# POLICE / PROSECUTOR UPDATE

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Some recent court opinions are of interest to law enforcement. The United States Supreme Court approved the use of police highway checkpoints to obtain information. The police in this case set up a highway checkpoint to obtain information from motorists about a fatal hit-and-run accident occurring a week earlier at the same location and time of night. Officers stopped each vehicle for 10-15 seconds, asked the occupants whether they had seen anything happen there the previous weekend, and handed each driver a flyer describing and requesting information about the accident.

In contrast to drug interdiction checkpoints set up primarily for general "crime control" purposes, the information checkpoint's primary law enforcement purpose is *not* to determine whether a vehicle's occupants are committing a crime but to ask the occupants, as members of the public, for help in providing information about a crime in all likelihood committed by others. Importantly, the stops interfered only minimally with the public's liberty interest.

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The substance of all definitions of probable cause is a reasonable ground for belief of guilt, *and* that belief of guilt must be particularized with respect to the person to be arrested. In another U.S. Supreme Court case, a police officer stopped a car for speeding. The car contained the driver, a front-seat passenger, and a back-seat passenger. Pursuant to the consent of the driver, the officer searched the car. He found several hundred dollars in the glove compartment and five baggies of cocaine between the back-seat armrest and the back seat. After all three men denied ownership of the cocaine and money, the officer arrested each of them. The issue was whether the officer had probable cause to believe that the defendant in the case, the front-seat passenger, had committed the offense.

There was no question that the officer, upon discovering the cocaine, had probable cause to believe a felony had been committed. In reviewing the facts, the court noted there were several hundred dollars cash in the glove compartment directly in front of the defendant. The cocaine was accessible to all three men. All three *denied ownership* of the money or cocaine. It was an entirely reasonable inference from these facts that any or all three of the occupants had knowledge of, and exercised dominion and control over, the cocaine. Thus, a reasonable officer could conclude that there was probable cause to believe the defendant committed the crime of possession of cocaine, either solely or jointly.

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In another case, the U.S. Supreme Court examined the knock and announce requirement for execution of search warrants. The standards bearing on whether police officers can legitimately enter after knocking are the same as those for requiring or dispensing with knock and announce altogether. The obligation to knock and announce before entering gives way when officers have reasonable grounds to expect futility or to suspect that an exigency, such as evidence destruction, will arise instantly upon knocking. With regard to what is a reasonable time to wait for a response, the facts known to the police are what count in judging a reasonable waiting time. Once the exigency has matured, the officers are not bound to learn anything more or wait any longer before entering. Since most people keep their doors locked, a no-knock entry or forced entry after knocking will normally do some damage, a fact too common to require a heightened justification when a reasonable suspicion of exigency already justifies the entry. In this case, the Court stated that 15-20 seconds was a reasonable period of time for officers to wait after they knocked and announced to execute a search warrant for cocaine.

Cases: *Illinois v. Lidster*, ___ U.S. ___, ___ S.Ct. ___, ___ L.Ed.2d ___ (2004
*Maryland v. Pringle*, ___ U.S. ___, 124 S.Ct. 795, ___ L.Ed.2d ___ (2003
*United States v. Banks*, ___ U.S. ___, 124 S.Ct. 521, 157 L.Ed.2d 343 (2003)