

2017 HOUSE ENERGY AND NATURAL RESOURCES

HB 1180

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau –A Room, State Capitol

HB 1180
1/19/2017
27118

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to requiring reasonable suspicion for certain traffic stops and stops for violations of laws relating to wildlife

Minutes:

Attachments #1-#2-#3-#4

Chairman Porter: Called the committee to order on HB 1180. The Clerk read the title.

Rep. Rick Becker: presented Attachment #1 in support of HB 1180, the checkpoint bill.

14:47

Vice Chairman Damschen: I'm curious, if a patrolman observes a vehicle in front of a bar for 3-4 hours, and a person comes out and drives away, is that reasonable suspicion in your opinion?

Rep. Rick Becker: I'm glad you added the last part, in my opinion. If the officer saw the person staggering to their car, that's probable cause. If the officer sees them get in a car and follows that vehicle and their hugging the center lane, or swerving a little bit, driving excessively slow, all the signs of an impaired driver, that's probable cause. That's the whole idea behind a saturation patrol. You get these guys out instead of standing around a crowded checkpoint, that has to get federal funding, and to abide by the Supreme Court ruling of 1990, they have to have a way to get out. To be able to get around and go the other way passed the notification they had as a check point. There has to be an exit route for people that don't want to go through it. You take all these guys and put them in their patrol cars, and you them looking for erratic or behavior typical of impaired driving, that's why you get so many more people off the road.

Vice Chairman Damschen: I'm just curious, where it says reasonable suspicion. If you thought that would be adequate, if it would fall under that definition of reasonable suspicion.

Rep. Rick Becker: Yes, I'm very confident it falls under reasonable suspicion.

16:37

Rep. Roers Jones: I just want to clarify what you said again. The Supreme Court in order for sobriety checkpoints to be constitutional, have to have an opportunity for potential drunk drivers to turn around and go a different route before they get to the checkpoint?

Rep. Rick Becker: I do believe, yes, from my reading that's absolutely true. I'm not an expert, so I want a back door to say yes, I believe that's true.

Rep. Devlin: Has the FBI weighed in on this in the last 14 years? I realize this code was in 2003 which you said, and I wonder if they have any difference of opinion or still stand by it, or have you seen anything later that that?

17:34

Rep. Rick Becker: That's a good question. I was hoping they would have something more recent. I did a search and could find nothing more. Therefore, I have to believe that what they said before, and again they didn't say that sobriety checkpoints are bad, they said they are not as effective and are very very clear on that. Again you can pull that FBI Bulletin up. It's several pages and that's why I didn't have a big handout. I can only assume they weren't condemning one, they said one is clearly more effective, and the other one does have value if you do a whole bunch of them which again increases the cost a lot. I have to assume they have no other new findings since 2003.

Rep. Heinert: You've discussed DUI checkpoints. This bill entails much more than DUI checkpoints, outside of the Game and Fish section. I'm talking within the traffic section only. We're talking Sections 39.01 through 39-13, 39-18, 39-21, 39-24, and several other sections within. Is your intent just the DUI checkpoint or is your intent every one of these sections individually as well?

Rep. Rick Becker: My intention is with all of the sections of law. Currently the only standard that I am aware outside of the safety inspection checkpoints, all of these codes fall within traffic. The understanding that I have is the only routinely used checkpoint type of situation is with sobriety checkpoints and that's why I included it. Let's say for instance, there was a checkpoint for seatbelts. It really wouldn't make sense, but as an example. If law enforcement decided we're going to hold checkpoints to check on seatbelts, or we're going to make sure your left and right blinkers are working. They would not be able to do that under this law.

19:48

Rep. Heinert: If I can ask you a scenario question. Highway patrol officer is sitting on an overhead on the interstate, running radar speed enforcement. Do you consider that a checkpoint?

Rep. Rick Becker: No absolutely not. No one is being pulled over without probably cause in the case you've given for speeding.

Chairman Porter: Further testimony in support? Opposition?

