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COVER

Too Many Stop Signs
By Eric Skrum

No Takers!

by James J. Baxter, President, NMA

The last issue of the NMAF NEWS lead off with an article about the NMA's \$10,000 Ticket Camera Challenge. Our challenge (an open letter to communities in Maryland, Virginia and Washington D.C. that employ ticket cameras) was published in major and minor papers. The response from the targeted communities was a resounding silence.

As you may recall, we offered to pay any community running red light cameras \$10,000 if we were unable to reduce red light violations by at least 50 percent through the use of traffic engineering practices. The flip side was that if we proved the value of engineering solutions, the community would employ those solutions elsewhere and discontinue the use of ticket cameras. The allure of ticket camera money and the "command and control" enforcement mentality (along with the possibility that the incompetent and/or unethical management of traffic lights would be uncovered) caused our challenge to go unanswered.

No takers!

Did we expect otherwise? Not really. The cities using ticket cameras are seduced by the easy money, attracted by the appearance of dealing with a "problem," and very aware of the political and financial fallout if it is proven they have been fleecing motorists, in place of correcting intersection safety deficiencies. But, we still proved our contention. From a safety perspective, these communities had everything to gain and nothing to lose by taking us up on our offer. They have no legitimate reason for not accepting our challenge.

If we are right about engineering solutions, the city ends up with vastly safer intersections. If we are wrong, the city can keep right on doing what it is doing, including running ticket cameras, plus receive \$10,000 for experimenting with our recommendations. Clearly, a win-win situation if the city's real motivation is improved intersection safety. Unfortunately, the dominant motivations appear to be greed, power, and the avoidance of liability.

Congratulations NMA!

This year is the 20th Anniversary of the National Motorists Association. In that time frame, motorist rights groups have come and gone, but the NMA still endures.

Twenty years ago, we had a dream... a dream of driving on roads that weren't hampered by a National Maximum Speed Limit (NMSL).

That's how it all started. Since then, the NMA has succeeded in its original mission; The repeal of the NMSL, and

has expanded to encompass other motorist issues such as red light cameras and traffic calming. The goal is to protect and enhance motorists' rights.

And, the NMA has been succeeding at this goal, slowly but surely with the help of members, the State Chapter Coordinators, and Activists.

So, give yourselves a hand! Through your support and your efforts, the NMA has been able to provide 20 years of service to motorists.

Undetectable

Our friends at *Valentine One* alerted us to a new radar gun that is on the market.

Normally, this wouldn't be such a big deal, but it seems that the gun's manufacturers, MPH Industries, is claiming that the BEE III™ has a POP™ mode that is undetectable.

But that isn't the real problem with this device. The real problem is that when the POP mode is activated, the gun gives erroneous readings, every single time.

Valentine One believes that MPH Industries is aware of this defect. In the Operation and Service Manual it states, "**A note of caution:** Information derived during the POP burst is non-evidential... Citations should not be issued based solely on information derived from the POP burst."

Of course, MPH Industries isn't bringing up this defect when they are attempting to peddle their latest and greatest. The selling point is that the radar gun cannot be detected by the motorist. Why tell the police that readings are erroneous? The manual and its note of caution should be warning enough.

However, given the widespread ignoring of manuals, will anyone even read that warning? And, if they do find the warning, will they heed it?

To learn more about this technology, visit the *Valentine One* site at <http://www.valentineone.com/pop/>. *Valentine One* has also developed a fun game that helps to illustrate the BEE III™ and its errors. 🖱

Paradise Refound

In the last issue of *NMAF NEWS*, the article *Paradise Lost* described the photo enforcement program that was about to start in Hawaii.

The system is currently active and is causing many political problems. Hawaii legislators are quickly discovering that constituents are not happy with "Photo Cop." Motorists are calling the white vans that house the photo equipment "Tallyvans" and local radio stations have added disclosing photo enforcement locations as standard fare for their morning shows.

Problems have been so prevalent that the City and County of Honolulu are stopping their use of photo radar. The city has cited concerns about the public's reaction to the program and claims that the cameras are actually contributing to

unsafe driving, causing drivers to go too slowly on some roads, bunch up in traffic, remove their front license plates, and pay more attention to the vans than to the road.

Also, at print time, it was reported that three Senate committees will vote on a bill to repeal the use of photo enforcement in Hawaii.

With all this in mind, the trend seems to be going towards the expulsion of these cameras from Paradise. The NMA will certainly encourage this trend. 🖱

Photo Contest

The *NMAF NEWS* is looking for interesting, motorist-related graphics or photos for its cover. If we use your entry, *NMAF NEWS* will send you **\$50**.

