

ROLL CALL TRAINING
FROM NORTH CAROLINA'S 24/7 POLICE
ATTORNEY LAW FIRM

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TOPIC: Vehicle Stops, Probable Cause, and State v. Wilson

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OVERVIEW:

Roll Call fans will remember that in early February we warned everyone of a case entitled *State v. Wilson* from our Court of Appeals (No. COA01-1539 Dec. 31, 2002). In this case the Court “ruled” that probable cause (rather than reasonable suspicion) may sometimes be the proper legal standard for stopping vehicles under *Terry v. Ohio*. We believe that the Court’s statement is in error, and that this ruling will be potentially detrimental to law enforcement. In February we promised to advise readers whether our State Supreme Court would plan to quickly review the case and hopefully “fix things back” the way they were.

BAD NEWS:

The North Carolina Supreme Court has declined to review *State v. Wilson*. This means North Carolina is stuck with this erroneous legal statement about vehicle stops, at least for the foreseeable future. When one considers the percentage of critical law enforcement investigative (and civil liability!) matters that involve vehicle stops, we can all agree that this is a potentially serious matter! We may anticipate that the criminal defense bar will seize upon the “probable cause” language in *State v. Wilson* and begin beating us over the heads with it in court.

GOOD NEWS:

In response to *State v. Wilson*, our firm has researched and drafted a “bench brief” setting forth the proper reasonable suspicion standard governing vehicle stops in North Carolina. We prepared this legal document for our contract client agencies. Our client agencies are making copies of the brief for distribution to officers. The idea is for officers to keep a copy of the brief with them for court purposes. If a vehicle stop is challenged under *Wilson*, the officer might consider sharing our research document (bench brief) with the District Attorney. In this way, the District Attorney might be quickly armed with key case law precedents and rulings with which to vigorously oppose a motion to suppress. Naturally this is not to suggest that District Attorneys will be unprepared to counter *State v. Wilson* without our assistance. Rather, our written research sets forth many important case names and citations, both state and federal (all properly Shepardized) from which the District Attorney can effectively bolster his or her oral argument. Moreover, our brief is prepared in a suitably “presentable” legal format such that the District Attorney

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might consider handing the brief directly to the Judge (should the District Attorney feel that it would be constructive to do so – naturally decisions about how to handle a case, or how and when to argue a particular point of law, are the province of the Office of District Attorney. The SR&S brief is simply offered as an aid to prosecution).

Because of the importance of this topic to law enforcement interests Statewide, SR&S is making a copy of our bench brief available to any law enforcement agency who would wish to request a copy. There is no fee involved, and we will cover the postage. We do ask the courtesy of submitting your agency's request by email (info@policehelp.net) as we must strive to keep our direct phone lines open for our contract client agencies. One copy per agency, please.

FINALLY:

As agency budget planning for the coming year moves into the home stretch, we are continuing to receive many inquiries about our annual contract rates. Please feel free to contact us by email for rate information for FY 2003-2004. If there are specific questions about the cost-benefit advantages of SR&S real-time consultation services for law enforcement commanders, please feel free to call us. And as always, STAY SAFE!

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CLIENT LAW ENFORCEMENT AGENCIES.**