Robert Timian: Chief Game Warden with ND Game and Fish Attachment #2 spoke in opposition and recommended Do Not Pass.

23:32

Rep. Keiser: Rep. Becker testified, I know it was a DUI and the roving thing, but Game and Fish has roving checks as well as just checkpoints is that correct?

Chief Timian: If they're conducted as a check station, they cannot be roving.

Rep. Keiser: You have officers out there that are (inaudible, Chief Timian was talking over Rep. Keiser). You have patrolling and checking

Chief Timian: Our officers when are on patrol are guided by the same rules and regulations as any other law enforcement officer when they make a general stop. There have to satisfy the court, and when they make a stop, should a violation occur, the person can challenge whether the stop is legal and met all legal requirements. That doesn't change. We still have to do that.

Rep. Keiser: The point was made, in DUIs, the success rate is higher with roving and officers in the field, would that apply in your situation that it would be more effective than a checkpoint approach?

Chief Timian: You ask a question which is more effective. That's a hard question to answer. The officer in the field on general patrol and the check station, while having the same objective of detecting violations, checking people, have somewhat different operational objectives. Checkpoints in the eastern part of the state specially for detection of A&S (?) and to make sure incoming boats are clean. We can target areas, i.e. Devils Lake, where we know they're coming in and can concentrate our efforts on those boats. We also have officers to check boats at landings. It's not either or but an accumulative effect.

26:12

Rep. Roers Jones: This statute if passed in its current form, would definitely prohibit the pull off the highway at the rest area game checks that you do because you're kind of flagging all of the vehicles that appear to have been hunting. I'm wondering, would this affect your ability to drive up to parties that are hunting in the field or boating on the lake and do license checks and check their game count or live well (?26:44) counts. Do you feel there is an element of probable cause when you're going up to someone to do a license check in these situations or is it just a stop and license check? Is there no probably cause element in that situation?

Chief Timian: As written it seems to targeted at check stations. When our officers are not at a check station, they still fall under legal guidelines for making checks and stops. This law as written, targets vehicle stops (boats are not a vehicle by legal definition) for compliance only. So yes, a warden driving down there and he sees a vehicle on the highway, he couldn't check them. He doesn't do that now under the current existing laws. This goes beyond that and says you can't set up check station.

Chairman Porter: To expand on Rep. Roers Jones question, so a warden on the Missouri River on routine patrol, slows down goes by a boat and says let me see your life jacket. Are the individuals on that boat required to show their life jackets or can they ignore that order based on your example?

Chief Timian: Generally for safety purposes we are allowed to do inspections on on boats for safety equipment. We do that. To follow up, in the field, let's say a warden drives out in the field to a group of duck hunters, and they're collecting their decoys and he drives out there and checks their licenses, he's not making a vehicle stop. There's no vehicle involved. So anytime there's a vehicle involved, and they're stopped by a law enforcement officer, there are currently laws on the books and court rules that determine how and when that officer can legally stop that vehicle. We have to abide by all of those.

Chairman Porter: Further questions? Further testimony in opposition?

Mike McEnroe, ND Wildlife Federation presented Attachment #3. Urges Do Not Pass on HB 1180.

Chairman Porter: questions? Further testimony

31:08

Bill Helphrey ND Bull Hunter's Association. I would like to see you take Mr. Becker up on his offer to remove this Game and Fish portion from this bill. I'm speaking on a conservation side. In my mind I'm thinking of the thousands of duck hunters coming from MN because of the prairie pot holes we have. I went on the internet, and looked up the zebra mussel. It looks like the epicenter is around the Great Lakes because it originated in Russia. I think it came over on ships. You can see on their map, the Great Lakes area spread the areas of zebra mussels in. I'm seeing these duck hunters with their boats and decoys and all that stuff, that have been in the water in MN in sloughs where there's lots of grass and weeds, and then they load up and come to ND. If they are carrying with them, vegetation or any of the vigorous larva from the zebra mussel, they throw it here in a body of water here in ND and it washes off. It's an infection that spreads. If you had a cabin on the lake and it had a slough attached to it, that duck hunters used, they would infect your lake with the zebra mussel or some type of vegetation that spreads and takes over your body of water and ruins your lake. I just think from a conservation side of the House, to remove this opportunity to prevent the spread of aquatic nuisance species like this would be a mistake. It doesn't hurt anybody to stop and check. Maybe they missed some vegetation. Let's not gamble on it. I ask to have that section removed.

