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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

MANOLO DÍAZ CORRADA,

Plaintiff,

v.

CORY GREER,

Chief of Police, City of Goodyear,
in his official and individual capacities;

THOMAS FUENTES,

Officer, City of Goodyear Police Department,
in his official and individual capacities; and

CITY OF GOODYEAR

Defendants.

Case No. 22-cv-3352-SPL

Civil Action

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

It is essential for the members of any community that their municipality has the flexibility to take reasonable steps to keep roads safe. The City of Goodyear faces an acute marijuana-impaired driving problem by virtue of its location; situated adjacent to the music festival hub of California and its lax marijuana laws, the I-10 corridor funnels marijuana-impaired drivers into the paths of innocent Goodyear citizens. After the tragic highway slaughter of a Goodyear family, the City of Goodyear created a Task Force which launched a vehicle checkpoint program, whose goal was to prevent marijuana-impaired driving along I-10. Manolo Díaz Corrada, like many Goodyear citizens, drove through the checkpoint program during its operation. While the attending officer executed standard checkpoint protocol, Mr. Díaz Corrada's work-related stress got the better of him, and he requested medical attention. He was subsequently fired for his third unexcused lateness in three months, after two warnings from his employer. Mr. Díaz Corrada brought this suit, alleging that the checkpoint program violated the Fourth Amendment.

To succeed in challenging the constitutionality of a suspicionless vehicle checkpoint, the plaintiff must prove that the checkpoint was unreasonable under the Fourth Amendment. A suspicionless checkpoint program is reasonable if it has a primary purpose that is beyond a general interest in crime control is reasonable on the basis of its individual circumstances. The reasonableness of an individual checkpoint program balances the gravity of public concerns served, the degree to which the checkpoint advances the public interest, and the severity of interference with individual liberty. First, the Goodyear checkpoint program has a lawful primary purpose of identifying and deterring marijuana-impaired driving, which is distinct from ordinary crime control because of the close connection between the checkpoint's location and the unique problem it seeks to address. Second, the checkpoint program is reasonable because local and

national concern about marijuana-impaired driving and the efficacy of the checkpoint program outweigh its minimal interference with individual liberty. Summary judgment should be granted for the defendants because, as a matter of law, the Goodyear checkpoint program is constitutional under the Fourth Amendment.

STATEMENT OF UNDISPUTED MATERIAL FACTS

In April of 2019, 24-year-old Erika Clarkson was returning from a visit to her mother's house in Phoenix with her eight-month-old son, William. (Howard Fischer, GOODYEAR: Police Chief Pledges Crackdown on Marijuana Trafficking, Ariz. Capitol Times (April 22, 2019) ("Accident Article"), attached as Ex. A). The young mother and her baby never made it home. (Accident Article). While driving on Interstate 10, a group of partiers on their way back from Coachella, a week-long California music festival, flipped over the median and hit the Clarksons head-on. (Deposition of the Defendant, Chief Cory Greer ("Greer Dep."), at 7:26-30, attached as Ex. B). Both Erika and little William were killed, along with the driver, and two other passengers were seriously injured. (Accident Article). Marijuana was found in the party-goers' car. (Greer Dep. at 8:17-19). It is widely believed, consistent with post-crash police investigation hypothesis, that marijuana impairment caused the crash. (Marijuana Impairment Task Force Report ("Task Force Report"), at 3, attached as Ex. C; Greer Dep. at 8:15-17). This tragedy fit an alarming theme for the city of Goodyear: with I-10 as a primary travel route from California – coupled with its relaxed marijuana laws and its stream of music festival fanatics – Goodyear had been facing an uptick in marijuana-impaired driving along I-10. (Greer Dep. at 9:25-27).

Distraught at the deaths of the Clarkson family and the dangers posed by impaired driving, Goodyear residents called a town hall meeting and demanded action. (Greer Dep. at 8:24-31). Hundreds of Goodyear citizens attended, with many community members making

impassioned speeches that demanded action from the City. (Task Force Report at 3). In response to the townspeople's cry for protection, Police Chief Cory Greer formed the Marijuana Impairment Task Force, which included policy experts, city representatives, and other community members. (Task Force Report at 5). The Task Force, in an effort to focus immediate attention on prompt and effective highway safety measures, developed an impaired-driving checkpoint program. (Task Force Report at 5).

