



TABLE OF CONTENTS
VOLUME 13 • ISSUE 1

The \$10,000 Challenge.....2
New Jersey Speeds Up.....3
Speeding Excuses That Work3
Banning Conversations?3
The American Autobahn4
Paradise Lost.....4
California Mille.....4
Judge Orders Bay-Area Residents
Onto Buses5
NHTSA Extends Deadline.....5
What Is The MUTCD? Part II.....6
Members Only Password7
Uncomfortable Situations8
*The ABC's of Arrest, Search, & Seizure,*9
News From Around The Country10
The Experts' Corner.....11
Members Write12
NMA Items For Purchase15
State Chapter Coordinators
and Activists.....16

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COVER
Signals Timed
By Ivan Sever

The \$10,000 Challenge
by James J. Baxter, President, NMA

We have written repeatedly about the fraud, deceit, greed, and harm associated with ticket cameras. The use of this technology constitutes nothing less than legalized theft. Local units of government are using photo enforcement to capitalize on their failures to properly install, maintain, and manage traffic control devices, notably traffic lights and speed limits.

It has been consistently proven that applying proper traffic engineering practices will virtually eliminate traffic light violations. Solid proof and verifiable evidence hasn't dented the war of words regarding ticket cameras. Proponents of ticket cameras claim that robotically issued tickets and fines are the answer to red light violations, despite the fact that high numbers of violations continue long after the cameras are installed.

Ticket camera opponents concentrate on the important, but vague concern over privacy. When the contest is between "safety" and privacy, privacy always loses, at least in the USA. The NMA has repeatedly tried to focus the discussion and attention on simply solving the problem. Our claim that red light violations are an engineering problem, not an enforcement issue, has been met with derision, condescension, and patronizing comments by ticket camera proponents who would be more appropriately categorized as "challenged."

Having had enough of this shouting contest, the **NMA Foundation** has issued a challenge to the cities in Northern Virginia, Maryland, and Washington DC that are currently running ticket camera systems. In an "open letter" sent to major papers in the region, the NMA Foundation letter challenged

these cities to employ NMA Foundation recommended engineering solutions to ticket camera intersections (most commonly adding a second or two to the yellow light duration). We guaranteed a minimum of a 50 percent reduction in red light violations. If we don't achieve at least a 50 percent reduction in red light violations, we will donate \$10,000 to any traffic safety program the city wishes to fund. In return, if we do what we claim we can do, the city will scrap its ticket camera program and employ our recommendations at its other high violation intersections.

This is not a high-risk proposition for the NMA Foundation. We know that rampant red light violations are a product of poor traffic engineering practices, most often inadequate yellow light duration. This is not something we are guessing at; We know that properly installed, maintained, and managed traffic lights have near universal compliance. Yes, there are violations, but the number is so minimal that it wouldn't justify installing a \$5 "Brownie Box Camera," let alone a \$50,000 ticket camera!

Our \$10,000 challenge will have been sent and received before this **NMAF NEWS** reaches your home or office. Our next issue will have the first results of our challenge. You'll find out first hand if the ticket camera proponents want to do more than just talk. ☺

With just the click of a button, renew your NMA membership online!
www.motorists.org

New Jersey Speeds Up

By the time you read this, New Jersey will have raised the speed limit on an additional 125 miles of highway. A report from the New Jersey DOT (Department of Transportation) recommended that speed limits be raised from 55 mph to 65 mph on certain New Jersey interstates, state highways, and toll roads. The new limits went into effect on Saturday,

December 15, 2001.

The upside to this story is that due to the efforts of Steve Carrellas, other NMA members, and the New Jersey DOT report; speed limits will now be set at a more reasonable level. That means a smoother, safer flow of traffic will be established.

The downside of this is that officials are continuing to use these modest speed limits to increase

penalties. The penalties for speeding in the original and the new 65 mph speed limit zones mandate the doubling of fines.

For those members who may be interested, a full copy of *The 36-Month Study Report on 65 MPH Speed Limit in New Jersey* can be obtained at the New Jersey DOT's web site at www.state.nj.us/transportation. 📄

Speeding Excuses That Work!

A good number of NMA members have come to us after reading Alex Carrol's *Beat The Cops*, a book intended to encourage and enlighten novice ticket fighters. Alex has decided to follow up on his first book and take a more humorous look at the charade that passes for speed enforcement. His latest effort is entitled *Speeding Excuses That Work*.

Speeding Excuses That Work is a 157-page combination of personal war stories, humor, and ticket avoidance tactics. The book maintains a stream of wit and is an easy read. There's good advice

scattered throughout the book, advice that goes beyond talking your way out of a ticket. These topics include avoiding tickets in the first place, safety tips for women involved in traffic stops, and debunking popular myths about traffic tickets.

