Revenue-Driven Traffic Enforcement

trying to make $ense out of policing for profit
A couple of years ago, we conducted a member survey that covered a range of topics including what you thought of various features of Driving Freedoms. Driving News was frequently listed as one of the favorites, indicating a strong interest by NMA members for what is going on around the country.

That interest is one of the reasons we put a lot of effort into redesigning the state pages on the Motorists.org site last fall, and why the centerpiece of each of those pages is a series of national and region-specific stories that are updated daily. (If you haven’t yet checked out our state pages, visit [https://www.motorists.org/chapters](https://www.motorists.org/chapters).)

Over the last few months, our newsfeeds have been dominated by three general topics that have grabbed the short attention span of the media: driverless cars, distracted driving, and ‘Click It Or Ticket’ seat belt enforcement. These are important and familiar topics to NMA followers, but there is much more going on in our universe of issues.

As I write this, we are in the midst of blanketeting social and traditional media with information about one of the most important rules of the road: lane courtesy. Many years ago the NMA declared June as Lane Courtesy Month. The irony is that while it takes that kind of concentrated effort to raise awareness about the advantages of keeping right, drivers will never fully reap the safety benefits of lane courtesy until it is practiced 24-7-365 by everyone on the road.

Similarly our decades-old fight for speed limit reform won’t be successful until all state and federal departments of transportation acknowledge that split speed limits between cars and trucks are not safe.

These two issues, lane courtesy and differential speeds among vehicles, converged as I read the May 2016 issue of the OOIDA’s excellent Land Line Magazine. The Owner-Operator Independent Drivers Association, steadfast allies and for truckers what the NMA is for drivers, has long campaigned against split speed limits.

As shown by the map at the bottom of page 3, seven states still have lower speed limits posted for trucks than for lighter vehicles, forcing an uneven traffic flow that is not conducive to highway safety.

If you live in or frequently travel through one of those states, contact legislators there. Want ammunition? Go to Motorists.org and search on “NMA and OOIDA dispute split speed limit safety claims” to find a national press release sponsored by both organizations a year ago.

You would think that 20+ years after the repeal of the 55 mph national maximum speed limit, with speed limits steadily climbing to 70 mph and above, transportation officials and the trucking executives who put speed limiters on their fleets would wise up. If truck drivers can keep up with prevailing speeds, it is safer to let them contribute to a smooth, consistent traffic flow. If they can’t in some instances, such as when climbing steep grades with heavy loads, that is where the value of having all drivers understand and follow the basic principle of slower vehicles keeping right is paramount.

We still have much work to do, even on the basics.
Easing Congestion With Tolling?

Editor’s Note: We frequently have interesting correspondence with members on topics that aren’t often discussed on these pages. One such exchange occurred recently with Dr. Fred Foldvary, an NMA member who teaches economics at San Jose State University in California.

Urban planners continue to explore ways to relieve traffic congestion, with many transportation corridors being a limited resource subjected to increasing demand. This dialogue between Gary Biller and Fred Foldvary addressed congestion pricing as one solution.

Dr. Foldvary received his Ph.D. in Economics from George Mason University. Foldvary’s scholarly interests include private communities, real estate economics, and public finance. His books include The Soul of Liberty, Public Goods and Private Communities, and Dictionary of Free-Market Economics.

Fred Foldvary:

The article “The Carrot and the Stick” (Winter 2016) was supposed to tell us “what’s wrong with congestion pricing,” but there was no explanation. The consensus among economists is that a toll just high enough to prevent congestion is more efficient than having hundreds of drivers waste their time. Drivers would benefit from replacing gasoline taxes with tolls on what would otherwise be crowded streets and highways. With electronic tolls, cars would not need to stop or slow down. The other primary objection we have to congestion pricing is that some of the plans entail tracking the round-the-clock movements of individual vehicles. Not only would the cost of implementing such a system be high, it has privacy implications that are disturbing. Of the two, the tolling method of collecting congestion fees is preferable but still not something we favor.

Fred Foldvary:

In the San Francisco Bay Area, as you may know, we have FasTrak devices that enable drivers to pay bridge tolls electronically. The efficient charge would be a toll just high enough to prevent congestion, thus varying by day and time. The tolls should be published for all to see. The main purpose should not be government revenue, but to prevent congestion, with revenue as a side benefit. The same concept should apply to parking, with meters that vary by day and time, the amount just high enough to enable drivers to find parking within a block of the destination, and without any time limits.

