

Fight That Ticket!

WINNING STRATEGIES
FOR FIGHTING
TRAFFIC TICKETS

Written by the National Motorists Association



VOLUME 1 OF 3

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Introduction (1 of 2)

Most traffic tickets involve the alleged violation of speed limits. Therefore, much of the information in this document is directed at contesting speeding tickets.

However, the majority of the principles and recommendations discussed here are applicable to any type of traffic law violation.

Depending on your state and the traffic law in question, a violation may be treated as a criminal or civil violation.

Despite "official explanations," the primary reason for shifting traffic law violations from criminal to civil is to make it easier for governments to get more money from drivers like you.

They don't care that they're accomplishing this goal by reducing or eliminating important due process rights available to criminal defendants.

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Introduction (2 of 2)

For example, the right to a jury trial, meaningful Discovery, and the presumption of innocence are often stripped away from traffic ticket defendants.

It cannot be emphasized too strongly that traffic laws, traffic courts, and motorists' due process rights are unique in each and every state.

What applies in one state may not apply in another state, even a state right next door.

Consequently, the information in this document is general in nature and should be considered as a guide for developing and conducting a defense in a traffic ticket case. §

Why Fight A Traffic Ticket? (1 of 4)

The average person has very little experience with challenging "authority," using the legal system, or representing themselves in a courtroom situation. When viewed from the outside, the process can seem stressful and intimidating. To some degree the "insiders" – judges, clerks, prosecutors and attorneys – strive to maintain this impression.

Elements of arrogance, annoyance, bureaucratic indifference, and condescension are not uncommon. The reasons range from inflated egos and job protection to the need to protect the system from being overwhelmed by citizens who realize they are being exploited, cheated, and abused by their own government.

The courts are intimately enmeshed in the traffic ticket industry. Traffic tickets are the only significant revenue source, besides taxes, for the court system.

Conflict of interest bleeds through the entire system and is evident to anyone who cares to look, but it remains in place because the interests that benefit are the same

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Why Fight A Traffic Ticket? (2 of 4)

interests that are charged with preventing that conflict or rooting it out.

This is why traffic ticket defendants are guilty until they prove their innocence, police officer testimony is automatically given more credence than that of ticket recipients, and those same officers are allowed to testify via scripts that have little bearing on reality or facts.

There is a delicate balance of threats, indifference, bribes (plea bargains), "good cop/bad cop" routines, and inconveniences, all designed to discourage traffic ticket defendants from taking their cases to court. Keep in mind that there are tens of millions of traffic tickets issued every year.

If even ten percent of these tickets went to trial, the court system would cease to function.

The fact that you are reading this publication suggests that you understand, or

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Why Fight A Traffic Ticket? (3 of 4)

sense, that most traffic tickets, especially those for speeding, have little to do with safety. Their moral and ethical foundations are often little more than contrived propaganda.

For these reasons alone, everyone should fight every traffic ticket they possibly can.

But there are far more practical reasons for fighting your traffic tickets. Let's start with the negative; you just pay the ticket and eat the points.

Not only have you lost your money, but in a sense you are encouraging the government to continue this exploitative system. Of course your insurance company is in on the game and your insurance is jacked up for three or more years.

Run into a spate of bad luck and your license might be suspended, perhaps resulting in the loss of your job. This is your reward for taking the path of least resistance.

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Why Fight A Traffic Ticket? (4 of 4)

Once you commit to fighting your ticket a whole new situation evolves. You increase your chances of avoiding a financial penalty or jeopardy to your license.

Another possibility is that your financial penalty will be reduced, or your license points protected, or both. And if you do go to trial, win or lose, you will have eliminated any "profit" the government would have otherwise realized from your ticket.

Could you receive a larger fine or lose more points by fighting your ticket? You could, but it would be an extremely rare event. It is far more common for a fine to be reduced at trial, even when the defendant is found guilty.

A major motivation for preparing and offering this manual is to encourage as many people as possible to stand up and fight their tickets, not just to protect themselves, but to overwhelm and shut down this perverted traffic ticket industry. §

What To Do When You Get Pulled Over (1 of 7)

The red and blue lights are shining in your rear-view mirror. Don't pretend you haven't noticed; in fact, acknowledge your intention to pull over by immediately activating your turn signal and then finding a safe place to pull off the roadway, on the right hand shoulder if at all possible.

An exception to this rule is if you feel there is something strange or fishy about the patrol car.

If you're in a remote or untraveled area and you just don't feel safe, activate your emergency flashers and drive to a location where there are other people who will witness the stop.

This might really irritate the cop, but better to do this than to be robbed or assaulted. If you put on your flashers and drive at normal legal speeds, any rational officer (most are) will know what you are doing and why.

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What To Do When You Get Pulled Over (2 of 7)

Place your hands on the steering wheel as the officer approaches; this takes the apprehension out of the situation and should put the officer in a slightly better mood.

If it is dark, turn on your interior lights. Roll down your window before you stop.

Do not engage in a debate with the officer, or express your opinion on his or her motives for choosing this line of work. Of equal importance, do not admit to anything illegal, including going only two mph over the speed limit.

Every admission of any guilt will be duly noted and recorded.

In the case of suspected DUI it will also be used as an excuse to arrest and test you. Always remember, the police officer is not your friend and not your "buddy."

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What To Do When You Get Pulled Over (3 of 7)

If the officer asks to search your vehicle, politely refuse. If he asks you to perform various speech or athletic maneuvers (field sobriety test), politely refuse.

After each refusal politely say "Am I free to leave now?" Keep on asking until the officer runs out of excuses to detain you.

Fortunately, most traffic stops are not battles of will. The officer eventually explains why he stopped you, asks to see your license and proof of insurance (in most states), goes back to his car and runs your personal data through the system, checking for warrants and verifying your information, possibly checking your driving record, and then he returns your documents to you, usually with a traffic citation.

They never tear up a ticket once it is filled out, so, after the ticket is written, don't bother pleading your case at the side of the road.

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What To Do When You Get Pulled Over (4 of 7)

At this juncture you have nothing to lose by asking the officer a few questions:

- How did he clock the speed of your vehicle?
- Would he give you the serial number for the speed measurement device he used?
- If he used a time-over-distance device like VASCAR to determine your speed, would he point out where he was sitting?
- What were the two points that he timed you through and what was the distance between them?
- What courthouse do you have to go to?
- Can you request a different courthouse for your trial?

The officer may refuse to answer any of your questions, but then again maybe

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he will answer at least some of your questions.

One pointless exercise is to ask to see the read-out on a radar or other speed measurement device.

Some devices don't retain readings and others could have an illegally high speed locked into the device, to be left there all day. Also, almost all jurisdictions explicitly refuse to allow motorists the option of seeing the speed reading, supposedly for safety reasons.

It should be noted that our highest courts have been very accommodating of enforcement personnel.

If the police ask you and/or your passengers to exit the vehicle, the courts have decided you must comply. Once you are out of your vehicle, the officer has the right to frisk you for weapons (do a "pat down").

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What To Do When You Get Pulled Over (6 of 7)

Police officers are legally permitted to lie to you about the reason you were stopped.

For example, the police observe a person who left a tavern and they think they might be able to get a DUI arrest, but there is nothing wrong with the person's driving, so they stop the motorist for an allegedly burned-out bulb or debatable lane change.

The real reason for the stop is their suspicion that the driver had been drinking, but they use the pretense of faulty equipment to justify the stop. The courts have decided this is perfectly OK.

Not all motorists' rights have been stripped away, yet. Their cars cannot be searched without probable cause. They do not have to answer questions beyond identifying themselves. And, they do not have to perform roadside agility tests or mental quizzes to prove their sobriety.

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Back to the traffic stop.

Along with taking a few moments to cool down, you should jot down the following:

- Observations regarding your specific location
- The license number on the police car
- Weather conditions
- Traffic conditions
- The roadside environment
- Anything else that attracts your attention

At a later date some of this information could be useful for your defense. §

Deciding On Your Plea

If you want any other outcome than to just pay the ticket and take your lumps, you must plead "not guilty." Pleading "no contest" or "guilty" will result in you being found guilty and probably getting the full fine and penalty points against your license.

Pleading "not guilty" doesn't mean you didn't commit the act for which you received the ticket.

Rather, you may want to challenge the validity of a speed reading, or there may have been extenuating circumstances that justified your actions.

The point to take away is that to challenge a ticket, or position yourself to negotiate a less harsh penalty, you have to start with a "not guilty" plea.

Note: Many jurisdictions use terms like "Responsible, Not Responsible," or "Responsible with an Explanation." This is the same as guilty, not guilty, and no contest, in that order. §

When To Consider Hiring An Attorney (1 of 4)

If you are short on time or apprehensive about dealing with the ticket yourself, hiring an attorney is an option you may want to consider.

In most traffic ticket situations this is not necessary. With a little bit of preparation, and a lot of determination, you can fight your own ticket.

Two exceptions include challenging out-of-state tickets that are a long way from home, and situations where the charges against you are quite serious, for example DUI.

In the latter situation it is strongly recommended that you hire a qualified traffic law attorney.

Note that the National Motorists Association has traffic attorneys listed on our web site. We also have a more extensive in-house database of attorneys which is available only to NMA members.

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When To Consider Hiring An Attorney (2 of 4)

We always recommend that ticket recipients talk to three or more attorneys and choose the one that makes them feel most comfortable with their choice.

Prices, services, experience and knowledge vary widely.

Traffic law is its own specialty, and lawyers involved in real estate, business law, or estate planning are unlikely to know much more about fighting a traffic ticket than does a car salesman or a dentist.

In almost all instances an attorney will attempt to negotiate with the prosecution to reduce the penalty points and/or fine associated with the violation. Sometimes the negotiation will result in fewer or no points in exchange for a higher fine.

It is important to understand that attorneys do not typically take traffic tickets through a formal trial. The cost of going to trial is often prohibitive for a routine speeding ticket.

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When To Consider Hiring An Attorney (3 of 4)

The negotiation/plea bargain process is not about justice or fairness, it's all about economics and personal relationships.

It costs the government a fair amount of money to do a full-blown trial over a traffic ticket, a lot more money for a jury trial. Given the fundamental reason for traffic tickets, raising money, it's counter-productive to spend even more money engaging in a trial.

Consequently, in the interest of expedience and revenue generation, the prosecution is usually open to a "compromise" on the typical traffic ticket.

The prosecution and the court are also more amenable to working with attorneys who are cooperative, passive, and not inclined to "tie up" the courts with "nuisance traffic tickets."

Accordingly, an attorney who has to regularly work in a specific courthouse

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When To Consider Hiring An Attorney (4 of 4)

jurisdiction, and who depends on the good graces of courthouse staff and prosecutors, is reluctant to upset these relationships by aggressively challenging seemingly minor traffic tickets.

The lesson to take from this:

If you want an attorney to just plea bargain your ticket to remove points or lower the fine, hire one who frequently works in this jurisdiction and who may have a personal relationship with the prosecution and courthouse staff.

If you want an attorney to seriously fight a ticket, one who will go to trial, hire an attorney who does not normally work in this jurisdiction and who is not fearful of the consequences of irritating prosecutorial staff.

Keep in mind that plea bargaining involves attorney fees of hundreds of dollars, versus thousands of dollars for seriously challenging a ticket through a trial. §

In almost all instances, the citation issued to a person charged with violating a traffic law will contain a specific reference to the statute or ordinance, by number, that was allegedly violated. You can usually find the exact law or ordinance online or in person at the city hall or a public library.

As a general rule, librarians at public libraries will be much more helpful than city or courthouse employees.

Read this material very carefully, including references to other laws and court cases.

1. Is this law actually related to the reason you were stopped and cited?
2. Is the law referenced on your citation for some other violation and is in fact in error?
3. Were your actions really in violation of this law?

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Research The Specific Statute Or Ordinance (2 of 2)

There may be certain elements of the law that allow exceptions, or there may be specific requirements that are mandated before the law can be enforced.

For example, the law may state that speed limits must be posted in a specific way before they can be enforced. If they are not posted in this manner, you have strong grounds for a dismissal.

Other laws, regulations, and court cases that are referenced in the statute you are charged with violating often contain additional provisions that apply to your case. There may be standards for maintenance and certification of speed monitoring equipment, operation procedures, or motorist information requirements. A failure on the part of the state or local enforcement agency to meet these standards or to prove compliance with court-ordered procedures could result in the dismissal of charges.

In fact, some state laws mandate that if these standards are not met, the ticket must be dismissed! §

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The Manual on Uniform Traffic Control Devices, MUTCD, is a federal document which sets the standards for all signs, signals, road markings and related traffic control devices.

Every state must either adopt this manual, or adopt a state version very similar to the federal manual, and must comply with the standards therein.

In addition to setting standards, the MUTCD also makes recommendations and guidelines for the use, management and application of traffic control devices.

Many of these do not reach the level of a "standard" and it's within the discretion of state or local officials whether or not to follow these recommendations and guidelines.

The MUTCD can be brought into a defense strategy if signs are missing, improperly installed, hidden from view, or used in a non-conforming manner.

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There are other situations where the need for a particular device, such as a red light ticket camera, must be justified and documented before it can be installed.

Lacking that justification and documentation can result in the device being unenforceable.

Be forewarned that lower courts or informal hearings may not always dismiss a charge because of non-compliance with a MUTCD standard, but upon appeal to a higher court, a dismissal will almost always be granted.

Examples of successful MUTCD defenses include situations where speed limit signs were not properly located in terms of height, distance from the roadway, or were not clearly visible.

Another cause for dismissal is the absence of a speed limit sign such that the motorist does not have a clear indication of the legal speed.

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The key word that makes a MUTCD criterion mandatory is "shall."

If a standard says "the stop sign 'shall' be red with white letters" the requirement is not a recommendation or an option, it is an absolute mandate and it has the force of law.

You can find your state's version of the MUTCD with a simple internet search; just type in something like this: "[state name] MUTCD". §

"Right To Drive" & Constitutional Arguments (1 of 2)

The Internet is rife with claims, proclamations, and legal theories that argue the government cannot regulate travel, license drivers, register vehicles, or enforce traffic laws. One common issue is "the right to drive," versus the government's position that driving is a "privilege."

It is generally accepted that there is a right to travel, but traveling and driving are not synonymous terms.

Traveling and operating a vehicle are not the same things. So while citizens may have an absolute right to travel, they don't have an absolute right to drive. Conversely, calling driving a privilege suggests that the government has unfettered discretion to give or take this "privilege."

The courts have found otherwise; a person does have a property right connected to the driver's license and it cannot be taken away without due process. However, the courts have also ruled that the government can license and regulate the operators of motor vehicles being used on public highways.

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There is no shortage of supposedly surefire strategies guaranteed to result in instantaneous dismissals from judges who will be overwhelmed by powerful constitutional arguments or little-known legal facts being hidden by government interests.

Most of these claims are based on imaginative interpretations of high court decisions, personal political theories, or what some people would like the law to say, instead of what it does say.

It's possible, although not probable, that some of these theories have merit.

What is not up for debate is the fact that the courts that decide traffic ticket cases do not subscribe to any claim that diminishes their own authority or the government's right to enforce traffic law.

If you want to win in traffic court you have to play by the rules, the rules the courts enforce and abide by. §

Police across the country use different tools to enforce traffic laws. The enforcement technology that an officer uses can have a big impact on how you develop your defense.

Find out what technology the officer used (it usually is printed on your ticket) and learn as much as you can about how it works.

If this information is not on the ticket and you forgot to ask the officer who issued the ticket how he measured your speed, you can obtain this information by calling the police department or through the Discovery process (which will be explained later).

The most common speed measurement devices are radar, laser (also called LIDAR), VASCAR, and pacing.

Coming on strong in recent years are automated camera-based systems that monitor intersections and enforce speed limits. §

Radar (1 of 2)

Radar is the most commonly used speed measurement device. Here are some of the important aspects of radar technology:

- It is easy to use.
- It is flexible in application to different environments.
- It does not require the full attention of the operator.
- It does not require precision aiming. The radar beam rapidly expands in width and the gun itself can just be pointed in the general direction of the target vehicle.
- It will clock the speed of the vehicle with the most dominant reflective surface.

This last point can be particularly useful in your defense. Even the newest radar guns, with their digital signal-processing capability, do not tell the operator which vehicle, out of many, is responsible for the radar reading.

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There are several operator errors that can yield erroneous speed readings. The most common of these errors is simply the misidentification of the target vehicle. The police officer obtains a reading and assumes a specific vehicle is responsible for the speed reading when in fact another vehicle is the source of the reading.

Beam reflection error, cosine error, electrical interference, panning, and shadowing are some of the factors that can generate erroneous radar readings.

Discussion of these errors can be found in many books dedicated to understanding radar devices. We also go over each of these errors in more detail in Volume 2 of this ebook.

It is fairly common knowledge that a radar gun's accuracy should be checked by external means such as tuning forks, but few states actually mandate these tests. If your state is one that mandates accuracy tests, this may be useful in your defense. §

Laser (1 of 3)

Here are the basics of how laser technology works:

1. Laser speed guns transmit an invisible infrared light beam that measures the distance between the laser gun and the target vehicle.
2. Distance is measured by the time of flight of a laser pulse.
3. Because the speed of light is both known and constant, it serves as the basis for determining distance.
4. Once distance is known, speed is calculated by comparing the change in distance against a span of time.

Laser gun beams are quite narrow and the operator must carefully aim at the intended target. This requires one hundred percent of the operator's attention.

Operator errors, again, are common. Some, like cosine error, are similar to those made with radar guns. However, misidentifying the target is less common.

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Because a laser beam is quite narrow, the operator is supposedly able to pick out a single vehicle among many. This requires very steady aiming, no movement of the laser gun, and sight alignment that corresponds with the light beam.

The operator cannot see the light beam. If the sighting system is not properly aligned, the operator has no way of knowing it unless he carries out a specific sighting test, which rarely happens.

Also, the operators seldom check the accuracy of the speed measurements. Instead they use the self-diagnostic checking system on the laser gun and do a simple test to make sure the gun is accurately measuring distances.

The self-diagnostic system could itself be malfunctioning, and just because the laser gun measures distances correctly does not mean it is measuring speeds correctly.

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The sighting system can be checked by aiming the gun at a narrow object, like a utility pole, and moving the gun left-to-right and insuring that the distance reading reflected from the narrow pole occurs when the sights are aligned with the pole.

To test the vertical alignment of the sights, the gun is turned on its side and the same left-to-right test is repeated. Again, the distance reading should appear only when the sights are aligned with the pole.

Testing the accuracy of the speed reading can be accomplished by measuring the speed of a vehicle traveling at a known speed.

Rarely are these tests performed before or after laser guns are put into use.

If the operator cannot attest under oath that the sights were checked for accuracy and that the speed measuring system was checked by external means, the laser readings should not be admitted into evidence. §

VASCAR is an acronym for Visual Average Speed Computer and Recorder. It is nothing more than a computing device that reports your speed based on the time it takes a vehicle to cover a measured distance.

