (76.5%) or bachelor's/master's degrees (76.2%) have proper knowledge of *Rodriguez*. This relationship, however, between proper knowledge of Rodriguez and education level is not statistically significant (Chi-square with 2 df = .412, N/S).

Table 7. Knowledge of *Rodriguez v. U.S.* and experience in law enforcement

Knowledge of Rodriguez vs. U.S.	Experience in Law Enforcement			
	5 Year or Les:		More than 5 years	
	N	%	N	%
No Proper Knowledge	5	17.9	23	25.8
Proper Knowledge	23	82.1	66	74.2
Total	28	100.0	89	100.0

Chi-Square (1) = 7.483, P=0.006

Table 7 shows the relationship between proper knowledge of Rodriguez vs. U.S. and the police officer's experience in law enforcement. Police officers with 5 or less years' experience in law enforcement show a higher percentage (82.1%) of knowledge regarding Rodriguez vs. US compared to officers with more than 5 years' experience (74.2%). In other words, the officers with 5 years or less of experience are more likely to have proper knowledge (82.1%). The officers who have been in law enforcement more than 5 years are less likely to have proper knowledge of *Rodriguez* (74.2%). This relationship between officer knowledge of Rodriguez and officer experience in law enforcement is statistically significant at alpha=0.01 level (Chi-square with 1 df 7.483, p=0.006).

Table 8. Training on vehicle stop and searches and experience in law enforcement

	Experience in Law Enforcement			
	5 Year or Less		More than 5 years	
Training on Vehicle Stop and Searches	N	%	N	%
No Training	12	17.1	17	29.8
Training	58	82.9	40	70.2
Total	70	100.0	57	100.0

Chi-Square (1) = 2.868, P=0.09

Table 8 shows the relationship between training on vehicle stops and searches and the police officer's experience in law enforcement. Police officers with 5 or less years' experience in law enforcement are more likely to have the training (82.9%) than officers with more than 5 years' experience (70.2%). The relationship between these variables is statistically significant at alpha=0.10 level (Chi-square with 1 df =2.868, p=0.09). It suggests that training on vehicle searches and stops is more likely to be done early in the officers' careers (5 years or less), possibly just after the academy during the field training phase.

Table 9. Education level and experience in law enforcement

Education Levels	Experience in Law Enforcement			
	5 Year or Less		More than 5 years	
	N	%	N	%
High School	12	15.6	6	10.0
Some College/Associate	27	35.1	28	46.7
Bachelor or Master's	38	49.4	26	43.3
Total	77	100.0	60	100.0

Chi-Square (2) = 2.192, N/S

The final table (Table 9) shows the relationship between law enforcement experience and the education levels of the officers. Data shows that more officers with fewer than 5 years of experience in law enforcement (49.4%) have Bachelor or Master's degrees than officers with more than 5 years of experience as a police officer (43.2%). The relationship between the two variables is not statistically significant at alpha= 0.01 level (Chi-square 2.192 with 2 df).

V. Discussion

Table 1, as seen in the findings section, examined when the surveyed officers conducted canine sniffs during a routine traffic stop. Close to a majority of the respondents/ officers (49%) appear to follow Rodriguez when they indicated that they conduct canine sniffs before or while writing up a traffic ticket. Also, 33% of officers reported conducting canine sniffs before or while checking vehicle registration. Accordingly, these particular responses may stem from the fact the surveyed officers had proper instruction and training on Rodriguez. However, 14.6% of officers did report that they conduct canine sniffs after writing up the traffic ticket. This appears

to violate Rodriguez because the response suggests officers may be engaging in canine searches after the mission of the traffic stop has ceased. This small percentage of officers; answers that violate Rodriguez might be due to officers not understanding the situation proposed in the question or they might have forgotten the correct use of canines within traffic stops. A widespread lack of training is not suggested since a larger number of officers responded in the correct manner.

