

FISCAL NOTE
Requested by Legislative Council
01/22/2019

Bill/Resolution No.: HB 1442

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would prohibit a law enforcement officer or peace officer from halting an operator of a vehicle solely to determine compliance with NDCC section 39-08-01, or an equivalent ordinance without reasonable suspicion of a violation of those regulations.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill would have no material fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/23/2019

2019 HOUSE JUDICIARY

HB 1442

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee Prairie Room, State Capitol

HB 1442
2/5/2019
32191

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to requiring reasonable suspicion for certain traffic stops.

Minutes:

Attachment: 1

Chairman Koppelman: Opened the meeting on HB 1442.

Rep. Rick Becker: Introduced the bill. (Attachment #1) Went over the testimony and handouts. Wants to stop Sobriety check points. He discussed what saturation patrols were. Stopped 17:00. If there is something in policy or procedure and it has not been working, then that tool should be discarded.

Rep. Jones: What you say sounds logical. Why are we continuing to do this?

Rep. Rick Becker: If you use Sobriety check points frequently enough and advertise strongly it does have a deterrence. But we are not. Studies have proven saturation patrols would have an even greater deterrence. I spoke to MADD they are not interested in any alternatives.

Rep. Jones: Are they using it as a fishing scheme so they can find other things?

Chairman K. Koppelman: It is interesting that the organization you mentioned because they are joined at the hips to another specific in the form of emission interlocks and they fail to look at our 24/7 program which is relatively unique to North and South Dakota which works far better because the Attorney General says the emission interlocks keep the car from driving drunk 24/7 keeps the driver from driving drunk.

Rep. Rick Becker: Chairman I thought it was quite admirable for the Police Chief from Columbus to recognize that there is a better tool, and to take that initiative, instead of not hearing any alternatives.

Chairman K. Koppelman: I appreciate your point about other factors driving the reduction in these offences and whether it has a deterrent effect or not. If you look at only that piece of the puzzle, as you said during the same time we have increased penalties on drunk driving

and I think there has been a good awareness of that in the public. Highway fatalities are also down.

Rep. McWilliams: Is it the states responsibility to remove bad tools or is it the counties or the cities job?

Rep. Rick Becker: I think it is both, the police chief I indicated chose to organize his tool box in a more logical manner. It is also the legislatures responsibility to draft a good law. There are several other states that already prohibit sobriety check points.

Rep. Satrom: What harm is having it in there?

Rep. Rick Becker: There are other alternatives that are superior why not use them. It is not that this is a weird tool; but it is actually ruining the product when you could be using a better tool.

Rep. Paur: Do other states have similar laws? Have you spoken to Kernel Solburg?

Rep. Rick Becker: I have not spoken to Kernel Solberg. There are twelve other states that prohibit sobriety check points, some have it in statutes, and WY has it in their constitution.

Rep. Paur: Do you have feedback from these other twelve states?

Rep. Rick Becker: I am not aware of any state, that has implemented it, that has retracted it.

Opposition?

Neutral?

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1442
2/5/2019
32230

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to requiring reasonable suspicion for certain traffic stops.

Minutes:

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Chairman Koppelman: Opened the meeting on HB 1442.

Rep. Jones: made a motion for a Do Pass on HB 1442

Rep. Simons: Seconded

A roll Call Vote was taken: Yes 12 No 2 Absent 0

A Do Pass carried

Rep. Becker will carry HB1442

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1442**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rereferto Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ R econsider ☐ _____

Motion Made By R ep .Jones Seconded By R ep Simons

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		R ep.Buffalo		X
Vice Chairman Karls	X		R ep.Karla R oseHanson		X
R ep.Becker	X				
R ep.Terry Jones	X				
R ep.Magrum	X				
R ep.McWilliams	X				
R ep.B. Paulson	X				
R ep.Paur	X				
R ep.R oersJones	X				
R ep.Satrom	X				
R ep.Simons	X				
R ep.Vetter	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Becker

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1442: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1442 was placed on the
Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1442

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1442
3/13/2019
#33650 (38:05)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel/ Marne Johnson
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 39-07 of the North Dakota Century Code, relating to requiring reasonable suspicion for certain traffic stops.

Minutes:

3 Attachments

Chair Larson opens the hearing on HB 1442.

Rick Becker, District 7 Representative, testifies in favor (see attachment #1)

Representative Becker: This a prohibition and sobriety checkpoint bill. A brief history, this was attempted previously, in the 2015 session it was more expansive; including Game and Fish, more areas of traffic, there was concern about commercial safety inspections, would it affect Amber Alerts, and things like that. In the 2017 session, the discussion was all based on the constitutionality. There's a couple components for me. A potential 4th amendment violation; the Supreme Court already decided they are not unconstitutional; but that's what we discussed on the House side. What got lost was this other component, which is how do we effectively decrease drunk driving? What I learned when I was researching the sobriety checkpoints was this aspect of drunk driving. Attachment #1 is an array of things, there is so much information out there. A couple of newspaper articles, a study on sobriety checkpoints, an FBI bulletin with some statistics, and a grouping of additional studies. A sobriety checkpoint is a situation in which law enforcement will have many officers grouped together to stop traffic. The Supreme Court indicated that to have that be constitutional, you need to advertise that ahead of time, you also need to let drivers turn around as they approach. Those requirements are a couple of the main ones. Sobriety checkpoints have been found to be really, really bad at apprehending. You would think that would be the key, stopping drivers checking to see if they are drunk, and apprehending them. But they are found to be extraordinarily poor at apprehension. A study was done that showed 62% of people that had a blood alcohol level of .08 or higher had successfully gone through the checkpoint without being detected. In addition, approximately 1-2% of the cars stopped were arrested for DUI.

Chair Larson: So, they had a checkpoint, then they had a second checkpoint?

Representative Becker: It was a voluntary checkpoint; it wasn't law enforcement staff at the second point, it was scientists collecting data. They were able to determine, by vehicles voluntarily willing to be pulled over. Fargo had a 1.6% of the vehicles they pulled over arrested for DUI, nationally, it's between 1 and 1.5% of vehicles pulled over.

Vice Chairman Dwyer: On that point, what was the reference you made to 62%?

Representative Becker: This study that I will find and provide to the committee, they tested people who had gone through a checkpoint. For those people who had had a blood alcohol level of .08 or higher, 62% had gone through the checkpoint undetected.

Vice Chairman Dwyer: So they apprehended or detected 38% of those?

Representative Becker: Correct.

Vice Chairman Dwyer: Then on the Fargo one, it's 1.6%?

Representative Becker: No. I cite that study, it's one example that checkpoints are generally ineffective at determining if they are a .08 or higher. I'm talking about what we actually see in practice in North Dakota. A checkpoint occurs, and cars get pulled over; of the cars that get pulled over, 1.6% of those cars are actually given a DUI. There are no studies to indicate how many went through the checkpoint undetected.

We're comparing this to an alternate means. Chief Jahner discussed this as well; a directed patrol, or roving saturation patrol. You take a number of officers and send them out. Instead of having 10 officers sitting at a checkpoint, which officers on the ground are not overly fond of, because it's boring, you take those man-hours and look for signs of drunk driving. It is very targeted in that manner. Roving saturation patrols have a DUI arrest rate of 21% in Cass County. Much better at apprehending. That is acknowledged in 'Unsteady on Its Feet, Sobriety Checkpoint Reasonableness' (please see attachment #1, page 6) That statement is the thrust of what I'm trying to get at. They are bad at apprehension. What we focus on when we talk about sobriety checkpoints is the deterrence. The deterrence is in the fact that you are advertising. You are letting the public know that there is going to be a checkpoint. When the public knows there are checkpoints, they recognize that they shouldn't be driving drunk. That's true; it is a deterrent. The true deterrent effect only occurs with a significant frequency, but North Dakota is not anywhere close. Fargo police haven't done a DUI checkpoint since 2014. Cass County did one in 2016 and one in 2017. Highway Patrol did 16 checkpoints over the course of 2 years state-wide. That is nowhere close enough to be a deterrent. The problem is, that yes, checkpoints can have a deterrent effect. They have a deterrent effect relative to not doing any advertising, but they don't have a strong deterrent effect relative to advertising the alternate, which is a roving saturation patrol. That has not been shown. If you were to hear an advertisement, officers are going to be on 71st avenue on Friday night doing a checkpoint, versus officers are going to be out this weekend in force looking for drunk drivers, that will have a stronger effect. Everyone acknowledges that sobriety checkpoints are inferior to alternate means for apprehension. The deterrence is the thing we talk about, the tool in the toolbox. The problem is, it's worse than the alternative for one thing, it's not being done in a way that actually causes deterrence, it's not being done

frequently enough. That's because they cost so much money. You have so many officers sitting around. It just does not work. I will encourage you to challenge the notion that they need this tool in the toolbox. A tool is fine if it doesn't cause harm. When you put 50 man-hours at a checkpoint and compare them to a roving saturation patrol, the checkpoint will take one drunk driver off the road; on that same night if you had chosen to do a roving saturation patrol, you'd be taking three drunk drivers off the road. The argument that 'at least it gets drunk drivers off the road,' it leaves them on the road. I concede that many times that my argument for freedom and liberty is not heard. What I can't wrap my brain around is how this has been shown to be so inferior, but the argument is we have to have it because we want drunk drivers off the road. It's showing us that it's leaving drunk drivers on the road.

Senator Myrdal: I grew up in a nation where those checkpoints were not advertised. Now with the age of cellphones, it's instantly known where those checkpoints are and they avoid them. Is there anything in the language in this bill that you would see has affect other than a checkpoint?

Representative Becker: I don't believe so. Section 39-08-01 is specifically for drunk driving and nothing more. To be very clear, the last sentence, 'It does not apply to inspections or safety checkpoints.'

Vice Chairman Dwyer: If the Fargo police department aren't using them, we're leaving that up to their discretion if we don't have this law, is there any reason to not just leave it up to their discretion?

Representative Becker: If the sobriety checkpoint was no worse than, or arguably two different things with different effects, then that tool is reasonable to leave to the discretion of law enforcement should be preserved. But the knowledge that it is inferior to what's available, I think it is proper purview of the legislature to say, it's not a good thing and we don't want it. Clearly they are not being used very much, it's a waste of resources and manpower hours. It's reasonable to say we aren't going to do this anymore; we've got much better options. With all of the things we've been doing to curb and decrease the risk from drunk drivers, I think this falls in line with it.

Vice Chairman Dwyer: I'm assuming that under the roving patrols they must have reasonable suspicion to pull somebody over.

Representative Becker: They do. It was alluded to earlier, there are myriad reasons to pull someone over. Law enforcement has been trained, and are very good at identifying people who are drunk or the behaviors of people who are fearful because they know they are inebriated.

(19:50-23:40) Laura Anderson, Assistant Director of the Behavioral Health Division of the Department of Human Services, testifies in opposition (see attachment #2)

Chair Larson: What is the last page?

Anderson: The information in my testimony, just in graphic form.

Vice Chairman Dwyer: Apparently Cass County and the City of Fargo haven't used them, either because they're too staff intensive or don't feel they are effective. Would that alter your view on them?

Anderson: It doesn't alter my view, the research shows that when implemented effectively, they can be effective. I don't see why we should take that option away.

Chair Larson: Do you know how many officers are at a sobriety checkpoint?

Anderson: I will defer that question.

(25:25-28:00) Tom Volk, City Council Member in Lincoln, testifies in opposition (see attachment #3)

Summarized letters from North Dakota citizens.

I am against HB 1442 for many of the same reasons mentioned previously. North Dakota has a problem with DUIs, we see 6,000 DUI arrests each year, if you take that into consideration, that's the entire population of Valley City. If you take the data point that on average, you drive drunk 80 times before you get arrested, it shows how big a problem we have. Representative Becker stated that it's just another tool in the toolbox that's not doing its job, it's a damaged tool. I would have to differ on that, because what you have is a hacksaw compared to a wood saw. You don't just throw out the hacksaw because you aren't cutting metal that day.

(28:30) Donnell Preskey, North Dakota Association of Counties, testifies in opposition

Preskey: We are very supportive of law enforcement and North Dakota's Vision Zero initiative, because of this North Dakota Association of Counties is opposed to HB 1442. In my role at North Dakota Association of Counties, I also serve as executive director for the North Dakota Sheriffs and Deputies Association. The sheriffs play a more supportive role in these checkpoints. Most of the time they are there assisting the Highway Patrol.

Chair Larson: So, it's the Highway Patrol that actually does the checkpoint, it's not the local law enforcement, this is in addition to what the local law enforcement has?

Preskey: In most cases, they play a supportive role. Representative Becker alluded to the fact that Fargo has done some and so has Cass County, but in most cases it's a dual effort, the Highway Patrol is there and the sheriffs participate. Regardless of the roles, our law enforcement believe this bill removes a tool from ever being used again. It should be allowed to be an option, there is no need to eliminate this from century code. DUI checkpoints provide a deterrent, and an effective way to reduce the number of people who are driving drunk and buzzed on our roadways. Just the announcement is a deterrent. We would ask for a no vote. It was referenced about the 17 checkpoints that the Highway Patrol conducted. According to the Forum article, they were conducted from Jan 2017 to Dec 2018, and that resulted in 17 DUI arrests.

Chair Larson: So, even after advertising, some are driving drunk anyway.

Preskey: I would say that the 17 people who were caught driving drunk on our roads, that we were able to catch through those checkpoints.

(32:05) Blair Thoreson, North Dakota Peace Officers Association, testifies in opposition

Thoreson: We see this as an item that law enforcement can selectively use to help make our roads safer. We ask for a do not pass recommendation to this bill.

To your question about the number of law enforcement members needed to run a sobriety checkpoint, I did not have a specific number in state, some quick research revealed that the common assumption is that it takes a dozen or more, but research has indicated that as few as three officers can effectively operate a safety checkpoint.

Chair Larson: That would usually be how many hours in the evening? We heard testimony about having officers spending 50 hours just sitting around.

Thoreson: I'm not certain. I can try to find out.

(33:50) Dustin Olson, Lieutenant, Burleigh County Sheriff's Department, provided neutral information

Olson: I can provide information on that last question. On the checkpoints that we have participated in with the Highway Patrol, they are typically in a 4-hour or 6-hour block, times how many officers you put out there. I know the Sheriff's Department; we would typically give one or two deputies to assist with those efforts.

Chair Larson: This would be the time spent for one or two deputies and then Highway Patrol actually being the extra people on duty.

Olson: Correct.

Chair Larson: Have you been a part of a saturation patrol?

Olson: Yes, I have.

Chair Larson: How many officers does that take?

Olson: Our saturation patrols that we put out, we have different sets, spring, summer and winter and typically we put out a signup sheet of six to eight shifts. The deputies can volunteer, we like those to be during weekend efforts, typically that is a higher volume. Those guys are working those hours anywhere from 9pm-3am or 10pm-4am.

Chair Larson: How many usually are on those shifts?

Olson: Typically, one person will volunteer for Friday, one extra for Saturday. We do have some special events in the Bismarck area, where we would allow up to two or three, because of the influx of people into the community. If it's a standard weekend, it is one extra deputy

out there. On top of that, our deputies are out there day and night, these are just extra efforts we try to put forth.

Vice Chairman Dwyer: Do you advertise the saturation patrols like the DUI checkpoints, or do you just do them?

Olson: I've seen some advertising, not necessarily from the Sheriff's Department, but I know they do the Click it or Ticket campaign and the Drive Sober or Get Pulled Over, but that's more of a state-wide campaign.

Chair Larson: It's not a specific 'we are going to be driving around on this night between these hours' type of thing.

Olson: Correct.

Senator Luick: You mentioned volunteering, is that paid?

Olson: Correct. They volunteer, but they get paid overtime for that.

Chair Larson: Closed the public hearing.

Vice Chairman Dwyer: Motions for a Do Not Pass.

Senator Bakke: Seconds.

A Roll Call Vote Was Taken: 4 yeas, 1 nay, 1 absent. Motion carries.

Chair Larson will carry the bill.

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1442**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Dwyer Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal		X			
Senator Osland	AB				

Total (Yes) 4 No 1

Absent 1

Floor Assignment Chair Larson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1442: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO NOT PASS** (4 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1442 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1442

#1
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2-5-19
pg 1

Halting requires reasonable suspicion. Notwithstanding any other provision of law, a law enforcement officer or peace officer may not halt an operator of a vehicle solely to determine compliance with section 39-08-01, or an equivalent ordinance, unless the officer has a reasonable suspicion to believe there is a violation of section 39-08-01 or equivalent ordinance. This section does not apply to inspections or safety checkpoints for commercial motor vehicles.

NDCC: 39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

This bill simply prohibits sobriety checkpoints.

Why do we have them?

- 1) To apprehend (remove drunk drivers from the road)
- 2) To deter people from drunk driving

Are there alternatives?

Directed patrols and Roving Saturation patrols

What are the concerns with Sobriety checkpoints?

- 1) Widespread resentment for perceived infringement of civil rights (4th Amendment)
 - a) Already decided by supreme court that they are not unconstitutional (if...)
 - b) Doesn't prevent states from prohibiting them.
- 2) They have been proven to do a very poor job of apprehending drunk drivers
 - a) 62% of drivers with BAC >.08 get through undetected.
 - b) Low yield but with very high consumption of resources (man-hours) (<1%)
 - c) Deterrence effect can be good, but has been proven to require multiple frequent, consistent, and widely publicized checkpoints (very costly)

How do checkpoints compare to saturation patrols?

- 1) Little concern with infringement of 4th Amendment
- 2) Excellent job of apprehending drunk drivers
- 3) For the same consistency and publicity they exceed the deterrent effect of checkpoints

If saturation patrols are far better at apprehension, choosing to use them instead of using saturation patrols is literally choosing to leave more drunk drivers on the road.
If saturation patrols are better at deterrence, choosing to use them instead of saturation patrols is intentionally being less effective in combating drunk driving.
The "one more tool in the toolbox" cliché is misapplied in this circumstance.
Generally, if something has no downside, does not infringe on people's rights, and does not needlessly increase expense; sure - why not "leave it in the toolbox".
But when that tool has been shown to have No redeeming value, and harms the actual intent for which it is used, that tool must be discarded.

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Unsteady on Its Feet: Sobriety Checkpoint Reasonableness

Michael F. Lotito*

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* Candidate for J.D., Washington and Lee University School of Law, May 2010; B.S.B.A., University of North Carolina at Chapel Hill, 2005. I thank those who made this Note possible: the Suffolk County District Attorney's Office of New York for inspiring this topic; Professor Russell A. Miller for helping me develop the idea and for serving as my advisor; Peter S. Massaro for his advice and dedicated assistance to this project; Michael T. McCarthy and Bridget Tainer-Parkins for their careful review; and, of course, my family—especially my parents, Frank and Kathleen—for their support, love, and endless entertainment.

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(Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users)

Users (SAFETEA-LU) in 2005.⁹⁹ SAFETEA-LU amended preexisting federal incentive programs under 23 U.S.C. § 410, providing federal grants to qualified states if one of two conditions is met: The state is eligible when its alcohol related fatality rate is at or below 0.5 persons per one-hundred million vehicle miles traveled.¹⁰⁰ Alternatively, the state is eligible when it carries out at least five statutorily defined state "alcohol-impaired driving countermeasures."¹⁰¹ The statute then provides eight possible countermeasures that satisfy this alternative requirement: (1) a checkpoint or saturation patrol program;¹⁰² (2) a prosecution and adjudication outreach program;¹⁰³ (3) increased testing of BAC for drivers involved in fatal accidents;¹⁰⁴ (4) providing stronger sanctions for high risk drivers;¹⁰⁵ (5) programs for effective alcohol rehabilitation and DWI courts;¹⁰⁶ (6) an underage drinking program;¹⁰⁷ (7) administrative license revocation;¹⁰⁸ and (8) a self-sustaining impaired driving prevention program.¹⁰⁹ Most states do not meet the first requirement and, therefore, must implement at least five of the eight listed programs to be eligible for federal grants.¹¹⁰ SAFETEA-LU, therefore, requires additional public resources for sustainability by increasing the presence of alcohol-impaired driving countermeasures, including sobriety checkpoints.

99. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (2005) (codified as amended in scattered sections of 23 U.S.C.).

100. See SAFETEA-LU § 2007(b)(3), 23 U.S.C. § 410(b)(1) (2006) (defining the alcohol related fatality rate to be the "rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration").

101. See *id.* § 410(b)(2)(C) (requiring at least five state programs for the fiscal year of 2009).

102. *Id.* § 410(c)(1); see also Stuster, *supra* note 8, at D-3 (distinguishing roving patrols from saturation patrols).

103. 23 U.S.C. § 410(c)(2).

104. *Id.* § 410(c)(3).

105. *Id.* § 410(c)(4).

106. *Id.* § 410(c)(5).

107. *Id.* § 410(c)(6).

108. *Id.* § 410(c)(7). See N.Y. VEH. & TRAF. LAW § 1194.2 (McKinney 2008) for an example of an administrative license revocation statute.

109. 23 U.S.C. § 410(c)(8) (2006).

110. See Rajesh Subramanian, *State Alcohol Related Fatality Rates*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., PUBL'N NO. DOT HS 809 830, at 6 (2005), available at <http://www-nrd.nhtsa.dot.gov/cats/listpublications.aspx?Id=C&ShowBy=DocType> (follow "State Alcohol-Related Fatality Rates 2003" hyperlink) (demonstrating that seventeen states had an alcohol-related fatality rate of 0.50 or less per one-hundred million vehicle miles traveled in 2003). Figures for the years 2004 to present are currently unavailable.

2. Narrowing the Interest

The political decision to promote the use of sobriety checkpoints as an effective enforcement program is a means to achieve the broader political goal of governmental decision-makers to fight drunk driving, maximize voter happiness, and maximize voter support. How, then, does the sobriety checkpoint maximize individual happiness? The answer depends on the sobriety checkpoint's ability to *remove* drunk drivers from the roads and *deter* motorists from drinking and driving. To that end, one thing is certain: Even though sobriety checkpoints are clearly designed to apprehend individuals driving under the influence of intoxicating substances,¹¹³ sobriety checkpoints are an inefficient means by which to remove drunk drivers from the road and do little to advance that governmental interest relative to other enforcement programs.¹¹⁴ The government concedes this point.¹¹⁵ Not only does the government concede that sobriety checkpoints do little to advance its interest in apprehending drunk drivers, the government concedes further that the diversion of government resources from other drunk driving enforcement programs—such as directed patrols and saturation patrols—may cause the arrest yield to *decrease*.¹¹⁶ If sobriety checkpoints are negligible or even *counterproductive* to society's interest in removing drunk drivers from public roads, then the value of sobriety checkpoints must be a function of the program's ability to *prevent* impaired drivers from operating a motor vehicle in the first place.

113. See *id.* at 470 n.13 (Stevens, J., dissenting) (noting Michigan's court brief, which states that "the [sobriety checkpoint] program is . . . clearly designed to apprehend any drunk drivers who pass through the checkpoint").

114. See *id.* at 455 (majority opinion) ("[A]pproximately 1.6 percent of the drivers passing through the checkpoint were arrested for alcohol impairment. In addition, an expert witness testified at the trial that experience in other States demonstrated that, on the whole, sobriety checkpoints resulted in drunken driving arrests of around 1 percent of all motorists stopped."). But see *id.* at 469 n.11 (Stevens, J., dissenting) ("The Court refers to an expert's testimony that the arrest rate is 'around 1 percent,' but a fair reading of the entire testimony of that witness, together with the other statistical evidence in the record, points to a significantly lower percentage.").

115. See *id.* at 470 n.13 (Stevens, J., dissenting) (providing testimony from a Michigan police official who admitted that the "purpose in effectuating or attempting to effectuate" the checkpoint at issue was "not to obtain large numbers of arrest [sic] of drunk drivers").

116. See T.J. Zwicker et al., *Connecticut's 2003 Impaired-Driving High-Visibility Enforcement Campaign*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., PUBL'N NO. DOT HS 810 689, at 30 (2007), available at <http://www-nrd.nhtsa.dot.gov/Pubs/810689.PDF> ("Refocusing law enforcement efforts away from activities such as directed patrols and saturation patrols, which traditionally yield many more DWI [Driving While Intoxicated] arrests than sobriety checkpoints, was expected to lead to a similar number of DWI arrests or even fewer DWI arrests." (emphasis added)).

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Battling DUI

A Comparative Analysis of Checkpoints and Saturation Patrols

By JEFFREY W. GREENE

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Since September 11, 2001, drunk drivers have killed more people than actually died on that day. Not to take away from the tragedy of September 11, but drunk driving deaths are happening every day in America.¹

For many years, the law enforcement community has attempted to detect impaired drivers through numerous innovative efforts and measures. The problem of driving under the influence (DUI) is well known throughout society, yet, even with all of the strategies used to remove these drivers from U.S. highways, it continues to cause needless and tragic loss of life each year. When will such madness end? When will society no longer

tolerate drunk driving? Until that time, the law enforcement community must attempt to contain the carnage inflicted upon law-abiding citizens by impaired drivers.²

Law enforcement has two basic methods of dealing with the DUI problem—sobriety checkpoints and saturation patrols. Sobriety checkpoints have existed for several years and have served as a deterrent to drunk driving across many communities. Although not the

most aggressive method of removing impaired drivers from America's roadways, these checkpoints comprise one piece of public awareness and education relevant to the drinking and driving dilemma.

Saturation patrols, on the other hand, constitute a vigorous tactic employed by law enforcement agencies to significantly impact an area known for a high concentration of alcohol-impaired drivers. Law enforcement agencies have used saturation patrols much longer than checkpoints, sometimes under a different name or no name at all. Which method offers the best use of law enforcement's limited resources? The choice depends upon many issues, such as funding, resource allocations, and targeted areas.

The Problem

According to National Highway Traffic Safety Administration statistics, 16,653 people died in alcohol-related crashes in 2000, an

increase of more than 800 deaths from 1999. This represented the largest percentage increase on record.³ By some estimates, about two out of every five Americans will be involved in an alcohol-related crash at some time in their lives.⁴ These tragic statistics dramatically illustrate that DUI is a serious problem.

Research has indicated, however, that most impaired drivers never get arrested. Police stop some drivers, but often miss signs of impairment.⁵ Estimates revealed that as many as 2,000 alcohol-impaired driving trips occur for every arrest, and, even when special drinking-driving enforcement patrols are conducted, as many as 300 trips occur for each arrest. Because the police cannot catch all offenders, the success of alcohol-impaired driving laws depends on deterring potential offenders by creating the public perception that apprehension and punishment of offenders is probable. Research also has shown that

the likelihood of apprehension is more important in deterring offenders than the severity of punishment.⁶ Therefore, enforcement is the key to creating the perception of a possibility of capture, while publicizing these efforts can effect a real threat of detainment.

Sobriety Checkpoints

Sobriety checkpoint programs are defined as procedures in which law enforcement officers restrict traffic flow in a designated, specific location so they can check drivers for signs of alcohol impairment. If officers detect any type of incapacitation based upon their observations, they can perform additional testing, such as field sobriety or breath analysis tests.⁷ To this end, agencies using checkpoints must have a written policy as a directive for their officers to follow.

Agencies normally choose locations for checkpoints from areas that statistically reveal a large number of alcohol-related crashes or offenses. Officers stop vehicles based on traffic flow, staffing, and overall safety. They must stop vehicles in an arbitrary sequence, whether they stop all vehicles or a specified portion of them. Checkpoints offer a visible enforcement method intended to deter potential offenders, as well as to apprehend impaired drivers. Agencies should set up checkpoints frequently, over extended periods, and publicize them well.

Sobriety checkpoints must display warning signs to approaching motorists. Also, they normally will provide opportunities for drivers to actually avoid the checkpoint, usually with an alternate route that a



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The key aspect in both sobriety checkpoints and saturation patrols rests with public awareness.
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driver could divert to after passing the checkpoint warning signs. Agencies typically post an officer in a marked cruiser at each end of the checkpoint. These officers can observe the driving behavior of those who choose to avoid the checkpoint.

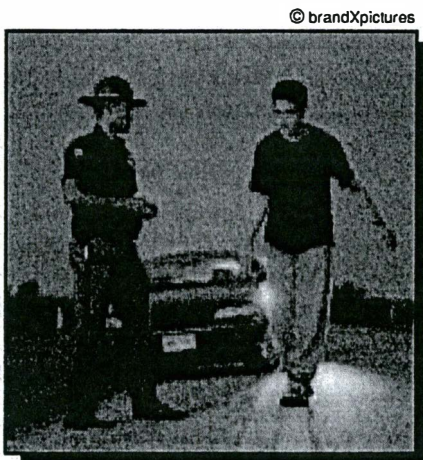
Used to deter drinking and driving, sobriety checkpoints are related more directly to educating the public and encouraging designated drivers, rather than actually apprehending impaired drivers. Typically, sobriety checkpoints do not yield a large volume of DUI arrests. Instead, they offer authorities an educational tool. Education and awareness serve as a significant part of deterrence. Frequent use of checkpoints and aggressive media coverage can create a convincing threat in people's minds that officers *will* apprehend impaired drivers—a key to general deterrence. In addition, public opinion polls have indicated that 70 to 80 percent of Americans surveyed favored the increased use of sobriety checkpoints as an effective law enforcement tool to combat impaired driving.⁸

Saturation Patrols

Saturation patrols involve an increased enforcement effort targeting a specific geographic area to identify and arrest impaired drivers. This area always is much larger than the location chosen for a sobriety checkpoint. However, site selection proves vital in both sobriety checkpoints and saturation patrol initiatives. Some states require documentation as to why a specific location was chosen. Selected sites should have a statistically high incidence of DUI crashes or fatalities

and take into account officer and motorist safety.

Saturation patrols concentrate their enforcement on impaired driving behaviors, such as left of center, following too closely, reckless driving, aggressive driving, and speeding. Multiple agencies often combine and concentrate their resources to conduct saturation patrols. Therefore, planning represents a vital part of these efforts. All involved parties should participate in the planning phase, furnishing their specific views and concerns.



Saturation patrols may afford a more effective means of detecting repeat offenders, who are likely to avoid detection at sobriety checkpoints. These patrols also may more effectively impact a specific geographic location with a history of a high number of alcohol-related crashes. They must enhance people's perceptions of being detected to be effective. Therefore, saturation patrols require the same intense media attention as sobriety checkpoints. In addition, prosecutors and judges must support

saturation patrols. These efforts also must remain ongoing, not merely a onetime operation, to produce successful results, the same as with sobriety checkpoint programs.

A Comparative Study

Statistics compiled by two agencies, similar in size and area of responsibility, offer an overview of the scope of the DUI problem.⁹ In 2000, the Missouri State Highway Patrol conducted 58 sobriety checkpoints and arrested 323 drivers for DUI. The Ohio State Highway Patrol carried out 12 sobriety checkpoints and arrested 77 drivers for DUI. In 2001, Missouri effected 67 sobriety checkpoints and arrested 318 drivers for DUI. Ohio implemented 19 sobriety checkpoints and arrested 126 drivers for DUI. Since 1989, the Ohio State Highway Patrol has participated in 156 sobriety checkpoints and arrested 807 drivers for DUI.

In the past 2 years, the Missouri State Highway Patrol conducted 822 saturation patrol operations, arresting 1,666 drivers for DUI. The Ohio State Highway Patrol performs saturation patrols on a regular basis across the state. The agency arrests an average of 25,000 DUI drivers per year through all DUI-related operations.

In another example, from 1994 to 1995, Tennessee, in cooperation with the National Highway Traffic Safety Administration, implemented a statewide campaign completing nearly 900 sobriety checkpoints. Law enforcement agencies conducted these in all 95 counties in Tennessee in just over 1 year. The checkpoint program was highly publicized and conducted basically

every week. The evaluation of the program revealed it as highly favorable in reducing the number of alcohol-related fatal crashes. Although the program only netted 773 arrests for DUI, the deterrent factor created by the continuous use of the checkpoints and the media attention received resulted in the program's success.¹⁰

What do these statistics convey? Basically, Missouri averaged about five DUI arrests per checkpoint, Ohio averaged less than seven DUI arrests per checkpoint, and Tennessee's aggressive checkpoint program averaged less than one DUI arrest per checkpoint.¹¹

What these figures do not show is the number of impaired drivers deterred by the operations, either through sobriety checkpoints or saturation patrols. Those statistics never will be clearly identified, but any lives saved by such efforts are worth the effort and resources allocated.

What also is not accounted for in these statistics is the additional number of other enforcement actions taken, such as safety belt, commercial vehicle, and child safety seat arrests; speeding violations; warnings for various traffic infractions or vehicle defects; and motorist assists. Detecting such additional violations is more probable during saturation patrols, as opposed to sobriety checkpoints. This alone could represent another measure of effectiveness of saturation patrols.

Overall, measured in arrests per hour, a dedicated saturation patrol is the most effective method of apprehending offenders. Such concerted efforts also may serve as a

general deterrence if their activities are publicized and become widely known.

Critics have pointed out that sobriety checkpoints produce fewer arrests per hour than dedicated patrols, but some studies show arrest rates can be increased greatly when police employ passive alcohol sensors (i.e., devices that can measure the alcohol content in the air, which officers can use while talking to a motorist passing through the checkpoint) to help detect drinking drivers. However, focusing on arrests is

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a misleading way to consider the value of checkpoints. The purpose of frequent checkpoints is to increase public awareness and deter potential offenders, resulting in the ideal situation where very few offenders are left to apprehend.

Sobriety checkpoint programs in Florida, North Carolina, New Jersey, Tennessee, and Virginia have led to a reduction in alcohol-related crashes. In 1995, North Carolina conducted a statewide

enforcement and publicity campaign aimed at impaired drivers. The campaign was deemed a success, indicating “drivers with blood alcohol levels at or above 0.08 percent declined from 198 per 10,000 before the program to 90 per 10,000 after the intensive 3-week alcohol-impaired publicity and enforcement campaign.”¹²

Other Factors

Is public awareness and education important? The key aspect in both sobriety checkpoints and saturation patrols rests with public awareness. The perception of a higher risk of detection for driving under the influence of alcohol may deter more people from driving after drinking. The more the public understands the issues and severity of the consequences, the better they will accept drunk driving as a problem and will embrace a crusade to reduce occurrences. Indeed, agencies must have public support to succeed.

All law enforcement agencies must accept that the media plays a vital role in combating impaired drivers. They must use all outlets possible to spread the word about this needless tragedy that happens every day. All media entities are looking for stories. By working closely with them, agencies can get the message out about the dangers of drunk driving. The sooner agencies realize the importance of the media, the sooner they will gain a valuable ally in their fight. Agencies can garner a great deal of support from the public when they speak out on this vital issue.

Are stricter laws and sanctions working? Twenty-seven states and

the District of Columbia have reduced their blood alcohol content (BAC) threshold to .08 percent from .10 percent in another effort to reduce the number of alcohol-related crashes. The federal government also has adopted the standard of .08 percent BAC, encouraging states to change to .08 percent. In 2003, states that have not adopted the .08 percent standard will lose millions of federal dollars for road construction. Currently, 22 states have the BAC threshold of .10 percent, Ohio included. Studies by the Centers for Disease Control and Prevention's National Center for Injury Prevention and Control indicated, on average, that states adopting .08 percent have reduced crash deaths involving alcohol by 7 percent.¹³

Administrative license suspension laws continue to become more aggressive, attempting to create a stronger deterrent environment. Estimates have indicated that they reduce driver involvement in fatal crashes by about 9 percent.¹⁴ Some laws providing for the suspension or revocation of licenses have indicated a reduction in the subsequent crash involvement of those drivers who previously have been convicted of an alcohol-related offense. Although it is known that many suspended drivers continue to drive, they tend to drive less and possibly more carefully, attempting to avoid detection.

Recommendations

While many conclusions can be drawn from an analysis of sobriety checkpoints and saturation patrols, both serve a significant purpose and, used together, can be effective

in reducing the number of impaired drivers. Law enforcement agencies may find that only one of these works for them, depending upon resources. Others may determine a combination of both is needed to successfully combat the problem in their communities. Regardless of the selected method, it remains essential to identify the specific keys to removing more impaired drivers from U.S. highways, including—

- exposing a sufficient number of motorists to the enforcement efforts and the likelihood of being arrested;
- improving officers' skills in detecting impaired drivers;



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- implementing an aggressive, continuous, and committed media effort;
- continuing efforts by legislatures and courts in an attempt to consistently punish violators and deter impaired driving; and
- identifying problem areas, high-level crash locations, and large volumes of impaired drivers.

It is proven that saturation efforts will bring more DUI arrests than sobriety checkpoints. If that represents an agency's goal and it has the resources, then it should use saturation patrols. If an agency's goal weighs heavier on the educational side, it should use sobriety checkpoints. If an agency should choose to use checkpoints over saturation patrols, the evidence is clear that infrequent use is not effective. So, an agency must consider the cost incurred with the frequent use of sobriety checkpoints. Resources (time and money) may greatly affect an agency's decision regarding which method to employ.

If an agency's goal is to reduce the number of impaired drivers over time, it should use both sobriety checkpoints and saturation patrols, as well as any other available methods. The bottom line is to do something—do everything—to remove impaired drivers from America's highways.

Conclusion

Law enforcement agencies should not accept mediocrity in the area of driving under the influence enforcement. It is not a societal problem. It is everyone's problem, and no one should take it lightly. More people die or are injured on this nation's highways due to impaired driving than from all other causes combined. It is unacceptable, and all Americans pay a price, whether personal, financial, or professional.

Law enforcement agencies must take up the challenge and employ every available weapon to combat this deadly threat. This is a "mission possible." Through better

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education, increased awareness, and some strict penalties, the battle can be won. Working in collaboration with one another, the public, the law enforcement community, and the judicial system can help prevent the needless loss of life that results from drunk driving. "When people are knocked away one at a time, it doesn't make the headlines like it should, but we've got to make Americans realize the fact that it's still the number one killer, and it's 100 percent preventable. This is one thing that we can all work together to do something about."¹⁵ ♦

Endnotes

¹ Millie I. Webb, former national president of Mothers Against Drunk Driving (MADD), quoted in "Advocates Seek to Rejuvenate Fight

Against Drunk Driving," *Criminal Justice Funding Report* (Arlington, VA: Capitol City Publishers, July 3, 2002), 4-5.

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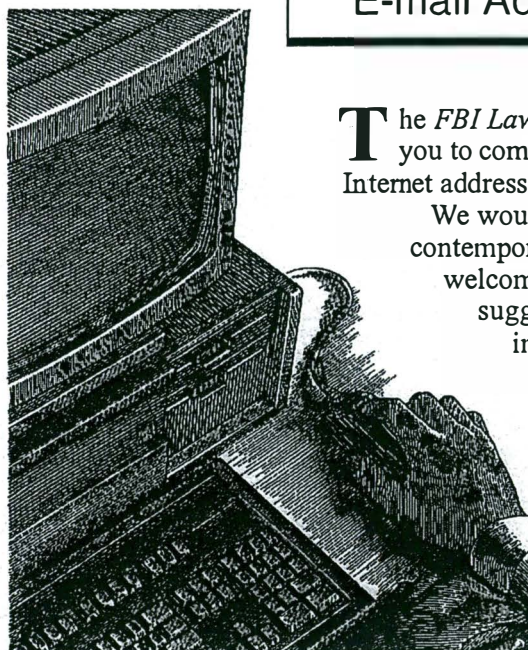
¹² Supra note 5.