Here are the requirements.

- Color: We would prefer black and white, however we can accept color photos if there is good contrast.
- Orientation: It should be **vertically** oriented with the subject of the photo in the bottom two-thirds of the graphic area. Preferably the subject should also be to one side or the other to allow room for captions.
- Topic: Your entry must be motorist-related in its content.

Please send your entry to:

Cover Contest
NMAF NEWS
402 W. 2nd Street
Waunakee, WI 53597

You can also email your entry to nma@motorists.org

Please remember to include your name and address with your entry. If you wish to have your photo or drawing returned, please include a self-addressed stamped envelope suitable for that purpose. 🖱

Keep "NMAF 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).

Estate Bequests

The *NMA Foundation* is at a disadvantage when it comes to seeking financial support. We don't provide homes for soft, cuddly, furry creatures, find cures for devastating diseases, or provide medical treatment for needy children. Our goal is to protect and enhance something that almost everyone takes for granted; Individual mobility and the freedom and opportunity it provides.

The emotion, sympathy, and urgency of other deserving causes is difficult to harness in the name of "driver's rights" or rational traffic laws. But, the next time you walk out the door and head for your car, think what it would be like if it wasn't there, and

the ability to travel "when you want" and "where you want" was just a memory.

With that said, the *NMA Foundation* would like you to keep it in mind when thinking of the future. Donations come in many forms, but one that is often overlooked is estate bequests. These generous donations are made in the context of an overall estate plan that dictates provisions for one's heirs as well as charitable contributions.

Bequests are easy and flexible. You can simply state that "I give \$XXX to the *NMA Foundation*, a non-profit organization, for its exempt purposes." You can even be as specific as you would like to be. You can direct that

your donation be used to address certain issues or certain projects.

Bequests help preserve as much of an estate as possible through tax-saving devices and opportunities. Under current law, some assets are subject to extremely high tax rates when passed to heirs through an estate. Such assets are ideal resources to use in making a charitable gift by will or trust.

For more information on the benefits of estate bequests, you should talk with your estate planner or call NMA Foundation Executive Director Jim Phend at (317) 844-1932 or jphend@indy.rr.com.

Why Can't Everyone Drive Like Me?

By David Tatlock

I prefer to travel alone. Not easy in a day of crowded roads. Like some drivers, there's a little bit of the drifter in me. If faced with a sea of brake lights, I'll get off at the first exit.

I drive at an optimum speed to keep my inner thoughts in contact. One of the reasons I like driving is that I think well behind the wheel. I'd like to imagine I pioneered the gratuitous slow-down, putting on my right-hand blinker, and letting the fast guys (or the policeman) deal with the horizon instead of my bumper.

Admitting my own innocuous idiosyncrasies, I'll offer a few of my discoveries about obtuse driving that are potentially dangerous. Cars tend to travel in clumps thus relinquishing the code that underlies the carefree image of car, road, and freedom. Ignored is one rule after another such as "driving according to the conditions" or, "not overshooting your headlights" and most important, "leaving yourself an out."

Speeding is not a primary cause of accidents; It is the driver who can't make up his mind. Then there are those who can't parallel park, park selfishly, or park so there is no room for another vehicle. How about the driver who camps out in the middle of the lane, waiting to make a left-hand turn, with nary a look to see if cars are stacking up?

I gear my driving life to avoid those agonizing Sunday trains of forty and fifty cars, engineered by leaf peepers yo-yoing from thirty-five to forty miles per hour.

I attribute smooth driving to critical road skills learned as a one-time cabbie and a lifetime motorcyclist. Being two or three steps ahead of other drivers is no accident.

One trick learned from road racing my motorcycle is, what to do with your eyes when entering a turn. Most drivers look at one specific spot. This is called "target fixation." Cranking your head, letting your eyes play onto the tapestry up ahead, allows for

greater "carrying speed." You go where your eyes are.

When you are wondering what the other vehicle is going to do, look directly at the front wheel for signs of its very first movement.

Like much else in life, driving ability is an ancillary feature of something long embedded in our personality. In this country, there is a tendency for people to spout their opinions as though they were truisms. Brash, aggressive behavior, by a turn, can become smooth, conciliatory behavior, and nowhere better judged than on the road, where all is in flux.

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

But The Trust Fund Was Just Sitting There!

By Aarne Frobom

The phrase "trust fund" has a comforting sound, but motorists should be uncomfortable about what's happened to the Highway Trust Fund. This is the fund created in 1956 to receive fuel-tax revenues and pay for federal-aid roads, including the new Interstate system, and it was intended to be used only for roads. But the Trust Fund kept faith with motorists for less than two decades.

