

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

Driving While Intoxicated Sobriety Check Points

**A Policy Research Project  
Submitted in Partial Fulfillment  
of the Requirements for the Professional Designation  
Graduate, Management Institute**

**By**

Alexander "Ski" Mietlinski

El Paso County Sheriffs Department  
El Paso, Texas  
July, 1999

## **ABSTRACT**

This policy research project explores and summarizes the findings and conclusions of a proposed use of driving while intoxicated sobriety checkpoints by the El Paso County Sheriff's Department.

The use of sobriety checkpoints had been an issue for many courts and departments throughout the United States, starting in the early 1970's.

On July 14th 1990, in the case of Michigan Department of Public Safety v.

Sitz the Supreme Court found the use of sobriety checkpoints constitutionally legal under

the 4th and 14th amendments. The driving public

supports the use of this type of enforcement method by a two-thirds

majority. Sobriety checkpoints have been found to be more cost effective

tool by the agencies that have them in use; saving on resources in

manpower, vehicles fuel usage, and vehicle maintenance. These types of

operations also have been found safer for the public, offenders, and officers

working them.

## **Table of Contents**

Abstract	
Introduction	1-2
Legal Context	3-5
Review of Literature or Practice	6-8
Discussion of Relevant Issues	9 -11
Conclusion / Recommendations	12 - 13
Bibliography	

## **Introduction**

It is clear that the American public is in support of law enforcement's effort to put an end to a major killer on our highways, the drunk driver. In 1997 the National Highway Traffic Safety Association reported 56,688 alcoholic related traffic accident deaths on our nations highways (NHTSA, 1999). Texans made up 4,696 persons of this total. This project is an investigation of how the El Paso County Sheriff's Department can use sobriety checkpoints as an approach to stopping this problem in El Paso County. A 1996 Nation Highway Traffic Safety Association survey on sobriety checkpoints reported that two thirds of the driving age public believes sobriety checkpoints should be used more frequently than they are now. Even a majority of drivers who drink support increased use of sobriety checkpoints (NHTSA, 1996). However this method of enforcement is rarely used by law enforcement agencies throughout the nation. This project will included three steps. First, the legal issues will be addressed through a review of current case laws. Second, the costs of starting and operating this type of program will be addresses through training, equipment, and man power issues. Finally, the project will address the safety issues as they relate to the violator, public, and

officer. Once the project is completed it will be forwarded to the Sheriff and his command staff for review.

## Legal Context

Traffic stops and searches of motor vehicles are an important part of police work, which has been a part of police duties for decades. With more and more vehicles on our highways, each year the demand for this type of police enforcement will keep growing, as our mobile society does. The courts of this country first addressed motor vehicle stops and searches many years ago as it related to the 4th and 14th amendments, the first of these cases being *Terry v. Ohio*. (*Terry v. Ohio*, 392 U.S. 1, 30 [1968])

The Supreme Court said "The forth and fourteenth amendments are implicated in this case because stopping a vehicle and detaining its occupants constitute a 'seizure' within the meaning of those amendments, even though the purpose of the stop is limited and the resulting detention is quite brief" (*Delaware v. Prouse*, 440 U.S. 648 at 653[1979]). In a Supreme Court decision of 1981 the court stated that there has to be at least reasonable suspicion to justify a stop of a motor vehicle ( *United States v. Cortez*, 449 U.S. 411 [1981]). A general rule which is followed because of this case is that no warrant or probable cause is needed for a traffic stop, but there must be reasonable suspicion of involvement in

criminal activity before the vehicle can be stopped.

There is an exception to the reasonable suspicion of involvement in criminal activity guidelines set up by the Supreme Court, this exception is road blocks. In 1990 the Supreme Court addressed road blocks as a method of enforcement by police as they stop every vehicle for the purpose of controlling driving while intoxicated offenses. The Supreme Court stated that these type of police enforcement methods do not violate the 4th amendment protections against unreasonable searches and/or seizures.

The Supreme Court made sobriety checkpoints constitutional within guidelines (*Michigan Department of State Police v. Sitz*, 496 U.S. 444 [1990]). These guidelines were adopted from an early court case *Delaware v. Prouse* [1979]. The court had outlined three issues that were to be addressed to determine the cases constitutionality;

- . is public concerns served by the seizure,
- . the degree in which the seizure advances the public interest,
- . the severity of the interference with public liberty.