¹³ J.C. Fell, Insurance Institute for Highway Safety, *Status Report* (Arlington, VA, June 2001), 6.

¹⁴ Supra note 5.

¹⁵ Supra note 1.

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Lessons Learned From Evaluating Maryland's Anti-Drunk Driving Campaign: Assessing the Evidence for Cognitive, Behavioral, and Public Health Impact

Kenneth H. Beck, PhD

The evidence concerning Maryland's anti-drunk driving program, Checkpoint Strikeforce, is reviewed. To date, there is no evidence to indicate that this campaign, which involves a number of sobriety checkpoints and media activities to promote these efforts, has had any impact on public perceptions, driver behaviors, or alcohol-related motor vehicle crashes and injuries. This conclusion is drawn after examining statistics for alcohol-related crashes, police citations for impaired driving, and public perceptions of alcohol-impaired driving risk. Comparisons are also made with other states in the mid-Atlantic region, where similar campaign activities have occurred. Reasons for this failure in Maryland include insufficient levels of enforcement (e.g., too few sobriety checkpoints and vehicle contacts occurred to raise public perceptions of risk pertaining to impaired driving) and inadequate publicity surrounding this campaign. Suggestions for overcoming these problems are offered.

Keywords: *impaired driving; sobriety checkpoints; public awareness*

Drinking and driving is one of the most frequent causes of premature morbidity and mortality in this country. According to the most recent information put out by the National Highway Traffic Safety Administration (NHTSA), there were 16,885 alcohol-related traffic fatalities in 2005. This represents 39% of all traffic fatalities and equates to about one alcohol-related

traffic fatality every 31 minutes (NHTSA, 2006d). Additionally, an estimated 240,000 people are injured in alcohol-related crashes (about one every 2 minutes), and more than 1 million people are arrested each year for driving under the influence (DUI) of alcohol or drugs (NHTSA, 2006d).

The nation has made considerable progress during the past several decades at reducing the number of people who are fatally injured in alcohol-related crashes (Williams, 2006). However, after experiencing a more than 20-year downward trend, alcohol traffic fatalities started to increase in 2000. The reasons for this increase are not entirely clear. Nevertheless, this prompted renewed efforts to mobilize anti-drunk driving efforts in an attempt to reverse this problem. It appears that some progress has been made, as consistent decreases in alcohol-related traffic fatalities started to appear in 2003.

Unfortunately, Maryland has not enjoyed the same improvement in recent years. The number of alcohol-related traffic fatalities has remained relatively constant during the past 6 years (1999–2004). This is even more apparent when one examines the percentage of traffic fatalities that are alcohol-related in Maryland compared to the nation since the mid-1990s (Figure 1). The relative advantage that Maryland once enjoyed compared to the nation as a whole disappeared in 2000 and, to date, shows no signs of recovery.

The Checkpoint Strikeforce campaign was developed in response to the recent rise in alcohol-related traffic fatalities. This campaign was initiated in the

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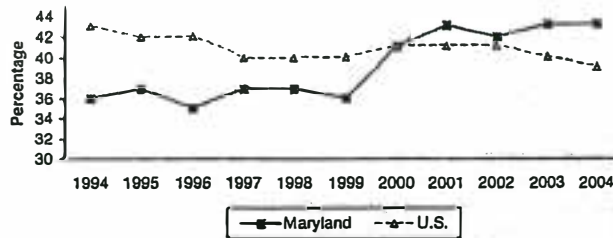


FIGURE 1 Alcohol Fatalities as a Percentage of Total Fatalities
SOURCE: National Highway Traffic Safety Administration (2006a).

mid-Atlantic region of the country and included the states of Pennsylvania, Delaware, West Virginia, Virginia, Maryland, and the District of Columbia. The campaign began in 2002 under the auspices of NHTSA, who worked with state agencies to facilitate various enforcement and public awareness activities that comprised this effort.

One of the key components of the Checkpoint Strikeforce campaign was the use of roadside sobriety checkpoints (NHTSA, 1987, 1990). Sobriety checkpoints have been shown to be effective at reducing the number of alcohol-related crashes as well as single-vehicle nighttime crashes (Lacey, Jones, & Smith, 1999; Levy, Asch, & Shea, 1990; Levy, Shea, & Asch, 1989). At a sobriety checkpoint, law enforcement officers systematically stop drivers to assess possible impairment. If suspicion is raised, then roadside sobriety and chemical tests are performed to determine if the driver is legally impaired (Elder et al., 2002). The checkpoint's primary goal is to deter drinking and driving by increasing a driver's perceived risk of arrest.

In addition to aggressive enforcement, highway safety experts argue that increased media coverage is also necessary to produce this increase in perceived likelihood of arrest (Elder et al., 2002; Elder et al., 2004; Fell, Ferguson, Williams, & Fields, 2003; Mercer, 1985). Thus, the Checkpoint Strikeforce campaign was

accompanied by paid as well as earned media that promoted the campaign and generally informed the public of its existence. The nature and amount of these media activities varied from state to state.

In Maryland, the 6-month campaign began in July 2002. This period ran from July through the first week in January and encompassed Independence Day, Labor Day, Halloween, Thanksgiving, Christmas, and New Year's Day. A summary of the pertinent enforcement and paid media activities is presented in Table 1. During each of the first 3 years, the Checkpoint Strikeforce operated as a 6-month campaign from July through January. In 2005 Checkpoint Strikeforce became a yearlong campaign, with increased enforcement activities for 12 months.

The evidence indicates that people who were exposed to this campaign (i.e., personally went through a checkpoint or knew someone who had) had greater feelings of vulnerability to being stopped by the police if they were drinking and driving than those people who were merely aware of the campaign but had not been personally exposed in any way to it (Beck & Moser, 2004). Furthermore, those people who felt it was certain or very likely that they would be stopped by the police if they drove after drinking too much reported that they were less likely to drive after drinking (Beck & Moser, 2006). The purpose of this article is to examine the effect of the campaign during the first 3 years. The effect of this campaign was examined from several perspectives that included alcohol-related traffic fatalities and crashes, citations for alcohol-related traffic offenses, public perceptions of campaign exposure and personal vulnerability to being stopped for drinking and driving, and people's self-reported drinking and driving behavior.

METHOD

Alcohol Crashes, Injuries, and Citations

Fatality data were obtained from NHTSA's Fatality Analysis Reporting System (FARS). Alcohol-related traffic

TABLE 1
Highlights of Maryland's Checkpoint Strikeforce Campaign

Activity	Year 1 Jul 2002–Jan 2003	Year 2 Jul 2003–Jan 2004	Year 3 Jul 2004–Jan 2005
No. of checkpoints	66	66	74
Vehicle contacts	22,347	57,913	39,023
DUI arrests	133	376	220
Paid media ^a	\$100,000	\$105,000	\$150,000

SOURCE: National Highway Traffic Safety Administration (2006b).

a. Data are from the Maryland Highway Safety Office.

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TABLE 2
Maryland Alcohol Traffic Statistics

	Before Campaign			During Campaign		
	1999	2000	2001	2002	2003	2004
Alcohol-related total crashes	8,540	8,850	9,045	9,056	9,089	8,859
3-year averages		8,811			9,001	
Alcohol-related injury crashes	3,679	3,675	3,762	3,765	3,500	3,329
3-year averages		3,705			3,531	
Alcohol-related fatality crashes	192	179	197	182	163	207
3-year averages		189			184	
Total alcohol-related fatalities ^a	215	240	282	276	281	286
3-year averages		245			281	
Alcohol-related injured drivers	2,386	2,331	2,418	2,436	2,210	2,216
3-year averages		2,378			2,287	
Alcohol-related injured pedestrians	260	243	267	254	322	265
3-year averages		256			280	
Alcohol-related citations	27,214	26,502	25,028	25,709	25,765	26,349
3-year averages (before and during)		26,248			25,941	

SOURCE: Maryland State Highway Administration, Office of Traffic and Safety, Traffic Safety Analysis Division.
a. Data are from the National Highway Traffic Safety Administration (2006a).

checkpoints. In the first year, these items were pilot tested in a telephone survey, and no interpretational or response problems were detected.

RESULTS

Public Health Impact

There was no evidence that alcohol-related fatalities or crashes improved during the first 3 years of this campaign (see Table 2). If anything, the total numbers of alcohol-related fatalities, crashes, and injured drivers and pedestrians in Maryland were greater during the 3-year campaign than before. Furthermore, there was no evidence of an overall increase in statewide enforcement, as indicated by alcohol-related citations. On average, there were fewer statewide citations during the campaign than before.

The proportion of fatalities that were alcohol-related was compared over this time period for all the other states (excluding the District of Columbia due to its low number of fatalities) in the mid-Atlantic region during the campaign. The results (Figure 2) indicate that compared the other surrounding states, alcohol fatalities were worse in Maryland. Further evidence indicated two marginally statistically significant ($p < .06$) differences: Delaware experienced a lower proportion of alcohol fatalities during the campaign (40%) compared to 3

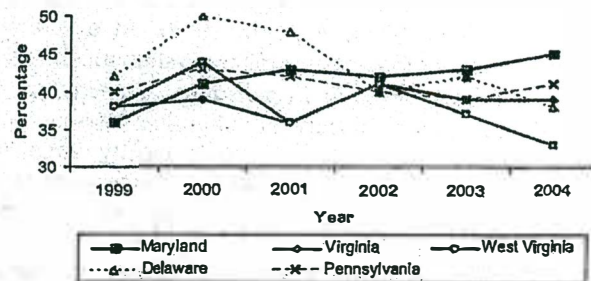


FIGURE 2 Alcohol Fatalities as a Percentage of Total Fatalities
SOURCE: National Highway Traffic Safety Administration (2006a).

years before (47%), whereas Maryland experienced a greater proportion during (43%) than before (40%). West Virginia experienced a steady decline during this time period and had the lowest alcohol fatality rate in 2004.

These analyses were also performed for other states that were not located in the mid-Atlantic region and did not allow checkpoints to be conducted under their state law (NHTSA, 2006c). Minnesota, Oregon, and Washington were selected because they had a relatively comparable number of total fatalities per year to Maryland. No significant differences were detected. Thus, Maryland's results resembled those states that do not conduct any sobriety checkpoints.

TABLE 3
Sample Characteristics

	Year 1 (n = 1,725) %	Year 2 (n = 1,650) %	Year 3 (n = 1,700) %
Gender			
Male	36.9	39.0	36.3
Female	63.1	61.0	63.7
Ethnicity			
White	72.9	72.9	73.5
Age group			
16-20	3.7	3.3	2.8
21-29	11.1	11.2	8.5
30-45	36.3	32.5	31.6
46-64	35.5	36.4	40.3
65+	13.4	16.7	16.7

Public Perception Impact

The demographic composition of the telephone surveys did not vary from year to year (see Table 3). Each year, the samples were more likely to contain females than males. However, this was a constant bias across years; therefore, it did affect the year-to-year comparisons.

The public was more likely to report being exposed to a checkpoint in Years 2 and 3 (see Table 4). This

corresponded with the increased number of vehicle contacts and DUI arrests that were made in the second and third years of the campaign. However, despite this increased contact with sobriety checkpoints, feelings of vulnerability to being stopped by the police for drinking and driving actually decreased. Also, people were less likely to report that other drivers were drinking and driving less often.

Feelings of vulnerability were examined separately for males and females, and similar trends were detected. For each gender, vulnerability decreased significantly in the second and third years. Vulnerability was also examined for 21-29-year-old drivers, those considered most likely to be targeted by this campaign. Vulnerability decreased in the second and third years. However, this was confined to females. Females were significantly ($p < .05$) less likely to think they would be stopped by the police in the second (23.9%) or third (27.2%) year of the campaign compared to the first (36.8%). There was no difference in perceived vulnerability to being stopped by the police across the first 3 years of this campaign for male drivers 21-29 years of age.

Finally, vulnerability was examined in those parts of the state that were more likely to be reached by the media. Drivers from those counties comprising the major media markets (i.e., those around Baltimore; Washington, DC; or the Eastern Shore) were compared to drivers from the other counties. There was no significant difference in perceived vulnerability. Those areas of the state that should have been more likely to receive various public

TABLE 4
Exposure, Perceptions, and Behaviors

	Year 1 (n = 1,725) %	Year 2 (n = 1,650) %	Year 3 (n = 1,700) %
Exposure			
Exposed to a checkpoint	9.4 ^a	14.6 ^b	13.2 ^b
Aware of checkpoints	20.5	20.5	22.4
Unaware and unexposed	67.8	64.9	64.3
Perceptions			
Likely you would be stopped by police	30.3 ^a	24.0 ^b	23.2 ^b
Drinking drivers more likely to be stopped	37.5 ^a	32.0 ^b	28.3 ^b
Saw police on the roads more often	27.9	30.8 ^a	26.4 ^b
Behaviors			
Driven within 2 hours of drinking	9.6	12.1	9.5
Driven after drinking too much	1.1	1.2	.5
Currently drinking and driving less often	4.9	3.4	3.5
Others are drinking and driving less often	22.6 ^a	12.1 ^b	14.5 ^b

NOTE: Percentages with different superscripts differ significantly ($p < .01$) from each other.

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service announcements that promoted this campaign were no more likely to experience an increase in vulnerability to being stopped by the police for drinking and driving.

DISCUSSION

The Checkpoint Strikeforce campaign in Maryland has not succeeded in raising public perceptions of the legal risks of drinking and driving. Nor has it reduced alcohol-related traffic crashes and fatalities. Furthermore, one of the crucial components of this campaign, an increase in statewide citations for alcohol-impaired driving, did not occur. The survey data indicated that public perceptions of vulnerability to being stopped by the police if one were to drink and drive actually declined significantly during the course of the campaign. Also, drivers in those areas of the state where media exposure would be expected to be greater (i.e., in the Baltimore and Washington, DC, metropolitan areas) were not more likely to feel vulnerable than those in other regions. Thus, the other crucial element of this campaign—increased public awareness—did not occur.

Increasing Enforcement

Any campaign that promotes the notion that the police are likely to catch you if you have been drinking and driving has to be backed up with reality. Unfortunately, more drunk driving arrests did not occur. In certain jurisdictions, the police may feel that less priority should be given to alcohol-related traffic citations than to other more serious (at least to them) violations. Furthermore, police officers may feel disinclined to make an arrest given the amount of time it takes to process an offender (that takes the police officer out of active service); the matter of obtaining the necessary evidence of impairment; frustration that the eventual penalty may be reduced through plea bargaining or other legal maneuvering to a lesser offense; and the time, embarrassment, and humiliation they may encounter from aggressive defense attorneys who call them as witnesses during the trial of the drunk driving offender. Fell, Lacey, and Voas (2004) mention that lack of local police force resources and funding, lack of support by task forces and citizen activists, and the perception that checkpoints are neither productive nor cost-effective, are the main reasons why checkpoints are not used.

Undoubtedly, the initiative and leadership role for making impaired driving arrests is set by the commanding officers. If the police station's commanding officer views drunk driving as an important issue and is committed to conducting sobriety checkpoints and issuing citations, it seems that officers in his or her unit will be more likely to follow suit. Conversely, if such activities are viewed as

lower priority (especially in relation to post-9/11 security concerns), costly, and manpower intensive, it seems unlikely that there will be an increase. It appears that although there was a jump in campaign-specific sobriety checkpoint activities in the second year, there was no evidence that this increase percolated through the rest of Maryland's enforcement community.

Even more telling is an examination of the sobriety checkpoint activity in West Virginia, where alcohol-impaired fatalities declined throughout the first 3 years of the campaign. In 2004, West Virginia not only conducted more checkpoints (91) but made more vehicle contacts (68,124) than Maryland (74 and 39,023, respectively; NHTSA, 2006b). Yet West Virginia's population is approximately 2.9 times smaller than Maryland's. West Virginia's success appears to be because of the higher level of enforcement. For instance, in Year 3 of the campaign, it conducted approximately 5 checkpoints and 3,700 vehicle contacts for every 100,000 residents. During this time, Maryland conducted only approximately 1.4 checkpoints and 736 vehicle contacts for every 100,000 residents. This suggests that unless Maryland's sobriety enforcement activity reaches a per capita threshold comparable to West Virginia's, it is unlikely to experience significant decreases in alcohol-related traffic fatalities.

Motivating the police to make more arrests for impaired driving may be a substantial challenge. Two specific suggestions are offered to make this happen. The first is increased training in DUI detection, apprehension, and conviction. Officers need to be motivated to make more alcohol-impaired traffic stops and higher quality alcohol-related arrests (i.e., those that do not get thrown out or plea bargained to a lesser offense in court). Training that exposes the officers to a broader but more intensive background on the historical, societal, psychological, and legal aspects of drinking and driving may enhance their skills and motivation to make alcohol-related driving arrests. Such a program has been initiated at the University of Maryland in which police officers are exposed to an intensive, weeklong course on these topics. In addition, state attorneys also provide detailed instruction on permissible forms of evidence and explain when it is appropriate to conduct a roadside stop and a standardized field sobriety test of alcohol impairment. This in-class material is followed by a mock court experience in which officers are subjected to courtroom procedures where their testimony is challenged by a defense attorney. The officer's performance is critiqued and suggestions are given concerning how to withstand defense attorney cross examination. The officers find this portion of the course particularly valuable.

The second suggestion for increasing enforcement is to enlist the support of key influential people and

opinion leaders within the enforcement community. This would involve commanders within each of the Maryland State Police barracks as well as in the municipal police departments. There is little to no evidence that this has occurred. Conversations with members of the Maryland State Highway Administration indicate that some police chiefs are not really on board with this program. They either do not believe in sobriety checkpoints or think they would require too much manpower to conduct and would yield proportionately few alcohol-related citations relative to the time and money invested. Convincing the entire enforcement community that the primary purpose of checkpoints is to increase public perceptions of the drinking and driving risk, not necessarily to make a DUI arrest, will be challenging. However, there have been documented cases that sobriety checkpoints catch more than drinking drivers. Numerous drugs, weapons, seat belt violations, and other felony arrests have also occurred at checkpoints (NHTSA, 2006b). Checkpoints have payoffs in other enforcement domains besides alcohol-impaired driving, and this may help convince some of these police commanders of their benefit.

Increasing Public Awareness

Increasing public awareness through media outreach is also needed, along with increased enforcement. There was no evidence from the survey data that the campaign changed public perceptions or behaviors. The dosage and duration of Maryland's public media campaign was insufficient to produce detectable and sustained changes in public perceptions of vulnerability. The \$100,000 to \$150,000 Maryland committed each year to promote this campaign was inadequate to achieve sufficient audience reach and frequency of exposure. Clearly, more money will be needed for paid media, along with better ways of obtaining earned media. The advantage of earned media, in which the event (i.e., sobriety checkpoint) is covered as a news story by the local news stations, is that it does not require any cost. Creative and entertaining strategies that can be used to engage the electronic and print media will help generate earned media and can be used to supplement the paid media. Engaging and networking with representatives of the media should help facilitate these efforts. In addition, the enforcement community itself needs to enhance its ability for media outreach and plan proactively how it will promote its operational activities.