Beginning in the Nixon administration, the Trust Fund was rolled into the "unified federal budget." While still usable only for roads, the rate of Trust Fund spending began to be depressed to make the overall deficit look smaller. Large unspent balances were carried throughout the 1970's and 1980's. In 1983, the Mass Transit Account was carved out of the Trust Fund, diverting road-user fees to public transit.

Road construction enjoyed a small renaissance following the 1997 highway bill. For the first time in decades, Trust Fund spending actually kept up with gas tax revenues. Road and transit spending exceeded \$31 billion. But when the surplus evaporated in 2001, the boom came to a halt. When confronted with unexpected deficits, Congress and the Bush administration reverted to choking off road spending and using the Trust Fund balance to offset General Fund spending.

Big bites have been taken out of highway funds. Of the 18.4 cents you pay in federal taxes on every gallon of gas, 2.83 cents goes to big-city transit systems, almost a sixth of the total. A billion and a half a year is siphoned into the ethanol subsidy, and that amount is going up. Small fractions of highway aid are used for HOV (High Occupancy Vehicle) lanes, parks, bike trails, old-building preservation, and even anti-auto "smart growth" programs. These diversions grow

larger every time Congress touches the highway law.

The federal highway program is reauthorized every five or six years, with new rules for divvying up the pie. Every year, Congress passes a budget for the US Department of Transportation. Each of these events is an opportunity for pork barrel spending at the expense of highways generally. And at every one of these opportunities in recent years, Congress has set new records for spending highway funds on things other than highways. In the 2003 budget, Congress did away with "discretionary" funds that states can

Like a warship or fort without air cover, the Trust Fund has turned from a valuable asset into a sitting-duck target, ripe for attack from all sides.

apply to the US DOT for, and then spent the whole discretionary category on pork barrel jobs in the states of influential committee members.

Will the U.S. federal highway system collapse under assault from Congress? Not immediately, but funds are shrinking to the point where new capacity to cope with traffic growth won't be affordable. Non-highway interests could filch so much that the Trust Fund will no longer be of value to some states.

Like a warship or fort without air cover, the Trust Fund has turned from a valuable asset into a sitting-duck target, ripe for attack from all sides. Where it once united the country with high-speed highways, the Trust Fund could become a means for flushing money away from auto-using states into transit-dependent areas, and away from roads into other programs. States that want road improvements could be forced to tax their own motorists

heavily to replace road money that goes to Washington and doesn't come back.

Is anyone defending the Trust Fund? We'll see. The big cut in the highway funds for 2003 was a wake-up call for the highway system's friends, and a bill has been introduced to reverse the spending cut. This year's

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The Eisenhower System What Would Ike Say?

In case you haven't noticed the 5-star signs along freeway roadsides, the Interstate System has been renamed the Eisenhower System of Interstate and Defense Highways. This is to commemorate the building of the system starting with the passage of the Trust Fund during Dwight Eisenhower's first term in 1956. In popular folklore, Ike became an enthusiast for freeway construction by observing the autobahns in occupied Germany after 1945.

Actually, the Interstate System was authorized in 1944, when Ike was occupied in Normandy. Some political history suggests that the President had to be sold on the concept of the Interstates, at first believing them to be a boondoggle, and unconvinced of the need for a new federal tax. Eventually, freeways became the enduring symbol of the Eisenhower presidency. But what would the General say if he knew that the Trust Fund, of which he was initially suspicious, was financing the Boston harbor tunnel and the Los Angeles subway? 🐣

Stop Signs

By John Carr, Massachusetts Activist

This is the third in a series of articles on the *Manual On Uniform Traffic Control Devices*.)

"Please put a stop sign on my street to slow down speeders."

"That intersection is an accident waiting to happen."

Such requests are frequently heard by a city traffic engineer's office. Although many cities will routinely install stop signs based solely on such complaints, they are often hurting safety in their attempt to placate residents.

(By the way, the second complaint has been declared politically incorrect by the National Highway Traffic Safety Administration. They say, "there are no accidents" and the word "crash" should be used instead.)

NMA members who live in urban areas might not realize that many intersections around the country have no stop signs or traffic signals at all. A stop sign is a substantial inconvenience to drivers and increases the chance of a rear-end collision. On low volume roads the benefits often do not outweigh

the costs.

The first step in intersection control is to make traffic stop on one street only. The goal is to assign right of way where failure to do so would be hazardous. Before the signs are erected, an engineer should observe the intersection and determine that one of two conditions is present: drivers on a major road would be surprised by drivers

"Please put a stop sign on my street to slow down speeders."

entering from a minor road without stopping (e.g. because all the nearby intersections have stop signs or traffic signals), or the intersection is inherently dangerous (e.g. it has poor visibility or a serious accident history).