Chairman Porter: questions?

33:20

Rep. Roers Jones: You are not opposed to the language related to sobriety checkpoints traffic stops, you just want the game and fish portion taken out?

Bill Helphrey: yes

Chairman Porter: further questions? Further testimony in opposition?

Carmen Miller, Director of Public Policy for Ducks Unlimited, Inc. Great Plains region, representing over 6000 members across the state of ND. She presented Attachment #4.

Chairman Porter: Questions? Further testimony in opposition to HB 1180.

37:30

Foster R. Hager: representing Cass County Wildlife Club. I can sum it up, and a saying that Theodore Roosevelt had which is bull feathers! Kill the bill. It's poorly written, nobody knows for sure what is suspicion. Just kill the bill. Thank you.

Chairman Porter: Any questions? Closed the hearing on HB 1180.

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau –A Room, State Capitol

HB 1180
1/19/2017
27155

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to requiring reasonable suspicion for certain traffic stops and stops for violations of laws relating to wildlife

Minutes:

none

Chairman Porter: Called the committee to order on HB 1180.

Rep. Heinert: I had a discussion over noon hour with Rep. Becker in reference to this bill. Rep. Becker has no concern whatsoever to eliminate the Game and Fish section of this bill, which is the Section 1. When it comes right down to reality, Rep. Becker is after one thing, and that's the DUI checkpoints. So he also had no concern about eliminating all the Title 39's out of here that are excessive that are above and beyond the DUI checkpoints.

Chairman Porter: Which one of the numbers is the specific one?

Rep. Heinert: Specifically for DUI is 39-08-01.

Chairman Porter: So that's not even listed.

Rep. Heinert: It would be under 39-09 through 39-13.

Chairman Porter: So it's 39-08-01?

Rep. Heinert: that's the specific DUI statute. A couple schools of thought from my other job, DUI checkpoints are valuable and invaluable in my opinion. For many years I did not like them and we did not use them in Burleigh County. Rep. Anderson then I started hearing comments among the community that some of the local bars were talking about them within their facilities that we were having DUI checkpoints. So I twisted my own arm, and I went to one of those bars one evening and sat at the end of the bar like they told me I should do and listened to what the bartender tells everybody. They do talk about these in bars when we have DUI checkpoints around the area. They tell them roughly where they are at, and to my amazement a lot of people got rides home that night, cabs showed up all over the place, a lot of cars were left in the parking lot that evening. So that night I kind of changed my whole

attitude on DUI checkpoints. Because my theory on a DUI checkpoint is not so much there to arrest somebody as it is to deter the driving. That's why under the federal guidelines we have to do so much advertising on the DUI checkpoints and what day they are and approximately what area. We don't identify exactly where they are. I thought about making an amendment to make this a DUI checkpoint bill and let it stand on that merit and maybe reference that we could refer it back to transportation committee for an additional hearing because we would change the whole philosophy of it and I don't know if we can do that or not. I don't understand that side of it just yet.

Chairman Porter: We certain can amend it to that. It is only going to get one hearing and go right to the floor to stand on its relevance after this committee deals on it. There's no re-referral process.

Rep. Heinert: Since 1:00 when I talked to Chairman Porter, I talked to a couple other committee members. There's some other thoughts, maybe we should just leave as it is and vote on it as it stands.

Rep. Roers Jones: Rep. Heinert, if you think that announcing saturation patrols would have the same effect on bar clientele.

