



JOINT LAW ENFORCEMENT & PROSECUTOR DUI TRAINING

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**The Prosecuting Attorneys' Council of Georgia
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ROADBLOCKS

**ROAD SAFETY CHECKS - SAFETY CHECKPOINTS
SOBRIETY CHECKPOINTS**

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ROADBLOCKS

(Road Safety Checks, Safety Checkpoints, Sobriety Checkpoints)

CONSTITUTIONALITY OF ROADBLOCKS

In order to pass constitutional muster, a roadblock must:

- (1) Have been implemented for a legitimate primary purpose by supervisory personnel;
- (2) Involve stopping all vehicles;
- (3) Result in minimal delay to motorists;
- (4) Be clearly identified as a police checkpoint; and
- (5) Be manned by officers sufficiently trained to determine whether motorists should be given field sobriety tests.

Baker v. State, 252 Ga. App. 695 (2001); *Lafontaine v. State*, 269 Ga. 251 (1998).

To satisfy the first requirement for a constitutional roadblock, the State has to prove that the roadblock was ordered by a supervisor and implemented to ensure roadway safety rather than as a constitutionally impermissible pretext aimed at discovering general evidence of ordinary crime. A roadblock contravenes the Fourth Amendment if it is established for the primary purpose of detecting evidence of ordinary criminal wrongdoing, such as illegal drug activities. *State v. Morgan*, 267 Ga. App. 728; *Baker v. State*, *supra*. The Georgia Court of Appeals affirmed the suppression of 122 lbs of marijuana seized in a roadblock on Interstate 16 in Laurens County because the sergeant from the Interstate Criminal Enforcement Unit (ICE) did not properly articulate the purpose of the roadblock. *State v. Morgan*, *supra*.

ROADBLOCKS HAVE BEEN APPROVED FOR:

- Sobriety checkpoints – removing drunk drivers from the road
- Verify driver's licenses and vehicle registrations
- Seatbelt Violations
- Defective Equipment
- Traffic Law Violations
- Catch a dangerous criminal likely to flee by a particular route
- Prevent an imminent terrorist attack
- Intercept illegal aliens

PRIMARY PURPOSE

In *State v. Ayers*, 257 Ga. App. 117 (2002), the defendant filed a motion in limine to suppress the evidence seized at a roadblock. At the hearing on the motion to suppress, the police officer who set up the roadblock admitted that the primary purpose of the roadblock was general law enforcement. The officer added that there were no specific reasons that the police stopped and checked vehicles and their drivers, and that the roadblock allowed police to check mass quantities of vehicles at one location so Georgia's laws and the local county ordinances could be enforced. The trial court then found the roadblock's purpose was general law enforcement and granted defendant's motion in limine to suppress the incriminating evidence gathered due to the stop of defendant's vehicle. After the State appealed that judgment, the appellate court found that a roadblock having a primary purpose of general law enforcement was constitutionally impermissible as the Fourth Amendment generally required that some measure of individualized suspicion be involved, and none of the limited exceptions to that rule applied.

In *Britt v. State*, 294 Ga. App. 142 (2008), A field officer, in response to a question from defense counsel, agreed that his "purpose out there" was not just to look for DUI's, but "generally to enforce the law." The Court of Appeals held that in determining whether a roadblock was initiated for a legitimate, primary purpose, a court should look to the testimony of the supervisory officer as to the roadblock's purpose, rather than to the testimony of the field officers.

The Court of Appeals held in *Yingst v. State*, 287 Ga. App. 43 (2007) that the form showing the primary purpose of the Henry County roadblock was admissible as a business record.

SUPERVISOR

Knowledge of Supervisor's Decision: In *Baker v. State, supra*, the defendant argued that the roadside checkpoint where he was arrested did not pass constitutional muster. The court of appeals agreed. While working at a roadblock, the officer stopped defendant and asked for his driver's license and insurance information. Probable cause to arrest defendant developed after the initial stop. The officer testified that he was not present when one of his supervisors decided to implement the roadblock, and that he could not remember which of the two supervisors had made the decision. In light of this testimony and the fact that the officer was the State's only witness, defendant contended that the State failed to prove the roadblock was lawful. The court of appeals agreed. The court of appeals found that the officer's testimony established clearly that his purpose was "DUI checks." His actions and the actions of the other officers on the scene were consistent with that purpose. But his actions were not conclusive evidence of the supervisor's purpose in implementing the checkpoint.