Some people object to bridge tolls or parking meters because they burden the poor. We should not let poverty prevent efficient solutions to traffic congestion. The poor could be given vouchers or cash payments to enable them to afford transit.

The best transit system is to make mass transit free for users when the vehicle is not crowded, and otherwise perhaps to charge a fare just high enough to prevent congestion. That gives the poor a free transit option.

The cost of mass transit, as well as streets is most efficiently paid for by a tax on land values, as these services generate higher rent and land value, and the tax pays back value received. A land value tax could also pay some of the cost of highways. Gasoline taxes can be regarded as compensation for road maintenance, but much of the benefit of roads goes to the locations served.

Hotels are a good example of efficient marginal-cost pricing. The marginal cost of one more user on an elevator is close to zero, and so hotels provide free transit, paid for by the room charge. A comprehensive system of tolls on highways, bridges, and streets, would not need to track car movements, but just charge the owner of the FasTrak or other device when the car crosses the toll. Privacy could be enhanced with devices that have funds without identifying the owner.

I hope NMA will consider what most economists consider the most efficient ways to eliminate time-wasting congestion.

We are interested in your thoughts on this topic. Please send letters to NMA, 402 W. 2nd St., Waunakee, WI 53597 or email us at NMA@motorists.org.

www.motorists.org
Election years in legislative circles are rarely known as being years of high productivity. Certainly there are exceptions, but as a general rule, the enhanced politicization of policy discussions leading up to elections rarely is conducive to getting things done.

Presidential election years only enhance the level of discord. Add to this the expectation that this year the political control of the Senate could be determined in November; things look increasingly dismal for serious legislative progress before the elections.

In fact, as we enter the summer, the Congressional schedule for 2017 is virtually over. The House and Senate plan to be in session in the month of September only, when they will have to determine how best to fund the government on an interim basis after failing to pass the required annual appropriations bills necessary to establish FY17 funding.

Once this is done they will return to their home districts to campaign in October and early November and then they tentatively plan to return to Washington to close out the 114th Congress. It is these last few weeks of the year when many expect Congress to be productive.

What exactly Congress will do and how it will do it in November and December are clouded by uncertainty and the outcome of the November elections. The results will undoubtedly play a determining factor in the outcome of the year. Many expect there to be another large package developed and passed to address federal funding as well as a few tax priorities. One tax priority that appears dead is the President’s proposal to add a $10 tax to every barrel of oil sold in the US. The House of Representatives brought the concept up for a vote in June and it was roundly defeated.

The House will bring to the discussions late this year two notable restrictions on federal funding for 2017 that are of interest to NMA members. First, the House has proposed to prohibit the Department of Transportation from conducting any surveys of drug or alcohol use by drivers. The second restriction prevents the Department of Transportation from funding any kind of mandatory GPS tracking of drivers without first addressing privacy concerns raised by such tracking.

As the year progresses we will continue to monitor transportation policy developments and report on areas of concern to the membership.
There are many motorists out there who are mad as hell and don’t want to take it anymore. Sentiments run particularly high in communities plagued by red-light camera (RLC) and speed camera programs. An update from around the country:

**Illinois: Chicago of course**

The saga of the Redflex corruption trial is nearing an end. Former Chicago transportation official John Bills was convicted on all twenty charges, from mail and wire fraud to extortion, conspiracy and tax fraud. Sentencing has been delayed but Bills faces up to 20 years in prison for the nearly $2 million worth of bribes and gifts he received to channel tens of millions of dollars of city business to the Australian camera company, Redflex Traffic Systems.

Redflex bagman Martin O’Malley was fined nearly $99,000 in December after he admitted wrongdoing.

Former top Redflex US Executive Karen Finley is still in a Chicago jail cell awaiting sentencing. Judge Virginia M. Kendall is waiting until another US District Judge makes a ruling on Finley’s sentencing on bribery charges in Cleveland, Ohio.

Cook County Circuit Court Judge Rita Novak issued a ruling that Chicago officials certainly wanted to hear: The RLC program that generates $60 million in annual revenue can stay. Judge Novak rejected claims that the Chicago camera program violated a number of state constitutional provisions under the current state law.