Once these issues were addressed by each department and sobriety check points found to be necessary then the department would have to show why the sobriety check points were necessary. Outlined in a 1982

case in Arizona, three defendant's challenged their arrest for driving while intoxicated at a sobriety check point in Mohave County. A Mohave County Justice ruled that the arrest violated the defendant's 4th & 14th amendments, because of the broad-purpose of the road blocks, this constituted unlawful search and seizure. On appeal the Supreme Court held that the road block was illegal because it was too intrusive and " the record disclosed no statistics concerning the extent of the problem of drunk drivers on the Arizona Highways. "

That Arizona's Attorney General issued the following guide lines;

- . planning and decisions to set up roadblock must be made by top management officials,
- . a factual basis for placement of road blocks at given locations,
- . road blocks must be for specified times,
- . public notice of the road blocks, in addition to informing motorists at the road blocks as to their purpose,
- . signals and warning signs set up to put motorists on notice of an approaching road block.



## Review of Literature or Practice

There are many practices and policies from other Law Enforcement agencies throughout the United States from which the El Paso County Sheriff's Department can learn from. These law enforcement agency's practices and policies are based on laws, which have been mandated by this country's highest court, the United States Supreme Court. The Supreme Court has issued decisions as it relates to this research subject, such as the following: "As a general rule, Police may not contact an investigator stop of a vehicle without individualized or founded suspicion that the occupant (s) is / are involved in criminal activity. However, roadblock stops designed to address special governmental needs, such as license and sobriety Checks, can be deemed constitutionally reasonable in absence of individualized suspicion" .

In a 1982 Fairfax City, New York research project, the 1st full year of their program, much publicity was generated. Questionnaires were given to citizens who were stopped but not arrested. Law enforcement officials also used the media, radio and TV to answer the public's questions and

explain what the police department was trying to accomplish. Over 95 % of the returned questionnaires were by those people detained in roadblocks and they indicated a desire for more enforcement against the person who is driving while intoxicated. Of these enforcement methods roadblocks were included, which only a few people felt were inconvenient. The media coverage helped the police by getting the word out to the citizens of the City of Fairfax, that the police department and courts were going to be tough on people who were driving while intoxicated and if you engaged in this type of behavior you were going to be caught. It was not long before groups who drank at parties or bars were arranging for non-drinkers to drive them home from these type events, rather than run the risk of being caught at a sobriety checkpoint and going to jail. The cost of this program only effected the departments over all resources by 0.001 % in a two year period, according to Fairfax City Police Chief Buracker. (Lewis Deitch/1984)

The same type of results were received in a 1996 National Highway Traffic Safety Association survey of sobriety checkpoints, stated that two thirds of the driving age public believes sobriety check points should be used more frequently than they are now. Even a majority of those drivers who drink supported increased use of sobriety checkpoints. (NHTSA, 1996)

In comparing and contrasting the research data from departments

like Fairfax City, Los Angeles, and Mohave County there was no major cost increases involved in starting or operating sobriety checkpoints All departments reported that after the programs were started they did notice that numbers of motor vehicle accidents decreased, especially near areas that had been targeted as a sobriety checkpoint at one time or another. Total numbers of accidents where death, injury, or property damage decreased greatly, alcoholic beverages were still reported as a factor of the accident.

As each department informed their citizens of their objectives, their public understanding and support grow through the use of the media's and other educational programs. Through the use of surveys, (MADD/1996,1997,1998,1999) and (New Week/1999) it was learned that a very large percentage of the public did not mind the delay associated with the sobriety checkpoints and they wanted them used more often by law enforcement.

## **A Discussion of Relevant Issues**

Stronger laws and tougher enforcement against the person(s) who are driving while intoxicated are a major part of reducing the number of lives lost on our nations highways. The 1998 preliminary estimates indicate that there were 17,274 people killed in alcohol related accidents in the United States. An estimated 1782 were in the State of Texas, which was the second highest in the country during this time. (MADD,1999) These types of statistics have made driving while intoxicated the nation's most frequently committed violent crime.

This crime, driving while intoxicated not only causes death on our nations highways and roads but it has also caused \$ 64,330,276,140.00 worth of accident related injuries in 1998, within the United States. (NTHSA 1999) The amount of property damage caused by these type of accidents is estimated at \$45 billion yearly, with an additional \$70.5 billion lost in quality of life due to the motor vehicle accidents. (Miller ET AL, 1996)

In the past four decades, four times as many American's died in driving while intoxicated accidents as there were people killed during the Vietnam War. Just during the period from 1982 through 1997, approximately 333,586 people lost their lives in the United States in alcohol related traffic accidents. (NHTSA, 1997) What this means is that every 3 out of 5 persons in the United States will be involved in an alcohol related accident during some point in their lives. (NHTSA, 1997)

Of the estimated 15,936 people that were killed in an accident involving alcohol in the United States an average of one person was killed every 32 minutes. Of the 1,058,990 people that were injured in an alcohol related accident, the average time every injury occurred was 30 seconds. (NHTSA, 1997) However, most driving while intoxicated offenses take place during The time frames of 10 p.m. and 6 a.m., which would reduce the amount of time for these driving while intoxicated accidents to happen in any large reportable number. That is not to say that this type of accident does not happen at any other times, just less often. By taking this 12 hour period (10 p.m. through 6 a.m.) and applying this statistical information to it, one would find that every 16 minutes a person is killed or that every 15 seconds a person is injured as a result of an alcohol related accident on our highways.