Table 2 shows the responses on when officers call for K9 assistance and use them in their traffic stops. The majority of respondents appear to conduct traffic stops with K9 units within the rules set by Rodriguez and Sharpe. With 71.8% of officers conducting K9 sniffs within 20 minutes of traffic stops, this practice in general supports the notion that officers are diligently and expeditiously transporting canines to the vehicle stop scene to conduct the sniff. The timing of the application of canines during traffic stops (i.e., within a 20 minute “window” of the stop commencing) also suggests that officers are in general attempting to comply with the “spirit”, if not the letter, of *Rodriguez*, *Sharpe* and their progeny, by conducting the sniffs during the time generally allowed and used to complete vehicle stop tasks. However, some officers (28.2%) reported calling for K9 assistance after the 20 minute window set by Sharpe which in general may violate the suspect’s Fourth Amendment rights unless at least reasonable suspicion of criminal activity is established to prolong the stop. An explanation might be that the officers answering the survey permissibly called the K9 units only after developing the requisite reasonable suspicion. Alternatively, the sizeable minority of officers who called for canines later in the traffic stop (i.e., after 20 minutes had elapsed) may represent possible Fourth Amendment violations.

Table 3 shows legal issues with detaining suspects at routine traffic stops to wait for K9 assistance once the mission of the stop is completed (i.e., the officer issues a traffic ticket or warning after having checked license, registration, insurance, and/ or warrants). This question was a good measure to see if respondents knew about the ruling of Rodriguez. 76.2% of officers answered correctly that police are not able to detain a suspect to wait for K9 backup once the mission of a routine traffic stop is completed. This high level of officer knowledge leads one to believe that the officers in this department receive training in their precincts about traffic stops and in particular the application of Rodriguez to canine involvement at these stops. However, 23.8% of officers reported that it was acceptable to detain suspects to wait for K9s to arrive even though the mission of the traffic stop had been completed. These answers might be due to the officer possibly developing other proper bases under the law to continue to detain vehicle occupants following the completion of the traffic stop “mission” (i.e., consent, reasonable suspicion of criminal activity, etc.). Apart from this consideration or related difficulty in understanding the formulation or wording of the question, these responses regarding continued detention of occupants at traffic stops to conduct canine sniffs, appear to represent violations of Rodriguez. However, overall, the high rate of correct answers to this key question may reflect that the department teaches its officers about correct protocol on traffic stops and canine use.

Table 4 shows the percentages and frequencies of the study variables from the survey. For the first variable, knowledge of Rodriguez, 93 officers (76.2%) indicated that they had knowledge of the case. Where prior research showed weak to modest knowledge of law, this high rate of knowledge showed the respondents had instead moderate to high awareness of this legal case. The second variable was training on traffic stop and searches. 98 officers (71.5%) reported having training in the last 12 months, which supports the idea that the police department

continues to train their officers (i.e., the respondents) after they leave the police academy. This, in turn, allows for better trained and prepared police officers.

The third variable was experience in law enforcement. The study examined how long the line, or “beat,” officers have been in the police. The data showed a mixed result. With 56.2 percent of officers having 5 years or less experience, the majority of the beat officers were relatively new to policing while 43.8 percent of officers had more than 5 years’ experience. This data showed that the beat officers were mostly less experienced officers that had several senior officers mixed in to help train and guide them. This mix of experience levels means that more experienced officers were available to help teach and prepare the newer officers on how to handle and survive in the field. It also may allow for potentially younger officers to perform more of the strenuous activities of policing.

The final variable was the education level of the beat officers surveyed and the results were somewhat unexpected. With 46.7 percent of officers reporting having a Bachelor’s or Master’s degree, the rate of higher education degrees was much higher than anticipated. Similarly, the rate of officers with some college exposure or an associate’s degree was a higher 40.1% of the total number of respondents. Accordingly, with over 80% of the beat officers having some form of higher education preparation, department hiring practices were likely aimed at getting officers with some form of higher education training. This data also reflects that the department was able to entice individuals with degrees to come work in the department.

Table 5 shows the relationship between officer training on vehicle stop and searches and the officer’s knowledge of Rodriguez. A large majority of the officers that had this training exhibited proper knowledge of Rodriguez (e.g., 74% of the respondent officers with training disagreed or strongly disagreed with the statement “you could detain suspect to wait for K9 unit

to arrive after a traffic stop was completed)”. Nonetheless, a sizeable minority of the officers (26%) who had training lacked this proper knowledge of Rodriguez. This latter finding might be due to some of the police training on vehicle stop and searches lacking updated information on the legal aspects of search and seizure activity, including Rodriguez. All police search and seizure training should cover Rodriguez and other legal cases that play major roles in vehicle stops and searches, such as *Sharpe*. However, approximately 80 percent of the officers who had no training on vehicle stops and searches still exhibited proper knowledge of Rodriguez. This may be due to the officers obtaining proper knowledge of Rodriguez through other avenues, such as from talking to other officers, including supervising officers, or reading information such as handouts or leaflets distributed to them by supervisors.

