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ROADBLOCK

County Law Update

by Mike Rainwater

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A roadblock should be established in a place and in a manner that provides persons approaching the roadblock a meaningful opportunity to see the roadblock in time to voluntarily stop and avoid a crash.

Brower: In *Brower v. Inyo County*, a 20-mile, high speed chase ended when the decedent crashed into a roadblock that county officials had set up to stop him. The roadblock consisted of a tractor-trailer that blocked both lanes of a 2-lane highway. The police officers had chased Brower because he had allegedly stolen an automobile.

Alleged Excessive Force: Mr. Brower's estate filed suit under 42 U.S.C. Section 1983, alleging that the roadblock was "excessive, unreasonable, and unnecessary physical force" in violation of the Fourth Amendment.

The Supreme Court's Decision: The district court dismissed the complaint on the ground that under the circumstances it was not unreasonable to establish a roadblock. The Ninth Circuit Court of Appeals affirmed, stating that no "seizure" had occurred by the use of a roadblock. The Supreme Court, with dissent, reversed and remanded for consideration of whether the seizure was unreasonable. The plaintiff, the decedent's wife, alleged that the county officials had concealed the road block from the decedent -- by using their headlights to blind him as he approached the roadblock.

Fourth Amendment Seizure, by Roadblock: The court noted that the Brower Estate alleged that Mr. Brower's death was caused by a *concealed* roadblock installed by the police whereby the suspect was stopped by crashing into the road block, the very instrumentality put in place to achieve that result. Since a 4th Amendment seizure occurs "when there is a governmental termination of freedom of movement through means intentionally applied," the Court concluded that the Complaint state a valid constitutional claim that had to be decided by a jury. *Brower v. Inyo County*, 109 S. Ct. 1378 (1989).