If you're looking for a great inexpensive gift for that ticketgetter in you family, office or club, this is it. You can order it by calling the NMA office at 800/882-2785 or pulling up the *Motorist Marketplace* on the NMA web site (www.motorists.org). The price is \$14.95 plus \$4 shipping and handling. 📄

NOTICE: Renewal Correction

An error was made in the last mailing of NMA Renewal Notices. (The ones that were sent in early December.) Some of you may have received two notices, others may have received notices when you had already paid, and still others received them late. **Because of this error, we are extending the deadline to take advantage of the 2001 membership prices to January 31, 2002. (The original deadline was January 1, 2002.)**

Please accept our apologies for this inconvenience. If you do have any questions about the status of your NMA membership, please call 800/882-2785 or email mbrdept@motorists.org. 📄

Banning Conversations?

The National Safety Council recently released a study on cell phones. The study concluded that current legislation that is being used to ban cell phones will not significantly reduce accidents. The authors of the study claim that it isn't the cell phone that distracts drivers, it's the conversation that is so distracting.

This study showed that test

subjects were slower to respond and more likely to miss things if they were involved in phone conversations, much more so than those subjects who were listening to the radio or a book on tape. And, the researchers didn't find much of a difference between drivers who

Continued on page 8

Keep "NMA NEWS" coming...

Please notify the **NMA** when you have an address change. The Post Office will not always send it to us (even if you've placed a "change of address" with them).

The American Autobahn

The NMA is happy to be able to offer our members a new book, **The American Autobahn** by Mark Rask. The following is a past review that we have done for this books.

This 300 page hardcover book is a labor of love that was several years in the making. Authored by long-time NMA member Mark Rask, **The American Autobahn** is for the hard core driving enthusiast. As

background, it offers a compressed history of the American highway system that includes the NMA's battle to repeal the 55 mph National Maximum Speed Limit.

One of the book's strong points is a factual comparison between the German Autobahn and the US Interstate System. There are excellent tables and graphs that clearly point out that speed limits and speed enforcement are not necessary

components of a safe high-speed highway system.

If you would like to order the book, call 1-800-882-2785, visit our site at www.motorists.org or send a check to NMA, 402 West Second Street, Waunakee, WI 53597

The price for this hardcover edition is \$24.95 (shipping and handling is included). ↪

Paradise Lost

The Hawaii Department of Transportation (DOT) has chosen to use ACS (Affiliated Computer Services, Inc.) to set up, operate and manage the state's new photo enforcement program. This three-year project will include 32 cameras that will be either photo radar cameras or red light cameras.

This photo enforcement project went into effect in December of 2001. As shown on the Hawaii DOT web site, the fine structure will be as follows:

"The fine for a red light violation is \$77 if paid within 15 days and \$102 if paid after 15 days. The speeding violation fine if paid within 15 days is \$27 plus \$5 for every mile-per-hour the vehicle was traveling over the speed limit. For example, the fine for traveling 64 mph in a 55 mph zone would be \$72. If payment is made after 15 days, the fine increases to \$52 plus \$5 for every mile-per-hour over the limit."

The NMA suggests that you write to the Hawaii DOT to voice your opinion of photo enforcement. The address is:

Hawaii DOT
Information Officer Marilyn Kali
Aliiimoku Building
869 Punchbowl Street
Honolulu, HI 96813

The other action that you can take will hit them where it really hurts—the wallet! NMA members can write to the Hawaii Department of Tourism with their opinion of ticket cameras and how this might influence their vacation plans. If enough people do this, it may cause them to reconsider the use of these devices. You can reach them at:

State of Hawaii
Dept. of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804

For more information on this new program from the Hawaii DOT, you can visit <http://www.state.hi.us/dot/publicaffairs/photoenforcement/index.htm>

And, for talking points against photo enforcement, you can visit the NMA site at <http://www.motorists.org/issues/enforce/index.html> ↪

California Mille

Long-time NMA member, Martin Swig, is organizing the 12th Annual California Mille.

This event will run May 11th-16th, 2002 and will take place in Northern California. Swig bases this loosely on the Mille Miglia road race in Italy.

The original Mille Miglia was a sports car race that began in Brescia, Italy in 1927. This has been called "the most beautiful race in the world" not only for the beautiful scenery that the course passed but for the beauty of the cars as well.

The California Mille is more tour than race. Swig and the other organizers always pick a route that features the best in scenery that California has to offer.

All cars entered must be in the spirit of the Mille Miglia and of 1957 vintage or older. The organizers of this event select the 65 most interesting cars, seeking a variety as to make, type, and age.

Anyone who is interested in participating should contact Martin Swig at:

Amici americani della Mille Miglia
1701 Van Ness Avenue, 4th Floor
San Francisco, CA 94109
415/561-8402 ↪

Judge Orders Bay-Area Residents Onto Buses

By Aarne Frobom

In a decision handed down November 9, 2001, a federal judge has ruled that San Francisco Bay-area residents have to start using public transit in greater numbers. But he offered no advice on how people are to be made to ride buses, or what will happen if they stick to their cars.

