EXHIBIT 5
Joseph Delgado, upon his oath, deposes and states as follows:

1. I, Joseph Delgado, make these statements in this Affidavit based on my personal knowledge of the facts stated therein.

2. I am a duly appointed officer of the Tohono O’Odham Police Department (“TOPD”) of the Tohono O’Odham Nation (“Nation”). I am currently the Chief of Police and have held that position since March 5, 2008, and before that I was the Acting Chief of Police from November 23, 2007. Before that I was the Assistant...
Chief of Police from October 10, 2005, and before that I was the Acting Assistant Chief of Police from before and including August 17, 2005.

3. I am familiar with the procedures and operations of the TOPD.

4. Attached as Exhibit 1 hereto is a true and correct copy of the Sobriety Checkpoint general order, effective September 1, 2008, for the TOPD, and is signed by me as the implementing authority. This general order regarding sobriety checkpoints effective September 1, 2008, has been used since that time by the TOPD, and is the current policy of the TOPD for checkpoints for sobriety, driver’s licenses, and/or registrations. It is my expectation that this policy will continue to remain in force until and unless replaced by some other or amended policy. As of this time, I am not aware of any proposed changes or amendments to this policy.

5. Attached as Exhibit 2 hereto is a true and correct copy of the Sobriety Checkpoint Policy general order, effective August 17, 2005, for the TOPD, that was in force and use from that time until it was replaced by the general order of September 1, 2008, Exhibit 1 hereto, referred to above.

Further Affiant sayeth not.

Joseph Delgado

SUBSCRIBED AND SWORN to before me this ___ day of August, 2011.

(Seal)

Notary Public
EXHIBIT 1

GENERAL ORDER
Tohono O’odham Nation Police Department
Sobriety Checkpoint(s)
Effective Date: September 1, 2008
GENERAL ORDER

Tohono O'odham Nation Police Department

Sobriety Checkpoint(s)

I. PURPOSE
The purpose of this policy is to provide guidelines for the physical configuration and operation of sobriety checkpoints that will serve as a deterrent to motorists that would operate a motor vehicle while impaired by alcohol or drugs.

II. POLICY
It is the policy of the Tohono O'odham Nation Police Department to implement sobriety checkpoints as part of a comprehensive traffic enforcement program. To ensure standardization of this program a clear and concise set of written guidelines will be maintained governing procedures on how sobriety checkpoints will be conducted within the jurisdiction of the Tohono O'odham Nation.

III. PROCEDURES
A. Implementation - The Tohono O'odham Nation Police Department will comply with the following:
   1. Satisfy Tribal, Federal and State legal requirements,
   2. Conduct checkpoints with a minimal amount of intrusion or motorist inconvenience,
   3. Assure the safety of the general public as well as law enforcement officers involved,
   4. Provide for an objective site selection process based on relevant data,
   5. Provide for public information and education to maximize the deterrent effect and heighten awareness of the alcohol or drug impaired motorist problem,
   6. Provide for a systematic procedure for data collection and after impact analysis report to monitor and ensure standardization and consistency of the sobriety checkpoints.

B. Officer Selection - Officers selected for sobriety checkpoint programs will receive training on identification of alcohol/drug impaired motorists. Prior to each sobriety checkpoint officers will receive a concise review of operational procedures.

C. Departmental Operational Plan:
   1. A written operational plan prepared in advance of each checkpoint operation must;
      a. Be approved by the Chief of Police or designee prior to implementation of the checkpoint,
      b. Provide a time line for the checkpoint,
      c. Be retained in police files for five years.
2. Physical Configuration - Specify signs, safety equipment, warning devices, barriers, etc. that will be used. This specification will be consistent with the applicable standards and regulations, i.e., Bureau of Indian Affairs Traffic Safety Engineer, Arizona Department of Transportation, and will include signs, placed in the following order and distance:
   a. At a distance of 2,000 feet from the checkpoint stop, signs will be placed 500 feet apart beginning with:
      1). Reduce Speed,
      2). Be prepared to stop,
      3). Sobriety Checkpoint Ahead, and
      4). Stop.
   b. At 300 feet from the “Stop” sign “funneling” of vehicles will be conducted by placing cones 25 feet apart to define a single lane approach.
   c. Whenever possible flags and illuminated signs, blinking lights or flares or fuses will be used, including permanent or portable lighting.
   d. Marked Patrol vehicles will be used for warning and safety during the operation.

