

Use of Sobriety Checkpoints in the Marine Environment

The United States Coast Guard (USCG) estimates that at least 40 percent of all boating accidents involve alcohol or impaired operators and in 2007, 21 percent of fatal boat accidents cited alcohol as a primary factor. One unfortunate paradigm that faces boating enforcement agencies today is that alcohol is viewed by a large percentage of the public as a necessary component of recreation or relaxation, and it is difficult to change that perception of recreational boaters. As an example, people who would never consider drinking and driving their car may not give a second thought to drinking and operating a boat. In addition to trying to overcome the cultural aspects of recreational boating, officers are faced with the difficulty of detecting impaired operators in an environment where lane lines and traffic signals do not exist and where navigational rules only generally guide operation.

Since 1990, the constitutionality of sobriety checkpoints has been reviewed by the courts, including the consideration of aspects that are unique to recreational boating. If an agency plans to utilize sobriety checkpoints to detect impaired operators and provide public safety outreach, they need to begin by looking at existing state law and Supreme Court decisions that guide “seizures” under the Fourth Amendment of the United States Constitution. Although much of the direction was the result of roadside checkpoints, these same legal principles apply to our waterways, providing law enforcement agencies with guidelines to plan and successfully conduct waterborne sobriety checkpoints.

What are Sobriety Checkpoints?

Sobriety checkpoints are an enforcement tool that employs systematic contact of watercraft at predetermined locations along traffic corridors, designed to intercept impaired operators. Checkpoints allow officers to stop vessels without any suspicion of wrongdoing. To be judicially acceptable, sobriety checkpoints must satisfy two general objectives:



1. The purpose of a checkpoint must be specific and not for generalized crime interdiction (*City of Indianapolis v. Edmond*, 2000).
2. The public’s interest in safe recreational boating must outweigh individualized Fourth Amendment protections and viewed as reasonable intrusions (*Michigan v. Sitz*, 1990; *Florida v. Casal*, 1982).

To be successful as a general deterrent, sobriety checkpoints should be part of an integrated enforcement effort that includes officer training to detect impaired operators and coordinated public awareness, such as public service announcements (PSAs), and education outreach campaigns like “Operation Dry Water”. These strategies maximize deterrent effects and reinforce key messages that strongly discourages social acceptance of operating watercraft while impaired by alcohol or other drugs.

Planning

Effective sobriety checkpoint interdiction efforts should consider the following guidelines:

- Departmental and judicial support for sobriety checkpoints, possibly including a policy statement or established procedure;
- An adequate location where anticipated numbers of boats can be contacted and processed safely with concern for officers and boaters;
 - ✓ Marinas, launch areas and no wake harbors work well for locations, beaches near recreational areas have proven to work well logistically;
- A written sobriety checkpoint plan, approved by upper level command personnel that contain these components (Delaware v. Prouse, 1979);
 - ✓ A specific time of limited duration;



- ✓ A statement of enforcement focus and necessity;
 - ✓ Procedural guidelines that promote the necessity of non-discretion by officers;
 - ✓ Limitations of conduct that includes job duties and addresses non-discretionary issues by officers from participating agencies;
 - ✓ Descriptions of the systematic stopping procedures;
 - ✓ Handling of impounded or seized vessels;
- ✓ Personnel assignment forms to help assess manpower needs;
 - A pre-operational briefing where each officer is given a copy of the written plan with a verbalized description of officer duties;
 - Generalized public notice of the impending operation using media of general circulation—“Operation Dry Water” news releases are sufficient for this purpose, USCG Notice to Mariners may also be utilized (maintain record for disclosure);
 - Notice to boaters of approaching checkpoint area using informational buoys in compliance with the US Aids to Navigation System;
 - ✓ Buoys should be placed in target corridors, providing a fairway for those boaters who choose not to participate in the checkpoint;
 - Limitation of intrusion by minimizing time of inconvenience;
 - ✓ Plan should recommend a brief detention period of less than 5 minutes;*
 - Contact forms to ensure uniform collection of data and helps to identify involved officers (maintain completed forms for disclosure).