Judge Thelton Henderson decided a lawsuit by environmental groups against a Bay-area transportation planning agency (*Bayview - Hunter's Point Community Advocates vs. Metropolitan Transportation Commission, N.D. Cal., No. 01-0750, 11-9-01*). The Commission's 1982 plan for meeting federal air-quality standards promised that it would increase transit usage 15 per cent above 1983 levels, presumably on the expectation that greater bus ridership would reduce auto-related emissions. Since 1982, transit use (as a percentage of trip-making) has fallen in San Francisco, as it has in every other area of the country.

Judge Henderson said that he had

no way of ordering the air to get cleaner, but because transportation agencies pledged in their federally-approved plan to increase bus ridership, that he would penalize them if they did not. Of course, the judge has no real way—yet—to order that any particular Californian take the bus.

MTC (Metropolitan Transportation Commission) officials say they will enter into settlement negotiations to determine what Bay-area governments will do to comply with the decision. The likely outcome of the environmental suit is an increase in the amount of road funds diverted to transit subsidies. Besides the Community Advocates, plaintiffs in the suit were Earthjustice, Communities for a Better Environment, Latino Issues Forum, Our Children's Earth Foundation, the Sierra Club, Transportation Solutions Defense and Education Fund, and Urban Habitat Program. Part of the settlement could be an award of motorist funds to groups such as these to stir up opposition to road

improvements and agitate for more transit service.

A Precedent for Texas?

Many NMA members will be aware that two Texas metropolitan areas have reduced freeway speed limits to 55 mph as part of a plan to reduce emissions of oxides of nitrogen. Of course, Texas traffic speeds remain completely unchanged. Look for radical Texas environmental groups to file suit alleging damage from NOx emissions, demanding that strict enforcement measures be imposed on Texas drivers who refuse to slow down, such as photo radar or other restrictions on road use.

Motorists everywhere should be alert for lawsuits by environmental groups based on regional air-quality plans. Although these suits aren't likely to clear the air, they're very likely to mean fewer new roads, and more of your tax money diverted to transit and anti-mobility lobbying by "community advocacy" and "environmental justice" groups. ☹

NHTSA Extends Deadline

The National Highway Traffic Safety Administration (NHTSA) has extended the comment period on headlight glare. In the last issue of *NMAF NEWS*, it was reported that NHTSA was seeking public comments on headlight glare. Specifically, they were looking into the issue of the glare that can be associated with "high intensity discharge" (HID) lights, "fog lamps," and headlights mounted high on various light trucks.

The deadline was December 1, 2001, however they have decided to extend the comment period due to the high number of responses. The new

deadline is January 28, 2002.

So, if you have experienced problems with the headlight glare, you should use this extension. *Currently comments aren't being accepted by US mail, so if you wish to send written comments, you must use another carrier such as UPS or FedEx.* Your comments may be submitted in writing to the Department of Transportation's Docket Management Section, Room PL-401, 400 Seventh Street S.W., Washington, DC 20590. It is requested, though not required, that two copies of the comments be provided. The docket section is open on weekdays from 10

a.m. to 5 p.m. Members of the public who are providing comments should cite the docket number: *NHTSA-2001-8885.*

In addition, comments may be submitted electronically by logging onto the docket management system web site at <http://dms.dot.gov>. Click on "Help" or "Electronic Submission" to obtain instructions for filing the document electronically. The electronic docket number is 8885.

The notice of request for comments is posted at <http://www.nhtsa.dot.gov/cars/rules/rulings/glare.html> ☹

What Is The MUTCD? Part II

By John Carr, Massachusetts Activist

In the last issue I discussed some general aspects of the *Manual On Uniform Traffic Control Devices*. This article discusses standards related to appearance and placement of signs.

Standards

"The basic requirements of a highway sign are that it be legible to those for whom it is intended and that it be understandable in time to permit a proper response." MUTCD Section 2A.06.

This principle and the requirement that the sign and supports not be hazards to drivers or pedestrians are the foundation of the MUTCD requirements for appearance, size, and placement of traffic signs.

The purpose of a sign is to tell you something.

A sign hidden behind a bush, twisted so it is not facing you, or with letters so small you can't read them as you drive past, is failing in its duty. A sign that you can't understand is failing in its duty.

It isn't your job, as a driver, to squint at the side of the road looking for a small, rusty sign. "Traffic signs should be kept properly positioned, clean, and legible." [MUTCD Section 2B.01]

Appearance

The MUTCD specifies general requirements about shape (vertical rectangle for regulatory signs, diamond for warning signs, etc.) and color (white background for most regulatory signs, yellow for warning signs, etc.). Improvisation is discouraged. Where there is a standard sign for a purpose, towns must not get creative and make up their own.

With a few exceptions, all signs must have a border with the same color as the legend on the sign.