Rep. Heinert: I don't know. We've used those for several years as well. We don't typically announce those. I don't think they're as good as what they claim they are. I don't see any significant arrests when we have saturation patrols unless we go into specific areas. Like for us in Burleigh County, we have what we call a dessert roundup south of Bismarck, a large party spot where we specifically hit that area. Then we see a specific number of arrests. If we're just out covering the south side of Bismarck, we don't see a significant number of arrests for having saturation patrols.

Chairman Porter: Committee, from my sake, I would be very uncomfortable sending this bill out in either direction with Section 1 in it. I would debate and vote on amendments to Section 2 as members bring them up and do it but in my mind I would be very uncomfortable risking Section 1 and the potential crisis we would have with our aquatic nuisance species and other game and fish issues that were brought up today. I certainly can't control or stop it but I would like to see Section 1 removed before we do anything else with the bill.

Rep. Devlin: The rule of thumb is you send the bill out in the best possible form, and that's along what Rep. Heinert discussed. My other question was, there was no law enforcement here at all. Did they miss that was in a section of the bill? I've never seen that before. I thought the Attorney General, Highway Patrol, or whoever would have been here on this bill. I was just shocked.

Chairman Porter: The ND Peace Officers Association was here. They're lobbyist, they did not testify on the bill. The other ones you mentioned, I did not see here.

Rep. Anderson: We went and talked to Attorney General Wayne Stenehjem and it slipped by them. They saw the word wildlife and they didn't think there was any problem with it.

Chairman Porter: I would think in the title when you say, “reasonable suspicion for certain traffic stops” that whoever is reading the bill, would have gone further.

Vice Chairman Damschen: There are times I’ve experienced this myself when I wish this was passed, but it isn’t the norm that we worry about this happening, that this is abused. I think to support this right now, especially when locally our law enforcement has been under such pressure and demonstrated tremendous restraint and responsibility, I’d just as soon see the whole thing go down.

Rep. Roers Jones: I’m really torn. I understand from the law enforcement prospective why you want to have as many tools as possible to fight drunk driving. But I’m also thinking if we take out all the references to wildlife and parks, all of the email, all the opposition I’m getting, and all of the testimony that we heard, are to the wildlife portion, the Game and Fish portions of this and the effects it would have. Then opposition to DUI checkpoints. I’m bothered we didn’t have any presence law enforcement. Aside from comments of Rep. Heinert, it makes me think, is it an issue for law enforcement or not.

Rep. Seibel: I live on Lake Sakakawea and that body of water is near and dear to my heart and I don’t ever want A&S get in there. Therefore, they do check us when we are putting our boats in there, every time there’s a fishing tournament there may be a check point, and I have no problem with that. I have nothing to hide. So I would like to offer a motion to amend HB 1180 by removing Section 1.

Rep. Marschall: Second.

Chairman Porter: I have a motion from Rep. Seibel, second by Rep. Marschall to remove Section 1 of HB 1180. Discussion on that motion. Discussion. (Vote #1) Voice vote, motion carries. Committee, we have an amended bill in front of us.

Rep. Heinert: I will make a motion that Section 2 be changed to identify only Title 39-08-01.

Chairman Porter: There’s a motion from Rep. Heinert on Line 17 and 18, to remove all of the other chapters and specifically list 39-08-01 which is the driving under the influence references in the Century Code.

Rep. Ruby: Second.

Chairman Porter: Second from Rep. Ruby.

Rep. Heinert: There’s a couple other areas in here that need to either be take out or changed around. Words like these to this, chapters to chapter.

Chairman Porter: They fix that. It’s automatically fixed.

Rep. Seibel: Do we need to get rid of the word “equivalent” pertinence or is that okay there?

Chairman Porter: I think once it's relevant back to 39-08-01, then if there's an equivalent ordinance on the local level, they can just use their local DUI ordinance that would be equivalent to that for a checkpoint. The way I understand this we are necking this thing down to just allow checkpoints for DUIs. That's the way it reads.

