



The Constitution-Free Zone

The Problem with the Constitution-Free Zone

The Fourth Amendment of the U.S. Constitution explicitly protects Americans “against unreasonable searches and seizures” and yet these protections do not apply in the border region of the United States. The “border” is presently defined broadly as a 100-mile wide strip that wraps around the external boundary of the United States.

Border Patrol checkpoints were established to control immigration and to combat international drug smuggling. Presently, there are checkpoints on highways in Arizona, California, and Texas and at ferry terminals in Washington. At each of the 33 permanent checkpoints and at additional mobile checkpoints, every car passing may be stopped without cause or suspicion.

Within the Constitution-Free Zone, individuals may be stopped, interrogated, and searched without probable cause at any time. This policy was implemented without vote, without debate, and without discussion. This erosion of civil rights has been allowed to continue with little opposition and awareness.

Important Definitions:

Constitution-Free Zone:

100-mile wide strip that wraps around the “external boundary” of the US which is subject to routine searches by law enforcement without a warrant or probable cause.

U.S. Customs and Border Protection (CBP):

The organization that controls access to the United States borders. It is the largest uniformed law enforcement agency in the country with 18,000 officers. The CBP manages 325 ports of entry and 142 Border Patrol stations with 33 permanent checkpoints.

Border Patrol Checkpoints:

Permanent locations where CBP can stop vehicles for the purpose of inquiring about citizenship (additional screening like drug-sniffing canines is also present). These stops exist primarily on highways in Arizona, California, and Texas and at ferry terminals in Washington State.

Which areas in the U.S. are affected?

While the power to search individuals for immigration purposes seems confined to the southern border near San Diego and Tijuana or in the deserts of Arizona and Texas, the CBP retains robust authority inland across the entire United States. The ACLU created a map that displays the 100-mile wide Constitution-Free Zone that wraps around the country which reveals that several states lie entirely within this area including: Connecticut, Delaware, Florida, Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Additionally, nine of the ten largest cities in America (Dallas-Fort Worth is outside of the boundary) are within the zone.

How much of the population is affected?

Based on information from the 2007 U.S. Census, **two thirds** of the United States’ population inhabits the Constitution-Free Zone. That’s 197.4 million people who live within 100 miles of the US land or coastal

borders. Estimates based on the 2007 census also reveal that 87.88% of Arizona’s total population resides within the Constitution-Free Zone.

How have individuals been affected?

Craig Johnson, a professor in San Diego, has seen first-hand how absurd and cruel the unchecked power within the Constitution-Free Zone can be. He has twice been stopped upon entering the country from Mexico for additional questioning and screening. Despite having no criminal record, he was subjected to aggressive searches of both his possessions and body.

How have communities been affected?

Individuals who reside in communities with permanent checkpoints are continually subject to the authority existent within the Constitution-Free Zone. While individuals may exercise their right not to respond to questions from a Border Patrol agent, such refusals to cooperate can be perceived as a reasonable cause for suspicion

allowing further interrogation or even arrest. Additionally, it is a felony to flee from a checkpoint punishable by a fine and/or up to five years in prison.

What is the ACLU doing to improve the situation?

The ACLU has been one of the leaders in calling attention to the unchecked authority possessed by the CBP within the Constitution-Free Zone. On October 22, 2008 the ACLU held an event in Washington, D.C. to call attention to the problem. Craig Johnson and others who have been harassed within the Constitution-Free Zone spoke out. Additional information, including statistics and the map of the zone, is available at www.aclu.org.

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