After Circuit Court Judge Rita Novak dismissed the constitutional claims and stated that shortening yellow lights was not against the law, plaintiffs struck back and asked for the case to be reinstated because Judge Novak acted with prejudice.

A similar class action case against Chicago’s RLC program went all the way to the Illinois Supreme Court last year but was dismissed after two of the seven justices recused themselves and the remaining justices split 3 to 2, just short of the four-vote minimum required.

**Missouri: RLC cleanup required**

Some state House members have promoted a bill that would let voters decide the fate of RLC programs, but nothing has changed since early May. The effort follows a Missouri Supreme Court decision last August to strike down the regulation governing red-light cameras in St. Louis. The court cited defects in the ordinance that provided the city with nearly $3.5 million annually in net revenue.

A St. Louis couple has sued the city of Hannibal because of its red-light camera program. Redflex was named in the class action lawsuit, until a federal district court judge dismissed the couple’s claim of seven counts of constitutional violations by the camera company, including unjust enrichment, abuse of process, and civil conspiracy. The couple claimed that the city of Hannibal and Redflex illegally collected revenue for six years before the city changed its ordinance governing its red-light program in 2013. They seek damages and class-action status for drivers who were cited by photo ticket and fined between 2007 and 2013.

The city of St. Peters has appealed the ruling in a charter change amendment passed by St. Charles County voters who sought to ban RLCs in the county. The city says a ‘yes’ vote to bank the cameras infringes on the city’s right to set traffic rules. The appeal keeps the legal meter running for taxpayers. St. Peters has already spent over $225,000 on lawyer fees fighting the case.

**Arizona: Shenanigans continue**

In March, the State Attorney General wrote a legal brief prompting cities in the state to temporarily suspend their photo radar programs. The AG said that those who operate the cams either needed to be police officers or have a private investigator’s license. By mid-May, Redflex and American Traffic Solutions (ATS)— who run cameras for various Arizona cities— have obtained those licenses for their employees. It has been reported that Phoenix, Scottsdale, and Chandler have already reactivated their photo radar programs.

**Texas: Court, voter battles**

The Fifth Circuit US Court of Appeals rejected the attempt of photo ticketing companies to transfer a challenge to federal court. Louisiana resident James H. Watson is suing 53 Texas towns after he received a photo ticket in the mail at an intersection somewhere in Texas even though he was not driving his 2009 Honda at the time. The three-judge panel ruled against the RLC ticket vendors on a technicality and not on the merits of the case.

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case. ATS, Redflex and Xerox argued that the case belongs in federal court because they are not headquartered in Texas. That is their frequent argument when it comes to any sort of court challenge.

Jersey Village became the first Texas town where red-light cameras survived a ballot-box challenge. Observers believe that voters were confused by the question posed. Ironically, Jersey Village does not even have an active RLC program. In 2009, local officials signed a 15-year contract with ATS to protect their options in case state lawmakers put an expiration date on the use of ticket cameras. The city’s contract with ATS continues until 2024.

**Turning to Louisiana**

In a class action lawsuit, a group of New Orleans residents are suing the city to get rid of the red-light camera program. A recent class-action suit in Jefferson Parish against the cameras was successful, with the class members receiving partial refunds.

Governor John Bel Edwards signed into law the requirement that every red-light camera in the state should be clearly marked. That does not apply to speed cameras however.

**And on to Colorado**

CBS Channel 4 in Denver reported that nearly one in every three photo enforcement tickets in Denver is dismissed due to uncertain identification of who was driving at the time of the alleged incident. In 2015, Denver issued nearly 21,000 RLC tickets with a total of 7,700 cancelled after the fact. Of the 207,880 photo speed tickets mailed last year, at least 76,875 were dismissed.

Governor Hickenlooper recently vetoed the newest ban on red-light cameras, burned his own RLC citation on social media in May. That caused quite an uproar.

The Marysville City Council has decided to shut down its program due to a recommendation from the police chief who opposed renewing its contract with Redflex. The city had difficulty determining whether RLC ticket revenues adequately covered program costs. There was also doubt that the cameras prevented accidents or otherwise enhanced public safety.

**The Tangled Web of Ohio**

One year ago Springfield turned off red-light cameras at ten different intersections and subsequently saw no increase in crashes. The city took that action after a state law required an officer to be present when a camera records a violation for the ticket to be valid. The law took effect last year but has been challenged in court by several Ohio cities including Springfield, Dayton, and Columbus.