While research regarding the impairment effect of driving while under the influence of marijuana is not yet conclusive, eighteen states have enacted laws declaring that a specific concentration of THC in a driver's body constitutes evidence of impairment and is per se illegal. David Randall Peterman, Marijuana Use and Highway Safety, Congressional Research Service, at 2, 8 (May 2019) ("Peterman, Congressional Research Service"), attached as Ex. D). It is undisputed that the Marijuana Task Force Checkpoint Policy states that the primary goal of the randomized checkpoint program was to "identify, arrest, and deter marijuana-impaired drivers" on I-10. (Marijuana Impairment Task Force Checkpoint Policy, City of Goodyear ("Checkpoint Policy"), at 2, attached as Ex. E). A secondary goal was to identify and deter those in possession of illegal quantities of marijuana for sale or trafficking. (Checkpoint Policy at 2). Prior to the induction of the checkpoint program, an unauthorized memo drafted by Deputy Chief Hannah Haridy was sent to other members of the Goodyear Police Department, outlining the checkpoint program's interdiction features. (Email from Hannah Haridy, Deputy Chief, to MITF, Narcotics, Patrol Officers (Mar. 1, 2022) ("Haridy Memo"), attached as Ex. F; Greer Dep. at 23:1-20). However, this memo was not approved and its considerations were not adopted in the Task Force's final policy proposal. (Checkpoint Policy).

Given the scientific underdevelopment of marijuana impairment testing mechanisms – compared to alcohol impairment testing, for which breathalyzer, blood, and urine testing have been widely studied and implemented to accurately detect alcohol impairment – the checkpoint program used visual inspection to detect signs of impairment. (Peterman, Congressional Research Service at 3; Checkpoint Policy at 3). For a law-abiding driver showing no signs of marijuana impairment or possession, the entire checkpoint process would generally last between thirty seconds and one minute, on average. (Checkpoint Policy at 3; Deposition of the Defendant, Thomas Fuentes (“Fuentes Dep.”), at 10:5-9, attached as Ex. G). To minimize surprise and anxiety for law-abiding Goodyear drivers, the checkpoints were well-marked using flashing signs in advance of all checkpoints. (Task Force Report at 7). Similarly, the Task Force notified the public of the checkpoint program via local radio stations, a YouTube video, and social media announcements. (Greer Dep. at 19:1-3). In the four weeks that the checkpoint program was in operation, twenty-six DUI arrests were made, eighteen of which were for marijuana impairment, along with thirty-three arrests for marijuana possession over the legal limit or for under-aged possession. (Greer Dep. at 20:14-27). A total of 2,875 cars were stopped during the checkpoint’s operation. (Greer Dep. at 20:14-27).

Manolo Díaz Corrada had arrived late to work two times within the first few weeks of 2022. (Deposition of the Plaintiff, Manolo Díaz Corrada (“Corrada Dep.”), at 4:1-2, attached as Ex. H). After his second late arrival, his employer warned him of their “three strikes” lateness policy. (Corrada Dep. at 4:3-4). On April 24, 2022, Mr. Díaz Corrada was driving to work via I-10 when he approached a checkpoint station at his exit, signaled by signage and orange cones. (Corrada Dep. at 5:20-22). Mr. Díaz Corrada was driving a car with a California license plate. (Corrada Dep. at 7:12-13). Officer Thomas Fuentes, a narcotics expert trained on checkpoint

operating procedure, was on standard checkpoint duty when the California car approached the checkpoint. (Fuentes Dep. at 13:10).

Officer Fuentes greeted Mr. Díaz Corrada. (Fuentes Dep. at 13:3). Pursuant to the Task Force Checkpoint Policy, Officer Fuentes then asked him if he was traveling from California. (Corrada Dep. at 7:2-4; Checkpoint Policy at 3). Mr. Díaz Corrada said that he was not. (Corrada Dep. at 7:8). Then, pursuant to the Task Force Checkpoint Policy, Officer Fuentes asked Mr. Díaz Corrada if he had been smoking marijuana. (Corrada Dep. at 7:18; Checkpoint Policy at 3). Mr. Díaz Corrada refused to answer Officer Fuentes' inquiry. (Corrada Dep. at 7:23-24). Task Force Checkpoint Policy denotes that, if drivers refuse to answer either of these questions, the officer may inquire as to whether the driver currently possesses marijuana. (Checkpoint Policy at 3). Officer Fuentes then asked Mr. Díaz Corrada if he was in possession of marijuana. (Corrada Dep. at 8:7-9). Once again, Mr. Díaz Corrada refused to answer. (Corrada Dep. at 8:13-14). At this point, once again authorized by Task Force Checkpoint Policy, Officer Fuentes conducted a brief visual inspection of Mr. Fuentes and his car, using his flashlight to see, given the evening hour. (Corrada Dep. at 8:20-28; Checkpoint Policy at 3). The inspection itself lasted a few seconds. (Corrada Dep. at 9:13). At this time, Mr. Díaz Corrada still had twenty minutes until his shift at work began. (Corrada Dep. at 18:23-24). The commute from Mr. Díaz Corrada's home to work generally takes fifteen minutes. (Corrada Dep. at 5:2-3). Mr. Díaz Corrada admits to being nervous during the inspection because he was concerned about his ability to stop at McDonalds prior to his shift beginning, knowing that his previous latenesses had put him on notice of the impact of a third strike. (Corrada Dep. at 8:24-28).