VASCAR is no different from clocking your speed with a stopwatch and a time/distance chart (common when aircraft are used for speed enforcement).

Errors are sometimes traced to:

- The operator's angle of view
- The operator's reaction time
- Using too short a distance to clock target vehicles

VASCAR is not commonly used in most states. Its one major appeal to law enforcement agencies is that it is not detectable, detectability being a weakness of radar and to a lesser degree, laser devices. §

Pacing

Just as the name implies, "pacing" is simply when an officer attempts to match the speed of a target vehicle with the speed of his vehicle and then note the reading on his speedometer. A commonly raised issue is the accuracy of the police car speedometer and its last testing and calibration.

Pacing is an inexact speed estimation technique, but is accepted by the courts.

Possible challenges include:

- Showing the impossibility of a reliable pace given the time/distance involved
- Witnesses who corroborate the defendant's innocence (such as other passengers)
- Demanding documentation of the officer's training and skill in the practice of pacing
- Challenging the accuracy of the speedometer in the police car

Vehement and sincere denial of the pacing claims can be effective, given the lack of precision and possibility of error. §

Visual Estimation (1 of 2)

Visual estimation is based on the premise that a police officer can accurately estimate the speed of a vehicle by simply observing it.

There is no credible scientific support for this technique, but many courts accept visual estimation as a reliable means to estimate vehicle speeds.

However, some jurisdictions do not allow visual estimation to stand as the sole source of speed evidence and they require other confirming evidence.

Many officers claim to have received training in visual estimation and to have achieved high levels of proficiency.

If you believe visual estimation will be a factor in your trial, then ask, through a Request for Discovery, for actual documentation of that training and the officer's recorded performance.

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Visual Estimation (2 of 2)

Also ask for documentation that verifies the scientific validity of using visual estimation to determine speed.

If this documentation is not provided, make a motion to the court that the visual estimation not be admitted into evidence.

The courts may not always accept this motion. However, note that if the documentation is requested through formal Discovery, the odds of the motion being successful are much higher. §

Other Speed Measuring Devices

Vehicle speeds are also measured through less well-known devices, most of which employ a time-over-distance system. Highway agencies have long used a magnetic loop system, embedded in the pavement, to count vehicles and measure their speeds. Similar systems are employed with some ticket cameras.

There are also modern versions of the old pneumatic tube devices where vehicle speeds were determined by measuring the time from when a tire hit the first tube until it struck the second tube, which were set apart at a specific distance. The newer technology replaces the pneumatic tubes with light beams.

All of the time-over-distance systems have the advantage of not being detectable. However, they are all susceptible to human operational error.

These errors are similar to those made while operating VASCAR devices. The distances between the two beams may be incorrect, other vehicles may confuse the readings, and the distance over which a speed was manually clocked may be too short in relation to error introduced due to reaction time. §

Speed Enforcement By Aircraft (1 of 3)

The use of aircraft for speed enforcement is primarily a psychological strategy, employed by enforcement agencies to give the impression that the police are "everywhere" and that there is no way to escape the watchful eye of the omnipotent state highway patrol.

The fact is, there are very few tickets issued as the result of air patrols. Along with being awkward and limited in function, air patrols are extremely expensive.

An officer on the ground with a radar gun can patrol his area, assist stranded motorists, work accident scenes, assist other officers in need, and still catch up on his paperwork.

The hourly cost of his vehicle and fuel are probably a tenth of that of an aircraft patrol.

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Speed Enforcement By Aircraft (2 of 3)

Should you win the lottery and get an aircraft patrol speeding ticket, do not be awed by the Buck Rogers aura that surrounds these tickets.

First, the vehicle speed is determined by measuring the time it took the vehicle to travel a known distance between two observable points, usually lines painted on the highway. There must also be a chase car on the ground that can apprehend the alleged speeder.

This system is rife with potential errors.

Timing errors, visual perception errors, vehicle identification errors, and communication errors between plane and ground vehicle occupants are major examples.

As is the case whenever separate officers are involved with clocking a vehicle speed and issuing a ticket, the person in the plane who measured the vehicle

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Speed Enforcement By Aircraft (3 of 3)

speed, the person who conveyed the information to the ground vehicle, and the officer who actually issued the ticket must all attend the trial of the defendant.

Note: The State of California occasionally employs aircraft patrols. However, California law does not permit the measurement of point-to-point vehicle speeds.

Officers using aircraft have claimed that they "paced" a defendant's vehicle with their aircraft.

For many reasons, this is not a credible claim.

Air speed is not comparable to ground speed. Vertical inclines and declines, curves, and visual perception make it literally impossible to accurately measure ground vehicle speeds from an aircraft, by pacing. §

Gather Information Specific To Your Case

You'll need information to win your case. There are both formal and informal methods for gathering information. They include:

- Requests or Motions for Discovery
- Open Records or Public Records Requests
- Interrogatories
- Depositions
- Subpoenas

Do not rely on courthouse personnel to help you; they are typically as unhelpful as possible.

Their standard line when asked for help or information is "We do not provide legal advice." Their unspoken objective is to discourage defendants from fighting traffic tickets. This observation has been made thousands of times and never has it been denied. §

Discovery Request (1 of 4)

A Request for Discovery is an information request you make to the prosecutor, usually an Assistant District Attorney. If you were cited for speeding, you may want to know the kind of speed measurement device the officer used, and/or review the officer's training records.

A simple written request, preferably sent via registered mail to the District Attorney's office, is usually sufficient to exercise this inquiry.

Some states mandate that certain kinds of information must be released to a traffic ticket defendant who makes a Request for Discovery. The release of the information is not optional.

Other states specifically relieve the prosecution from any responsibility to fulfill a discovery request. However, even in these states you can still ask and many times you will receive at least some of the items you requested.

Denying Discovery to traffic ticket defendants is somewhat a double-edged

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Discovery Request (2 of 4)

sword. Discovery is one way a defendant alerts the prosecution to issues he or she may raise. However, note that contrary to TV and movie versions, trials are not intended to be "gotcha" contests.

The prosecution is not supposed to withhold information that would be beneficial to the defendant and the defendant cannot show up on trial day and ask for reams of documentation that was never mentioned prior to trial.

Reasonable access to Discovery allows the defendant to develop a credible defense that doesn't waste the court's time.

It also allows the prosecution the opportunity to gather the documentation that the defendant is demanding.

The court will not hold the prosecution responsible for providing documentation if the defendant has not made his demand for documentation known well before the trial commences.

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Discovery Request (3 of 4)

Requests for Discovery should be confined to materials of value in the development of a defense. Discovery should not be viewed as a means to harass the prosecution.

In the real world, the prosecution will ignore an excessive Request for Discovery and the court will support that decision.

A defendant should be able to explain why he or she wants the information requested. If that information has a real bearing on the trial, most judges will support a defendant's request.

For a typical speeding ticket involving a radar-generated ticket, a Request for Discovery would include the make, model and serial number of the radar unit used.

Also, the maintenance and calibration records for the radar device should be requested along with documentation of the officer's training with radar in

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Discovery Request (4 of 4)

general and specifically the model of radar he used to measure your speed.

Often the officer writes notes on the back of his copy of your ticket; ask for a copy of the back of the ticket, any other relevant notes made by the officer, and the incident report for your stop. You may also ask for the exact location of the officer when he clocked your vehicle, and the location of your vehicle at that time.

These are the basics, but depending on your situation and the jurisdiction, there may be other important items to add to your list.

For example, in California you may want a copy of the traffic engineering study that established the speed limit on the road you were traveling and were cited on. These studies are not required on all roads, but some roads must have them, and the speed limit must reflect the results of that survey. If this requirement is not met, speeding tickets are invalid if radar, laser, or other electronic devices are used to measure vehicle speeds. §

Motion For Discovery

A Motion for Discovery differs from a Request for Discovery because a motion is made directly to the court, not the prosecutor. In your motion, you must justify your reasons for requesting certain information; the court will decide if your request has merit.

If the Court determines that your request is legitimate, it will order that the information be given to you. The prosecution can object to your motion and the court could order a hearing to argue the motion for discovery.

If your state law mandates that certain items be given to you and they aren't, or the court orders that certain items be given to you and they aren't, you can ask for a Motion to Dismiss for failure to provide discovery and it's likely the motion will be granted.

However, if no mandate exists and the court has not ordered that certain items be given to you, it's unlikely you'll be given a dismissal. Often, the court will grant the prosecution a continuance to provide more time to provide the requested material. §

Public Records Request (1 of 2)

Public records laws are called different names in different states, but their intent is to make public records available to all citizens. In general, these laws mandate that public records be released to anyone who makes a request.

Certain records, such as medical or tax records, may be protected by privacy laws and are not available through a simple request. However, you can usually obtain the follow items through a public records request:

- Radar equipment maintenance records
- Calibration records for breathalyzers
- Training certificates for specific officers

Public Records Requests are independent of the court and your trial, and the failure of an agency to provide requested records will not automatically result in a dismissal of charges.

(continued on next page)

Public Records Request (2 of 2)

Remember, this procedure is for the purpose of obtaining existing records. It cannot be used to force the government to create new records.

You should be able to find a copy of your state's public records law(s) online or at your local library.

Generally, a public records request is made to the agency you believe holds the records you want. This is usually the police agency that issued you a citation.

For best results, make the request in writing and cite the public records state statutes that give you the right to request the information you seek.

There may be reproduction cost fees for the materials you want, but the law usually requires that they be "reasonable."

You may also want to request that the agency certify the documents to be valid copies of the originals. §

Interrogatory

An interrogatory is a written request to the prosecution for information related to your case.

For example, if you want to know where the officer was sitting when he or she clocked you with radar/laser, you could ask that question and perhaps include a map of the general area where the officer could mark his or her location when he or she observed your vehicle.

If your request appears reasonable and has a bearing on your defense, it will most likely be honored. §

Deposition

A deposition is a formal meeting, with a court reporter, where the defense and/or prosecution may question witnesses who are under oath.

This is a very expensive and time-consuming procedure, and it is not often employed in traffic ticket cases. §

Subpoena

A subpoena is a court order to appear or bring information to a court proceeding.

The target of the subpoena can object to the order, and a "case within a case" can develop that deals solely with the subpoena.

A subpoena has to be personally "served" on the party being ordered to produce information or testimony. Anyone can serve a subpoena, as long as they are not directly involved in the litigation.

Along with the expense, another downside of subpoenas is that the information is usually not produced until the time of trial.

For purposes of developing a defense, it is desirable to have all relevant information well before your trial. §

What Is A Continuance?

Requesting a continuance simply means that you are requesting that your court date be pushed back to a later date. The prosecution, or the defense, may request a continuance for any of several reasons.

The following are all acceptable reasons in most courts for requesting that your court date be extended:

- Work conflicts
- School schedules
- Health problems
- Vacations
- The need for more preparation time

There are many good reasons to request a continuance, but there are also some downsides. We'll cover both over the next couple pages. §

Reasons To Consider A Continuance

Good reasons to request a continuance:

1. It allows more time for the police or the court to respond to your information requests.
2. It gives you more time to do the research you need to prepare your defense.
3. It decreases the chances of the officer being available to testify against you, which should result in a dismissal.
4. It decreases the chances of the officer remembering specifics about your traffic stop, which increases your chances of winning. §

Downsides To Requesting A Continuance

Downsides to requesting a continuance:

1. It prolongs an irritating experience.
2. Requesting a continuance may eliminate your right to a "speedy trial" if your state has a speedy trial requirement.
3. Requesting a continuance as a delaying tactic will make it harder to get another continuance if you really need one.
4. If you have been granted a continuance, the prosecution will find it less difficult to get a continuance if the arresting officer cannot attend the trial on the appointed date. §

How To Request A Continuance

You can request a continuance by contacting the court, via the court clerk, and explaining why you need it. This can be done by mail, telephone, or in person.

We recommend using registered mail so you will have proof that your request was sent and received.

The burden is then on the court to respond. It's best to make a request for a continuance at least two weeks in advance of the trial date.

The court does not have to grant continuance requests, but usually you'll be granted at least one request to move the date.

Note: If you do not have a flexible schedule, but you can make your first trial, you may not want to risk having it moved to a date that you cannot make.

If you don't show up, you will be found guilty! §

Consider Making A Pre-Trial Motion

Perhaps, based on your research of the law or some other event, you need to seek a decision from the judge prior to the trial. The prosecutor may be refusing to give you information you are entitled to, or you have compelling evidence that unequivocally proves your innocence.

You can make a written motion to the court (judge) to seek his or her intervention.

In the latter case you can ask the judge to dismiss the charges against you because you have three witnesses and formal documentation that you were not in the country at the time of the alleged violation.

If your state has a "speedy trial" statute and you have not had a trial within that timeframe (and you did not cause the delay by requesting a continuance), you can make a motion for dismissal for lack of a speedy trial.

The prosecutor can object, or concur on these motions, and the judge can act immediately or wait until your trial date to rule on your motion. §

We hope that this information provides you with guidance and serves as an incentive to plead "not guilty" and fight that ticket. We also hope that you will join and support the National Motorists Association.

One of our most important goals is to rid our country of the traffic ticket industry and public policies that use traffic laws for revenue generation.

When we take the money out of traffic enforcement we will be on the road to safer highways and a more ethical society.

If you would like more information on how to fight your ticket, in particular how to handle pre-trial negotiations, develop a solid defense, and represent yourself in court, continue on to Volumes 2 & 3 of this ebook. §



Fight That Ticket!

WINNING STRATEGIES FOR FIGHTING TRAFFIC TICKETS

Written by the National Motorists Association



VOLUME 2 OF 3

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Taking Your Case To Court (1 of 5)

In Volume 1 we discussed a range of issues, all intended to aid your preparation for challenging a traffic ticket in court.

Not only will this preparation greatly improve your chances of success at trial, but it will also give you a much better foundation to plea-bargain your ticket, should you decide to explore that possibility.

A trial is a win-or-lose proposition. A plea bargain is a compromise involving give and take.

Many traffic ticket defendants are willing to pay a fine, but they resist having points assigned against their driving record. Many prosecutors are primarily interested in disposing of as many cases as possible without going to court, while still generating as much money as possible.

Obviously, there is common ground here.

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Taking Your Case To Court (2 of 5)

The typical trade-off is that the defendant agrees to change his plea to guilty and, in exchange, the prosecutor arranges an outcome where no points are assigned to the defendant's driving record, but the fine is still assessed.

In some court systems this process is quite formalized and almost automatic. The defendant pleads guilty and the court gives "deferred judgment" which is legal jargon that says no points if you don't get another ticket within a set period of time.

Another common approach is to allow attendance to "traffic school" which excises the points that would otherwise be assessed against the defendant's driving record.

Both deferred judgment and traffic school options are devices to entice defendants NOT to take their tickets to trial. They have a long history of being quite effective in that regard.

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Taking Your Case To Court (3 of 5)

However, many states and local jurisdictions do not offer the options of "deferred judgment" or traffic school.

Plea bargain opportunities typically arise at three different stages.

The first is when you appear for arraignment. The arraignment date is the date on your ticket; your trial date will be set for a later time, after you plead not guilty.

Often the prosecutor or judge will try to "encourage" defendants to plead guilty, or no contest, in exchange for a point reduction or lower fine. Many defendants take this offer.

The second opportunity to plea-bargain is the pre-trial conference (if one is held).

This is a conference between the prosecutor and the defendant where a compromise is attempted. If the pre-trial conference is not held prior to the trial, another plea

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Taking Your Case To Court (4 of 5)

bargain attempt may be made immediately preceding the trial. If the prosecutor is knowingly missing his one and only witness, the police officer, he will be much more generous with his plea bargain offer.

He knows that if the case goes to trial he will lose for lack of a witness.

It should be noted that deferred judgment and traffic school options, where available, are still frequently granted to defendants who do go to trial and lose.

Many states afford traffic defendants the right to have their case heard before a jury.

By requesting a jury trial whenever possible, you accomplish two things. First, a decision by a jury of your peers eliminates the possibility of facing a judge who may be predisposed to finding traffic defendants guilty. Second, the cost of a jury trial greatly raises the financial commitment by the local jurisdiction; the prosecution may be even more motivated to reach a negotiated settlement with you to avoid this financial burden.

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Taking Your Case To Court (5 of 5)

A very small percentage of traffic ticket recipients ever go to trial. However, a well-kept secret is that many of them prevail, or obtain results far better than if they had just rolled over and paid their fines and taken their points.

The difference between the winners and the losers is called "preparation."

In Volume 3 of this ebook we have included a sample trial script, or guide to show some of the strategies that a pro se defendants (people who defend themselves) might use in a typical speeding ticket trial where radar was used to measure the defendant's speed.

The purpose is not to give you a word-by-word script to be repeated in court, but rather to assist you in developing a strategy that fits your set of circumstances.

However, do not jump ahead to this script without first reading the following material. The sample trial script will be more confusing than helpful if you do not first digest the explanatory material that follows. §

Learn Basic Courtroom Procedures (1 of 5)

Find out when traffic court is in session and stop by to observe how the courtroom functions and how the various players – attorneys, clerks, police officers, and the judge – interact with one another.

Pay attention to the formalities and repeated procedures. You are not likely to see many trials. Most cases are plea-bargained in advance of the trial.

Take special note of how the judge treats pro se defendants versus the attorneys who represent clients.

This process of observation will most likely keep you from being totally overwhelmed by the strange and intimidating environment of the courtroom.

Learn the basic procedures for presenting your case in court. The police officer will testify first, and any other prosecution witnesses will follow. You are allowed to cross-examine the police officer and any other witnesses against you.

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Learn Basic Courtroom Procedures (2 of 5)

You need to know whether your violation is considered criminal or civil, because court procedures are different for each situation.

The defendant has more rights and the system is more formalized in a criminal trial.

If there is more than one prosecution witness – for example, one officer clocked your speed, but another issued you the citation – you can ask the court to sequester the witnesses so they cannot hear one another's testimony, to prevent them from coordinating their stories to fit the facts and prevent contradictions. The judge will normally grant this request.

This brings us to the subject of "hearsay" evidence. Hearsay evidence is generally not allowed in a criminal or quasi-criminal trial, such as a traffic ticket trial. Hearsay is when one witness testifies to what another person witnessed or experienced.

In our example of the one officer clocking the vehicle and the other officer

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Learn Basic Courtroom Procedures (3 of 5)

issuing the citation, the clocking officer cannot testify to who was driving the car and the issuing officer cannot testify to the vehicle's speed or how the speed was determined.

Even though the two officers exchanged this information, neither can testify about what the other witnessed firsthand.

But don't expect a judge to jump in and prevent hearsay testimony; it's the defense's responsibility to object.

When the prosecution has completed its case it is your turn to present your defense.

This can consist of you making a motion for dismissal to the court, where you point out that the prosecution failed to prove your guilt and you explain why the testimony and evidence against you were deficient or inadequate in this regard.

