SUPREME COURT OF THE UNITED STATES

No. 03–5554

LARRY D. HIIBEL, PETITIONER *v.* SIXTH JUDICIAL DISTRICT COURT OF NEVADA, HUMBOLDT COUNTY, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

[June 21, 2004]

JUSTICE KENNEDY delivered the opinion of the Court.

The petitioner was arrested and convicted for refusing to identify himself during a stop allowed by *Terry* v. *Ohio,* 392 U. S. 1 (1968). He challenges his conviction under the Fourth and Fifth Amendments to the United States Constitution, applicable to the States through the Fourteenth Amendment.

I

The sheriff's department in Humboldt County, Nevada, received an afternoon telephone call reporting an assault. The caller reported seeing a man assault a woman in a red and silver GMC truck on Grass Valley Road. Deputy Sheriff Lee Dove was dispatched to investigate. When the officer arrived at the scene, he found the truck parked on the side of the road. A man was standing by the truck, and a young woman was sitting inside it. The officer observed skid marks in the gravel behind the vehicle, leading him to believe it had come to a sudden stop.

The officer approached the man and explained that he was investigating a report of a fight. The man appeared to

be intoxicated. The officer asked him if he had "any identification on [him]," which we understand as a request to produce a driver's license or some other form of written identification. The man refused and asked why the officer wanted to see identification. The officer responded that he was conducting an investigation and needed to see some identification. The unidentified man became agitated and insisted he had done nothing wrong. The officer explained that he wanted to find out who the man was and what he was doing there. After continued refusals to comply with the officer's request for identification, the man began to taunt the officer by placing his hands behind his back and telling the officer to arrest him and take him to jail. This routine kept up for several minutes: the officer asked for identification 11 times and was refused each time. After warning the man that he would be arrested if he continued to refuse to comply, the officer placed him under arrest.

We now know that the man arrested on Grass Valley Road is Larry Dudley Hiibel. Hiibel was charged with "willfully resist[ing], delay[ing], or obstruct[ing] a public officer in discharging or attempting to discharge any legal duty of his office" in violation of Nev. Rev. Stat. (NRS) §199.280 (2003). The government reasoned that Hiibel had obstructed the officer in carrying out his duties under §171.123, a Nevada statute that defines the legal rights and duties of a police officer in the context of an investigative stop. Section 171.123 provides in relevant part:

> "1. Any peace officer may detain any person whom the officer encounters under circumstances which reasonably indicate that the person has committed, is committing or is about to commit a crime.
>
> . . . . .
>
> "3. The officer may detain the person pursuant to this section only to ascertain his identity and the suspi-

> cious circumstances surrounding his presence abroad. Any person so detained shall identify himself, but may not be compelled to answer any other inquiry of any peace officer."

Hiibel was tried in the Justice Court of Union Township. The court agreed that Hiibel's refusal to identify himself as required by §171.123 "obstructed and delayed Dove as a public officer in attempting to discharge his duty" in violation of §199.280. App. 5. Hiibel was convicted and fined $250. The Sixth Judicial District Court affirmed, rejecting Hiibel's argument that the application of §171.123 to his case violated the Fourth and Fifth Amendments. On review the Supreme Court of Nevada rejected the Fourth Amendment challenge in a divided opinion. 118 Nev. 868, 59 P. 3d 1201 (2002). Hiibel petitioned for rehearing, seeking explicit resolution of his Fifth Amendment challenge. The petition was denied without opinion. We granted certiorari. 540 U. S. 965 (2003).

