

## **POLICE CHECKPOINT DESIGNED TO GATHER INFORMATION ABOUT AN ACTUAL CRIME**

In the case of *Illinois v. Lidster*, 540 U.S. \_\_\_\_ (2004), the United States Supreme Court has ruled that a police checkpoint designed to obtain information from motorists about an accident was constitutional and did not violate the Fourth Amendment's prohibition against unreasonable search and seizure. The Fourth Amendment requires that searches and seizures be reasonable and, generally, be based on an individualized suspicion of wrongdoing. *Chandler v. Miller*, 520 U.S. 305, 308 (1997). It is also well established that a vehicle stop at a highway checkpoint constitutes a seizure within the meaning of the Fourth Amendment. *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990).

The vehicle checkpoint at issue in *Lidster* occurred one week after a fatal hit-and-run accident, and was set up in the same location and around the same time of day that the accident occurred in an attempt to obtain information about the accident and to identify witnesses. Vehicles were stopped for approximately 10 to 15 seconds, were handed flyers, and were not asked for their names, drivers' licenses or their insurance information. The Respondent was one of the motorists stopped at the checkpoint. After speaking with the Respondent, smelling alcohol on his breath, and noticing that his speech was slurred, police administered several field sobriety tests that the Respondent subsequently failed. The Respondent was then arrested and charged with driving under the influence of alcohol.

The Respondent challenged his arrest and conviction on the ground that the government obtained most of the evidence used against him through the use of a checkpoint that violated the Fourth Amendment. The Illinois Supreme Court agreed, and ruled that the checkpoint violated the Fourth Amendment, basing its decision on the U.S. Supreme Court case of *Indianapolis v. Edmond*, 531 U.S. 32 (2000), which held that a checkpoint whose primary purpose was to detect evidence of ordinary criminal wrongdoing and which is not based on "individualized suspicion" violates the Fourth Amendment.

*Indianapolis v. Edmond* involved a checkpoint at which police stopped vehicles to look for evidence of drug crimes committed by the occupants of the vehicles. Once stopped, officers would visually examine the interior of the vehicle from the outside, walk around the vehicle with a drug-sniffing dog, and arrest the occupants if evidence of drug crimes were found. The Court ruled that such stops are unconstitutional and violate the Fourth Amendment because they are designed primarily for general crime control purposes (i.e. detecting ordinary criminal wrongdoing) and were not based on "individualized suspicion." (It is important to note, however, that in some circumstances, such as sobriety checkpoints and border inspections, special law enforcement concerns will sometimes justify highway stops without individualized suspicion. *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990).)

In upholding *Lidster's* conviction and ruling that the police checkpoint did not violate the Fourth Amendment's prohibition against unreasonable search and seizure, the Court differentiated *Lidster's* "information-seeking" checkpoint from the "general crime control" checkpoint reviewed in *Edmond*. The Court stated "[T]he stop's primary law enforcement purpose was not to determine whether a vehicle's occupants were committing a crime, but to ask vehicle occupants, as members of the public, for their help

in providing information about a crime in all likelihood committed by others. The police expected the information elicited to help them apprehend, not the vehicle's occupants, but other individuals." *Lidster*, 540 U.S. \_\_\_\_ (2004).

The Court also explained that the law ordinarily allows police to seek the voluntary cooperation of members of the public in the investigation of a crime and that police officers do not violate the Fourth Amendment merely by approaching an individual in a public place and asking him if he is willing to answer some questions or asking questions if the individual is willing to listen. There is a difference, however, between stopping a pedestrian and stopping a motorist to ask for his or her voluntary cooperation in an investigation because the involuntary stop of a motor vehicle constitutes a seizure under the Fourth Amendment. However, the Court held the difference was not important enough to justify the application of "an *Edmond*-type presumptive rule of unconstitutionality." The Court based this decision on the fact that the information-seeking checkpoints are less intrusive than other types of stops, are less likely to provoke anxiety, and that police are not likely to ask questions designed to elicit self-incriminating information. The Court further recognized that "it would seem anomalous were the law ... to allow police freely to seek the voluntary cooperation of pedestrians but ... to forbid police to seek similar voluntary cooperation from motorists."

Once the Court ruled that the information-seeking checkpoint was not presumptively unconstitutional, the Court then reviewed whether the means used to implement the checkpoint were reasonable. In determining the reasonableness of the checkpoint, the Court looked to "the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty. *Brown v. Texas*, 443 U.S. 47 (1979). The Court found the checkpoint reasonable in light of the fact that the public concern was significant (investigating a crime resulting in death), the objective of the checkpoint was to help find the perpetrator of the crime (not of unknown crimes of a general sort) and the checkpoint was narrowly tailored to significantly advance that objective, and the checkpoint interfered minimally with individual liberty interests protected by the Fourth Amendment.

This case is important to municipalities because it creates another exception to the Fourth Amendment requirement that motor vehicle stops must be based on reasonable suspicion of wrongdoing. Now, local police can seek the assistance of the general public in investigating a crime by conducting a vehicle checkpoint, so long as the vehicle stops are conducted in a reasonable manner, are narrowly tailored to seek the needed information, and do not unreasonably intrude on individual liberties. Furthermore, motor vehicle checkpoints employed for general law enforcement purposes are no longer automatically unconstitutional, if such checkpoints are for information-seeking purposes and are implemented in a reasonable way.

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