

fied by a showing of probable cause or consent.³¹⁴ On the other hand, when motorists are briefly stopped, not for purposes of a search but in order that officers may inquire into their residence status, either by asking a few questions or by checking papers, different results are achieved, so long as the stops are not truly random. Roving patrols may stop vehicles for purposes of a brief inquiry, provided officers are “aware of specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion” that an automobile contains illegal aliens; in such a case the interference with Fourth Amendment rights is “modest” and the law enforcement interests served are significant.³¹⁵ Fixed checkpoints provide additional safeguards; here officers may halt all vehicles briefly in order to question occupants even in the absence of any reasonable suspicion that the particular vehicle contains illegal aliens.³¹⁶

“Open Fields”.—In *Hester v. United States*,³¹⁷ the Court held that the Fourth Amendment did not protect “open fields” and that, therefore, police searches in such areas as pastures, wooded areas, open water, and vacant lots need not comply with the requirements of warrants and probable cause. The Court’s announcement in *Katz v. United States*³¹⁸ that the Amendment protects “people not places” cast some doubt on the vitality of the open fields principle, but all such doubts were cast away in *Oliver v. United States*.³¹⁹ Invoking *Hester*’s reliance on the literal wording of the Fourth Amendment (open fields are not “effects”) and distinguishing *Katz*, the Court ruled that the open fields exception applies to fields that are fenced and posted. “[A]n individual may not legitimately demand privacy for activities conducted out of doors in fields, except in the area im-

³¹⁴ *United States v. Ortiz*, 422 U.S. 891 (1975).

³¹⁵ *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975). However, stopping of defendant’s car solely because the officers observed the Mexican appearance of the occupants was unjustified. *Id.* at 886. *Contrast* *United States v. Cortez*, 449 U.S. 411 (1981), and *United States v. Arvizu*, 534 U.S. 266 (2002), where border agents did have grounds for reasonable suspicion that the vehicle they stopped contained illegal aliens.

³¹⁶ *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976). The Court deemed the intrusion on Fourth Amendment interests to be quite limited, even if officers acted on the basis of the Mexican appearance of the occupants in referring motorists to a secondary inspection area for questioning, whereas the elimination of the practice would deny to the government its only practicable way to apprehend smuggled aliens and to deter the practice. Similarly, outside of the border/aliens context, the Court has upheld use of fixed “sobriety” checkpoints at which all motorists are briefly stopped for preliminary questioning and observation for signs of intoxication. *Michigan Dep’t of State Police v. Sitz*, 496 U.S. 444 (1990).

³¹⁷ 265 U.S. 57 (1924). *See also* *Air Pollution Variance Bd. v. Western Alfalfa Corp.*, 416 U.S. 86 (1974).

³¹⁸ 389 U.S. 347, 353 (1967). *Cf.* *Cady v. Dombrowski*, 413 U.S. 433, 450 (1973) (citing *Hester* approvingly).

³¹⁹ 466 U.S. 170 (1984) (approving warrantless intrusion past no trespassing signs and around locked gate, to view field not visible from outside property).