Supervisor's Testimony: Although recommended, the supervisor does not have to testify as to the purpose of the roadblock. The law only requires that some admissible evidence, whether testimonial or written, show that supervisory officers decided to implement a roadblock, decided when and where to implement it, and had a legitimate primary purpose for it. *Kellogg v. State*, 288 Ga. App. 265 (2007).

Evidence of Supervisor's Decision: It is the State's burden to present some admissible evidence, testimonial or written, that supervisory law enforcement officers decided to implement the roadblock, decided where and when to implement it, and had a legitimate primary purpose for it. *Yingst v. State*, 287 Ga. App. 43 (2007).

Supervisor's Participation: In *Hobbs v. State*, 260 Ga. App. 115 (2003), the supervising officer who ordered the roadblock was also the officer who stopped defendant at the scene. The Court of Appeals held that this fact did not render the roadblock unconstitutional. The sergeant had testified that, at the roadblocks he authorizes, he goes to the location to supervise the other officers and that he takes no direct role unless the other officers are tied up with other motorists. In addition, both the sergeant and another officer testified that, for purposes of the roadblock in question, sergeant was the supervising officer. In the Henry County case of *Gonzalez v. State*, 289 Ga. App. 549 (2008), the defendant argued that Sergeant Harned could not be considered a supervising officer because he participated in the roadblock. Harned testified that although his primary duty was to oversee the roadblock, he did occasionally "step in" and participate when traffic backed up. The Court found that the mere fact that Harned participated in the roadblock is insufficient to transform him from a supervisor into a field officer.

SCREENING OFFICER

In *State v. Golden*, 171 Ga. App. 27 (1984), reflecting signs were placed at each approach to the roadblock, identifying the operation as a driver's license checkpoint and requesting motorists to produce their driver's licenses and insurance cards for inspection. The checkpoint was also identified by orange, iridescent traffic cones placed in the roadway and by a patrol car stationed beside the road with its emergency lights flashing. A "chase vehicle" was present to apprehend any drivers who might attempt to avoid stopping.

As each passing motorist reached the checkpoint, one of two designated "screening officers" checked his drivers' license, insurance card, and automobile tag for possible irregularities. The screening officers were also instructed to observe each driver for signs of intoxication. If a possible offense was observed, the screening officer noted it on a pre-printed form and asked the driver to pull into an adjacent parking lot, where a "receiving officer" made a determination as to whether the driver should be charged with the offense. In the case of suspected intoxication, this involved ordering the driver out of the vehicle and asking him to submit to a series of "field sobriety tests." Based on the results of these tests, the suspect was then either placed under formal arrest for DUI or

allowed to continue on his way. If placed under arrest for DUI, he was transferred to the custody of other officers and asked to consent to a breathalyzer test under the "implied consent" law.

In suppressing evidence of the DUI the trial court concluded that because no specific guidelines existed for use in deciding which motorists should be evaluated for intoxication, the screening officers were allowed to exercise an unconstitutionally excessive amount of discretion in this regard. The Court of appeals reversed, pointing out that the decision to implement the roadblock was made by supervisory personnel rather than by the officers in the field, and the operation was carried out pursuant to specific, pre-arranged procedures requiring all passing vehicles to be stopped at the checkpoint and leaving no discretion to the officers in this regard. It is clear, the court continued, that the delay experienced by passing motorists was minimal, lasting only a minute or two unless a violation was noted, and that the operation was well identified as a police checkpoint. Taking all of these factors into consideration, the Court held that the initial detention of the defendant at the roadblock was reasonable and resulted in no violation of his Fourth Amendment rights. In addition, the court found that the screening officer's experience and training, which included 2 1/2 years of police service and attendance at a DUI enforcement school operated by the North Georgia Police Academy, were amply sufficient to enable him to make an initial determination as to which motorists should be given the field tests for intoxication. Indeed, the court asserted, it is the rule in Georgia that any person may testify, on the basis of personal observation, as to whether another person did or did not appear to be intoxicated on a given occasion.