All signs must be retroreflective (coated so that incoming light is reflected back towards the source) or illuminated. If a sign doesn't glow when illuminated by your headlights at night, it is probably getting too old. Most signs have a five to ten year lifetime before the surface must be replaced.

Location

Signs should generally be at the right side of the road.

The bottom edge of a sign must be at least five feet above the near edge of pavement. The minimum height is seven feet where there is parking or pedestrian activity. The minimum height is also seven feet for warning, regulatory, and router marker signs on freeways and expressways if the signs are within 30 feet of the road. A secondary sign (e.g. an advisory speed plate) underneath another sign may be one foot lower.

Signs in rural areas must be at least six feet away from the pavement, to prevent them from being struck by cars. In urban areas the distance may be reduced to two feet, or one foot if there is a curb or existing poles within one foot of the road.

"Regulatory signs shall be installed at or near where the regulations apply." [MUTCD Section 2B.01] Sign placement must consider traffic speed. (It does no good to warn of a hazard if drivers have no time to respond.)

Size

The MUTCD specifies sizes for most signs. The required size depends on the specific sign, the type of road, and the speed of traffic. Sometimes signs are permitted to be smaller on low speed roads. Larger signs are often appropriate where special circumstances require greater

visibility or emphasis. In many cases, larger signs are required on expressways and freeways.

(When the MUTCD says "expressway" it means "a divided highway with partial control of access." The term "freeway" means a divided highway with full control of access. In the northeast, freeways are commonly referred to as expressways.)

The standard size for most regulatory signs affecting vehicular traffic is 24 inches wide and 24 or 30 inches tall. Most diamond warning signs should be 30 or 36 inches wide. Parking signs must be at least 12 inches wide. Stop signs should be 30 inches wide.

Generally, regulatory signs may not be reduced below 24 inches wide. The exceptions are the vertical one-way sign (18 inches) and no passing and keep right/left signs (18 inches wide on low speed roads).

Here are sizes for two commonly encountered signs:

A stop sign must be at least 24 inches wide on a low speed road, 30 inches wide on a conventional road, and 36 inches wide on an expressway.

A speed limit sign must be at least 24x30 on a conventional road, 36x48 on an expressway, and 48x60 on a freeway.

Noncompliance

When there is gross disregard for the provisions of the MUTCD, courts should disregard the sign. I have seen detours marked with a small piece of spray painted plywood leaning against a barrel. This doesn't even come close to being a standard sign. It does not protect the government from liability if a person fails to follow the detour,

Continued on next page

Members Only Password

By Eric Skrum, Managing Editor

This may be a reminder for some of you, but others of you may not have visited our web site before. Portions of our web site (www.motorists.org) are reserved for our NMA members only. These areas can be identified because they will have a "Members" graphic by the links that are for your eyes only.

When you click on one of these links you will be prompted for a username and a password. The

username is your six-digit NMA member number. For example, if your member number is 234567, your username would be 234567. If you do not know your member number, it can be found on the mailing label of the *NMAF NEWS* or any other general mailing from our office.

Your password is your two-character state/province abbreviation in UPPER CASE. Please note that this is case sensitive and needs to be in

UPPER CASE. As an example, since I live in Wisconsin, my password is WI.

Not only do we have some good ticket fighting strategies in these member only areas, but you can also find the *NMA Motorists Guide to State and Provincial Traffic Laws* and other great resources. Easy to find and easy to use, the members only areas of the NMA site are waiting to serve your information needs. 📧

MUTCD

continued from previous page

nor does it permit prosecution on the grounds that the sign was disobeyed.

Generally, if a noncompliant sign is so deficient (by design or placement) that under the circumstances you can not reasonably be expected to see it and recognize it as an official sign, then the court should disregard the sign.

In many states there is a law similar or identical to Section 11-201(b) of the Uniform Vehicle Code (a model set of traffic laws), which states:

"No provision of this code for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and the place of the violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person."

Under this law, if you are accused of disobeying a sign and dispute that the sign was improperly placed, then the prosecution must prove that a sign was both in proper position (i.e. meeting all the requirements imposed by the MUTCD) and also legible. Even if you saw the sign,

you are not required to obey it if it is not placed properly.

For example, a driver in Wisconsin was recently cited for speeding. The court found that the sign was visible, but dismissed the citation anyway because the sign did not meet the MUTCD minimum height requirements. The appeals court agreed because the law clearly requires that a sign be both properly placed and legible.

Although MUTCD violations may invalidate a sign, you must keep two things in mind. This defense is not available if a sign merely confirms a general rule for which no sign is required. Passing on a curve with limited visibility is illegal even if the state neglects to post a "DO NOT PASS" sign. Also, no deficiency in signs justifies recklessly endangering other drivers.

