

CRIMINAL LAW—FOURTH AMENDMENT—ROADBLOCKS
ESTABLISHED FOR THE PRIMARY PURPOSE OF DRUG INTERDICTION ARE
UNCONSTITUTIONAL BECAUSE THEY VIOLATE FOURTH AMENDMENT
PROTECTIONS AGAINST UNREASONABLE SEARCHES AND SEIZURES—
Indianapolis v. Edmond, 121 S. Ct. 447 (2000).

In August 1998, the Indianapolis Police Department (IPD) began to utilize vehicle checkpoints as a method to curb narcotics trafficking. *Indianapolis v. Edmond*, 121 S. Ct. 447, 450 (2000). The checkpoint locations were typically selected on the basis of high traffic volume and proximity to high-crime areas. *Id.* at 451. Members of the IPD who conducted the stops did not stop vehicles based on any discernable characteristics. *Id.* at 450-51. Instead, a predetermined number of vehicles were detained at a given checkpoint. Most vehicles were stopped during daylight hours and detained for less than five minutes. *Id.* at 451. While stopped, officers required motorists to produce their driver licenses and automobile registrations, observed drivers for sign of intoxication, and walked a drug-sniffing dog around the outside of the vehicles. *Id.* at 450-51.

Between August and November of 1998, the IPD conducted six checkpoints and stopped a total of 1,161 vehicles. *Id.* at 450. One hundred and four motorists were arrested as a result, representing nine percent of the total. Although fifty-five individuals were charged with drug related crimes, forty-nine individuals were arrested on non-drug related charges.

Late in September 1998, James Edmond and Joell Palmer were stopped individually at one of the IPD's checkpoints. *Id.* at 451. The two initiated a lawsuit on behalf of themselves and the class of motorists who were stopped or who were subject to being detained at roadblocks. The lawsuit alleged that the IPD's narcotics checkpoints violated their Fourth Amendment rights and their rights under the Indiana Constitution. Edmond and Palmer requested damages and attorney's fees for themselves; they sought declaratory relief and moved for a preliminary injunction on behalf of themselves and the class.

Although the United States District Court for the Southern District of Indiana agreed to certify the class, it refused to grant the

preliminary injunction, holding that the IPD's narcotics roadblocks did not violate the Fourth Amendment. *Id.* In a split decision, the United States Court of

Appeals for the Seventh Circuit reversed, holding that the narcotics checkpoints were violative of the Fourth Amendment of the United States Constitution. *Id.*

The United States Supreme Court granted certiorari to determine whether the IPD's program violated rights protected by the Fourth Amendment. *Id.* In affirming the Court of Appeals, the Court held that a checkpoint program violates the Fourth Amendment when its primary purpose is a "general interest in crime control." *Id.* at 451, 457.

Justice O'Connor, writing for the six person majority, began the Court's analysis by explaining that a search or seizure requires an element of individualized suspicion to be considered reasonable under the Fourth Amendment. *Id.* at 451. The Court emphasized that only in limited circumstances does the rule of individualized suspicion not apply. *Id.* The Court then cited four examples of instances when individualized suspicion is not required to conduct a search or seizure. *Id.* at 451-53.

First, the Court referred to the "special needs" exception, which includes random drug testing of student athletes, customs employees, and railroad employees involved in accidents. *Id.* at 451 (citing *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646 (1995); *Treasury Employees v. Von Raab*, 489 U.S. 656 (1989); *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)).

Second, the Court explained that generalized searches for limited administrative purposes, such as government inspections of certain businesses, inspections to determine the cause of a fire, and housing compliance inspections, were permissible. *Id.* at 452 (citing *New York v. Burger*, 482 U.S. 691 (1987); *Michigan v. Tyler*, 436 U.S. 499 (1978); *Camara v. Municipal Court of the City and County of San Francisco*, 387 U.S. 523 (1967)).

Third, the Court discussed why roadblocks conducted by the United States Border Patrol are considered to be constitutionally permissible. *Id.* Referring to *United States v. Martinez-Fuerte*, 428 U.S. 543, 551-54 (1976), the Court described the "particular context" surrounding the issue of border checkpoints. *Id.* The Court recalled its application of a balancing test in *Martinez-Fuerte* that weighed the Government's interest in curbing the flow of illegal aliens across the

Nation's borders with an individual's interest against unreasonable searches. *Id.* (citing *Martinez-Fuerte*, 428 U.S. at 561-64). Recognizing the difficulties faced by the Government in halting illegal border traffic, the daunting prospect of discerning whether particular cars are carrying illegal aliens, and the "relatively modest degree of intrusion entailed by the stops," the Court held that the balance weighed in the Government's favor. *Id.* (citing *Martinez-Fuerte*, 428 U.S. at 556-64).