As Officer Fuentes was completing his inspection of the vehicle, Mr. Díaz Corrada suddenly called out that he was having a heart attack. (Corrada Dep. at 10:5-6). Officer Fuentes

immediately radioed for a paramedic and offered Mr. Díaz Corrada water. (Corrada Dep. at 10:11-12, 25-26). Officer Fuentes also asked Mr. Díaz Corrada if he wanted to get out of his car and walk around or, alternatively, if he wanted to lie down in the backseat while waiting for the paramedics to arrive. (Corrada Dep. at 10:24-25). When the paramedic team arrived on the scene, Officer Fuentes directed them to Mr. Díaz Corrada so that they could assist him. (Corrada Dep. at 11:6-8).

Mr. Díaz Corrada was quickly transported to the emergency room at University Medical Center in Phoenix. (Corrada Dep. at 11:13). After thorough evaluation, the hospital staff determined that Mr. Díaz Corrada was not having a heart attack. (Corrada Dep. at 11:17-30). Due to the extensive heart-attack testing protocol, however, Mr. Díaz Corrada had missed half of his shift at work by the time he was discharged from the hospital. (Corrada Dep. at 11:30-32). Mr. Díaz Corrada did not communicate with his employer or explain his absence until the following day. (Corrada Dep. at 12:6).

It is undisputed that Mr. Díaz Corrada's employment was terminated as a result of his three incidents of lateness or missed shifts in the span of three months, after two warnings. (Corrada Dep. at 12:9-11). Mr. Díaz Corrada initiated this lawsuit, seeking monetary damages, a declaratory judgment, and injunctive relief against the City of Goodyear for an alleged violation of the Fourth Amendment. (Compl. at ¶1, attached as Ex. I).

ARGUMENT

The Goodyear checkpoint is constitutional under the Fourth Amendment because it has a lawful primary purpose of identifying and deterring marijuana-impaired driving and is reasonable based on its individual circumstances. The Fourth Amendment of the United States Constitution permits reasonable searches and seizures. U.S. Const. amend IV. Checkpoint stops

are considered “seizures” within the meaning of the Fourth Amendment. United States v. Martinez-Fuerte, 428 U.S. 543, 556 (1976). The purpose of Fourth Amendment seizure proscriptions is to ensure that law enforcement officers can effectively advance legitimate government interests within reasonable bounds, while safeguarding the privacy of individuals against arbitrary invasions. Delaware v. Prouse, 440 U.S. 648, 654 (1979). When a checkpoint program serves special needs, beyond the standard need for law enforcement, the checkpoint can be reasonable even in the absence of individualized suspicion. City of Indianapolis v. Edmond, 531 U.S. 447, 451 (2000). A suspicionless checkpoint is constitutional if it satisfies a two-element test; the checkpoint must have a primary purpose that is beyond a general interest in crime control, and the checkpoint must be reasonable on the basis of its individual circumstances. Martinez-Fuerte, 428 U.S. at 556. Here, summary judgment should be granted on behalf of the City of Goodyear because there is no dispute in material fact as to the constitutionality of the checkpoint program’s primary purpose, nor its reasonableness. First, the checkpoint program’s primary purpose of identifying and deterring marijuana-impaired drivers on I-10 is constitutional because it is distinct from general crime control. Second, the checkpoint program is reasonable because the gravity of public concerns served by the checkpoint and the degree to which it advances the public interest outweigh the severity of the checkpoint’s interference with individual liberty, which is minimal.

I. Standard for Summary Judgment Motion.

The court should grant summary judgment on behalf of the moving party if the moving party shows that there is no genuine dispute as to any material facts, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). Material facts are only those that impact the outcome of the case. Anderson v. Liberty Lobby, Inc., 447 U.S. 242, 248 (1986). The

standard for a summary judgment motion requires that the court considers all material facts in the light most favorable to the nonmoving party. Id. The court should conclude that there is no genuine dispute of material facts unless the evidence presented establishes that a reasonable jury could find in the nonmoving party's favor. Id. Accordingly, if the nonmoving party cannot prove any element of its claim, the court must grant summary judgment on behalf of the moving party. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Demarest v. City of Vallejo, 44 F.4th 1209, 1224 (9th Cir. 2022) (affirming grant of summary judgment because a driver's Fourth Amendment rights were not violated by a reasonable vehicle checkpoint program seizure).