The capitol city dropped its suit in March, not helped by disgraced Columbus lobbyist John Raphael being sentenced to 15 months in prison in U.S. District Court. Raphael pleaded guilty last year to extortion in the Reflex bribery scandal.

**Overall**

The NMA has seen reports around the country from motorists receiving fraudulent automated tickets. Many have been email phishes from scam artists and hackers looking for a way into your computer or mobile device.

Motorists in Philadelphia have even reported receiving fraudulent speeding tickets in the mail based on GPS readings that closely match where they have traveled during certain times of the day.

Even though most photo tickets are mailed to the alleged violator, such notices require careful scrutiny no matter how official they appear. The same goes double for online ticket notices.

You can call the supposed ticketing authority—using contact information found independently, not from the suspicious notice—to verify authenticity.

But do not make that call for a photo ticket issued in Arizona or Virginia. Those two states require photo tickets to be personally served to alleged violators for the tickets to be valid. If you call for verification on what turns out to be a valid camera ticket, you will be deemed to have been served.
Revenue-Driven Traffic Enforcement

by Gary Witzenburg

Editor’s Note: Gary Witzenburg, a 30-year NMA member, is a Contributing Editor for Kelley Blue Book, Corvette, and Collectible Automobile; a correspondent for Motor Trend and Ward’s Auto World; and a columnist for AutoblogGreen. He serves as a juror for North American Car and Truck of the Year; and is a member of Motor Press Guild and Automotive Press Association.

As a professional automotive writer and longtime member of NMA, I’ve encountered many instances of revenue-driven traffic enforcement. Some egregious examples are described in this article.

In 2006, the state of Michigan, to its credit, passed a law requiring any posted limit lower than 70 mph on free-ways and 55 mph on rural two-lanes to be determined by real safety considerations and not revenue. Although most jurisdictions have complied, enforcement practices, fines, and traffic courts have replaced revenues lost by speed-related enforcement.

The college town of East Lansing, Michigan, for example, strictly enforces its speed limits; minor speeding violations carry $150 fines. Tickets that do not involve speed, such as impeding traffic, failing to signal turns, or erratic driving, carry similar fines. Because these violations do not involve license points, victims are encouraged to pay the fines without protest. Those few who choose to challenge the charges—as they always should—are assigned hearing dates without regard to their work or travel schedules.

Often, once the court sets a date that the defendant cannot attend, even for valid reasons—such as jury duty or scheduled hospitalization—a request for an alternate date requires a letter to the judge accompanied by a bond in the amount of the fine and a court processing fee. If the judge grants an alternate date, again without considering the defendant’s availability, and he then fails to appear the bond is forfeited.

Asked why traffic ticket hearing dates can’t be scheduled like other professional appointments, one judge admitted that dates are set according to the officer’s availability. “The East Lansing Police Department union collective bargaining agreement requires that court appearances be scheduled no more than one month in advance,” she said. “Each officer is scheduled for one block of hearing time each month. The clerk can’t know the officer’s availability for the next month until a certain day each month when . . . schedules are set.” Thus, the officer who wrote your ticket is assigned just one day per month to appear in court, and if that day doesn’t work for you, then you have a problem. The judicial deck is well stacked against you.

Also in Michigan, a revenue-driven enforcement practice that likely causes more accidents than it prevents is “wolf-pack” enforcement involving about a dozen Michigan State Police (MSP) motorcycle officers stopping and ticketing unsuspecting motorists on southbound I-275 in the Detroit suburb of Livonia. With several MSPs simultaneously writing tickets, red-and-blue lights flashing, all four lanes slow from the posted 70-plus to 40-50 mph, often abruptly, as they might if approaching an accident, lane closure, or construction site.

One day, I observed that activity on the northbound side of I-275, causing all four lanes to come to a stop-and-go creep. The risk of rear-end collisions, property loss and injury was high, but for what safety benefit? In a word, Revenue.

First Lieutenant Mike Shaw of MSP Special Enforcement told me that this sort of ticket blitz was standard operating procedure nearly every day on specific stretches of Detroit-area freeways deemed “traffic-enforcement” zones. “We place a patrol car on the overpass with a laser gun and motorcycle units further down the road,” he said. “The officer using the laser provides descriptions of speeding vehicles, then motorcycle officers pull them over.”