Rep. Anderson: Did we also eliminate Line 3 in the 1st page there?

Chairman Porter: We don't have to do that. It's taken care of. That's not part of the law, it's just the title. Further discussion?

Vice Chairman Damschen: tell me again what the results of this amendment will be.

Chairman Porter: This amendment takes out all those other chapters of the 39 code that say it's ok to operate a checkpoint looking of those other provisions and nails it down to if this amendment passes, then this bill will be just saying they cannot do DUI checkpoints.

Vice Chairman Damschen: In light of Rep. Heinert's effectiveness of that, I'm going to not support the amendment.

Chairman Porter: Any other discussion? (Vote #2) voice vote. Motion carries. Now we have a further amended bill in front of us.

Rep. Lefor: I move a Do Not Pass as Amended.

Rep. Heinert: Seconded

Chairman Porter: I have a motion from Rep. Lefor, seconded from Rep. Heinert for a Do Not Pass to House Bill 1180. Discussion?
(Vote 3) Clerk called the roll on a Do Not Pass to amended HB 1180. Aye 7 No 4 Absent 3
Rep. Heinert will carry.

January 19, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1180

Page 1, line 1, after "enact" insert "a"

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, replace "chapters 20.1-02 and" with "chapter "

Page 1, line 2, remove "and"

Page 1, line 3, remove "stops for violations of laws relating to wildlife"

Page 1, remove lines 5 through 12

Page 1, line 17, remove "chapters 39-01 through 39-13."

Page 1, line 18, replace "39-18, 39-21, and 39-24" with "chapter 39-08-01"

Renumber accordingly

Date: 1-19-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

House Energy & Natural Resources 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 Rep Seibel Seconded By Rep Marschall

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Seibel		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Mock		

*Voice vote
Motion carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

remove Section 1

Date: 1-19-17 afternoon

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

House Energy & Natural Resources 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 Rep Heinert Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Seibel		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Mock		

*Voice
Vote
Motion
Carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Section 2 be changed to identify only Title 39-08-01.

Date: 1-19-17

Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

House Energy & Natural Resources Committee

Subcommittee

Amendment LC# or Description: 17.0155.01001

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 Rep Lefor Seconded By Rep Heinert

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall		✓
Rep. Anderson	✓		Rep. Roers Jones		✓
Rep. Bosch	✓		Rep. Ruby		✓
Rep. Devlin		✓	Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser AB			Rep. Mitskog AB		
			Rep. Mock AB		

Total (Yes) 7 No 4

Absent 3

Floor Assignment Rep Heinert

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

REPORT OF STANDING COMMITTEE

HB 1180: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (7 YEAS, 4 NAYS, 3 ABSENT AND NOT VOTING). HB 1180 was
placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a"

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, replace "chapters 20.1-02 and" with "chapter "

Page 1, line 2, remove "and"

Page 1, line 3, remove "stops for violations of laws relating to wildlife"

Page 1, remove lines 5 through 12

Page 1, line 17, remove "chapters 39-01 through 39-13."

Page 1, line 18, replace "39-18, 39-21, and 39-24" with "chapter 39-08-01"

Renumber accordingly

2017 TESTIMONY

HB 1180

HB 1180
Rep Rick Becker
1-19-17
#1

HB1180

Prohibits traffic stops without probable cause.
Primarily affects DUI and GNF checkpoints.
Allows for Commercial safety inspections.

Concerns/reasons for bill

- 1) Questionably constitutional/infringement on civil liberties - 4th Amendment.
 - Supreme Court OK'd it in 1990.
 - nevertheless 12 States (incl Mont and Minn) prohibit them
- 2) Pertaining to DUI checkpoints; they are ineffective in apprehending drunk drivers (62% pass through undetected with a BAC \geq .08). If used very frequently and with significant media attention, they can have a *detering* effect.