Finally, the Court justified *Michigan Department of State Police v. Sitz*, 496 U.S. 444 (1990), a decision holding that sobriety checkpoints were constitutional. *Id.* The Court reasoned that stops to detect intoxicated motorists were permissible because the checkpoints were intended to reduce the danger of drunk drivers on roadways and because an obvious connection existed between the need for highway safety and the use of suspicionless searches at roadblocks. *Id.* at 453. The Court also noted that although random suspicionless stops of motorists to check licenses and motor vehicle registration are unconstitutional, the "questioning of all oncoming traffic at roadblock-type stops" is constitutionally permissible. *Id.* (citing *Delaware v. Prouse*, 440 U.S. 648, 661 (1979)). The Court specifically designated these stops as valid because they further highway safety, and are not simply the means to advance a general interest in crime control. *Id.*

Before delving into its analysis of the IPD's narcotics checkpoint program, the Court clarified that highway checkpoints constitute a seizure under the Fourth Amendment. *Id.* at 454. However, the majority also declared that the IPD's use of a drug-sniffing dog to investigate the exterior of automobiles does not cause checkpoints to become a search within the meaning of the Fourth Amendment. *Id.* at 453. Instead, looking to the primary purpose of the IPD's checkpoints, the Court distinguished the Indianapolis program from those checkpoints deemed constitutional. *Id.*

Justice O'Connor continued the majority opinion, emphasizing that the Court was "particularly reluctant to recognize exceptions to the general rule of individualized suspicion where governmental authorities primarily pursue their general crime control ends." *Id.* at 455. Furthermore, the Court differentiated the IPD's narcotics roadblocks from the sobriety checkpoints at issue in *Sitz*. *Id.* Though the Court conceded that drug interdiction checkpoints would further community interests by removing drugs from the street, unlike the sobriety checkpoints in *Sitz* the IPD's roadblocks

did not serve to eradicate any immediate threat to highway safety. *Id.*

Moreover, the Court refused to recognize the IPD's argument that the narcotics roadblocks were analogous to the Border Patrol checkpoints in *Martinez-Fuerte*. *Id.* The Court admitted that the roadblocks in *Martinez-Fuerte* were designed to promote the Government's interest in controlling the flow of illegal aliens across the United States' borders, but held that governmental interest alone often cannot justify "a regime of suspicionless searches or seizures." *Id.* Instead, the Court concluded, the nature of such a program must be carefully examined to determine the program's principle purpose. *Id.*

Next, the Court dismissed the IPD's reliance upon *Whren v. United States*, 517 U.S. 806 (1996) to justify suspicionless stops. *Id.* at 456. Justice O'Connor clarified the Court's holding in *Whren*, stating that although the actual, subjective motivations of officers are not pertinent to determining the constitutionality of traffic stops, *Whren* does not apply to "cases dealing with intrusions that occur pursuant to a general scheme absent individualized suspicion." *Id.* In these cases, the Court held that an inquiry into the program's purpose is appropriate. *Id.*

Finally, the Court disagreed with the IPD's argument that the stops were justifiable because the checkpoints served the secondary purposes of removing intoxicated motorists from the highway and verifying drivers' licenses and automobile registrations. *Id.* at 457. The Court rejected the IPD's position, holding that if this logic were applied, "law enforcement authorities would be able to establish checkpoints for virtually any purpose so long as they also included a license or sobriety check." *Id.* To prevent such *ad hoc* justification, the Court declared that the primary purpose of the checkpoint program must be discerned. *Id.*

The Court emphasized that, in constitutional situations such as these, the reasoning of *Whren* should apply, and an inquiry into the subjective motivations of officers should not be conducted. *Id.* The Court also noted that in emergency situations, such as preventing the threat of a terrorist attack or catching a dangerous fugitive, law enforcement agencies could establish checkpoints related to a general interest in crime control. *Id.* In the instant case, however, the Court affirmed the Court of Appeals holding that because the primary purpose of the IPD's narcotics checkpoints was to promote a general interest in crime control, the program violated the Fourth

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Amendment. *Id.* at 458.

In dissent, Chief Justice Rehnquist, joined by Justice Thomas, and joined by Justice Scalia as to Part I, attacked the majority opinion, and characterized the IPD's checkpoints as "legitimate seizures." *Id.* (Rehnquist, C.J., dissenting). In Part I of his dissenting opinion, the Chief Justice cited *Brown v. Texas*, 443 U.S. 47, 51 (1976), which held that roadblocks are constitutional if they are "carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers." *Id.* The Chief Justice then applied the Court's reasoning in *Martinez-Fuerte* and *Sitz* to the case at bar. *Id.* Stating that "this case follows naturally from *Martinez-Fuerte* and *Sitz*," Chief Justice Rehnquist defended the constitutionality of the IPD's checkpoints, asserting that

although the primary purpose of the IPD's roadblocks was to curb illegal narcotics trafficking, that fact should not determine the program's constitutionality. *Id.* at 459 (Rehnquist, C.J., dissenting).