Table 6 shows the relationship between proper knowledge of Rodriguez vs. U.S. and the level of the police officer’s education. Data from this showed that officers with higher levels of education reported higher levels of proper knowledge of Rodriguez. Over 75 percent of the surveyed officers with some college education and bachelor’s degree or higher had proper knowledge of Rodriguez. In addition, less than 70 percent of officers with a high school level of education had proper knowledge of Rodriguez. The relationship between this knowledge and the officer’s education level was not statistically significant. It should be noted that only 47% of the officers surveyed reported having a bachelor’s degree or higher (e.g., master’s degree). In order to increase the overall number of officers with higher education degrees, departments need to provide further incentives and greater flexibility in scheduling arrangements for officers to take higher education classes and obtain higher education degrees.

Table 7 shows the relationship between proper knowledge of Rodriguez vs. U.S. and the police officer’s experience in law enforcement. This relationship is statistically significant. The

data shows those officers with 5 years or less of experience had higher levels of proper knowledge of Rodriguez compared to officers with more than 5 years' experience. This finding may stem from the fact that in the police academy, officers undergo training on relevant legal issues, including vehicle stop and search issues such as in Rodriguez. In addition, when the officers initially arrive to their precincts after the academy, they may also undergo more rigorous training since they are new, which may include law training. Thus, for those officers with five years or less of experience, they may have had more recent and more frequent opportunities to be trained on the law compared to the veteran officers. Indeed, the survey's findings reflect that compared to officers with more than 5 years of law enforcement experience, more officers with 5 or fewer years of experience in law enforcement have undergone recent training on vehicle stops and searches (see Table 8 discussion below). In contrast, veteran officers with more practical, on-the-job experience may be more inclined to place greater weight on every-day, real-world knowledge. In turn, they may become less receptive to attending and learning about the law at training sessions, in particular if these sessions are not mandatory within the department.

Table 8 data show the relationship between training on vehicle stops and searches and the police officer's experience in law enforcement. This relationship was also statistically significant. In particular, officers with 5 years or less experience report receiving training on vehicle stop and searches at a higher rate than more experienced, veteran officers with over 5 years of experience. For example, while the majority of veteran officers reported having training (70.2%), 82.9 percent of the less experienced officers received training on vehicle stop and searches. This could be because the rookie officers receive training on this legal topic in the police academy or shortly thereafter, and hence the training is more recent and hence "fresh" on

their minds. Veteran officers may either not recall this training or perhaps had not been exposed to it when they joined their department numerous years ago.

Table 9 shows the relationship between law enforcement experience and the education levels of the officers. The rates of higher education degrees among less experienced and more experienced, veteran officers are somewhat similar, with 49.4 percent of officers with 5 years or fewer years of experience having higher education degrees, and 43.3 percent of officers with more than 5 years of experience having these degrees. However, the rate of officers with some college exposure or an associate's degree is different among the officers with different levels or amounts of experience. For example, 35.1 percent of officers with 5 years or less of experience have some college exposure or an associate's degree, while 46.7 percent of officers with more than 5 years of experience have this educational background. This data suggests that the more experienced, veteran officers may have joined the department when a high school diploma was the minimum educational requirement or expectation in terms of departmental hiring practices/policies. On the other hand, the educational backgrounds of the less experienced officers suggest a possible change in hiring policies or practices to try to target and employ higher educated individuals into the police department.

The first hypothesis for this study to test was if police officer's knowledge of the case of Rodriguez is related to the officers' experience in law enforcement (Table 7). The original idea was that the more experienced officers would show greater rates of proper knowledge of Rodriguez than the less experienced officers. However, the data showed that officers with 5 years or less experience had higher rates of proper knowledge than the more experienced, veteran officers. Accordingly, my first hypothesis was not supported by the data.

The second hypothesis is that training in law enforcement allows officers to know when they can detain an individual during a traffic stop to conduct a K9 sniff of the individual's vehicle (i.e., Rodriguez). Essentially, this hypothesis consisted of the idea that officers with exposure to training on vehicle stops and searches would have higher levels of knowledge on Rodriguez. Again this hypothesis was not supported by the data, with officers who had exposure to this training actually showing lower levels of knowledge about Rodriguez than officers who did not receive training (table 5).

