

Are Sobriety Checkpoints Legal?

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As many people know, the Fourth Amendment of the Constitution of the United States forbids the unreasonable search or seizure of U.S. citizens. Generally, there must be probable cause to arrest or search persons or their private property, which means that the officer must have a reasonable suspicion based on articulable facts that some wrongdoing has occurred. How, then, are law enforcement agents able, constitutionally, to stop motorists at sobriety checkpoints?

According to constitutional law, some stops are not considered seizures of a person. This is the case with a so called "stop and frisk" in which an officer detains a person for a very brief period of time and quickly checks their outer clothing for contraband. Sometimes, if a person is detained for less than 48 hours, it is not considered a seizure. However, this is not true for DUI roadblocks. The U.S. Supreme Court has held that stopping someone at such a roadblock does constitute a seizure of that person under the Fourth Amendment.

One "however" further and the language of the Constitution gets tangled up in the thicket of constitutional interpretation and case law. The Supreme Court could have claimed that these stops without probable cause are constitutional under the doctrine of exigent circumstances. The Court has repeatedly held that when an officer believes evidence is about to be destroyed, he can perform a search without a warrant. However, this doctrine seems only to apply to searches. Instead, it appears as though the Court used a balancing test, common in other areas of constitutional law, whereby the "minimal intrusion on individual liberties" was weighed against the need for and efficacy of roadblocks and found to be less important.

To some, it seems that the Court has simply carved out of the Constitution another exception, similar to the one for exigent circumstances, for sobriety checkpoints. DUI defense attorneys often refer to this as "the DUI exception to the Constitution." Critics and dissenting justices have pointed out that the Fourth Amendment does not make exceptions. The only question is whether the officer has probable cause to stop the individual driver. Justice Brennan wrote, "That stopping every car might make it easier to prevent drunken driving...is an insufficient justification for abandoning the requirement of individualized suspicion."

The Court's justification for the exception rested on the assumption that DUI roadblocks are necessary and effective. However, there is some controversy as to whether this is true. The National Highway Traffic and Safety Administration (NHTSA) recently released data on alcohol-related deaths in 2003 and 2004. There was a decline in such fatalities in 2004, and most of the drop occurred in states that don't use sobriety checkpoints. Critics already concerned about the large outlay of resources required to operate checkpoints are doubly concerned if spending the resources does not even necessarily prevent DUI offenses.

On the other hand, law enforcement agents believe that checkpoints are effective even if intoxicated drivers get around them because they spread the message that driving under the influence is not tolerated. Officers often provide informational pamphlets to motorists stopped at checkpoints, explaining the consequences of drunk driving, which may have a deterrent effect.

Copyright 2006 Lance Knowlton Having been struck by drunk drivers twice, Lance Knowlton has a deep appreciation for this serious problem. To learn how you can help prevent drunk driving in your community and earn money at the same time, visit: <http://www.alcoholalert.com>.