"Clean, legible, properly mounted devices in good working condition command the respect of road users." [MUTCD section 1A.06] 📧

Return Address

Lately, we have been receiving mail with no return addresses. This makes it difficult for our membership department to ensure that you receive your benefits. For example, a member will pay for his/her membership with a money order. That member's name isn't on the money order other than the signature and that signature isn't legible. We then refer to the return address to discover who has just paid for a membership. If that address isn't there, we don't know who to credit with the renewal.

Filling out the return address will make it easier for us to ensure that you receive the member benefits that you deserve. Please help us with this. Thanks.. 📧

Have a friend join the NMA and you'll get an extra 3 three months of membership

FREE!

Uncomfortable Situations

By Eric Skrum, Managing Editor

This article gives tips on what to do during an uncomfortable traffic stop. I am referring to the traffic stop where the car is unmarked and the motorist isn't sure if it really is a legitimate officer of the law. Or maybe the driver thinks there is something fishy with the stop; they can't put a finger on it, but there is something about this traffic stop that doesn't feel right. With the proliferation of unmarked vehicles, these suggestions are more helpful than ever. Please note that this article isn't just for women motorists. I know that many of these tips are what I would do if I were in that same situation. Thus, this article can be helpful to all members, regardless of gender.

Drive to a safe area. If you are driving alone at night and aren't comfortable with a traffic stop, you can signal the officer that you are aware of him by waving at him or flashing your brake lights. Then proceed to drive safely to a more populated well-lit area. Then explain yourself to the officer when he comes to your vehicle. The officer should be understanding about the situation. Even if he isn't happy, your safety is worth a little verbal abuse from an irate police officer.

Drive with a cell phone. This device can give a motorist an advantage during a traffic stop. As you are being pulled over, you can call a

friend and tell them where you are and what is happening. Then keep that friend on the line during the actual stop. Not only does that mean a person that you trust is monitoring the

With the proliferation of unmarked vehicles, these suggestions are more helpful than ever.

situation, but they can also be a witness if anything should happen.

You can also use that cell phone to call 911 and alert the authorities to your situation. They too, could be kept on the line until it is clear that this is a legitimate stop.

Lock your doors. If you are being stopped by an imposter, this action can keep you from being pulled from your car. If it is an officer, there is no reason for him to take offense to your doors being locked. In fact, he probably won't even know that they are.

Don't open your windows all the way. If you open your window wide enough to pass your driver's license (and any other paperwork) through, that should be sufficient for the traffic stop. This will keep anyone from reaching through the window.

Don't leave your vehicle. There is no reason for you to leave the vehicle unless the officer is going to arrest you.

If that's the case, you can insist that he request more officers to be on the scene. This will thwart an imposter and temper an officer with an attitude problem.

You can also choose to drive to the nearest police station. Explain to the officer that you aren't comfortable with this situation and that if he insists on taking you into custody, you will drive yourself to the station of his choice. If he insists on arresting you on the spot, revert to plan "B" and demand that other officers be present before you will leave your car. Once again, more officers will be helpful for him if this is a legitimate stop. Make sure that you ask for directions to the station and know where you are going.

This is another instance where a cell phone can be handy. You can either have a friend meet you at the station, or you can inform the dispatcher of what is happening and request that someone be outside the station when you arrive.

Remember that every traffic stop is different. If you keep these suggestions in mind and pay attention during the traffic stop, you shouldn't have a problem. Make it a point to share them with your family and friends as well. You aren't the only one who needs to be prepared for these potentially dangerous situations. 📞

Conversation

continued from page three

used hand-held phones versus those who used hands-free models.

The researchers used this and other data to arrive at the conclusion that it is the active participation in a conversation that causes the distraction. Therefore, banning hand-held phones will not have an

effect on reducing distraction-related accidents. However, the study didn't evaluate the difference between a conversation on the phone and a conversation with a passenger. A copy of this study can be found at the National Safety Council's web site (<http://www.nsc.org>). 📞

State Chapter Coordinators & Activists:

You can find a list of these volunteers on the back of the newsletter. They are a great resource for NMA members. Can't find one in your state? Would you like to become one? Contact the NMA for more information.

The ABC's of Arrest, Search, And Seizure Part 1

By Joe Musselwhite, Texas Activist

Introduction to the Fourth Amendment

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Amendment IV, U.S. Constitution

The Fourth Amendment came about because of grievances the colonists had against the English Crown. The Parliament was intent upon reducing the amount of smuggling activity taking place in the American colonies. Their remedy was to institute writs of assistance, which were issued without judicial supervision or any demonstration of justification, and permitted searches that were unlimited in scope. Officers armed with such writs had virtually unconstrained discretion to search whenever, wherever, and whomever they chose. (See, Navigation Act of 1662, 13 & 14, Chapter 11. Sec 5, 1662). In adopting the Fourth Amendment as part of the Bill of Rights, the framers sought to avoid the abuses of these open-ended licenses to search. This purpose is evident in the clause requiring the demonstration of probable cause before a warrant may be issued and further limiting the reach of officers armed with a warrant to particularly described places, persons, and things.