II. Summary Judgment Should Be Granted Because the Goodyear Checkpoint Program's Primary Purpose Is Distinguishable From Ordinary Crime Control.

The Goodyear checkpoint's primary purpose is to identify, deter, and arrest marijuana-impaired drivers on the I-10 corridor, which is constitutional because it is distinct from general crime control. When a checkpoint advances a primary purpose that is separate from the general crime control goals of law enforcement, no individual suspicion is necessary for the checkpoint to be constitutionally upheld. Edmond, 531 U.S. at 451. However, if a checkpoint program's primary purpose is indistinguishable from that of general crime control, the checkpoint is per se invalid. United States v. Fraire, 575 F.3d 929, 932 (9th Cir. 2009) (citing Edmond, 531 U.S. at 451). The inquiry as to the purpose of a checkpoint stop should be made at the programmatic level, not as an analysis of an individual officer's intent. Edmond, 531 U.S. at 456. For the purposes of a Fourth Amendment analysis, ensuring roadway safety through an impaired-driving checkpoint program is a purpose that is distinct from general crime control. Id. at 455 (citing Michigan Dep't of State Police v. Sitz, 496 U.S. 444, 454 (1990)).

When a checkpoint addresses a problem that is specific to a community or location, the use of law enforcement techniques to accomplish its goal does not render the checkpoint a

general crime control device. United States v. Fraire, 575 F.3d at 933. In Fraire, a vehicle checkpoint was stationed at the entrance of a National Park with the goal of mitigating the illegal taking of animals from the park and catching violators of the illegal hunting policy. Id. at 932-33. The court held that, given the close connection between the checkpoint's location at the park entrance and its goal of countering illegal hunting within that particular park, an offense specific to the park, the checkpoint's purpose of protecting wildlife was distinguishable from that of general crime control. Id. at 933; see also Illinois v. Lidster, 540 U.S. 419, 423 (2004) (holding that a checkpoint stop's primary purpose of asking vehicle occupants for help providing information about a nearby hit-and-run accident was not a general crime control device because the checkpoint was located on the same highway as the accident, occurred as a response to the accident, and served an important and specific information-gathering function); see also Martinez-Fuerte, 428 U.S. at 557 (holding that a checkpoint's purpose of illegal immigrant interdiction was valid given its location sixty-six miles from the Mexico border and the particular highway's use as a channel for illegal immigration); see also United States v. Faulkner, 450 F.3d 466, 470-71 (9th Cir. 2014) (holding that a checkpoint program located within a federal recreation area, whose primary purpose was to provide information to visitors regarding the recreation area's regulations, was not a general crime control device because the checkpoint addressed concerns specific to safe and appropriate park usage, despite the fact that vehicles were inspected for alcohol as well).

Here, since the Goodyear checkpoint program serves to mitigate the marijuana-impaired driving problem that this uniquely situated community faces, its primary purpose of roadway safety is distinct from that of general crime control. Just as the checkpoint in Fraire was located at the park's entrance to intercept those entering and exiting the park, the Goodyear checkpoint

stops are located along the I-10 corridor, which functions as a highly-traveled route between California and Goodyear. (Checkpoint Policy at 2). Additionally, through that proximate location, both checkpoints address a problem that is specific to the nearby area; just as the checkpoint in Fraire sought to mitigate illegal hunting within the National Park, the Goodyear checkpoint program responds to the influx of marijuana-impaired driving that has occurred because of its proximity to California and its lax legal approach to marijuana. (Greer Dep. at 9:25-27). Accordingly, the primary purpose of the Goodyear checkpoint program is distinguishable from ordinary crime control due to the close connection between its location and the marijuana-impaired driving problem that plagues the I-10 corridor.