CONCLUSIONS

It takes time to see an effect. It is unlikely that even if substantial changes occurred in sobriety campaign

activities, the results would be immediately detectable. Abrupt changes in crash rates, fatalities, or even citations may take several years to become statistically significant. In addition, it may be hard to sustain campaign momentum, especially if these public health outcomes do not improve substantially. Although behavioral and perception data may provide a more immediate indication of promising trends, those administrators and policy makers who ultimately control the financial and human resources for such efforts are most likely to be persuaded by hard facts (i.e., reductions in crashes, injuries, and fatalities). Nevertheless, public opinion data can be used to show where campaign improvements need to be made, where promising trends exist, and what public sentiment is concerning sobriety checkpoints.

Currently, Maryland is doing too little in the area of impaired driving prevention. This raises the question as to whether this state has the political will to combat this problem. A recent report issued by Mothers Against Drunk Driving (MADD) gave Maryland only the grade of C for its anti-drunk driving efforts (MADD, 2006). This composite grade was based on a variety of indicators, including its laws on drunk driving. Among specific measures, Maryland earned only the grade of D for its administrative measures and criminal sanctions for drunk drivers, indicating a statewide tendency to be rather lenient when imposing consequences on drunk drivers. Thus, in addition to mobilizing increased enforcement and greater public awareness and concern, we must also lobby for political and legislative change so that stronger laws and sanctions are available for dealing with alcohol traffic offenders. This may be difficult in the current social climate in which the salience of alcohol-impaired driving is no longer as prominent as it once was, especially after significant successes and improvements have been made (Williams, 2006).

The means by which political and legislative change can occur are complicated and unlikely in the short term. The national success that MADD has had during the past several decades at making drunk driving a prominent issue of public concern and the resultant legislative changes that have ensued suggest that it possible to do this at the state level with citizen activist groups. Perhaps an even more radical approach is needed than simply lobbying state legislators or providing invited testimony on the risks of drinking and driving, its costs to the state, and the benefits of passing proposed and more progressive legislation. Instead, proactive approaches might be called for in which specific legislators are targeted with aggressive and public demands to explain their record of voting against or otherwise diminishing proposed progressive

legislation that would strengthen sanctions against drunk drivers. Policy makers need to be held accountable as much as the enforcement community.

This investigation had several unique strengths and limitations that need to be acknowledged. The use of multiple indicators including alcohol-related crashes, injuries, and citations supplemented the public opinion telephone survey data. As a result, a clearer picture of the public health impact of this anti-drunk driving effort was available. Too often, public campaigns are evaluated using only attitudinal or self-report behavior measures and are not able to include a variety of public health status measures. The use of a variety of mortality, morbidity, and enforcement data were decided strengths to this evaluation. Unfortunately, the budgeting and planning process did not allow for telephone surveys of public awareness to be done in Maryland before the campaign started. This would have allowed precampaign levels of driver perceptions and behaviors to be assessed and would have enabled pre/post comparisons to be performed of public perceptions of alcohol-impaired driving risk. Program evaluators need to be involved in the planning process of such public health and safety initiatives as early as possible so that proper attention can be given to program evaluation.

In summary, the lesson learned from Maryland's Checkpoint Strikeforce campaign is that the levels of commitment from the public, enforcement, and political communities were well below the thresholds that are critical for public health impact. Insufficient investments in paid as well as earned media, along with a generalized failure to increase the level of enforcement of impaired driving, were factors that contributed to this outcome.

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DUI checkpoints costly, catch few

46,000 drivers stopped, but only 75 are convicted

By Jack Gillum

ARIZONA DAILY STAR

Pima County sobriety checkpoints have netted a tiny number of DUI arrests despite stopping tens of thousands of drivers since 2005, an Arizona Daily Star investigation has found.

Since the Sheriff's Department began staging checkpoints nearly two years ago — overriding authorities' previous concerns that the stops yielded few arrests — fewer than 1 percent of the more than 46,000 drivers stopped have been arrested on suspicion of DUI.

And fewer than half of those arrested have been convicted.

Even with the low arrest rates, proponents defend the checkpoints, saying they deter drunken driving by educating people about its dangers. Every person deputies stop receives anti-drunken-driving pamphlets, which they say means one more person who may avoid driving under the influence.

Still, the number of DUI arrests has remained constant since the stops were reinstituted in September 2005 after a 10-year hiatus. In other words, it doesn't appear fewer drivers are driving while drunk.

"It's a good sign that we've arrested so few people," Sheriff's Lt. Karl Woolridge, who supervises the agency's special operations, including checkpoints, said when presented with the Star's findings. "At least we've removed nearly 300 impaired drivers off the road."

But critics of the checkpoints, including defense attorneys and civil libertarians, question their effectiveness and legality. They say police have more sure-fire methods for spotting drunken drivers, such as concentrated patrols.

The Sheriff's Department has spent more than \$140,000, mostly in federal and state money, on 63 staffed checkpoints though May.

DUI checkpoints force drivers to stop and talk with a deputy, who asks them if they've consumed alcohol or taken drugs. Depending on the driver's answer, the deputy will inspect the driver for bloodshot eyes, alcohol-tinged breath and other telltale signs of impairment.

How effective those procedures are, and to what degree critics say they constitute an unreasonable search and seizure, is up for debate.

Checkpoints are "feel-good measures that are costly," said Alessandra Soler Meetze, executive director of the American Civil Liberties Union of Arizona. "It gives the impression that they're reducing the amount of drunk driving, but it doesn't seem to be the case."

Questions of effectiveness

By the numbers

- Drivers stopped at checkpoints: 46,781
- Field-sobriety tests: 1,168
- DUI-related arrests: 282
- DUI cases dismissed: 105*
- DUI convictions: 75*

*102 cases still pending.

Source: Arizona Daily Star analysis of Pima County Sheriff's Department DUI checkpoint arrest data and Pima County Consolidated Justice Court records, from September 2005 to May 2007.

Did you Know ...

The Legislature changed Arizona's DUI blood-alcohol content from 0.10 percent to 0.08 percent in September 2001. The new law was prompted partly by a 2000 federal law that withholds some highway money to states that have not adopted the lower limit.

OUT Next WEEKEND

Officers will be on special weekend DUI enforcement details Labor Day weekend, the Pima County Sheriff's Department said, which will include sobriety checkpoints and saturation patrols. The enforcement is part of a national anti-DUI campaign that began in mid-August.

DUI Checkpoints: Reconsidering Their Effectiveness

California traffic safety officials declared 2010 the "year of the checkpoint," and dramatically increased the number of DUI checkpoints held across the state.

However, California DUI checkpoints have come under increased scrutiny lately, in large part due to a study by California Watch and the Investigative Reporting Program at UC Berkeley that found that officers impounded six cars for every one DUI arrest made. The investigation highlighted that DUI checkpoints are highly profitable operations for cities and towns and questioned the disproportionate impact of DUI impound policies on unlicensed minorities.

The California Watch study also reconfirmed that DUI checkpoints net relatively few DUI arrests when compared to the number of vehicles stopped. This has lead many to question whether DUI checkpoints are the most effective means of preventing drunk driving in California, particularly in light of the mounting legal concerns.

Therefore, it may be time to examine whether state funding would be better invested in saturation patrols, during which police patrol high-risk areas for drivers that appear to be impaired.

In support of that argument, consider the following:

In 2008, only 5,000 of the total 215,000 California DUI arrests took place at sobriety checkpoints (2.3%).

* Law enforcement officials concede that DUI checkpoints are not the best way to prevent drunk driving. As Riverside County (Calif.) Sheriff Stanley Sniff told USA Today: "We make light-years more arrests on random patrols than at checkpoints."

* A comparative study by the FBI found that saturation patrols were the most effective means of apprehending drunk drivers.

* A 2009 University of Maryland study found that checkpoints do not have "any impact on public perceptions, driver behaviors or alcohol-related crashes, police citations for impaired driving, and public perceptions of alcohol-impaired driving risk."

This is not to suggest that DUI checkpoints do not have value in deterring drunk driving in California. However, given that they do not raise the same legal concerns as DUI checkpoints and have proven to be more effective in arresting drunk drivers, saturation patrols may be a better option.

Further information about DUI checkpoints and saturation patrols can be found at California DUI Guide website. Drivers facing a California DUI arrest are also encouraged to contact experienced DUI defense attorney Thomas Wallin for a free consultation.

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- Although most of the arrests or citations at checkpoints were DUI-related, more than 100 were not. Citations ranged from possession of marijuana to driving on a suspended license.

Outcomes in 22 cases couldn't be determined because corresponding court records couldn't be found despite an extensive search. The Sheriff's Department also could not find records in those cases.

Five to 30 deputies can staff a checkpoint, statistics show, with a few sergeants at each checkpoint, too. Six to 12 sheriff's volunteers assist the officers, Woolridge said.

In the last two years, the agency has spent about \$142,000 on overtime pay for checkpoints, data show. If divided up yearly, that accounts for a sizable amount of the funds from the National Highway Traffic Safety Administration and the state, according to a calculation of budget figures.

About \$120,000 of the federal money given to Arizona went to the Sheriff's Department in fiscal 2007 to help pay for deputies' overtime at checkpoints and DUI patrols, said Michael Hegarty, the deputy director of the Governor's Office of Highway Safety. The state gives the money to Pima County, which then divvies it up to local agencies, including the Sheriff's Department.

Among the checkpoints with the most deputies was one conducted during Labor Day weekend in 2005. Records show 27 deputies staffed the checkpoint for more than three hours, netting four arrests at North La Cholla Boulevard and West Ruthrauff Road out of 571 drivers who passed through.

But to some DUI-checkpoint proponents, hassles for so many sober drivers are worth it even if the stops cause delays.

"Inconvenience is a way of life," said Kelly Larkin, executive director of the Tucson affiliate of Mothers Against Drunk Driving. Even if the cases against drivers get dismissed, she said, "It got them off the streets that night."

Increased enforcement

Pal Ham approached the DUI checkpoint on West Picture Rocks Road near Saguaro National Park West on Sept. 4, 2006. Before he got behind the wheel, he'd had a few beers — three to be exact, he said.

Deputies arrested Ham, 74, on a drunken-driving charge, court records show. He pleaded guilty after blowing a 0.105 percent blood-alcohol content, and said he spent a night in jail.

To this date, he has mixed feelings about the checkpoints.

"I could get along without them," he said, "until one of my loved ones gets killed."

Ham's case epitomizes why checkpoints are worth the time, proponents say.

Still, the most widely cited alternative to sobriety checkpoints are "saturation patrols," which increase the number of police officers on the streets to look for drunken drivers.

Thus, lawyers and checkpoint critics say, defendants have more evidence against them as officers can observe more telltale signs of impairment, such as weaving or stopping at a green light.

Some agencies, including the Tucson Police Department, have stopped conducting checkpoints, a spokesman said, but he could not elaborate.

Nonetheless, Hegarty, the Governor's Office of Highway Safety official, said a DUI checkpoint is "not about arresting; it's about having a presence and educating the community."

Here and in other states, authorities plan to continue using checkpoints as part of their arsenal against drunken driving.

In fact, state and local officials are planning a crackdown on drunken driving this Labor Day weekend that will include a checkpoint in Pima County.

"We're here to catch impaired drivers," Woolridge said at the July 4 checkpoint. "This isn't a fishing expedition."

One professor who has studied the effectiveness of DUI checkpoints said his results show that checkpoints

As Independence Day neared its close this summer, sheriff's deputies at a Southwest Side DUI checkpoint had spent more than two hours stopping cars on West Valencia Road near South Westover Avenue.

The lines of vehicles, sometimes more than a dozen deep, rolled by as deputies repeated a familiar line: "Good evening. Have you consumed any alcohol or drugs today?"

The answer, by and large, was "no." But for the few who said "yes" or looked suspicious, deputies asked the driver to pull into the median and perform a field-sobriety test.

Between September 2005 and May 2007, the Sheriff's Department conducted 1,168 such tests at DUI checkpoints, records show. That means that for every four drivers who were screened, deputies arrested one.

One of those tested that July 4 night was a woman in her 20s who registered 0.119 percent blood-alcohol level on a Breathalyzer, above the state's 0.08 percent DUI level.

In the back seat sat two minors drinking beer, the remnants of a 24-pack between them.

"Yeah," said Woolridge as he observed the woman. "This is why we do checkpoints."

Still, at this stop, the unidentified woman was one of only three DUI suspects, the Sheriff's Department reported. From 9:15 p.m. to 12:15 a.m., deputies counted 1,239 cars that passed through, an arrest rate of less than one-tenth of 1 percent. Thirteen deputies staffed that checkpoint.

Such low rates, critics say, are why authorities should be shifting tactics.

Police officers are well-trained in how to spot drunken drivers, "and then they just stop everyone who's driving along," said Joe St. Louis, a local attorney who specializes in drunken-driving cases, including some that began at checkpoints.

"It's just crazy. If you stop people at random, it's not an efficient use of your time or of taxpayer dollars," he said. Such random stops, critics argue, just waste the time of sober drivers and law enforcement.

While it's hard to say just how effective DUI checkpoints are compared with other enforcement methods, statistics show that their educational component is also debatable: DUI arrests have remained relatively constant each month since they began in September 2005.

That month, the department recorded 125 DUI arrests; in June 2007, there were 127. The most between those months was this May, at 175.

The department stopped DUI checkpoints in the mid-'90s amid concerns of low arrest rates, Woolridge said. But after sheriff's officials examined studies that showed checkpoints have a deterrent effect, the department restarted the program.

Few arrests, fewer convictions

The Arizona Daily Star reviewed court cases of those arrested at the checkpoints from September 2005 through May 2007 and compared the data with checkpoint statistics from the Sheriff's Department. The newspaper obtained the list of checkpoint arrests through a public-records request in June.

Among the Star's findings:

- Sheriff's officials counted 46,781 drivers who went through the checkpoints, most of whom were not arrested or even tested for being impaired.
- Of those drivers who were stopped, deputies arrested 282 on suspicion of drunken driving. That accounts for 0.6 percent of all drivers who went through the checkpoints.
- Of the 180 DUI cases that have been through the courts, 105 have been dismissed. Defense lawyers point to weak evidence, such as a lack of reasonable suspicion, and constitutional violations as reasons why, although they say each case is different.
- While deputies were able to stop drivers who were perhaps the most egregious offenders, they also snagged some who were far below the DUI level. Still, Arizona law prohibits drivers from getting behind the wheel if they're impaired to the slightest degree.

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Wellington, Russian students creating business

District's appearance is central issue

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COMMUNITY NEWS



[Enlarge Image](#) [Request to buy this photo](#)Dispatch file photoColumbus police have accepted nearly \$225,000 in grant funds to conduct checkpoints each year. “(Columbus police) just feel it wasn’t an appropriate use of funds and manpower,” said Michael Brining, a law enforcement officer liaison for the Ohio Traffic Safety Office.

By [Beth Burger](#) The Columbus Dispatch • Thursday October 6, 2016 5:49 AM

were associated with a 20 percent reduction in drunken-driving crashes in the Maryland-Virginia-Washington, D.C., area.

But that's only "if they are done often enough and publicized," said Kenneth H. Beck, a professor of public and community health at the University of Maryland. "Otherwise, they're not likely to get the deterrent effect."

Today, Beck said, checkpoints are much more common nationwide. But of the more than 1.5 million people who are arrested for drinking and driving each year, he said, "far more are arrested outside of checkpoints."

The question of such checkpoints' effectiveness, then, comes down to perspective.

"One of the arguments is that there is a general public-awareness factor," said Roger Hartley, an associate professor of public administration and policy at the University of Arizona's Eller College of Management.

"But if it was worth the cost, they'd do it all the time."

Compare how effective various DUI checkpoints have been over the past two years in an interactive map at www.azstarnet.com/crime.

By the numbers

- Drivers stopped at checkpoints: 46,781
- Field-sobriety tests: 1,168
- DUI- related arrests: 282
- DUI cases dismissed: 105*
- DUI convictions: 75*

*102 cases still pending.

Source: Arizona Daily Star analysis of Pima County Sheriff's Department DUI checkpoint arrest data and Pima County Consolidated Justice Court records, from September 2005 to May 2007.

Did you Know ...

The Legislature changed Arizona's DUI blood-alcohol content from 0.10 percent to 0.08 percent in September 2001. The new law was prompted partly by a 2000 federal law that withholds some highway money to states that have not adopted the lower limit.

OUT Next WEEKEND

Officers will be on special weekend DUI enforcement details Labor Day weekend, the Pima County Sheriff's Department said, which will include sobriety checkpoints and saturation patrols. The enforcement is part of a national anti-DUI campaign that began in mid-August.

- Contact reporter Jack Gillum at 573-4178 or at jgillum@azstarnet.com.

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A Centers for Disease Control and Prevention review of studies found that checkpoints reduced alcohol-related fatal, injury and property crashes by about 20 percent. The main purpose of checkpoints is not to increase arrests, but rather public awareness, according to the website.

"The number of drivers evaluated would be more of an appropriate measure," according to the CDC's website.

Each time a checkpoint is held, news releases are sent to media outlets to notify drivers of the locations beforehand.

"Checkpoints are not necessarily designed to be an arrest tool," Brining said. "They are a deterrent and public education tool."

For years, Columbus police have also worked with Franklin County's OVI Task Force. That task force has been around since 1993 and involves several law enforcement agencies.

Chief Deputy Jim Gilbert, of the Franklin County Sheriff's Office, who oversees the county's OVI Task Force, said the county will continue to conduct checkpoints.

"We find that educating the public on the dangers of drunk driving is just as important as enforcement efforts — checkpoints and the public release of those checkpoints hopefully accomplishes our goal of having individuals make better choices when it comes to getting behind the wheel if they have been drinking," he said.

The email states officers will most likely remain part of the county's taskforce.

Jacobs plans to allow officers to still receive funding that would go toward strategically patrolling areas where data shows there are a high volume of alcohol-related crashes. Officers will also receive funding for selective enforcement that allows them to target other traffic violations, according to the email.

Doug Scoles, state executive director for Mothers Against Drunk Driving Ohio, said cutting sobriety checkpoints will lead to more deaths.

"The more (officers) we have out there, the less tragedies we have on our roadways," he said.

"Whatever the cause is, we object to it, because it's putting the interest of public safety lower than it should be."

bburger@dispatch.com

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P.26

The Columbus Division of Police has dismantled its task force responsible for sobriety checkpoints after the police chief declined to accept grant funds, multiple sources confirmed Wednesday.

"It is with great disappointment that I report to you that Columbus Division of Police no longer has a formal OVI task force," Traffic Bureau Sgt. Michael Smith told law enforcement partners in an internal email obtained by The Dispatch. "By order of Chief Jacobs, grant funding has been declined to fund future sobriety checkpoint operations."

The email, which was sent Tuesday, did not say why Chief Kim Jacobs decided to decline funding.

Jacobs was unavailable for comment Wednesday and did not respond to an email with questions. A spokesman said the chief is the only one who would be able to explain the decision.

Columbus police have accepted nearly \$225,000 in grant funds to conduct checkpoints each year.

"(Columbus police) just feel it wasn't an appropriate use of funds and manpower," said Michael Brining, a law enforcement officer liaison for the Ohio Traffic Safety Office.

>>>Previous story: Are DUI checks fair?

Brining, who works as a grant coordinator with law enforcement agencies, helps determine which departments receive how much federal grant money from the National Highway Traffic Safety Administration.

"Columbus always did a vigilant job of positioning (officers) where there were impaired driving and crashes," he said.

According to the email, Jacobs decided to reject the grants for future sobriety checkpoint operations as well as the mobile (Blood Alcohol Content) truck platform.

Until Tuesday, Columbus police had the only OVI task force in the state composed of members from a single law enforcement agency.

The department began setting up checkpoints in 2010 and used grant funds to purchase the blood alcohol testing truck in 2011. Then officers formally created a Columbus police Operating a Vehicle Intoxicated task force two years ago, which helped secure grants.

