

LAW ENFORCEMENT OFFICER CAN STOP VEHICLE

The Vermont Supreme Court recently held that a law enforcement officer has “sufficiently reliable information” to stop a vehicle for investigation based on a report that a vehicle of that description is being driven erratically in a certain general location and direction. *State v. Boyea*, Vt. 99-061 (Dec. 1, 2000)

In *Boyea*, an officer received a radio dispatch that a “blue-purple Volkswagen Jetta with New York plates [was] traveling south on I-89” in an erratic fashion. The officer soon saw a vehicle matching that description and pulled it over to investigate. His impression was that the driver was driving under the influence of alcohol (DUI) and he arrested her.

To start the discussion of the case, the Court described the two possible courses of action that the officer could have taken: 1) Stop the vehicle as soon as possible, or 2) Follow it to watch for erratic driving and then stop it if necessary. The outcome of the second option could be: 1) No erratic driving and no reason to investigate further, 2) The vehicle could drift harmlessly off the road, or 3) The vehicle could cause an accident.

The question is whether the driver’s constitutional right to privacy compels the officer to observe the suspect vehicle until some erratic or dangerous activity occurs. The majority opinion cited a number of similar cases from other jurisdictions and said that under the exigent circumstances (possible accident and injury), “failing to stop a vehicle in these circumstances ... exposes the public, and the driver, to an unreasonable risk of death or injury.” *Id.* at 2. The Court compared DUI with situations involving deadly weapons and said that the “gravity of the risk of harm ... applies with equal force to intoxicated driving.” The intrusiveness of a brief investigative stop requires only “reasonable suspicion” rather than “probable cause,” thus an officer need not have made a personal observation of the erratic driving but may act on the basis of reliable information.

Reliability of the information from an anonymous tip should be judged by three factors. The first factor is the nature and specificity of the information. In this case the information included a specific description of the car, its exact location and its direction and prior movements. The specifics supported the credibility of the information.

The second factor is that, within a few minutes, the officer was able to confirm such a vehicle in the predictable location, thus adding to the credibility of the anonymous tip.

Finally, “the officer faced the potential of a dangerous public safety hazard.” A DUI situation, with its imminent danger, is different from such things as suspected transport of controlled substances, where the officer could safely observe the driver for other incriminating evidence before pulling him or her over.

This is an interesting and informative case because it sets out some guidelines for weighing the privacy right of a person who may be an imminent threat against the importance of public safety. It suggests some criteria for evaluating the reliability and usefulness of tips or anonymous tips. And it underscores the public safety considerations of drunk driving and the importance of enforcement.

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