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HOME INVASIONS, CAR JACKINGS & THE 4TH AMENDMENT

When we hear the words home invasion or car jacking, we usually envision criminals attacking us in our homes or forcing us from our cars. While criminals do commit these acts, it is extremely rare unless the occupants of the home or the car are involved in criminal activity. I have learned in my 20 plus years of defending citizens that the most likely person to come armed into your home or to order you out of your car under the threat of force is a law enforcement officer. Undoubtedly, these officers believe what they are doing is correct. But many citizens, who believe the power of the government should be governed and limited by the Constitution, don't always agree their actions are appropriate.

Recently, a cell phone video recording by a local resident has received millions of hits on Youtube. It confirms that

police officers will detain you and remove you from and search your car with drug dogs for questioning their authority by asking why they are ordering you around and violating your 4th Amendment Rights when there is no suspicion of a crime. You can view the link of this brave citizen being bullied and mistreated for daring to ask an officer why his freedom was being curtailed when he had not committed a crime at www.lannomwilliams.com.

I hear reports daily of police holding people at gunpoint in their own homes because the authorities "anticipate" they might get a search warrant, or detaining people on the roadside because they "think they might" smell marijuana, or of searching cars because a dog indicates there "may have been" drugs in the car at some point—all situations where citizens are detained when there is no prob-

able cause or search warrant authorizing the action. Every citizen in Tennessee deserves to be protected by both the 4th Amendment to the United States Constitution and Article 1, Section 7 of the Tennessee Constitution.

The rights of citizens are routinely abused and ignored, especially in drug, weapons and DUI allegations, all in the name of law enforcement. Law enforcement serves a valid purpose, but the rights and the restrictions of the Constitution apply to the police for the protection of **us**, the United States Citizen.

In defense of the citizen accused,
—Frank Lannom

"Liberty cannot be preserved without the general knowledge of the people" ~John Adams



ATTORNEYS:

- Frank Lannom
- Keith Williams
- Melanie Bean
- Jim Stocks

THE PEOPLE'S VOICE

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MIRANDA WARNINGS—ARE THEY RIGHTS?

One of the most common questions I hear from my clients is, "does it matter that the police didn't read me my rights when I was arrested?" In almost every instance, they are referring to the constitutional rights known as Miranda Rights, also known as Miranda Warnings.

The Miranda Warnings were mandated by the 1966 U.S. Supreme Court decision in the case of *Miranda v. Arizona* to protect the Fifth Amendment right of a suspect to avoid self incrimination during police interrogation. This was once referred to as undergoing the "third degree".

We all recall the standard recitation from television: "you have the right to remain silent, anything you say can and will be used against you in a court of law. You have the

right to an attorney and, if you cannot afford one, one will be appointed to you". Americans have heard these words on TV their whole lives and look on them as a hallmark of the American Justice System that is demonstrated by the fact that the government cannot torture or force an individual to make statements against their will.

Unfortunately, this right is more restricted than most people know as it is limited to interrogations while the individual is in custody. The most common scenario where I see people expecting to be read their Miranda Rights, and where they don't generally apply, is termed **roadside interrogations**, commonly occurring in DUI cases. Unless the person is actually handcuffed and placed in a patrol car, most conversations outside of that person's vehicle are not subject to *Miranda*, as the person is not in custody. In other situations, even if the citizen accused is in custody, they are not mirandized because there is not an interrogation or any harmful statements being made. In those cases, rights guaranteed by *Miranda* do not prohibit the arrest.

Criminal defense lawyers are familiar with the requirement that Miranda Warnings must be given prior to a custodial interrogation. However, recent cases regarding custodial interrogations leave even the most experienced criminal attorneys questioning what we know. As a rule, being in jail or prison is the most obvious and previously

unquestionable case where a citizen is clearly in custody and therefore, if interrogated, *Miranda* would apply. However, in the strangest decision yet regarding the Miranda Warnings and when a person is deemed to be in custody, the U.S. Supreme Court further limited our constitutional rights when it determined that a prisoner locked in a jail in Michigan was not "in custody" for *Miranda* purposes. The decision *Howes v. Fields, 132 S.Ct 1181 (2012)*, written by Justice Alito (a conservative member of the Court) held that the prisoner in jail was not necessarily "in custody" when he was questioned by two armed deputies in a room where there was no escaping his confinement. The citizen was convicted based on the confession given in jail, but he was never read his *Miranda* Rights, previously required under the U.S. Constitution. In short, our courts have ruled that a citizen may not be in custody "just because he is locked up in a prison or a jail". If you can find the logic behind that decision, please call and explain it to me!