3. A specific method for selecting motorists to be contacted will be used, e.g., “every vehicle” or “every fifth vehicle” etc. to ensure objectivity. A brief stop preferably less than one (1) minute is ideal but not always possible. Random stopping of vehicles is NOT permitted. Only the commanding officer on scene can direct any changes, and if changes are made the reasons for the change must be justified and documented. When a traffic flow adjustment must be made the following formula will be used:

<table>
<thead>
<tr>
<th>Traffic Flow Facilitation Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delay</td>
</tr>
<tr>
<td>4-6 Minutes</td>
</tr>
<tr>
<td>6-8 Minutes</td>
</tr>
<tr>
<td>8-10 Minutes</td>
</tr>
<tr>
<td>Over 10 Minutes</td>
</tr>
</tbody>
</table>

4. Dialogue must be specific and include the following, preceded by an appropriate greeting;
   a. You have been stopped at a Tohono O'odham Nation Police sobriety checkpoint in an effort to detect impaired drivers. Have you consumed any alcohol or controlled substance today (tonight)?
   b. Are you a Native American enrolled with a recognized Native American Tribe?
   c. Are you a resident of the Tohono O'odham Nation?
   d. Please show me your Drivers License and your vehicle registration.

5. Site Selection - Objective criteria must be outlined to determine the site location, including:
   a. Alcohol/Drug related traffic experiences, such as;
      1). Unusual incidents of alcohol/drug related crashes,
      2). Alcohol/drug impaired driving violations,
      3). Unusual number of nighttime single vehicle crashes,
      4). Any other documented alcohol/drug related vehicular incidents.
6. The locations must permit a safe flow of traffic, additionally;
   a. Consider posted speed limits, traffic volume and visibility,
   b. Ensure that there is sufficient shoulder/adjacent space available to pull vehicles off
      the traveled portion of the roadway,
   c. Other considerations that may pose a traffic hazard.

7. The site should have maximum visibility from each direction and sufficient illumination,
in almost all cases portable lighting must be obtained.

D. Personnel:
   1. Officers must be in full uniform clearly identifying them as law enforcement officers.
      Traffic safety vests must not completely conceal the uniform.
   2. Officers experienced in detection of impaired drivers should be the contacting officers.
   3. Trained Drug Recognition Experts Officers should be readily available to ensure an
      expeditious processing of suspected impaired drivers.

E. Management of Motorists:
   1. Detection Phase - If the driver answers no to the question “have you consumed any
      alcohol or controlled substance today?” and if no issues are raised by the Drivers License
      and vehicle registration check, and there is no other compelling reason to detain the
      motorist, the officer should allow the driver to proceed.
      a. Compelling reasons for further investigation include but are not limited to;
         1). Smell of alcoholic beverages or illegal drugs,
         2). Bloodshot eyes, fumbling fingers, slurred speech,
         3). Abusive language, inconsistent responses,
         4). Interior of the vehicle has alcoholic beverage containers, drug paraphernalia,
            other contraband, firearms, dangerous weapons in plain view, etc,
         5). Ignition wires loose, no key, etc.
   2. Reasonable Suspicion – is required to justify further investigation. If so determined the
      officer must clearly articulate and document the suspicions and will;
      a. Remove the driver from the vehicle and escort to a pre-designated location,
      b. Move the vehicle and any passengers to a pre-designated safe location,
      c. Have the suspect submit to the standardized field sobriety tests, and a portable
         and/or standard blood alcohol breath test,
      d. If the impairment is obvious but the blood alcohol content (BAC) is low a Drug
         Recognition Expert (DRE) should evaluate the suspect,
      e. If the suspect is legally impaired the proper procedures will be followed to make an
         arrest and/or cite and release,
      f. If other crimes are discovered, those crimes will be addressed by making an arrest or
         issuing a citation.
   3. Impoundment and searches of motor vehicles and passengers will be conducted when
      legally permissible and conducted in compliance with department policy.
   4. If there is no indication of alcohol or drug impairment, or violation of a Drivers License
      or vehicle registration requirement, the driver will be released.
F. Avoidance of Checkpoint - The act of avoiding a checkpoint BY ITSELF is not cause to make a traffic stop, if the motorist makes a legal turn. But a stop can be made if:

