

- 1) **What should I do when stopped for a traffic violation by the police?** Put the police officer at ease. Pull over to a safe place, turn off your ignition, stay in the car and keep your hands on the steering wheel. At night, turn on the interior (“dome”) light. Keep your license, registration and proof of insurance close by, and be prepared to present them to the officer upon request. Be courteous, stay calm, and don't complain. Keep your hands empty and in plain sight (such as on the steering wheel) so that the officer can see them at all times, Never touch an officer or resist them in the legal performance of their duties. If you feel that you have been mistreated, speak with a supervisor or air your grievance in court once the stop is over.
- 2) **Are road safety checks constitutional based on Georgia law and the US Supreme Court?** Yes. Both the Supreme Court of the United States (see City of Indianapolis v. Edmond, 531 U. S. 32 (2000) *and* Michigan Dep't of State Police v. Sitz, 496 U. S. 444 (1990)) and the Supreme Court of Georgia (see Lafontaine v. State, 269 Ga. 251 (1998)) have upheld the constitutionality of checkpoints.
- 3) **May a police officer order you and any occupants from your vehicle at a traffic stop without any additional reason?** Yes. The Supreme Court of the United States “recognized the inordinate risk confronting an officer as he approaches a person seated in an automobile” during a routine traffic stop in the case of Pennsylvania v. Mimms, 434 U.S. 106 (1977). That case cited a study (Bristow, “Police Officer Shootings--A Tactical Evaluation,” 54 J. Crim. L.C. & P.S. 93 (1963)) which concluded that approximately thirty percent (30%) of police shootings occurred when a police officer approached a suspect seated in an automobile. Therefore, the Court concluded that an officer *may* order someone stopped for a traffic violation to exit the vehicle. This is true regardless of whether the weather is unpleasant or that the officer does not have a clear reason for asking you to get out. When the officer asks you to “please step out of your car,” you have to do it.
- 4) **May a police officer order you to roll down your car windows?** Yes. If an officer can order you from your vehicle for officer safety without violating your rights, then the simple request of rolling down your windows is also reasonable and *far* less intrusive. Again, the risk facing the officer is a major factor in this decision. However, if you are unable to roll your windows down for some reason (i.e., they are broken or malfunctioning), simply explain this to the officer and be prepared to comply with his legal request for you to exit the vehicle should he or she ask.
- 5) **May I be pulled over for attempting to avoid a road check?** Yes. The Georgia Court of Appeals recently reaffirmed its long-standing rule that “abnormal or unusual actions taken to avoid a roadblock may give an officer a reasonable suspicion of criminal activity even when the evasive action is not illegal.” Blakely v. State, 316 Ga. App. 213, 216 (2012). Therefore, under Georgia law, a driver who takes evasive measures to avoid a roadblock provides law enforcement officers with reasonable articulable suspicion to believe that they are engaged in criminal activity.

- 6) **Am I required to show my driver's license at a safety checkpoint? Yes.** Georgia law requires every licensed driver to "display his license upon the demand of a law enforcement officer." O.C.G.A. § 40-5-29(b). Failure to do so permits officers to presume that: 1) you do not have a license on your person as required by O.C.G.A. § 40-5-29(a); and 2) you are driving without being licensed in violation of O.C.G.A. § 40-5-20. Furthermore, repeated refusals to comply with an officer's request for your license can rise to the level of criminal obstruction of the officer in the performance of his duties pursuant to O.C.G.A. § 16-10-24(a), for which you can be lawfully arrested. In addition to your drivers' license, officers may also lawfully require you to display proof of insurance pursuant to O.C.G.A. § 40-6-10. Failure to comply with these requests can lead to arrest, prosecution, and conviction (see Johnson v. State, 234 Ga. App. 218 (1998)). However, once you have complied with these requirements, you are not legally required to say anything more.
- 7) **Are passengers required to identify themselves to officers upon request? In State v. Williams, 264 Ga. App. 199 (2003), the Georgia Court of Appeals clarified that passengers in a stopped vehicle who are detained by the stop, but are not suspected of any violation or other criminal activity, may be asked for identification by an officer; however, the officer may not convey any message that a response is required. See also Holt v. State, 227 Ga. App. 46 (1997) and Edgell v. State, 253 Ga. App. 775, 777-778 (2002). Although an officer may not take the passenger's mere refusal to answer as providing reasonable suspicion of other criminal activity (see Terry v. Ohio, 392 U.S. 1 at 34 (1968) (White, J., concurring)), the refusal may lead the officer to take additional safety precautions and / or to conclude that the passenger is in violation of O.C.G.A. § 16-11-36(a). Once an officer develops reasonable articulable suspicion to believe that a passenger is engaged in criminal activity, they may detain him or her and request identification.**
- 8) **What happens if I don't agree with the lawful requests of officers, such as showing my license or stepping out of my vehicle, etc.? A person is guilty of obstructing a law enforcement officer pursuant to O.C.G.A. § 16-10-24(a) if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official duties. Thus, continued refusal to obey lawful commands from an officer may result in your arrest for misdemeanor obstruction. In the event that your disobedience escalates to the point where you either threaten or perform a violent act upon the officer, the violation becomes a felony punishable by one to five years in prison. O.C.G.A. § 16-10-24(b).**