**This time has been reasonable based on the operator’s proficiency in displaying the required boating safety equipment, although in practice, the time consistently averages approximately 3 minutes per contact and 15 minutes per contact with citation (excluding a BUI arrest); keep in mind that the Supreme Court found the brief detention of less than 30 seconds per stop was reasonable and considered a limited intrusion for roadside sobriety checkpoints in Michigan v. Sitz (1990).*

Logistical Considerations

Sobriety checkpoints are labor intensive. Although non-commissioned personnel are routinely utilized to assist contact officers or transport prisoners, sufficient manpower must be available to minimize delays and boater inconvenience. If an insufficient labor force is utilized, the effectiveness of the checkpoint is diminished by frequent transitions to alternative stopping procedures, thereby increasing the probability of an impaired operator passing through undetected. It is unusual that one agency has the ability to divert resources from other patrol priorities to supply the manpower necessary to adequately support a checkpoint. Therefore, it is necessary to establish collaborative relationships with multiple law enforcement agencies and provide a united deterrent effect.



Mobile command posts can be utilized to provide remote platforms for processing subjects, completing arrest reports, housing evidentiary breath testing instruments and securing prisoners. These vehicles can also act as a medium for outreach or key messages and provide logistical support functions to participating officers for shade, lighting and restrooms.

Although the primary operational objective is to screen every boat operator that enters a checkpoint area, many waterways experience congested traffic creating an obstacle to achieving this goal. Planners may choose to limit contacts to directional traffic (i.e. upstream vs. downstream, ingress vs. egress patterns), as a safety consideration and to target a more manageable number of boats. Another option to more quickly move boaters through the checkpoint may be to issue verbal warnings for safety equipment violations. Although this option will minimize contact time for sober, non-compliant boaters and allows officers to evaluate the sobriety of a greater number of operators, there may be detrimental effects by diminishing the importance of carriage requirements.

Public Outreach

Sobriety checkpoints are highly visible operations that increase public awareness of agency efforts, promote a safe and enjoyable boating environment, and provide an overt reminder that there is a risk of being arrested for operating under the influence. Interdiction efforts must be data-driven and supported by responsive management surveys or other public opinion surveys. The vast majority of the public recognizes the dangerous association of alcohol with boating and support agencies' efforts. A sound outreach effort should invite the participation of the media and civic groups such as MADD. Remember that a relationship with the media should already be established increasing the probability of having important messages published or promoted. Creating a "news worthy" press release by using post-operational statistics benefits both the cause and the media, making a more interesting and sound story. Other promotional materials can be provided to checkpoint participants such as *"I got caught wearing my PFD"*

Use of Sobriety Checkpoints

t-shirts for kids or for example, Type IV giveaways with screen-printed boating safety messages. Planners should also consider the distribution of informational pamphlets explaining the purposes of checkpoints and promoting the state's boating safety and education programs.

Summary

Sobriety checkpoints can be a valuable enforcement tool when combined with other integrated alcohol interdiction strategies. These types of operations also offer ancillary benefits such as the collection of compliance data and the opportunity to obtain valuable information from the boating public. Safety equipment compliance data is sometimes difficult to establish from

Year	Boats	Persons	Cites	OUI	Compliance	Consump
2001	266	745	49	12	73%	33%
2002	553	2544	129	9	68%	33%
2003	1408	4837	363	26	71%	31%
2004	641	2867	175	17	67%	27%
2005	765	2904	216	35	70%	33%
2006	698	2617	157	18	70%	29%
2008	755	3201	206	36	73%	37%
2009	777	3610	242	21	69%	33%

routine patrol efforts because most "stops" are usually initiated by some observation of an offense by the officer. Because checkpoints involve the systematic stopping of all vessels passing by a particular location, data more clearly reflects a "snapshot in time" that provides a more accurate view of compliance. Not only can data be obtained that identifies problem areas or trends (i.e. percent of operators consuming alcohol or most common safety equipment violations as the data table shows), but general demographic information is available such as state of vessel registration, etc.

Tim Baumgarten is the OUI/Watercraft Program Manager and a 29-year veteran of the Arizona Game and Fish Department. His experiences come from planning and supervising sobriety checkpoints since 1993. Tim has organized over 90 sobriety checkpoints on Arizona's waterways. His contact information is:

Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086
TBaumgarten@azgfd.gov
(623) 236-7206
(602) 309-5306 cell

