2025 Legal Update

Caselaw Changes

A. Traffic stop cases

Remember the ruling last year in *Cassity v. State*, 222 N.E.3d 1007 (Ind. Ct. App. 2023):

An officer must be wearing a **distinctive uniform and badge of authority** or be operating a **clearly marked police vehicle** to stop a vehicle for a violation of the Indiana Traffic Code or traffic ordinance. (IC 9-30-2-2)

The court held that a plainclothes uniform with a "POLICE" vest that included a badge on the shoulder area of the vest, a firearm, taser, bodycam, radio, notepad was insufficient to qualify as a "distinctive uniform."

1. *Boles v. State* (Ind. Ct. App. December 10, 2024):

The court held that although the first police car to activate lights/siren for a traffic code violation was an unmarked vehicle, the **second car was a fully marked police vehicle with lights and siren activated and visible to the fleeing motorist.** This was sufficient for the "clearly marked police vehicle" requirement to be met.

2. *Beasley v. State* (Ind. Ct. App. 2024):

"Vehicle" for purposes of resisting law enforcement as a Level 6 felony is defined as a device for transportation by land, water, or air. The court held that the bicycle Beasley fled on qualified as a "vehicle" for purposes of the level 6 felony resist.

3. *Martinez-Orta v. State*, 254 N.E.3d 1149 (Ind. Ct. App. 2025):

Trooper had the driver sit in the passenger seat of his patrol car and was able then to smell the odor of alcohol on the driver's breath. An OVWI investigation ensued, and the driver was arrested. The Trooper testified that he had the driver sit in his vehicle because he noticed the driver's glassy bloodshot eyes, slurred speech, and confusion and did not want to leave the driver in the vehicle during the stop to prevent the possibly intoxicated driver from fleeing, and because it was a cold windy night in November, he had the driver sit in the patrol car where the driver would be more comfortable.

The court held that this was reasonable and stated that an officer's decision to place someone in a squad car **must be justified by some particular circumstance that reasonably furthers a law enforcement purpose.**

The court distinguished *Lucas v. State*, 15 N.E.3d 96 (Ind. Ct. App. 2014) where the driver was suspected of having an expired license and he told the driver to sit in his patrol car

where the officer then smelled the odor of alcohol. The court held there were no safety concerns in that case or other valid reasons for relocating the driver to the patrol car.

Remember also that the court will not consider the circumstances behind why you asked the driver into your car if you obtain voluntary consent.

4. *Manuel v. State*, 248 N.E.3d 624 (Ind. Ct. App. 2024):

The driver's vehicle was stalled in the road and an officer approached to assist. Manuel attempted to hide a firearm in the door pocket and ignored the officer's commands to stop reaching for the firearm. She grabbed the firearm, and the officer was able to disarm her.

She appealed her resist conviction, arguing she did not use **strength, power, or violence** as required for a **forcible** resist. The court upheld the conviction stating that it is also "forcible" when there is an **active threat of such strength, power, or violence if the threat impedes the officer's ability to execute their lawful duties.**

Other cases that were upheld include aggressive movement toward an officer with a fist as if to punch the officer and displaying/refusing to drop a box cutter during an encounter with the police.

Remember that certain facts (such as holding up a weapon or a fist) may also qualify as Intimidation.

5. *Rodgers v. State* (Ind. Ct. App. May 2, 2025):

An informant set up a deal for an ounce of methamphetamine and officers observed a traffic infraction on the way to the deal location. A traffic stop was conducted, and a canine conducted a free-air sniff, giving a positive alert. An officer told Rodgers to exit, conducted a frisk, feeling a bag of drugs.

The officer testified that the frisk was conducted even though Rodgers was cooperative and did not make any aggressive movements because "violence kind of goes with the drug trade."

The court held that there was reasonable suspicion here that Rodgers was armed and dangerous, citing his nervousness, the slow-rolled stop, and that the officers had reliable information that Rodgers was delivering a dealer-quantity amount of methamphetamine.

"Although evidence of drug use alone may not create a reasonable fear that a suspect is armed, **evidence of other criminal activity that often involves weapons – like drug dealing – can create such a fear**…firearms are known tools of the drug trade."