Wrigley v. State, 248 Ga. App. 387 (2001): In the early hours of May 8, 1998, the Motorcycle Squad of the City of Atlanta Police Department set up a roadblock on Buford Highway as a part of "Operation Street Sweep." At around midnight, Wrigley's car stopped at the roadblock, where he was approached by Officer David Curtis Johnson. When Officer Johnson asked Wrigley for his license and insurance card, Wrigley was unable to produce his license and appeared to have difficulty locating his insurance card. Officer Johnson also detected an odor of alcohol on Wrigley and noticed that he had bloodshot eyes, a flushed face, and slurred speech and was unsteady on his feet. Wrigley admitted that he had been drinking. Officer Johnson then asked Officer G. W. Garrison, a member of the DUI countermeasures team, for assistance in administering the field sobriety tests. As a member of the countermeasures team, Officer Garrison had specialized DUI and intoxilyzer training. Officer Garrison also smelled alcohol on Wrigley's person and observed that his eyes were bloodshot and dark and that his speech was impaired. He led Wrigley through the horizontal gaze nystagmus (HGN) test, the nine-step walk and turn test, and the one-leg stand test. Based upon these tests Officer Garrison determined that Wrigley was intoxicated to the extent that he was a less safe driver. Wrigley was placed under arrest. Wrigley first asserts that the trial court erred in denying his motion in limine to exclude all evidence from the roadblock. Wrigley argues that the roadblock was illegal because there was no evidence that the screening officers were properly trained.

Wrigley challenges the training of the screening officers participating in the roadblock. The evidence showed that Officer Johnson was a ten-year veteran of the Atlanta Police Department. He testified that he had received training in DUI detection at the police academy when he first became a police officer and at several of the annual in-service training sessions he had attended over ten years. In addition, he said that he had "on-the-job training" dealing with intoxicated people, making, on average, one DUI arrest per month, which he calculated to be over 100 arrests over ten years. The Court found that this experience and training were more than sufficient to qualify Officer Johnson to screen for motorists who should be given field sobriety tests.

OFFICERS FROM DIFFERENT JURISDICTIONS

The roadblock at issue in *State v. Golden*, 171 Ga. App. 27 (1984), was implemented by seven task force officers, on a state highway within the city limits of Powder Springs, between the hours of midnight and 3:00 a.m. A supervisory officer charged with overall responsibility for the operation and described as the "project coordinator" testified that he chose this time period because traffic was light and a greater incidence of DUI offenses could normally be expected during such hours. The Marietta-Cobb County DUI Task Force was comprised of officers from various police jurisdictions within Cobb County. Each officer was deputized to act as an agent of the sheriff's department, in an effort to give him or her county-wide arrest powers.

Kellogg v. State, 288 Ga. App. 265 (2007): In May 2005, Lt. Tainter (a supervisory field officer with the City of Snellville Police Department), in consultation with a sergeant in the state highway patrol, decided to conduct a joint roadblock in the City of Snellville on June 18, 2005, which would involve city police, police from a neighboring county, and officers from the state highway patrol. Lt. Tainter, the primary supervisor overseeing the officers on site, testified that the primary purpose of the roadblock was to check for driver's licenses, insurance and impaired drivers. Secondary purposes included checking vehicle tags, observing seat belt use, and noticing whether the condition of the vehicle was safe.

Indicted for DUI (underage per se), DUI (less safe), and underage possession of alcohol, Kellogg moved to suppress the evidence obtained at the roadblock and after his arrest, arguing that the roadblock was unconstitutional because the primary purposes identified by Lt. Tainter were so numerous that they necessarily devolved into an overall purpose of general law enforcement. Kellogg also complains that only Lt. Tainter testified as to the purpose of the roadblock, even though two other law enforcement jurisdictions (a neighboring county police force and the state highway patrol) participated in the roadblock. Kellogg would require the State to present consistent testimony from supervisory officers from the other two police forces.

Held: Each of these purposes had been held to be a legitimate primary purpose. Furthermore, a roadblock that served as a highway safety checkpoint was valid in its primary purpose even if officers were looking for multiple safety violations. There was

no requirement that officers from all three jurisdictions testify as to the roadblock's implementation and purpose.

In *Britt v. State, supra*, the Court upheld the authority of Capt. Lee Clements of the Brixton Police Department to supervise officers from the Coffee County Sheriff's Department. Where several law enforcement jurisdictions participate in a roadblock, the Court stated, citing *Kellog (supra)*, the law only requires that some admissible evidence, whether testimonial or written, show that supervisory officers decided to implement the roadblock, decided when and where to implement it, and had a legitimate primary purpose for it.