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Learn Basic Courtroom Procedures (4 of 5)

However, if you wish to introduce new evidence that proves your innocence, you must testify on your own behalf, or bring in witnesses to testify on your behalf. If you choose to testify, the prosecution is entitled to cross-examine you.

There are common pitfalls of court procedure that ensnare inexperienced pro se defendants.

If you have a witness who will testify to your innocence, that witness must come to court and testify personally. A notarized letter will not suffice. Nor can you testify to what they said or did if they are not there to testify themselves.

Even if you are quite knowledgeable on a subject like radar, and the kinds of errors it makes, you will not be allowed to exhibit that expertise unless you yourself are a certified and accepted expert on radar and radar errors.

Consequently, even if the police officer is completely ignorant on the subject of radar errors, it will be very difficult to correct his erroneous statements.

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Learn Basic Courtroom Procedures (5 of 5)

This limitation can be overcome and we'll explain how later in this ebook.

Judges will not automatically intervene if the prosecutor violates a due process rule. The judge may do nothing until the defendant specifically objects to the prosecutor's questions, or the statements of the prosecutor's witness.

If the prosecutor fails to have his main witness (the ticketing officer) at the trial, he might ask the judge to grant a continuance of the trial. If the defendant does not object, the judge might grant the continuance.

If the defendant does object and follows with a motion to dismiss, the judge will almost always grant the motion to dismiss.

If the defendant admits guilt – a common example is admitting to speeding over the limit, but just not as fast as the police officer claimed – he will still be found guilty, regardless of the degree of the violation. §

Prepare Your Defense (1 of 2)

This is where you take all the information you've gathered and choose the defense strategy that has the best chance of getting your ticket thrown out.

The prosecution must prove three elements:

1. Your vehicle was at the scene of the alleged violation.
2. You were operating the vehicle.
3. While operating your vehicle, you violated a specific law.

In most instances the first two elements are readily proven.

However, in some cases the failure of the prosecution to prove one of these first two elements results in a dismissal of the traffic ticket. For example, the vehicle may have been misidentified. Perhaps the arresting officer lost sight of the offender's car between the time when he clocked the vehicle's speed and when he finally stopped the vehicle.

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Prepare Your Defense (2 of 2)

Of course, if the prosecution fails to produce a witness who can testify to seeing the vehicle, witnessing the violation and identifying you as the driver, they have no case.

The most common example of this is when the police officer doesn't show up for the trial.

If one police officer identified your vehicle and observed the violation and another officer pursued you and issued you a citation, both officers would be required to appear at your trial.

A common flaw of large-scale speed traps is that the officer(s) doing the speed clocking are not in a position to confirm that the downstream officers who are stopping the supposed violators are in fact stopping the right vehicle.

However, don't expect the officers to admit that fact. You will have to prove that it was impossible for them to confirm that the correct vehicle was actually stopped. §

Dealing With Errors On Your Ticket (1 of 4)

There is a common misconception that any error a police officer makes in the filling out of a traffic ticket can justify a dismissal of the charges.

This is not the case when the error is a misspelled name, a missing digit on the plate number, or a failure to check a box referring to the level of traffic or weather conditions.

The court will almost always rule that these kinds of errors are not material to the charges against the defendant and do not support a dismissal of the charges.

However, there are errors that go to the heart of what the prosecution must prove to support a guilty verdict.

For example, if the police officer notes on the ticket that the vehicle involved in the violation was a blue Ford sedan, but the defendant was actually driving a white Honda, the judge is almost compelled to dismiss the charges.

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Dealing With Errors On Your Ticket (2 of 4)

The same would be true if the ticket notation indicated that you ran a stop sign on Johnson Street when you were actually on Smith Street.

Of course you would have to raise these issues at trial and provide convincing testimony in support of your claims, but most courts will accept plausible arguments of this nature.

Another serious error is citing the wrong statute or ordinance for the actual violation.

For example, if the officer cites a statute for running a stop sign, when the actual violation was supposedly running a red light, he has made a substantial error.

To be found guilty of running a red light you must be charged for violating the statute that prohibits running red lights, not the statute that prohibits running stop signs.

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Dealing With Errors On Your Ticket (3 of 4)

Even errors that do not constitute material errors by themselves can lay the groundwork for a dismissal if they are many and obvious.

An officer who misspells the defendant's name, butchers the address, fails to provide basic information, and notes the wrong date is signaling a level of carelessness and sloppy work that could just as easily result in an erroneous radar reading or pulling over the wrong car.

A well-prepared defendant could win with this argument.

A note of warning:

Traffic tickets and the charges they represent can be amended at any time up to and during the officer's testimony at trial.

Consequently, if the defendant raises a serious ticket error prior to trial, or even during cross-examination of the police officer, the prosecution can amend the

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Dealing With Errors On Your Ticket (4 of 4)

ticket and the charges, and the judge will likely accept the amendment.

We have encountered this situation with increasing frequency when the defendant has clearly proven that an officer improperly used a radar or laser device, or that the device was not inspected and calibrated according to legal requirements. The officer then amends his statement (and what he wrote on the ticket) and claims he measured the speed of the vehicle using visual estimation.

However, this prosecutorial tactic can be overcome and the way to do so will be discussed later. §

Introduction: Fighting A Radar Ticket (1 of 2)

On a sunny Monday afternoon, you are driving from your home to a nearby community. As you enter the outskirts of town, you begin to decelerate from highway speeds.

As you round a corner, you notice a police car parked off the road on a side street, just behind a tree and a few bushes. As you pass by the police car, you detect a flurry of activity and a block later the police car is behind you with lights "ablazin'."

The officer walks up to your car and asks you if you know why he stopped you. You stammer something about not knowing why he stopped you and he replies, "I clocked you on my radar going 39 miles per hour in a 25 mph zone."

He then takes your license, walks back to his car to check your record and eventually returns with a ticket for speeding.

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Introduction: Fighting A Radar Ticket (2 of 2)

Seems pretty hopeless, doesn't it?

You aren't positive just how fast you were going, but you know you weren't speeding in the sense of driving too fast for conditions, or in any way that could be described as "reckless."

Yet, the officer says he clocked you on radar and a radar reading is proof positive of your speed.

The situation isn't as hopeless as you might first suspect.

First, let's consider some of the more typical errors made by radar operators. §

Common Radar Errors (1 of 9)

Vehicle Identification Errors

The most common radar error is for the radar operator to assign the speed he/she sees on the radar screen to the wrong vehicle.

The radar beam quickly increases in width and within a short distance it will encompass all contiguous lanes of a highway and even adjacent roadways.

The vehicle with the largest most reflective surface is likely to dominate the radar reading. However, a smaller, but nearer, vehicle can present a more dominant target.

Shape, surface, and distance all influence to which vehicle the radar device will "lock on."

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Common Radar Errors (2 of 9)

Vehicle Identification Errors (continued)

A common example of this error is when the radar operator targets a standard automobile which is followed at some distance by a large truck.

Even though the automobile may be much closer and the truck is trailing at a significant distance, it is the truck's speed that is being recorded by the radar device.

Consequently, Radar should not be used where multiple vehicles are simultaneously within the radar beam. §

Shadowing Error

Moving radar actually employs two radar beams.

One radar beam measures the closing speed between the patrol car and the target vehicle. For example, if the approaching target vehicle is traveling 60 MPH and the patrol car is traveling 60 MPH the closing speed will be 120 MPH.

To determine the actual speed of the target vehicle a second radar beam is focused on the roadway immediately in front of the patrol and thereby reads the patrol car speed. This speed is subtracted, by the radar device, from the closing speed thus resulting in the target vehicle speed.

The radar device displays the target vehicle speed and the patrol car speed. The operator should always compare his speedometer reading with the radar reading of his patrol car's speed. Failure to do this can result in shadowing error.

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Shadowing Error (continued)

Shadowing error occurs when, for various reasons, a radar beam measuring the patrol car's speed malfunctions. The most common situation is when the radar beam tracks a vehicle in an adjacent lane, instead of stationary objects, this results in the radar device being given an incorrect reading that claims the patrol car is going very slowly, or even stopped. Consequently, an incorrect amount of speed is subtracted from the closing speed between the two vehicles.

Normally this error would be so large that a competent radar operator would know some kind of error was distorting the error, and note the difference between the speedometer reading and the radar reading for his vehicle.

Still, many radar operators are inclined to believe the radar reading, even if their eyes see something entirely different. If the shadowing error was transient the conflict with the speedometer reading would disappear. §

Cosine Error

Radar guns, and laser guns, measure the speed of the closing distance between the gun and the vehicle. They can make a speed measurement of vehicles coming toward them or going away from them.

If the target vehicle is traveling at an angle to the radar/laser operator, say the operator is hiding in some bushes 50 yards off the roadway and clocking passing traffic, the factor of cosine error is introduced.

Normally, cosine error results in lower than actual speeds and therefore is to the advantage of the motorist.

For example, if the radar operator was at a 20 degree angle to the path of a target vehicle traveling 50 MPH the actual radar reading would be 46 MPH.

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Common Radar Errors (6 of 9)

Cosine Error (continued)

In the extreme, if the angle was 90 degrees the radar reading would be zero MPH regardless of how fast the vehicle was traveling. At 90 degrees the target vehicle is getting neither closer nor further to the radar device, hence, no closing speed.

One situation where cosine angle can work against the motorist is when a radar gun is adjusted to accommodate its being used at a severe angle.

This is done where radar is used in conjunction with photo radar ticket camera installations. The radar device is adjusted to read accurately at a severe angle. That means if it is used to measure speeds of vehicles directly in line with the radar beam the speed readings will be much higher than the actual speeds. This error comes into play when the ticket camera vans and their radar guns are situated in such a manner that the radar beam is at a lesser angle than the angle intended to accommodate the cosine error. §

Common Radar Errors (7 of 9)

Beam Reflection Error

It's fairly common knowledge that radar beams reflect off of solid objects. Not so common knowledge is that a radar unit can obtain readings from reflected beams.

A radar gun pointed at a near-by large metal sign can send out a beam that hits and reflects off the sign, then hits a moving vehicle that reflects the beam back at the sign where it is reflected back at the radar gun. The closing speed is calculated and a speed is displayed.

The operator thinks he is reading the speed of an approaching vehicle when in fact he is reading the speed of a vehicle behind him. Unlike certain other radar errors, there is no way to easily detect this kind of error.

The cure for beam reflection error is not to use radar in close proximity to reflective surfaces. §

Radio Interference

Police and CB radios can cause a false reading on a traffic radar unit.

Radio transmissions from within a patrol car cause false readings known as ghosting.

For a proper radar reading, an officer must not transmit on any radios for the duration of the encounter.

Modern radar guns typically display warnings when they are being influenced by external electro-magnetic forces, radio waves, and similar factors, but these interferences can be transient and intermittent.

They can generate an erroneous speed reading with no evidence before or after the reading is noted. §

Common Radar Errors (9 of 9)

Fan Interference

A patrol car's heater fan can alter the reading of radar units, since the radar tends to pick up the pulses of a heater or air conditioner fan.

This interference will usually disappear when the radar receives a strong reflection from a target vehicle. §

Fighting The Typical Radar Ticket (1 of 7)

Let's look at the testimony the police officer will give at your trial.

As the lead witness for the prosecution, the officer will testify that he observed your vehicle entering the Village of Podunk and he estimated your speed to be 40 miles per hour.

He activated his radar device, clocked your vehicle for three seconds and locked your speed in at 39 miles per hour.

He will also attest to his training and skill with a radar device and assure the court that he is an expert in radar operation.

Now, let's return to the steps you can take to develop a strong defense to this, the most typical of speeding tickets.

You should return to the scene of the crime with a camera, a 100-foot tape or similar measuring device, and a friend to help you.

(continued on next page)

Fighting The Typical Radar Ticket (2 of 7)

Park your car where the police car was parked and determine where he could have first seen your vehicle. (Remember, you asked for this information in your request for discovery.)

Take a photograph that captures the scene. Also take photographs of signs, utility lines, and traffic using the same roadway. Take a picture of your car parked in the same way the patrol car was parked.

Next, you should determine how far your car would travel in the time it took for the officer to observe your speed for one second, for two seconds, and for the three seconds he will have claimed to clock you before locking in your speed.

A vehicle traveling one mile per hour will cover 1.47 feet per second.

To determine how many feet you would travel in one second, at any claimed speed, you simply multiply 1.47 times the speed.

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Fighting The Typical Radar Ticket (3 of 7)

In this example you would multiply 1.47 times 39, your speed in miles per hour (then multiply that by the number of seconds).

Be prepared to show the court how you arrived at this distance. Take a photo that shows where your vehicle would have been at the time the officer claims to have "locked in" your speed.

Here's a sampling of the things you might discover from the above exercise:

- Metal signs that could have reflected the radar signal
- Utility lines that could have caused spurious signals
- Traffic patterns that could have caused another vehicle to trigger the officer's radar reading
- The fact that the distance you would travel, according to the time sequence the officer is likely to testify to, would result in serious cosine errors

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Fighting The Typical Radar Ticket (4 of 7)

The cosine error will prove to be very troublesome for the prosecution.

Here's why:

Let's assume that you determine that the earliest the officer could have seen your car was when you were 260 feet away. At 39 mph your vehicle would be moving at 39×1.47 feet, or approximately 57 feet per second.

Assume at least one second for the officer to see your vehicle and engage his radar device, added to the three seconds he will claim to have clocked you, or four seconds total, during which you will have traveled 228 feet.

This puts you only 32 feet from the officer's car at the time he "locked in" your speed from his side-street hiding spot. The angle of his radar beam to your direction of travel would result in a very serious cosine error.

You would have to be going 90 mph to register a 39-mph reading on a radar

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Fighting The Typical Radar Ticket (5 of 7)

device at this type of angle. The officer will have already testified that he estimated your speed at 40 mph, therefore no one will seriously suggest you were actually going 90 mph!

Radar operator manuals include cosine error tables as well as descriptions of cosine error. We've also included cosine error tables in Volume 3 of this ebook. Here's what *really* happened when the officer clocked your vehicle.

He waited for the first glimpse of a vehicle and triggered his radar device; the number 39 popped up instantaneously.

The truth is, the "39" could have been a reading from his heater fan, another vehicle he didn't immediately notice, or a reflected reading off of a metal sign that captured the speed of a vehicle in the opposite direction.

He really doesn't know.

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Fighting The Typical Radar Ticket (6 of 7)

But what he does know is that the script to uphold a radar reading in court requires that he claims to have "observed you speeding, estimated your speed, and verified his estimation with a radar reading of at least 3 to 5 seconds."

In more cases than anyone wants to admit, there was no radar reading of merit, just the officer saying he had a radar reading in order to intimidate the ticket recipient.

A combination of court requirements and proven radar operation procedures has evolved to protect motorists from bogus radar-based tickets.

The scripts the police use when testifying are designed to fulfill the requirements of these cases and radar operator requirements spelled out in official training manuals.

Police officers often forget that hard facts, easily proven, can dismantle contrived testimony.

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Fighting The Typical Radar Ticket (7 of 7)

By using "discovery," "public records" laws, and the other methods explained in Volume 1, you can assemble enough information to have a good idea of what the officer is actually going to testify to during your trial.

Attending a previous court hearing will also give you a good idea of the local script being used by police officers who are testifying in radar cases.

You can use their own testimonies to undercut the prosecution's case.

When you prove to the court that what the officer has testified to is physically impossible or technically in violation of proper radar operation procedures, the prosecution's case will be seriously compromised. §

Fighting Time-Over-Distance Calculations (1 of 6)

Many speeding tickets are issued as the result of motorists being clocked with devices that measure how fast a vehicle covers a known distance.

The most common time-over-distance speed measurement devices are VASCAR and ACCUTRAC. However, even a radar-based citation may prove vulnerable to a defense that involves time-over-distance calculations.

Because many judges and district attorneys are uncomfortable with mathematical calculations, it is important for the well-prepared defendant to present math-based arguments in the simplest of terms.

We will start from the end and work backwards.

As described earlier, a vehicle moving one mile per hour will cover 1.47 feet in one second. To determine how far a vehicle will travel in one second at a specific speed, just multiply that speed by 1.47 feet.

(continued on next page)

Fighting Time-Over-Distance Calculations (2 of 6)

If a vehicle is traveling at 60 mph it will cover 88 feet in one second. Obviously, it will cover 176 feet in two seconds, etc.

If you are trying to determine how many seconds it would take a vehicle to cover a known distance in feet at a specific speed, just divide the known distance by the known speed and divide the result by 1.47 feet.

For example, a vehicle traveling 60 mph will cover 300 feet in 3.4 seconds. The calculation to arrive at that time is the following:

1) Convert speed into units of feet per second

$$60 \text{ mph} \times 5280 \text{ feet/mile} \times 1 \text{ hour}/3600 \text{ seconds} = 88 \text{ feet per second}$$

2) Divide the known distance (in feet) by the specified speed (in feet/second)

$$300 \text{ feet} / 88 \text{ feet per second} = 3.4 \text{ seconds}$$

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Fighting Time-Over-Distance Calculations (3 of 6)

If you are challenged on the validity of the 1.47 feet-per-second figure, you can prove its validity in very simple terms.

There are 5280 feet in one mile. (This should be common knowledge but it can be proven with most any reference book, even a standard dictionary.) A vehicle traveling one mile per hour will cover 5280 feet in one hour. Even slow learners should understand this.

There are 60 minutes in one hour, so a vehicle traveling one mile per hour will travel 1/60th of that distance in one minute, or 88 feet.

There are 60 seconds in one minute, so a vehicle traveling at one mile per hour will cover 1/60th of that distance in one second, or approximately 1.47 feet.

You could also state that there are 3600 seconds in one hour and divide that number into 5280 feet and the result would be the same, 1.47 feet.

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Fighting Time-Over-Distance Calculations (4 of 6)

Once the court accepts and understands the source of these numbers, you can apply them to your defense.

If you receive a VASCAR ticket, you should obtain (and you are entitled to) a description of the distance over which you were clocked, the time it took your vehicle to cover that distance, and the speed you are charged with traveling.

If the citation or incident report claims you covered 300 feet in 4.2 seconds, and you are being charged with speeding at 60 mph in a 50 mph zone, you can readily verify the accuracy, or lack thereof in this case, of the speed you were allegedly traveling.

At 60 mph you would have traveled 370 feet in 4.2 seconds, not 300 feet. However, at 50 mph you would have traveled 309 feet, indicating that you were driving within the speed limit.

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Even if your calculations indicate the error was in the opposite direction, that your speed was underestimated, the speed-reading is still faulty, and so it should still be disallowed as evidence against you, thereby eliminating the prosecution's principal evidence against you.

In other cases involving radar or pacing, time-over-distance calculations can prove serious inconsistencies in the officer's testimony.

If the officer testifies that he clocked your vehicle for five seconds and you were going 80 mph, you can prove, by using time-over-distance calculations, that the officer could not have seen you for more than two seconds, due to a curve or sign, if you had actually been traveling 80 miles per hour.

