

## Checkpoints

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School of Government  
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### *State v. Don Defendant*

- Defendant has filed a motion to suppress evidence obtained when he was stopped on March 11, 2015 at a checkpoint established by Charlotte-Mecklenburg officers.

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### Detective B. Riggs testifies . . .

- Riggs' supervising sergeant told him to setup a driver's license checkpoint on March 11, 2015.
- The Charlotte-Mecklenburg police department has a checkpoint policy.
- The purpose of the checkpoint was to check for valid driver's licenses and registration on the vehicles coming through the checkpoint.
- Riggs typed up a plan for the checkpoint stating that every car would be stopped and the driver would be asked to produce his or her driver's license.
- The plan allowed officers to cancel the checkpoint if it became hazardous because of weather or traffic conditions.

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### Detective B. Riggs testifies . . .

- Riggs was the senior officer at the checkpoint.
- Riggs instructed the other officers about how the checkpoint was to be carried out.
- The checkpoint was set up near the intersection of Ashley Road and Joy Street.
- Officers chose this location because there is a fair amount of traffic on Ashley Road.
- Three patrol cars had their blue lights on, and an officer wearing a reflective vest stood in the roadway.
- Every car was stopped.

The agency's checking station policy and the plan that Riggs typed is introduced into evidence.

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#### MOTOR VEHICLE LAW CHECKING STATIONS

**A. Purpose:** Checking stations are established pursuant to G.S. 20-16.3A and are established and operated for the purpose of ensuring compliance with North Carolina's motor vehicle code. All officers of this Department are required to comply with this policy when participating in a checking station established by this Department. When participating in checking stations with other law enforcement agencies, the checking station plan shall control.

**B. Authorization:** The checking station shall be approved by a \_\_\_\_\_ or higher authority. Authorization shall include the location and duration of the checking station. The authorizing official shall designate an officer to be the on-site supervisor of the checking station. The on-site supervisor shall be responsible for briefing all officers participating in the checking station on the establishment and operation of the particular checking station, as well as the officer's responsibilities during its operation.

**C. Location:** The location of a checking station shall be random or statistically indicated. Checking stations placed repeatedly in the same location or proximity should be avoided. The site for every checkpoint shall be selected with due regard for the safety of motorists and the officers conducting the checking station.

**D. Notification to Public:** The public shall be advised that an authorized checkpoint is being conducted by having, at a minimum, one law enforcement vehicle with its blue lights activated at all times during the operation of the checkpoint. Signs, lights, cones and other warning devices may be used but are not required.

**E. Personnel:** Officers will wear the Department's official uniform, including reflective traffic vests, at all times while participating in the checking station.

**F. Pattern for Stopping Vehicles:** The pattern for stopping vehicles shall be to stop every vehicle. The on-site supervisor of the checking station may alter this pattern in the event of unreasonable traffic delays or other factors that create a hazard. The alteration of the pattern shall consist of permitting all vehicles to pass through the checkpoint until the delay or hazard is abated. The altered pattern must insure that no individual officer is given discretion as to which vehicle is stopped.

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CHARLOTTE - MECKLENBURG POLICE DEPARTMENT		Date	Event #:
Driver's License Checkpoint Plan		3/11/2015	20100311003405
Purpose: To increase police presence in the targeted area while checking for Operators License and Vehicle Registration violations.			
Location: Ashley Rd (2200 block) @ Joy St			
Start time: 0034	End time: 0152		
Predetermined Pattern: All vehicles coming through the check point shall be stopped unless the Officer in charge determines that a hazard has developed or that an unreasonable delay to motorist is occurring. At that point all vehicles will be allowed to pass through until the hazard or delay is cleared.			
Approving Supervisor: D. Bennett #758	Officer in Charge: B. Riggs #3111		
Participating Officers: B. Riggs #3111, C. McClendon #4425, B. Briggs #3763, W. Kiley #3410, D. Bryan #4450, J. VanHemel #2837, B. Stilwell #4236, B. Williamson #3904, J. Helton #3597, R. Garda #2966, W. Unk #3038			
A minimum of three uniformed officers and one marked patrol vehicle with blue lights activated will operate at all times.			
Additional instructions or comments:			
Results:			
Citations Issued: 3 citations (2 dwlr, 1 drug possession)			
Warrants Served: 1 (OFA Child Support)			
Arrests: 3 (1 dwlr, 1 drug possession, 1 OFA)			
Written Warnings: 0			
Other:			
Local media present: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