DRUG DETECTION DOG AT ROADBLOCK

McCray v. State, 268 Ga. App. 84 (2004): While a deputy sheriff who stopped defendant at a vehicle checkpoint was checking the validity of defendant's driver's license, another officer walked a drug detection dog around defendant's vehicle. When the dog alerted on the vehicle, the officer opened the driver's side door and found a bag containing cocaine. Defendant was charged with trafficking in cocaine and possession of cocaine with intent to distribute, and he filed a motion to suppress the cocaine which police found. The trial court denied the motion, and a jury found defendant guilty of both charges. The Court of Appeals held that:

- (1) The record supported that trial court's judgment that the checkpoint was established for the legitimate purpose of examining driver's licenses, insurance, and registration.
- (2) The fact that police had drug detection dogs at the checkpoint did not make the checkpoint unlawful.
- (3) The dog handler was free to walk his dog around defendant's car during the period defendant was being lawfully detained; and
- (4) The police had probable cause to search defendant's vehicle after the dog alerted on the outside of the vehicle.

TEMPORARILY STOPPING ROADBLOCK

Every vehicle must be stopped at a roadblock. Not every 3rd vehicle, every 5th vehicle, etc. There are some very limited exceptions.

In the DeKalb County case of *State v. Manos, 237 Ga. App. 699 (1999)*, the testimony of a Doraville police officer was that his agency was performing a license and insurance check roadblock on the southbound access road of Peachtree Industrial Boulevard at Tilly Mill Road. The officer confirmed that this roadblock was implemented by supervisory personnel and was clearly identified to motorists as a police check point. Every car that approached was stopped "unless we get too backed up." In that event, the police "let every car go till there's no more vehicles in sight, and then . . . start stopping

cars again." That is, when the police are busy and cannot tend to the people approaching the roadblock, they let them all go through, and then later on, the police "just pick up . . . [and] resume the roadblock." The officer confirmed the "roadblock doesn't officially end; [it is] just [that] temporarily [police] let people go through. . . ." A "screening officer" would determine if a driver appeared under the influence of alcohol, although the qualifications of such screening officer do not appear of record. If a driver is able to produce proof of insurance and a driver's license, and police do not smell an odor of alcoholic beverage, the length of the detention is only "fifteen to thirty seconds." The Court of Appeals affirmed the granting of defendant's motion to suppress all evidence obtained during the roadblock. The court concluded that the roadblock was unreasonable because there was no policy implemented to manage the roadblock. As a result, the field officer was given unfettered discretion to stop and start the roadblock.

At the motion hearing in the case of *Hodges v. State*, 248 Ga. App. 295 (2001), Officer Maynard Thompson, Jr. of the Georgia State Patrol testified as follows: On October 23, 1996, Hodges was stopped pursuant to a license and insurance check roadblock initiated by the Nighthawk Task Force of the Georgia State Patrol. Hodges appeared to be "either intoxicated or very, very sleepy," and based on his observations, Officer Thompson asked Hodges to pull into the YMCA parking lot. After conducting field sobriety tests, Hodges was placed under arrest. Officer Thompson further testified that the roadblock had been set up at around 2:00 a.m., approximately 50 feet north of the intersection of Roswell Road and Alberta Road. The area was well lit, and police cars were placed so that their flashing rear lights could be seen by cars approaching in both directions. The roadblock was visible at least 500 to 700 feet before reaching the roadblock to vehicles approaching in both directions. The delay to motorists was minimal. Motorists were stopped for less than a minute to check their "driver's license, proof of insurance, and to take a visual and . . . using the nose to smell, and see if I could detect an odor of intoxicants. If everything was valid, they were on their way." Officer Thompson confirmed that this roadblock was implemented by Corporal Ned West, who was the supervisor of the Nighthawk Task Force. Officer Thompson further testified that he had received special training in both roadblocks and the detection of motorists who were driving under the influence. Additionally, Officer Thompson testified that all vehicles which approached the roadblock from both directions were stopped. However, because it was drizzling rain and the roads were wet, they made sure they did not allow traffic to back up for safety concerns. If all the officers were "tied up, then we would let traffic go."

