



Garden State CLE
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GARDEN STATE CLE LESSON PLAN

A 1.0 credit course

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LESSON PLAN AND EVALUATION**

COLLEGE KIDS DO THE DARNDEST THINGS

With

Jake Tuff and Matt Bogdanoff
College Students

And featuring

Robert Ramsey, Senior Instructor

Program description

Who says college kids love to smoke cigarette do drugs, get high, and drink beer? The truth is college kids do a lot of things that are even more dangerous and often unlawful. This 1 credit CLE will teach you all about it.

I. Introduction

- **Jake Tuff, College Student – Rider University, Radio DJ**
- **Matt Bogdanoff, College Student**
- **This video was taken during a radio broadcast conducted by Jake Tuff on Rider University Station 107.7 in response to student requests to have an attorney visit the show**
- **Robert Ramsey, Senior Instructor/Interviewee**

II. Garden State CLE

- **Provides continuing legal education to attorneys in NY, NJ, and PA as required**
- **R. 1:42-1 requires continuing legal education**
- **Certain organizations, groups, and agencies can provide such services**
- **Garden State CLE has classes throughout the state, as well as video/recorded programs, 24 hour per day radio network for people to educate themselves in areas of law**

III. Questions Posed by Students

- 1. Driving with your foot out the window**
 - **When an officers sees this – consider that officer thinks someone may need to be checked out**
 - **For MV violations – careless driving – NJSA 39:4-97**
 - **For the passenger – not an MV violation – but will bring attention to your vehicle by police – dangerous!**
 - **State v. Goetaski, 209 N.J. Super. 362, 507 (App. Div. 1987) – police community caretaking function**
- 2. Driving barefoot**
 - **No statute in NJ that makes this a MV offense**
- 3. Seatbelt laws – changes? Relating to dogs in cars?**
 - **Changes but nothing relating to dogs**
 - **Adults in rear seat of vehicle, N.J.S.A. 39:3-76.2(f) – every person in vehicle must have seatbelt – change from prior law that only required persons in front seat to have seatbelts**
 - **Secondary offense – police cannot stop vehicle because rear seat adult is not belted in**
 - **See N.J.S.A. 39:3-76.2(n)**
 - **Driver without seatbelt gives police cause to stop vehicle- primary offense**
- 4. Sexual acts while driving**
 - **Goes back to issue of careless driving**

- **If actions distract you in a manner that can cause injury or death and disregard that risk then can be reckless driving - N.J.S.A. 39:4-96**
- **If car is parked, not related to driving. No “public indecency” law in New Jersey, it is called “lewdness”, N.J.S.A. 2C:14-4 – must have intention of doing something so that others can see you**

5. Police Impersonators

- **When people are pulled over and think it is not really a police officer**
- **Call police immediately if you have a cell phone**
- **Drive to nearest police station**
- **Not a serious offense in New Jersey – disorderly persons offense, up to 6 months in jail, N.J.S.A. 2C:28-8, but can put someone in real danger**
- **If you do not stop if you are unsure if it is a real officer, can upset officer so better be pretty sure that this is a real officer: uniform, car with lights, credentials**

6. Best way to get out of a ticket

- **Sometimes officers already made up mind that you are going to get a ticket when you are pulled over**
- **Hard to generalize because individual personalities in officers**
- **How you behave yourself is helpful – polite, cooperative – can help you when you go to court and try to work out your ticket – officer has influence on prosecutor with how you can work out your case**

7. Alcohol transportation

- **Under 21 – N.J.S.A. 2C:33-15 – not to be in possession if under 21, should be in trunk in sealed containers if you have it**
- **If you are carrying alcohol and under 21, police officer may suspect you are under 21 and you are in possession – it is illegal! Has reasonable and articulable suspicion that you have violated the law and he can detain you for investigative purpose and can give you a ticket. Terry v. Ohio, 392 US 1 (1968).**
- **If person in car is over 21 and claims alcohol (unopened) in car is his/hers, then no problem because it is ultimately the possessor of the alcohol that matters.**
- **If there is open alcohol in a car and there is someone under 21 and 21 or over, there is a problem – both in trouble, NJSA 39:4-51(b) – if police find open alcoholic beverages in your vehicle, and evidence suggests you have been drinking, then presumption that you consumed while driving, 1st offense \$200 fine.**

8. **Drunk driving**

- **There are two cases in NJ [State v. Mulcahy, 107 N.J. 467 (1987) and State v. Morris, 262 N.J.Super. 413 (App. Div. 1993)], where guy stumbled out of bar and got into car and police stopped him from driving before he put the keys in the ignition – whether this was operation- courts said yes that it was operation for drunk driving purposes**
- **Operation vs. driving – only need intention to move the car for violation of statute**
- **State v. Daly, 64 N.J. 122 (1973) - in driver's seat with car on and driver is intoxicated, driver said using car as place to sleep, only reason Daly started vehicle was to sleep – he had no intention of moving vehicle, court said this was not operation for purposes of drunk driving.**

9. **Drugs**

- **You are driving and have marijuana in center console, motor vehicle stop and police ask to search vehicle**
 - **When do you have to consent to the search? NEVER**
 - **What happens when you say no?**
 - **Either not going to search your car**
 - **Going to hold you there and call a dog to see if there are drugs in vehicle**
- **How can an officer get into your car to search?**
 - **Consent: In NJ, must have reasonable and articulable suspicion that there is contraband in the car, then can ask for consent to search**
 - **Must be knowing and voluntarily given**
 - **Cannot be the basis of threats, force or coercion**
 - **Must be told that you have a right to deny consent**
 - **Search can be as extensive as if had search warrant**
 - **Search is limited to scope of consent – if only consent to search of one part of car, then search can only be for that one part of the car**
 - **You have a right to withdraw your consent at any time**
 - **You have the right to limit the time that an officer can search your car**
 - **Automobile exception**
 - **Police have probable cause to believe that you have drugs or contraband in vehicle; State v. Cooke, 163 N.J. 657 (2000)**
 - **Exigent Circumstances**
 - **Factors where it is impracticable for police to get a warrant; Brigham City v. Stuart, 547 U.S. 398 (2006)**