A lawful checkpoint is not made unlawful by the addition of a secondary purpose of drug interdiction, nor the use of resources in support of that secondary purpose. United States v. Soto-Camacho, 58 F.3d 408, 411-12 (9th Cir. 1995). In Soto-Camacho, a checkpoint program, in addition to its primary purpose of border control, based the timing of its decision to set up the checkpoint partially on drug intelligence, utilized Border Patrol agents that were cross-designated as both drug enforcement and customs officers, and employed officers that were trained in both “alien” and drug smuggling detection. Id. at 411. Despite the checkpoint’s use of law enforcement resources to advance the secondary purpose of drug interdiction, the court held that the checkpoint’s location relative to the densely concentrated problem of illegal immigration established its primary purpose as lawful and distinct from general crime control. Id. at 412; see also United States v. Carrasco, 813 F. App’x 275, 276 (9th Cir. 2020) (holding that, although a border patrol checkpoint program may have had other crime control goals in addition to its central mission of interdicting undocumented immigrants, agency documents confirmed that the checkpoint’s primary purpose was to deter illegal entry); see also United States v. Wilson, 650 F.

App'x 538, 539 (9th Cir. 2016) (holding that a lawful immigration checkpoint was not made unlawful by the presence of a dog that was trained to detect both drugs and concealed passengers because the primary purpose of border-patrol was distinct from that of general crime control, notwithstanding the presence of drug interdiction devices).

Here, the advancement of secondary drug interdiction goals does not collapse the distinction between the Goodyear checkpoint program's primary purpose of curbing marijuana-impaired driving and a purpose of general crime control. Just as the checkpoint officers and dogs in Soto-Camacho were trained in both immigration control and narcotics detection techniques, the Goodyear checkpoint procedure permitted officers, some of whom had narcotics backgrounds, to physically inspect both individuals and their vehicles. (Checkpoint Policy at 2-3). Further, just as the checkpoint program in Soto-Camacho used drug intelligence to inform its practices, officers in the Goodyear Police Department – such as Officer Greer, Officer Fuentes, Deputy Chief Hariday – have expressed both personal and professional opinions regarding the importance of effectuating drug interdiction solutions for the welfare of Goodyear. (Greer Dep. at 7:1-10; Haridy Memo). Accordingly, just as the presence of drug interdiction goals and mechanisms in Soto-Camacho did not infect the determination of the checkpoint's primary purpose as immigration control, the presence of interdiction goals here is not evidentiary of the Goodyear checkpoint's secondary purpose falling on the same hierarchical level as its primary purpose of marijuana-impaired driving prevention.

It is undisputed that the Checkpoint Policy states that the Goodyear checkpoint's primary purpose is to identify, arrest, and deter marijuana-impaired drivers. (Checkpoint Policy at 2). Since the checkpoint's purpose and location closely connect the marijuana-impaired driving problem that uniquely impacts the Goodyear community, this roadway safety purpose is distinct

from that of general crime control. Further, neither the use of law enforcement techniques to carry out checkpoint procedures, nor the presence of secondary drug interdiction goals, impact the constitutionality of this lawful primary purpose. Therefore, because the checkpoint program's primary purpose of promoting roadway safety is distinct from ordinary crime control, its purpose is constitutional under the Fourth Amendment and summary judgment should be granted.

III. Summary Judgment Should Be Granted Because the Goodyear Checkpoint Program is Constitutionally Reasonable, Since the Gravity of Public Concern and the Degree To Which the Checkpoint Program Advances the Public Interest Outweigh the Minimal Interference With Individual Liberty.

Given that the Goodyear checkpoint program has a constitutional primary purpose of preventing marijuana-impaired driving, the checkpoint program is reasonable because the grave concern of the Goodyear community and the effectiveness of the checkpoint program in addressing the public's interest in roadway safety eclipse the minimally intrusive nature of a checkpoint stop. A checkpoint program is reasonable under the Fourth Amendment if the gravity of public concerns served by the checkpoint and the degree to which the checkpoint advances the public interest outweigh the severity with which the checkpoint interferes with individual liberty. Martinez-Fuerte, 428 U.S. at 556. The Court should weigh these factors through a balancing-test analysis. Id.

A. The Goodyear Checkpoint Program Serves the Grave Public Concern Associated With Marijuana-Impaired Driving and Roadway Safety.

When a problem both causes anecdotal tragedy and generates concern on a local or national scale, the gravity of the problem is of particularly high magnitude. Sitz, 496 U.S. at 451. The court in Sitz, holding that a sobriety checkpoint was constitutionally reasonable, highlighted that impaired driving was a problem of indisputable magnitude and therefore the public concern served by the checkpoint was grave. Id. The court cited nationwide media reports of impaired

driving-related deaths and the “increasing slaughter on our highways” as evidentiary of the community’s great interest in eradicating impaired driving. Id. (quoting Breithaupt v. Abram, 352 U.S. 432, 439 (1957)); see also Lidster, 540 U.S. at 426 (holding that the public concern served by the information-seeking checkpoint program was grave because police were investigating a crime that had resulted in a human death, and “no one” denies the need for prompt action at that time); see also Edmond, 531 U.S. at 455 (holding that the gravity of public concern served by a sheerly interdiction-focused checkpoint was insufficient because there was no “vehicle-bound threat to life and limb”).