Hodges argues that because Officer Thompson testified that anyone could make the decision to allow cars to proceed, the court's decision in *State v. Manos*, *supra*, demands reversal of his conviction. The Court explained that in *Manos* the record was silent as to the procedures used by field officers to determine whether public safety required them to halt a roadblock temporarily because of heavy traffic. In contrast, Officer Thompson testified that because it was drizzling rain and the road was slick, a determination had been made that it was unsafe to allow any cars to back up on the roadway, and cars were allowed to proceed through the roadblock only when all the officers on duty were busy with other cars. The court cited *Gamble v. State*, 223 Ga. App.

653, 655 (2) (1996) where a potential hazard from traffic backup justified officers' conduct in temporarily halting roadblock. Further, in this case, a supervisor, Corporal West, was present at the scene of the roadblock.

In *Ross v. State*, 257 Ga. App. 541 (2002), Lt. Israel of the Clayton County Police Department testified that he stopped and restarted the challenged roadblocks three times to safeguard his officers and the public, each time letting backed-up traffic clear the roadblocks. Otherwise, the Court found, it is undisputed in the record that all vehicles stopped at the roadblocks were checked. The Court reiterated its holding in *State v. Manos*, *supra*, that 'common sense recognizes the reasonableness of some type of procedure to suspend or halt a roadblock where the flow of traffic overwhelms the resources dedicated to that roadblock and poses a threat to public safety.'

SECONDARY ROADBLOCKS, DAYTIME ROADBLOCKS

State v. Ruiz, 243 Ga. App. 337 (2000). On the afternoon of March 13, 1998, Sergeant Martin, a supervisor for the City of Atlanta Police Department, authorized a roadblock on Browns Mill Road. As Sergeant Martin drove down Browns Mill Road on his way to the roadblock, which had already been initiated, he noticed that cars were turning left on Banberry Drive prior to reaching the checkpoint. At that time, Sergeant Martin called for two other officers, Merritt and Griffin, to establish a secondary roadblock on Banberry Drive in order "to catch the cars that were turning off from the roadblock" and to see if the drivers had their driver's license and insurance card.

After the second roadblock was operational, Ruiz approached the roadblock at Browns Mill Road, he made a sharp, sudden turn onto Banberry Drive without using his turn signal, and after seeing Merritt, he stopped his car approximately 20 yards away from the secondary roadblock on Banberry Drive. Merritt then approached Ruiz's car and asked for his driver's license and insurance card. Ruiz told Merritt that he had no license and gave the officer a false name and two dates of birth. Martin then approached, advised Merritt to place Ruiz under arrest for driving without a license, and began to do an inventory search of Ruiz's car prior to impounding it. Martin discovered a duffle bag in the back seat containing approximately nine kilograms of cocaine. Later, following the arrival of a drug dog which Martin requested after opening the duffle bag, an additional 31 kilograms of cocaine were found hidden in the side panels of the car. Ruiz was thereafter arrested for trafficking in cocaine. He was also cited for turning without using his turn signal.

Ruiz filed a motion to suppress the cocaine found in his car, contending that the roadblock established on Banberry Drive was nothing more than a sham established as a pretext whereby law enforcement personnel could randomly stop and illegally detain motorists who, for whatever reason, turned left onto Banberry Dr. or legally made a U-turn at the intersection of Banberry Dr. and Browns Mill Rd.

The trial court found that the secondary roadblock was not properly established on Banberry Drive but the Court of Appeals disagreed. The Court found that the decision to implement the roadblock on Banberry Drive was made by Martin, a supervisor for the City of Atlanta Police Department. In addition, all vehicles that encountered the roadblock were stopped, and each driver was asked to produce a driver's license and insurance card. The officers participating in the roadblock were standing next to marked police vehicles in their patrol uniforms. They were also wearing orange traffic vests which had "POLICE" written across the front. Finally, it is undisputed that the officers involved had the appropriate training to check driver's licenses and insurance cards. Under the totality of the circumstances, this roadblock was reasonable.

The Court also disagreed with Ruiz's argument that the police failed to use orange cones and activate the blue lights on their vehicles because the roadblock was accomplished during daylight hours when the police and their cars were clearly visible. A daytime roadblock requires far less "identification" by way of lights and reflective gear than a roadblock at night. No need existed during this daytime roadblock for flashlights or flashing lights. The troopers were in uniform, and the patrol cars were clearly visible.