- Probable cause and exigent circumstances allows police to search vehicle without a warrant
- Where the police have probable cause to believe there is contraband is where they can search
- If they believe that there is someone in the car with a weapon, confined to passenger compartment and other locked containers in passenger compartment because looking for weapons not evidence
 - Any evidence recovered during such a search can be seized and used as evidence against you
- This is not an exhaustive list but the most common bases for officers to search a vehicle
- Can withdrawn consent even in the middle of a search
 - If still have reasonable suspicion, they can detain you and get a drug dog
 - You have a right to withdraw consent and that cannot be used against you
- Police cannot detain you for however long they want – length of detention has to be “minimally intrusive” – must accomplish business as quickly as possible - delay not attributable to police cannot be used against them
 - Legitimate police delay may effect the length of delay
 - At some point a lengthy delay becomes an arrest (State v. Dickey, 152 N.J. 468 (1998)), any evidence that is found, etc., may be suppressed.
 - No specific time limit
 - Length of delay is a fact sensitive analysis – why was delay so long? Is there a justification? What were the people doing when they were delayed?

10. Fake IDs

- Is it illegal to possess?
 - N.J.S.A. 2C:21-17 – illegal to present it
 - Mere possession?
- If try to buy alcohol with fake ID?
 - Problem with buying alcohol underage, N.J.S.A. 33:1-81(a) – against the law to enter an establishment with alcoholic beverages with intent to purchase alcohol if you are under 21 – just by walking in with this intention is sufficient to violate this offense – disorderly person’s offense, \$500 fine, 6 month loss of driver’s license
 - If you show a false ID additionally, probably a disorderly persons offense in addition to above listed offense
- Is there a difference if you use your real name or not?
 - No difference – utilizing for the purpose of defrauding

- N.J.S.A. 2C:21-17
- **Federal offense?? – not necessarily going to prosecute at federal level unless on federal property – very unusual for US attorney to prosecute a minor offense**
- **If bouncer at a bar takes your ID because he realizes it is fake and detains you, does he have a right to detain you?**
 - **Same that any other person would have to conduct citizen's arrest – under common law can arrest if you commit an offense in his presence**
 - State v. Henry, 133 N.J. 104 (1993)
 - **Can you just walk away? NO – you are under arrest. No different when someone is arrested by a merchant or security guard for shoplifting – it is citizen's arrest.**

11. What rights does Rider University Public Safety have?

- **Hold for local police**
- **If you are having a party in your dorm, do you have to open the door?**
 - **No you do not have to open the door but they can still come in – no matter if it is just for a noise violation**
 - **You have no privacy interest in your dorm room as it pertains to Rider University Public Safety – private school**
 - **This would be different if it were a state school**
 - **US Constitution and NJ Constitution protects against state action – some agency of government**
 - **Rider University are not state actors and therefore can do all searches and seizures they want without need to act reasonably**
 - **Police and other government actors must act reasonably**
 - **Issue of whether Rider personnel were “agents” of the police?**
 - **Only rights to privacy of dorm are based on contract that you have with Rider University because it is a private university**
 - **If at The College of NJ, they are law enforcement individuals and are state employees – all state schools and county schools are under reasonableness requirements of the 4th and 5th amendments**
 - **Private security can get all kinds of evidence from you and against you and it does not violate your constitutional rights because they are not state actors and do not have to act reasonably**
 - **Can they access your personal safe that is provided by the school?**

- **If you are dealing with a private university, they can get away with it – not dealing with the police**

12. If you are at a party off campus....

- **Police arrive at house and you are there**
- **If you leave, you cannot get in trouble for just walking out door**
- **Police can ask to speak with you – you have a right to keep on walking or to stop and talk – police cannot detain you unless they have suspicions that you are doing something criminal in nature, then can stop you to confirm suspicions**
- **Reasonable suspicion that you may be intoxicated based on what situations illustrates to police – party with everyone intoxicated**
- **Minor proof needed by police to stop and detain you for further investigation**
- **Police must have a reason if they keep you there (reasonable and articulable suspicion) – but don't need to tell you**
- **Suggestion if this happens to you:**
 - **Don't go to the party**
 - **Go to the library**

13. Other common college student problems

- **Homicides**
- **Sexual assaults**
- **“Near homicides” – combination of alcohol and drugs**
- **Drugs/Marijuana possession**
- **Driving offenses**
- **Drunk driving**
- **Motor vehicle accidents**
- **Overdose/death**

14. Pulled over by public safety on campus

- **Security people on campus is just internal**
- **Would call local police to issue motor vehicle tickets**
- **Campus authority is based on contractual agreement that you agree when you attend the school to accept the tickets, usually parking tickets – some sort of due process rights to appeal tickets, etc.**
- **Campus tickets are not something that can be supported in local, municipal court**

IV. Bob's Words of Wisdom

- **Many times when college students go to municipal court the court could fashion its own remedial/rehabilitation program so that the student's future is not effected by a record, especially for a first offender – function of prosecutor, judge, and defense attorney**
 - **Community service or something to that effect, stay out of trouble for a period of time, then charges dropped**
- **Wonderful time of life in college – so many mistakes you can make – develop maturity to avoid those mistakes to save yourself and your family from stress and anxiety**
- **Lots of things that are fun and adventuresome but nothing good comes from drugs and alcohol**