II

NRS §171.123(3) is an enactment sometimes referred to as a "stop and identify" statute. See Ala. Code §15–5–30 (West 2003); Ark. Code Ann. §5–71–213(a)(1) (2004); Colo. Rev. Stat. §16–3–103(1) (2003); Del. Code Ann., Tit. 11, §§1902(a), 1321(6) (2003); Fla. Stat. §856.021(2) (2003); Ga. Code Ann. §16–11–36(b) (2003); Ill. Comp. Stat., ch. 725, §5/107–14 (2004); Kan. Stat. Ann. §22–2402(1) (2003); La. Code Crim. Proc. Ann., Art. 215.1(A) (West 2004); Mo. Rev. Stat. §84.710(2) (2003); Mont. Code Ann. §46–5–401(2)(a) (2003); Neb. Rev. Stat. §29–829 (2003); N. H. Rev. Stat. Ann. §§594:2 and 644:6 (Lexis 2003); N. M. Stat. Ann. §30–22–3 (2004); N. Y. Crim. Proc. Law §140.50(1) (West 2004); N. D. Cent. Code §29–29–21 (2003); R. I. Gen. Laws §12–7–1 (2003); Utah Code Ann. §77–7–15 (2003); Vt. Stat. Ann., Tit. 24, §1983 (Supp. 2003); Wis. Stat. §968.24 (2003). See also Note, Stop and

Identify Statutes: A New Form of an Inadequate Solution to an Old Problem, 12 Rutgers L. J. 585 (1981); Note, Stop-and-Identify Statutes After *Kolender v. Lawson:* Exploring the Fourth and Fifth Amendment Issues, 69 Iowa L. Rev. 1057 (1984).

Stop and identify statutes often combine elements of traditional vagrancy laws with provisions intended to regulate police behavior in the course of investigatory stops. The statutes vary from State to State, but all permit an officer to ask or require a suspect to disclose his identity. A few States model their statutes on the Uniform Arrest Act, a model code that permits an officer to stop a person reasonably suspected of committing a crime and "demand of him his name, address, business abroad and whither he is going." Warner, The Uniform Arrest Act, 28 Va. L. Rev. 315, 344 (1942). Other statutes are based on the text proposed by the American Law Institute as part of the Institute's Model Penal Code. See ALI, Model Penal Code, §250.6, Comment 4, pp. 392–393 (1980). The provision, originally designated §250.12, provides that a person who is loitering "under circumstances which justify suspicion that he may be engaged or about to engage in crime commits a violation if he refuses the request of a peace officer that he identify himself and give a reasonably credible account of the lawfulness of his conduct and purposes." §250.12 (Tentative Draft No. 13) (1961). In some States, a suspect's refusal to identify himself is a misdemeanor offense or civil violation; in others, it is a factor to be considered in whether the suspect has violated loitering laws. In other States, a suspect may decline to identify himself without penalty.

Stop and identify statutes have their roots in early English vagrancy laws that required suspected vagrants to face arrest unless they gave "a good Account of themselves," 15 Geo. 2, ch. 5, §2 (1744), a power that itself reflected common-law rights of private persons to "arrest

any suspicious night-walker, and detain him till he give a good account of himself . . . ." 2 W. Hawkins, Pleas of the Crown, ch. 13, §6, p. 130. (6th ed. 1787). In recent decades, the Court has found constitutional infirmity in traditional vagrancy laws. In *Papachristou* v. *Jacksonville,* 405 U. S. 156 (1972), the Court held that a traditional vagrancy law was void for vagueness. Its broad scope and imprecise terms denied proper notice to potential offenders and permitted police officers to exercise unfettered discretion in the enforcement of the law. See *id.*, at 167–171.

The Court has recognized similar constitutional limitations on the scope and operation of stop and identify statutes. In *Brown* v. *Texas,* 443 U. S. 47, 52 (1979), the Court invalidated a conviction for violating a Texas stop and identify statute on Fourth Amendment grounds. The Court ruled that the initial stop was not based on specific, objective facts establishing reasonable suspicion to believe the suspect was involved in criminal activity. See *id.*, at 51–52. Absent that factual basis for detaining the defendant, the Court held, the risk of "arbitrary and abusive police practices" was too great and the stop was impermissible. *Id.*, at 52. Four Terms later, the Court invalidated a modified stop and identify statute on vagueness grounds. See *Kolender* v. *Lawson,* 461 U. S. 352 (1983). The California law in *Kolender* required a suspect to give an officer "'credible and reliable'" identification when asked to identify himself. *Id.,* at 360. The Court held that the statute was void because it provided no standard for determining what a suspect must do to comply with it, resulting in "'virtually unrestrained power to arrest and charge persons with a violation.'" *Id.,* at 360 (quoting *Lewis* v. *New Orleans,* 415 U. S. 130, 135 (1974) (Powell, J., concurring in result)).