ROADBLOCK ON ONE SIDE OF ROAD:

A checkpoint at which police stop only vehicles proceeding in one direction meets constitutional requirements.

In *State v. Stearns*, 240 Ga. App. 806 (1999), DeKalb County police officers established a roadblock near the Cherokee Plaza shopping center in Atlanta. Numerous drinking establishments are located south of the roadblock in the Buckhead area. All northbound drivers were asked to produce driver's licenses and proof of insurance. Stearns's vehicle was stopped by Officer Fox. Fox testified that when DeKalb County police establish roadblocks along multi-lane thoroughfares such as Peachtree Road, only vehicles traveling in one direction are stopped because of concerns for officer safety. He testified that there was an insufficient number of officers to stop vehicles going in both directions. Fox explained that roadblocks such as the one in this case are established during evening hours, because traffic is light and all vehicles traveling in one direction can be stopped without creating traffic congestion. Fox testified unequivocally that all vehicles traveling northward on Peachtree Road were being stopped on the night in question, although he acknowledged that he was not observing the roadblock while performing field sobriety evaluations on Stearns. He further acknowledged that the officers at the roadblock were looking for drunk drivers.

Because there were at least eight officers on the scene, numerous marked police cars, cones lining the roadway, and very light traffic, the trial court found that there were more than enough officers to stop vehicles traveling in both directions. The court found that the purpose of the roadblock was to stop potentially intoxicated drivers leaving the bar scene, and the court concluded that the officers violated the Fourth Amendment by stopping vehicles traveling in only one direction. The court reasoned that, "allowing

officers to stop traffic traveling in only one direction gives the police the authority to target particular groups such as Hispanics, Vietnamese, and African Americans which is clearly unconstitutional."

The Court of Appeals noted that the failure to stop "all" vehicles does not necessarily render the stop of remaining vehicles the kind of random exercise of officer discretion condemned in *Delaware v. Prouse*, 440 U.S. 648 (99 S. Ct. 1391, 59 L. Ed. 2d 660) (1979). The Court illustrated this by comparing *State v. Manos* 237 Ga. App. 699, (1999), with *Ledford v. State*, 221 Ga. App. 238 (1996). In *Manos* they found a roadblock constitutionally impermissible in view of unfettered discretion of field officers to allow some vehicles to pass based on vague and undocumented articulation of public safety. *Ledford* did not find it fatal to a roadblock's reasonableness that officers did not stop 18-wheel commercial vehicles and non-commercial vehicles which had been stopped previously. The difference between *Manos* and *Ledford* is that the procedure in the former case but not the latter enabled officers in the field to exercise unregulated discretion in deciding which vehicles to stop. Here, supervisory officers decided to stop all vehicles traveling north on Peachtree Road, Officer Fox testified that all such vehicles were in fact stopped, and the trial court did not find otherwise. This case is more akin to *Ledford* than to *Manos*. The failure to stop vehicles going southward was not fatal to the roadblock's reasonableness. There was no evidence the roadblock was initiated as a pretext or subterfuge to catch Stearns.

ROADBLOCK IN HIGH CRIME AREAS

A roadblock is not unreasonable simply because it is set up in areas and at times that are likely to result in the detection of crimes. *State v. Ruiz, supra*.

Wrigley v. State, 248 Ga. App. 387 (2001): Wrigley argues that because the roadblock in this case was part of Operation Street Sweep, it was aimed at general crime control and not intended for any permissible purpose under Edmond. Operation Street Sweep was a department-wide operation aimed at cleaning the streets of crime. Officer Johnson testified that in addition to the roadblock, Operation Street Sweep involved "different operations" by the Red Dog Units and the vice and narcotic units, all occurring at the same time. Although it was part of a larger effort, however, the roadblock itself was conducted only by the motorcycle squad, backed up by the DUI countermeasures team. There is no evidence that any other unit participated. And Officer Johnson testified that the primary purpose of the roadblock was checking for driver's licenses and insurance cards. The presence of the DUI countermeasures team also suggests at least a secondary purpose of detecting drunk drivers.