More often a city is deciding whether to convert a two way stop to a multiway stop, an intersection where all traffic must stop. The MUTCD calls for more caution in this case. In particular, the engineer should do more research and come

up with a written recommendation.

There are two main reasons to install multiway stop signs: fairness and safety. Posting stop signs on only one road at an intersection may cause long delays waiting for traffic on the other road. If the minor road carries at least 200 vehicles per hour and the average delay exceeds 30 seconds, it may be appropriate to stop traffic on the major road too. A serious accident history (five or more per year) can also justify multiway stop signs.

Multiway stop signs work best when traffic volumes are moderate and about equal on all streets. If there is little traffic entering from the side street, drivers on the main street will see no reason to stop. If traffic is heavy, a traffic signal should be used instead.

So back to the complaints.

"Do something about speeders." The MUTCD says "stop signs should not be used for speed control." There are two reasons for this advice: such signs are ineffective and dangerous. Stop

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Rental Fine Undone

The article *Your Rental Car Is Watching You* (July/August 2001 issue of *NMAF NEWS*) discussed a situation in Connecticut where Acme Rent-A-Car was using GPS technology to track their rental cars. Any time the renters exceeded the speed limit, they would automatically have a \$150 fine charged to their account.

The Department of Consumer Protection filed a complaint last July accusing Acme of violating the state's Unfair Trade Practices Act.

Commissioner James T. Fleming of the department approved the decision of the hearing officer that Acme is to stop this policy and refund an estimated \$13,000 or more.

Acme claims that this policy was enacted to discourage dangerous speeders and cover the excessive wear on vehicles driven at higher speeds.

Fleming has stated that the \$150 charge far exceeded the average 37 cents in auto damage caused by

speeding, making it an illegal penalty, not repayment for incurred damage. And, that it isn't Acme's job to enforce the speed limit in any state.

Currently, there are 26 customers who were charged by Acme, one of whom actually accrued a \$450 fine for speeding from the company.

Fleming has also asked state lawmakers to make fines like this illegal.

Source: Associate Press 

Radar Detector Crack Down

By Eric Skrum, Managing Editor

Texas is going after radar detectors, was the simple phrase from a CNN story that began a deluge of emails to my office. Many members became concerned that they were going to be ticketed for using their radar detectors.

The simple answer to this is, "No. You aren't going to get a ticket for using your radar detector." So, what was CNN referring to? The Texas Department of Public Safety (DPS) purchased 101 radar detector detectors with federal grant money in order to crack down on truck drivers. While it isn't illegal for motorists to use radar detectors (except for Virginia and Washington DC), it is illegal under federal regulations for interstate

commercial drivers to use detectors. This new effort and future plans by the DPS will make it possible for nearly every License and Weight trooper in the state to have this technology.

On the issue of radar detector detectors, we do need to warn members who travel in Virginia and Washington DC or those who may also be commercial truck drivers. Radar detector detectors are nothing new. They have been around for quite some time. There is a see-saw battle between radar gun manufacturers and radar detector manufacturers. The radar gun manufacturers try to come up with a reliable way to defeat the detectors while the radar detector manufacturers keep developing ways

to thwart those efforts. Well, this battle has shifted again. The NMA recently learned of a new development on the side of radar detector detectors. The newest devices are reported to have the capability of detecting all radar detectors.

While the NMA hasn't been able to confirm how rampant the use of these latest devices is, we felt that a warning to our members was still in order. Please be aware of the possibility that these units may be used in the areas where detectors are prohibited. As of this printing, the NMA hasn't been able to determine if the 101 detector detectors purchased by the Texas DPS are the new technology or the old. 📧

Nationwide Scrappage Programs

A bill (S. 517), authored by Senators Daschle (D-SD) and Bingaman (D-NM), has been introduced in the U.S. Senate containing a provision (Section 832) that would federally fund state scrappage programs for vehicles over 15 years old. Owners who turn in vehicles for crushing would receive a "minimal" payment and a future credit toward purchasing a newer vehicle, all in a misguided attempt to improve the overall fuel economy of the country's vehicle fleet. This bill represents the most formidable Federal legislative threat to the vehicle hobby in many years.

- Section 832 of S. 517 would give states that don't currently operate scrappage programs an extra incentive to create a program due to generous federal funding.

- Section 832 of S. 517 requires that federally funded state scrappage programs crush every car. It threatens enthusiasts nationwide with the loss of

valuable parts for repair, restoration, and customization projects.