The present case begins where our prior cases left off. Here there is no question that the initial stop was based on reasonable suspicion, satisfying the Fourth Amend-

ment requirements noted in *Brown*. Further, the petitioner has not alleged that the statute is unconstitutionally vague, as in *Kolender*. Here the Nevada statute is narrower and more precise. The statute in *Kolender* had been interpreted to require a suspect to give the officer "credible and reliable" identification. In contrast, the Nevada Supreme Court has interpreted NRS §171.123(3) to require only that a suspect disclose his name. See 118 Nev., at ___, 59 P. 3d, at 1206 (opinion of Young, C. J.) ("The suspect is not required to provide private details about his background, but merely to state his name to an officer when reasonable suspicion exists"). As we understand it, the statute does not require a suspect to give the officer a driver's license or any other document. Provided that the suspect either states his name or communicates it to the officer by other means—a choice, we assume, that the suspect may make—the statute is satisfied and no violation occurs. See *id.,* at ___, 59 P. 3d, at 1206–1207.

III

Hiibel argues that his conviction cannot stand because the officer's conduct violated his Fourth Amendment rights. We disagree.

Asking questions is an essential part of police investigations. In the ordinary course a police officer is free to ask a person for identification without implicating the Fourth Amendment. "[I]nterrogation relating to one's identity or a request for identification by the police does not, by itself, constitute a Fourth Amendment seizure." *INS* v. *Delgado,* 466 U. S. 210, 216 (1984). Beginning with *Terry* v. *Ohio,* 392 U. S. 1 (1968), the Court has recognized that a law enforcement officer's reasonable suspicion that a person may be involved in criminal activity permits the officer to stop the person for a brief time and take additional steps to investigate further. *Delgado*, *supra*, at 216; *United States* v. *Brignoni-Ponce,* 422 U. S. 873, 881 (1975). To

ensure that the resulting seizure is constitutionally reasonable, a *Terry* stop must be limited. The officer's action must be "'justified at its inception, and . . . reasonably related in scope to the circumstances which justified the interference in the first place.'" *United States* v. *Sharpe,* 470 U. S. 675, 682 (1985) (quoting *Terry*, *supra,* at 20). For example, the seizure cannot continue for an excessive period of time, see *United States* v. *Place,* 462 U. S. 696, 709 (1983), or resemble a traditional arrest, see *Dunaway* v. *New York,* 442 U. S. 200, 212 (1979).

Our decisions make clear that questions concerning a suspect's identity are a routine and accepted part of many *Terry* stops. See *United States* v. *Hensley,* 469 U. S. 221, 229 (1985) ("[T]he ability to briefly stop [a suspect], ask questions, or check identification in the absence of probable cause promotes the strong government interest in solving crimes and bringing offenders to justice"); *Hayes* v. *Florida,* 470 U. S. 811, 816 (1985) ("[I]f there are articulable facts supporting a reasonable suspicion that a person has committed a criminal offense, that person may be stopped in order to identify him, to question him briefly, or to detain him briefly while attempting to obtain additional information"); *Adams* v. *Williams,* 407 U. S. 143, 146 (1972) ("A brief stop of a suspicious individual, in order to determine his identity or to maintain the status quo momentarily while obtaining more information, may be most reasonable in light of the facts known to the officer at the time").

Obtaining a suspect's name in the course of a *Terry* stop serves important government interests. Knowledge of identity may inform an officer that a suspect is wanted for another offense, or has a record of violence or mental disorder. On the other hand, knowing identity may help clear a suspect and allow the police to concentrate their efforts elsewhere. Identity may prove particularly important in cases such as this, where the police are investi-

gating what appears to be a domestic assault. Officers called to investigate domestic disputes need to know whom they are dealing with in order to assess the situation, the threat to their own safety, and possible danger to the potential victim.