During the weekdays in the United States from 10 p.m. to 1 a.m., one driver in 13 is intoxicated with a BAC of 0.08 or more. Between the hours of 1 a.m. and 6 a.m. on weekday mornings, one in seven drivers have a BAC of 0.08 or higher. (Miller ET AL, 1996) What this all means is that the effective enforcement times for law enforcement range between 10 p.m. and 6 a.m. during the weekdays. It is the researchers experience that in the El Paso County, Texas area is that on almost any given night a person who is driving while intoxicated will be found on a county road from 8 p.m. to 4 a.m. Local bars close at 2 a.m. and if a person stops to eat a meal on the way home, that person should arrive at his house if it is within the county at around 4 a.m.

## **Conclusion / Recommendations**

The purpose of this research project is to gather information which would support or disprove the idea that the El Paso County Sheriff s Department could benefit from the use of sobriety checkpoints. We live in a very mobile society in the United States; our vehicles are not only used as a method to get us to and from work, but also as a form of recreation. While people use their vehicles for recreation they tend to consume alcoholic beverages, which is not a major problem until they start to drive their vehicles on our public roads. Many lives are lost each year unnecessarily because of the drunk driver. Property damage and personal injuries are also a major part of the problem, costing us as taxpayers millions of dollars each year.

The El Paso County Sheriffs Department does actively look for person(s) who are operating a vehicle while intoxicated. However these activities take the form of routine patrols and driving while intoxicated task forces. The problem with this response is law enforcement officers are having to hunt down the offenders, who are mobile. This is very costly in man-hours, vehicle fuel expense, and vehicle maintenance. With most departments on a

limited budget, like the El Paso County Sheriff's Department, it would be feasible for the department to engage in an enforcement activity that is very cost effective and publicly supported.

In July 1990, the Supreme Court of the United States addressed the use of sobriety checkpoints as a method of enforcement against persons driving intoxicated. The court found that this method was legal under the 4th amendment, within guidelines. I believe it would be a feasible, publicly supported, and effective way for the El Paso County Sheriff's Department to deal with person(s) who are driving while intoxicated in our county.

There is no question that sobriety check points are a very cost effective and useful method in which the El Paso County Sheriff's Department can use as an another enforcement method, which is supported by a majority of citizens of this nation to stop the drunk driver. The research literature in reference to this subject supports other departments 'which are currently using this type of method to reduce the killings, injures, and property damages caused by the Drunk driver on our national roadways.



## Bibliography

- A. People v. Scott, 63 N.Y. 2d 518, 483 N.Y.S. 2d 649, N.E. 2d [1984]
- B. Terry v. Ohio, 392 U.S. 1,30 [1968]
- C. MADD Public Policy's, 1996.1997, 1998, 1999
- D. DWI Vehicle Seizures, News Week, March 8th 1999
- E. Impacts ofDWI Laws, Terry Zobeck, 1994
- F. Minnesota Roadside Survey, Robert Foss, 1990
- G. Detected, Tested, Arrested, and Tracked, Deen Esskridge, 1989
- H. Stop DWI, Dennis Foley, 1986
- I. Legal and Psychological Implications of DWI Roadblocks, Michael Kaye, 1986
- J. DWI Enforcement in Germany, Police Chief 51, (6) p 39
- K. Enforcement and Public Information Strategies for DWI General Deterrence, JH Lacey, 1986
- L. The Importance of Roadside Screening for Impaired Drivers in Canada, Evelyn Vingilis, Canadian Journal of Criminology, 29 (1), ppI7-33, 1987
- M. Exploring the Constitutional Limits of Suspicionless Seizures, The Use of Roadblocks to Apprehend Drunken Drivers, Jeffrey Bouslog, Iowa Law Review, 71 (2), pp577-607, 1986
- N. The Sobriety Checkpoint. A Proactive Approach to DWI Deterrence, Lewis Deitch, Police Chief, 51 (7), pp42-44
- O. An assessment of Drunk Driving Policies in Texas and other states, University of Texas at Austin Highway Safety Policy Research Project #69, 1985