Applying what you now know about cosine error you can use time over distance calculations to undermine the typical testimony of a radar operating police officer.

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Fighting Time-Over-Distance Calculations (6 of 6)

He will claim he observed your vehicle traveling at a high rate of speed. He then visually estimated your speed at 60 MPH. Next, he confirmed his visual estimation by tracking you with his radar gun and then locked in a speed of 62 MPH.

This whole process may have taken five seconds and by using time over distance calculations the defendant can prove that in five seconds he would have been directly perpendicular to the radar operator and the radar reading should have been zero when the speed was locked in. §

Defense Of Necessity (1 of 3)

"Defense of Necessity" is a defense strategy that may be applicable under certain circumstances. Essentially, it is the argument that it was absolutely necessary to violate the law to avoid harm.

To use this defense successfully, you must show that the harm or evil you avoided was greater than the harm sought to be prevented by the law you violated.

For example, the Wisconsin State Statutes define "Necessity" as follows:

"Pressure of natural physical forces which causes the actor reasonably to believe that his or her act is the only means of preventing imminent public disaster, or imminent death or great bodily harm to the actor or another and which causes him or her so to act..."

For example, there was a Canadian motorcyclist who escaped conviction by

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Defense Of Necessity (2 of 3)

using the defense of necessity, for travelling 129 km/hr in a 60 km/hr zone.

The motorcyclist was riding westbound in the right lane with a car following closely behind him and the sun in his eyes. He suddenly spotted a car merging into his lane from an on-ramp, operated by a driver who appeared not to see him.

Two cars on his left blocked him from changing lanes, while the presence of the car close behind him made the prospect of braking dangerous. He chose to accelerate past the merging car and adjoining traffic, and was stopped by a police officer operating radar.

In court, he never denied speeding, and pleaded "guilty with an explanation."

Although the judge sympathized with his predicament, he apparently made the comment that, "If you drive a motorcycle you must have been speeding sometime in your life, so you're paying for it now."

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Defense Of Necessity (3 of 3)

Bothered by this unfair remark, the motorcyclist appealed the decision.

The appeals court judge said, "...the only reasonable action or evasive action he could do was to accelerate," and found him not guilty. The federal government appealed, but the decision was upheld by the District Court of Ontario.

The courts have total discretion in determining the validity of this defense argument. If the danger or harm avoided by violating the law was clear, imminent and very serious in nature (death, injury, or extensive property damage) and otherwise unavoidable, the courts are inclined to recognize a "defense of necessity."

If these conditions exist, it is advisable to research statutes and case law in your state to learn how they treat "defense of necessity." §

Fighting Automated Photo Tickets (1 of 10)

There are two basic types of ticket camera programs.

The more typical program holds the registered vehicle owner responsible for the ticket. It does not matter who was driving the car, the registered owner is responsible for the ticket.

The fines are usually modest, no points are assessed against the vehicle owners drivers license and the trial is frequently an informal hearing process with minimal consideration of due process rights.

The second ticket camera program differs in that the vehicle operator is held responsible for the violation.

The registered vehicle owner still receives the citation, but the prosecution must prove the owner, or another person, was driving the vehicle, typically based on the photo taken at the time of the violation.

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Fighting Automated Photo Tickets (2 of 10)

Arizona and Virginia require that the vehicle owner must be personally served the citation, unless the vehicle owner waives that right by responding to a mailed notice of the violation.

The State of California does not require personal service of the citation, but does hold the vehicle operator responsible for the violation. In these states the fines are higher, points are assessed against the drivers license, and a persistent defendant can obtain a semi-legitimate trial.

In the states that require personal service of camera tickets it is prudent to not respond to any written notice of a violation.

Often, personally serving a citation is too costly and time consuming to justify the potential return. Instead the unit of government, or ticket camera company, will attempt to coerce or trick their victims into responding and thereby waive their right to being personally served the citation.

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Fighting Automated Photo Tickets (3 of 10)

If you are an out-of-state resident it is very unlikely that you will be personally served a citation from one of these states.

The states (and Washington, DC) that simply use first class mail to notify the vehicle owner consider this to be a legal and adequate notification of the violation.

Failure to respond will result in some form of judgment against the vehicle owner.

If you receive a ticket in the mail and the vehicle in the photo is clearly not yours, the ticketing authority should be notified accordingly.

Send a certified letter (with return receipt) explaining the error and perhaps a copy of your title, indicating the make and model. Keep this documentation if the need arises to confirm your response.

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Fighting Automated Photo Tickets (4 of 10)

Possible Defenses:

Ticket camera systems are not infallible. They can be mistimed, photograph the wrong car, be improperly calibrated, or otherwise defective. Some states (e.g. CA, VA, TX, NJ) have state standards that specify minimum yellow light times.

On many occasions local governments ignore these standards. And, as the old saying goes “a picture is worth a thousand words” but it may take a thousand words to explain that picture.

Until recently, the courts have not held ticket camera programs to the same standards required to convict motorists of traffic violations.

The prosecution presents a photograph of the defendants car allegedly running a red light, making a rolling right turn on red, or exceeding the speed limit, and barring a miracle the defendant is found guilty.

(continued on next page)

Fighting Automated Photo Tickets (5 of 10)

There has been no opportunity for the defendant to cross examine the technicians that repair, maintain, or operate the camera equipment or timing devices.

There was no opportunity to verify the legitimacy of the evidence (it's not exactly rare that photos are manipulated and changed to achieve the desired effect, especially when money is involved).

This situation may be about to change.

The US Supreme Court recently ruled that defendants have a due process right to cross examine the persons who test, inspect, maintain, and/or otherwise oversee devices used to generate evidence presented at trial.

This issue arose in a criminal trial but there is reason to believe the same standards would apply to traffic cases, given their quasi criminal nature.

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Fighting Automated Photo Tickets (6 of 10)

Further, a California Appeals court, even more recently, found that defendants dealing with camera tickets have the right to cross examine the persons who operate and maintain the ticket camera system.

The ability to employ this due process right will substantially improve the balance of power between defendant and prosecutor.

In states where the driver, not the vehicle owner, is held responsible for a camera ticket, the most common defense is “that isn’t me in the picture.”

This is a natural if the defendant is one gender and the driver is another gender. The defendant does not have to take the stand. For example, the prosecution will not be able to prove its case if the photo contains the image of an African American and the defendant is Chinese.

The prosecution might push the issue and not concede the obvious, hoping the defendant will take the stand to prove his innocence.

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Fighting Automated Photo Tickets (7 of 10)

Once on the stand the defendant can be aggressively questioned in an attempt to learn the identity of the driver.

However, the defendant need not take the stand.

Instead, at the completion of the prosecution's case, the defendant can make a Motion to Dismiss based on the fact that the prosecution did not, could not, prove the defendant was driving the vehicle that violated the law.

In numerous instances, defendants who were suspicious of the yellow light durations have returned and actually timed the yellow lights, and found they were not long enough in duration to meet state standards.

You should also issue a request for discovery or a public records request to find out from the locality's traffic engineering department what their requirements are for yellow light duration, to determine if the traffic signal in question was in compliance.

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Fighting Automated Photo Tickets (8 of 10)

Since yellow light timing should be adjusted based on the typical approach speed (i.e., average vehicle speed based on free-flowing traffic and a green light at that intersection), you should also request a copy of the most recent traffic engineering study for the area of the intersection in question.

It should be noted there is a recommended federal standard that requires yellow light durations to be at least three seconds in length. However, most states will not consider this a mandated requirement, because it is only a recommendation.

If the yellow light duration doesn't conform to the state law the ticket should be dismissed. (You can visit the NMA's www.shortyellowlights.com for more information about the yellow light measurement process.)

Always study the photo evidence to make sure it is your car and your license plate in the picture. Also confirm that the photo clearly shows that your vehicle

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was in a position of violating the law.

Many times the cameras are positioned in a manner that causes the observer/reviewer to “assume” the vehicle entered an intersection on a red light.

From a different angle or perspective the vehicle might actually have entered the intersection on a yellow light.

An assumption should not be grounds for a conviction.

Because the public and some elected officials have caught on the tactic of shortening yellow lights to create more violations, many local ticket camera operations have been forced to increase yellow light durations.

In so doing the violations have dropped dramatically, making the ticket camera operations unprofitable. The official response has been to switch enforcement to Right Turn On Red (RTOR) violations.

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Fighting Automated Photo Tickets (10 of 10)

In California, some cities, now generate 90 percent of their violations and revenue off of RTOR violations.

Although RTOR laws all require coming to a complete stop before executing the turn, almost all drivers simply slow down, yield the right-of-way, and then make their turn, not quite coming to a full stop.

This is a situation where the law needs to be changed to accommodate an actual practice which has proven safe and efficient. In the meantime, as a result of public pressure, RTOR citations are being prohibited or discouraged at some ticket camera locations.

Other defenses include accommodating emergency vehicles, traffic signals obstructed from view, and being part of a funeral procession. There are also some states that allow motorcycles to proceed through a red light if the light does not change because it does not detect the presence of a small vehicle. §

Rules Of Evidence For Beginners (1 of 7)

This section was written by Casey Raskob, a NMA New York activist.

By far the most difficult concepts for the layman to master in a courtroom are the rules of evidence.

A good lawyer can, at trial, hamstring a less-capable lawyer by using the rules to his advantage. Evidence is a full-time job, the subject of multi-volume treatises and week-long courses for attorneys.

To be able to handle this well is akin to knowing how to drive the early Porsche turbo. Few can do it well, and the rest will just go off the road backwards.

Hopefully, we'll be able to keep you on the road.

A courtroom is a crucible. Information is accepted only within strict parameters. Reliability is paramount. All information must be able to be cross-examined.

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Rules Of Evidence For Beginners (2 of 7)

The best example is the classic "Can I bring a notarized statement from my friend, who was in the car at the time, but can't take off work?" question.

You bring the paper to court, and the prosecutor objects to the paper, and the judge upholds the objection.

Why?

Because you can't cross-examine a piece of paper.

If you brought your friend, the court would hear him, because he could be cross-examined. This is the most basic concept of evidence.

You, a "pro se" (self) defendant, can cross-examine the officer. Many pro se defendants miss this opportunity when the officer completes his testimony.

The judge will usually indicate that the defendant may ask the officer questions,

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Rules Of Evidence For Beginners (3 of 7)

and then the defendant launches into a diatribe about enforcement priorities, revenue enhancement, etc. This is incorrect, and the judge tells the defendant to ask questions, not make a statement. The defendant, flustered, then proceeds to blow any chance he had.

You should ask questions only of the officer, and when you are done, then you may testify. When you are done, the prosecutor may ask you questions.

You cannot be forced to testify, but if you do, you may then be cross-examined.

If you really were speeding, you can see why it's not a good idea for you to testify.

If you take pictures to help prove your case, they will be allowed in because you took them and are there to explain how.

If someone else took the pictures, they will not be admissible, as the person who took them is not there to answer questions about how they were taken.

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Rules Of Evidence For Beginners (4 of 7)

Documents are different than people. Keep in mind the incorrect statements you have seen in newspapers and books.

Any document brought in must "have a foundation laid." That is, the document must have the origin laid out, and must be somehow authenticated.

The easiest way to do this is to ask the other side to recognize it as authentic.

For example, you can ask the officer if a document is the manual for the radar gun he used on the day of the citation. If he says yes, you can use it to cross-examine him.

If he says it's the wrong one, or outdated, then it is useless. Most manufacturers know this, and the manuals are written to be useless to the defense.

If you were to try to introduce a book like "Beating the Radar Rap," it would not succeed, because it would be considered "hearsay." There are a lot of state-

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Rules Of Evidence For Beginners (5 of 7)

ments in the book which cannot be proven or cross-examined in that court at that time.

A classic example is asking someone if he saw an accident. He tells you no, but he spoke to someone who did, and he said...

This is useless, as the person the speaker heard is not here and cannot be cross-examined.

This is why, in a two-person speed trap, you need both the cop who ran the radar and the one who actually stopped you to make a case. The officer who wrote the ticket cannot testify as to the use of the radar or the traffic conditions.

The same thing works for airplane tickets; the ground cop can't testify about what the airborne spotter saw, and vice-versa.

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Rules Of Evidence For Beginners (6 of 7)

If you tried to introduce a newspaper article discussing traffic ticket quotas, or a report from Cincinnati Microwave, Inc. about the errors of radar, you would have the same problem.

The statements in print are not capable of being cross-examined. The prosecution will not recognize them like the radar gun manual.

You will not get them in, unless you are able to get the author in court and have him recognized as an expert. That is a topic far beyond this basic treatment.

The next common question is "Can I bring this legal case I found, which looks really good, to the judge?"

If it is not from that state, then in most cases don't even try.

For example, a New York court is not bound by precedent in Minnesota.

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Rules Of Evidence For Beginners (7 of 7)

A case "holding" only applies to courts in that state. Generally, if the case is from out of your state, it is not binding and is not going to be accepted.

However, if in your research at the library you found a relevant court case from within your state (state statutes normally contain references to applicable court cases), it is admissible.

Make sure that case has not been overturned at the appellate level before you go any further.

In court, just wait until after the prosecution has finished, then introduce it. It is even better if it is a ruling by your state's Supreme Court. Opinions, such as what a judge writes in deciding a case, can also be introduced providing that judge's court is in your state.

In the end, your best bet for defending a ticket is to bring live witnesses, or proof you made yourself, like pictures. §

Trial By Declaration (1 of 4)

The traffic ticket industry relies on people not having enough time to fight their tickets. Going to court, often multiple times, can be a burden on even the most motivated ticket fighters.

Because of the amount of time a traffic ticket case requires, we're often asked if there is any way to fight a traffic ticket without the hassle of driving to the courthouse.

The good news is that in certain states, through something called "trial by declaration" or "trial by affidavit," it is possible. The bad news is that those states are in the minority.

Trial by declaration allows a defendant to state their case in writing, send it to the judge, and have the judge make a decision based on the facts presented in the letter.

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Trial By Declaration (2 of 4)

Although this may sound appealing, there are few things to consider before fighting a traffic ticket in this way:

- 1) When you fight your traffic ticket using trial by declaration, you give up the right to directly ask the officer questions.
- 2) Any chance of dismissal due to the absence of the ticketing officer disappears.
- 3) Because you're not there in person, it becomes much easier for the judge to find you guilty — all it takes is a rubber stamp.
- 4) In some states you give up your right to a regular trial when opting for trial by declaration.
- 5) As mentioned previously, it's not available in the vast majority of states.

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Trial By Declaration (3 of 4)

States where trial by declaration is not allowed include:

Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

However, these nine states do allow trial by declaration in certain areas:

California, Florida, Hawaii, Indiana, Louisiana, Nebraska, Ohio, Oregon, and Wyoming.

Even in these states, trial by declaration is not always available. It's often only available at the discretion of the local courts. On the next page, you'll find more specific information for each of these states.

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Trial By Declaration (4 of 4)

California: Search for California Vehicle Code Section 40902.

Florida: Search for Florida Rules of Traffic Court (Rule 6.340).

Hawaii: Search for §291.6, Section 2.

Indiana: You must opt for a "Trial by Affidavit." Contact the court for the rules and regulations involved.

Louisiana: Contact the court for the rules and regulations involved.

Nebraska: Contact the court for the rules and regulations involved.

Ohio: Trial by declaration is available only at the discretion of each court.

Oregon: Search for ORS 153.08.

Wyoming: Trial by declaration is available only at the discretion of each court. §

The Pre-Trial Conference (1 of 6)

A pre-trial conference is a meeting, mostly in-person although sometimes by telephone conference, between the prosecutor and the defendant.

The pre-trial conference is a negotiation, pure and simple.

The prosecutor's motivation is to avoid the time and expense of conducting a trial while maximizing the penalty paid by the defendant.

The prosecutor may try intimidation, bargaining, or just offer the same "deal" to all defendants.

It's common knowledge that most traffic ticket defendants are primarily concerned about the points assessed for traffic law violations. It's also common knowledge that most courts are primarily concerned about generating revenue.

Consequently the negotiations tend to involve removing points and keeping or increasing the fine.

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The Pre-Trial Conference (2 of 6)

Some jurisdictions have this system honed to a fine edge.

The negotiations involve a formalized increase in the fine that corresponds with a reduction in points. What starts out as a \$100 fine and three points evolves into a \$400 fine and no points.

Keep in mind, this is all about maximizing revenue for the locality, not about what is fair.

The pre-trial conference can be rather cut-and-dried, or it might involve serious negotiation if the defendant appears determined to put on a strong defense.

For this reason, the defendant should strive to develop some leverage for the meeting.

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The Pre-Trial Conference (3 of 6)

One way to do this is to submit a request for discovery (discussed earlier) to the prosecutor in advance of the meeting.

Along with conveying the impression of determination, this gesture also implies more work for the prosecutor's staff.

Either party can request a pre-trial conference.

There are some instances where the prosecutor's office will call for a mandatory pre-trial meeting, and insist on personal appearance by the defendant.

This is obviously a major hardship for out-of-state defendants.

The defendant is not without options. He can petition (motion) the court to allow a telephone conference. Or, he can hire an attorney to represent him at the pre-trial conference.

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The Pre-Trial Conference (4 of 6)

The prosecutor may use this tactic to place the burden of additional expense on the defendant and thereby pressure the defendant to drop his challenge of the ticket.

If an attorney is retained by the defendant, the end result will most likely be a plea bargain of modest benefit to the defendant.

Like all aspects of the ticket fighting process, preparation for the pre-trial conference is important.

1) Have a game plan; know what you hope to accomplish.

If you want nothing less than a complete dismissal of all charges – no points and no fines – then this isn't the time or place to make that stand. You can, however, use the pre-trial conference to put the prosecution on notice that you intend to fight this ticket and take up large swaths of his time in the process.

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The Pre-Trial Conference (5 of 6)

This is a process of compromise; you have to be willing to give and take. Know your end game – what you hope to achieve.

2) He who speaks first loses.

Let the prosecutor begin the discussion, hopefully with an offer to reduce the fine and/or points. If instead he asks why you are challenging the ticket, just say something non-specific like "I'm not guilty" or "I wasn't speeding."

Don't go into details and don't go into your case or defense. If you don't like the deal the prosecutor offers, make a counter-offer, one that gives you room to "give up" a little more.

3) Be even-keeled throughout and don't personalize the negotiations.

Stay calm and business-like. Remember this is just about money. Be friendly and courteous, but don't grovel.

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The Pre-Trial Conference (6 of 6)

4) Don't feel that you absolutely have to reach an agreement during the pre-trial conference.

Work toward an equitable arrangement, but at some point you may need to recognize that it isn't possible.

It is not unheard of to have more than one pre-trial conference.

Often there will be another attempt to settle the matter just before trial.

The foundation you lay at the first pre-trial conference can give you a stronger position for a follow-up conference or even the trial. §

The Trial & Appeal Process (1 of 4)

Here's your opportunity to unleash your new skills and exercise all your preparation.