The courts continue to trivialize the traumatic nature of being arrested, handcuffed, and then searched and thrown in jail even to the arrogant point of saying that being in jail is not the same as being in custody. Always be wary of laws and court decisions that limit the rights of citizens while enlarging the power of government.



This case is a primary example of a loss of all Americans' Constitutional Rights. In this time of attack on our civil liberties, a citizen charged with a crime must be sure to retain an experienced full-time criminal defense attorney to aggressively protect and enforce their rights. *In defense of the citizen accused,*

— Frank Lannom

PRACTICE AREAS

- AUTO/TRUCK ACCIDENTS
- ASSAULT/HOMICIDE
- AVIATION ACCIDENTS
- DANGEROUS PRODUCTS
- DOMESTIC ASSAULT
- DRUG CHARGES
- DUI/DWI
- GUN/WEAPONS CHARGES
- MOTORCYCLE ACCIDENTS
- SOCIAL SECURITY DISABILITY
- WORKERS' COMPENSATION
- WRONGFUL DEATH

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RECALLS—RECENT ITEMS RECALLED

While this is not a complete list, here are a number of the most recent items that have been recalled in the last several months for various reasons. There have been a number of children-related items, some of which are listed below:

Jeep Liberty Strollers sold at Burlington Coat Factory, Sears and ToysRUs, manufactured between June 2010 and September 2011 due to the inner tube of the tire rupturing while being inflated causing the wheel rim to pop off becoming a projectile and posing injury of contusion and lacerations to operators and children.

Chelsea & Scott Idea Baby Bath Seats sold from September 2012 until April 2013 at Bed Bath & Beyond due to their failure to meet safety requirements. They are unstable and can tip over causing a drowning hazard for babies. This recall coincides with similar recalls of baby bath seats, due to drowning hazards, by **BeBeLove** and **Buy Buy Baby**. These recalls address faulty suction cups on the seats that can loosen causing the seat to tip, resulting in the baby being injured or drowned.

L.D. Kichler Aztec Light Chandeliers sold at Lowe's from July 2006 until August 2011 due to the fixture loop that holds the lamp to the chain failing

and causing bodily harm to bystanders and property damage.

Polaris 2011 Ranger RZR XP 900 recreational vehicles sold through Polaris dealerships from May 2012 until February 2013. The firewall can overheat and pose a burn hazard to operators and riders.

Hammacher Schlemmer Taynor Industries Teak Shower Stools sold exclusively through Hammacher Schlemmer, their catalog and website, due to the chair breaking causing fall hazards to users.

KTM and Husaberg Closed Course and Off

You can visit www.cpsc.gov for more specific information about these and other recalled items.

Road Motorcycles sold at licensed dealerships from January 2012 until April 2013 due to throttle becoming stuck and posing a crash hazard. (Source: *Consumer Product Safety Commission*)

The safety of the people shall be the highest law.
—Cicero



rise. These occur when the truck and trailer are not properly illuminated with DOT approved reflective tape that is clean and properly placed. Vehicles approaching the poorly marked truck from the rear cannot "perceive" the form of the slow moving truck and hit it from behind; thereby proving it's not always the person in the rear who is at fault, especially when the accident involves a semi-truck.

I drive more carefully around big trucks now that "I know too much". I hope you do the same!

— Keith Williams

TRUCK ACCIDENTS GROWING DANGER TO TENNESSEANS

I've handled many, too many to count really, vehicle accident cases in my twenty plus years as an attorney. Every case had it's own particular story and I have listened to and sympathized with every one of my clients and their families while successfully fighting to win judgments or obtain settlements that were fair in their cases. Looking back, I have to say the most violent and most memorable accidents whose victims I have represented have been those where my client was hit by a tractor trailer truck somewhere along the roadways of Tennessee. It's obvious why these types of wrecks are so hard to survive and recover from, they involve the largest vehicle on our roads, an 18-wheeler, hitting a passenger vehicle. The passenger vehicle always loses as do its occupants. I've learned a

few sobering facts while investigating and trying these cases and I would like to share them with you. In a recent National Highway Transportation & Safety Association (NHTSA) report:

65% of all truck drivers report they either sometimes or often **felt drowsy and sleep deprived** while they were driving their truck.

48% of all truck drivers admitted to **falling asleep** behind the wheel of their semi-truck.

Commercial vehicle crashes are **7 times more likely** to be fatal to other drivers on the road and are estimated to cost nearly \$48 billion (with a "b"!) per year due to death, injury, and property damage.

During the hours of darkness, only 25% of traffic oper-

ates and during that time 55% of **fatal truck crashes** occur.

There are 3 main reasons for truck crashes: 87% Driver Error; 10% Vehicle Defect; and 3% Environment.