In addition to the provision concerning warrants, the Fourth Amendment (in its first clause) prohibits "unreasonable searches and seizures." A basic question regarding the interpretation of the

amendment has been the relationship between the two separate clauses, which are joined by the conjunction "and." Some have argued that the second clause gives meaning to the prohibition in the first, so that a search is presumptively unreasonable when it is conducted without a properly issued warrant. As Justice Frankfurter stated in *United States vs. Rabinowitz*: "What is the test of reason which makes a search reasonable? There must be a warrant to permit search, barring only inherent limitations upon that requirement when there is a good excuse for not getting a search warrant." 339 U.S. 56, 83 (1950) (dissenting).

Others submit that the clauses should be read separately, and thus the reasonableness of a search does not turn on whether a warrant was obtained or whether there was an adequate excuse for not seeking one. Rather, the focus is on the factual circumstances justifying the search and the manner in which it was conducted. The main protection afforded by the Fourth Amendment in this view lies not in prior judicial screening, but rather in the after-the-fact review of police conduct to insure that it was reasonable given the circumstances at the time.

The warrant preference view has been frequently espoused as the prevailing doctrine in recent years. As a unanimous Court stated in *Mincey vs. Arizona*, 437 U.S. 385, 390 (1978): "The Fourth Amendment proscribes all unreasonable searches and seizures and it is a cardinal principle that searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment." See also *Vale v. Louisiana*, 399 U.S. 30, 34 (1970) where the Court stated: "Warrantless

searches can be conducted only in a few specifically established and well-delineated situations, even though the authorities have probable cause to conduct it" (emphasis mine).

In summary, we've seen that governmental abuse was the reasoning behind the Fourth Amendment and that there have been two different interpretations of the amendment in the past. We've also seen how these two different views have affected the case law that has been handed down over the years.

In Part 2 we will ask the question: When Does the Fourth Amendment Apply? After discussing this issue we will turn our attention to the substantive requirements of the amendment. It's my intention through this series of articles that NMA members will become better acquainted with the issues concerning arrest, search, and seizure law.

References: Constitutional Criminal Procedure, Bloom and Brodin, Published by Little Brown and Company, Arrest & Search Without a Warrant Manual, Jade Meeker, Published by CLEAR (Council For Law Education And Research). 📖

Visit one of the NMA web sites for more motorist information.

www.motorists.org

www.speedtrap.org

www.roadblock.org

News From Around The Country

California

Redwood City is reporting a drop in speeders. They attribute this to yellow signs that were installed last March. These signs read "What Don't You Understand About 25 mph?," or "Traffic School is Boring—Slow Down," and "Speeding Tickets Available Ahead."

Connecticut

State Police have begun Operation Centipede. The enforcement operation is being called this because troopers will be stationed about every mile along a 20-mile portion of the highway. This is an effort to stop speeding, unsafe lane changes, tailgating, overly aggressive driving, and other traffic infractions. This operation will be in effect on various days and will be used on all limited-access highways in central Connecticut, including routes 2, 8, 9 and 40, and on major interstates, including I-91, I-95, I-295, I-384 and I-691. (We anticipate an increase in accidents as a result of this program.)

Also in Connecticut news, the Transportation Strategy Board, a panel formed last summer to address severe congestion on Connecticut roads, issued a draft report suggesting that tolls be considered as one way to provide money for highway and transportation improvements. Governor John Rowland has already indicated that he doesn't support this suggestion.

Florida

The Florida DMV (Department of Motor Vehicles) must refund an estimated \$30 million to disabled people it illegally charged for handicap parking placards. The DMV had charged \$15 to the disabled for blue placards to be hung on rearview mirrors. However, Florida law specifically prohibits government agencies from charging disabled people to participate in programs aimed at

making public accommodations (such as parking lots) accessible.

Maine

The Maine Turnpike Authority is offering \$25 to drivers who want to return seldom-used transponders. These are the devices that allow automatic deductions for tolls when a vehicle goes through a toll booth. However, any motorist who chooses to do this, will not be allowed to sign up again until after the current system is converted to the E-ZPass system which will occur in 2003.

Massachusetts

Orleans resident Richard Philbrick received a red light camera ticket from Boulder, Colorado. The problem is that Philbrick hasn't been in that state in 60 years. The other problem is that none of the evidence matched Philbrick's situation. The car seems to be a Honda sedan; Philbrick drives a Volkswagen Passat station wagon. The driver in the photograph is much younger than Philbrick. And, the license plate numbers do not match Philbrick's current plate, and isn't even from Massachusetts. Philbrick is still fighting the ticket.

Michigan

Senate Bill 805 would impose a blanket 45 mph speed limit on all unpaved roads in Michigan. NMA member James Walker testified at the hearing held for this bill. The committee vote was 2 to 2, and thus it was not reported out, and is dead for at least this year.

