



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 276
February 12, 2004

INFORMATION-SEEKING CHECKPOINT
DOES NOT VIOLATE FOURTH AMENDMENT

Reference: Illinois v. Robert S. Lidster United States Supreme Court No. 02-1060 January 13, 2004

FACTS:

At about midnight on August 23, 1997, a 70-year-old bicyclist was struck and killed on a highway. The motorist drove off without identifying himself. About a week later, at the same time of night and at the same location, police set up a highway checkpoint designed to obtain information from the motoring public. As each car drove into the checkpoint, an officer would stop the car for about 10-to-15 seconds. Occupants were asked whether they had seen anything happen there the previous weekend. Officers also handed each driver a flyer saying "ALERT...FATAL HIT & RUN ACCIDENT." The flyer requested "assistance in identifying the vehicle and driver in the accident which killed the 70-year-old bicyclist."

Lidster drove his minivan toward the checkpoint. His van swerved and nearly hit one of the officers. The officer smelled alcohol on Lidster's breath. Lidster failed a field-sobriety test and was arrested and convicted for DUI. Lidster argued that the checkpoint violated the Fourth Amendment; the Illinois Supreme Court agreed. The State of Illinois appealed to the U.S. Supreme Court.

ISSUE:

Does a highway checkpoint, where police stop motorists to ask for information about a recent crime, violate the Fourth Amendment?

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REASONING:

1. The primary law-enforcement purpose of the stop was to ask vehicle occupants, as members of the public, for their help in providing information about a crime which in all likelihood was committed by others. The purpose was not to determine whether vehicles' occupants were committing a crime.

2. Like certain other forms of police activity, say, crowd control or public safety, an information-seeking stop is not the kind of event that involves suspicion, or lack of suspicion, of the relevant individual.

3. The law ordinarily permits police to seek voluntary cooperation of members of the public during investigation of a crime. Law-enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, by asking him if he is willing to answer some questions or by putting questions to him if the person is willing to listen.

NOTES:

Compare this case with Texas v. Brown, Legal Bulletin No. 68, involving drivers' license vehicle registration checkpoint; Michigan v. Sitz, Legal Bulletin No. 144, involving DUI checkpoint; and Hamilton v. State of Alaska, Legal Bulletin No. 263, involving the stop of a vehicle with obscured license plates near the scene of a homicide.

Remember to inform victims about the services of the Alaska Office of Victims Rights (OVR); they provide legal assistance to victims and, in some cases, to members of victims' families.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Investigatory Seizure of Persons and Things," and Section K, "Plain View," of your Contents and Text. File Legal Bulletin No. 276 numerically under Section R of the manual.