History of bill 2015. Two amendments offered. Not adopted. DNP 8-4

Floor discussion; 3 reasons for DNP recommendation:

- 1) Can't do commercial safety checks (False)
- 2) Can't stop/roadblock for Amber Alerts, etc. (False)
- 3) Emotional plea to stop drunk driving and save lives. (False)

My sense is that LEO's on the ground realize they aren't very effective, and there is a lot of wasted time.
10 or more officers = overtime pay and pulling resources better used elsewhere.
Administration/LE lobby wants to keep for Federal grants. (IMO)

If we can apprehend more drunk drivers for less man hours with Roving Saturation Patrols than Sobriety Checkpoints, and if the Public Education/deterrence is equal between the two options if media efforts are equal, why would we want to keep the option of the less effective method that has questionable 4th Amendment right infringement.

(FBI Law Enforcement Bulletin, Jan 2003)

When someone points to 2 DUI arrests made at a Sobriety checkpoint, and says "getting those two people off the road is worth it. Without the checkpoint, they may have killed someone"; I say, "If we had used those man-hours on roving saturation patrols, we would have removed 4 or 5 impaired drivers. What about the victims of those 2 or 3 additional drunk drivers that we could have caught, but didn't because we want to stick to sobriety checkpoints with Federal funding?"

GNF: yep, still a huge infringement on our rights. Your call on whether to keep.

If you make a list of ALL of the crimes that are equally bad or worse than driving with a 0.08 BAC, and you take that list of 50 or 100 or 300 crimes, shouldn't it be just as ok to stop people from their normal activities, to check and make sure they aren't doing any of those numerous and equally heinous crimes?

This bill gives better protections to North Dakotans rights, AND get **more** drunk drivers off the road.

HB 1180
#1
1-19-17

<http://www.americanlawyeracademy.com/california-dui-checkpoints-effectiveness>

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.

HB 1180
#1
1-19-17

Arizona Daily Star®

www.dailystar.com® www.azstarnet.com®

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 reinstated 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.

As Independence Day nears 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.

- 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

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 ...

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

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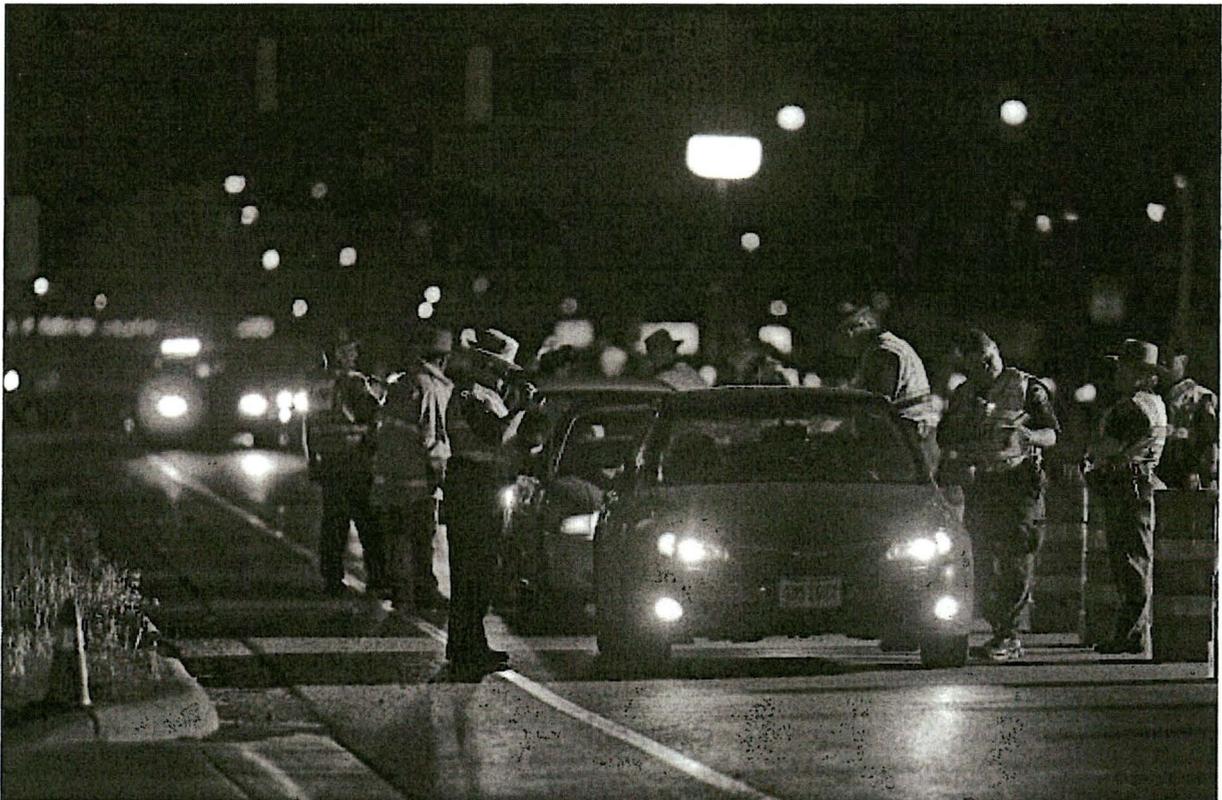
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ThisWeek **COMMUNITY NEWS**