Although it is well established that an officer may ask a suspect to identify himself in the course of a *Terry* stop, it has been an open question whether the suspect can be arrested and prosecuted for refusal to answer. See *Brown*, 443 U. S., at 53, n. 3. Petitioner draws our attention to statements in prior opinions that, according to him, answer the question in his favor. In *Terry*, Justice White stated in a concurring opinion that a person detained in an investigative stop can be questioned but is "not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest." 392 U. S., at 34. The Court cited this opinion in dicta in *Berkemer* v. *McCarty*, 468 U. S. 420, 439 (1984), a decision holding that a routine traffic stop is not a custodial stop requiring the protections of *Miranda* v. *Arizona,* 384 U. S. 436 (1966). In the course of explaining why *Terry* stops have not been subject to *Miranda*, the Court suggested reasons why *Terry* stops have a "nonthreatening character," among them the fact that a suspect detained during a *Terry* stop "is not obliged to respond" to questions. See *Berkemer*, *supra,* at 439, 440. According to petitioner, these statements establish a right to refuse to answer questions during a *Terry* stop.

We do not read these statements as controlling. The passages recognize that the Fourth Amendment does not impose obligations on the citizen but instead provides rights against the government. As a result, the Fourth Amendment itself cannot require a suspect to answer questions. This case concerns a different issue, however. Here, the source of the legal obligation arises from Nevada state law, not the Fourth Amendment. Further, the statu-

tory obligation does not go beyond answering an officer's request to disclose a name. See NRS §171.123(3) ("Any person so detained shall identify himself, but may not be compelled to answer any other inquiry of any peace officer"). As a result, we cannot view the dicta in *Berkemer* or Justice White's concurrence in *Terry* as answering the question whether a State can compel a suspect to disclose his name during a *Terry* stop.

The principles of *Terry* permit a State to require a suspect to disclose his name in the course of a *Terry* stop. The reasonableness of a seizure under the Fourth Amendment is determined "by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate government interests." *Delaware* v. *Prouse,* 440 U. S. 648, 654 (1979). The Nevada statute satisfies that standard. The request for identity has an immediate relation to the purpose, rationale, and practical demands of a *Terry* stop. The threat of criminal sanction helps ensure that the request for identity does not become a legal nullity. On the other hand, the Nevada statute does not alter the nature of the stop itself: it does not change its duration, *Place*, *supra*, at 709, or its location, *Dunaway*, *supra*, at 212. A state law requiring a suspect to disclose his name in the course of a valid *Terry* stop is consistent with Fourth Amendment prohibitions against unreasonable searches and seizures.

Petitioner argues that the Nevada statute circumvents the probable cause requirement, in effect allowing an officer to arrest a person for being suspicious. According to petitioner, this creates a risk of arbitrary police conduct that the Fourth Amendment does not permit. Brief for Petitioner 28–33. These are familiar concerns; they were central to the opinion in *Papachristou,* and also to the decisions limiting the operation of stop and identify statutes in *Kolender* and *Brown*. Petitioner's concerns are met by the requirement that a *Terry* stop must be justified at

its inception and "reasonably related in scope to the circumstances which justified" the initial stop. 392 U. S., at 20. Under these principles, an officer may not arrest a suspect for failure to identify himself if the request for identification is not reasonably related to the circumstances justifying the stop. The Court noted a similar limitation in *Hayes*, where it suggested that *Terry* may permit an officer to determine a suspect's identity by compelling the suspect to submit to fingerprinting only if there is "a reasonable basis for believing that fingerprinting will establish or negate the suspect's connection with that crime." 470 U. S., at 817. It is clear in this case that the request for identification was "reasonably related in scope to the circumstances which justified" the stop. *Terry*, *supra,* at 20. The officer's request was a commonsense inquiry, not an effort to obtain an arrest for failure to identify after a *Terry* stop yielded insufficient evidence. The stop, the request, and the State's requirement of a response did not contravene the guarantees of the Fourth Amendment.