In 2013, the Columbus police conducted 13 checkpoints and made a total of 31 OVI arrests after a total of 12,731 vehicles passed through the checkpoints, according to an annual report. The following year, the most-recent year for which records are available, the number of checkpoints increased to 20. A total of 7,280 vehicles passed through the checkpoints and officers made 53 OVI arrests.

There is some debate over the effectiveness of sobriety checkpoints. Checkpoints often don't result in a high number of OVI arrests.

Other tactics more effective than sobriety checkpoints

Mar 10, 2019

Prohibition of sobriety checkpoints in House Bill 1442 passed the state House and will soon be heard in the Senate. Some are opposing elimination of sobriety checkpoints, usually saying, "We need to leave this tool in the toolbox for law enforcement." That worn-out phrase is not applicable here, and I'll explain why.

Sobriety checkpoints need to be compared to other, better tools in law enforcement's toolbox; namely directed patrols such as roving saturation patrols. Sobriety checkpoints require a large presence with numerous officers tied up for many hours. The checkpoint location must be advertised a week in advance, and drivers must be allowed to turn around as they approach the checkpoint. Roving saturation patrols, on the other hand, send several patrol cars out to target areas, looking for signs of driver impairment. Law enforcement can choose if they want to advertise the RSPs.

There are two components to law enforcement strategy to curb drunken driving; apprehension and deterrence. With regard to apprehension, it has long been known that sobriety checkpoints fail miserably. The FBI sent out a bulletin in 2003 confirming that checkpoints are inferior to RSPs in apprehending drunken drivers. Several studies corroborate this, including a study showing that a whopping 62 percent of drivers with a blood alcohol above the legal limit pass through checkpoints undetected. Even advocates for checkpoints acknowledge that they have very little value in apprehension. They instead point to deterrence as the primary value. There are two problems with this. The first is that several studies have proven that deterrence occurs only if checkpoints are performed frequently and are advertised extensively, but in North Dakota they are performed very infrequently.

For example, Cass County conducted only one checkpoint in 2017, and Fargo has not conducted a checkpoint since 2014. Statewide, the Highway Patrol conducted only 17 checkpoints over the last two years. This isn't nearly frequently enough to have an actual deterrent effect. The other problem with the deterrent claim is that it is being compared to doing nothing. No studies have shown that the checkpoint deterrent effect is better than an advertised RSP deterrent effect. Common sense tells us that letting the public know there are increased directed patrols somewhere out in the city looking for drunken drivers will have far greater deterrence than letting the public know there will be a checkpoint at a specific address on a specific date.

The final issue is use of resources. Officer's time is valuable. Standing around at a checkpoint is not a good use of time. Consider that our own statistics show 21 percent of drivers stopped with RSPs are issued a DUI, but less than 2 percent of drivers stopped at a checkpoint are issued a DUI.

There is a tendency to cite various drunken driving statistics and then say, "We need every tool in the toolbox." Given the data above, when someone says "What about the drunken driver that a checkpoint takes off the roads?", I respond by saying, "For every drunken driver taken off the road with a checkpoint, there are two or three drunken drivers left on the road whenever law enforcement resources are put into a checkpoint instead of a saturation patrol." Advocating to keep sobriety checkpoints is to ignore the facts, and to advocate for a policy that leaves drunken drivers on the road, leaving North Dakotans at greater risk of becoming victim to a drunk driver.

#1
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FARGO — The North Dakota Legislature has taken a step toward banning DUI checkpoints — an enforcement method that some view as ineffective. But local law enforcement leaders say checkpoints not only help catch drunken drivers but also deter impaired driving in the first place.

DUI checkpoints boost public awareness about drunken driving and, because the checkpoints are announced ahead of time, encourage drinkers to plan other ways of travelling, said Sgt. Wade Kadrmaz, safety and education officer with the North Dakota State Highway Patrol.

House Bill 1442, which would outlaw DUI checkpoints, was passed by House lawmakers with a 79-14 vote on Feb. 12. And it's now headed to the Senate for consideration.

The Highway Patrol is taking a neutral stance on the legislation, saying the agency will follow the law whatever the outcome, Kadrmaz said.

Fargo Police Chief David Todd and Cass County Sheriff Jesse Jahner both support DUI checkpoints, saying they are a useful tool to get DUI drivers off the road and that the bill takes that away from law enforcement officials.

The bill's main sponsor, Rep. Rick Becker, said supporting checkpoints by arguing they offer an additional enforcement method for officers is "cliched," saying they have been "proven inadequate." Becker, R-Bismarck, said that for DUI checkpoints to be effective, they need to be conducted more frequently and have wider advertisement.

Numbers from North Dakota law enforcement agencies show that only a fraction of DUI arrests come from checkpoints.

The Highway Patrol conducted 16 checkpoints across the state between January 2017 and December 2018. Those checkpoints resulted in 17 DUI arrests. Another 17 arrests were for driving under suspension, warrants, drug offenses and underage drinking.

In all, the Highway Patrol made 1,135 DUI arrests in 2017 and 1,158 in 2018.

The Cass County Sheriff's Office conducted two recent checkpoints, one in 2016 and one in 2017. A total of 333 vehicles were stopped, and 33 drivers were evaluated, resulting in six arrests. In 2016 and 2017, sheriff's deputies on roving sobriety patrols stopped 215 vehicles and made 45 arrests for DUI or alcohol-related offenses.

Jahner acknowledged that roving sobriety patrols have been more effective for the sheriff's office, but pointed out that it's difficult to quantify how many drunken drivers were deterred because a checkpoint was announced.

The Fargo Police Department hasn't conducted a DUI checkpoint since 2014 because the department is stretched for staffing and checkpoints are "manpower intensive," Todd said.

But between October 2004 and August 2014, the department conducted 62 DUI checkpoints. A total of 10,732 drivers were screened, resulting in 179 DUI arrests. There were an additional 147 arrests in connection with underage drinking, drug offenses and other crimes.

Unsteady on Its Feet: Sobriety Checkpoint Reasonableness

Michael F. Lotito*

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* Candidate for J.D., Washington and Lee University School of Law, May 2010; B.S.B.A., University of North Carolina at Chapel Hill, 2005. I thank those who made this Note possible: the Suffolk County District Attorney's Office of New York for inspiring this topic; Professor Russell A. Miller for helping me develop the idea and for serving as my advisor; Peter S. Massaro for his advice and dedicated assistance to this project; Michael T. McCarthy and Bridget Tainer-Parkins for their careful review; and, of course, my family—especially my parents, Frank and Kathleen—for their support, love, and endless entertainment.

(Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users)

Users (SAFETEA-LU) in 2005.⁹⁹ SAFETEA-LU amended preexisting federal incentive programs under 23 U.S.C. § 410, providing federal grants to qualified states if one of two conditions is met: The state is eligible when its alcohol related fatality rate is at or below 0.5 persons per one-hundred million vehicle miles traveled.¹⁰⁰ Alternatively, the state is eligible when it carries out at least five statutorily defined state "alcohol-impaired driving countermeasures."¹⁰¹ The statute then provides eight possible countermeasures that satisfy this alternative requirement: (1) a checkpoint or saturation patrol program;¹⁰² (2) a prosecution and adjudication outreach program;¹⁰³ (3) increased testing of BAC for drivers involved in fatal accidents;¹⁰⁴ (4) providing stronger sanctions for high risk drivers;¹⁰⁵ (5) programs for effective alcohol rehabilitation and DWI courts;¹⁰⁶ (6) an underage drinking program;¹⁰⁷ (7) administrative license revocation;¹⁰⁸ and (8) a self-sustaining impaired driving prevention program.¹⁰⁹ Most states do not meet the first requirement and, therefore, must implement at least five of the eight listed programs to be eligible for federal grants.¹¹⁰ SAFETEA-LU, therefore, requires additional public resources for sustainability by increasing the presence of alcohol-impaired driving countermeasures, including sobriety checkpoints.

still
Qualify
for federal grants
whether do
checkpoints vs
saturation patrols

99. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (2005) (codified as amended in scattered sections of 23 U.S.C.).

100. See SAFETEA-LU § 2007(b)(3), 23 U.S.C. § 410(b)(1) (2006) (defining the alcohol related fatality rate to be the "rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration").

101. See *id.* § 410(b)(2)(C) (requiring at least five state programs for the fiscal year of 2009).

102. *Id.* § 410(c)(1); see also Stuster, *supra* note 8, at D-3 (distinguishing roving patrols from saturation patrols).

103. 23 U.S.C. § 410(c)(2).

104. *Id.* § 410(c)(3).

105. *Id.* § 410(c)(4).

106. *Id.* § 410(c)(5).

107. *Id.* § 410(c)(6).

108. *Id.* § 410(c)(7). See N.Y. VEH. & TRAF. LAW § 1194.2 (McKinney 2008) for an example of an administrative license revocation statute.

109. 23 U.S.C. § 410(c)(8) (2006).

110. See Rajesh Subramanian, *State Alcohol Related Fatality Rates*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., PUBL'N NO. DOT HS 809 830, at 6 (2005), available at <http://www-nrd.nhtsa.dot.gov/cats/listpublications.aspx?Id=C&ShowBy=DocType> (follow "State Alcohol-Related Fatality Rates 2003" hyperlink) (demonstrating that seventeen states had an alcohol-related fatality rate of 0.50 or less per one-hundred million vehicle miles traveled in 2003). Figures for the years 2004 to present are currently unavailable.

2. *Narrowing the Interest*

The political decision to promote the use of sobriety checkpoints as an effective enforcement program is a means to achieve the broader political goal of governmental decision-makers to fight drunk driving, maximize voter happiness, and maximize voter support. How, then, does the sobriety checkpoint maximize individual happiness? The answer depends on the sobriety checkpoint's ability to *remove* drunk drivers from the roads and *deter* motorists from drinking and driving. To that end, one thing is certain: Even though sobriety checkpoints are clearly designed to apprehend individuals driving under the influence of intoxicating substances,¹¹³ sobriety checkpoints are an inefficient means by which to remove drunk drivers from the road and do little to advance that governmental interest relative to other enforcement programs.¹¹⁴ The government concedes this point.¹¹⁵ Not only does the government concede that sobriety checkpoints do little to advance its interest in apprehending drunk drivers, the government concedes further that the diversion of government resources from other drunk driving enforcement programs—such as directed patrols and saturation patrols—may cause the arrest yield to *decrease*.¹¹⁶ If sobriety checkpoints are negligible or even *counterproductive* to society's interest in removing drunk drivers from public roads, then the value of sobriety checkpoints must be a function of the program's ability to *prevent* impaired drivers from operating a motor vehicle in the first place.

113. See *id.* at 470 n.13 (Stevens, J., dissenting) (noting Michigan's court brief, which states that "the [sobriety checkpoint] program is . . . clearly designed to apprehend any drunk drivers who pass through the checkpoint").

114. See *id.* at 455 (majority opinion) ("[A]pproximately 1.6 percent of the drivers passing through the checkpoint were arrested for alcohol impairment. In addition, an expert witness testified at the trial that experience in other States demonstrated that, on the whole, sobriety checkpoints resulted in drunken driving arrests of around 1 percent of all motorists stopped."). But see *id.* at 469 n.11 (Stevens, J., dissenting) ("The Court refers to an expert's testimony that the arrest rate is 'around 1 percent,' but a fair reading of the entire testimony of that witness, together with the other statistical evidence in the record, points to a significantly lower percentage.").

115. See *id.* at 470 n.13 (Stevens, J., dissenting) (providing testimony from a Michigan police official who admitted that the "purpose in effectuating or attempting to effectuate" the checkpoint at issue was "not to obtain large numbers of arrest [sic] of drunk drivers").

116. See T.J. Zwicker et al., *Connecticut's 2003 Impaired-Driving High-Visibility Enforcement Campaign*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., PUBL'N NO. DOT HS 810 689, at 30 (2007), available at <http://www-nrd.nhtsa.dot.gov/Pubs/810689.PDF> ("Refocusing law enforcement efforts away from activities such as directed patrols and saturation patrols, which traditionally yield many more DWI [Driving While Intoxicated] arrests than sobriety checkpoints, was expected to lead to a similar number of DWI arrests or even fewer DWI arrests." (emphasis added)).

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Robert S. Mueller III
Director

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Battling DUI

A Comparative Analysis of Checkpoints and Saturation Patrols

By JEFFREY W. GREENE

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Since September 11, 2001, drunk drivers have killed more people than actually died on that day. Not to take away from the tragedy of September 11, but drunk driving deaths are happening every day in America.¹

For many years, the law enforcement community has attempted to detect impaired drivers through numerous innovative efforts and measures. The problem of driving under the influence (DUI) is well known throughout society, yet, even with all of the strategies used to remove these drivers from U.S. highways, it continues to cause needless and tragic loss of life each year. When will such madness end? When will society no longer

tolerate drunk driving? Until that time, the law enforcement community must attempt to contain the carnage inflicted upon law-abiding citizens by impaired drivers.²

Law enforcement has two basic methods of dealing with the DUI problem—sobriety checkpoints and saturation patrols. Sobriety checkpoints have existed for several years and have served as a deterrent to drunk driving across many communities. Although not the

most aggressive method of removing impaired drivers from America's roadways, these checkpoints comprise one piece of public awareness and education relevant to the drinking and driving dilemma.

Saturation patrols, on the other hand, constitute a vigorous tactic employed by law enforcement agencies to significantly impact an area known for a high concentration of alcohol-impaired drivers. Law enforcement agencies have used saturation patrols much longer than checkpoints, sometimes under a different name or no name at all. Which method offers the best use of law enforcement's limited resources? The choice depends upon many issues, such as funding, resource allocations, and targeted areas.

The Problem

According to National Highway Traffic Safety Administration statistics, 16,653 people died in alcohol-related crashes in 2000, an

increase of more than 800 deaths from 1999. This represented the largest percentage increase on record.³ By some estimates, about two out of every five Americans will be involved in an alcohol-related crash at some time in their lives.⁴ These tragic statistics dramatically illustrate that DUI is a serious problem.

Research has indicated, however, that most impaired drivers never get arrested. Police stop some drivers, but often miss signs of impairment.⁵ Estimates revealed that as many as 2,000 alcohol-impaired driving trips occur for every arrest, and, even when special drinking-driving enforcement patrols are conducted, as many as 300 trips occur for each arrest. Because the police cannot catch all offenders, the success of alcohol-impaired driving laws depends on deterring potential offenders by creating the public perception that apprehension and punishment of offenders is probable. Research also has shown that

the likelihood of apprehension is more important in deterring offenders than the severity of punishment.⁶ Therefore, enforcement is the key to creating the perception of a possibility of capture, while publicizing these efforts can effect a real threat of detainment.

Sobriety Checkpoints

Sobriety checkpoint programs are defined as procedures in which law enforcement officers restrict traffic flow in a designated, specific location so they can check drivers for signs of alcohol impairment. If officers detect any type of incapacitation based upon their observations, they can perform additional testing, such as field sobriety or breath analysis tests.⁷ To this end, agencies using checkpoints must have a written policy as a directive for their officers to follow.

Agencies normally choose locations for checkpoints from areas that statistically reveal a large number of alcohol-related crashes or offenses. Officers stop vehicles based on traffic flow, staffing, and overall safety. They must stop vehicles in an arbitrary sequence, whether they stop all vehicles or a specified portion of them. Checkpoints offer a visible enforcement method intended to deter potential offenders, as well as to apprehend impaired drivers. Agencies should set up checkpoints frequently, over extended periods, and publicize them well.

Sobriety checkpoints must display warning signs to approaching motorists. Also, they normally will provide opportunities for drivers to actually avoid the checkpoint, usually with an alternate route that a



Staff Lieutenant Greene serves with the Ohio State Highway Patrol in Wilmington.

“
The key aspect in both sobriety checkpoints and saturation patrols rests with public awareness.
”

driver could divert to after passing the checkpoint warning signs. Agencies typically post an officer in a marked cruiser at each end of the checkpoint. These officers can observe the driving behavior of those who choose to avoid the checkpoint.

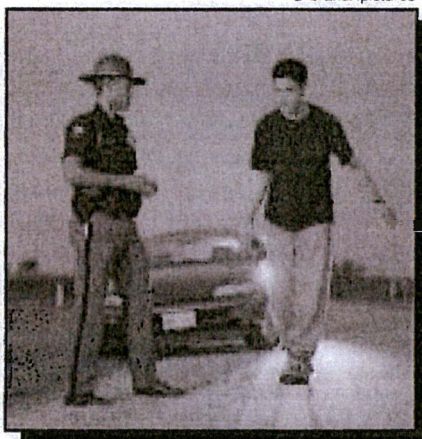
Used to deter drinking and driving, sobriety checkpoints are related more directly to educating the public and encouraging designated drivers, rather than actually apprehending impaired drivers. Typically, sobriety checkpoints do not yield a large volume of DUI arrests. Instead, they offer authorities an educational tool. Education and awareness serve as a significant part of deterrence. Frequent use of checkpoints and aggressive media coverage can create a convincing threat in people's minds that officers *will* apprehend impaired drivers—a key to general deterrence. In addition, public opinion polls have indicated that 70 to 80 percent of Americans surveyed favored the increased use of sobriety checkpoints as an effective law enforcement tool to combat impaired driving.⁸

Saturation Patrols

Saturation patrols involve an increased enforcement effort targeting a specific geographic area to identify and arrest impaired drivers. This area always is much larger than the location chosen for a sobriety checkpoint. However, site selection proves vital in both sobriety checkpoints and saturation patrol initiatives. Some states require documentation as to why a specific location was chosen. Selected sites should have a statistically high incidence of DUI crashes or fatalities

and take into account officer and motorist safety.

Saturation patrols concentrate their enforcement on impaired driving behaviors, such as left of center, following too closely, reckless driving, aggressive driving, and speeding. Multiple agencies often combine and concentrate their resources to conduct saturation patrols. Therefore, planning represents a vital part of these efforts. All involved parties should participate in the planning phase, furnishing their specific views and concerns.



Saturation patrols may afford a more effective means of detecting repeat offenders, who are likely to avoid detection at sobriety checkpoints. These patrols also may more effectively impact a specific geographic location with a history of a high number of alcohol-related crashes. They must enhance people's perceptions of being detected to be effective. Therefore, saturation patrols require the same intense media attention as sobriety checkpoints. In addition, prosecutors and judges must support

saturation patrols. These efforts also must remain ongoing, not merely a onetime operation, to produce successful results, the same as with sobriety checkpoint programs.

A Comparative Study

Statistics compiled by two agencies, similar in size and area of responsibility, offer an overview of the scope of the DUI problem.⁹ In 2000, the Missouri State Highway Patrol conducted 58 sobriety checkpoints and arrested 323 drivers for DUI. The Ohio State Highway Patrol carried out 12 sobriety checkpoints and arrested 77 drivers for DUI. In 2001, Missouri effected 67 sobriety checkpoints and arrested 318 drivers for DUI. Ohio implemented 19 sobriety checkpoints and arrested 126 drivers for DUI. Since 1989, the Ohio State Highway Patrol has participated in 156 sobriety checkpoints and arrested 807 drivers for DUI.

In the past 2 years, the Missouri State Highway Patrol conducted 822 saturation patrol operations, arresting 1,666 drivers for DUI. The Ohio State Highway Patrol performs saturation patrols on a regular basis across the state. The agency arrests an average of 25,000 DUI drivers per year through all DUI-related operations.

