Appendix 15-1
Stops and Warrantless Searches:
Five Basic Steps

1. Did the officer seize the defendant?
   - No
   - Yes

   Fourth Amendment ordinarily does not provide grounds to suppress

2. Did the officer have grounds for the seizure, e.g., . . .
   - No
   - Yes

   If checkpoint, were there individualized reasonable suspicion?
   - Was there individualized reasonable suspicion?
   - If checkpoint, were purpose and operation permissible?
   - Yes
   - No

   Suppress evidence discovered as result of unlawful seizure

3. Did the officer act within the scope of the seizure, e.g., . . .
   - No
   - Yes

   If checkpoint, were there individualized grounds for further action?
   - If checkpoint, were there individualized grounds for further action?
   - If custodial interrogation, did officer give Miranda warnings?
   - Yes
   - No

   Suppress evidence discovered as result of unlawful actions

Consider basis:
- Anonymous tip?
- High crime area?
- Proximity to other suspects?
- Walking away vs. flight?
- Report from other officer?
- Mistake of law?
- Driving?
- Other factors?

If a car stop, officers may require driver and passengers to exit without specific grounds, but may need grounds to detain passengers

If the police initiate an encounter for racial reasons, the evidence may be subject to suppression under the 14th Amendment, whether or not a seizure occurred

If custodial interrogation, did officer give Miranda warnings?

Consider:
- Questioning unrelated to basis for stop
- Request for consent to search unrelated to stop
- Delay for drug dog
- Other actions unrelated to stop

Was duration of stop reasonably limited to its purpose and not unduly prolonged?

If frisk of person, (a) were there grounds and (b) was frisk limited?

If sweep of car, (a) were there grounds and (b) was sweep limited?

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Five Basic Steps (cont’d)

4. Did the officer have grounds to arrest or search, e.g., . . . .
   - Did the person give consent to search?
   - Was there probable cause to arrest or search?

   - Examine whether:
     - Request for consent was within permissible duration of stop
     - Consent was voluntary
     - Person had authority to consent
     - Person gave consent to area searched

   - Yes

5. Did the officer act within the scope of the arrest or search, e.g., . . .
   - If search of car is incident to arrest of occupant, search of passenger compartment is permissible if (a) compartment is within reaching distance of arrestee or (b) it is reasonable to believe evidence relevant to crime of arrest may be found in compartment
   - If search of car is based on probable cause, exigent circumstances are not required but search must be limited to areas where evidence may reasonably be found
   - If search of container incident to arrest of person, consider potential impact of Arizona v. Gant

   - If search of person is based on probable cause, officers must have exigent circumstances to search without a warrant

   - Yes

   - No

Fourth Amendment ordinarily does not provide grounds to suppress

Suppress evidence discovered as result of unlawful arrest or search

Suppress evidence discovered as result of unlawful actions