Some policy implications are that in general the officers surveyed appear to have moderate to higher levels of knowledge of Rodriguez, Sharpe, and associated legal case principles on canine searches during vehicle stops. As tables 1-3 show, the majority or close to majority of officers are conducting canine searches during traffic stops properly under Fourth Amendment principles as established in Rodriguez, Sharpe and associated lower court case law. However, there remain a sizeable minority of officers who may be violating these Fourth Amendment principles. Departments need to also provide additional incentives and greater flexibility in scheduling arrangements so that officers can take higher education classes and obtain higher education degrees. Departments should be encouraged by their community constituents to hire candidates with higher education degrees. Police supervisors should promote and implement continuous training and education on vehicle stops and searches throughout officers' careers, including updates to the law on vehicle canine searches as reflected in Rodriguez. This continuous training can help to ensure that veteran officers receive exposure to the latest legal developments in vehicle stops and searches.

VI. Conclusion

Some key findings of the study shows that the majority or close to the majority of the police officers surveyed are using canine units legally under Rodriguez and Sharpe when conducting sniffs during traffic stops. For example, close to a majority of the respondents/officers (49%) appear to follow Rodriguez because they indicated that they conduct canine sniffs before or while writing up a traffic ticket. Moreover, 71.8 percent of officers conduct K9 sniffs within 20 minutes of the initiation of a traffic stop. Finally, a clear majority of officers (76.2%) indicated correctly that police in general are not able to detain a suspect to wait for canine assistance once the mission of a routine traffic stop is completed. These moderate to higher rates of knowledge by mostly line or patrol officers (i.e., non-ranking officers) contrast with previous empirical studies on legal knowledge by police, including knowledge on the Fourth Amendment. It may be recalled that these earlier studies found officer knowledge in this area to be low to modest. This overall difference in knowledge may be due to increased police professionalism over time, including officers becoming better trained and educated.

In addition, 71.5 percent of officers reported receiving training on vehicle stops and searches in the 12 months preceding the survey, which shows the department's priority on continuous training. Also rates of officer with higher education levels were also high, with over 80 percent of officers having some form of college education and 46.7 percent of those surveyed having a Bachelor's degree or higher.

In addition, the data shows those officers with 5 years or less of law enforcement experience had higher levels of proper knowledge of Rodriguez compared to officers with more than 5 years' experience. In addition, officers with 5 years or less experience report receiving

recent training on vehicle stops and searches at a higher rate than their more experienced, veteran counterparts with over 5 years of experience.

Additional, over 75 percent of the surveyed officers with some college education and bachelor's degrees or higher had proper knowledge of Rodriguez. Finally, a large majority (74%) of the officers that had recent vehicle stop and search training exhibited proper knowledge of Rodriguez. However, approximately 80% of the officers who had no recent training on vehicle stops and searches still exhibited proper knowledge of Rodriguez.

Some limitations of the study included human error. For example, officers may have answered questions they might not have understood and rather answered to the best of their ability. Another limitation was that only 4 out of the 5 police precincts of the department were surveyed, which reduces the generalizability of the study to the entirety of the police department. Another limitation was the time it took to administer the survey, which spanned several months. This development could have skewed the results due to officers informing others that had not taken the survey about the content of the survey questions. Also, officers surveyed somewhat later in the process may have been exposed to training or classes that previously surveyed officers did not experience, further impacting the findings.

Future research suggestions include expanding the number of police departments surveyed to include similarly-sized police forces in different areas of the country. This would allow comparisons to be drawn between departments in disparate geographical and other settings. Another suggestion is a second study in the future to compare the results with this study to see if any policy changes were enacted in the surveyed department due to the initial study itself. Finally, in a future study, the types of respondents could be broadened to include more ranking officers, such as lieutenants, captains and chiefs.

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VIII. Appendix

This is the survey questionnaire that was handed out and answered by the police officers during the interview period in the study.

Study #17-598: Perceptions and Experiences among Police Officers: Traffic Stops, Vehicle Searches and K-9 involvement

Instructions: : Please respond to the questions below about your perceptions and experiences with traffic stops, K-9 sniffs, and vehicle searches by indicating the answers that best reflect your opinions. Some of these questions deal with court cases or judicial case rules.