In another example, from 1994 to 1995, Tennessee, in cooperation with the National Highway Traffic Safety Administration, implemented a statewide campaign completing nearly 900 sobriety checkpoints. Law enforcement agencies conducted these in all 95 counties in Tennessee in just over 1 year. The checkpoint program was highly publicized and conducted basically

every week. The evaluation of the program revealed it as highly favorable in reducing the number of alcohol-related fatal crashes. Although the program only netted 773 arrests for DUI, the deterrent factor created by the continuous use of the checkpoints and the media attention received resulted in the program's success.¹⁰

What do these statistics convey? Basically, Missouri averaged about five DUI arrests per checkpoint, Ohio averaged less than seven DUI arrests per checkpoint, and Tennessee's aggressive checkpoint program averaged less than one DUI arrest per checkpoint.¹¹

What these figures do not show is the number of impaired drivers deterred by the operations, either through sobriety checkpoints or saturation patrols. Those statistics never will be clearly identified, but any lives saved by such efforts are worth the effort and resources allocated.

What also is not accounted for in these statistics is the additional number of other enforcement actions taken, such as safety belt, commercial vehicle, and child safety seat arrests; speeding violations; warnings for various traffic infractions or vehicle defects; and motorist assists. Detecting such additional violations is more probable during saturation patrols, as opposed to sobriety checkpoints. This alone could represent another measure of effectiveness of saturation patrols.

* Overall, measured in arrests per hour, a dedicated saturation patrol is the most effective method of apprehending offenders. Such concerted efforts also may serve as a

general deterrence if their activities are publicized and become widely known.

Critics have pointed out that sobriety checkpoints produce fewer arrests per hour than dedicated patrols, but some studies show arrest rates can be increased greatly when police employ passive alcohol sensors (i.e., devices that can measure the alcohol content in the air, which officers can use while talking to a motorist passing through the checkpoint) to help detect drinking drivers. However, focusing on arrests is

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***Saturation
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drivers.***
”

a misleading way to consider the value of checkpoints. The purpose of frequent checkpoints is to increase public awareness and deter potential offenders, resulting in the ideal situation where very few offenders are left to apprehend.

Sobriety checkpoint programs in Florida, North Carolina, New Jersey, Tennessee, and Virginia have led to a reduction in alcohol-related crashes. In 1995, North Carolina conducted a statewide

enforcement and publicity campaign aimed at impaired drivers. The campaign was deemed a success, indicating “drivers with blood alcohol levels at or above 0.08 percent declined from 198 per 10,000 before the program to 90 per 10,000 after the intensive 3-week alcohol-impaired publicity and enforcement campaign.”¹²

Other Factors

Is public awareness and education important? The key aspect in both sobriety checkpoints and saturation patrols rests with public awareness. The perception of a higher risk of detection for driving under the influence of alcohol may deter more people from driving after drinking. The more the public understands the issues and severity of the consequences, the better they will accept drunk driving as a problem and will embrace a crusade to reduce occurrences. Indeed, agencies must have public support to succeed.

All law enforcement agencies must accept that the media plays a vital role in combating impaired drivers. They must use all outlets possible to spread the word about this needless tragedy that happens every day. All media entities are looking for stories. By working closely with them, agencies can get the message out about the dangers of drunk driving. The sooner agencies realize the importance of the media, the sooner they will gain a valuable ally in their fight. Agencies can garner a great deal of support from the public when they speak out on this vital issue.

Are stricter laws and sanctions working? Twenty-seven states and

the District of Columbia have reduced their blood alcohol content (BAC) threshold to .08 percent from .10 percent in another effort to reduce the number of alcohol-related crashes. The federal government also has adopted the standard of .08 percent BAC, encouraging states to change to .08 percent. In 2003, states that have not adopted the .08 percent standard will lose millions of federal dollars for road construction. Currently, 22 states have the BAC threshold of .10 percent, Ohio included. Studies by the Centers for Disease Control and Prevention's National Center for Injury Prevention and Control indicated, on average, that states adopting .08 percent have reduced crash deaths involving alcohol by 7 percent.¹³

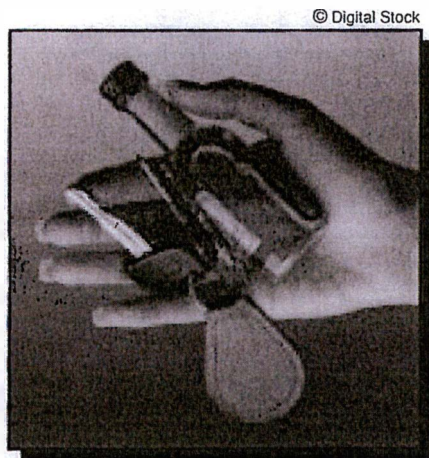
Administrative license suspension laws continue to become more aggressive, attempting to create a stronger deterrent environment. Estimates have indicated that they reduce driver involvement in fatal crashes by about 9 percent.¹⁴ Some laws providing for the suspension or revocation of licenses have indicated a reduction in the subsequent crash involvement of those drivers who previously have been convicted of an alcohol-related offense. Although it is known that many suspended drivers continue to drive, they tend to drive less and possibly more carefully, attempting to avoid detection.

Recommendations

While many conclusions can be drawn from an analysis of sobriety checkpoints and saturation patrols, both serve a significant purpose and, used together, can be effective

in reducing the number of impaired drivers. Law enforcement agencies may find that only one of these works for them, depending upon resources. Others may determine a combination of both is needed to successfully combat the problem in their communities. Regardless of the selected method, it remains essential to identify the specific keys to removing more impaired drivers from U.S. highways, including—

- exposing a sufficient number of motorists to the enforcement efforts and the likelihood of being arrested;
- improving officers' skills in detecting impaired drivers;



- implementing an aggressive, continuous, and committed media effort;
- continuing efforts by legislatures and courts in an attempt to consistently punish violators and deter impaired driving; and
- identifying problem areas, high-level crash locations, and large volumes of impaired drivers.

It is proven that saturation efforts will bring more DUI arrests than sobriety checkpoints. If that represents an agency's goal and it has the resources, then it should use saturation patrols. If an agency's goal weighs heavier on the educational side, it should use sobriety checkpoints. If an agency should choose to use checkpoints over saturation patrols, the evidence is clear that infrequent use is not effective. So, an agency must consider the cost incurred with the frequent use of sobriety checkpoints. Resources (time and money) may greatly affect an agency's decision regarding which method to employ.

If an agency's goal is to reduce the number of impaired drivers over time, it should use both sobriety checkpoints and saturation patrols, as well as any other available methods. The bottom line is to do something—do everything—to remove impaired drivers from America's highways.

Conclusion

Law enforcement agencies should not accept mediocrity in the area of driving under the influence enforcement. It is not a societal problem. It is everyone's problem, and no one should take it lightly. More people die or are injured on this nation's highways due to impaired driving than from all other causes combined. It is unacceptable, and all Americans pay a price, whether personal, financial, or professional.

Law enforcement agencies must take up the challenge and employ every available weapon to combat this deadly threat. This is a "mission possible." Through better

education, increased awareness, and some strict penalties, the battle can be won. Working in collaboration with one another, the public, the law enforcement community, and the judicial system can help prevent the needless loss of life that results from drunk driving. "When people are knocked away one at a time, it doesn't make the headlines like it should, but we've got to make Americans realize the fact that it's still the number one killer, and it's 100 percent preventable. This is one thing that we can all work together to do something about."¹⁵ ♦

Endnotes

¹ Millie I. Webb, former national president of Mothers Against Drunk Driving (MADD), quoted in "Advocates Seek to Rejuvenate Fight

Against Drunk Driving," *Criminal Justice Funding Report* (Arlington, VA: Capitol City Publishers, July 3, 2002), 4-5.

² The author based this article on research he conducted and a paper he composed for a course while attending Northwestern University, School of Police Staff and Command.

³ Mothers Against Drunk Driving, *Statistics and Resources*; retrieved on January 20, 2002, from <http://www.madd.org>.

⁴ Ohio State Highway Patrol, "Sobriety Checkpoints," *Monthly News Article* (2001); retrieved on January 20, 2002, from <http://www.state.oh.us/ohiosatepatrol/enforce/sobch.html>.

⁵ Dekalb County, Georgia, Police Department, *Strategic Traffic Accident Reduction Team Report: Deterrence and Enforcement*; retrieved on January 22, 2002, from <http://www.cyberlinkexchange.usww.com/homepages/starteam/dui-qu.html>.

⁶ Ibid.

⁷ Paul Blowers and Jack Stuster, National Commission Against Drunk Driving, *Experimental Evaluation of Sobriety Checkpoint Programs* (1995); retrieved on January

20, 2002, from <http://www.ncadd.com/tsra/abstracts/035.html>.

⁸ Mothers Against Drunk Driving, *Sobriety Checkpoints: Facts and Myths*; retrieved on January 20, 2002, from http://www.madd.org/madd_programs/0,1056,1229,00.html.

⁹ For all Missouri statistics, see Robert Stieffermann, Missouri State Highway Patrol, *Progress on Strategic Planning Priorities-Statistics*, February 11, 2002. For all Ohio statistics, see Ohio State Highway Patrol, Office of Field Operations, *Sobriety Checkpoint Statistics*, January 23, 2002.

¹⁰ Fell, Jones, and Lacey, National Commission Against Drunk Driving, *The Effectiveness of the "Checkpoint Tennessee" Program* (1996); retrieved on January 20, 2002, from <http://www.ncadd.com/tsra/abstracts/043/html>.

¹¹ Supra notes 9 and 10.

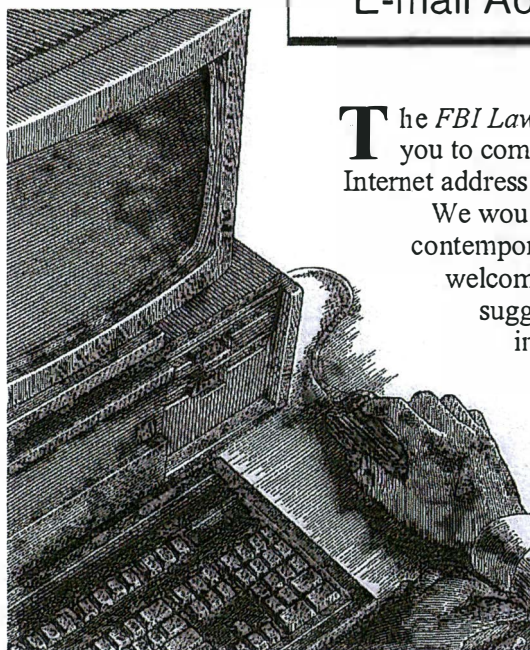
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¹³ J.C. Fell, Insurance Institute for Highway Safety, *Status Report* (Arlington, VA, June 2001), 6.

¹⁴ Supra note 5.

¹⁵ Supra note 1.

The *Bulletin's* E-mail Address



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We would like to know your thoughts on contemporary law enforcement issues. We welcome your comments, questions, and suggestions about the magazine. Please include your name, title, and agency on all e-mail messages.

Also, the *Bulletin* is available for viewing or downloading on a number of computer services, as well as the FBI's home page. The home page address is <http://www.fbi.gov>.

DUI Checkpoints: Reconsidering Their Effectiveness

California traffic safety officials declared 2010 the "year of the checkpoint," and dramatically increased the number of DUI checkpoints held across the state.

However, California DUI checkpoints have come under increased scrutiny lately, in large part due to a study by California Watch and the Investigative Reporting Program at UC Berkeley that found that officers impounded six cars for every one DUI arrest made. The investigation highlighted that DUI checkpoints are highly profitable operations for cities and towns and questioned the disproportionate impact of DUI impound policies on unlicensed minorities.

The California Watch study also reconfirmed that DUI checkpoints net relatively few DUI arrests when compared to the number of vehicles stopped. This has lead many to question whether DUI checkpoints are the most effective means of preventing drunk driving in California, particularly in light of the mounting legal concerns.

Therefore, it may be time to examine whether state funding would be better invested in saturation patrols, during which police patrol high-risk areas for drivers that appear to be impaired.

In support of that argument, consider the following:

In 2008, only 5,000 of the total 215,000 California DUI arrests took place at sobriety checkpoints (2.3%).

* Law enforcement officials concede that DUI checkpoints are not the best way to prevent drunk driving. As Riverside County (Calif.) Sheriff Stanley Sniff told USA Today: "We make light-years more arrests on random patrols than at checkpoints."

* A comparative study by the FBI found that saturation patrols were the most effective means of apprehending drunk drivers.

* A 2009 University of Maryland study found that checkpoints do not have "any impact on public perceptions, driver behaviors or alcohol-related crashes, police citations for impaired driving, and public perceptions of alcohol-impaired driving risk."

~~This is not to suggest that DUI checkpoints do not have value in deterring drunk driving in California. However, given that they do not raise the same legal concerns as DUI checkpoints and have proven to be more effective in arresting drunk drivers, saturation patrols may be a better option.~~

Further information about DUI checkpoints and saturation patrols can be found at California DUI Guide website. Drivers facing a California DUI arrest are also encouraged to contact experienced DUI defense attorney Thomas Wallin for a fr consultation.

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Arizona Daily Star®

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Published: 08.26.2007

DUI checkpoints costly, catch few

46,000 drivers stopped, but only 75 are convicted

By Jack Gillum

ARIZONA DAILY STAR

Pima County sobriety checkpoints have netted a tiny number of DUI arrests despite stopping tens of thousands of drivers since 2005, an Arizona Daily Star investigation has found.

Since the Sheriff's Department began staging checkpoints nearly two years ago — overriding authorities' previous concerns that the stops yielded few arrests — fewer than 1 percent of the more than 46,000 drivers stopped have been arrested on suspicion of DUI.

And fewer than half of those arrested have been convicted.

Even with the low arrest rates, proponents defend the checkpoints, saying they deter drunken driving by educating people about its dangers. Every person deputies stop receives anti-drunken-driving pamphlets, which they say means one more person who may avoid driving under the influence.

Still, the number of DUI arrests has remained constant since the stops were reinstituted in September 2005 after a 10-year hiatus. In other words, it doesn't appear fewer drivers are driving while drunk.

"It's a good sign that we've arrested so few people," Sheriff's Lt. Karl Woolridge, who supervises the agency's special operations, including checkpoints, said when presented with the Star's findings. "At least we've removed nearly 300 impaired drivers off the road."

But critics of the checkpoints, including defense attorneys and civil libertarians, question their effectiveness and legality. They say police have more sure-fire methods for spotting drunken drivers, such as concentrated patrols.

The Sheriff's Department has spent more than \$140,000, mostly in federal and state money, on 63 staffed checkpoints though May.

DUI checkpoints force drivers to stop and talk with a deputy, who asks them if they've consumed alcohol or taken drugs. Depending on the driver's answer, the deputy will inspect the driver for bloodshot eyes, alcohol-tinged breath and other telltale signs of impairment.

How effective those procedures are, and to what degree critics say they constitute an unreasonable search and seizure, is up for debate.

Checkpoints are "feel-good measures that are costly," said Alessandra Soler Meetze, executive director of the American Civil Liberties Union of Arizona. "It gives the impression that they're reducing the amount of drunk driving, but it doesn't seem to be the case."

Questions of effectiveness

By the numbers

- Drivers stopped at checkpoints: 46,781
- Field-sobriety tests: 1,168
- DUI- related arrests: 282
- DUI cases dismissed: 105*
- DUI convictions: 75*
- *102 cases still pending.

Source: Arizona Daily Star analysis of Pima County Sheriff's Department DUI checkpoint arrest data and Pima County Consolidated Justice Court records, from September 2005 to May 2007.

Did you Know ...

The Legislature changed Arizona's DUI blood-alcohol content from 0.10 percent to 0.08 percent in September 2001. The new law was prompted partly by a 2000 federal law that withholds some highway money to states that have not adopted the lower limit.

OUT Next WEEKEND

Officers will be on special weekend DUI enforcement details Labor Day weekend, the Pima County Sheriff's Department said, which will include sobriety checkpoints and saturation patrols. The enforcement is part of a national anti-DUI campaign that began in mid-August.

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As Independence Day neared its close this summer, sheriff's deputies at a Southwest Side DUI checkpoint had spent more than two hours stopping cars on West Valencia Road near South Westover Avenue.

The lines of vehicles, sometimes more than a dozen deep, rolled by as deputies repeated a familiar line: "Good evening. Have you consumed any alcohol or drugs today?"

The answer, by and large, was "no." But for the few who said "yes" or looked suspicious, deputies asked the driver to pull into the median and perform a field-sobriety test.

Between September 2005 and May 2007, the Sheriff's Department conducted 1,168 such tests at DUI checkpoints, records show. That means that for every four drivers who were screened, deputies arrested one.

One of those tested that July 4 night was a woman in her 20s who registered 0.119 percent blood-alcohol level on a Breathalyzer, above the state's 0.08 percent DUI level.

In the back seat sat two minors drinking beer, the remnants of a 24-pack between them.

"Yeah," said Woolridge as he observed the woman. "This is why we do checkpoints."

Still, at this stop, the unidentified woman was one of only three DUI suspects, the Sheriff's Department reported. From 9:15 p.m. to 12:15 a.m., deputies counted 1,239 cars that passed through, an arrest rate of less than one-tenth of 1 percent. Thirteen deputies staffed that checkpoint.

Such low rates, critics say, are why authorities should be shifting tactics.

Police officers are well-trained in how to spot drunken drivers, "and then they just stop everyone who's driving along," said Joe St. Louis, a local attorney who specializes in drunken-driving cases, including some that began at checkpoints.

"It's just crazy. If you stop people at random, it's not an efficient use of your time or of taxpayer dollars," he said. Such random stops, critics argue, just waste the time of sober drivers and law enforcement.

While it's hard to say just how effective DUI checkpoints are compared with other enforcement methods, statistics show that their educational component is also debatable: DUI arrests have remained relatively constant each month since they began in September 2005.

That month, the department recorded 125 DUI arrests; in June 2007, there were 127. The most between those months was this May, at 175.

The department stopped DUI checkpoints in the mid-'90s amid concerns of low arrest rates, Woolridge said. But after sheriff's officials examined studies that showed checkpoints have a deterrent effect, the department restarted the program.

Few arrests, fewer convictions

The Arizona Daily Star reviewed court cases of those arrested at the checkpoints from September 2005 through May 2007 and compared the data with checkpoint statistics from the Sheriff's Department. The newspaper obtained the list of checkpoint arrests through a public-records request in June.

Among the Star's findings:

- Sheriff's officials counted 46,781 drivers who went through the checkpoints, most of whom were not arrested or even tested for being impaired.
- Of those drivers who were stopped, deputies arrested 282 on suspicion of drunken driving. That accounts for 0.6 percent of all drivers who went through the checkpoints.
- Of the 180 DUI cases that have been through the courts, 105 have been dismissed. Defense lawyers point to weak evidence, such as a lack of reasonable suspicion, and constitutional violations as reasons why, although they say each case is different.
- While deputies were able to stop drivers who were perhaps the most egregious offenders, they also snagged some who were far below the DUI level. Still, Arizona law prohibits drivers from getting behind the wheel if they're impaired to the slightest degree.

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• Although most of the arrests or citations at checkpoints were DUI-related, more than 100 were not. Citations ranged from possession of marijuana to driving on a suspended license.

Outcomes in 22 cases couldn't be determined because corresponding court records couldn't be found despite an extensive search. The Sheriff's Department also could not find records in those cases.

Five to 30 deputies can staff a checkpoint, statistics show, with a few sergeants at each checkpoint, too. Six to 12 sheriff's volunteers assist the officers, Woolridge said.

In the last two years, the agency has spent about \$142,000 on overtime pay for checkpoints, data show. If divided up yearly, that accounts for a sizable amount of the funds from the National Highway Traffic Safety Administration and the state, according to a calculation of budget figures.

About \$120,000 of the federal money given to Arizona went to the Sheriff's Department in fiscal 2007 to help pay for deputies' overtime at checkpoints and DUI patrols, said Michael Hegarty, the deputy director of the Governor's Office of Highway Safety. The state gives the money to Pima County, which then divvies it up to local agencies, including the Sheriff's Department.