Held: The use of a checkpoint for these purposes has been approved by the U.S. Supreme Court, which has acknowledged that these measures serve the states' interest in roadway safety. *Edmond*, 121 S. Ct. at 453; *Sitz*, 496 U.S. at 455; *Prouse*, 440 U.S. at 658, 663. Thus, standing alone, the roadblock in this case was proper. And the legitimate purposes of the roadblock were not undercut by the fact that other police units were

simultaneously conducting different operations as part of a larger, organized effort. We hold, therefore, that the roadblock in this case met the requirements of the Fourth Amendment.

EVADING ROADBLOCKS

Terry v. State, 283 Ga. App. 158 (2007): On December 31, 2004, officers of the Carroll County Sheriff's Office conducted a well-marked road check on the campus of the University of West Georgia. At about 11:45 p.m., Officer Stephan Stollar observed a vehicle, subsequently determined to have been operated by Terry, turning into an entranceway leading to buildings that were closed at that time of night. He then backed his vehicle into the roadway and drove away from the roadblock in a direction opposite from the one in which he had been traveling. Stollar testified that he then got into his patrol car, pursued Terry, and stopped his vehicle for two reasons: first, his suspicions were aroused because he believed Terry had taken evasive actions to avoid the roadblock; second, Terry's backing of his vehicle into the roadway had been improper because, in doing so, he had blocked both lanes of travel. According to Stollar, any approaching vehicle would have had to stop to avoid hitting Terry's vehicle. After Stollar approached Terry's vehicle and began to talk to him, he detected a strong odor of alcoholic beverage emanating from his breath and person. As a result of Terry's performance of field sobriety tests, Stollar arrested him for DUI. A chemical test of Terry's breath showed an unlawful blood alcohol concentration.

Terry moved to suppress all evidence gathered after the traffic stop on various grounds, including that Stollar lacked reasonable suspicion of criminal activity to justify initiating the traffic stop in that he had not observed Terry drive erratically or commit any traffic violation. After the trial court denied the motion to suppress, Terry appealed.

Although an officer may conduct a brief investigative stop of a vehicle, such a stop must be justified by specific, articulable facts sufficient to give rise to a reasonable suspicion of criminal conduct. Investigative stops of vehicles are analogous to Terry-stops, and are invalid if based upon only unparticularized suspicion or hunch. An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity. This suspicion need not meet the standard of probable cause, but must be more than mere caprice or a hunch or an inclination. Held: Abnormal or unusual actions taken to avoid a roadblock may give an officer a reasonable suspicion of criminal activity even when the evasive action is not illegal. Further, officer's honest belief that a traffic violation has been committed in his presence, even if ultimately proven incorrect, may nevertheless demonstrate the existence of at least an articulable suspicion and reasonable grounds for the stop.

Contrast this case with *Jorgensen v. State*, 207 Ga. App. 545 (1993), where the police set up a roadblock about 200 feet from the entrance to an apartment complex. The officer observed the defendant turn his car into the complex. Although the defendant did so in normal fashion, the officer stopped him based solely on the officer's intuition. The

Court of Appeals found the stop illegal, because the record was devoid of any articulable fact which would support the officer's intuition that the defendant was avoiding the roadblock. The Court found no indication in the record of any sharp driving maneuver, sudden turn or reduction in speed or other facts which might tend to show that the appellant's actions were evasive. The rule thus established in *Jorgensen* is that completely normal driving, even if it incidentally evades a roadblock, does not justify a Terry-type stop.

In *Jones v. State*, 259 Ga. App. 506 (2003), the defendant observed a roadblock after traversing the crest of a hill. He then brought his vehicle to an abrupt stop and backed uphill into an intersecting street. The Court held that regardless of whether defendant's abrupt backing maneuver near the crest of a hill turned out to be a traffic violation, it was nevertheless a sufficiently suspicious and deliberately furtive response to the road check so as to give the officer at least a reasonable suspicion of defendant's criminal activity and to warrant further investigation.

The Court of Appeals reached a similar conclusion in *Castillo v. State*, 232 Ga. App. 354 (1998), where the defendant who was approaching a road check suddenly decelerated and abruptly turned onto a side street, stopped, backed up onto the main road, and proceeded in the opposite direction from the road check. In *Taylor v. State*, 249 Ga. App. 733 (2001) the Court found the defendant's actions sufficiently abnormal or unusual to justify a Terry-type stop where he turned abruptly and drove over a curb into a closed shopping center as he was approaching a roadblock.