1. On average, **how long** does a standard or routine **traffic stop** last for you? (I.E., when the outcome of the stop is a written ticket, written warning, or verbal warning for a traffic violation and does not end with an arrest?)

Less than 10 Minutes 11-15 Mins 16-20 Mins 21-25 Mins More than 25 Minutes

2. When you do a **K-9 sniff** for drugs or other contraband around the perimeter of a vehicle during a standard or routine traffic stop, **when** do you do it?

Circle ALL that apply ---

Before or while writing up the traffic ticket and/ or providing a warning to the driver

After writing up the traffic ticket and/ or providing a warning to the driver

Before or while checking vehicle registration, driver's license, insurance information and/ or warrants

After checking vehicle registration, driver's license, insurance information and/ or warrants

3. On average, when you do a **K-9 sniff** for drugs or other contraband around the perimeter of a vehicle during a standard or routine traffic stop, how long into the traffic stop do you complete this search?

Less than 10 Minutes 11-15 Mins 16-20 Mins 21-25 Mins More than 25 Minutes

4. When a police officer has **completed the mission of a standard or routine traffic stop** (I.E. issued a traffic ticket or a warning after having checked license, registration, insurance, and/ or

warrants), the officer can **detain** the vehicle occupant(s) while waiting for a police K-9 unit to arrive to perform a sniff for drugs or other contraband around the vehicle perimeter.

- Strongly Agree Agree Disagree Strongly Disagree

SURVEY CONTINUES ON OTHER SIDE OF PAGE

5. Has your department ever set a maximum **time limit** for a routine or standard **traffic stop**?
 Yes No

If Yes, 1). What is the time limit set by your department? _____

6. Have you heard or been taught about the case of *Rodriguez v. United States*?
 Yes No

7. When a police officer **makes a lawful arrest** of a vehicle occupant or recent occupant, the officer may then proceed to search the vehicle's passenger compartment and any open or closed containers in that part of the vehicle incident to the arrest.

- Strongly Agree Agree Disagree Strongly Disagree

8. When a police officer **makes a lawful arrest** of a vehicle occupant or recent occupant, the officer **cannot** proceed to search the vehicle's passenger compartment incident to the arrest, **EXCEPT for a safety scenario** (*Note: Safety scenario means a scenario where the occupant/arrestee is unsecured and within reaching distance of the passenger compartment).

- Strongly Agree Agree Disagree Strongly Disagree

9. When a police officer **makes a lawful arrest** of a vehicle occupant or recent occupant, the officer **cannot** proceed to search the vehicle's passenger incident to the arrest, **EXCEPT for an evidence-gathering scenario** (*Note: Evidence-gathering scenario means a scenario where the officer has a reasonable belief that evidence relevant to the crime of arrest may be found within the vehicle).

- Strongly Agree Agree Disagree Strongly Disagree

10. Please check all the **criteria/ factors** below that officers should consider before searching the vehicle's passenger compartment based on, or incident to, a lawful arrest of a vehicle occupant or recent occupant.

_____ Vehicle description (make, model, color, plate number, etc.)

_____ Identity of suspect (name, race/ ethnicity, gender, age, etc.)

_____ Obtaining a search warrant

_____ Occupant/ arrestee's ability to reach inside vehicle's passenger compartment (for example, to grab a weapon)

_____ Reasonable belief that evidence relevant to the crime of arrest may be found in the vehicle

11. Have you heard or been taught about the case of *Arizona v. Gant*?

Yes No

Demographic Questions: Please **check** one of the answers below that best represents you or your experiences.

12. What is your sex?

Male
 Female

13. What is your race?

White
 African American
 White (Hispanic/Latino?)
 Asian
 Other _____

14. How old are you? _____

15. How long have you been in law enforcement?

Less than 5 years 6-10 years 11-15 years More than 16 years

1-1

16. How long have you been with the current department?

Less than 3 years 3-6 years 7-10 years 11-14 years More than 14 years

17. What is your highest education level?

High School Some College Associate's Degree Bachelor's Degree Masters degree or higher

SURVEY CONTINUES ON OTHER SIDE OF PAGE

18. On average, how many **traffic stops** do you conduct in a week?

1-5 6-10 11-15 16-20 more than 20

19. On average, how many times a week do you call for **K-9 assistance** for the purpose of detecting contraband, including drugs, during a **traffic stop**?

