

# Legality of car seat checks challenged

By BEN STEPHENS

As Boulder City resident Matt Ragan drove along Avenue B April 20, he noticed a sign put up by Boulder City Police that said there was a mandatory child safety seat checkpoint ahead of him.

Instead of taking another route to go around the site — the high school parking lot on Avenue B — the 30-year resident drove through it without yielding to police officers, who were stopping every vehicle and detaining only the ones with child safety seats.

Although all of Ragan's three children are old enough not to need safety seats, he said he didn't stop because he thinks the checkpoints are unconstitutional.

"I just drove right though. I said 'I'm not stopping,'" Ragan, an airline pilot, said. "I will not comply with an illegal checkpoint and a police officer who gives me an illegal order."

Technically, Ragan is right about the checkpoint, City Attorney Dave Olsen said.

The police department was fully in compliance with the law pertaining to checkpoints, except that it did not have a written policy in place for conducting them, Olsen said. The department is presently drafting its policy, he said.

Due to not having a policy

in place, Olsen said, "The way we've been doing it up until this point might be challenged (legally)" although he called it "really more a technicality than anything else."

Ragan, who has waited several weeks for the police department and Olsen to take a position on his objection, said he was e-mailed Olsen's legal opinion on the checkpoints. He said he doesn't agree with the opinion.

Olsen maintained the status quo, Ragan said, and he suggested that the city look into getting an independent, outside legal opinion.

Ragan calls the car seat checkpoint a novel idea, but said it is not like DUI checkpoints, which take a dangerous person off the road. The only danger with a car seat is to the child, he said.

"Government has no role in playing the paternal figure ... in a country that is free," he said. "(The city is) blazing new grounds in constitutional interpretation."

Ragan said it would be too expensive for him to file a lawsuit to challenge the checkpoints, but he hopes others in the community will join him in a class-action lawsuit. He said his underlying concern is that the already cash-strapped city could be held financially liable down the road by another party.

Nevada American Civil Lib-

erties Union lawyer Allen Lichtenstein called the car seat checkpoints questionable, noting the lack of a written policy.

Deputy Police Chief John Chase said he has been looking up other departments' policies to find one Boulder City can use as a model. The search has been narrowed down to three policies, one of which will be adopted within a couple weeks, Police Chief Thomas Finn said.

"You have to put this in place so there's no abuse at checkpoints," Finn said.

Chase said the department has done the checkpoints twice a year since 2001 and used a procedure consistent with the Metro Police checkpoints.

Before the site of the checkpoint, there is a sign notifying drivers of the operation, and they are given enough room to turn around if they do not want to go through it, Chase said. A shift supervisor is present along with about four police officers, Chase said. The police department also utilizes use the constable's office and Clark County Safe Kids Coalitions' certified seat inspectors.

## Pass fail rates of car seat checkpoints

April 2005: 101 seats checked, 0 installed properly  
Oct. 2005: 93 seats checked, 3 installed properly  
April 20, 2006: 69 seats checked, 0 installed properly

Of the 263 car seats inspected in the last three checkpoints, only three passed, Chase said.

Only one citation has ever been given, Chase said. It was to a woman who had not been using a car seat the first time she was checked. She was given a free car seat, but then stopped at a later checkpoint and was found to be using that seat improperly, Chase said.

Olsen said under the U.S. Constitution, people have "a freedom from unreasonable searches," he said, calling the car seat checkpoints reasonable. Having issued only one citation "barely rises to the level of enforcement," he said.

"Shame on us for looking out for kids," Chase said of Ragan's complaint.

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