Turning to the Court's holdings in *Martinez-Fuerte*, *Sitz*, and *Prouse*, Chief Justice Rehnquist found the IPD's narcotics checkpoints to be constitutional because officers were instructed to "look for signs of impairment" and to check the validity of driver's licenses and automobile registrations. *Id.* As the IPD's roadblocks served these legitimate state interests, the Chief Justice asserted that it was "constitutionally irrelevant" that the IPD also intended to curb drug trafficking. *Id.*

Next, Chief Justice Rehnquist applied *Whren* to the present case. *Id.* The Chief Justice noted that an inquiry into the subjective intent of the IPD or city council was improper because the roadblocks served legitimate state interests with minimal intrusion, and were thus objectively reasonable. *Id.* at 459-60 (Rehnquist, C.J., dissenting). Concluding Part I, Chief Justice Rehnquist stated that the IPD's narcotics checkpoint program was constitutional under the *Brown* standard because it served two important state interests, and because the stops were conducted in an objectively reasonable amount of time, in a neutral manner, and with a subjectively reasonable level of intrusion. *Id.* at 460. The Chief Justice noted that the use of a drug-sniffing dog marked the one difference between prior Supreme Court precedents and the instant case, and maintained that the use of trained narcotics dogs should not

invalidate the constitutionality of the IPD's checkpoints, as the Court had previously declared dog-sniff inspections constitutional. *Id.* (citing *United States v. Place*, 462 U.S. 696 (1983)).

The Chief Justice introduced Part II of the dissent by criticizing the majority's decision to add "a new non-law-enforcement primary purpose test" to roadblock seizures. *Id.* Chief Justice Rehnquist opposed applying a "special needs" test to roadblock seizures, because automobiles are traditionally afforded less privacy than private dwellings. *Id.* at 461 (Rehnquist, C.J., dissenting). The Chief Justice again concluded that the *Brown* balancing test formed the appropriate inquiry, because individuals detained at roadblocks had a lower expectation of privacy and because the stops were brief and nonintrusive. *Id.* Furthermore, Chief Justice Rehnquist argued that the purpose of highway checkpoints is determinative of their constitutionality, roadblocks identical to those approved in *Sitz and Martinez-Fuerte* run the risk of being invalidated by juries who determine that a "forbidden purpose" was present. *Id.* at 461-62 (Rehnquist, C.J., dissenting).

In closing, the Chief Justice emphasized the need for the Court to adhere to the notion of *stare decisis*, and underscored the important public safety benefits that narcotics checkpoints similar to the IPD's encouraged. *Id.* at 462 (Rehnquist, C.J., dissenting). Chief Justice Rehnquist concluded the dissent by declaring that the IPD's roadblocks, together with the dog sniffs, were consistent with the Fourth Amendment. *Id.*

Justice Thomas wrote a separate dissenting opinion, criticizing the Court's decisions in *Sitz* and *Martinez-Fuerte*. *Id.* (Thomas, J., dissenting). The Justice explained that a system of suspicionless stops at highway checkpoints ran afoul of the Framers' understanding of the Fourth Amendment. *Id.* Although Justice Thomas doubted that the checkpoints in *Sitz* and *Martinez-Fuerte* comported with the Fourth Amendment's "reasonableness" requirement, the Justice was disinclined to deem them unconstitutional "without the benefit of briefing and argument." *Id.* Despite reservations regarding the validity of the Court's previous decisions, Justice Thomas joined the Chief Justice's opinion that established case law obligated the Court to uphold the IPD's program. *Id.*

Constitutional protection against unreasonable searches and seizures is a highly charged issue. In this well-intentioned opinion, the Court attempted to fairly balance a city's crime prevention goals

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with the fundamental rights of that city's citizens and persons passing through its jurisdiction. Although the majority's ultimate resolution of this dilemma affirmed the Court's desire to protect individual liberties, one link in its chain of reasoning is flawed: the Court failed to effectively illustrate why the precedent established by *Martinez-Fuerte* did not apply to this matter. Like the Border Patrol in *Martinez-Fuerte*, which wanted to control the flow of illegal immigrants across United States borders, the IPD in this case hoped to control the flow of illegal narcotics through Indianapolis. The Court approved the Border Patrol's scheme in *Martinez-Fuerte*, reasoning that the Government experienced great difficulties in determining which cars carried illegal aliens. Here, the IPD, like other police departments across the United States, found it difficult to determine which cars carried illegal narcotics. In both situations, the degree of intrusion caused by the stops was relatively modest.

The Court's decision to prohibit narcotics checkpoints runs afoul of the analogous constitutional precedent set forth in *Martinez-Fuerte*. Interpreting the Fourth Amendment to forbid a "general interest in crime control" appears to be inconsistent with the Court's earlier decision to reduce Fourth Amendment protection as a method to promote a general interest in controlling illegal border crossings. Despite the positive impact this case will have on individual liberties, its beneficial aspects may be overshadowed by the inconsistent application of Supreme Court precedent. Furthermore, because of its incongruous application of prior law, this case is likely to confuse other Fourth Amendment matters that may arise in the future.

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