1-5 6-10 11-15 16-20 more than 20

20. On average, how many **vehicle searches** do you conduct in a week based on or **incident to an arrest** of a vehicle occupant or recent occupant?

1-5 6-10 11-15 16-20 more than 20

21. Has your department provided a **training program** or workshop on the **legality of vehicle stops and searches** in the past 12 months?

Yes No

22. In the past 12 months, has your department provided a **training program** or workshop on the use of drug-detecting **canines**, including their use at vehicles?

Yes No

Thank you for participating in this survey

Table 1- When does officer conduct K9 sniff of vehicle during routine traffic stop*.

	Frequency	%
Before or while writing up a traffic ticket	67	48.9
After writing up the traffic ticket	20	14.6
Before or while checking vehicle registration	46	33.6
After checking vehicle registration and license	58	42.3

*Officers can select multiple answers for the question (N=137)

Table 2- How long into routine traffic stop do officers conduct K9 sniffs

	Frequency	%
Less than 10 Minutes	12	10.3
11-15 Minutes	35	29.9%
16-20 Minutes	37	31.6%
21-25 Minutes	21	17.9
More than 25 Minutes	12	10.3
Total	117	100

Table 3- The frequency and percentage of officers indicating agreement on whether allowed to detain occupant after routine traffic stop “mission” over to wait for K9 arrival

	Frequency	%
Strongly Agree	3	2.5
Agree	26	21.3
Disagree	58	47.5
Strongly Disagree	35	28.7
Total	122	100

Table 4. Frequency and percentage distribution of the knowledge of *Rodriguez*, training on vehicle stop and searches, experience in law enforcement, and education levels

Variable	N	%
1. Knowledge of Rodriguez vs. U.S.	122	
No Proper Knowledge	29	23.8%
Proper Knowledge	93	76.2%
2. Training on Vehicle Stop and Searches	127	
No Training	29	21.2%
Training	98	71.5%
3. Experience in Law Enforcement	137	
5 years or less	77	56.2%
More than 5 years	60	43.8%
4. Education Levels	137	
High School	18	13.1%
Some College/Associate	55	40.1%
Bachelor or Master's	64	46.7%

Table 5. Knowledge of *Rodriguez* v. U.S. and training on vehicle stop and searches

	Training on Vehicle Stop and Searches			
	No Training		Training	
Knowledge of Rodriguez vs. U.S.	N	%	N	%
No Proper Knowledge	5	17.9	23	25.8
Proper Knowledge	23	82.1	66	74.2
Total	28	100.0	89	100.0

Chi-Square (1) = .746, (N/S)

Table 6. Knowledge of *Rodriguez* v. U.S. and police officer's education level

	Officer's Education Level					
	High School		Some College		Bach. or Master	
Knowledge of Rodriguez vs. U.S.	N	%	N	%	N	%
No Proper Knowledge	4	30.8	12	23.5	13	23.8
Proper Knowledge	9	69.2	39	76.5	45	76.2
Total	13	100.0	51	100.0	58	100.0

Chi-Square (2) = .412, (N/S)

Table 7. Knowledge of *Rodriguez* v. U.S. and experience in law enforcement

	Experience in Law Enforcement			
	5 Year or Less		More than 5 years	
Knowledge of Rodriguez vs. U.S.	N	%	N	%
No Proper Knowledge	5	17.9	23	25.8
Proper Knowledge	23	82.1	66	74.2
Total	28	100.0	89	100.0

Chi-Square (1) = 7.483, P=0.006

Table 8. Training on vehicle stop and searches and experience in law enforcement

	Experience in Law Enforcement			
	5 Year or Less		More than 5 years	
Training on Vehicle Stop and Searches	N	%	N	%
No Training	12	17.1	17	29.8
Training	58	82.9	40	70.2
Total	70	100.0	57	100.0

Chi-Square (1) = 2.868, P=0.09

Table 9. Education level and experience in law enforcement

Education Levels	Experience in Law Enforcement			
	5 Year or Less		More than 5 years	
	N	%	N	%
High School	12	15.6	6	10.0
Some College/Associate	27	35.1	28	46.7
Bachelor or Master's	38	49.4	26	43.3
Total	77	100.0	60	100.0

Chi-Square (2) = 2.192, N/S