B. Knock-and-Talk case
    1. *State v. Hendricks*, 254 N.E.3d 1127 (Ind. Ct. App. 2025):

Officers were looking for a person who was wanted for a warrant. They went to Hendricks house at 11:30 p.m. looking for the wanted person because two years ago he was friends with the homeowner's son. Officers approach, and the officer on the front porch smelled the odor of marijuana coming from the front porch which he used to obtain a search warrant.

The defendant argued that although the officer was on the front porch, which is permissible because it is the **visitor's route**, this was 11:30 at night, which is not a time that any resident would expect to welcome an uninvited visitor.

The court agreed. The court held that this was too intrusive under the *Litchfield* test because the officers had a low degree of suspicion that any criminal activity was occurring, the needs of the government to approach at that time of night were also very low because they lacked information that the wanted person would be at the house, and the late hour of night was unreasonable for officers' approach using the "visitor route" theory because no uninvited visitor would reasonably approach at house at 11:30 at night.

What we know from knock-and-talk cases is that the court allows officers to approach a residence using **only the visitor route** when you lack a warrant or an invitation (call for service). The route that you take must be the **route** a routine visitor would take (typically a sidewalk to the main door), you are only permitted to knock on the door for a **period of time** that a routine visitor would knock, and you are only permitted to approach at a **time of day** that a routine visitor would reasonably approach.

C. Juvenile cases
    1. *Gamble v. State*, 256 N.E.3d 546 (Ind. Ct. App. 2025):

A detective was interrogating Gamble, a 17-year-old with his mother for felony murder. When deciding whether to waive the juvenile's rights, the detective told Gamble "the truth sets you free." Mom indicates that she isn't clear for what crime her son is being questioned and indicates it was something involving guns. The detective doesn't clarify the crime, he says the information "will come out during questioning."

The court ultimately upheld the confession after considering the totality of the circumstances but reiterated that officers should notify juvenile suspects of the crime for which they are being questioned.

2. *J.Q.R. v. State*, 252 N.E.3d 919 (Ind. 2025):

Juvenile waiver of rights requires that both the juvenile AND the custodial parent, guardian, guardian ad litem, or custodian (or an attorney) must waive the juvenile's rights. The person who assists the juvenile **must have no adverse interest** to the juvenile, meaning the adult does not stand to personally benefit from the juvenile waiving his/her rights while the juvenile is put at greater risk.

In this case, the Indiana Supreme Court found that the State failed to show that the father did not have an adverse interest in the son's waiver of rights because it appeared that there was some evidence that the father knew about/was involved in drug dealing as well. Although the Court held that the statements of JQR should have been excluded, there was sufficient evidence in this case to uphold the conviction.

D. Phone cases
   1. *Brooks v. State*, 250 N.E. 3d 1119 (Ind. Ct. App. 2025):

Officers conducted an emergency PING of the suspect's cell phone number to locate the missing 13-year-old. Brooks argued there was not enough evidence to indicate that an emergency existed, because the evidence indicated that she simply ran away. The court disagreed and said there was enough evidence of exigent circumstances in this case to allow the emergency PING.

Remember that the statute requires that an officer must follow up an emergency PING with a search warrant **within 72 hours** of conducting the PING.

2. *Carter v. State* (Ind. Ct. App. December 30, 2024):

A search warrant was obtained to seize Carter's cell phone. Before obtaining the second search warrant to search the phone, the officers connected the seized phone to a "GrayKey" device to prevent the battery from dying and remote access to the phone. No extraction was conducted until the second search warrant to analyze the phone's contents was granted. The court upheld the officer's actions.

E. Use of Force
   1. *Barnes v. Felix*, 605 U.S. ___ (2025):

The US Supreme Court held in this use of force case that courts must look at the **totality of the circumstances** that led to the use of force and **may not only consider the circumstances occurring at the moment that force was used**.

The Court would not address whether the court could or should consider the officer's actions in creating a dangerous situation through his/her choice of tactics. The Court did

not tell us if police tactics can be or should be considered by the court or jury in the totality of the circumstances approach.

F. Vehicle search cases

1. *Young v. State*, 244 N.E.3d 950 (Ind. Ct. App. 2024):

A warrantless search of a "super loose" and abnormally secured door panel was conducted following a positive canine alert based on other indicators of compartments in the vehicle including tools, loose wires, and other disassembled compartments that contained drugs.