1. The driver commits a traffic violation to avoid a traffic stop, such as; an illegal U-turn. "No-U-turns" signs may be placed along the sobriety checkpoint route, where it is obviously unsafe to make U-turns.

2. The driver refuses to stop and ignores directions from a fully uniformed police officer.

G. Notification -

1. For the purpose of public education and information the Tohono O'odham Nation Police will announce to the media that checkpoints will be randomly conducted.

2. The Tohono O'odham Nation Police will provide advance notification of the checkpoint to other law enforcement agencies and emergency services providers and other agencies that may be affected.

H. Contingency Planning

1. Any deviation from the predetermined plan, including timelines, must be approved by the commanding officer and documented indicating the reason, which may include:
   a. Reduction of assigned officers; if there is a significant reduction the checkpoint must be concluded, to ensure safety of the general public, Police Officers or officers from other agencies.

I. Data Collection and Evaluation – to ensure standardization and consistency of the sobriety checkpoint program a systematic method of data collection will be used including:

1. An after action report documenting;
   a. Time, date and location,
   b. Weather conditions,
   c. Number of vehicles passing through the checkpoint,
   d. Average time delay of motorist,
   e. Predetermined order of selecting motorists,
   f. Number and types of arrests,
   g. Number of motorists detained for sobriety testing,
   h. Identification of unusual incidents such as safety problems and other concerns.

J. Impact Analysis – an evaluation of the affects of the checkpoint, positive and negative, will be conducted.

1. The following types of information will be gathered;
   a. Crash rate reduction,
   b. Number of impaired driving offenses,
   c. Number of impaired driving convictions,
   d. Public opinion survey to determine increased perception of detection and apprehension of alcohol/drug impaired drivers.

K. Public Reaction/Relations

1. To evaluate the result of checkpoints while educating the public a voluntary informational packet and questionnaire will be provided to each motorist, which will include;
a. Data on driver impaired fatalities on the Tohono O'odham Nation and nationally, consequences of an arrest, the financial costs resulting from an arrest, the emotional harm suffered by victims of driving under the influence of drugs or alcohol crashes, and explanation of the purpose for the checkpoint,
b. A questionnaire will be distributed with a self addressed (if budget allows a stamped) envelope, which will include as a minimum the following:
   1) Was this checkpoint fairly conducted?
   2) Did you mind being briefly stopped?
   3) Do you believe checkpoints deter driving while intoxicated drivers?

IV. RESPONSIBILITIES
A. Assigned Police Officers and Rangers shall;
   1. Accept training and education on handling and identifying the drug/alcohol-impaired driver,
   2. Strictly abide by this policy.
B. Sergeant shall;
   1. Accept training and education on handling and identifying the drug/alcohol-impaired driver,
   2. Ensure the officers fully understand this policy and the legalities in the operation of sobriety checkpoints,
   3. Recommend additional training and orientation for officers that require such training,
   4. Develop an operational plan for each checkpoint,
   5. Strictly abide by this policy.
C. Lieutenant/Commander shall;
   1. Accept training and education on handling and identifying the drug/alcohol-impaired driver,
   2. Review and recommend approval of an operational plan for each checkpoint,
   3. Ensure that field operations comply with this policy and make educated decisions on any changes and/or stopping of sobriety checkpoints,
   4. Ensure that requests for training are evaluated and, if appropriate, that training is provided,
   5. Strictly abide by this policy.
D. Assistant Chief of Police shall;
   1. Accept training and education on handling and identifying the drug/alcohol-impaired driver,
   2. Review and approve an operational plan for each checkpoint,
   3. Evaluate each operation and provide written documentation of the same to the Chief of Police.
4. Ensure that requests for training are evaluated and if appropriate provided,
5. Review and ensure that any complaints are thoroughly investigated, documented and a
   final disposition made,
6. Strictly abide by this policy.