But what about the safety hazard created when the entire freeway slows to well below normal speeds, or even to a stop? “I can’t control what motorists do when they see a motorcycle or a patrol car on the side of the road,” he said. “It is my hope that they slow down because I worry about my troopers on the sides of the road. As far as rear-enders occurring as a (Continued on Page 7)
result, yes, that is a problem across the metropolitan area and the state because of drivers following way too close to the vehicles in front of them."

He continued, “In fact, one violation they are looking for is following too closely. That is something we can stop people for, as well as for not wearing seat belts, distracted driving and other aspects of driving that we’re looking to correct to bring these large numbers of crashes caused by speeding, distracted driving or following too closely back under control.”

What was that day’s ticket count? “During their eight-hour shift,” he said, “they conducted 300 stops, issued 314 citations and 202 verbal warnings, made five arrests and assisted one citizen with a flat tire.” So nearly 40 tickets per hour, and 14 of those stops resulted in two citations? “Correct,” he said. “It could be speeding and seat belt, speeding and insurance, speeding and suspended license, speeding and all kinds of things.”

But how, I wondered later, can one laser-wielding officer accurately identify and call out multiple four-lane-freeway speeders quickly enough to accurately ticket so many?

I asked Michigan motorists’ rights advocate and NMA life member Jim Walker for his thoughts on Lt. Shaw’s responses and mass ticketing in general. “Lt. Shaw can stop what drivers do when they see police vehicles,” he said, “by not sending wolf packs to enforce limits set below traffic-flow speeds. I have seen that area go down to zero mph as a result of such enforcement actions. If he were actually out for safety, his officers would be instructed to stop such actions whenever they observe severe disruptions of smooth traffic flow. These blitzes are getting more common and pervasive, and the fact that they severely and dangerously disrupt traffic, occasionally bringing smooth-flowing traffic down to zero in 70-mph zones, seems of little concern to the state police.”

Examining Livonia’s 16th District Court’s traffic offense schedule, those 314 citations generated an average of about $120 each, nearly $38,000 in revenue, $4,710 per hour from a single eight-hour shift. Some typical fines: $150 for 11-15 mph over the posted limit; $160 for “impeding traffic”; $120 for failure to signal, or following too closely; $115 for no proof of insurance, or one headlamp out. Where does all that money go? The Livonia District Court, by law, keeps 70 percent of its own ticket revenue, and 30 percent goes to Michigan libraries.

The troopers’ duties are almost certainly better put to use promoting and supporting road safety than generating revenue. “Some local authorities pass local ordinances that mirror the state codes so they get to keep more of the fines,” Walker adds. “And most (if not all) tickets for moving violations carry a state surcharge—a package of fees that goes to various programs, some totally unrelated to traffic safety.”

I seriously question the safety value of pulling vehicles out of smoothly flowing traffic with the primary purpose of generating revenue-related traffic violations. As anyone who understands traffic safety knows, a smooth flow of vehicles traveling at approximately the same speed is likely the safest and most efficient means of highway transportation. The safety hazard associated with motorcycle wolf packs is apparent and foreseeable.

Can it be demonstrated that such enforcement techniques reduce accidents and fatalities? Is information available to test this hypothesis? “That data is available on the Michigan Traffic Crash Facts website,” Lt. Shaw said, adding that the target areas are identified through “a combination of accident data, police observation and citizen complaints.”

Subjective or anecdotal data do not rise to the level of reliable or scientific analysis. Nevertheless, Lt. Shaw insists “proof” exists because “. . . the complaints go way down and we hear about additional locations they want us to focus on.” That data exists in a more useful and statistical form is doubtful. After examining large volumes of accident, injury and fatality data on the sites mentioned by Lt. Shaw, I was unable to identify any data relevant to the effectiveness of wolf-pack enforcement.

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Revenue-Driven Traffic Enforcement
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Wherever you drive, watch for revenue-driven enforcement and report it to the NMA at nma@motorists.org. If the police activity is speed trap related, record it on the Association’s National Speed Trap Exchange (www.speedtrap.org) which maintains an excellent database for motorist reference. The authorities will never publicly admit it—just as they routinely deny the existence of ticket quotas, and even that ticket counts are factors in evaluating and comparing individual officers’ job performances—but it is clearly happening nearly everywhere as states and municipalities continue to rely on traffic-enforcement revenue to balance budgets.