Here, the Goodyear checkpoint responds to a high level of public concern due to both the nationally-recognized aversion to marijuana-impaired driving and the local tragedy that has plagued the Goodyear community. Just as the Sitz court looked to media reports of DUI-related deaths across the nation to inform its evaluation of the grave concern served by the checkpoint, the Arizona Capitol Times media coverage of the Clarkson family’s deaths and the subsequent local outcry for City action confirm that the public concern served by the Goodyear checkpoint is similarly grave. (Accident Article; Task Force Report at 3). Similarly, much like the legal limits constraining alcohol-impaired driving, the fact that eighteen states have per se marijuana-impaired driving laws verifies the gravity of the threat that marijuana-impaired driving poses to roadway safety and underscores the national scope of concern here (Peterman, Congressional Research Service at 8). Accordingly, it cannot be disputed that the Goodyear checkpoint serves a grave public concern.

Even when imminent death is not statistically confirmed, the needs of a community and an interest in the quality of life of community members is sufficient to render a certain public concern “grave.” Verdun v. City of San Diego, 51 F.4th 1033, 1043 (9th Cir. 2022). In Verdun, a

suspicionless tire-chalking program, modeled based on suspicionless vehicle checkpoint programs, was implemented to ensure parking availability in an urban area. Id. at 1041. The court held that ensuring parking availability was a grave public concern because it promoted the basic functioning of the municipality and the quality of life of the city's residents. Id. at 1043; see also Faulkner, 450 F.3d at 472 (holding that the public concerns served by the information station checkpoint, while not as severe as those raised in roadway safety cases such as Sitz, hold significant gravity because those park regulation concerns were raised directly by the impacted community and had received media attention).

Here, even without statistical data regarding the incidence of marijuana-impaired driving in Goodyear, the local public concern associated with the threat of marijuana-impaired driving is significant given the Clarkson tragedy and community's subsequent demand for action.

Hundreds of distraught Goodyear residents indicated in the town hall meeting, following the death of the Clarkson family, that action was needed to prevent another tragedy on their roads. (Task Force Report at 3). Even more so than the convenience offered by parking availability in Verdun, a sense of safety and security for drivers along the I-10 corridor is a crucial element of municipal functioning and residents' quality of life. Even without data that quantifies the prevalence of marijuana-impaired driving in Goodyear, the community outcry indicates that the public concern served by the checkpoint program is grave.

B. The Goodyear Checkpoint Program Advances the Public Interest to a Substantial Degree Because Its Success Rate Indicates an Effective Response to the Public Desire For Roadway Safety and There Exists a Common-Sense Inference of Its Efficacy.

The arrest rate of marijuana-impaired drivers during the Goodyear checkpoint program's operation supports the intuitive conclusion that the program advances the public interest to a significant degree. Courts may look at a checkpoint program's data – specifically, the ratio of

arrests that align with the checkpoint's purpose to total cars stopped – as demonstrative of the degree to which a checkpoint program advances the public interest it aims to serve. Sitz, 496 U.S. at 454. For purposes of Fourth Amendment reasonableness analysis, when there exists a choice between reasonable alternatives, a checkpoint program need not employ the most empirically effective option to be constitutionally reasonable. Id. at 455.

When arrest-rate field data evidences a checkpoint's effectiveness in serving its primary purpose, the checkpoint advances a legitimate public interest to a substantial degree. Martinez-Fuerte, 428 U.S. at 552. In Martinez-Fuerte, the ratio of illegal immigrants detected to vehicles stopped at the checkpoint was approximately 0.5%. Id. at 551. The court held that the purposes and practices of the checkpoint stops legitimately advanced the public interest because routine stops, a regularized manner of operation, and the checkpoints' overall efficacy were reassuring to law-abiding motorists that the checkpoints served the interest of the community. Id. at 559; see also Sitz, 496 U.S. at 455 (holding that the impaired-driving checkpoint, which arrested 1.6% of drivers passing through the checkpoint for alcohol impairment, effectively advanced the public interest to a high degree).