Among the checkpoints with the most deputies was one conducted during Labor Day weekend in 2005. Records show 27 deputies staffed the checkpoint for more than three hours, netting four arrests at North La Cholla Boulevard and West Ruthrauff Road out of 571 drivers who passed through.

But to some DUI-checkpoint proponents, hassles for so many sober drivers are worth it even if the stops cause delays.

"Inconvenience is a way of life," said Kelly Larkin, executive director of the Tucson affiliate of Mothers Against Drunk Driving. Even if the cases against drivers get dismissed, she said, "It got them off the streets that night."

Increased enforcement

Pal Ham approached the DUI checkpoint on West Picture Rocks Road near Saguaro National Park West on Sept. 4, 2006. Before he got behind the wheel, he'd had a few beers — three to be exact, he said.

Deputies arrested Ham, 74, on a drunken-driving charge, court records show. He pleaded guilty after blowing a 0.105 percent blood-alcohol content, and said he spent a night in jail.

To this date, he has mixed feelings about the checkpoints.

"I could get along without them," he said, "until one of my loved ones gets killed."

Ham's case epitomizes why checkpoints are worth the time, proponents say.

Still, the most widely cited alternative to sobriety checkpoints are "saturation patrols," which increase the number of police officers on the streets to look for drunken drivers.

Thus, lawyers and checkpoint critics say, defendants have more evidence against them as officers can observe more telltale signs of impairment, such as weaving or stopping at a green light.

Some agencies, including the Tucson Police Department, have stopped conducting checkpoints, a spokesman said, but he could not elaborate.

Nonetheless, Hegarty, the Governor's Office of Highway Safety official, said a DUI checkpoint is "not about arresting; it's about having a presence and educating the community."

Here and in other states, authorities plan to continue using checkpoints as part of their arsenal against drunken driving.

In fact, state and local officials are planning a crackdown on drunken driving this Labor Day weekend that will include a checkpoint in Pima County.

"We're here to catch impaired drivers," Woolridge said at the July 4 checkpoint. "This isn't a fishing expedition."

One professor who has studied the effectiveness of DUI checkpoints said his results show that checkpoints

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were associated with a 20 percent reduction in drunken-driving crashes in the Maryland-Virginia-Washington, D.C., area.

But that's only "if they are done often enough and publicized," said Kenneth H. Beck, a professor of public and community health at the University of Maryland. "Otherwise, they're not likely to get the deterrent effect."

Today, Beck said, checkpoints are much more common nationwide. But of the more than 1.5 million people who are arrested for drinking and driving each year, he said, "far more are arrested outside of checkpoints."

The question of such checkpoints' effectiveness, then, comes down to perspective.

"One of the arguments is that there is a general public-awareness factor," said Roger Hartley, an associate professor of public administration and policy at the University of Arizona's Eller College of Management.

"But if it was worth the cost, they'd do it all the time."

Compare how effective various DUI checkpoints have been over the past two years in an interactive map at www.azstarnet.com/crime.

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- Contact reporter Jack Gillum at 573-4178 or at jgillum@azstarnet.com.

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[Enlarge Image](#) [Request to buy this photo](#) [Dispatch file photo](#) Columbus police have accepted nearly \$225,000 in grant funds to conduct checkpoints each year. "(Columbus police) just feel it wasn't an appropriate use of funds and manpower," said Michael Brining, a law enforcement officer liaison for the Ohio Traffic Safety Office.

By [Beth Burger](#) [The Columbus Dispatch](#) • Thursday October 6, 2016 5:49 AM

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The Columbus Division of Police has dismantled its task force responsible for sobriety checkpoints after the police chief declined to accept grant funds, multiple sources confirmed Wednesday.

"It is with great disappointment that I report to you that Columbus Division of Police no longer has a formal OVI task force," Traffic Bureau Sgt. Michael Smith told law enforcement partners in an internal email obtained by The Dispatch. "By order of Chief Jacobs, grant funding has been declined to fund future sobriety checkpoint operations."

The email, which was sent Tuesday, did not say why Chief Kim Jacobs decided to decline funding.

Jacobs was unavailable for comment Wednesday and did not respond to an email with questions. A spokesman said the chief is the only one who would be able to explain the decision.

Columbus police have accepted nearly \$225,000 in grant funds to conduct checkpoints each year.

"(Columbus police) just feel it wasn't an appropriate use of funds and manpower," said Michael Brining, a law enforcement officer liaison for the Ohio Traffic Safety Office.

>>>Previous story: Are DUI checks fair?

Brining, who works as a grant coordinator with law enforcement agencies, helps determine which departments receive how much federal grant money from the National Highway Traffic Safety Administration.

"Columbus always did a vigilant job of positioning (officers) where there were impaired driving and crashes," he said.

According to the email, Jacobs decided to reject the grants for future sobriety checkpoint operations as well as the mobile (Blood Alcohol Content) truck platform.

Until Tuesday, Columbus police had the only OVI task force in the state composed of members from a single law enforcement agency.

The department began setting up checkpoints in 2010 and used grant funds to purchase the blood alcohol testing truck in 2011. Then officers formally created a Columbus police Operating a Vehicle Intoxicated task force two years ago, which helped secure grants.

In 2013, the Columbus police conducted 13 checkpoints and made a total of 31 OVI arrests after a total of 12,731 vehicles passed through the checkpoints, according to an annual report. The following year, the most-recent year for which records are available, the number of checkpoints increased to 20. A total of 7,280 vehicles passed through the checkpoints and officers made 53 OVI arrests.

There is some debate over the effectiveness of sobriety checkpoints. Checkpoints often don't result in a high number of OVI arrests.

A Centers for Disease Control and Prevention review of studies found that checkpoints reduced alcohol-related fatal, injury and property crashes by about 20 percent. The main purpose of checkpoints is not to increase arrests, but rather public awareness, according to the website.

"The number of drivers evaluated would be more of an appropriate measure," according to the CDC's website.

Each time a checkpoint is held, news releases are sent to media outlets to notify drivers of the locations beforehand.

"Checkpoints are not necessarily designed to be an arrest tool," Brining said. "They are a deterrent and public education tool."

For years, Columbus police have also worked with Franklin County's OVI Task Force. That task force has been around since 1993 and involves several law enforcement agencies.

Chief Deputy Jim Gilbert, of the Franklin County Sheriff's Office, who oversees the county's OVI Task Force, said the county will continue to conduct checkpoints.

"We find that educating the public on the dangers of drunk driving is just as important as enforcement efforts — checkpoints and the public release of those checkpoints hopefully accomplishes our goal of having individuals make better choices when it comes to getting behind the wheel if they have been drinking," he said.

The email states officers will most likely remain part of the county's taskforce.

Jacobs plans to allow officers to still receive funding that would go toward strategically patrolling areas where data shows there are a high volume of alcohol-related crashes. Officers will also receive funding for selective enforcement that allows them to target other traffic violations, according to the email.

Doug Scoles, state executive director for Mothers Against Drunk Driving Ohio, said cutting sobriety checkpoints will lead to more deaths.

"The more (officers) we have out there, the less tragedies we have on our roadways," he said.

"Whatever the cause is, we object to it, because it's putting the interest of public safety lower than it should be."

bburger@dispatch.com

Lessons Learned From Evaluating Maryland's Anti-Drunk Driving Campaign: Assessing the Evidence for Cognitive, Behavioral, and Public Health Impact

Kenneth H. Beck, PhD

The evidence concerning Maryland's anti-drunk driving program, Checkpoint Strikeforce, is reviewed. To date, there is no evidence to indicate that this campaign, which involves a number of sobriety checkpoints and media activities to promote these efforts, has had any impact on public perceptions, driver behaviors, or alcohol-related motor vehicle crashes and injuries. This conclusion is drawn after examining statistics for alcohol-related crashes, police citations for impaired driving, and public perceptions of alcohol-impaired driving risk. Comparisons are also made with other states in the mid-Atlantic region, where similar campaign activities have occurred. Reasons for this failure in Maryland include insufficient levels of enforcement (e.g., too few sobriety checkpoints and vehicle contacts occurred to raise public perceptions of risk pertaining to impaired driving) and inadequate publicity surrounding this campaign. Suggestions for overcoming these problems are offered.

Keywords: impaired driving; sobriety checkpoints; public awareness

Drinking and driving is one of the most frequent causes of premature morbidity and mortality in this country. According to the most recent information put out by the National Highway Traffic Safety Administration (NHTSA), there were 16,885 alcohol-related traffic fatalities in 2005. This represents 39% of all traffic fatalities and equates to about one alcohol-related

traffic fatality every 31 minutes (NHTSA, 2006d). Additionally, an estimated 240,000 people are injured in alcohol-related crashes (about one every 2 minutes), and more than 1 million people are arrested each year for driving under the influence (DUI) of alcohol or drugs (NHTSA, 2006d).

The nation has made considerable progress during the past several decades at reducing the number of people who are fatally injured in alcohol-related crashes (Williams, 2006). However, after experiencing a more than 20-year downward trend, alcohol traffic fatalities started to increase in 2000. The reasons for this increase are not entirely clear. Nevertheless, this prompted renewed efforts to mobilize anti-drunk driving efforts in an attempt to reverse this problem. It appears that some progress has been made, as consistent decreases in alcohol-related traffic fatalities started to appear in 2003.

Unfortunately, Maryland has not enjoyed the same improvement in recent years. The number of alcohol-related traffic fatalities has remained relatively constant during the past 6 years (1999–2004). This is even more apparent when one examines the percentage of traffic fatalities that are alcohol-related in Maryland compared to the nation since the mid-1990s (Figure 1). The relative advantage that Maryland once enjoyed compared to the nation as a whole disappeared in 2000 and, to date, shows no signs of recovery.

The Checkpoint Strikeforce campaign was developed in response to the recent rise in alcohol-related traffic fatalities. This campaign was initiated in the

Author's Note: This investigation was supported by the Maryland Highway Safety Office of the State Highway Administration, Maryland Department of Transportation. Their cooperation is acknowledged. Please address correspondence to Kenneth H. Beck, PhD, Department of Public and Community Health, University of Maryland, College Park, MD 20742-2611; e-mail: kbeck1@umd.edu.

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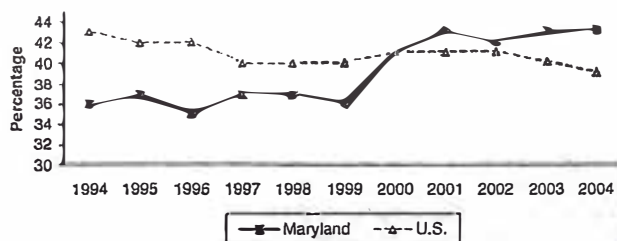


FIGURE 1 Alcohol Fatalities as a Percentage of Total Fatalities
SOURCE: National Highway Traffic Safety Administration (2006a).

mid-Atlantic region of the country and included the states of Pennsylvania, Delaware, West Virginia, Virginia, Maryland, and the District of Columbia. The campaign began in 2002 under the auspices of NHTSA, who worked with state agencies to facilitate various enforcement and public awareness activities that comprised this effort.

One of the key components of the Checkpoint Strikeforce campaign was the use of roadside sobriety checkpoints (NHTSA, 1987, 1990). Sobriety checkpoints have been shown to be effective at reducing the number of alcohol-related crashes as well as single-vehicle nighttime crashes (Lacey, Jones, & Smith, 1999; Levy, Asch, & Shea, 1990; Levy, Shea, & Asch, 1989). At a sobriety checkpoint, law enforcement officers systematically stop drivers to assess possible impairment. If suspicion is raised, then roadside sobriety and chemical tests are performed to determine if the driver is legally impaired (Elder et al., 2002). The checkpoint's primary goal is to deter drinking and driving by increasing a driver's perceived risk of arrest.

In addition to aggressive enforcement, highway safety experts argue that increased media coverage is also necessary to produce this increase in perceived likelihood of arrest (Elder et al., 2002; Elder et al., 2004; Fell, Ferguson, Williams, & Fields, 2003; Mercer, 1985). Thus, the Checkpoint Strikeforce campaign was

accompanied by paid as well as earned media that promoted the campaign and generally informed the public of its existence. The nature and amount of these media activities varied from state to state.

In Maryland, the 6-month campaign began in July 2002. This period ran from July through the first week in January and encompassed Independence Day, Labor Day, Halloween, Thanksgiving, Christmas, and New Year's Day. A summary of the pertinent enforcement and paid media activities is presented in Table 1. During each of the first 3 years, the Checkpoint Strikeforce operated as a 6-month campaign from July through January. In 2005 Checkpoint Strikeforce became a year-long campaign, with increased enforcement activities for 12 months.

The evidence indicates that people who were exposed to this campaign (i.e., personally went through a checkpoint or knew someone who had) had greater feelings of vulnerability to being stopped by the police if they were drinking and driving than those people who were merely aware of the campaign but had not been personally exposed in any way to it (Beck & Moser, 2004). Furthermore, those people who felt it was certain or very likely that they would be stopped by the police if they drove after drinking too much reported that they were less likely to drive after drinking (Beck & Moser, 2006). The purpose of this article is to examine the effect of the campaign during the first 3 years. The effect of this campaign was examined from several perspectives that included alcohol-related traffic fatalities and crashes, citations for alcohol-related traffic offenses, public perceptions of campaign exposure and personal vulnerability to being stopped for drinking and driving, and people's self-reported drinking and driving behavior.

METHOD

Alcohol Crashes, Injuries, and Citations

Fatality data were obtained from NHTSA's Fatality Analysis Reporting System (FARS). Alcohol-related traffic

TABLE 1
Highlights of Maryland's Checkpoint Strikeforce Campaign

Activity	Year 1 Jul 2002-Jan 2003	Year 2 Jul 2003-Jan 2004	Year 3 Jul 2004-Jan 2005
No. of checkpoints	66	66	74
Vehicle contacts	22,347	57,913	39,023
DUI arrests	133	376	220
Paid media ^a	\$100,000	\$105,000	\$150,000

SOURCE: National Highway Traffic Safety Administration (2006b).

a. Data are from the Maryland Highway Safety Office.

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TABLE 2
Maryland Alcohol Traffic Statistics

	Before Campaign			During Campaign		
	1999	2000	2001	2002	2003	2004
Alcohol-related total crashes	8,540	8,850	9,045	9,056	9,089	8,859
3-year averages		8,811			9,001	
Alcohol-related injury crashes	3,679	3,675	3,762	3,765	3,500	3,329
3-year averages		3,705			3,531	
Alcohol-related fatality crashes	192	179	197	182	163	207
3-year averages		189			184	
Total alcohol-related fatalities ^a	215	240	282	276	281	286
3-year averages		245			281	
Alcohol-related injured drivers	2,386	2,331	2,418	2,436	2,210	2,216
3-year averages		2,378			2,287	
Alcohol-related injured pedestrians	260	243	267	254	322	265
3-year averages		256			280	
Alcohol-related citations	27,214	26,502	25,028	25,709	25,765	26,349
3-year averages (before and during)		26,248			25,941	

SOURCE: Maryland State Highway Administration, Office of Traffic and Safety, Traffic Safety Analysis Division.
a. Data are from the National Highway Traffic Safety Administration (2006a).

checkpoints. In the first year, these items were pilot tested in a telephone survey, and no interpretational or response problems were detected.

RESULTS

Public Health Impact

There was no evidence that alcohol-related fatalities or crashes improved during the first 3 years of this campaign (see Table 2). If anything, the total numbers of alcohol-related fatalities, crashes, and injured drivers and pedestrians in Maryland were greater during the 3-year campaign than before. Furthermore, there was no evidence of an overall increase in statewide enforcement, as indicated by alcohol-related citations. On average, there were fewer statewide citations during the campaign than before.

The proportion of fatalities that were alcohol-related was compared over this time period for all the other states (excluding the District of Columbia due to its low number of fatalities) in the mid-Atlantic region during the campaign. The results (Figure 2) indicate that compared the other surrounding states, alcohol fatalities were worse in Maryland. Further evidence indicated two marginally statistically significant ($p < .06$) differences: Delaware experienced a lower proportion of alcohol fatalities during the campaign (40%) compared to 3

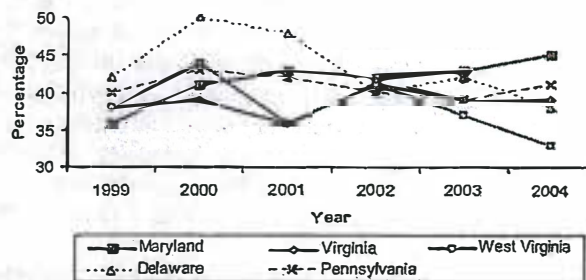


FIGURE 2 Alcohol Fatalities as a Percentage of Total Fatalities
SOURCE: National Highway Traffic Safety Administration (2006a).

years before (47%), whereas Maryland experienced a greater proportion during (43%) than before (40%). West Virginia experienced a steady decline during this time period and had the lowest alcohol fatality rate in 2004.

These analyses were also performed for other states that were not located in the mid-Atlantic region and did not allow checkpoints to be conducted under their state law (NHTSA, 2006c). Minnesota, Oregon, and Washington were selected because they had a relatively comparable number of total fatalities per year to Maryland. No significant differences were detected. Thus, Maryland's results resembled those states that do not conduct any sobriety checkpoints.

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TABLE 3
Sample Characteristics

	Year 1 (n = 1,725) %	Year 2 (n = 1,650) %	Year 3 (n = 1,700) %
Gender			
Male	36.9	39.0	36.3
Female	63.1	61.0	63.7
Ethnicity			
White	72.9	72.9	73.5
Age group			
16-20	3.7	3.3	2.8
21-29	11.1	11.2	8.5
30-45	36.3	32.5	31.6
46-64	35.5	36.4	40.3
65+	13.4	16.7	16.7

Public Perception Impact

The demographic composition of the telephone surveys did not vary from year to year (see Table 3). Each year, the samples were more likely to contain females than males. However, this was a constant bias across years; therefore, it did affect the year-to-year comparisons.

The public was more likely to report being exposed to a checkpoint in Years 2 and 3 (see Table 4). This

corresponded with the increased number of vehicle contacts and DUI arrests that were made in the second and third years of the campaign. However, despite this increased contact with sobriety checkpoints, feelings of vulnerability to being stopped by the police for drinking and driving actually decreased. Also, people were less likely to report that other drivers were drinking and driving less often.

Feelings of vulnerability were examined separately for males and females, and similar trends were detected. For each gender, vulnerability decreased significantly in the second and third years. Vulnerability was also examined for 21-29-year-old drivers, those considered most likely to be targeted by this campaign. Vulnerability decreased in the second and third years. However, this was confined to females. Females were significantly ($p < .05$) less likely to think they would be stopped by the police in the second (23.9%) or third (27.2%) year of the campaign compared to the first (36.8%). There was no difference in perceived vulnerability to being stopped by the police across the first 3 years of this campaign for male drivers 21-29 years of age.

Finally, vulnerability was examined in those parts of the state that were more likely to be reached by the media. Drivers from those counties comprising the major media markets (i.e., those around Baltimore; Washington, DC; or the Eastern Shore) were compared to drivers from the other counties. There was no significant difference in perceived vulnerability. Those areas of the state that should have been more likely to receive various public

TABLE 4
Exposure, Perceptions, and Behaviors

	Year 1 (n = 1,725) %	Year 2 (n = 1,650) %	Year 3 (n = 1,700) %
Exposure			
Exposed to a checkpoint	9.4 ^a	14.6 ^b	13.2 ^b
Aware of checkpoints	20.5	20.5	22.4
Unaware and unexposed	67.8	64.9	64.3
Perceptions			
Likely you would be stopped by police	30.3 ^a	24.0 ^b	23.2 ^b
Drinking drivers more likely to be stopped	37.5 ^a	32.0 ^b	28.3 ^b
Saw police on the roads more often	27.9	30.8 ^a	26.4 ^b
Behaviors			
Driven within 2 hours of drinking	9.6	12.1	9.5
Driven after drinking too much	1.1	1.2	.5
Currently drinking and driving less often	4.9	3.4	3.5
Others are drinking and driving less often	22.6 ^a	12.1 ^b	14.5 ^b

NOTE: Percentages with different superscripts differ significantly ($p < .01$) from each other.

