

Wyman, 197 Ariz. 10, ¶ 2, 3 P.3d 392, 394 (App.2000). “We review the trial court's denial of a motion to suppress evidence for an abuse of discretion,” deferring to the trial court's findings of fact but reviewing any legal conclusions de novo. *State v. Jacot*, 235 Ariz. 224, ¶ 9, 330 P.3d 981, 984 (App.2014).

*2 ¶ 6 The state and Grijalva characterize this issue as whether the Border Patrol agent who stopped Grijalva had reasonable suspicion to believe Grijalva was driving while intoxicated. But, as explained below, reasonable suspicion is not the relevant standard here.

¶ 7 Grijalva was initially stopped at a Border Patrol checkpoint. It is well-settled law that the Border Patrol may “stop[] and question [motorists] ... in the absence of any individualized suspicion at reasonably located checkpoints.” *United States v. Martinez–Fuerte*, 428 U.S. 543, 562 (1976). Likewise, Grijalva's referral to a secondary inspection point did not require “particularized reason ... to justify it.” *Id.*; see *United States v. Rascon–Ortiz*, 994 F.2d 749, 753 (10th Cir.1993) (“[A]ny distinction between primary and secondary inspection is meaningless.”). However, the scope of such a stop “is limited to the justifying, programmatic purpose of the stop: determining the citizenship status of persons passing through the checkpoint. The permissible duration of an immigration checkpoint stop is therefore the time reasonably necessary to determine the citizenship status of the persons stopped.” *United States v. Machuca–Barrera*, 261 F.3d 425, 433 (5th Cir.2001). Although the duration of the stop may be extended “if the initial, lawful stop creates reasonable suspicion warranting further investigation,” *id.* at 434, that reasonable suspicion must be regarding a crime that the Border Patrol has jurisdiction to enforce. See *United States v. Hernandez–Lopez*, 761 F.Supp.2d 1172, 1198–99 (D.N.M.2010). **The Border Patrol has no jurisdiction to enforce Arizona state traffic laws. See *id.* (Border Patrol lacks authority to stop persons suspected of DUI or reckless driving); see also *United States v. Rodriguez–Rivas*, 151 F.3d 377, 381 (5th Cir.1998) (Border Patrol may not stop vehicle for absence of license plate).** Accordingly, the Border Patrol agent did not require reasonable suspicion to stop Grijalva at the checkpoint or to direct him to the secondary inspection point, but reasonable suspicion that Grijalva was driving while intoxicated was not sufficient grounds to detain him longer than reasonably necessary to ascertain his citizenship.

¶ 8 A Border Patrol agent, however, may act as a private person and “make a lawful citizen's arrest pursuant to [A.R.S.] § 13–3884.” *State v. Garcia–Navarro*, 224 Ariz. 38, ¶ 12, 226 P.3d 407, 410 (App.2010). Section 13–3884(1) allows a private person to make an arrest “[w]hen the person to be arrested has in his presence committed a misdemeanor amounting to a breach of the peace.” Under Arizona law, DUI is such an offense. *State v. Chavez*, 208 Ariz. 606, ¶ 16, 96 P.3d 1093, 1097 (App.2004).

¶ 9 Grijalva contends that, under *Chavez*, not all DUI should be considered a breach of the peace, but rather that there must be a “case-by-case analysis of the facts and surrounding circumstances” to determine whether a breach of the peace occurred. *Id.* ¶ 12. However, this quote from *Chavez* discusses whether “a given act” constitutes a breach of the peace and says nothing about DUI specifically. Indeed, *Chavez* later states, “We hold that driving a vehicle while intoxicated constitutes a misdemeanor amounting to a breach of the peace within the meaning of § 13–3884(1).” 208 Ariz. 606, ¶ 16, 96 P.3d at 1097. *Chavez* also cites legal treatises and extrajurisdictional case law supporting the proposition that DUI necessarily constitutes a breach of the peace because an intoxicated driver is always a potential threat to public safety. *Id.* ¶¶ 8–9; see 11 C.J.S. *Breach of the Peace* § 6 (2008) (“[T]he operation of a motor vehicle while intoxicated ... amounts to a breach of the peace, whether such conduct in a particular case consists of actual or threatened violence.”). Accordingly, the Border Patrol agent was authorized by § 13–3884(1) to arrest Grijalva based on the observations at the checkpoint, Grijalva was not subjected to an illegal seizure, and the trial court did not err in denying Grijalva's motion to suppress the evidence that resulted from the stop.

Foundation for Blood Evidence

*3 ¶ 10 Grijalva next asserts that the trial court erred in admitting evidence of his BAC because the state failed to establish a “proper chain of custody” for the samples of his blood. “A trial court's conclusion that evidence has an adequate foundation is reviewed for an abuse of discretion.” *State v. McCray*, 218 Ariz. 252, ¶ 8, 183 P.3d 503, 507 (2008).