Here, the Goodyear checkpoint program serves the public interest to a substantial degree because its operation data indicates that it effectively responds to the public desire for roadway safety. The Goodyear checkpoint program facilitated eighteen marijuana-impaired driving arrests out of 2,875 total stops; the ratio of marijuana-impaired arrests to total cars stopped is approximately 0.6%. (Greer Dep. at 20:14-27). The success-rate here is, in fact, higher than the success-rate of the checkpoint program in Martinez-Fuerte, which was approximately 0.5%. Accordingly, like the Martinez-Fuerte checkpoint program's arrest data, which the court

considered evidentiary of its effectiveness, the Goodyear checkpoint program's arrest data suggests that it is effective in advancing its goal of ensuring roadway safety.

Even in the absence of empirical data, a common-sense inference that a targeted checkpoint program is effective is sufficient to conclude that it advances the public interest to a significant degree. Fraire, 575 F.3d at 933-34. In Fraire, there was no arrest data available; even so, the court held that the checkpoint advanced the public interest to a significant degree because common sense suggested that the checkpoint would be a reasonably efficient tool at preventing illegal hunting, given the park's sizable poaching problem and the "targeted nature" of the checkpoint. Id. at 934; see also Lidster, 540 U.S. at 427 (holding that a checkpoint program which took place one week after the hit-and-run accident, on the same highway, and at a similar time of night was effective because it was "appropriately tailored" to fit specific criminal investigatory needs); see also Prouse, 440 U.S. at 659 (holding that common sense suggested that purely discretionary highway stops aiming to find unlicensed drivers made an ineffective contribution to highway safety because of the unlikely probability of finding an unlicensed driver by choosing "randomly from the entire universe of drivers").

Here, should the relative novelty of marijuana-impaired driving research be offered to contest the efficacy of the Goodyear checkpoint program, the program's common-sense effectiveness indicates a high degree of public interest advancement because the checkpoint program is tailored to address the problem it aims to solve. Just as the Fraire checkpoint sought to address illegal hunting within the park via a checkpoint at the park entrance, the Goodyear checkpoint addresses the dangers of marijuana-impaired driving on I-10 through a checkpoint program whose timing and location mirrors past incidences of the harm that it desires to prevent. (Checkpoint Policy at 2). Situated on the same highway as the Clarkson tragedy, during music

festival season, and with a focus on traffic that is eastbound from California, the Goodyear checkpoint, like the Fraire checkpoint, is targeted to address the marijuana-impaired driving problem that the Goodyear community faces. Accordingly, common sense indicates that a marijuana-impairment detection checkpoint program will effectively promote the desired roadway safety and deterrent effects within this uniquely situated corridor.

C. The Goodyear Checkpoint Program’s Interference With Individual Liberty Is Minimal Because Its Procedures Minimize Fear and Surprise For Law-Abiding Citizens By Limiting Officer Discretion.

The Goodyear checkpoint is minimally intrusive into individual liberty because it utilizes uniform procedural mechanisms that limit the discretion of individual officers and, in turn, minimize fear and surprise for law-abiding motorists. Interference with individual liberty is measured objectively, through the duration of the seizure and the intensity of its procedures, as well as subjectively, through the impact of the experience on a law-abiding citizen. Fraire, 575 F.3d at 934. When there exists a choice between reasonable alternatives, a checkpoint program need not employ the least individually intrusive option to be reasonable. Sitz, 496 U.S. at 454-55.

When a checkpoint program uses uniform procedural mechanisms designed to minimize fear and surprise for law-abiding citizens by limiting officer discretion, its interference with individual liberty is minimal. Id. at 453. In Sitz, the sobriety checkpoint locations were selected pursuant to procedural guidelines, uniformed officers stopped every approaching vehicle, the average stop lasted less than one minute, and individual drivers could see other vehicles being stopped as they approached the checkpoint. Id. The court held that, because these systematic and discretion-limiting operational practices were likely to alleviate any frustration or nervousness for law-abiding motorists, the checkpoint stops were both objectively and subjectively minimally intrusive. Id.; see also Fraire, 575 F.3d at 934 (holding that the objective intrusion of the

checkpoint was slight because contact between drivers and rangers typically lasted under a minute, and that the subjective intrusion was minimal because the checkpoint was accompanied by signage, the rangers were uniformed, and all approaching vehicles were stopped); see also Lidster, 540 U.S. at 428 (holding that the stops were objectively minimally intrusive because the delay lasted a few minutes at most and contact with the police lasted only a few seconds, and that subjectively, the checkpoint provided “little reason” for anxiety or alarm because the officers stopped all vehicles systematically).

