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National Traffic Safety Award for Prosecutors Recipient Announced!

The National Association of Prosecutor Coordinators, in cooperation with NTLC and NHTSA, is happy to announce the first recipient of the National Traffic Safety Award for Prosecutors.

Congratulations to Warren Diepraam, Assistant District Attorney in Harris County, Texas!

Warren received a number of nominations detailing his extraordinary dedication to traffic safety in his home jurisdiction, which includes the city of Houston.

Some of the highlights include:

- Formation of a vehicular assault team
- Outreach to young
- A first degree murder prosecution of a habitual DUI offender for a fatal crash
- Testimony before the Texas legislature on traffic safety issues
- Publications on traffic safety issues
- A high degree of commitment in working with victims
- Education of law enforcement and prosecutors

This was a difficult decision as all of the nominees were outstanding! We will be sharing some of their programs with you in the next issue of this newsletter.



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Low Manpower Sobriety Checkpoints in Rural and Small Communities

By: Mark Neil'

Introduction

Since the United States Supreme Court's decision in *Michigan Dept. of State v. Sitz*,² sobriety checkpoints have been an important tool in reducing alcohol-related crashes and resulting deaths. Visible and well-publicized checkpoints are capable of reducing the extent of alcohol-impaired driving and deaths and injuries on the highways.³ Despite this fact, eleven states restrict or prohibit the use of sobriety checkpoints. Perhaps an even greater threat to the existence of checkpoints than legal and political challenges is the current reality of strained budgets, conflicting priorities and manpower issues.

Purpose of Checkpoints (Efficiency v. Effectiveness)

Checkpoints are not the most efficient method of catching drunk drivers available to law enforcement. They are not meant to be. Sobriety checkpoints are intended to be a part of continuing, systematic and aggressive overall program to reduce the number of traffic crashes and their resulting deaths, injuries and property damage within a community. They serve not only as a specific deterrent to drinking and driving by arresting drivers who are under the influence of alcohol and/or drugs but, more importantly, as a general deterrent to persons who have knowledge of a checkpoint by increasing the perception of a "risk of apprehension." Accordingly, the effectiveness of sobriety checkpoints is determined by whether they reduce the number of drivers under the influence of alcohol and/or drugs.

Take the routine DUI: A lone driver is arrested by the police while on patrol. That driver, his or her immediate family and maybe a few close friends and colleagues know about the event. The deterrent effect reaches a handful of people for a few hours of time spent by the arresting officer.

Consider then the sobriety checkpoint: A few hundred or thousand people know in advance that a checkpoint will be taking place somewhere in their area through media alerts; that night, a hundred, few hundred or perhaps more cars drive through the sobriety checkpoint; telephone calls go to the local bars to

warn customers that the checkpoint has been set up. Now, many of the family, friends and acquaintances of those who heard about or drove through the checkpoint know. The deterrent effect reaches thousands of people who are aware of that checkpoint and believe that there is a "risk of apprehension" should they drive through that checkpoint while under the influence of alcohol and/or drugs.

Challenges to Conducting "Traditional" Sobriety Checkpoints

The method by which sobriety checkpoints have been conducted is one of the most common challenges law enforcement now face in the decision to conduct them. Historically, checkpoints use between 10 and 12 law enforcement officers, with some having as many as 15 to 30. This puts a severe strain on the manpower of even the largest police departments. To handle the personnel issues, additional officers often are brought in at an overtime rate, making the financial cost high. For this reason, many departments lack sufficient funding to operate checkpoints on any regular or frequent basis. Often, agencies are dependent upon federal or state grant funding for their checkpoint operation. Therefore, other enforcement activities, such as saturation patrols, become more attractive and fiscally more affordable to police departments.

Additionally, sobriety checkpoints can be physically draining to those staffing them. Because law enforcement officers know there will be a physical impact from standing for several hours on a highway in the middle of traffic late at night, checkpoints can be difficult to staff. Officer burnout becomes a significant problem in efforts to maintain a sustained enforcement effort. Competition for overtime from more attractive and possibly better paying alternatives further shrinks the pool of available and willing officers.

Faced with these challenges, many police agencies are reluctant or find it difficult or impossible to conduct frequent sobriety checkpoints. Moreover, in small communities or rural areas, there might not be a sufficient number of officers in any single agency, or even in the entire area, to staff a full-sized "regular" checkpoint.

So, How Many Law Enforcement Officers Does it Take to Conduct an Effective Sobriety Checkpoint?