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service announcements that promoted this campaign were no more likely to experience an increase in vulnerability to being stopped by the police for drinking and driving.

DISCUSSION

The Checkpoint Strikeforce campaign in Maryland has not succeeded in raising public perceptions of the legal risks of drinking and driving. Nor has it reduced alcohol-related traffic crashes and fatalities. Furthermore, one of the crucial components of this campaign, an increase in statewide citations for alcohol-impaired driving, did not occur. The survey data indicated that public perceptions of vulnerability to being stopped by the police if one were to drink and drive actually declined significantly during the course of the campaign. Also, drivers in those areas of the state where media exposure would be expected to be greater (i.e., in the Baltimore and Washington, DC, metropolitan areas) were not more likely to feel vulnerable than those in other regions. Thus, the other crucial element of this campaign—increased public awareness—did not occur.

Increasing Enforcement

Any campaign that promotes the notion that the police are likely to catch you if you have been drinking and driving has to be backed up with reality. Unfortunately, more drunk driving arrests did not occur. In certain jurisdictions, the police may feel that less priority should be given to alcohol-related traffic citations than to other more serious (at least to them) violations. Furthermore, police officers may feel disinclined to make an arrest given the amount of time it takes to process an offender (that takes the police officer out of active service); the matter of obtaining the necessary evidence of impairment; frustration that the eventual penalty may be reduced through plea bargaining or other legal maneuvering to a lesser offense; and the time, embarrassment, and humiliation they may encounter from aggressive defense attorneys who call them as witnesses during the trial of the drunk driving offender. Fell, Lacey, and Voas (2004) mention that lack of local police force resources and funding, lack of support by task forces and citizen activists, and the perception that checkpoints are neither productive nor cost-effective, are the main reasons why checkpoints are not used.

Undoubtedly, the initiative and leadership role for making impaired driving arrests is set by the commanding officers. If the police station's commanding officer views drunk driving as an important issue and is committed to conducting sobriety checkpoints and issuing citations, it seems that officers in his or her unit will be more likely to follow suit. Conversely, if such activities are viewed as

lower priority (especially in relation to post-9/11 security concerns), costly, and manpower intensive, it seems unlikely that there will be an increase. It appears that although there was a jump in campaign-specific sobriety checkpoint activities in the second year, there was no evidence that this increase percolated through the rest of Maryland's enforcement community.

Even more telling is an examination of the sobriety checkpoint activity in West Virginia, where alcohol-impaired fatalities declined throughout the first 3 years of the campaign. In 2004, West Virginia not only conducted more checkpoints (91) but made more vehicle contacts (68,124) than Maryland (74 and 39,023, respectively; NHTSA, 2006b). Yet West Virginia's population is approximately 2.9 times smaller than Maryland's. West Virginia's success appears to be because of the higher level of enforcement. For instance, in Year 3 of the campaign, it conducted approximately 5 checkpoints and 3,700 vehicle contacts for every 100,000 residents. During this time, Maryland conducted only approximately 1.4 checkpoints and 736 vehicle contacts for every 100,000 residents. This suggests that unless Maryland's sobriety enforcement activity reaches a per capita threshold comparable to West Virginia's, it is unlikely to experience significant decreases in alcohol-related traffic fatalities.

Motivating the police to make more arrests for impaired driving may be a substantial challenge. Two specific suggestions are offered to make this happen. The first is increased training in DUI detection, apprehension, and conviction. Officers need to be motivated to make more alcohol-impaired traffic stops and higher quality alcohol-related arrests (i.e., those that do not get thrown out or plea bargained to a lesser offense in court). Training that exposes the officers to a broader but more intensive background on the historical, societal, psychological, and legal aspects of drinking and driving may enhance their skills and motivation to make alcohol-related driving arrests. Such a program has been initiated at the University of Maryland in which police officers are exposed to an intensive, weeklong course on these topics. In addition, state attorneys also provide detailed instruction on permissible forms of evidence and explain when it is appropriate to conduct a roadside stop and a standardized field sobriety test of alcohol impairment. This in-class material is followed by a mock court experience in which officers are subjected to courtroom procedures where their testimony is challenged by a defense attorney. The officer's performance is critiqued and suggestions are given concerning how to withstand defense attorney cross examination. The officers find this portion of the course particularly valuable.

The second suggestion for increasing enforcement is to enlist the support of key influential people and

opinion leaders within the enforcement community. This would involve commanders within each of the Maryland State Police barracks as well as in the municipal police departments. There is little to no evidence that this has occurred. Conversations with members of the Maryland State Highway Administration indicate that some police chiefs are not really on board with this program. They either do not believe in sobriety checkpoints or think they would require too much manpower to conduct and would yield proportionately few alcohol-related citations relative to the time and money invested. Convincing the entire enforcement community that the primary purpose of checkpoints is to increase public perceptions of the drinking and driving risk, not necessarily to make a DUI arrest, will be challenging. However, there have been documented cases that sobriety checkpoints catch more than drinking drivers. Numerous drugs, weapons, seat belt violations, and other felony arrests have also occurred at checkpoints (NHTSA, 2006b). Checkpoints have payoffs in other enforcement domains besides alcohol-impaired driving, and this may help convince some of these police commanders of their benefit.

Increasing Public Awareness

Increasing public awareness through media outreach is also needed, along with increased enforcement. There was no evidence from the survey data that the campaign changed public perceptions or behaviors. The dosage and duration of Maryland's public media campaign was insufficient to produce detectable and sustained changes in public perceptions of vulnerability. The \$100,000 to \$150,000 Maryland committed each year to promote this campaign was inadequate to achieve sufficient audience reach and frequency of exposure. Clearly, more money will be needed for paid media, along with better ways of obtaining earned media. The advantage of earned media, in which the event (i.e., sobriety checkpoint) is covered as a news story by the local news stations, is that it does not require any cost. Creative and entertaining strategies that can be used to engage the electronic and print media will help generate earned media and can be used to supplement the paid media. Engaging and networking with representatives of the media should help facilitate these efforts. In addition, the enforcement community itself needs to enhance its ability for media outreach and plan proactively how it will promote its operational activities.

CONCLUSIONS

It takes time to see an effect. It is unlikely that even if substantial changes occurred in sobriety campaign

activities, the results would be immediately detectable. Abrupt changes in crash rates, fatalities, or even citations may take several years to become statistically significant. In addition, it may be hard to sustain campaign momentum, especially if these public health outcomes do not improve substantially. Although behavioral and perception data may provide a more immediate indication of promising trends, those administrators and policy makers who ultimately control the financial and human resources for such efforts are most likely to be persuaded by hard facts (i.e., reductions in crashes, injuries, and fatalities). Nevertheless, public opinion data can be used to show where campaign improvements need to be made, where promising trends exist, and what public sentiment is concerning sobriety checkpoints.

Currently, Maryland is doing too little in the area of impaired driving prevention. This raises the question as to whether this state has the political will to combat this problem. A recent report issued by Mothers Against Drunk Driving (MADD) gave Maryland only the grade of C for its anti-drunk driving efforts (MADD, 2006). This composite grade was based on a variety of indicators, including its laws on drunk driving. Among specific measures, Maryland earned only the grade of D for its administrative measures and criminal sanctions for drunk drivers, indicating a statewide tendency to be rather lenient when imposing consequences on drunk drivers. Thus, in addition to mobilizing increased enforcement and greater public awareness and concern, we must also lobby for political and legislative change so that stronger laws and sanctions are available for dealing with alcohol traffic offenders. This may be difficult in the current social climate in which the salience of alcohol-impaired driving is no longer as prominent as it once was, especially after significant successes and improvements have been made (Williams, 2006).

The means by which political and legislative change can occur are complicated and unlikely in the short term. The national success that MADD has had during the past several decades at making drunk driving a prominent issue of public concern and the resultant legislative changes that have ensued suggest that it possible to do this at the state level with citizen activist groups. Perhaps an even more radical approach is needed than simply lobbying state legislators or providing invited testimony on the risks of drinking and driving, its costs to the state, and the benefits of passing proposed and more progressive legislation. Instead, proactive approaches might be called for in which specific legislators are targeted with aggressive and public demands to explain their record of voting against or otherwise diminishing proposed progressive

legislation that would strengthen sanctions against drunk drivers. Policy makers need to be held accountable as much as the enforcement community.

This investigation had several unique strengths and limitations that need to be acknowledged. The use of multiple indicators including alcohol-related crashes, injuries, and citations supplemented the public opinion telephone survey data. As a result, a clearer picture of the public health impact of this anti-drunk driving effort was available. Too often, public campaigns are evaluated using only attitudinal or self-report behavior measures and are not able to include a variety of public health status measures. The use of a variety of mortality, morbidity, and enforcement data were decided strengths to this evaluation. Unfortunately, the budgeting and planning process did not allow for telephone surveys of public awareness to be done in Maryland before the campaign started. This would have allowed precampaign levels of driver perceptions and behaviors to be assessed and would have enabled pre/post comparisons to be performed of public perceptions of alcohol-impaired driving risk. Program evaluators need to be involved in the planning process of such public health and safety initiatives as early as possible so that proper attention can be given to program evaluation.

In summary, the lesson learned from Maryland's Checkpoint Strikeforce campaign is that the levels of commitment from the public, enforcement, and political communities were well below the thresholds that are critical for public health impact. Insufficient investments in paid as well as earned media, along with a generalized failure to increase the level of enforcement of impaired driving, were factors that contributed to this outcome.

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Testimony
House Bill 1442 - Department of Human Services
Senate Judiciary
Senator Diane Larson, Chairman

March 13, 2019

Chairman Larson and members of the Senate Judiciary Committee, I am Laura Anderson, Assistant Director of the Behavioral Health Division of the Department of Human Services (Department). I appear today to provide testimony in opposition to House Bill 1442.

CONSTITUTIONAL

First, to address the concern of perceived infringement of civil rights, the Supreme Court ruled in 1990 that sobriety checkpoints are constitutional. The court said the importance of keeping impaired drivers off the road generally outweighs the inconvenience and intrusion to motorists. (Michigan Dep't of State Police v. Sitz, 496 U.S. 444 (1990).)

STRATEGY GOAL

Second, the goal of sobriety checkpoints is to **prevent** drinking and driving – not to **arrest** drunk drivers.

According to the FBI Law Enforcement Bulletin, January 2003, Volume 72, Number 1, referenced in previous testimony, “checkpoints offer a visible enforcement method intended to deter potential offenders”; “checkpoints comprise one piece of public awareness and education relevant to the drinking and driving dilemma” (page 2); and “focusing on arrests is a misleading way to consider the value of checkpoints” (page 4).

EFFECTIVENESS

Third, research shows that highly publicized, highly visible, and frequent sobriety checkpoints in the United States reduce impaired driving fatal crashes by 18 to 24 percent.ⁱ The Center for Disease Control's systematic review of 11 high-quality studies found checkpoints reduced alcohol-related fatal, injury, and property damage crashes each by about 20 percent.ⁱⁱ This CDC statistic was included in the Arizona Daily Star and the Columbus Dispatch articles referenced in previous testimony. Similarly, a meta-analysis found checkpoints reduce alcohol-related crashes by 17 percent, and all crashes by 10 to 15 percent.ⁱⁱⁱ

For any strategy to be effective, it must be implemented to fidelity. The journal article "Lessons Learned from Evaluating Maryland's Anti-Drunk Driving Campaign" referenced in previous testimony concluded that sobriety checkpoints did not show positive change because there was insufficient levels of enforcement and inadequate publicity surrounding the campaign. This does not negate the fact that sobriety checkpoints, when implemented correctly, can be effective.

NORTH DAKOTA PREVENTION

The majority of North Dakotans support sobriety checkpoints. According to a statewide community readiness survey conducted in 2017, 73% of North Dakota adults support sobriety checkpoints which is an increase from the 2015 percentage of 71%. This data aligns to national averages as stated in the FBI Law Enforcement Bulletin, January 2003, Volume 72, Number 1 which notes, "Public opinion polls have indicated 70-80% of American's surveyed favored the increased use of sobriety checkpoints as an effective law enforcement tool to combat impaired driving" (page 3).

IMPLEMENTATION

The Department's Behavioral Health Division provides federal funding to local communities to implement evidence-based prevention efforts targeting underage drinking, adult binge drinking and prescription opioid abuse. One of the evidence-

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based strategies federally approved to prevent drinking and driving and currently being implemented by local agencies is sobriety checkpoints.

This concludes my testimony, and I am happy to answer any questions.

ⁱ Fell JC, Lacey JH, Voas RB., (2004) Sobriety checkpoints: evidence of effectiveness is strong, but use is limited. Traffic Injury Prevention 5(3):220-7.

ⁱⁱ Elder, Shults, et al., (2002) Effectiveness of Sobriety Checkpoints for Reducing Alcohol-Involved Crashes. Traffic Injury Prevention, 3:266-274.

ⁱⁱⁱ Erke, Goldenbeld, and Vaa,(2009) The effects of drink-driving checkpoints on crashes – A meta-analysis. Accident Analysis and Prevention. 41:914-923.

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NORTH DAKOTA
**BEHAVIORAL
HEALTH**

Sobriety Checkpoints

The Supreme Court ruled in 1990 that sobriety checkpoints are constitutional. The court said the importance of keeping impaired drivers off the road generally outweighs the inconvenience and intrusion to motorists. (Michigan Dep't of State Police v. Sitz, 496 U.S. 444 (1990).)

The goal of sobriety checkpoints is to **prevent** drinking and driving – **not to arrest** drunk drivers. Law enforcement officers generally arrest impaired drivers detected at checkpoints and publicize those arrests, but arrests at checkpoints should not be used as a measure of checkpoint effectiveness. For checkpoints to be effective, they should be highly visible, publicized extensively, and conducted regularly.

SOBRIETY CHECKPOINTS ARE EFFECTIVE

There is substantial and consistent evidence from research that highly publicized, highly visible, and frequent sobriety checkpoints in the United States reduce impaired driving fatal crashes by 18 to 24 percent.

The Center for Disease Control's systematic review of 11 high-quality studies found checkpoints reduced alcohol-related fatal, injury, and property damage crashes each by about 20 percent. Similarly, a meta-analysis found checkpoints reduce alcohol-related crashes by 17 percent, and all crashes by 10 to 15 percent.

SUPPORT FOR SOBRIETY
CHECKPOINTS REMAINS
HIGH AMONG NORTH
DAKOTA ADULTS.

73%

Community Readiness Survey, 2017

SOBRIETY CHECKPOINTS VS. SATURATION PATROLS

Both sobriety checkpoints and saturation patrols have a significant purpose, and when used together, can be effective in reducing the number of impaired drivers.

It is proven saturation efforts will bring more DUI arrests than sobriety checkpoints. If arrests represent an agency's goal and it has the resources, then it should use saturation patrols.

If an agency's goal weighs heavier on the educational side and preventing driving while intoxicated, it should use sobriety checkpoints. However, to be effective, sobriety checkpoints must be used frequently which may represent a resource burden on agencies.

IMPLEMENTATION IN NORTH DAKOTA

The Behavioral Health Division provides federal funding to local communities through local public health, tribes, and other local grantees to implement evidence-based prevention efforts. One of the evidence-based strategies being implemented by local agencies is sobriety checkpoints.

Fell JC, Lacey JH, Voas RB, (2004) Sobriety checkpoints: evidence of effectiveness is strong, but use is limited. Traffic Injury Prevention 5(3):220-7.
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FBI Law Enforcement Bulletin (January 2003)

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Senate Judiciary Committee:

My name is Lynn Mickelson from Colfax, ND. I am writing this statement to ask you to kill HB 1442. As a parent of one of the young Deutscher family members from West Fargo that was killed July 6, 2012 by a drunk driver traveling the wrong way on I-94 about 30 miles west of Jamestown, I must let you know that my wife and I are very passionate about the dangers of impaired driving and promoting safe driving practices.

I realize that this HB 1442 is mainly meant to eliminate the use of Sobriety Checkpoints in the State of ND, although that specific wording is not included in this proposed bill.

Back in the 2013 Legislative Session a nearly identical bill was introduced by the same main sponsor stating that 'many' of his constituents had complained about these Sobriety Checkpoints were an 'inconvenience' and caused 'frustration' to those who had done nothing wrong. Being 6 months after losing an entire family branch, Aaron, Allison, Brielle and an unborn Baby, I stated that I could talk about a lot of 'inconvenience' and 'frustration' that we had dealt with and all the things that were denied us now that we had lost an 18 month old granddaughter and an unborn baby.

I also realize that the use of Sobriety Checkpoints don't pull a lot of impaired drivers off the roads but the mere advertising of such an operation being scheduled for an 'undisclosed location' on a certain date has been proven to deter several people from taking a chance on getting caught or makes them seek an alternative means of transportation.

Another important fact that I know is that the use of Sobriety Checkpoints is NOT mandatory. It is totally at the discretion of the local Law Enforcement entity to do it or not. It is simply one of the 'tools' in their arsenal that is available to them. My big concern and question here is 'why take away one of the tools that they have had and have the freedom to choose to use it or not?'

Please consider killing this HB 1442.

Thank You.

Lynn Mickelson

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HB1442

Madam Chair and members of the Senate Judiciary Committee, I am writing to provide my professional testimony on HB1442, regarding alcohol sobriety check points. I work as the Director of Health Promotions at First District Health Unit. Implementing effective prevention strategies of substance abuse is the majority of my job. Many times the grant funding we receive requires we use only evidence based strategies. While I enjoy using my creative talents in my personal life, when working with public grant funding, it would not be prudent to be creative in picking strategies that sound good and might work. The evidence base strategies have been tested and proven to work in reducing the unhealthy behavior we are trying to prevent.

Across the nation we hear about the "opioid epidemic", the true is we have a broader issue, a "substance use epidemic", of which alcohol is one of the most common and acceptable substance abused. Currently, North Dakota has a one of the highest youth consumption rates and adult binge drinking rates in the nation. I do not understand why we would want to further limit the already sparse tools we have available in our tool box in combating this epidemic. I watched testimony on the House floor last month. The main argument was that there are more cost effective tools we could be using. There is no one size fits all magic pill that will reduce this problem, we need **ALL** of these tools and when we can implement multiple tools, we can be even more effective in reducing and preventing risky behavior.

On a personal level, part of the reason I do this work is in memory of my Godson, Ryan Palmer, who on July 17, 2011 was killed while driving intoxicated. Trust me, we have prayed that a sobriety checkpoint had been set up on the highway that night. I also had a unique experience several years ago on a drive home from visiting family with our three young boys in the backseat, we encountered a sobriety checkpoint. What an educational opportunity that provided for us as parents to discuss drinking and driving with our children.

I have witnessed numerous times that when people know there will be checkpoints they share the information with others. You can argue that people take a different route, but in reality, it changes behavior. Often times it deters a person from driving intoxicated, limiting alcohol consumption, designating a sober driver, having someone pick them up, or taking a taxi/Uber/Lyft.

I ask you to keep sobriety check points as a way to combat the "Substance Abuse epidemic" and save lives of our citizens.

Renae L. Byre