But wait, the officer that gave you the ticket isn't in court and he is the prosecution's only witness against you.

If the officer isn't there they can't make a case against you. However, a dismissal isn't automatic, especially if you don't make a specific motion for dismissal.

The prosecution may just ask that the court postpone the trial to a later time or date. It's up to the court to make the decision and it's up to you to persuade the judge to grant that dismissal.

If the prosecutor argues against a dismissal, you should point out that the trial date was set for the convenience and with the knowledge of the prosecution.

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The Trial & Appeal Process (2 of 4)

You have suffered inconvenience, time off of work, and expense to be at this trial. It's the prosecution's responsibility to have its witness ready for trial.

Point out that if you were not in attendance at the trial you would automatically be found guilty and assessed all related penalties; fairness dictates that the charges against you should be dismissed.

Almost always, the judge will grant the dismissal.

Unfortunately, at the last minute the arresting officer arrives in court, so it's back to plan A, defending yourself at trial.

As noted previously, the prosecution will call the arresting officer to the stand. The officer will clearly identify you as the culprit responsible for the violation, even though he doesn't have the vaguest idea of who you are.

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The Trial & Appeal Process (3 of 4)

He will recite how he used perfect approved procedures in documenting your violation.

He will describe his impeccable training and experience as a traffic law enforcer.

And it's up to you to prove that this is more illusion than fact.

Typically, the officer will be the only witness against you. When you are done cross-examining him it will be your turn to present your side of the story, your defense.

If you had a passenger in the car at the time of your apprehension and that passenger can confirm your description of events, have them in court to testify on your behalf.

A letter or signed affidavit will not be accepted as evidence.

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The Trial & Appeal Process (4 of 4)

The real person has to be there, just like the police officer has to be there, to make themselves available for questioning by the opposing party.

If your violation was a civil infraction the judge can compel you to testify, although that seldom happens. If your violation was a criminal offense you cannot be compelled to testify, but you can testify if you choose to do so.

If you completely and convincingly dismantle the arresting officer's claims and it seems the court agrees, then there is no reason to testify.

However, if the issue is still up in the air, you may have little choice but to put yourself on the stand. The good part is, you get to tell your story. The bad part is, the prosecution can ask you all kinds of difficult and incriminating questions.

A couple tips: "I was going with the flow of traffic," or "I wasn't going 87, I was only going 84" are not arguments that will swing the decision in your favor. §

The Police Officer Lies On The Stand:

This is the most common obstacle a pro se defendant will encounter. Perjury is a serious crime, but it is almost impossible to prove.

Calling the officer a liar will not win you any points with the judge. Your challenge is to prove the officer may be "mistaken" in his recollections. Because the officer testifies according to a rote script, his description may bear only a vague resemblance to what actually occurred during your encounter.

If you are well-prepared with arguments, reports, photos, or other documentation that confirms your testimony about the events in question, you can undercut the credibility of the officer and his testimony without personally assailing his integrity – as much as you might be tempted to.

The point here is to expect that the witness against you will be less than truthful and to plan for that possibility.

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You Can't Raise The Issues You Want To Raise:

Earlier in this text it was mentioned that even though a defendant may have good information and knowledge about radar and the errors that can be made with radar, the court will not let him introduce that information.

This typically arises when a pro se defendant, during cross examination of a police officer, or even during his own testimony, attempts to describe errors that were made in the use of a radar device.

The prosecution quickly intercedes with an objection that the defendant has no official standing as an "expert" on radar and therefore his opinions should have no bearing on the evidence, and the judge sustains the objection.

The officer, on the other hand, is automatically accorded expert status, at least as far as proper radar operation is concerned. (He is not expected to be knowledgeable on the science behind radar.)

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So what to do when the officer claims he can clock one vehicle in a pack of vehicles on a crowded highway?

One strategy that may be effective is to ask the officer to describe specific radar errors, by name.

"Officer Jones, would you please describe cosine error?" (beam reflection error, panning error, etc.)

If he can't describe these errors he will appear incompetent, and this will lay the foundation for a motion the court to not admit the radar reading into evidence.

However, if the officer makes up descriptions or claims that no such errors exist, there is little the defendant can do to prove the officer's testimony is in error.

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Remember, even if knowledgeable, the defendant cannot give expert testimony, unless he's a recognized expert.

There is a way around this conundrum.

During the discovery process, the defendant should ask for a copy of the training manual the police use for educating their police officers on the use of radar (or laser, LIDAR, VASCAR etc.).

If no such manual exists, use public records law to get a copy of the manual used by the state patrol/police for training purposes.

Armed with an official training/operator's manual, the defendant can ask the judge to give the manual "judicial notice."

This means the court recognizes the legitimacy of the document and it can be used during the trial.

(continued on next page)

Then you can use the operator's manual to verify your claims, while providing a foundation that will discredit the accuracy of the radar reading.

Amending the citation or the charges:

The typical errors made on a traffic ticket are usually not sufficient to generate a dismissal of charges. However, in some instances, the errors are so egregious that left uncorrected they will destroy the prosecution's case.

For example, a ticket indicates that the defendant was driving a blue Ford, when in fact the defendant was driving a yellow Buick.

Or, the defendant is charged with violating state statute 134-a, which is a law dealing with school zone speed limits. However, the actual violation was speeding on an interstate highway.

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If either of these errors is brought to the prosecution's attention prior to trial, or even during the trial while the prosecution is making its case, there is a strong likelihood that the judge will allow the prosecution to correct the ticket errors or change the charges.

This also happens when the defendant is charged with a lesser violation before trial, but when the defendant goes to trial the charges are escalated to a more serious violation – call it payback for having the audacity to fight the ticket.

One strategy is to say nothing about the errors and let the prosecution's witness hang himself describing a blue Ford or the interstate speeding ticket.

When the prosecution has finished, the defendant should specifically confirm that the prosecution has completed its case. "Your honor, has the prosecution completed its testimony?" It will normally be confirmed and it's then the defendant's turn to present his case.

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Without giving testimony the defendant can make a motion to dismiss based on the fact that he does not have a blue Ford and has never driven a blue Ford and it is clear the officer observed someone else committing this violation, even though he stopped the defendant while driving a yellow Buick.

In the case of being charged under the wrong statute, a motion can be made arguing that none of the testimony presented by the prosecution proved that you violated a school zone speed limit, the law you were charged with violating.

You were not charged with violating an interstate speed limit, the subject of the officer's testimony.

The key here is to lock the prosecution out of the opportunity to amend the ticket or the charges.

This is done by their formal declaration that they have completed their testimony.

(continued on next page)

Note: An ethical prosecutor would not go forward with a prosecution that involved a situation like the Blue Ford vs. Yellow Buick.

He would accept that this kind of error seriously taints the evidence against the defendant and would drop the charges.

Unfortunately, in this day and age where revenue and "winning" are the driving forces in traffic law enforcement, ethics is an endangered species. §

How To Deal With A Hostile Judge (1 of 2)

Local courts at the village, town, or municipal level are sometimes staffed with judges or hearing administrators with minimal knowledge or interest in the law.

Their purpose is to go through the motions, provide a pretense of due process, and collect as much money with as little investment as possible.

A determined defendant has two choices; go through the show trial and then appeal to a more legitimate court, or attempt to obtain a change of venue (have your case sent to another court), not always easy.

Oftentimes these bottom-of-the-pile local courts are not "courts of record," meaning there is no record, written or recorded, of the trial.

The result is that when you appeal to the next higher court, your case will be retried from scratch, like it never happened before.

(continued on next page)

How To Deal With A Hostile Judge (2 of 2)

This is called a "trial de novo."

One backhanded advantage of many local courts is that they will trade money for points.

By charging the defendant with a local ordinance violation that doesn't involve points, local courts avoid notification to the state, and so the local jurisdiction keeps all the money collected.

Of course this is supposedly all about making our streets and highways safer. §

What If I Lose My Case? (1 of 3)

If you lose at trial you have two basic decisions: pay the fine or file an appeal.

Sometimes you have to pay the fine, even if you do file for an appeal; it will be refunded if you ultimately win.

If you had a real trial in a real court with a real judge and the trial was recorded, you were in a "court of record."

Appealing from a court of record usually means that the next court higher will rule not on the facts of the case, but on the law involved in the case or the prior judge's procedure.

- * Were proper enforcement procedures observed?
- * Were the defendant's due process rights honored by the first court?
- * Were the factors that prove violation of the law adequately addressed and proven?

In some cases, the constitutionality of the underlying law might be challenged.

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What If I Lose My Case? (2 of 3)

On a rare occasion a case will be retried by the same court or another court at the same level.

This might involve new evidence that was not available at the first trial.

More commonly, a new trial is granted because the defendant, for a legitimate reason or understandable mistake, missed his trial and was pronounced guilty because he failed to appear.

Unless you have a good knowledge of the law and understand the legal procedures required to initiate an appeal (other than a de novo appeal), you will be best served by working with an attorney familiar with the process.

There are attorneys who specialize in appellate cases.

The significant expense of a full-fledged appeal usually dictates that only cases

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What If I Lose My Case? (3 of 3)

involving very serious consequences, or significant questions of law, will be taken to appellate courts.

Win or lose, you will have accomplished several positive objectives:

- 1) You will have demystified the court system and how it works.
- 2) You will have become more knowledgeable about the law and your rights.
- 3) You will have forced the "system," at considerable expense, to deal with your objections and prove your guilt.
- 4) You will have set an example for others to follow, to fight back and not simply accept whatever sanctions the government attempts to assign you.

And, if there is a next time, you will be far better prepared to represent yourself, in and out of court. §

Fight That Ticket!

WINNING STRATEGIES
FOR FIGHTING
TRAFFIC TICKETS

Written by the National Motorists Association



VOLUME 3 OF 3

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Frequently Asked Questions (1 of 23)

Does the officer have to show me the radar/laser reading?

No, this is not required in most jurisdictions. Also, whether the officer allows you to see the speed reading has virtually no bearing on your case. Officers can lock in radar readings and leave them on to display to any hapless victim, even though it was not his or her vehicle that registered the displayed speed.

Can radar clock the speed of one vehicle in a group of vehicles?

No, the radar operator is unable to determine which vehicle in a group of vehicles is responsible for the speed he sees on his radar gun display.

Can the police send me a ticket in the mail, even though they didn't stop me at the time of the alleged violation?

Yes, but the officer who observed the violation must attend your trial and testify that it was your car he observed violating the law and that you were the person operating that car.

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Frequently Asked Questions (2 of 23)

If my car was clocked from an airplane, do the officer(s) in the plane have to attend my trial?

Yes, the officer who clocked your car and the officer who gave you the ticket must appear as witnesses against you.

How often do radar guns and laser guns have to be formally recalibrated and checked for accuracy?

This varies from state to state. Some states have very specific requirements and many states have no standards whatsoever. It is not uncommon for enforcement agencies to produce calibration certificates for a radar gun, any radar gun, regardless of whether it was the radar gun actually used to issue the citation.

Where do I send a Request for Discovery?

A Request for Discovery goes to the District Attorney/Prosecutor responsible for your case.

(continued on next page)

Frequently Asked Questions (3 of 23)

Where do I send a Public Information Request or Freedom of Information Request?

These requests should be sent to the agency or office that holds the actual record you are seeking, most often the police department that issued you a ticket.

What is a "Defense of Necessity?"

This is a legal defense where the defendant claims it was necessary to violate the law to prevent or avoid serious harm such as loss of life or personal injury. This defense is covered in more detail in Volume 2.

Can police officers operate speed traps while parking on private property?

Yes, but they must also vacate the property if asked to do so by the property owner.

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Frequently Asked Questions (4 of 23)

Will the court automatically dismiss the charges against me if the officer does not show up for my trial?

Not always; you often have to make a motion to have the charges dismissed. Generally, a judge will grant your motion, but it is within his discretion.

The officer wrote me a ticket entirely in pencil. I know legal documents must be written in blue or black ink. Can I use this to get the ticket dismissed?

We are not aware of any law that requires a ticket to be written in ink. It is highly unlikely that a judge would dismiss the ticket because it was filled out with a pencil.

Am I entitled to at least one continuance?

No, but most courts will grant at least one continuance without seriously exploring the reason. It should be noted that requesting a continuance can forfeit the right to a speedy trial, at least in those states that have a "speedy trial" statute.

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Frequently Asked Questions (5 of 23)

Do I have a right to a jury trial?

About half the states allow jury trials for traffic law violations. You can check the state chapter pages on the National Motorists Association website to see if your state is one of them. Most states allow jury trials for DUI defendants. However, the U.S. Supreme Court has declared that the U.S. Constitution's clear mandate for granting jury trials, in the Sixth and Seventh Amendments, does not apply if the possible punishment is less than six months in prison.

Will errors on a ticket result in charges being dropped?

Sometimes. Courts will often excuse minor errors on a ticket. A misspelled name, incorrect address, or difference in opinion on whether your car is aqua or green in color will not result in a dismissed ticket. Conversely, a major error such as citing the wrong statute, radically misidentifying your vehicle or listing the wrong highway as the site of the violation should provide justification to dismiss the ticket. This is covered in more detail in Volume 2.

(continued on next page)

Frequently Asked Questions (6 of 23)

Can a police officer issue me a ticket if he's outside his own jurisdiction?

It depends. There may be inter-agency agreements that allow police to exercise their authority outside their jurisdictions. There may also be state laws that allow inter-jurisdictional enforcement actions. One point to remember is that the officer who observed the violation and issued the citation is the only person who can testify against you. The likelihood that an out-of-area officer would appear to testify against you at your trial is somewhat remote.

What if I don't believe I was going as fast as the ticket indicates?

It's possible the radar or other speed measuring device was being operated improperly. Also, the officer may have mistaken your car for another or made some other error. The burden will be on you to prove the likelihood of a mistake.

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Frequently Asked Questions (7 of 23)

But everyone was going over the speed limit. What if I was just pulled out of the crowd?

This may be true, but it is totally irrelevant now. Plead not guilty and go to court. In court, don't complain that you were being victimized. If the officer shows up in court, cross-examine him by asking questions in such a way as to make it appear he had no idea which vehicle caused the reading on the radar/laser gun.

What if they only ticket people of my race?

Sometimes this has every appearance of being true, largely due to stops for trivial traffic laws like seat belt violations, playing the radio too loud, or having a blown-out light bulb. If you believe the officer stopped you because of your race, we recommend making a complaint to the police department and/or city government. If it continues to happen after the complaint, consider a lawsuit.

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Frequently Asked Questions (8 of 23)

If I don't sign my ticket, does that mean it's invalid?

No. Signing for your ticket, which isn't required in all areas, merely means that you will pay the fine or plead not guilty and show up in court.

If I prove my speedometer was defective when I was stopped for speeding, will the court dismiss the ticket?

No. The court might consider it a mitigating circumstance, but it's likely you will still be found guilty.

What if there was more than one officer involved in my stop?

First, the clocking officer must be able to confirm that the car being pulled over was the car he clocked. This confirmation should be made to the officer who does the stop. The officer who does the stop is responsible for identifying the driver to whom the ticket is issued. Both officers must be at the driver's trial. This also applies to situations involving the use of airplanes to clock vehicle speeds.

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Frequently Asked Questions (9 of 23)

Can I write to the court and tell them why I'm not guilty?

Some states allow a "trial by declaration," which is, in a sense, a written explanation or defense you can send to the court. In general, we doubt the fairness or effectiveness of such a defense. There is very little incentive for the court to find the defendant not guilty.

However, if it is your only option, make the best of it. Know the law you are accused of violating, provide a clear description of the key events, and lay out your proofs and arguments as to why you are not guilty. More information on this can be found in Volume 2.

What will happen if I just ignore the ticket?

Ignoring a speeding ticket may result in a suspended license, an increased fine, and/or a bench warrant being issued for your arrest. This is true even if you received the ticket outside your home state.

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Frequently Asked Questions (10 of 23)

I am fighting a radar ticket. I got the radar reading tossed out on a technical violation. The prosecutor then went ahead and presented his case on the basis of the officer's experience and training on judging vehicle speeds. Based on the trooper's testimony, without any corroborating evidence, the court found for the state. Is there any case law that addresses such an issue?

The National Motorists Association funded a case with an almost identical scenario, only it involved laser. The judge suppressed the laser evidence but went ahead and found the defendant guilty based on a 1700-foot-plus visual observation.

We did a lot of digging for comparable cases and precedents and found the decisions were all over the map. Also, actual expert testimony is non-existent. Our research indicated that the human eye cannot, for all practical purposes, gauge movement from objects moving toward it or away from it, at distances in excess of 800 feet.

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Frequently Asked Questions (11 of 23)

Obviously the eye can detect movement when the object is moving perpendicular to the eye, but speed estimation is highly dubious. Visual speed estimation is largely a fraud, but it will take a very good expert witness and solid research (that to our knowledge doesn't currently exist) to prove this point.

We hope to be able to do that kind of research when we have adequate resources to do so.

How can I request to see a copy of a MUTCD engineering study for a stop sign?

Find out what city agency is responsible for placing stop signs. Either go there and ask to see the study, if there is one, or submit a public information request to see the study, addressed to the agency responsible for stop signs and other traffic control devices. This doesn't require any special forms, just a clear description of what you would like to see.

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Frequently Asked Questions (12 of 23)

What about that "ex-traffic cop" who has a guaranteed system to get people out of any speeding ticket?

No one can guarantee the outcome of your case, and you should be skeptical of anyone claiming otherwise. Fighting a traffic ticket will involve some effort on your part, but the benefits are worth it.

When the officer was writing the ticket I admitted that I was speeding. Does that mean I can no longer fight the ticket?

No, it doesn't mean you can't fight it, but you did shoot yourself in the foot. The cop will have recorded your admission to speeding. However, you can still go to court and explain some special circumstance as to why you were exceeding the speed limit, or be very contrite and ask for a break, or stick with a not guilty plea, go to trial and hope the cop doesn't show up, allowing you to make a motion for dismissal.

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Frequently Asked Questions (13 of 23)

I always thought that if the officer was a "no-show" the ticket would be dismissed. What if the judge says that the trial needs to be rescheduled?

The judge has discretion to dismiss or continue a case if the officer doesn't appear. Most often the judge will dismiss, partly out of fairness to the defendant, partly because the "crime" is usually minor, and partly to send the message to the DA that the prosecution better have their cases ready to go on the scheduled day. We encourage any defendant to demand a dismissal on the basis that the trial date was set for the convenience of the prosecution and the prosecution has a responsibility to be ready to present its case on that date.

How do I find out if a speed limit sign is legal and whether the limit was based on a study to determine the proper speed?

The records of a traffic study or speed zoning study will be held by the agency responsible for the road. If it's a state road, the closest state DOT office should have the records; most likely the traffic engineer in that office will know where to find the specific study.

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Frequently Asked Questions (14 of 23)

I want a jury trial. How do I request it?