Here, the Goodyear checkpoint created minimal interference with individual liberty, both objectively and subjectively, because it utilized systematic procedures designed to safeguard against the fear and surprise of law-abiding citizens. Like the checkpoints in Sitz and Fraire, the Goodyear checkpoint stops are conducted by uniformed officers who have no discretion as to which vehicles to stop and typically last under one minute in length (Checkpoint Policy at 2-3). Like the Fraire checkpoint, the Goodyear checkpoint was announced with well-marked signage on the road prior to the actual checkpoint. (Corrada Dep. at 16:1-3). Further, like the Lidster checkpoint, where police contact lasted only a few seconds, it is undisputed that the inspection of Mr. Díaz Corrada’s car lasted only a few seconds. (Corrada Dep. at 9:13). Although Mr. Díaz Corrada experienced nervousness during his checkpoint stop, he admits that the root of his nervousness was fear of being fired from his job, knowing that he had previously been late twice before. (Corrada Dep. at 8:24-28). In anticipation of the consequences of his own prior transgressions, he experienced what was later diagnosed as a panic attack. (Corrada Dep. at 11:17-30). Moreover, even if this emotional reaction could be causally connected to the checkpoint stop, it is severely disproportionate to the checkpoint’s minimal subjective intrusiveness as experienced by a reasonable law-abiding motorist, given that Officer Fuentes

followed Checkpoint Policy protocol throughout the stop. (Corrada Dep. at 7:2-4, 7:18, 8:7-9, 8:20-28; Checkpoint Policy at 3). Accordingly, since the Goodyear checkpoint program and its officers followed uniform procedures designed to minimize fear and surprise, the checkpoint was minimally intrusive, both objectively and subjectively.

A systematic inquiry for the purposes of a secondary objective at an otherwise reasonable checkpoint stop does not constitute a significant additional intrusion. Demarest, 44 F.4th at 1223. In Damerest, a sobriety checkpoint program systematically asked drivers to show a valid driver's license as a part of the checkpoint procedure. Id. at 1214. The defendant refused to produce a license upon the checkpoint officer's request and was ultimately arrested for his noncompliance. Id. The court held that the mere request to produce a license was a "relatively modest" additional intrusion on the liberty of a driver who had already been properly stopped at a checkpoint because the license checks' contribution to the stops' duration was marginal and the systematic nature of the inquiry limited officer discretion. Id. at 1223.

Here, Goodyear checkpoint officers' inquiry about marijuana possession has a negligible impact on individual liberty because its systematic implementation minimizes officer discretion and the additional question adds only a few seconds to the duration of a stop. Just as the Demarest sobriety checkpoint added license checks to its procedure, the Goodyear checkpoint authorized officers to, after an affirmative or noncompliant response to the marijuana-use question, ask if the driver was in possession of an illegal quantity of marijuana. (Checkpoint Policy at 3). The secondary inquiry here is even less of an additional intrusion than in Demarest because Checkpoint Policy only permitted Officer Fuentes to ask about possession following Mr. Díaz Corrada's refusal to answer the marijuana-use question; this additional question occurs only in certain scenarios and, importantly, still without officer discretion. Moreover, like the motorist

in Demarest, Mr. Díaz Corrada refused to answer the checkpoint questions. (Corrada Dep. at 8:13-14). The Demarest motorist was arrested as a result of his refusal to produce his license and the checkpoint was deemed a marginal interference with individual liberty; in comparison, a lap around Mr. Díaz Corrada's vehicle that was pre-prescribed by codified procedures and lasted an undisputed few seconds has a negligible impact on the nervousness of a reasonable law-abiding individual. Accordingly, the marijuana possession inquiry and inspection do not constitute a significant intrusion into individual liberty.

Because the gravity of public concern served by the Goodyear checkpoint program and the significant degree to which it advances the public interest in roadway safety outweigh the checkpoint program's minimal interference with individual liberty, there is no material dispute that the checkpoint program is reasonable under the Fourth Amendment.

CONCLUSION

Summary judgment should be granted for the defendants because, as a matter of law, the Goodyear checkpoint program and Officer Fuentes' conduct in accordance with the program did not violate the Fourth Amendment. No reasonable jury could conclude that the primary purpose of the Goodyear checkpoint was indistinguishable from ordinary crime control because the checkpoint's purpose and location are closely connected to the marijuana-impaired driving problem that uniquely impacts the City of Goodyear. Additionally, no reasonable jury could conclude that the checkpoint program was unreasonable because the Goodyear community's grave concern about marijuana-impaired driving and the effectiveness of the checkpoint program in addressing roadway safety concerns outweigh the minimally intrusive nature of a checkpoint stop. Since there is no dispute as to any material fact, it follows that the motion for summary judgment should be granted for the defendant.

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Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Memorandum of Law in Support of the Motion for Summary Judgment of Defendants was served this day, via email, to counsel for Plaintiff at the following address:

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