

December 22, 2000

LEGAL BULLETIN NO. 00-6 (Revised)

SUBJECT: Drug Checkpoints

On November 28, 2000, the United States Supreme Court handed down an opinion dealing with the legality of a drug checkpoint.¹ In that opinion the Court held that a drug checkpoint is a violation of the Fourth Amendment to the United States Constitution.

The facts of the case are that beginning in August, 1998, the City of Indianapolis, Indiana began to operate checkpoints on Indianapolis roads in an effort to interdict unlawful drugs. At each checkpoint, police stopped a predetermined number of vehicles. Approximately thirty (30) officers were stationed at the checkpoint and pursuant to written directives, at least one (1) officer would approach each vehicle and ask for a driver's license and proof of registration. The officer also looked for signs of impairment and conducted an open view examination of the vehicle from the outside. A narcotics-detection dog walked around outside of each stopped vehicle. The officers did not exercise discretion in stopping particular cars and once a group of cars had been stopped, other traffic proceeded without interruption until the stopped cars had been processed or diverted for further processing. It was agreed that the purpose of the checkpoint was to interdict illegal narcotics.

The Court found that the Fourth Amendment requires that searches and seizures be reasonable. A search or seizure is ordinarily unreasonable in the absence of individualized suspicion of wrongdoing. The Court noted that it had previously granted a Fourth Amendment exception to a Border Patrol checkpoint designed to intercept illegal aliens.² The Court also acknowledged a prior exception for checkpoints to detect drunk drivers³ and checkpoints established for the purposes of verifying driver's license and vehicle registration.⁴ In spite of its ruling in the drug checkpoint case, the Court did uphold its prior rulings involving these three (3) types of roadblock situations. The Court did indicate that it had

¹ *City of Indianapolis v. Edmond* (2000 WL 1740936)

² *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976).

³ *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990).

⁴ *Delaware v. Prouse*, 440 U.S. 648 (1979).

upheld sobriety and license checkpoints based on the State's interest in roadway safety.

In the drug checkpoint case, the Court found the checkpoint to be a violation of the Fourth Amendment because the primary purpose of the checkpoint was to interdict illegal narcotics and the Court has never approved a checkpoint program whose primary purpose was to detect evidence of ordinary criminal wrongdoing. The Court did not believe that the mere fact that an officer walked a narcotics-detection dog around the exterior of the car was a major factor nor did that transform the seizure into a search. The Court simply felt that the only justification for the checkpoint was to generally enforce laws and prohibit wrongdoing and that under these circumstances individualized suspicion is required. The parties all admit that there is no individualized suspicion in an established and properly conducted checkpoint setting.

The Court also acknowledged the seriousness of the drug problem but held that the gravity of the threat alone cannot be dispositive on questions concerning what means law enforcement officers may employ to pursue a given purpose. The Court declined to suspend the usual requirement of individualized suspicion where police seek to employ a checkpoint primarily for the ordinary enterprise of investigating crimes.

For further information concerning this concept, contact the Legal Advisor's Office.

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