You should contact the clerk of courts and tell him or her that you want a jury trial, not a bench trial. Be forewarned that there are often specified time limits for submitting a jury trial request. There is often an extra fee for a jury trial. (Only half the states still allow a jury trial for traffic ticket cases.) You will discover that the courts and the DA really hate having to take a traffic case to a jury trial. It's time-consuming and expensive – all the profit goes out of the ticket.

Can laser pick out a certain vehicle in a group of vehicles?

Yes, within reasonable distances, laser devices can gather a speed reading from a specific vehicle. A laser beam starts out very narrow and expands to two or three feet in width by the time it travels 500 feet. At 1000 feet, the beam is approximately three to four feet wide and the likelihood of it being reflected from multiple vehicles increases significantly.

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Frequently Asked Questions (15 of 23)

If I am issued a ticket and I pay the fine without appealing the ticket, can I sue the police department if it later comes out that the police knowingly issued the ticket in an illegal speed zone?

A civil suit for damages, based on the argument that the police knew the speed limit was illegal, would likely be a longshot. First, you would have to prove the limit was in fact clearly illegal; second, that the police knew it was illegal; and finally, that with that knowledge they issued the citation to you. After all that, the city might still escape responsibility by claiming sovereign immunity. Even winning such a suit would not automatically erase the conviction; the defendant would be paid damages for wrongful conviction, but it might take additional legal action to have the conviction overturned.

I was asked by a court clerk if I was appearing in court "pro se." That simply means that I am representing myself in court, right?

Yes, the term "pro se" means representing yourself.

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Frequently Asked Questions (16 of 23)

If there is no judicial notice for LIDAR/LASER in my state, can I get my ticket dismissed?

Not necessarily. It's important to understand that the absence of judicial notice does not automatically mean the laser speed reading will not be accepted by the court. It simply means that the defendant does have the option to challenge the legitimacy/accuracy of laser speed estimating devices.

Be forewarned that most courts will require such a challenge to be supported by a recognized expert on the subject of laser. Even though defendants may be well-versed on the subject of laser, they will not be permitted to testify on the technical aspects of laser if he is not documented experts on the subject. In other words, if you want to challenge the legitimacy of laser, you will need to call an expert witness to make that argument. This can be an expensive and time-consuming process.

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Frequently Asked Questions (17 of 23)

Where can I find out if my state has a "speedy trial" law?

You can pull up your state statutes on the web and look in the index for "speedy trial." Any librarian at a public library should be able to help you find this information. Contact the office of your state representative or state senator and ask them to find this information for you. Call a local criminal defense/DUI attorney and ask them. Sometimes these kinds of provisions are based on court decisions and not statutes, but any of the above sources should be able to sort that out for you.

How long is a radar training certification good for in most states? I have a ticket and the officer's training was last done in 2001.

The simple answer is "forever." Many jurisdictions don't even require formal certification. All they require is some degree of training, which can be very minimal. The courts will often accept time in the field and regular use of the device as sufficient. The exception would be a statutory or regulatory requirement that mandates formal training. Unfortunately, this is not commonly in place.

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Frequently Asked Questions (18 of 23)

When you suggest taking notes on your surroundings to prepare your defense, you specifically mention the type of police car and the car's license plate number. How does the type of police car help you in your defense?

We recommend recording information that helps identify the specific police car involved in your traffic stop because the car may provide a link to the validity of the speed reading that resulted in a traffic citation being issued.

If the means of clocking the speed of your vehicle was "pacing," where the officer claims to have followed your vehicle to determine your speed, it is important to establish the accuracy of the police car speedometer.

Usually, police car speedometers are periodically tested for accuracy. If the car's speedometer has not been recently checked and certified as accurate, it can be argued that the reading from such a speedometer not be allowed into evidence.

Being able to identify the specific police vehicle also allows the defendant to

(continued on next page)

Frequently Asked Questions (19 of 23)

identify the specific radar or laser unit used by the operator of that vehicle on a specific day.

Using Discovery or a public records request, a defendant can ask for the serial number of the radar/laser gun used in a specific car, with a specific license plate, on a specific date.

With that information in hand, the defendant can follow up with specific requests for maintenance and calibration records for that specific radar/laser unit. There are different routes to get this same information, but this approach increases the possibility the defendant will get the records for the unit that was used to issue the citation, rather than just sanitized records for another radar/laser unit.

There are also more rare situations where a specific model of police car will have a wiring or operational fluke that interferes with accurate radar readings. If you are going to raise this issue, you need to be able to identify the car that was involved in issuing your citation.

(continued on next page)

Frequently Asked Questions (20 of 23)

Which states prohibit radar detectors?

Virginia and the District of Columbia. Most provinces of Canada also prohibit radar detectors.

Can an officer order me out of my car?

Yes, the courts have held that the driver and any passengers can be ordered out of the car and they must comply.

Is there a law or rule that allows motorists a certain distance to adequately reduce their speed before a speed limit reduction is enforced?

Normally, the new speed limit begins at the position of the speed limit sign.

Do I have to do a field sobriety test if the officer requests that I do so?

No. Never agree to do a field sobriety test; it is simply a device to provide probable cause for a DUI arrest.

(continued on next page)

Frequently Asked Questions (21 of 23)

Is it true that the locations of roadblocks have to be published in a local newspaper before they can be set up?

No, police agencies are not required to publish upcoming roadblock locations.

Will I be denied access to Canada if I have a DUI on my record?

Yes. Canada considers a DUI a criminal offence and they do not allow convicted criminals to enter the country. However, like all "flexible" governments, Canada will waive this restriction for a substantial amount of money and red tape.

If I receive a traffic conviction in Canada, will it be reported against my United States driving record?

Possibly. Some Canadian provinces and American states have reciprocity agreements in this regard.

(continued on next page)

Frequently Asked Questions (22 of 23)

If I'm stopped for a routine traffic violation, can the police search my car?

No, not without probable cause that you are transporting illegal items. Before any search, the officer should be able to explain what he is looking for and why he believes such items are in your vehicle. However, anything the officer sees from outside the vehicle is fair game.

What will happen if I refuse to take a blood, breath, or urine test when suspected of a DUI violation?

Your license will be suspended and you will be fined an amount equal to or more than if you had been convicted of DUI as a result of the tests. However, if you can prove that the police did not have probable cause or reasonable suspicion that you were impaired, then you cannot be convicted of refusing the tests. Note: in more than one state, the police are allowed to forcibly do a blood test against the objections of an accused motorist.

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Frequently Asked Questions (23 of 23)

23

Am I doing myself a disservice by requesting information about my case? I'm afraid that I will be antagonizing the court or tipping them off to my defense.

A legitimate Request for Discovery, one that asks for pertinent information, is not unreasonable, and will not normally generate a hostile reaction. A defendant should not worry about being "liked" by the prosecutor or the judge. Presenting a competent, well prepared defense, is more likely to gain their respect than their ire. §

Sample Traffic Court Script (1 of 41)

An Introductory Word of Warning

The following script is not intended to be used verbatim or recited in court.

In fact, if you were to follow this script to the letter in your specific case, you would likely lose your case and look foolish in the process. Every traffic ticket is different, and accordingly, the methods and strategies used to fight each traffic ticket in court should be different.

Despite what you may have been told on other ticket-fighting websites, there are no magic phrases or strategies that will make your traffic ticket disappear.

We've included this example script solely as a way to show how the principles we've laid out in this ebook could be used in a specific, hypothetical situation.

Again, we must stress that you should use this script only as a general guide in designing your defense.

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Sample Traffic Court Script (2 of 41)

Here are the background facts.

Late on a Sunday afternoon, the defendant was traveling home and passing through a village (we'll call it Podunk) with a posted speed limit of 25 mph.

The streets were largely vacant and the shops were closed. A local police officer was parked on the main street facing north, running radar on southbound vehicles. Given the circumstances, most of the little traffic on the roads would probably be traveling at 35 to 40 mph, where the police officer was positioned.

The defendant was familiar with the village and knew that speed enforcement was frequent and intense. Consequently, the defendant was driving slowly down the main street.

As the defendant was leaving the village, she was startled by flashing red and blue lights behind her.

(continued on next page)

Sample Traffic Court Script (3 of 41)

Both she and the vehicle operator now in front of her thought the police car wanted to pass, on its way to an emergency. Of course, that was not the case.

The officer issued a ticket for 41 mph in a 25 mph zone. He did not indicate how the speed was measured or exactly where it was measured.

The defendant pled "not guilty" by mail and soon after made a formal request for a change of judge, with the intent to get a trial in a more neutral court.

Again, this was done by mail and in accordance with the time frame required by state law. (Not all states allow an automatic change of judge or change of venue.)

The defendant drafted a Request for Discovery and sent it to the village attorney who would be the prosecutor for this case. During a subsequent pre-trial telephone conference, the prosecutor said state law does not allow Discovery in Municipal Court and therefore no Discovery would be provided.

(continued on next page)

Sample Traffic Court Script (4 of 41)

The Defendant then made a "Motion to Compel Discovery" to the judge.

Ultimately, the prosecutor did send the incident report from the traffic stop and the report provided rudimentary information such as the fact that radar was used and the general location of the violation (half a mile from the traffic stop).

Having heard nothing about the judge substitution or the Motion to Compel Discovery, the defendant contacted the court.

The clerk claimed that the request for a change of judge never arrived at the court and the judge had not yet reviewed the Motion to Compel discovery.

The trial was less than one week away.

Two business days before the trial, the Judge called the defendant and said her request for a new judge was denied because the original request was not received and the follow-up requests did not arrive within the prescribed time frame.

(continued on next page)

Sample Traffic Court Script (5 of 41)

This was despite the fact that a copy of the original request was in the prosecutor's file. The Judge also denied the Motion to Compel Discovery.

With this inauspicious start the defendant laid out her trial strategy with a minimum of information to build her defense.

It should be noted that she did return to the "scene of the crime," took pictures of the area, measured the distance from the clocking to where she was stopped, and did her best to analyze how the radar reading was in error.

With the help of the National Motorists Association, the defendant had also researched and become familiar with common radar errors.

Because the defendant was going to attack the validity of the radar reading, she obtained a copy of the training manual used by the state police.

(continued on next page)

Sample Traffic Court Script (6 of 41)

She accomplished this by using the state's Public Records Law.

Her intention was to ask the court to give the training manual "judicial notice." If the request were to be granted, the court would accept the manual as a legitimate source of information that could be used in her trial.

In addition to errors in the radar reading, the defendant wanted to point out errors and inconsistencies on the traffic ticket and the officer's incident report.

He had listed her car as red when it is orange and black (convertible top).

The ticket said the incident took place during the day when it in fact occurred after sunset.

There was also a strong likelihood that the officer failed to maintain constant visual contact with her car after the radar reading was completed.

(continued on next page)

Sample Traffic Court Script (7 of 41)

While none of these factors in themselves would win a case, they do bring into question the credibility of the officer and his observations.

Another issue she planned to raise was the apparent failure of the village to follow state requirements for the placement of speed limit signs.

The defendant prepared the following script to guide her conduct during the trial.

Again, please remember that this script is not meant as a word-for-word recipe to conduct your defense.

It is meant to help you develop a strategy of your own, a strategy that applies to your situation, in your state, and in a court that operates under your state laws.

(continued on next page)

Sample Traffic Court Script (8 of 41)

The Trial Begins

Before the prosecution questions the police officer, ask the judge to give the radar manual judicial notice.

"Your Honor, I'd like to have this document given judicial notice. It's the radar operator training manual used by the Wisconsin State Patrol. And it was obtained from the Attorneys General office of the State of Wisconsin. I attempted to obtain the operator training manual used by the Podunk Police Department, but my request and motion to obtain that manual was denied."

A) Judge accepts **or** B) Judge or DA questions the legitimacy of the document.

"If you find errors or fault with the document, we can discuss them at that time, and your honor can decide on the validity of the material. I do believe this manual can clarify and provide accurate and valid information related to radar operation. This is important to my defense because there has been an error in the radar measurement of my speed."

(continued on next page)

Sample Traffic Court Script (9 of 41)

The Judge either accepts or does not accept the document, and trial begins.

The officer gets on the stand and testifies according to script:

"I observed a vehicle approaching at a high rate of speed and visually estimated that speed to be 40 mph. I then confirmed my estimate with my radar device and obtained a reading of 41 mph. I checked the function of my radar device before and after the reading I obtained on the defendant's vehicle."

He will go on about his expertise and training with radar:

"I pursued the vehicle and issued a citation for 41 mph in a 25 mph zone."

Cross-examine the officer:

"Officer, would you please describe the three elements that the prosecution must prove to convict a person of speeding."

(continued on next page)

Sample Traffic Court Script (10 of 41)

He may accurately describe them, but probably not.

" With the court's permission I would like to list the criteria in WI JI-2678 Speeding; titled: Exceeding Posted Speed Limits Under Statute 346.57(5) Or An Ordinance Adopting Statute 346.57(5).

- 1) The first element requires that the defendant drove a vehicle on a highway.*
- 2) The second element requires that the defendant drove the vehicle at a speed which exceeded the speed limit established by law.*
- 3) The third element requires that the established speed limit was indicated by official signs."*

Continue questioning the officer:

(continued on next page)

Sample Traffic Court Script (11 of 41)

"Please explain how you ascertained that I was driving a vehicle on a public highway, before you actually stopped me on the outskirts of Podunk?"

He will describe how he saw you coming down main street at a high rate of speed and observed you passing by.

"Where, exactly, were you positioned when you saw my car?"

"The ticket says Main St., at John St. facing north."

Show the map to the officer and he points out the location. Note: Google Maps is a good way to obtain a map of the area.

"What color was my car?"

(If he says he doesn't remember, tell him he's welcome to check his notes on the incident report.)

(continued on next page)

Sample Traffic Court Script (12 of 41)

The officer testifies that it was red.

Show him a picture of a red car and ask him what color that car is. He should say "red."

Now show him the bill of sale indicating "orange." Then show him a picture of your car and ask him what color it is, but also ask him what color the top is.

Then respond, "*This car is orange and black?*" He should agree. The discussion of the color issue is complete.

"The citation you issued states that this incident took place during the day, is that correct?"

(He may waffle, but just instruct him to answer the question as to what the citation states.)

The officer testifies that the ticket says daytime.

(continued on next page)

Sample Traffic Court Script (13 of 41)

"Was it not dark when this incident occurred?"

The answer doesn't really matter. You have gotten your point across.

"Officer, what time does the citation indicate that this incident took place?"

Again, just hold him to testifying to the time listed on the citation. (5:20 PM)

"Officer, when you pulled me over, what color was the car in front of me, that pulled over with me at the same time?"

If he goes off on another issue... stop him.

"Could that car have been red?"

Don't let him elaborate.

(continued on next page)

Sample Traffic Court Script (14 of 41)

"From the time you first saw my vehicle on Main Street, did you maintain constant visual contact with my vehicle until you pulled me over?" (officer answers yes or no)

"If you were facing north, wouldn't you have to turn around at some location to pursue my vehicle?" (yes)

"Wouldn't safety require that you look north for possible traffic before you turned around?" (yes)

Cut off any elaboration with *"Thank you, you've answered my question."*

"Your police report indicates that the traffic stop took place at South St. and Hill Point Court. Is that correct?" (yes)

"How far is that from John's Street?" (4/10 of a mile) Note if answer is off the mark.

(continued on next page)

Sample Traffic Court Script (15 of 41)

"Again looking at the map, aren't there two corners between John St. and the traffic stop location?" (yes)

"Did you maintain constant visual contact with my vehicles throughout this time?"
(answer doesn't matter at this time)

"Let's move on to the second element the prosecution must prove: that my vehicle was exceeding the speed limit."

(The second element requires that the defendant drove the vehicle at a speed which exceeded the speed limit established by law.)

"You testified that you clocked my vehicle with a radar device, correct?"
(he will answer yes)

If he starts to expound on making a visual speed estimation, cut him off, and note that the incident report cites radar as determinant of speed.

(continued on next page)

Sample Traffic Court Script (16 of 41)

"What is the make, model, and serial number of the radar unit you used?"

If he doesn't have it or the DA objects:

"I asked for this information through a request and a Motion for Discovery, and was given the impression that I could ask these questions during the trial, and that the information would be provided at this time."

The Judge may ask what you need this information for.

"I need this information for the documentation of the maintenance, calibration, and testing of this specific radar device, used to measure my speed."

Make a note: If he has the documentation, you need to tell the judge you would like to look at it. If you get it, take note of dates, etc.

"Did you bring documentation of your training on radar devices?" (yes or no)

(continued on next page)

Sample Traffic Court Script (17 of 41)

Again, don't allow elaboration. Some possibilities:

If he did not present any documentation as to his training on radar during his first testimony, go after this documentation.

If the prosecution starts to object about having to bring documentation or produce detailed information, you should respond that this information was requested long ago, and when the judge denied your motion to compel this information he said that you could get all this information at trial.

If the testifying officer presented documentation of radar training during his first testimony, check it over briefly, at that time, and if it doesn't look hokey just thank him.

If you see something fishy, like five hours of training by a radar salesman, raise those issues.

(continued on next page)

Sample Traffic Court Script (18 of 41)

"I assume that as a graduate of this course and a user of radar, you have a working knowledge of the basic kinds of errors that can be made with radar"?

He should say "yes," which opens the door to questioning him about operator errors.

If the manual was given judicial notice, use it to question him about typical errors like beam reflection, electromagnetic errors, and cosine error.

Even if you can't use the manual, you can still ask him to describe these errors, but later in your cross examination. Take the errors one by one, leading with cosine error.

If he says he's not familiar with basic radar errors:

"Your honor, I'm making a motion that the radar testimony not be admitted into evidence."

(continued on next page)

Sample Traffic Court Script (19 of 41)

If the prosecution objects to the motion:

"If the officer has no knowledge of the kinds of errors that radar can make, he is not competent to be using radar to issue speeding citations."

If the district attorney objects to questions about radar errors:

"One possible explanation for the difference of opinion on the speed of my vehicle would be an error attributable to the operation of the radar, and as he may recall, this was the basis for my motion to compel discovery."

If the motion is denied, move on.

"Officer, did you measure my speed from the same location where you first observed my vehicle?" (write down answer)

(continued on next page)

Sample Traffic Court Script (20 of 41)

"At what distance did you first observe my vehicle and begin to estimate my speed? How many feet? 200, 300? That would be the length of a football field." (write down)

"How many seconds did you spend visually estimating my speed?" (write down)

"How many seconds did you spend activating your radar and making sure it was working properly?" (write down)

"How many seconds did you spend measuring my speed and then locking in that speed?" (write down and total the times)

"You state on the citation that my vehicle was measured at 41 mph, is that correct?" (yes)

(continued on next page)

Sample Traffic Court Script (21 of 41)

"My vehicle at 41 mph would travel approximately 60 feet, in one second. That means my vehicle would travel ___ feet in ___ seconds. Where does that place my vehicle in relation to yours when you looked in the speed reading on my vehicle?"