IV

Petitioner further contends that his conviction violates the Fifth Amendment's prohibition on compelled self-incrimination. The Fifth Amendment states that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself." To qualify for the Fifth Amendment privilege, a communication must be testimonial, incriminating, and compelled. See *United States* v. *Hubbell,* 530 U. S. 27, 34–38 (2000).

Respondents urge us to hold that the statements NRS §171.123(3) requires are nontestimonial, and so outside the Clause's scope. We decline to resolve the case on that basis. "[T]o be testimonial, an accused's communication must itself, explicitly or implicitly, relate a factual assertion or disclose information." *Doe* v. *United States,* 487

U. S. 201, 210 (1988). See also *Hubbell,* 530 U. S., at 35. Stating one's name may qualify as an assertion of fact relating to identity. Production of identity documents might meet the definition as well. As we noted in *Hubbell*, acts of production may yield testimony establishing "the existence, authenticity, and custody of items [the police seek]." *Id.,* at 41. Even if these required actions are testimonial, however, petitioner's challenge must fail because in this case disclosure of his name presented no reasonable danger of incrimination.

The Fifth Amendment prohibits only compelled testimony that is incriminating. See *Brown* v. *Walker,* 161 U. S. 591, 598 (1896) (noting that where "the answer of the witness will not directly show his infamy, but only *tend* to disgrace him, he is bound to answer"). A claim of Fifth Amendment privilege must establish

> "'reasonable ground to apprehend danger to the witness from his being compelled to answer . . . . [T]he danger to be apprehended must be real and appreciable, with reference to the ordinary operation of law in the ordinary course of things,—not a danger of an imaginary and unsubstantial character, having reference to some extraordinary and barely possible contingency, so improbable that no reasonable man would suffer it to influence his conduct.'" *Id.,* at 599–600 (quoting *Queen* v. *Boyes*, 1 Best & S. 311, 321 (1861) (Cockburn, C. J.)).

As we stated in *Kastigar* v. *United States,* 406 U. S. 441, 445 (1972), the Fifth Amendment privilege against compulsory self-incrimination "protects against any disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used." Suspects who have been granted immunity from prosecution may, therefore, be compelled to answer; with the threat of prosecution removed, there

can be no reasonable belief that the evidence will be used against them. See *id.,* at 453.

In this case petitioner's refusal to disclose his name was not based on any articulated real and appreciable fear that his name would be used to incriminate him, or that it "would furnish a link in the chain of evidence needed to prosecute" him. *Hoffman* v. *United States,* 341 U. S. 479, 486 (1951). As best we can tell, petitioner refused to identify himself only because he thought his name was none of the officer's business. Even today, petitioner does not explain how the disclosure of his name could have been used against him in a criminal case. While we recognize petitioner's strong belief that he should not have to disclose his identity, the Fifth Amendment does not override the Nevada Legislature's judgment to the contrary absent a reasonable belief that the disclosure would tend to incriminate him.

The narrow scope of the disclosure requirement is also important. One's identity is, by definition, unique; yet it is, in another sense, a universal characteristic. Answering a request to disclose a name is likely to be so insignificant in the scheme of things as to be incriminating only in unusual circumstances. See *Baltimore City Dept. of Social Servs.* v. *Bouknight,* 493 U. S. 549, 555 (1990) (suggesting that "fact[s] the State could readily establish" may render "any testimony regarding existence or authenticity [of them] insufficiently incriminating"); Cf. *California* v. *Byers,* 402 U. S. 424, 432 (1971) (opinion of Burger, C. J.). In every criminal case, it is known and must be known who has been arrested and who is being tried. Cf. *Pennsylvania* v. *Muniz,* 496 U. S. 582, 601–602 (1990) (opinion of Brennan, J.). Even witnesses who plan to invoke the Fifth Amendment privilege answer when their names are called to take the stand. Still, a case may arise where there is a substantial allegation that furnishing identity at the time of a stop would have given the police a link in the chain of

evidence needed to convict the individual of a separate offense. In that case, the court can then consider whether the privilege applies, and, if the Fifth Amendment has been violated, what remedy must follow. We need not resolve those questions here.

The judgment of the Nevada Supreme Court is

Affirmed.