- Section 832 of S. 517 does not require states to determine the fuel efficiency of vehicles being scrapped or that scrapped vehicles are being replaced by more fuel-efficient vehicles.

- Section 832 of S. 517 ignores the fact that cars turned in for scrappage often barely run or are rarely-driven second or third vehicles that have a minimal impact on overall fuel economy.

- Section 832 of S. 517 will diminish the availability of affordable transportation and repair parts to low-income drivers as more and more older cars are crushed.

- Section 832 of S. 517 does not guarantee that low-income individuals will be able to afford to purchase new vehicles—let alone more fuel efficient vehicles—with the money provided by scrappage programs.

- Section 832 of S. 517 ignores

more socially responsible and cost-effective policy options like voluntary vehicle repair and upgrade programs that maximize the fuel efficiency of existing vehicles.

Thanks go to SEMA (Specialty Equipment Market Association) for sending this information to the NMA.

Contact Your U.S. Senators regarding Section 832 of S. 517. Visit http://www.senate.gov/senators/senator_by_state.cfm to find their contact information. You may also phone the United States Capitol switchboard at (202) 224-3121 and an operator will connect you directly with the Senate office you request. 📧

NMA

Benefit Reminder

Want to fight a ticket?

The *NMA Legal Defense Kit™*

is a great resource!

Call 800/882-2785

for more information.

The "Not-A-National-ID" Scam

By Eric Skrum, Managing Editor

For years there have been many proposals that, in essence, would have created a National ID. Groups such as the National Motorists Association and the American Civil Liberties Union have opposed such actions. However, after the tragic events of September 11th, the National ID issue is picking up momentum in the cry for more security.

The American Association of Motor Vehicle Administrators has formed a task force to address the issue of driver licensing. They will be determining a standard procedure to issuing licenses. They will also explore a variety of ways to connect the driver license databases from different states to each other, and then explore how those could be linked with law-enforcement agencies. The use of "biometrics" as a way of identification on your license is being vigorously pursued. Whether that will be fingerprints, retina scans, DNA, or some other method has yet to be determined.

Officials are claiming that none of this will cause your driver's license to

be a National ID because the driver's license will still be issued by the states rather than by a national agency. We disagree. This is pure sophistry. If all the driver license databases are connected, you basically have one giant database on every licensed driver in the United States. Add to the equation that law enforcement will have free access to this system, and you now have your National ID system.

This use of the driver's license for identification is being touted as a way to increase safety. This is not only a bad idea, it is unworkable.

To begin with, almost a third of the population does not possess a driver license. Young people under the age of 16, elderly folks who no longer drive, handicapped persons, and persons who have had their licenses revoked do not typically carry driver licenses. A survey conducted in Ohio in the late 1990's found that one out of seven drivers was operating without a valid driver's license. A large percentage (50 percent has been quoted by motor vehicle administrative agencies) of the drivers convicted of DWI violations

never apply for reinstatement of their revoked driver licenses, usually because they cannot afford the cost of the required insurance coverage. Driver licenses are also suspended or revoked for failure to pay child support, attend school, or pay municipal fines. (And the list grows longer each year.)

The point here is that a large portion of the population does not possess a driver license. Further, the purpose of a driver's license is to provide evidence that the holder has the minimum skills necessary to operate a motor vehicle on public roads. Using the driver's license as an ID card (or a lever to force attendance in school or coerce childcare or fine payments out of debtors) defeats its primary purpose, that being the identification of the holder as a person capable of operating a motor vehicle. Rather than make a bad situation worse, why not step back, reverse course, and confine the official use of driver licenses to the purpose they were originally intended to fulfill; Identifying the holder as qualified to operate a motor vehicle on a public road. Wouldn't that be a novel idea? 🐾

The Hillbilly Mille

Long time NMA member Anatoly Aruntunoff is organizing the Hillbilly Mille this year in Santa Fe, New Mexico. This event will take place from April 16th to the 21st. Anyone participating in this event will expect to enjoy five nights and six glorious days touring the back roads of New Mexico with stops along the way to include the art, pottery and jewelry galleries of Taos and Santa Fe, Georgia O'Keefe's Ghost Ranch, the Acoma Pueblos, and the Sandia Peak Tram, to name a few. Meals will be of your choosing from

the menus of world renown restaurants and historic sites. You will be staying at the historic Bishop's Lodge, Santa Fe, New Mexico.

If you are interested in attending, send either the \$1000 deposit or total entry fee of \$3600 to:

Hillbilly Mille
c/o Anatoly Aruntunoff
1329 East 29th Street
Tulsa, Oklahoma 74114 🐾

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

FREE!

