Legal drug searches expanded
Dogs can sniff cars without reason to suspect crime.

By Linda Greenhouse
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Monday, January 24, 2005 - WASHINGTON — The Supreme Court ruled on Monday that in making a routine traffic stop, the police can permit a trained dog to sniff the car for drugs without the need for any particular reason to suspect the driver of a narcotics violation.

The 6-2 decision set aside a ruling by the Illinois Supreme Court, which held in 2003 that a state trooper who stopped a man for speeding had broadened the scope of the encounter beyond constitutional limits by having the dog sniff the car. The dog alerted the police to the trunk, which contained $250,000 worth of marijuana. The addition of the dog impermissibly turned a traffic stop into a drug investigation, the Illinois court said.

Writing for the majority on Monday, Justice John Paul Stevens said the dog's sniff did not amount to an unconstitutional search because it did not prolong the 10-minute traffic stop and did not violate any "legitimate interest in privacy" that a driver could have in carrying contraband.

The opinion suggested that a dog sniff was not a search at all because it detects only contraband and therefore cannot compromise a law-abiding person's privacy. "Official conduct that does not compromise any legitimate interest in privacy is not a search subject to the Fourth Amendment," Stevens said. The analysis mirrored that of a decision in 1983 in which the court upheld the use of trained dogs to sniff luggage at airports.

Justices David H. Souter and Ruth Bader Ginsburg both issued vigorous dissents on Monday, warning that the latest decision, Illinois v. Caballes, No. 03-923, opened the door to the use of drug-sniffing dogs to patrol parking lots, garages and even pedestrians on sidewalks.

"Under today's decision, every traffic stop could become an occasion to call in the dogs, to the distress and embarrassment of the law-abiding population," Ginsburg said.

In the case, an Illinois state trooper stopped Roy I. Caballes for driving 71 miles an hour on Interstate 80; Souter, in his dissenting opinion, said it was "remarkable" for the police to stop a car for driving six miles and hour over the speed limit on an interstate highway. Another trooper, who handled a narcotics-detection dog, heard the transmission on his radio and arrived on the scene as the first trooper was writing a warning ticket.

After the dog alerted them to the trunk, the officers found the marijuana and arrested Caballes. He was convicted and sentenced to 12 years in prison. The Illinois Supreme Court overturned the conviction on the ground that the arrest was invalid in the absence of "specific and articulable facts" suggesting drug activity and thus justifying the use of the dog.
In his majority opinion on Monday, Stevens suggested that the arrest might have been invalid if the use of the dog had "unreasonably prolonged' the traffic stop.