Another interesting fact is that obesity is epidemic among truck drivers. Most truckers cite irregular schedules, lack of access to good nutritious foods, and an inability to schedule time to regularly exercise as the cause for their problem. The same NHTSA study I cited from above says that obese truckers are 43% to 55% more likely to be involved in a crash compared to truckers with a normal body mass index.

I'll close with a warning about the visibility of big rig trucks at night. Conspicuity-Related Collisions are on the

HOW TO CHOOSE THE BEST LAWYER FOR YOUR CASE

Whether it's for a criminal case, family law, or a personal injury case, it can be an intimidating task to hire a lawyer. However, there are actually many tools available to help you choose an attorney who will be a good fit for you and your case.

Get a personal referral. Ask around your circle of friends and family, have they had experience with an attorney and was it good or bad? Sometimes the nature of your case is personal and you may not want to discuss the details with people you know. That's where searching online can be useful. Online sites like AVVO will have a synopsis of the lawyer's practice, case results, years of experience and if they've ever been disciplined by the Bar Association. When in doubt, you can always ask Google, "who is the best (type of case) lawyer in (your town/state)?" You shouldn't base your decision on any single one of these items,

but they can be used to piece together a picture of your potential attorney.

Once you have a couple of attorneys in mind, you should take a few minutes to review their websites. A good website will have a comprehensive biography of the attorneys as well as case results to back up the firm's experience and success. The website should have testimonials from former clients. Remember that you want your attorney to specialize in the type of law **you** need help with. You wouldn't go to a podiatrist for a heart condition, so don't go to a bankruptcy lawyer for your personal injury case or a real estate lawyer for your criminal case. You can also check if they are on social media sites such as Facebook and see what their message is to the community. Do they seem informed on the latest laws? Are they engaged with the community?

Lastly, people have a tendency to think

"I need the biggest law firm I can get to handle my case". Actually, that is rarely true. A mid-size firm in your area, if they have the expertise, case results, and testimonials we talked about above, might serve you better for many reasons. You will often have a better one-on-one relationship with your attorney, more attention from their paralegals and support staff, and your attorney will likely be willing to try your case if necessary and not just go for a settlement. So, while it may be tempting to go with those big criminal and injury lawyers you see on TV, be sure they aren't "plea bargain or settlement" attorneys, just there to settle your case for what's easiest on THEM, not best for YOU. Also, remember you shouldn't have to pay for your initial consultation; those should be free whether in person or by telephone.

— Jim Stocks



CLAUDE WALLS—MOST DECORATED WILSON COUNTY VETERAN

You might have seen the marker dedicating the stretch of Hwy 231 from Lebanon's town square to the Ruth-erford County line as the Claude R. Walls Memorial Highway, but you probably cannot imagine the story behind the honor.

Claude Walls was fighting in the Korean War in Company C of the 1st Battalion of the 38th Infantry Regiment in the 2nd Infantry Division of the U.S. Army. He and his platoon were tasked with protecting the battalion command post and Sgt. Walls was manning a forward observation post keeping an eye out for the enemy. Soon, the enemy attacked ferociously and with superior numbers. Sgt. Walls grabbed his automatic rifle and fought back

fiercely. After a brief respite, the enemy attacked again and Sgt. Walls' platoon was cut off from the battalion. Their only hope was to make it back to the battalion, so Sgt. Walls and another soldier volunteered to stay behind and give cover to the outnumbered platoon. Sgt. Walls wasn't content to stay in his foxhole exchanging fire with the advancing enemy, instead he jumped from the safety of cover to hurl hand grenades at the enemy soldiers, only pausing to rake them with deadly automatic gunfire. When his fellow soldier was hit, Sgt. Walls provided him with first aid and then began retreating with him to safety. He carried his friend while stopping to inflict withering gunfire every few yards to keep the enemy from overtaking them and killing or capturing them both.

Sgt. Walls fought the advancing communist soldiers alone, while rendering aid and rescue to his fellow soldier, for over two hours. When he finally returned to their platoon, which had regrouped to a safer and more defensible position, he was out of ammunition and hand grenades, but he was alive and so was his rescued comrade.

Sgt. Walls volunteered to go to war in Korea and he volunteered to stay behind to protect his platoon. He volunteered to get out of his foxhole and aggressively engage the enemy and he volunteered to save his wounded brother in arms. In recognition of his heroism, Sgt. Claude Walls was awarded

the Distinguished Service Cross, the Silver Star, the Bronze Star, the Purple Heart, and the Korean War Service Medal. He remains the most highly decorated veteran who has ever lived in Wilson County, Tennessee.

Claude Walls grew up in Lebanon and came back here to raise his family after the Korean War. He died in 2006 and is buried in Lebanon. Perhaps the gratitude we have for all our veterans is a bit sweeter when we remember Sgt. Walls because he was one of our own.