Fill in from his testimony and chart below.

"You testified that you began estimating my vehicle speed at _____ ft. At 41 mph my vehicle would cover 60 feet in one second, or:"

1 second = 60ft	2 seconds = 120 ft
3 seconds = 180 ft	4 seconds = 240 ft
5 seconds = 300 ft	6 seconds = 360 ft
7 seconds = 420 ft	8 seconds = 480 ft
9 seconds = 540 ft	10 seconds = 600 ft

You may have to explain how you arrived at this calculation:

(continued on next page)

Sample Traffic Court Script (22 of 41)

"There are 5280 feet in one mile, 60 seconds in one minute, 60 minutes in one hour – 60 times 60 equals 3600 seconds in one hour. Divide 5280 by 3600 and that equals 1.47 (rounded from 1.4666) feet traveled per second per one mph. To determine how far a vehicle travels in feet-per-second just multiply the speed of the vehicle by 1.47."

Move on to the next question:

"Officer, please explain cosine error to the court."

If he gives wrong answer:

"Your Honor, that is not correct and I'd like to refer to the radar training manual for the proper explanation."

If he can't explain it:

"I wish to make a motion that the radar testimony not be admitted into evidence. Understanding cosine error is absolutely critical to the use of radar."

(continued on next page)

Sample Traffic Court Script (23 of 41)

If the officer can explain cosine error:

Continue your questioning.

"Officer, would you estimate the angle from where your car was positioned to where my car was when you locked in the speed reading?"

Use the cosine angle charts included later in this ebook, online, or from a radar manual. This should show that your vehicle would have to be going significantly faster than 41 mph to register that speed on the radar gun.

"Officer, you have already testified that you estimated my speed at 40 to 45 mph; does it make sense that my vehicle would actually be going XXX mph when it passed your vehicle? Does this not suggest that the radar reading was in error?"

It doesn't matter much what he says, just move on.

(continued on next page)

Sample Traffic Court Script (24 of 41)

"Officer, given that this was early February, did you have your car running, and the heater and blower on to keep warm?" (he answers yes or no)

"Did you have your police radio on?"

"Did you have a computer on in your vehicle?"

"Can components in the squad car cause errors with radar readings?"

The answer doesn't matter much unless he says "no," in which case you ask the court:

"May I refer to the operator manual and read the section on these kinds of problems?"

"Can external features like power lines and transformers interfere with radar readings?" (yes)

If he says "no," circle back to the discussion in the manual.

(continued on next page)

Sample Traffic Court Script (25 of 41)

Show him the picture of the power lines and transformer on John Street and Main, and ask:

"Are you aware of the location of these power lines and transformers?"

His answer doesn't matter; just move on.

"Officer, please describe mechanical and electromagnetic causes of faulty radar readings. Couldn't the (items previously discussed) cause an erroneous radar reading?" (yes)

Let him say whatever he wants, including that he doesn't know.

"Officer, please describe beam reflection error."

If he can't describe the causes:

"Your honor, I wish to make a motion that the radar testimony not be admitted into

(continued on next page)

Sample Traffic Court Script (26 of 41)

evidence. If the witness does not understand these most basic forms of radar error, he is not competent to testify on the use of radar."

If he gives the wrong answer:

"Your honor, may I refer to the radar training manual for the correct description?"

If he can describe them:

"Are there not buildings and signs in this area with flat surfaces that can potentially reflect radar signals that could measure the speed of vehicles other than the vehicle you are monitoring?" (yes or no)

His answer doesn't matter. If you have a picture that contradicts his answer, show it.

(continued on next page)

Sample Traffic Court Script (27 of 41)

"Your incident report mentions that you tested your radar device before and after issuing my citation. Would you explain where, when and how you conducted that test?"

If he conducted both tests with tuning forks at the site of the clocking, do not challenge the testing procedure, but get him to go into detail on the testing procedure and how much time is involved in doing the tests.

This will indicate a major gap of time during which he was not paying attention to your car or where it was going.

If he did not use tuning forks and just used the radar's self-test, you should challenge the validity of that test:

"Isn't it possible that interference or a momentary failure within the radar device could also cause the testing system to malfunction?" (answer doesn't matter)

(continued on next page)

Sample Traffic Court Script (28 of 41)

"Don't the radar manufacturers provide tuning forks to test the functioning and accuracy of their radar products?" (yes) (answer doesn't matter)

"Don't operator training manuals, such as this one from the State of Wisconsin, recommend the use of tuning forks to check and monitor the accuracy of radar units?" (yes)

If the officer says he checked the radar after he stopped you, or at any other location but the one he clocked you at, regardless of how he tested the radar unit, ask this string of questions:

"When you tested the radar unit where you stopped me (or at the police station etc.), would your test reflect the external environment that existed at the location where you clocked my vehicle?" (no)

(continued on next page)

Sample Traffic Court Script (29 of 41)

If he answers yes:

"Wouldn't the potential sources of interference or other external causes of radar errors vary from location to location?" (yes)

Note: If he continues with wrong answers, refer to the manual.

"Would a power surge or spike in a power line or transformer that caused interference with the radar reading at the site where you measured my speed be recorded or reflected in a test done in an entirely different location under different circumstances?" (no)

"If there were beam reflection errors at the site of the clocking – errors that are often not detectable – would a test at an entirely different location confirm those errors?" (Just have him answer yes or no.)

"After you observed and measured the speed of my vehicle with your radar device, what did you do, in detail?"

(continued on next page)

Sample Traffic Court Script (30 of 41)

If he says he pulled out in pursuit of your vehicle, but earlier testified that he tested the radar device, remind him of that and ask how much time the testing process took.

"Were you maintaining visual contact with my vehicle while you conducted the test of the radar device?"

If he used tuning forks, remind him of the process and the time it would take.

If he didn't test the radar at the clocking site, try to get him to admit that he couldn't always keep track of your vehicle because he was crossing and entering traffic.

"How far from the intersection of John Street and Main Street was it to the location where you pulled over my car and the car in front of me on County Highway CS?"
(4/10 mile)

(continued on next page)

Sample Traffic Court Script (31 of 41)

"The third element the state must prove to convict me of speeding is that the speed limit was posted on an official sign. Do you have personal confirmed knowledge that the speed limit signs nearest to the intersection of John Street and Main Street meet the standards for official signs as described in the Wisconsin Manual on Uniform Traffic Control Devices?"

If he starts to pontificate, cut him off and ask for a yes or no answer.

If he says yes:

"Would you please describe the basic standards, such as shape, dimensions, color, and location criteria?"

The prosecutor will be jumping around objecting, but you should hang tough and point out: *"The prosecution has the affirmative responsibility to prove the defendant violated a speed limit and that the speed limit was posted on an official sign."*

(continued on next page)

Sample Traffic Court Script (32 of 41)

If the district attorney objects:

"If the prosecution does not provide evidence that the speed limit signs in question meet the standards for official signs, it has not met the burden of proof to convict a defendant of speeding. That concludes my questions."

When the judge asks you if you wish to begin your case, or something similar, ask:

"Has the prosecution completed its case?"

The prosecution may recall its witness to try to undo the damage.

If so, listen carefully and don't be bashful about objecting if the prosecutor is unduly repetitive or goes off on tangents trying to confuse the case with irrelevant issues.

(continued on next page)

Sample Traffic Court Script (33 of 41)

You can follow up with questions of your own if you think they will help your case, but don't just ask questions for the sake of asking questions, this will just irritate the judge.

Your turn to testify:

Choose your testimony based on the results of the officer's testimony and your cross-examination; you should probably order your arguments according to the three elements for conviction that you identified in your cross-examination.

However, depending on the officer's testimony and any weaknesses you found, you may want to make a Motion for Dismissal without testifying. It's a good idea to ask for a short break before testifying, to arrange your thoughts.

A Motion for Dismissal also serves to introduce the arguments you will be making in your testimony, if the motion is denied.

"Your Honor, I wish to make a Motion for Dismissal. My grounds are as follows:

(continued on next page)

Sample Traffic Court Script (34 of 41)

The officer's observations were proven to be in error.

He misidentified my vehicle.

He said the event occurred in the daytime when his own record showed it occurred after sundown.

He could not identify the vehicle that stopped at the same time I was stopped.

The officer provided no documentation of the radar unit's inspection, maintenance, calibration or third-party testing.

His understanding of radar operation errors was minimal or wrong.

He provided no written documentation of his training, even though I had made it clear that I wanted to see such documentation. The radar reading itself was taken in an area strewn with power lines and transformers. The officer testified to having several devices known to cause radar-reading errors operating in his vehicle.

(continued on next page)

Sample Traffic Court Script (35 of 41)

Further, according to his own testimony, the angle of the radar beam at the point he said he locked in my speed was so severe as to make the reading useless.

Finally, your honor, there was no testimony offered by the prosecution that proved I violated a speed limit posted on an "official" sign as required by xxxxxxxx."

If the Judge denies your motion, move forward with testimony:

"First, I would like to make this simple and direct statement: 'On Sunday, February 7th at 5:20 PM I was not speeding on Main Street, or any other street, in the Village of Podunk. I am well aware of the Village's intense use of speed enforcement and I was driving accordingly.

As noted previously, WIS JI 2678 requires that to convict a person of speeding, the prosecution must prove the defendant was driving a vehicle on a public road.

(continued on next page)

Sample Traffic Court Script (36 of 41)

While it is obvious by my presence that I was in Podunk on February 7th and using public roads, I was not driving a red car. I was driving a black and orange car.

Further, the citation indicates this took place during daytime. In fact, it was after sunset, if not completely dark.

There was another car in front of me that also pulled over, when the officer pulled us over on county CS on the outskirts of Poynette. Yet the officer said there was no other car on the road.

Given the distance (almost half a mile), and conditions (dark, and with two corners that the officer had to go around), plus having to first make a u-turn or something similar on Main Street to pursue my vehicle, it would have been virtually impossible for the officer to have maintained visual contact with my vehicle.

(continued on next page)

Sample Traffic Court Script (37 of 41)

This was further evidenced by the long interval between when the officer allegedly clocked my vehicle and when he put on his lights to pull me over. And there were also other streets intersecting with this route where a vehicle could have exited.

Therefore, given the many inconsistencies and errors in the officer's observations, I do not believe the preponderance of evidence supports the contention that it was my car the officer observed traveling on Main Street that evening.

The failure to properly identify my vehicle, maintain visual contact with my vehicle, or even identify the correct time of day, are critical failures of proof, and justify dismissing this case.

The prosecution failed to provide:

- *Identification documentation for the radar device.*
- *Documentation of the maintenance, testing, and calibration of the radar device.*
- *Documentation of the officer's training with radar devices.*

(continued on next page)

Sample Traffic Court Script (38 of 41)

Furthermore, the officer failed to describe common radar errors such as:

- *Electromagnetic interference*
- *Beam reflection error*
- *Cosine error*

OR:

- *Failed to properly test the unit at the location where the radar reading was conducted.*
- *Failed to use tuning forks to avoid false test results.*
- *Failed to consider the high probability of interference from nearby power lines and transformers.*
- *Failed to recognize the potential for interference from the heater and defroster system in the vehicle (fans, blowers).*

(continued on next page)

Sample Traffic Court Script (39 of 41)

These failures should result in the radar testimony not being allowed into evidence.

Finally, the prosecution introduced no evidence that the speed limits signs near Johns St. meet state standards for official speed limit signs."

Show Figure 2A-2 out of the manual.

"This is page 38 of the Federal Manual on Uniform Traffic Control Devices. It shows that a roadside sign in business, commercial, or residential area must be 7 feet from the ground to the bottom of the sign."

Show sign photo.

"This is a picture of the speed limit sign on the west side of Main St. by John St. The distance from the ground to the bottom of the sign is 5 feet 4 inches.

(continued on next page)

Sample Traffic Court Script (40 of 41)

Wisconsin State Statutes 84.02(4)(e) requires the adoption of the 'Manual on Uniform Traffic Control Devices.'

Wisconsin State Statutes 349.065 requires local authorities to comply with the 'Wisconsin Manual on Uniform Traffic Control Devices' when designing, installing, and operating traffic control devices.

The prosecution has an affirmative responsibility to prove that I was driving a vehicle on a public highway.

This burden was not met because my vehicle was not properly identified, nor were the conditions that existed at that time accurately described.

The prosecution also had a responsibility to prove that the vehicle under my control was exceeding the speed limit. The radar evidence presented was inadequate to prove to a reasonable certainty that my vehicle was exceeding the speed limit.

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Sample Traffic Court Script (41 of 41)

Finally, the prosecution is required to prove that there was an official sign displaying the properly posted speed limit. No evidence was presented to prove that the speed limit sign located on Main St. at John St. met the standards for official signs as prescribed by the 'Wisconsin Manual on Uniform Traffic Control Devices.'

And, I repeat, on Sunday, February 7th I was not speeding on any street in the Village of Podunk. Thank you, your honor. That completes my testimony."

The prosecutor has a right to cross-examine you, but may choose not to because you are savvy and there is nothing you would say to undermine your case. §

The Basics Of How Radar Works (1 of 5)

A radar beam acts very much like a searchlight.

It spreads out from the source and is easily reflected, a feature that it shares with microwave radiation.

Metal objects such as cars, signs and bridges make excellent radar reflectors, sending microwaves around at odd angles. However, microwaves are invisible.

They are not invisible to a radio frequency receiver though, and radar is nothing more than a radio transmitter and receiver designed for those frequencies.

Radar works on the "Doppler shift" principle.

An example of this happens at railroad crossings. When you're stopped at a crossing, an approaching train's whistle changes pitch after it passes you. It goes from high to low. That's an example of a Doppler shift.

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The Basics Of How Radar Works (2 of 5)

A radar unit measures the frequency between the sent and reflected (received) signal. Since the frequency of the sent signal is known, it makes its determinations based on that.

If the reflected frequency is higher, the target is moving closer. If the reflected frequency is lower, it's moving away.

There are two kinds of radar in use today: air traffic control/military and police traffic radar.

Air traffic control/military radar is highly sophisticated equipment with antennas that sweep in various directions to provide pinpoint location of a target. They can detect the speed, altitude, and in some cases, shape of the object being tracked.

These kinds of radars cost many thousands of dollars and their antennas must be mounted high off the ground in order for them to work well.

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The Basics Of How Radar Works (3 of 5)

These radars also have cathode-ray tubes as the display medium. They can track many objects at the same time. They have a modulated beam, meaning objects very close to each other can be seen as two different objects on the display.

Police traffic radar is not very complex.

It has to be simple due to its design limitations. It has to fit on the dashboard of a car, it can't place too great a demand on the car's electrical system, and it can't cost too much, due to municipal budget constrictions.

It has none of the advanced capabilities associated with aviation radar. Because its beam is constant (not modulated as in the example above), it can't measure distance or pick out one target among many.

Its display is nothing more than one or two digital displays (patrol vehicle speed and target vehicle speed). This is its Achilles heel because it leaves the job of deciding who's going fastest up to the operator.

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The Basics Of How Radar Works (4 of 5)

It tells the operator how fast the vehicle with the most dominant reflective surface is going, but it cannot specifically identify the offending vehicle among a group of vehicles.

Even the newest radar guns, with their digital signal processing capability, cannot tell the operator which vehicle is speeding.

Radar works by transmitting a microwave beam down the road. If your vehicle is struck by this beam, the beam reflects off your vehicle. Part of that reflected beam is returned to the antenna on the radar device.

Traffic radar's low power limits its ability to detect vehicles far away. As with flashlights, the farther the microwaves have to travel to the target to be reflected, the farther the return trip is and the weaker the signal is.

If an officer zaps you with radar while you're still a mile away, that radar signal has to travel two miles, since it needs to return to the radar gun to be of any value.

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The Basics Of How Radar Works (5 of 5)

If the signal is too weak, no speed is recorded. You're out of range.

Radar's effectiveness depends on two things: the power of the transmitted signal, and the reflectivity of the target.

The amount of power is determined by the radar designers, who must keep in mind municipal budgets (more power = higher cost) and the typical police vehicle's electrical capacity.

As far as you're concerned while you're on the road, neither of these two are variables. However, the reflectivity of the target is a variable. For vehicles, radar reflectivity is mostly an issue of size and shape. The larger you are, the easier it is for radar to pick up and bounce off you.

A typical over-the-road semi is a wonderful radar reflector; it's huge and the surfaces are primarily flat. However, a car is smaller and the sheet metal is generally not flat. This reduces the "visibility" of the car to the radar signals. §

Types Of Police Radar (1 of 3)

All police radar operates on the same principles we've outlined previously. However, there are different kinds of radars and each has a particular use:

Stationary radar is the archetypical "radar gun" that everyone talks about, although mobile radars can also be used in the stationary mode.

Use of these radars is popular with motorcycle police, where two-piece radars are more convenient. Hand-held radars are also used to detect how fast a pitcher is throwing a baseball.

Mobile radar is a more complex radar setup where the officer is able to check the speeds of drivers while his patrol car is moving (or not moving).

The theory of operation is just the same as all other radar; a microwave beam bounces off a car and the returning frequency is measured to determine the target's speed.

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Types Of Police Radar (2 of 3)

However, this beam has two purposes: to measure the speed of the target vehicles, and to measure the speed of the patrol car.

The strongest reflection is assumed to be the nearby terrain, signs, bridges, etc. and it is used to calculate patrol car speed.

The second strongest reflection is assumed to be traffic, and an internal calculator compares patrol speed with target speed to produce a final target speed reading, provided there are no errors.

The radar unit does not get the patrol car's speed from the car's speedometer.

Instant-on radar refers to any radar gun that can be kept in a reserve mode and then instantly activated to capture the speed of a target vehicle.

Its purpose is to reduce the effectiveness of radar detectors.

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Types Of Police Radar (3 of 3)

The instant-on radar speed trap is just like the normal trap, except that the radar unit isn't transmitting until the operator pushes a button. The system is on and warmed up but it is not transmitting.

The operator sits and waits for a target to be in range. When a vehicle appears and the officer zaps it with instant-on radar, its speed is determined and displayed.

Photo radar is a form of stationary radar hooked up to a computer and many forms of cameras, including video cameras. The radar transmits continuously, and the officer sets the computer to a particular travel speed. Any motorist exceeding the designated speed will have their front or rear license plate photographed.

The photographic images are developed and the registered owner of the vehicle is sent a citation. Frequently, this entire process is largely handled by private contractors who receive a percentage of the fines collected through the photo radar system. §

Radar Target Acquisition Problems (1 of 5)

Traffic radar's biggest problem is in the way it displays information – by a digital display. An officer can point the antenna down a road and it will cover vehicles ranging in size from a motorcycle to a tractor-trailer. All the radar unit will display is a number; it can't tell which one is moving fastest.

**So then, how does the operator know which one is causing the reading?
In truth, the operator often does not know for sure.**

He must guess, and may assume the vehicle in the left (passing) lane is the speeder.

