

Traffic Checkpoints

708.1 VERSION

Review Date	Effective Date	Approving Authority
02/02/19	07/09/18	Eric D. English, Chief of Police

708.2 POLICY AND PURPOSE

The Harrisonburg Police Department implements a checkpoint program as part of a comprehensive driving enforcement program. To ensure standardization of this program a clear and concise set of written guidelines will be developed governing procedures on how checkpoints will be operated within the City of Harrisonburg, Virginia.

The Traffic Unit may establish guidelines for roadside vehicle checkpoints based upon reasonable criteria (e.g., holidays, traffic injuries or fatalities, community requests). Operational decisions should be made by supervising officers.

708.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

708.4 LEGAL BACKGROUND

- (a) The U.S. Supreme Court in a decision dated March 27, 1979, (*Delaware v. Prouse*) passed a ruling that struck down the statutory authority granted law enforcement officers in Virginia under Section 46.2-103, which allowed officers to stop any vehicle for the purpose of inspecting the same. The court's decision established the following premises to be considered in the realm of vehicle stops:
1. The stopping of an auto and the detention of its occupant constitutes a seizure within the meaning of the fourth and fourteenth amendments, even though the purpose of the stop is limited, and the resulting detention is quite brief.
 2. The State's interest in discretionary spot checks as a means of assuring safety on its highways does not outweigh the resulting intrusion on the privacy and security of the persons detained.
 3. An individual operating or traveling in an automobile does not lose all reasonable expectations of privacy simply because the automobile and its use are subject to government regulation.

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4. Officers must be able and prepared to articulate both to the person(s) stopped, and possibly in court, their reasonable suspicion of a possible violation of the law.
 5. The ruling in this case does not preclude states from developing methods for spot checks that involve less intrusion or do not involve the unconstrained exercise of discretion. Questioning of all oncoming traffic at road-block type stops is one possible alternative.
- (b) According to *Brown v. Texas*, 443 U.S. 47 (1979), actions must satisfy a balancing test to determine;
1. Gravity of public concerns;
 2. Degree to which seizure advances public interest;
 3. Severity of interference with individual liberty.
 4. "Must be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers."
- (c) Other court decisions related to checkpoints include:
1. **Indianapolis v. Edmund (2000)** found that a checkpoint to ensure and improve traffic safety is lawful when the field officer's discretion is limited and the checkpoint is established pursuant to an explicit plan.
 2. **Hall v. Commonwealth (1991)** restricted officers from deciding when and where a checkpoint would take place because the discretion was too broad and was thus likely to lead to abuse.
 3. **Crouch v. Commonwealth (1997)** upheld the constitutionality of a checkpoint when officers do not have "unbridled discretion" in deciding when and where to begin stopping vehicles.
 4. The U.S. Supreme Court decision in **Michigan State Police v. Sitz (1990)** upheld the constitutionality of sobriety checkpoints if they are established according to certain guidelines.
 5. **Bailey v. Commonwealth (1999)** established that evasive maneuvers seemingly intended to avoid a roadblock may also establish reasonable suspicion for a stop. However, merely avoiding a roadblock via completely legal maneuvers will not justify a stop; there must be some other factors which suggest that the motorist turned in order to evade the roadblock.

708.5 PROCEDURE

708.5.1 CHECKPOINT IMPLEMENTATION

The following procedures should be used by the supervisor assigned to a checkpoint operation when implementing a checkpoint:

- (a) Establish the goal of the checkpoint, (e.g. DUI detection, wanted persons, driver's license violations)

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- (b) Establish an operational plan that satisfies the guidelines as established by the Traffic Supervisor
- (c) Assign and notify the officers chosen to conduct the checkpoint
- (d) Conduct an operational briefing prior to activation, communicate the operational plan and checkpoint goal
- (e) Activate the checkpoint
- (f) Track all contact and traffic that was not stopped
- (g) Conduct an after-action debriefing when the checkpoint is concluded
- (h) Generate an after-action report detailing the contacts, arrests, contraband found, areas for improvement and successes

Guidelines for checkpoints should include, but are not limited to:

- (a) Reasonable location and duration
- (b) Neutral criteria for stopping motorists
- (c) Clear indicators of the official nature of the checkpoint
- (d) Clearly identified officers and equipment
- (e) Adequate safety precautions
- (f) Minimal detention of motorists
- (g) Advance notice to media, other agencies, judicial officials and the community

708.5.2 SITE SELECTION

The Harrisonburg Police Department must be able to objectively outline criteria utilized in the site selection process:

- (a) Examine the site for traffic incidents, such as;
 - 1. Unusual incidence of alcohol/drug-related crashes;
 - 2. Alcohol/drug-impaired driving violations;
 - 3. Unusual number of single vehicle crashes;
 - 4. The summoning of unlicensed or suspended drivers
 - 5. The likelihood of wanted subject being in the area.
 - 6. Volume of traffic/cut through traffic location
 - 7. Location adequate to hold checkpoint
- (b) Select locations that permit the safe flow of traffic through the checkpoint.
 - 1. Consideration should be given to posted speed limits, traffic volume and visibility.
 - 2. Ensure sufficient adjoining space is available to pull vehicles off the traveled portion of the roadway for additional investigation.