GOHS – RCSO Operation Thunder Road Checks:

1. Supervisor on location and a pre-approval supervisor form completed.
2. Locations pre-determined based on needs of the community, statistics, etc. by supervisory personnel.
3. Signs stating “Police Road Check” are deployed within the area.
4. Patrol Cars are parked and visible from all approach directions.
5. A minimum of 2 patrol cars will have their blue lights activated to warn oncoming motorists.
6. Deputies and Officers on location all wearing bright traffic vests clearly marked as law enforcement officers with the words Deputy, Police Officer or Trooper.
7. A road check final report is completed documenting all of the information from the road check.

Although we do not advise of specific locations for road checks in advance for officer safety reasons, when we are doing them in conjunction with GOHS or during a specific operation such as Operation Thunder, we do advise the media that checks will take place within the county.

<http://caselaw.findlaw.com/ga-supreme-court/1427888.html>

Primary Purpose: The primary purpose of police checkpoints must be to ensure roadway safety rather than as a constitutionally impermissible pretext aimed at discovering general evidence of ordinary crime. Owens v. State, 308 Ga. App. 374, 375 (2011). Among the purposes that have been held to be appropriate are the following:

- 1) **Driver's license checks:** Buell v. State, 254 Ga. App. 456 (2002); Kellogg v. State, 288 Ga. App. 265, 267 (2007); Sutton v. State, 297 Ga. App. 865, 868-69 (2009).
- 2) **Insurance checks:** Buell v. State, 254 Ga. App. 456 (Ga. Ct. App. 2002); Yingst v. State, 287 Ga. App. 43, 44 (2007); Kellogg v. State, 288 Ga. App. 265, 267 (Ga. Ct. App. 2007); Sutton v. State, 297 Ga. App. 865, 868-69 (2009).
- 3) **DUI / Driver impairment checks:** Buell v. State, 254 Ga. App. 456 (2002); Bennett v. State, 283 Ga. App. 581, 583 (2007); Kellogg v. State, 288 Ga. App. 265, 267 (2007); Clark v. State, 318 Ga. App. 873, 875-76 (1)(a) (2012).
- 4) **Seatbelt and Child Restraint checks:** Buell v. State, 254 Ga. App. 456 (2002); Kellogg v. State, 288 Ga. App. 265, 267 (2007); Bennett v. State, 283 Ga. App. 581, 583 (2007).
- 5) **Equipment violations:** Buell v. State, 254 Ga. App. 456 (2002); Kellogg v. State, 288 Ga. App. 265, 267 (2007); Sutton v. State, 297 Ga. App. 865, 868-69 (2009).
- 6) **Registration checks:** Buell v. State, 254 Ga. App. 456 (2002); Kellogg v. State, 288 Ga. App. 265, 267 (2007); Sutton v. State, 297 Ga. App. 865, 868-69 (2009).

Road Block Requirements: Georgia Checkpoints must be approved by a supervisor for the law enforcement agency performing the roadblock and the officers must be clearly visible as uniformed police officers with appropriately marked vehicles or signs. Also, there must be Georgia DUI screeners present to handle any DUI investigations. Any driver suspected of driving under the influence of alcohol or drugs will be pulled over and the DUI screeners will investigate that driver further via Georgia DUI field sobriety tests. Officers at sobriety roadblocks cannot randomly stop cars. Every car must be stopped. Law enforcement at a roadblock can decide to not stop cars for a brief specified period of time in the event of a traffic backup, but once they begin to stop cars again, all vehicles must be stopped.

Avoiding roadblocks can result in losing some of the Constitutional protections given to drivers who are at the roadblock. Primarily, if you take evasive action to avoid the roadblock and are pulled over, the primary purpose for pulling you over at that point does not have to be to ensure you and your vehicle are fit to continue driving. The reason is simple – by taking evasive measures to avoid the roadblock, you have provided law enforcement with reasonable articulable suspicion that you are engaged in criminal behavior.

The National Highway Traffic Safety Administration also recommends that education, enforcement and public information should be part of an ongoing program to help stop drivers from operating motor vehicles while under the influence of alcohol and/or drugs. We concur with this and continue to post on Facebook and other social media outlets, provide literature at checkpoints, and advise our local media through public service information.

Our goal is to achieve voluntary compliance through education, warnings and enforcement. Checkpoints are one of the methods used that allows for all three goals to be achieved in one location as we are educating the public while at the same time issuing warnings and taking enforcement action as needed.