New Jersey

Senate Bill S1627 (sponsored by Senators Bucco and Sinagra) is intended to protect the privacy of motorists who use cell phones while in their vehicles. It would prohibit a governmental agency (or other entity) from tracking or monitoring the radio signal emanating from cell phones.

The purpose would be to ascertain the location or monitor the speed of the motor vehicles for traffic reporting or control.

North Carolina

Raleigh fire officials are asking that Raleigh not authorize any more speed humps and to remove the 29 installed last year in the Brentwood neighborhood. The speed humps are adding too much time to emergency response vehicles. It is also damaging the fire trucks. To date, repair costs to the vehicles has been \$10,000.

Pennsylvania

Lawmakers in the State House voted 196-0 to approve a plan to ban the sale or distribution of methyl tertiary butyl ether in the state starting in January 2005. The bill is now on its way to the Senate.

Washington DC

The District is having more problems with photo radar speeding tickets. Some of the tickets list incorrectly posted limits. The speed limits stated on the tickets are lower than those posted on the streets. For instance, delivery drivers for Eastover Auto Supply in Prince George's County recently received two speeding tickets for exceeding a 25 mph speed limit on Malcolm X Avenue SE by 16 mph. But the speed limit posted on the road is 30 mph. The 5 mph discrepancy cost them \$50 per ticket. Similar cases are being reported.

Wisconsin

Senators voted 22-1 to send back to committee a bill that would create a primary seatbelt law. This would allow police to stop motorists solely to see whether they are wearing seat belts. Currently, Wisconsin has a secondary seatbelt law which means they can only cite violators after stopping them for another traffic offense.

The Experts' Corner

Do you have a question that only an expert can answer? If so, look no further. We have many NMA members with special fields of expertise. This feature was created to assist members with answers to both practical and technical questions.

This sharing of knowledge is another benefit of belonging to the NMA. Please indicate that you are an NMA member when calling a listed "expert."

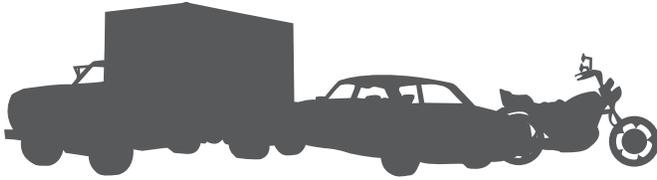
Can you help? Please contact us with your field of expertise and provide us with a contact address.

A telephone number would be very helpful, but is not required. Feel free to list preferred contact times if you do provide a telephone number.

PLEASE NOTE: This is not intended for listing of commercial business services.

As an NMA member, the Experts' Corner is available to you online at

<http://www.motorists.org/join/membersonly/experts.html>



MEMBERS WRITE

Your letters are welcomed and appreciated. This is a forum for diverse opinions, different perspectives, and personal experiences. Letters may be edited for length or clarity. Letters should not exceed 300 words in length. Full-length articles will also be considered for publication in the NMAF NEWS. Articles should not exceed 600 words in length. Positions and opinions expressed in letters and member-authored articles are those of the author and do not necessarily reflect NMA policies or objectives. To submit, you can email us at nma@motorists.org or mail to our NMAF Office.

Recently, our homeowner's association decided we needed speed bumps to slow traffic on our private roads (posted at 20 mph). I went to the NMA site, found great research, and wrote a reasoned letter of opposition, as I was unable to attend the meeting at which this would be discussed.

Last week, all residents received a letter stating that the board had decided not to put in speed bumps, along with a reminder to watch our speed. For once, sanity prevailed. Had they gone ahead with this cockamamie idea, all of the homeowners would have faced a special assessment to pay for these stupid bumps.

Thank you NMA—this saved many times my membership fee.

Linda Cheatham, CPA
Alexandria, VA

Thanks to the resources and encouragement of the NMA, I've won my fourth straight traffic ticket court battle!

I was spotted by the California Highway Patrol riding unrestrained in the back of a pickup truck, which is illegal in California under Section 23116 of the vehicle code. Both the driver, another passenger, and I received a \$114 citation.

I filed a motion to dismiss on the grounds that the law was an unconstitutional infringement on my liberty interest in health-care self-determination, based in part on *UAW v. Johnson Controls* [499 U.S.

187 (1991)] and *Echazabal v. Chevron* [226 F.3d 1063 (2000)], as well as California Penal Code Section 2670 which guarantees the right of prisoners to refuse unwanted medical measures.

My motion was denied, based on what I consider to be a misinterpretation of *State v. Wells* [495 N.Y.S.2d 591 (1985)] in the California seatbelt validity case, *People v. Coyle* [251 Cal.Rptr. 80 (1988)].

We were all ready to make an impassioned closing argument invoking the "timeless principles of individual liberty," and appeal the guilty verdict straight up the ladder, but the officer stole our thunder by not showing up. Case dismissed!