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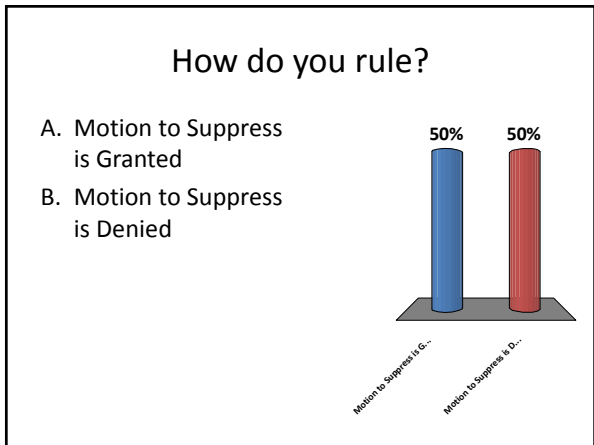
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Two Inquiries

1. Was the checkpoint constitutional?
  - A. What was the primary programmatic purpose?
  - B. Was the checkpoint reasonable?
2. Did checkpoint comply with G.S. 20-16.3A?

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Constitutionality

- **Delaware v. Prouse**, 440 U.S. 648 (1979) (discretionary, suspicionless vehicle stops by roving patrol officers for purpose of checking driver's licenses and vehicle registrations violate Fourth Amendment; holding does not prevent states from conducting roadblocks)

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Constitutionality

- **Michigan v. Sitz**, 496 U.S. 444 (1990) (State's interest in preventing drunk driving, extent to which checkpoints can reasonably be said to advance interest, and degree of intrusion on motorists who are briefly stopped renders highway sobriety checkpoints consistent with Fourth Amendment)

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Constitutionality

- **City of Indianapolis v. Edmond**, 531 U.S. 32 (2000) (narcotics checkpoint program contravenes Fourth Amendment as its primary purpose is to uncover evidence of ordinary criminal wrongdoing)
- **Illinois v. Lidster**, 540 U.S. 419 (2004) (highway checkpoint where police stopped motorists to ask them for information about a recent hit-and-run accident was constitutional)

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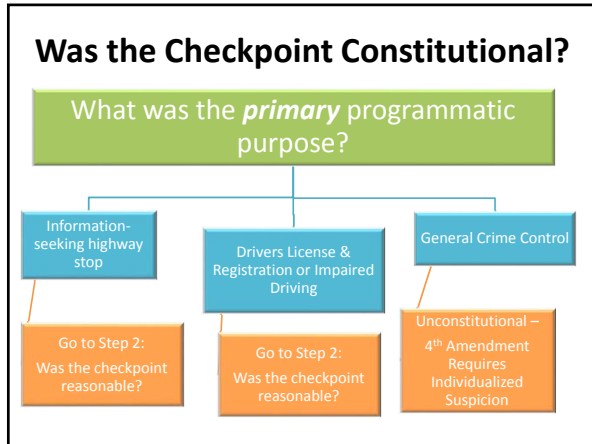
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**A. Determining the purpose**

- Trial court may rely on purpose testified to by police officer if there is no contradictory evidence. *State v. Burroughs*, 185 N.C. App. 496 (2007)
- But if there is evidence that could support a finding of an unlawful purpose, trial court must closely review scheme at issue. *State v. Veazey*, \_\_\_ N.C. App. \_\_\_, 662 S.E.2d 683 (2008).
  - And trial court must make findings regarding the purpose.