[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

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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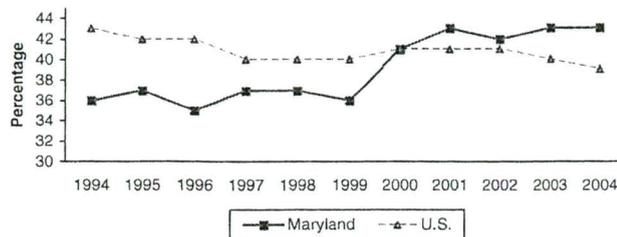


FIGURE 1 Alcohol Fatalities as a Percentage of Total Fatalities
 SOURCE: National Highway Traffic Safety Administration (2006a).

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 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.

TABLE 2
Maryland Alcohol Traffic Statistics

	<i>Before Campaign</i>			<i>During Campaign</i>		
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>
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 to 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

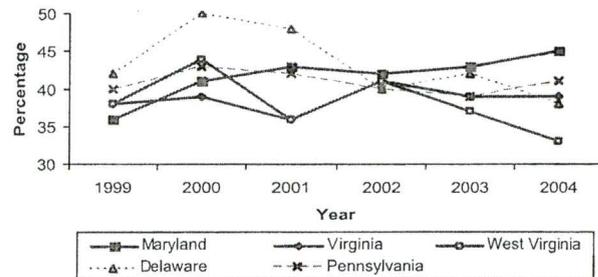


FIGURE 2 Alcohol Fatalities as a Percentage of Total Fatalities
SOURCE: National Highway Traffic Safety Administration (2006a).

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.

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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#1180
1-19-17
#2
Robert Timian



House Energy and Natural Resources Committee
Testimony on HB 1180

North Dakota Game and Fish Department
Robert Timian, Chief Game Warden
January 19, 2017

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Robert Timian, Chief Game Warden of the North Dakota Game and Fish Department. I am testifying today in opposition of HB 1180 as written.

HB 1180 has two sections. My testimony will deal with Section 1. There currently exists laws and court rulings that all law enforcement including Game Wardens must follow in making a legal stop. Section 1 appears to be directed at check stations and as written eliminate all check stations conducted by Game Wardens, to include Aquatic Nuisance Species check stations conducted prior to entry into North Dakota waters.

Check Stations conducted by Game Wardens have been ruled by North Dakota Supreme Court to legal and constitutional when they are conducted in accordance with Court rulings and guidelines which are incorporated in the Game and Fish Enforcement policy for Check Stations.

Check Stations are just one of the tools used to accomplish the mission of conservation and sustained wise use of the game and fish resources of the State. To lose this tool would to a greater or lesser degree diminish the ability to accomplish that mission.