The court upheld the warrantless search of the door panel finding that officers had probable cause to believe that drugs were being concealed in the panel.

The Seventh Circuit previously held that officers must get a search warrant if there is going to be any **structural demolition or dismantling of any functional part of a vehicle** (*US v Saucedo*). Based on the circumstances known to the officers in the *Young* case, the court held that removing a **loose** door panel that appeared abnormally secured, with probable cause to believe that compartments in the vehicle were being used to conceal drugs, is not structural demolition that would require a search warrant.

2. *State v. Baker*, 246 N.E.3d 1236 (Ind. Ct. App. 2024):

Officers conducted an investigation of Baker based on reasonable suspicion. While the officer was speaking with Baker, a canine officer did a free air sniff around the truck that was parked in a hotel parking lot. After the canine alert, officers conducted a warrantless search of Baker's truck in the parking lot under the automobile exception. The court upheld the search finding that the hotel parking lot is a **public place** for purposes of the automobile exception. The *Hobbs* case previously concluded that the automobile exception cannot be used to conduct a warrantless search when the search is conducted on someone's private property, even if the officer has probable cause. The court held that the hotel parking lot in this case was **public** property, not private property as Baker argued.

3. *Dunem v. State*, 254 N.E.3d 559 (Ind. Ct. App. 2025):

An officer conducted a traffic stop of a Greyhound bus with passengers on it. During the stop, a canine officer responded as backup and conducted a free-air sniff with his narcotics canine around the bus. The canine alerted and a search was conducted under the automobile exception of the bus including the luggage located under the bus and the bags located in the overhead compartments in the passenger area of the bus. During the search, a black duffle bag was found with a large amount of cocaine and Dunem's bus

ticket inside. This duffle bag was found in the overhead bin in the passenger area of the bus.

The court upheld the search under the automobile exception. The bus was readily mobile and there was probable cause to believe there were controlled substances in the bus based on the canine alert. A search under the automobile exception extends to containers that reasonably could contain the item that the officer has probable cause to believe is located in the vehicle, which reasonably includes a duffle bag when there is probable cause to believe drugs are on board.

G. Sufficiency cases in which the defendants argued their actions were protected by the First Amendment

1. *Brown v. State*, (Ind. Ct. App. 2025):

Court upheld the intimidation conviction when Brown, who was attempting to retreat from an officer into his residence, grabbed a tire iron located next to his front door and held it up at the officer who was attempting to evict Brown. The officer testified he believed Brown was going to strike him with it. The court held that Brown intended his expression/communication to place the officer in fear for his safety and was likely to cause a reasonable person to be afraid.

2. *Whitaker-Blakey v. State*, 248 N.E.3d 617 (Ind. Ct. App. 2024):

The court upheld the intimidation conviction where the evidence showed that Whitaker-Blakey, while wearing a white hood with the eyes cut out, jumped out from behind a car in a parking lot to startle Officer Phillips, a black female, who was alone in the parking lot. Whitaker-Blakey then said a one-word racial slur to her.

The court held that the slur was directed at Officer Phillips and its intimidating nature was evident because he surprised her by popping out from a hiding place while wearing a white hood, a known symbol of racial violence, which shows his clear intent to communicate a threat to place her in fear that the threat would be carried out.

3. *Alfke v. State*, Ind. Ct. App. December 18, 2024:

Alfke was intoxicated and arguing with his girlfriend outside of his home as she tried to get away. This caused neighbors nearby to be alarmed and to go inside their houses. He was convicted of disorderly conduct for disrupting a lawful assembly of people. The court upheld the conviction finding that the group of 4 or 5 neighbors, including their children, were gathering in the backyard watching their children play and talking. Alfke was so disruptive that it caused the neighbor group to disband and take their children inside.

4. *Walton v. State*, Ind. Ct. App. April 30, 2025:

Walton was causing a scene at a residence where EMTs and the police were called. Officers attempted to go inside of the home to speak with the callers to get away from the noise that Walton was making outside. The court upheld Walton's conviction for disorderly conduct finding that Walton's speech was not political in nature (speech about government action) and was instead private in nature (speech about a non-public actor, including the speaker himself). The court found that Walton abused his right to speak by shouting so loudly that it interfered significantly with the officers' ability to do their job.