E. Chief of Police shall;
   1. Ensure that an operational plan is developed in compliance with this policy and approve
      or designate an appropriate command staff to approve the plan,
   2. Ensure that sufficient training is provided for all officers involved in the sobriety
      checkpoint operations,
   3. Ensure the public understands the DUI problem and report to the DPS Director and
      Executive Office any concerns and positive affects of the checkpoints,
   4. Provide the Executive Office, Legislative Council and Domestic Affairs committee with
      an annual report and data on the effects of sobriety checkpoints and related traffic
      enforcement operations,
   5. Be consistently updated on any changes in DUI laws and/or policy that may affect these
      operations,
   6. Strictly abide by this policy.

V. APPROVAL

By Order of:    [Signature]

Joseph F. Delgado, Chief of Police
Tohono O'odham Police Department

Date: September 1st, 2008
EXHIBIT 2

GENERAL ORDER
Tohono O’odham Nation Police Department
Sobriety Checkpoint Policy
Effective Date: August 17, 2005
SUBJECT: SOBRIETY CHECKPOINT POLICY

I. PURPOSE

The purpose of this policy is to provide guidelines for the physical configuration and operation of sobriety checkpoints that will serve as a deterrent to motorists that would operate a motor vehicle while impaired by alcohol or drugs.

II. POLICY

It is the policy of the Tohono O'odham Police Department to implement sobriety checkpoints as part of a comprehensive traffic enforcement program. To ensure standardization of this program a clear and concise set of written guidelines will be maintained governing procedures on how sobriety checkpoints will be conducted within the jurisdiction of the Tohono O'odham Nation.

III. PROCEDURES

A. Implementation - The Tohono O'odham Police Department will comply with the following:

1. Satisfy Tribal, Federal and State legal requirements
2. Conduct checkpoints with a minimal amount of intrusion or motorist inconvenience.
3. Assure the safety of the general public as well as law enforcement officers involved
4. Provide for an objective site selection process based on relevant data.
5. Provide for public information and education to maximize the deterrent effect and heighten awareness of the alcohol or drug impaired motorist problem.
6. Provide for a systematic procedure for data collection and after impact analysis report to monitor and ensure standardization and consistency of the sobriety checkpoints.

B. Officer Selection - Officers selected for sobriety checkpoint programs will receive training on identification of alcohol/drug impaired motorists. Prior to each sobriety checkpoint officers will receive a concise review of operational procedures.

C. Departmental Operational Plan

1. A written operational plan prepared in advance of each checkpoint operation must:
   a. Be approved by the Chief of Police or designee prior to implementation of the checkpoint.
   b. Provide a time line for the checkpoint.
   c. Be retained in police files for five years.
2. Physical Configuration - Specify signs, safety equipment, warning devices, barriers, etc. that will be used. This specification will be consistent with the applicable standards and regulations, i.e. Bureau of Indian Affairs Traffic Safety Engineer, Arizona Department of Transportation, and will include signs, placed in the following order and distance:
   a. At a distance of 2,000 feet from the checkpoint stop, signs will be placed 500 feet apart beginning with:
      (1) Reduce Speed
      (2) Be prepared to stop
      (3) Sobriety Checkpoint Ahead
      (4) Stop
   b. At 300 feet from the "Stop" sign "funneling" of vehicles will be conducted by placing cones 25 feet apart to define a single lane approach.
   c. Whenever possible flags and illuminated signs, blinking lights or flares or fusees will be used, including permanent or portable lighting.
   d. Marked Patrol vehicles will be used for warning and safety during the operation.