Because traffic radar is made to work in a car with its space/power limitations, and must be affordable enough for municipalities to buy, it must be a simple device. With a constant beam (as opposed to the modulated beam of military and air-traffic control radars), it can't distinguish between targets that are in range.

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Radar Target Acquisition Problems (2 of 5)

To make up for the lack of both a modulated beam and a display screen, the radar manufacturers simply program their electronics to ignore all but the strongest reflections.

It's up to the operator to decide which of the moving vehicles is producing the reflection.

If there's only one vehicle on the road, then it is likely the cause of the reflection, but keep in mind that microwaves can also bounce off trees or trash blowing across the road, or they can be interfered with by electricity (thunderstorms, power lines) or signs wavering in the wind.

If there is more than one vehicle on the road, the operator must choose. Is the reading caused by the closest one to the patrol car or the biggest one?

It could be both, depending on the situation.

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Radar Target Acquisition Problems (3 of 5)

An officer who believes in justice will not write a ticket unless he is absolutely sure that the reading was caused by a particular vehicle.

A less-skilled officer might think he has the right vehicle and be wrong.

Finally, an officer who needs to meet the monthly ticket production standard (quota) may simply assign the number on the display to a "profile" car; a red Corvette or a black 300ZX.

Due to its cost and physical constraints, traffic radar is as not as infallible as you're told it is. In the late 1970's, a Florida TV station reported that police radar clocked a tree at 37 mph and a house at 28.

Were those readings wrong? Not exactly. The radar was seeing something. But what? In this example, an officer's handheld radio (which was transmitting at the time) caused the erroneous readings.

(continued on next page)

Radar Target Acquisition Problems (4 of 5)

Wind-blown tree leaves, a patrol car heater fan, lightning, or signs wavering in the wind can all affect the radar's display.

In the late Seventies, the National Highway Traffic Safety Administration tasked the National Bureau of Standards (now the National Institute of Standards and Technology) to develop standards for the purpose of discovering potential radar errors and developing standards to eliminate them.

These standards were never published until 1994.

It is interesting to note that radar was first used for speed law enforcement back in the late 1940's, yet U.S. government standards didn't exist for nearly 40 years.

To avoid a repeat of that problem with laser, NIST took their radar standards and did little more than change the word "radar" to "laser" in the text and release it as the definitive standard for police laser units.

(continued on next page)

Radar Target Acquisition Problems (5 of 5)

The radar standard calls for a level of insulation from transmitting radio interference, a common problem with radar.

The laser standard calls for this even though lasers are, by their very nature, immune to radio waves.

Conversely, since radar is not affected by light, the radar standards have no minimum requirement for light interference, but lasers are affected by light – yet the laser standard makes no reference to light interference! §

Radar Detectors & Jammers (1 of 9)

A radar detector is no different than the radio in your car's dashboard. It merely "listens" to a band of frequencies like an AM/FM radio.

Remember that a radar unit sends out a microwave beam and listens for the reflection.

A radar detector is nothing more than the listening section of the radar gun.

Can a detector find radar before you're in range? You bet. If you're on a straight and level highway headed right for the speed trap, the radar beam is reaching out for you.

Remember though, that microwaves lose energy as the distance from the transmitter increases. To measure your speed, the beam has to have enough power to bounce off you, return to the sender and be decoded by the radar's electronics.

(continued on next page)

Radar Detectors & Jammers (2 of 9)

The return signal must have enough power to be of any use.

Say the radar gun can clock you when you're a mile away. That means it can detect a radar beam that has traveled two miles; one mile to you and one mile back.

If your detector is as sensitive as that of the radar gun's receiver, you will be able to detect the trap two miles away, well before you're in range.

It is not at all difficult to make a detector more sensitive than the radar gun.

But radar isn't usually used on the open road for that very reason. Traffic officers favor the ambush where they hide behind a bridge or over the crest of a hill. When you pop into view, you're already in range.

So how can a detector work in this case?

(continued on next page)

Radar Detectors & Jammers (3 of 9)

Remember when we said radar is like the beam coming from a flashlight? On a foggy night you can see the beam even though it is not pointed at you.

Microwaves act the same way. Because they are line-of-sight (like light), they can't bend and detect your speed around a corner or over hills.

A detector can certainly pick them out though, because microwaves are deflected and reflected by a variety of fixed and moving objects, including signs, other cars, bridge abutments, and even different forms of precipitation.

While errant signals are not reflected back to the radar gun, a detector will still detect them.

All that's needed is a receiver as sensitive as that in the radar gun. However, unlike radar guns, a detector doesn't need to calculate speed, so it can pick out much weaker signals than the radar unit can and still make use of them.

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Radar Detectors & Jammers (4 of 9)

Detectors are not infallible. If you believe one will prevent you from getting a ticket, you're in for a surprise.

Radar units have had the "instant-on" capability for many years now, which is designed solely to defeat detectors.

An instant-on radar gun is kept in the "standby" mode until the operator pushes the button. While in "standby" mode, it is on and warmed up but not transmitting. So, a detector can't find it.

Even the continuously-transmitting radar guns can be made into a form of "instant-on" radar by simply aiming the antenna away from the road until a speeder comes into range.

A detector is still useful against instant-on radar. When radar hits a car in front of you, your detector will sense the microwaves and sound an alarm.

(continued on next page)

Radar Detectors & Jammers (5 of 9)

For this reason, it is very important to heed all alarms.

At highway speeds, you and the officer in the oncoming lane are approaching each other at around 140 miles per hour. Distances shrink quickly at that speed, and you'll soon be in range.

A detector never gives false alarms. That may be hard to believe, but it's true. Every time it sounds an alarm, it is detecting a signal that it was designed to hear.

However, it cannot determine the source of the signal, since a 10.525 GHz microwave beam from a supermarket door opener is the same as a 10.525 GHz beam from a police radar unit. It's your job to identify the source.

Laser detectors *do* work, contrary to what some people believe. However, a laser beam is a lot harder to detect than a typical radar beam because it is much smaller.

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Radar Detectors & Jammers (6 of 9)

It is imperative that you heed the alarm every time your laser detector goes off. Although the police normally already have your speed and distance information when the laser detector goes off, there is a chance the laser is being aimed at a vehicle in front of you.

Photo radar detectors also work, but because of the very low power of the radar, you better be smiling for the camera by the time your detector goes off, because it already got you.

You are normally able to see photo radar vans long before your detector will.

Radar Jammers

A common question today centers around radar jammers. Are they legal? There are two answers.

"Passive" radar jammers do not transmit anything. Some make the claim of

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being "radar re-radiators," meaning they are radar reflectors.

Well, so is your car!

It doesn't matter if passive radar jammers have electronics inside, if they don't transmit, or if they claim to mix in some "white noise" with the radar signal or do some "phase-shifting" of the radar beam – they don't work. So they're legal.

But why spend \$200 on something that doesn't work? You can get a detector that actually works for less.

"Active" radar jammers do transmit. In the United States, in order to transmit anything in the radar bands, the transmitter must be type-accepted by the Federal Communications Commission, and the operator must be licensed.

In the case of police radar, the department's or municipality's license is good enough; individual cops don't need an FCC license.

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Radar Detectors & Jammers (8 of 9)

These jammers are not FCC type-accepted because the FCC doesn't approve devices when the sole intent is to jam other transmitters.

Notice too, that they don't include license applications with the jammer.

So, "active" jammers do work, but they are illegal.

By the way, many newer radar units can detect when they're being jammed, and an indicator lights up.

Since the police are "trained" to visually estimate speed, it's easy for them to spot someone zooming by at 85 mph and think something's wrong when the radar display shows only 32 mph, or some equally erroneous speed.

Even untrained people could do that. So, by using a jammer, you may be getting exactly the attention you had hoped to avoid.

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Radar Detectors & Jammers (9 of 9)

It may be possible for the officer to cite you for obstruction of justice, or interfering with a police officer.

Laser jammers do work, and are legal as far as the FCC is concerned.

The FCC doesn't regulate devices that transmit above a certain frequency. If they did, they'd have to issue licenses for every light bulb and TV remote ever made.

However, the same story about obviously erroneous speeds or interfering with an officer applies here as well.

Also, some states have laws specifically banning laser jammers. §

The Basics Of How Laser Guns Work (1 of 6)

Laser speed guns transmit a light beam that measures the distance between the laser gun and the target vehicle. Distance is measured by the time of flight of a laser pulse.

Because the speed of light is both known and constant, it serves as the basis for determining distance. Once distance is known, speed is calculated by comparing the change in distance against a span of time.

This marks a significant difference between traffic radar and laser guns – traffic radar does not measure distance.

A German test conducted in 1995, on the LTI 20.20 laser gun (made by Laser Technology Incorporated), found that its laser beam was, in fact, not one solid beam at distances beyond 300 feet.

At that distance, and beyond, it splits into three distinct lobes.

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The Basics Of How Laser Guns Work (2 of 6)

The study also found that it was difficult to achieve accurate readings at distances over 500 feet, due to the possibility that the laser beam could be hitting a nearby vehicle, rather than the one targeted by the officer.

Officers are trained to aim the laser at the license plate because it is typically the most reflective surface on a car.

At a distance of over 500 feet, using a laser gun with a non-magnifying sight, it is extremely difficult to hit a moving, license-plate-sized target, while not moving the laser gun itself.

Any movement of the gun by the operator could result in an inaccurate speed reading.

If the laser is initially aimed at your license plate and the officer jiggles the gun while shooting, the laser beam could be reflected by the chrome on the front grille.

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The Basics Of How Laser Guns Work (3 of 6)

Because lasers measure speed by determining distance, an inaccurate reading would result, since the license plate is closer to the laser gun than the grille.

Atmospheric and environmental conditions also affect laser.

Rain, fog and dust scatter the laser beam, as do heat waves wafting off the road on a hot day. This makes speed readings either impossible or inaccurate.

Laser beams can also be confused or overpowered by headlight high beams.

Older models of laser guns should not be fired through glass. Laser beams can be distorted or "bent" as they pass through glass. However, recent technological advances have allowed newer laser gun models to be fired through glass successfully.

The manual for the LTI 20.20 does not specifically prohibit shooting through glass, it merely advises against it.

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The Basics Of How Laser Guns Work (4 of 6)

The use of laser does not nullify other requirements for issuing a ticket.

For instance, the officer must first obtain a visual estimate of the vehicle's speed. Only then should the officer use the laser to verify his speed estimate.

Yet, the very design of most speed traps (around a corner, beyond the crest of a hill) makes meeting this requirement nearly impossible.

Furthermore, the officer must maintain constant visual contact with the violator, until the violator is stopped and identified.

Due to the way the LTI 20.20 operates, an officer must pull the laser away from his eye to look at the speed display on the back. In so doing, he's lost constant visual contact.

The Kustom Signals ProLaser uses a "head-up display" and therefore does not have this limitation.

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The Basics Of How Laser Guns Work (5 of 6)

Perhaps you have heard about "cosine error" and how it affects radar. Well, it affects laser as well.

Cosine error always works in the driver's favor. If the laser beam hits your car at a 20 degree angle, and you were traveling 50 mph, the laser gun would show a reading of 47 mph. The cosine of 20 degrees is .939, so 50 mph multiplied by the cosine of 20 degrees [0.939] equals 47 mph.

To minimize cosine error and get an accurate reading, an officer must stand as close as possible to the road.

Unlike radar, laser does not have a means of independently testing its internal functions (short of timing a vehicle traveling at a known rate of speed).

The test function on the laser merely indicates that the electronics are in working condition.

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The Basics Of How Laser Guns Work (6 of 6)

It does not and cannot tell the operator that a 30 mph reading is, in fact, accurate.

Because laser is cumbersome to use, it is usually employed by teams of officers – one doing the clocking and the other(s) doing the pursuing and issuing of citations.

The advent of laser does not signal the dawn of a "new age" in speed enforcement. Laser guns are much more expensive than radar guns. Laser guns are more difficult and awkward to use than radar guns. Laser guns cannot be used in a moving patrol car. Laser gun operators can hit the wrong target, and through improper operation, laser guns will register inaccurate speed measurements.

The obvious question is, "Why use laser guns for speed enforcement?"

The answer is, "Public relations."

If the motoring public can be convinced that laser is infallible, tickets won't be contested and individuals will more readily fill government coffers with fines, and insurance company bank accounts with surcharges. §

The first thing to remember is that photo radar can make mistakes. Radar is a problematic technology and is subject to numerous errors. This means that you can challenge a photo radar ticket by using some of the same techniques that you would to fight a radar ticket issued by a police officer.

It's important to note that radar errors are even more likely to occur with photo radar because it lacks any oversight from an officer.

Here's a quick listing of some of the photo radar ticket defenses that have been tried in various states:

Alaska

By Larry Wood, former NMA Alaska Chapter Coordinator.

Three defenses have succeeded in Anchorage District Court. A three-magistrate panel has reviewed Anchorage's photo radar program against the arguments offered so far by the city and rejected by the lower courts.

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Possible Photo Radar Ticket Defenses (2 of 5)

The magistrates upheld the defendant's cases, so photo radar has no legal support in Anchorage, and therefore, Alaska.

Successful arguments by defendants include:

1) Photo radar fails to meet the burden of the police officer being the witness to the violation and personally serving a summons at the time.

In normal traffic radar cases you will always hear the litany of "I visually estimated the speed of the defendant's vehicle and confirmed that visual estimation with my radar unit." In other words, the radar unit is not relied upon as the primary evidence, just as supplemental and confirming evidence of the violation.

The good police officer first observes, then confirms with the machine.

With photo radar, the radar unit is the sole means of establishing that a violation occurred.

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2) The service by mail fails because it is a violation of Alaska Court Rule 4 (c)(1):

"Service of all process shall be made by a peace officer . . . or where a rule so provides, by registered or certified mail."

So, if you received your summons by regular mail, the service is invalid.

The most recent case was overturned on the basis that the service by the city using regular mail violated court rules with respect to service of the summons/citation/complaint by the city upon the defendant.

3) Photo radar violates your 6th Amendment rights to due process in that you can hardly confront your accuser – a machine.

The first case was thrown out by the court for this reason.

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Possible Photo Radar Ticket Defenses (4 of 5)

Challenge your ticket on the basis of improper service of a summons, violation of 6th Amendment due process rights, and a deviation from the court's normal standard of radar use for speed measurement (i.e. the police officer must observe the violation and confirm his observation with the traffic radar).

Arizona

By Steve Bacs, NMA Arizona Activist.

In 1987, the Arizona Superior Court handed down two decisions:

- 1) You cannot be forced to identify the driver. Even if it is you driving the vehicle, it would be a violation of your constitutional rights against self-incrimination.
- 2) A registered mail receipt is not adequate proof of service of a summons for a traffic ticket. A valid summons must be presented by an official or officer of the court on a complaint form signed by you, acknowledging that you will appear.

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Possible Photo Radar Ticket Defenses (5 of 5)

California

Tickets issued by photo radar in California have been successfully defeated thanks to the state's anti-speed trap law. California Vehicle Code Section 40802 requires that speed limits be justified by an engineering and traffic survey that has been conducted within a certain timeframe. (This does not apply to local streets, roads, or school zones.)

Nevertheless, there are several areas in cities throughout the state where posted speed limits do not meet the requirements of CVC 40802, yet the police enforce those limits. Those are speed traps as defined by California law.

If you receive a photo radar ticket in California, one of your initial steps should be to obtain a copy of the most recent engineering and traffic survey conducted along the section of road where you were cited. Compare that to the specific time constraints of when a study had to have been done per CVC 40802 (easily found in an online search). If the latest study was not done within the time allotted by CVC 40802, make a motion to dismiss by citing an improperly set speed limit. §

Additional Resources & Sample Forms

There are several resources that we think you'll find useful that did not fit within the format of this ebook.

We set up a web page where you can access these resources at any time:

www.motorists.org/ebook-resources/

Some of the resources included are:

- A sample discovery request form (in PDF and MS Word format).
- A sample public records request form (in PDF and MS Word format).
- Cosine tables for dealing with cosine error if you have a radar ticket.

If you have any trouble accessing these additional resources, please let us know and we'll sort things out for you. You can find our contact information on the NMA website at www.motorists.org. §

Why You Should Join The National Motorists Association

We hope you've found this ebook informative and useful in fighting your traffic ticket. We've been helping people fight traffic tickets for over 25 years, but that's just a small part of what we do.

We work for more reasonable speed limits, better driver training, fair enforcement practices, and much more.

By joining the organization you're helping contribute to a better driving environment for everyone.

Members also get ticket help over the phone, an extremely valuable benefit that is not available to people who simply purchase the ebook online separately.

Please join the National Motorists Association today:

<https://www.motorists.org/join/>

What People Are Saying About The NMA (1 of 3)

The National Motorists Association has been helping motorists fight traffic tickets for over 25 years and in that time we've built a reputation for providing useful, credible information.

Here are a few comments from drivers whom we've helped in the past:

"In my opinion, the NMA has the potential to become the de facto standard for the best advice short of professional legal representation. Maybe it is already. The NMA seems to have the clout and merit that sets it apart from the rest."

- Scott Shafer, Michigan NMA Member

"I joined the NMA, and decided to take my case to court. Without the help of the NMA, I would not have been nearly as prepared or confident when I faced the court. I believe it was the confidence I expressed, the evidence and exhibits I was carrying, and my prepared motion that caused the state's attorney to dismiss the case."

Mike (last name withheld on request), Illinois NMA Member

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What People Are Saying About The NMA (2 of 3)

"The most important thing I did in preparing my appeal (for a speeding charge) was to contact the National Motorists Association, and speak to NMA staff. Based on information they supplied, I formed a research plan. What I found was that there was no scientific study on the visual estimation of speed. The Idaho State Appeals Court (subsequently) found that the evidence was not sufficient to support a finding of guilty beyond a reasonable doubt."

David Estes, Idaho NMA Member

"Thanks to many articles in the (NMA Foundation's) Driving Freedoms newsletter, and especially for "Challenging the Visual Estimation of Speed," I beat an "unwinnable" speeding ticket. Thank you, NMA, very much."

Robin Curtis, California NMA Member

Join the National Motorists Association today:

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What People Are Saying About The NMA (3 of 3)

"I sent a registered letter to the court, and included NMA language for compelling discovery from the ticketing officer, who was acting as the prosecutor. There was no response, so I continued my study of the law and courtroom procedures through the Internet. The NMA was always there by phone or email to answer my questions. The judge dismissed the charges of a cracked windshield, not having a license plate mounted clearly at the rear of the vehicle, and not having proof of insurance. The citations carried a combined potential penalty of \$1300. The judge dismissed all charges. You have to be willing to stand up for your rights in court. Is it easy? No, and there is no set of magic statements that will guarantee a dismissal of charges. But you can find organizations, like the National Motorists Association, with the understanding of judicial processes to help you preserve your personal freedoms by fighting traffic citations."

John Dowling, Arizona NMA Member

Get the full version of our ticket-fighting ebook now:

<https://www.motorists.org/join/>