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**Purpose in *State v. Defendant*?**

- Riggs: To check for valid driver’s licenses and registrations
- Plan: To increase police presence in the targeted area while checking for driver’s license and registration violations
- *State v. McDonald*, \_\_\_ N.C. App. \_\_\_, 768 S.E.2d 913 (2015)

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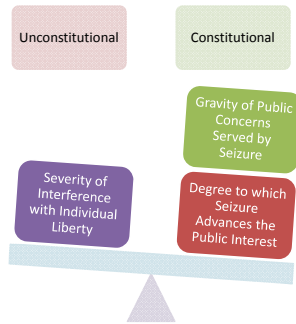
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### B. Was the Checkpoint Reasonable?



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### Was the Checkpoint Reasonable?

1. Gravity of Public Concerns
  - License and registration checkpoints advance an important purpose
  - States have vital interest in ensuring compliance with motor vehicle laws that promote public safety on roads
2. Degree to which Seizure Advances Interest
3. Severity of Interference with Individual Liberty

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### Was the Checkpoint Reasonable?

1. Gravity of Public Concerns
2. Degree to which Seizure Advances Interest
  - Did the police tailor checkpoint to serve primary purpose?
  - Did police spontaneously decide to set up checkpoint?
  - Did police offer a reason why a particular road was chosen?
  - Did checkpoint have a set starting or ending time?
  - Did police offer a reason why the time span was selected?
3. Severity of Interference with Individual Liberty

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**Was the Checkpoint Reasonable?**

1. Gravity of Public Concerns
2. Degree to which Seizure Advances Interest
3. Severity of Interference with Individual Liberty
  - What was the checkpoint’s potential interference with legitimate traffic?
  - Did police put drivers on notice of an approaching checkpoint?
  - Was the location selected by a supervising official rather than by field officers?
  - Did the police stop every vehicle or stop vehicles pursuant to a pattern?
  - Could drivers see visible signs of officer’s authority?
  - Did police operate the checkpoint pursuant to oral or written guidelines?
  - Were the officers supervised?
  - Did a supervising officer authorize the checkpoint?

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**2. Did Checkpoint Satisfy G.S. 20-16.3A?**

- Designate pattern for stopping vehicles and requesting information
- Operate under written policy that provides guidelines for the pattern
- Advise public of checking station; at least one LEO vehicle must have lights on
- Placement of checkpoints must be random or statistically indicated (not a basis for suppression)

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*State v. White*  
753 S.E.2d 698 (N.C. App. 2014)

- Absence of written policy is substantial violation of G.S. 20-16.3A
- Warrants suppression of evidence

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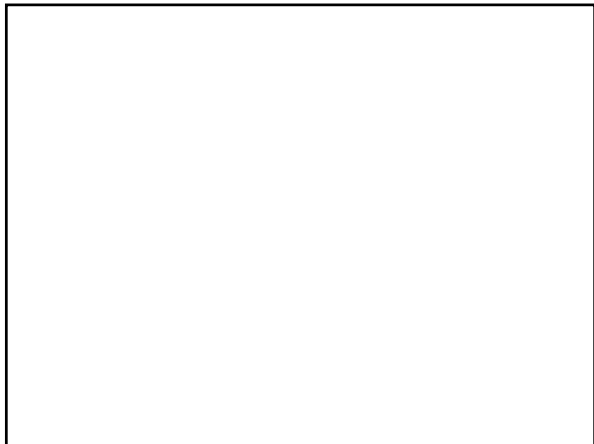
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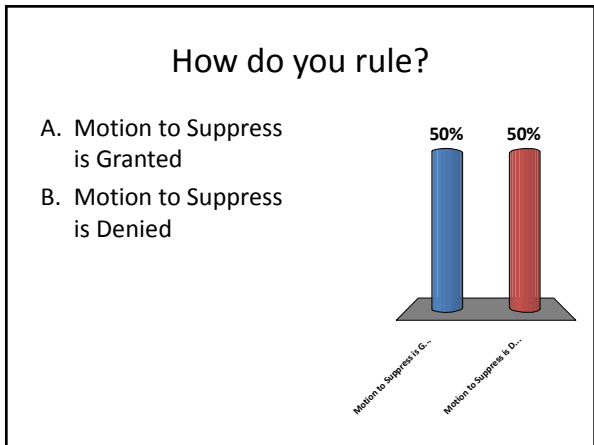
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