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 2

By Joe Musselwhite, Texas Activist

The Fourth Amendment (US Constitution): *"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."*

So, when does the Fourth Amendment apply?

In this issue, we will discuss when the Fourth Amendment applies. Simply put, the Fourth Amendment applies to law enforcement agents. There are two threshold requirements that must be met before the Fourth Amendment will be held applicable in a particular situation. The first, which applies to all the provisions of the Bill of Rights, is that the conduct in question must be governmental. Second, the action challenged must constitute a search or a seizure. Thus, the Fourth Amendment is implicated only when the government intrudes into one of these two areas. In a future article, we will discuss the definitions of the terms search and seizure, and when a search or a seizure occurs.

The Fourth Amendment applies only to action by the government, not to private conduct. As the Court observed in 1921, the "origin and history of the Amendment clearly show that it was intended as a restraint upon the activities of sovereign authority [only]." *Burdeau v. McDowell*, 256 U.S. 465, 475 (1921). Where the actor is a federal, state, or local government agent, this requirement is met. Where, however, a private party acting on his own acquires evidence that the government later seeks to introduce in a criminal case, neither the Fourth

Amendment nor its exclusionary remedy is implicated. However, when an individual acts at the direction of a government agent or pursuant to an official policy, the search will be deemed public and consequently within the coverage of the Amendment.

The issue becomes substantially more difficult when there is no direct governmental command or policy, but merely acquiescence in the private individual's action. Suppose, for example, that police officers are summoned to a scene by persons who proceed, in the presence of the officers, to conduct an illegal search. Is that a "public" search subject to

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures..."

Fourth Amendment constraints? Several courts have concluded that it is. Factors looked at in determining whether the private party is acting as "an instrument of the state" are: 1) the degree of government encouragement, knowledge, and/or acquiescence with regard to the private actor's actions; and 2) the purpose underlying the private party's action. That is, was he pursuing a governmental interest (such as the discovery of criminal activity or evidence thereof), which points toward the conclusion that the search was public? Or did he act to promote his own business objectives (such as protecting against accidents, false claims or potential liability), which makes the action private in nature? See *United States v. Walther*, 652 F. 2d 788 (9th Cir. 1981) and *United States v. Feffer*, 831 F 2d 734 (7th Cir. 1987).

In summary, we have seen that

the federal right applies to actions of law enforcement officers or their agents. If a non-officer is commanded by police to help solve or investigate a case, then that person is considered an agent of law enforcement and the Fourth Amendment applies. If a private citizen makes a search or seizure, the Fourth Amendment does not apply. Search and seizure law is designed to apply only to governmental actions, not actions taken by private persons or entities.

In our next issue, we will discuss the definitions of a search and when a search occurs.

References: Constitutional Criminal Procedure, Robert M. Brown, and Mark S. Brodin Arrest and Search Manual, Judge Jade Meeker. 📖

Stop Signs

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signs only slow traffic for about 100 feet in either direction. Farther away, cars drive faster to make up lost time. Most drivers don't stop for "speed control" stop signs, and a Georgia study found that 11 percent of drivers didn't even slow down. Portland found that the accident rate increased where unjustified stop signs were installed.

"An accident waiting to happen." Multiway stop signs should be based on counts of actual accidents, not hypothetical ones. A single accident is also not sufficient, even if it happened to somebody important.

The basic principle, applicable to most traffic control devices, is that a sign that does not deserve respect will not get respect. If we train drivers to treat stop signs as nuisances to be ignored, how will they know to stop at a truly dangerous intersection? 📖

News From Around The Country

Arizona

A bill (H.B. 2045) has been introduced in the Arizona House of Representatives to exempt vehicles 20 years old and older from the state's mandatory emissions inspection and maintenance program.

California

The Thousand Oaks City Council has rejected a plan that would have allowed the city to utilize red light cameras in a vote of 5-0.

Colorado

Currently, you can not be pulled over solely for not wearing your seatbelt. Senate Bill 15 would change the seatbelt law to a primary enforcement law.

Also in Colorado news, Denver is halting the use of photo radar until it finishes reviewing a court ruling that said the program violates local and city laws. County Judge Mary Celeste ruled that Denver's program violates city law by giving police power to a private contractor, who prepares and sends the summonses. And, the program violates state law by appearing to compensate the contractor based on the volume of tickets issued.

Massachusetts

A bill passed the Senate that (if signed by the Governor) would mandate the collection of a \$50.00 payment from convicted drunk driving offenders. The payment would then be allocated to a fund that would provide support services to victims.