3. A specific method for selecting motorists to be contacted will be used, e.g. "every Vehicle" or "every fifth vehicle" etc. to ensure objectivity. A brief stop preferably less than one (1) minute is ideal but not always possible. Random stopping of vehicles is NOT permitted. Only the commanding officer on scene can direct any changes, and if changes are made the reasons for the change must be justified and documented. When a traffic flow adjustment must be made the following formula will be used:

<table>
<thead>
<tr>
<th>Delay</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-6 Minutes</td>
<td>Stop 6/Pass 6</td>
</tr>
<tr>
<td>6-8 Minutes</td>
<td>Stop 6/Pass 12</td>
</tr>
<tr>
<td>8-10 Minutes</td>
<td>Stop 6/Pass 18</td>
</tr>
<tr>
<td>Over 10 Minutes</td>
<td>Pass all vehicles until delay drops below four minutes</td>
</tr>
</tbody>
</table>

4. Dialogue must be specific and include the following, preceded by an appropriate greeting
   a. You have been stopped at a Tohono O'odham Police sobriety checkpoint in an effort to detect impaired drivers. Have you consumed any alcohol or controlled substance today (tonight)?
   b. Are you a Native American enrolled with a recognized Native American Tribe?
   c. Are you a resident of the Tohono O'odham Nation?
   d. Please show me your Drivers License and your vehicle registration.

5. Site Selection – Objective criteria must be outlined to determine the site location, including:
   a. Alcohol/Drug related traffic experiences, such as:
      1) Unusual incidence of alcohol/drug related crashes
      2) Alcohol/drug impaired driving violations
      3) Unusual number of nighttime single vehicle crashes
      4) Any other documented alcohol/drug related vehicular incidents.
6. The locations must permit a safe flow of traffic, additionally:
   a. Consider, posted speed limits, traffic volume and visibility
   b. Ensure that there is sufficient shoulder/adjacent space available to pull vehicles off the traveled portion of the roadway.
   c. Other considerations that may pose a traffic hazard

7. The site should have maximum visibility from each direction and sufficient illumination, in almost all cases portable lighting must be obtained.

C. Personnel:

1. Officers must be in full uniform clearly identifying them as law enforcement officers. Traffic safety vests must not completely conceal the uniform.
2. Officers experienced in detection of impaired drivers should be the contacting officers.
3. Trained Drug Recognition Experts Officers should be readily available to ensure an expeditious processing of suspected impaired drivers.

D. Management of Motorists:

1. Detection Phase - If the driver answers no to the question “have you consumed any alcohol or controlled substance today?” and if no issues are raised by the Drivers License and vehicle registration check and there is no other compelling reason to detain the motorist the officer should allow the driver to proceed.
   a. Compelling reasons for further investigation include but are not limited to:
      1) Smell of alcoholic beverages or illegal drugs
      2) Bloodshot eyes, fumbling fingers, slurred speech.
      3) Abusive language, inconsistent responses
      4) Interior of the vehicle has alcoholic beverage containers, drug paraphernalia, other contraband, firearms, dangerous weapons in plain view, etc.
      5) Ignition wires loose, no key, etc.

2. Reasonable Suspicion – is required to justify further investigation. If so determined the officer must clearly articulate and document the suspicions and will:
   a. Remove the driver from the vehicle and escort to a pre-designated location.
   b. Move the vehicle and any passengers to a pre-designated safe location
   c. Have the suspect submit to the standardized field sobriety tests, and a portable and/or standard blood alcohol breath test
   d. If the impairment is obvious but the blood alcohol content (BAC) is low a Drug Recognition Expert (DRE) should evaluate the suspect.
   e. If the suspect is legally impaired the proper procedures will be followed to make an arrest and or cite & release.
   f. If other crimes are discovered, those crimes will be addressed by making an arrest or issuing a citation.

3. Impoundment and searches of motor vehicles and passengers will be conducted when legally permissible and conducted in compliance with department policy.

4. If there is no indication of alcohol or drug impairment, or violation of a Drivers License or vehicle registration requirement, the driver will be released.

E. Avoidance of Checkpoint - The act of avoiding a checkpoint BY ITSELF is not cause to make a traffic stop, if the motorist makes a legal turn. But a stop can be made if:
1. The driver commits a traffic violation to avoid a traffic stop, such as; an illegal U-turn. "No-U-turns" signs may be placed along the sobriety checkpoint route, where it is obviously unsafe to make U-turns.

