

# UNDERSTANDING YOUR RIGHTS AS A PASSENGER DURING A TRAFFIC STOP

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# Understanding Your Rights As a Passenger During a Traffic Stop

The Fourth Amendment to the United States Constitution provides that every citizen shall enjoy the right “to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” This right against unreasonable seizures applies directly to both the driver and passengers in stopped vehicles. When you find yourself stopped, regardless of whether you are the driver or passenger, there are several things to keep in mind.

## Protection from Unreasonable Search and Seizure

Firstly, if the vehicle is stopped due to a driving infraction, you, as the passenger, are seized and are therefore protected by the Constitution. This means that while officers have the right to briefly prevent you from leaving, they do not have the right to search you without some suspicion that an additional crime has been committed. You always have the right to ask if you are free to leave. While officers have the authority to keep you in the area while they investigate the driving infraction, it is entirely possible that you could be allowed to leave.

## The Right to Remain Silent

Secondly, you are not required to answer any questions that officers ask. While being respectful and cooperative with law enforcement is always a good idea, you cannot be forced to answer any questions, including about your identification. Moreover, your refusal to answer cannot be used by law enforcement to justify searching you (this right to refuse identification does not exist for the driver of a vehicle). When a driver has violated a traffic law, you have not done anything wrong. As a result, while officers are free to ask you questions, you are equally as free to remain silent. Absent evidence of crime, you are merely a bystander during the traffic stop.



## Stay Calm

Thirdly, while it is inevitable to feel anxious when you are involved in a traffic stop, the best thing you can do is stay calm. Over-anxiousness may lead officers to believe that you have something to hide. While this alone does not allow them to remove to search you, remaining calm will expedite the encounter. Equally important is to keep your hands visible at all times and refrain from as much movement as possible. Officer safety is a paramount concern during any interaction with citizens. When passengers are reaching around in vehicles or moving significantly, officers will likely have the ability to conduct a search of your person and belongings without question as it creates suspicion that you are attempting to conceal evidence or retrieve a weapon.

## You Can Be Removed As a Passenger

Lastly, if officers have justification for removing the driver of a vehicle, you can and likely will be removed as well. The United States Supreme Court has articulated that if a driver is suspected of a crime beyond the initial traffic infraction, both the driver and any passengers may be removed. Depending on the suspected crime, once removed, officers could have the right to search the vehicle and your belongings. If they find evidence of a crime, this right to search will extend to a search of your person as well.

## Discuss Your Rights As a Passenger with an Experienced SDF Attorney

Ultimately, even if you believe that you are being subjected to an unjustified search during a traffic stop, your best course of action is to allow the search to proceed and then consult a SDF attorney who can ensure that your interests are both respected and protected. Even if a search is conducted, it is not a guarantee that items discovered can be admitted as evidence against in you court. A SDF defense attorney will recognize an unconstitutional search and be able to have the evidence suppressed from court proceedings.