Michigan

State Senator Phil Hoffman sent through a \$10 increase in the surtax applied to all traffic fines. Senate Bill 677 was protested in testimony by Michigan NMA members and anti-tax activists, but was approved and signed quickly. In fact, the surtax was imposed by the Governor's executive

order in advance of the passage of the bill. Michigan legislators may be getting the habit of tapping motorists for money, instead of taxpayers generally. House Bill 5555, introduced in late December by Representative Faunce of Warren, would double speeding fines in "residence districts." A residence district is any 300 feet of road where the dominant roadside land use is houses or mixed houses and businesses, so most of the state's roads could qualify.

Mississippi

Currently, Mississippi restricts the purchase and use of radar speed detection equipment to the Mississippi Highway Safety Patrol and certain municipal law enforcement agencies in cities with more than a 2,000 population or college and university campuses with more than 2,000 students enrolled. House Bill 99 would allow the sheriff and his deputies in any county having a population of 60,000 or more to use radar on public streets, roads and highways of the county lying outside the limits of any incorporated city. There is a similar bill (HB308) for counties with a population of more than 50,000. If passed, either bill could take effect July 1, 2002.

Montana

Currently in Montana, you are allowed to refuse to take a breath or blood test for alcohol. However, the Montana Supreme Court (in a 6-1 decision) has now said that results of blood tests taken from an injured driver as part of medical treatment can be used for prosecution.

New York

A proposal before the New York State Senate calls for the creation of a September 11 remembrance license plate showing the image of the World Trade Center with a red, white and

blue ribbon. Freedom Stands Tall would be inscribed on the plates. People getting the plates would pay an extra \$25 a year; The proceeds would go to September 11 victims or their survivors.

Virginia

In a 12-9 vote, a House panel blocked legislation that would have allowed local governments to use red light cameras. The legislation would have allowed any locality in the state to erect the cameras at intersections. Currently, only a handful of local governments have been granted this authority, most of them in Northern Virginia.

Washington DC

Washington DC has issued over 160,000 automated speeding tickets and has collected more than \$5.3 million in fines since they started the program on August 10, 2001. The program has issued a monthly average of 32,264 speeding tickets since its inception. Affiliated Computer Services of Dallas, which operates the cameras has collected \$2,152,612. The company's contract with the city entitles it to receive \$29 of each fine that is paid.

Wisconsin

Ricky Stephenson is suing John Krueser for the death of his wife, Kathy Stephenson. Krueser had promised Michael Devine that he would be his "designated driver" during a company party in December 1998 after a bartender said that Devine was too drunk to drive. Devine ended up driving himself home and crashed head-on into a car driven by Kathy Stephenson. Both died. The Wisconsin Supreme Court will decide whether Krueser should be held accountable for Stephenson's death. ☹

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.

In the *News From Around The Country* section of the January/February 2002 issue of *NMAF NEWS*, it was mentioned that Richard Philbrick (a Massachusetts resident) had erroneously received a red light camera ticket from Colorado (a state that neither he nor his car had been to in years). One way to avoid that situation is to be careful how you dispose of your old license plates. Never turn in old plates at the old plate recycle box at the license bureau. This happened to someone in Ohio a few years back. They had old license plate recycle boxes at the license bureaus. Some guy put his old plates in one of those boxes and wound up getting parking tickets from Atlanta, Georgia on his old plates. Be sure to thoroughly destroy them before disposing of them. You can't be too careful these days. Or, Richard Philbrick could be the victim of outright identity theft.

Tom Morrow
Orchard Park, NY

This is in response to *News From Around The Country* in the January/February 2002 issue of *NMAF NEWS*. Under the "Washington DC" section, you mentioned some of the problems with the photo radar tickets. There are other problems as well. Police are getting photo radar tickets while responding to "code one" emergencies (driving with their blue flashing lights turned on).

Police Chief Charles Ramsey responded to the news by basically telling the cops who work for him to tell it to the judge and see if he believes you, which of course does not work, even for the cops. That's what I call poetic justice.

The cops have responded by driving slower during "code one" emergencies. They don't want to get more tickets.

Seth Allen
Alexandria VA

Just wanted to let you know that I beat a ticket today given to me in August 2001. I was stopped on I-10 in Tallahassee, Florida, from a VASCAR tracking aircraft run by the Florida Highway Patrol (FHP). By using your strategy of asking for continuances, I was able to delay the hearing until today. Unfortunately for the FHP, they transferred the trooper who was on the ground to Texas in December! Thanks again for the advice—you saved me \$130...not to mention 3 points.