2. The driver refuses to stop and ignores directions from a fully uniformed police officer.

F. Notification -

1. For the purpose of public education and information the Tohono O'odham Nation Police will announce to the media that checkpoints will be randomly conducted.

2. The Tohono O'odham Nation Police will provide advance notification of the checkpoint to other law enforcement agencies and emergency services providers and other agencies that may be affected.

G. Contingency Planning

1. Any deviation from the predetermined plan, including timelines, must be approved by the commanding officer and documented indicating the reason, which may include:
   a. Reduction of assigned officers; if there is a reduction the checkpoint must be concluded, to ensure safety of the public, officers and others.

H. Data Collection and Evaluation – to ensure standardization and consistency of the sobriety checkpoint program a systematic method of data collection will be used including:

1. An after action report documenting:
   a. Time, date and location
   b. Weather conditions
   c. Number of vehicles passing through the checkpoint
   d. Average time delay of motorist
   e. predetermined order of selecting motorists
   f. Number and types of arrests
   g. Number of motorists detained for sobriety testing
   h. Identification of unusual incidents such as safety problems and other concerns.

I. Impact Analysis – an evaluation of the affects of the checkpoint, positive and negative will be conducted.

1. The following types of information will be gathered.
   a. Crash rate reduction
   b. Number of impaired driving offenses
   c. Number of impaired driving convictions
   d. Public opinion survey to determine increased perception of detection and apprehension of alcohol/drug impaired drivers.

J. Public Reaction/Relations

1. To evaluate the result of checkpoints while educating the public a voluntary informational packet and questionnaire will be provided to each motorist, which will include:
   a. Data on driver impaired fatalities in the Tohono O'odham Nation and nationally, consequences of an arrest, the financial costs resulting from an arrest, the emotional harm suffered by victims of driving under the influence of drugs or alcohol crashes, and explanation of the purpose for the checkpoint.
b. A questionnaire will be distributed with a self addressed (if budget allows a stamped) envelope, which will include as a minimum the following:

1) Was this checkpoint fairly conducted?
2) Did you mind being briefly stopped?
3) Do you believe checkpoints deter driving while intoxicated drivers?

IV. RESPONSIBILITY

A. Assigned Officers – Strictly comply with this policy, accept training and education on handling and identifying the drug/alcohol impaired driver.

B. Sergeant - Strictly complies with this policy, accept training and education on handling and identifying the drug/alcohol impaired driver. Ensure the officers fully understand this policy and the legalities in the operation of sobriety checkpoints. Recommends additional training and orientation for officers that require such training. Develops an operational plan for each checkpoint.

C. Lieutenant -Strictly complies with this policy, accepts training and education on handling and identifying the drug/alcohol impaired driver. Review and recommend approval of an operational plan for each checkpoint. Ensure that field operations complies with this policy and makes educated decisions on any changes and or stopping of sobriety checkpoints. Ensure that requests for training are evaluated and, if appropriate, that training is provided.

D. Assistant Chief of Police - Strictly complies with this policy, accepts training and education on handling and identifying the drug/alcohol impaired driver. Review and approves an operational plan for each checkpoint. Evaluates each operation and provides written documentation of the same to the Chief of Police. Will ensure that requests for training is evaluated and if appropriate provided. Reviews and ensures that any complaints are thoroughly investigated, documented and a final disposition made.

E. Chief of Police – Ensures that a operational plan is developed in compliance with this policy and approves or designates an appropriate command staff to approve the plan. Ensures that sufficient training is provided for all officers involved in the sobriety checkpoint operations. Ensures the public understands the DUI problem and reports to the DPS Director and Executive Office any concerns and positive affects of the checkpoints. Provides the Executive Office, Legislative Council and Domestic Affairs committee with an annual report and data on the effects of sobriety checkpoints and related traffic enforcement operations. Is consistently updated on any changes in DUI laws and or policy that may affect these operations.

V. APPROVAL


Director of Public Safety, Edward Reina, Jr. 8/12/2005.

THIS GENERAL ORDER IS EFFECTIVE 8/17/2005

By Order of the Chief of Police, Richard Saunders,