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3. Consideration of other conditions that may pose a hazard, such as weather.
- (c) The site should have maximum visibility from each direction and sufficient illumination. If permanent lighting is unavailable, ensure that portable lighting is provided.

708.5.3 OPERATIONAL PLAN

Harrisonburg Police Department personnel will develop an operational plan ensuring the following:

- (a) Compliance with federal, state, and local legal requirements
- (b) Conduct checkpoints with a minimal amount of intrusion or inconvenience to motorists
- (c) Ensure the safety of the general public as well as law enforcement officers who are involved
- (d) Provide for an objective site selection process based on relevant data
- (e) Provide for public information and education to maximize the deterrent effect and heighten awareness of the impaired driving problem
- (f) Provide for a systematic procedure for data collection
- (g) Provide an after-action analysis report to monitor and ensure standardization and consistency of the sobriety checkpoint program

An operations plan will be developed for each checkpoint site by the Traffic Supervisor and approved by the Special Operations Division Commander before implementation. All checkpoint plans shall address the following points:

- (a) Statistical data supporting the selection of the checkpoint site.
- (b) Date, hours of operation, and location of each checkpoint.
- (c) A contingency plan, in the event safety considerations prevent checkpoint operations at the intended location.
- (d) Procedures for screening alternatives if traffic volume or other factors prevent the pre-planned method of screening. The method for determining when to change screening procedures, who will make the decision, and the alternative procedures will be listed in detail in the operations plan and shall not be deviated from by participating personnel. Vehicles will not be stopped on a discretionary basis. All vehicles, regardless of type, shall be checked. This includes commercial vehicles such as buses and large trucks.
- (e) The number of officers to be assigned to the checkpoint. A diagram of each checkpoint location, depicting the roadway, placement of traffic control devices, and investigation areas for administering field sobriety tests.
- (f) List of equipment required for conducting the checkpoint.

An operational briefing will be conducted prior to the establishment of each checkpoint. The purpose of the briefing is to:

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- (a) Ensure that all personnel fully understand the Department policy concerning checkpoints.
- (b) Designate assignments and respective duties.

708.5.4 PERSONNEL

- (a) A sworn, uniformed officer will be assigned to provide on-scene supervision of the checkpoint, and will be ultimately responsible for overseeing operations.
- (b) The checkpoint will be staffed by a sufficient number of uniformed personnel to ensure a safe and efficient operation.
- (c) Civilian personnel may be utilized in support (non-law enforcement) positions.
- (d) Multi-jurisdictional operations are encouraged; one agency shall be designated as the lead law enforcement agency.

708.5.5 ADVANCE NOTIFICATION

- (a) For the purpose of public information and education, agencies may announce to the media that checkpoint programs will be conducted.
- (b) Agencies may encourage media interest in the checkpoint program to enhance public understanding of aggressive enforcement and to heighten the deterrent effect.
- (c) Agencies should provide advance notification of the checkpoint to public safety agencies expected to be affected.
- (d) Agencies also may provide advance notification to judicial, prosecutorial and government officials, as well as to public interest groups.

708.5.6 MOTORISTS WARNINGS/SAFETY METHODS

- (a) Special care is required to warn approaching motorists of the sobriety checkpoint.
- (b) Basic equipment shall include, but is not limited to:
 - 1. Warning signs placed in advance of the checkpoint
 - 2. Flares or similar devices
 - 3. Safety cones or similar devices
 - 4. Permanent/portable lighting
 - 5. Marked patrol vehicles.
- (c) The use, placement, and types of traffic control devices shall ensure “due regard” for public safety.
- (d) All personnel involved in the checkpoint operation shall wear approved reflective/safety materials or similar clothing.

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708.5.7 CONTINGENCY PLANNING

Any deviation from the predetermined guidelines must be thoroughly documented. The reason for deviation may include traffic backing up, intermittent inclement weather, emergency vehicle traffic, etc.

708.5.8 DATA COLLECTION AND EVALUATION

To monitor and ensure standardization and consistency of a sobriety checkpoint, a systematic method of data collection will be incorporated.

- (a) An after-action report should include, but is not limited to:
 - 1. Time, date, and location of checkpoint
 - 2. Weather conditions
 - 3. Number of vehicles passing through checkpoint
 - 4. Predetermined order of selecting motorists
 - 5. Number and types of enforcement actions (e.g. arrests, summonses, and warnings)
 - 6. Number of motorists detained for further investigation (e.g. field sobriety testing, etc.)
 - 7. Identification of unusual incidents, such as safety problems/other concerns
 - 8. Names and assignments of all checkpoint personnel.
- (b) To assist in determining the effectiveness of a checkpoint operation, a periodic impact analysis of the site may include the following types of information:
 - 1. Crash rate reduction
 - 2. Data on impaired driving offenses
 - 3. Data on unlicensed and suspended drivers
 - 4. Public opinion survey to determine increased perception of detection and apprehension of impaired drivers. Public reaction to the use of sobriety checkpoints can be obtained by several different methods. Recommended procedures for obtaining feedback include, but are not limited to:
 - (a) Mail-in surveys
 - (b) Verbal feedback from motorists at checkpoint site
 - (c) Periodic public opinion polls