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Time for a Sober Assessment of Checkpoints

By DAVID KLINE

Police in California began stopping vehicles at “sobriety checkpoints” in 1984 as part of an effort to rid the streets of drunken drivers. But nowadays the roadblocks are being used to catch people who don’t have insurance or whose cars emit too much pollution.

A press release from the Moreno Valley Police Department reports the yield of the department’s May 21 roadblock:

“... 241 drivers were issued citations and 149 vehicles were impounded. The majority of these citations and impounds were for suspended or unlicensed drivers and vehicle insurance violations. In addition, 1 driver was arrested for driving under the influence of an alcoholic beverage and/or drugs, (DUI). Eight subjects were arrested for various misdemeanor offenses and one subject was arrested for a felony warrant.”



One DUI arrest, 149 vehicles impounded.

The Riverside County Sheriff’s Department revealed an equally diverse assortment of arrests at its April 9 checkpoint: Eight for suspicion of driving under the influence, four non-drivers for suspicion of being under the influence of illegal drugs, eight for driving without a license, six for driving on a suspended license, one for being drunk in public and one for possession of an explosive device. The department also issued 11 citations for miscellaneous traffic offenses and towed 23 vehicles that night.

Reports from other areas of the state show similar results—a few arrests for suspected drunken driving, and many more arrests, tickets and impounded vehicles for other offenses.

In other words, the “sobriety checkpoints” have become plain old “checkpoints.” Sort of like if the screeners at airports started citing people for tax evasion or unpaid child support instead of just trying to keep terrorists out of the air.

Whether or not the general nature of the checkpoints makes them illegal is a question that must be considered.

In 1987, the California Supreme Court opined that the roadblocks are not

violations of the Constitution's Fourth Amendment ban on unreasonable searches because they serve a "highly important governmental interest"—keeping drunks off the road.



“On balance, the intrusion on Fourth Amendment interests is sufficiently circumscribed so that it is easily outweighed and justified by the magnitude of the drunk driving menace and the potential for deterrence,” the court wrote in *Ingersoll vs. Palmer*.

The case involved the state's first sobriety checkpoint, a Burlingame Police Department roadblock which resulted in no DUI arrests.

The justices focused on how the checkpoints might deter drunken driving, but did not indicate how their opinion might change if the roadblocks evolved into catch-all stops for arresting uninsured drivers and ticketing motorists who aren't wearing seatbelts or who don't realize they have burned out taillights.

Nor did the court predict that in 2003, the Legislature and soon-to-be-recalled governor would enact a law to allow DUI checkpoints to include a pollution check. (In 1995, a Democratic lawmaker even made an unsuccessful attempt to expand sobriety checkpoints to allow police to frisk motorists for weapons.)

While the Supreme Court did not discuss such matters, it did offer a hint that it would allow dramatic expansion of the checkpoints.

“An absence of arrests does not indicate a sobriety checkpoint is a futile exercise,” the court wrote. “If the checkpoint is properly serving its function—deterrence—it may result in no arrests at all.”

So even if the checkpoints are focusing on crimes other than DUI, a lawyer can argue that the roadblocks are deterring drunken driving, and thus are legal under the court's logic.

There was a dissenter in 1987, and while he is no longer with us, his words should not be forgotten. Justice Allen Broussard wrote: “We have all observed drunks weaving down the road, speeding up and slowing down, straddling lanes, and ignoring traffic and traffic signs. It is preposterous to claim that police have no way other than a roadblock to detect or deter drunk drivers. ...

“While drunk driving is a revolting crime, it is not the only one which the community abhors. If we abandon constitutional protections to combat every abhorrent crime which has captured the public's attention, we will find ourselves naked and unprotected in a hurry.”

Does anybody else feel a breeze?

— Capitol News Service