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A recent court decision provides an excellent discussion of the permissible length of a traffic stop as it affects the validity of a canine sweep of the vehicle. The court opinion also discussed whether police must meet a legal standard to conduct the canine sweep, other than the traffic stop itself.

In the case a police officer, who was also a canine officer, stopped a vehicle in which the defendant was a passenger because it did not have an operating light illuminating the license plate. The officer approached the driver's side of the vehicle and asked the driver for his license and registration. As this was occurring, a second officer arrived at the scene to assist. The canine officer handed the license and registration to the second officer to run a license and warrants check on the driver. As this check was taking place, the first officer and his canine conducted a canine sweep around the vehicle. The dog sat down at the passenger side door, which signaled the presence of illegal drugs in the vehicle. The officer asked the defendant to exit the vehicle so that a pat-down search could be conducted. The officer found a bag containing marijuana and a tin containing a partially smoked marijuana cigarette located in the jacket the defendant was wearing. The issue in the case was whether this evidence should have been suppressed.

The defendant argued that the arresting officer had no reasonable suspicion to conduct the canine sweep of the vehicle. In the alternative, if reasonable suspicion was not required, the defendant claimed the evidence was not sufficient to establish whether the traffic stop was ongoing or completed when the canine sweep was completed. The defendant lost on both arguments.

The law is clear that a canine sweep is not a search within the meaning of the Fourth Amendment. However, while a canine sweep is

not a search, *upon the completion of a traffic stop*, an officer must have reasonable suspicion of criminal activity in order to proceed thereafter with an investigatory detention. Therefore, the critical facts in determining *whether a vehicle was legally detained at the time of the canine sweep* are whether the traffic stop was concluded and, *if so*, whether there was reasonable suspicion at that point to continue to detain the vehicle for investigatory purposes.

The canine officer testified that the canine sweep was completed in "20, 30 seconds at the most" and that the whole process, including retrieving and returning the canine to his police vehicle, took about a minute. More importantly, the officer testified that at the time he *completed* the sweep, the second officer had not yet received a call back from dispatch on the license and warrants check. Thus, the canine sweep was completed before the traffic stop was concluded. Stated differently, the sweep was conducted *while* the vehicle was lawfully detained.

In conclusion the appeals court stated, "because a canine sweep is not a search, the officer had reasonable suspicion for the initial stop [of the vehicle], and the vehicle was still lawfully detained at the time of the canine sweep," it affirmed the trial court's denial of the motion to suppress. However, the court also made the following cautionary note: "While we recognize that our holding in this case may be subject to abuse, we trust the trial courts to carefully weigh the evidence and to be vigilant in ensuring that the State meets its burden of showing that the traffic stop was no longer than necessary given the circumstances surrounding a particular stop."

Bradshaw v. State, 759 N.E.2d 271 (Ind. App. 2001).