While we conduct relatively few check stations each year, the value of conducting them is more than just the violations detected during the check. They also can provide a deterrent effect, assist in identifying violations trends, and provide biological information.

Based on comments received from hunters and anglers at check stations and from Sportsmen's groups it appears that they generally are supportive of check stations. In recent years the Department has received requests from individuals and groups for more check stations.

The Department respectfully requests a DO NOT PASS on HB 1180.

North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities



**TESTIMONY OF MICHAEL McENROE
NORTH DAKOTA WILDLIFE FEDERATION
HOUSE BILL 1180
ENERGY AND NATURAL RESOURCES COMMITTEE
JANUARY 19, 2017**

Chairman Porter and Members of the House Energy and Natural Resources Committee:

For the record, I am Mike McEnroe and I am representing the North Dakota Wildlife Federation. The Federation has 1,400 members in eighteen affiliated clubs and organizations across the State of North Dakota. The Federation is the largest sportsmen's club in the State.

The North Dakota Wildlife Federation opposes HB 1180.

We support the Game and Fish Department having the authority to conduct traffic stops or game check stations for law enforcement and fish and wildlife management purposes. Game check stations serve the enforcement of our game and fish laws. They can serve as a deterrent to the commission of game and fish violations. Check stations are also used to gather wildlife population data and information and feedback from hunters and fishermen.

Having both worked on game check stations and going through check station as a hunter, I can say they represent a minimal intrusion on the



traveling public or hunters and fisherman, and they serve a valuable function.

The North Dakota Wildlife Federation urges a Do Not Pass on HB 1180.

Thank you for the opportunity to provide comments. I will answer any questions the Committee may have.

HB 1180
1-19-17
#4



Ducks Unlimited, Inc.

To: ND House Energy & Natural Resource Committee members
From: Carmen Miller, Director of Public Policy, Ducks Unlimited, Inc.
RE: Testimony on HOUSE BILL NO. 1180
Date: January 19, 2017

Good morning, Chairman Porter, and distinguished members of the committee. My name is Carmen Miller and I live in Bismarck. I'm here today representing Ducks Unlimited, and our more than 6,000 grassroots members across the great state of North Dakota.

As a science-based habitat conservation organization, we appreciate the opportunity to offer some thoughts and perspectives on House Bill 1180. While admittedly law enforcement is not our primary area of expertise, we do share many of the same concerns raised by the ND Game and Fish Department (NDGFD) in their earlier testimony.

Specifically, we're most concerned about the unintended consequences and potential negative impacts that Section 1 of this bill, as currently written, may have on the ability of North Dakota Game and Fish to conduct periodic and lawful wildlife and aquatic invasive species (ANS) check stations around the state. Aquatic nuisance species (e.g., zebra mussels, curly leaf pond weed, Eurasian water milfoil, silver carp, etc.) threaten fishing, hunting, boating, swimming, and other water-based activities. In states where they have become established, ANS can be expensive, difficult or nearly impossible to control or eradicate. For more information about ND's efforts to combat ANS, please visit - <https://gf.nd.gov/wildlife/invasives>.

Lawful check stations are an important tool used judiciously by the Department that provide a multitude of benefits for our state, residents and world-class natural resources. Examples of this include:

- Providing important public education and increased awareness opportunities to deter the transport and proliferation of ANS;
- Providing an opportunity to collect important biological information on our fish and wildlife populations (e.g., harvest data); and
- Helping identify and prevent disease transmission (e.g., Chronic Wasting Disease or Avian Influenza testing).

These are just a few of the many benefits provided by this tool to effectively monitor and manage our state's natural resources.

In summary, we recognize the importance of NDGFD's efforts to conduct these periodic spot checks and the important scientific information that they provide. We would respectfully ask committee members to support status quo current law to avoid any of these potential unintended consequences.

Thank you for your time, consideration and service to the people of ND. I'd be happy to entertain any questions if time allows.