Michael P. Procter, Sr.
Jacksonville, FL

This concerns the article by Aarne Frobom, on environmentalists using traffic laws to regulate gas usage (*NMAF NEWS*, January/February 2002). It is important to know that airplanes use 20 percent of the United States gas while motorists use 80 percent. That tiny,

tiny minority who fly, use a vastly disproportionate amount.

Leroy Pletten
Sterling Heights, MI

I want to thank you so much for running your January cover photo of the sign saying, "Signals timed to require frequent stops." It truly is a classic.

If I remember correctly, that sign appears as you enter the east end of the Revere Beach Parkway in Revere, Massachusetts. The first time I saw this infamous sign, I was struck not just by the oppressive style of traffic management that it evidenced, but by the sheer, boastful arrogance it demonstrated on the part of the state to erect a sign actually documenting it.

Since I voted with my wheels out of the People's Republic about two years ago, I had been despairing of ever convincing my new acquaintances that my story was not a tall tale, and that any government could be so witless as to intentionally erect such a sign. Now I have your January cover to use as evidence.

C. D. Tavares
Morristown AZ

continued on next page

Members Write

continued from previous page

Your article in the January/February 2002 issue of *NMAF NEWS* (*Uncomfortable Situations*) misses a very important point. Traffic Police in the United States (along with most Third World Countries) can arrest and have a person convicted with no proof of the charges. Not stopping for a revenue is an affront to his authority and also cuts into his production time. A very real possibility is that a driver who doesn't immediately pull over could be additionally charged with evading arrest, not yielding to an emergency vehicle displaying warning lights, or whatever else could be thought up. Of course, that is assuming the traffic stop is real.

Unmarked cop cars is an issue which has concerned me ever since I saw a motorist pulled over by one in a remote section of the Utah desert. The car had an official look to me only because a handful of men under the age of 60 drive big Ford Crown Victorias—but what if it had been a Camaro? The closest town was at least 20 minutes away at 80 mph. And, if the driver made it that far, who knows where the police station would be located. I know a guy who was pulled over outside of Las Vegas by a red Jeep Cherokee driven by an officer in plain clothes. If he had not stopped, certainly he would have experienced more than just a written citation. However, if the Jeep had been driven by a criminal, he would now be wishing he would not have stopped (assuming he would still be alive to do so).

D Heffington
Las Vegas, NV

Editor's note: It is true that the article didn't cover all situations and that some of these actions wouldn't be appropriate at certain times.

There are so many factors involved that we can't tell you what you should or shouldn't do. But, we can give you options that you can weigh for yourself, which was the purpose of the article.

In response to the road signs in Redwood California that read "What Don't You Understand About 25 mph?" (January/February 2002 issue of *NMAF NEWS*, *News From Around The Country* on page 10), someone should post a placard underneath stating, "Why?" Such a posting would arguably be legal as justified by the invitation of the posting and as a free speech political response to a government-sponsored political message.

Brian Graffman Esq.,
Spring Valley, New York

A town hall on drunk driving aired on CSPAN during Christmas week. I think it was actually taped sometime in November. It was sickening to hear them spout off about wanting more sobriety checkpoints and more technology to improve detection. These town halls apparently happen at least once a year. Maybe the NMA could invite itself to participate in 2002 meeting. One comment was made that offered a question as to why there weren't more people at the town hall. They indicated that they thought perhaps people were becoming disinterested in the subject. I guess if you keep crying "Wolf" so much, that happens. Also on CSPAN, the guest for this last week's Booknotes was Bill Press with a new book out about spin. I thought what a great "spin" that MADD generates. In fact the whole Public Safety Industry is spin at its best.

Our Legislative session starts the first of March (I think) here in Oklahoma. Although I'm not yet

sure, I look for a Red Light Camera Bill to be reintroduced again this year. This will be the third year for its introduction. One more quick comment. I was encouraged by the interest in the special NMA Foundation Grant that members overwhelmingly responded too. I'm sure the NMA will put it to good use.

Charles Frentzel
Bixby, Oklahoma 🐾

Trust

continued from page 5

debate will test whether road users still have any clout in Washington. The highway lobby's record has been pretty dismal in recent years. What was a powerful group of interests when the Trust Fund was enacted in 1956 is running out of steam. The vision of a coast-to-coast freeway system no longer motivates voters. Two hundred million American drivers don't know the Trust Fund exists, rendering it defenseless against raids from special interests who know exactly how rich it is, and think they deserve a cut of it.

If you're reading this, you are the last line of defense for good roads in the United States. Will you speak up in defense of your gas taxes? 🐾

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www.motorists.org

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