The first question is: Are there legal requirements for the size of a checkpoint? *Sitz* simply requires a sufficient number of uniformed personnel and marked police vehicles to reassure motorists that the stop is legitimate and orderly and to minimize any fear, surprise or apprehension of the motoring public. There is no magic number required to satisfy constitutional muster. This determination is dependent upon such distinct factors as locale, available manpower and public knowledge and perceptions about local law enforcement.

If there is no set minimum requirement, then just how few officers would it take to safely operate a sobriety checkpoint? A 1995 California study made use of varied staffing levels (3 to 5 and 8 to 12) and found that alcohol-involved crashes declined significantly in relation to a comparison site and that checkpoints using smaller numbers of officers were as effective in reducing alcohol-related crashes as traditional checkpoints.⁴

Are Low Manpower Checkpoints Effective?

What about small and rural communities? Many police agencies in these areas lack sufficient manpower to staff a traditional checkpoint. Some areas cannot gather enough personnel even if all of the officers from all of the agencies in the county are involved. How can checkpoints be operated in these jurisdictions, and how effective can they be?

To determine their effectiveness, a study of low-manpower checkpoints was conducted in both small municipalities and rural areas of West Virginia.⁵ Two counties were selected as experimental sites. Two others, geographically remote, were chosen for comparison purposes. Baseline data were gathered in 2003 utilizing driver surveys at the department of motor vehicle offices and at roadside on weekend nights. The checkpoints were then conducted weekly over a one year period. A total of 90 low-manpower checkpoints were conducted in the study counties, with an additional 16 conducted under other auspices, for a total of 106 checkpoints. This was compared to 25 checkpoints during the preceding year. The comparison counties conducted 25 traditional and various staffing level checkpoints during the study period and 13 during the preceding year. Staffing at the study checkpoints varied from three to five officers. Costs of operation were kept to a few hundred dollars each and the strain on manpower requirements of the law enforcement agencies was minimal or non-existent. Burn-out and competition from alternative overtime assignments was greatly lessened.

The results of this study revealed two particularly interesting pieces of information. Although the proportion of drivers who had been drinking declined only a little (5%) in the study counties, there was a large reduction in the proportion of drivers with higher BACs.⁶ The proportion with BAC of 0.05% or more was

70% lower; the proportion with BAC of 0.08% or more was 64% lower relative to comparison counties.

Even more telling has been the reduction of highway fatalities. In 2002 West Virginia had 179 alcohol-related fatalities. After adopting a statewide comprehensive and aggressive program to reduce traffic crashes that included widespread use of low-manpower checkpoints, there has been a significant reduction in alcohol-related fatal crashes. In 2003, the number of alcohol-related deaths dropped to 148 (-17.3%) and to 136 in 2004 (-8.1%).⁷

Sobriety checkpoints save lives. They are an effective tool in reducing alcohol-related deaths. When low-manpower checkpoints are conducted over an extended period of time as part of a comprehensive program they can reduce fatalities without being a burden on small and rural jurisdictions.

For further information on this study or on developing your own low-manpower checkpoints, please contact Mark Neil at the West Virginia Prosecuting Attorneys Institute at mneil@state.wv.us.

¹ Mark Neil is the Traffic Safety Resource Prosecutor for the State of West Virginia.

² *Michigan Department of State Police v. Sitz*, 496 U. S. 444 (1990).

³ Lacey, J. H., Jones, R. K., and Smith, R. G. 1999. An evaluation of Checkpoint Tennessee: Tennessee's statewide sobriety checkpoint program. Final Report no. DOT-HS-808-841. Washington, DC: National Highway Traffic Safety Administration.

⁴ Stuster, J. W. and Blowers, P. 1995. Experimental Evaluation of Sobriety Checkpoint Programs: Final Report No. DOT-HS-808-287. Washington, DC: National Highway Traffic Safety Administration.

⁵ Lacey, J. H., Ferguson, S. A., Kelley-Baker, T and Rider, R. P. 2005. Low-Manpower Checkpoints: Can They Provide Effective DUI Enforcement in Small Communities? Insurance Institute for Highway Safety, March 2005.

⁶ Raw numbers in these surveys differed because of the varying nature of the surveys and thus proportions, rather than numerical statistics, are used for the purpose of this article. The numerical statistics and evaluation are available in the study whitepaper itself.

⁷ Source: Fatality Analysis Reporting System (FARS). 2002 figures indicate alcohol-related fatalities with a BAC \geq 0.08 of 37%, 2003 was 32% and 2004 was 28%. Preliminary fatality figures indicate an almost 12% decrease in fatalities in 2005 from 2004. 2005 figures for alcohol-related deaths are not yet available.

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