All the materials and research will be sent to the NMA, and the full case will be made available on my web site (<http://www.aidoann.com/>) to anyone who is interested.

Michael Pelletier
San Jose, California

The information in the November/ December issue of *NMAF NEWS* about the Wyoming Supreme Court ruling that drivers have "no right to consult a lawyer before being tested for alcohol in their blood" because the court claimed that the drivers have not actually been charged with a crime at that time, shows how our court system is again splitting hairs in favor of the government.

I wonder what politicians would

do if the police started requesting to test them before they entered the voting chambers of the state legislatures across the US? Also, why not test members of Congress the same way? Their history of the consequences of "reckless" voting is no different than reckless drivers. One example, the CAFE they voted for reduced the size and weight of autos, which, in turn, resulted in the loss of lives from 2,000 to 3,000 annually, according to a research think tank.

Bill Holdorf
Chicago, IL

Editor's Note: The following isn't about motoring issues. However, it does address a topic that was covered in the last newsletter. And, it gives an excellent example of a letter that was written by a member. This letter helps to show how easy it is to respond to various authorities and officials, if you just take the time.

I read with interest your commentary *Freedom Isn't Free* in the November/ December issue of *NMAF NEWS* and agree with your comments. While this letter does not deal with a motorist issue, it does deal with freedom. Because I am a member, I thought you might be interested in one aspect of the current airport security issue. That of "Ticketed Passengers Only."

I work for an airline (so I know a

continued on next page

Members Write

continued from previous page

little on the subject) and feel one of our most basic freedoms is being threatened. That of free access to public places. In this case, US airports.

I am enclosing a copy of one of my letters to the FAA and my Congressional Delegation for your perusal. I am afraid that such restrictions, if allowed to be made permanent, will start us on that "slippery slope" of security at the expense of freedom.

I hope other members seriously look at this and other government measures, and are vigilant so we do not lose these freedoms that we take for granted.

Dear Sir:

I am a airline employee, (Philadelphia) but more, I am a US citizen who is appalled at what happened on September 11.

I realize that for the time being, all parties are assessing security and balancing that with our (US) unique individual freedoms. With this in mind, may I say that I hope that the useless use of "ticketed passengers only" is done away with as soon as possible.

I would like to remind you that the hijackers *HAD* tickets. Security did its job. Knives were used. Not guns or bombs.

And now the public is being hurt, not to mention businesses in the sterile area for something that "ticketed passengers only" would not have stopped! What about parents picking up unaccompanied minors? What about persons who need physical assistance? What about the Americans with disabilities act? Not to mention the right of freedom of movement and access. And no, despite popular belief, it's almost impossible to get a so-called "gate pass."

I can only hope that you end this

waste of time and manpower and allow the meeters and greeters into the public areas beyond security at the earliest possible moment, unless, of course, you want to concede that terrorism has won.

Where's the next public place you want to restrict movement; City Hall, court houses, THE CAPITAL!, where will it end?

**Averill Hecht
Cheltenham, PA**

I had a couple of comments on items in the November/December 2001 issue of the *NMAF NEWS*.

First, attorney Casey Raskob had some good suggestions for dealing with tickets. I would, however, note that while a less conspicuous car may help avoid notice from police, it can also make it harder for other drivers to see you as well. Silver cars are very difficult to see in many road conditions and I am convinced, increase one's likelihood of being involved in an accident.

Second, reader Bob Roraback perfectly described adjusting one's rear view mirrors, but even his methods can be defeated by poor engineering. I've had more than one car that had inadequate coverage from the stock mirrors. Luckily, there are aftermarket ones that can help.

**Thomas M. Goethe
Brandon, FL**

I have sent a check for a *NMA Life Membership*. I have been considering a *Life Membership* for a long time but the cost seemed to be high. However, after analysis, it appears that a *Life Membership* is a great deal! Here's the analysis:

NMA has saved me \$400 in fines (not to mention insurance surcharges and attorney fees) during the last 5 years. I plan on being a member for at least 10 years more which is \$350 at the new membership rate. Subtract the *Life Membership* fee of

\$450 and I will have saved \$300.

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+\$350
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- \$450

Savings of \$300

Now, I wish that I had become a life member ten years ago. This would have saved me a lot of money! And, the information in the *NMAF NEWS* is invaluable.

"Knowledge is power." Now that I am a "Life Member," I can consider the "*Premium Membership Option*."

**Carl Boeckman
Cincinnati, OH**

Leave a copy of *NMAF NEWS* in your doctor's waiting room and write "office copy—please save" on the cover. Other places to do this: Dentist, train station, health club, and community center. Just use your imagination. Many people will see these newsletters and some will join.

You could also take a copy of *NMAF NEWS* to your county library and suggest that they subscribe to the newsletter (join NMA). If they resist, offer to pay the subscription price (membership dues). Many intelligent people will see the newsletter and spread the word.

**Thomas A. McCarey
Berwyn, PA**

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