I have recommended using radar detectors (legal in the U.S. except in Virginia and Washington, D.C.). I also recommend investing time and money contesting every ticket, whether or not you think it’s deserved. If you give in and compliantly pay a single ticket today, you abet policies that will only proliferate. Multiple studies have shown, by the way, that radar detector usage actually reduces accidents because users invariably slow when they are warned of radar enforcement.

From a lifetime of study and observation, I long ago concluded that traffic enforcement in the U.S. has become mostly about revenue and very little about safety. From aggressive enforcement of unreasonably low speed limits, wolf-pack ticketing activities, speed and red-light cameras and unjustifiably high fines, what evidence is there otherwise?

Making More Than Cents

It is not surprising to us that Gary Witzenburg has featured Livonia, Michigan as a prime example of using traffic enforcement to fill municipal coffers. In an August 2012 national press release, the NMA cited Livonia as the second worst speed trap offender in the United States for cities with populations over 50,000.

We added in that press release, titled Nationwide Poll Reveals Top U.S. and Canadian Speed Traps:

Welcome to Detroit – Now Pay Up!

Several cities surrounding the Detroit Metropolitan Wayne County Airport deserve special mention as operators of an extraordinary cluster of speed traps. Motorists who visited The National Speed Trap Exchange within the past five years complained overwhelmingly about opportunistic law enforcement tactics in Romulus, Livonia, Allen Park, Redford, Taylor, Northville, and Dearborn Heights. They identified 187 specific locations in those seven cities, voting a staggering 6349 to 842 (88.3 percent) to affirm that each deserved the speed trap label.

To put this in perspective, let’s compare the grouping of these seven cities with the American city most comparable in population: Tampa, Florida. You would expect Tampa, as a major tourist destination, to have a heavy dose of speed traps and you would be correct. But the speed trap reporting on Tampa over the last five years pales in comparison to that of the seven cities in the Detroit metro area. Tampa’s five-year speed trap statistics per The National Speed Trap Exchange: 69 speed trap locations and a verification vote of 1133 to 316 (78.2 percent).

One wonders if law enforcement in Romulus, Livonia, Allen Park, Redford, Taylor, Northville, and Dearborn Heights regards unsuspecting visitors to the Detroit area the same way a used car salesman views a first-time buyer.

Judging by driver entries to our National Speed Trap Exchange database (www.speedtrap.org) since 2012, Livonia and many of its neighbors continue to bleed motorists as a revenue source.

A new NMA initiative:

Streets That Work
Freedom of Mobility

For more information about the NMA’s Streets That Work program, visit www.motorists.org/streets-that-work/.
Automatic license plate readers, or ALPRs, constitute an important tool in the arsenal of police departments and private companies hired to track motorists. Bounty hunters, the repo man, and the auto insurance industry love ALPRs. They become prospectors sifting through large scoops of data for nuggets – supposed scofflaws and deadbeats – that they can turn into profit.

State and federal laws governing the use of data-gathering techniques have not kept pace. The American Civil Liberties Union along with conservative constitutional rights groups and anti-surveillance advocates have expressed serious objections to the indiscriminate data mining through the use of ALPRs. The good news is that at least 19 state legislatures this year have either introduced or are considering bills to regulate the use of license plate readers.

ALPRs can be vehicle-mounted, placed on utility poles, or mounted on freeway overpasses. License plates of passing or parked vehicles are recorded along with date, time, and GPS-based location information. Those data are automatically compared to the state’s DMV records to determine if the car is unregistered or if the driver’s license of the car owner is suspended. Additional databases are also scanned to check for stolen vehicles, outstanding warrants against the registered owner, expired auto insurance, and even unpaid debts.

California-based Vigilant Solutions, the king of ALPR prospecting, claims to currently work with over 1,000 law enforcement departments across the country, including those in every major American city. They boast that their cameras can capture 1,800 license plates per minute, day or night and across up to four lanes of traffic. The Vigilant database is said to currently hold 4.5 billion vehicle license plate and location records with another 170 million added every month.

The San Diego (CA) City Beat wrote in 2013 that in the prior three years police agencies collected 36 million license plate scans, “...an average of 14 for every registered vehicle in the county...” while also providing, “...mappable, searchable record(s) of the movements of thousands of individual drivers.” If anything, the data collection rate has increased since then.

Vigilant Solutions has a shared platform that any connected law enforcement agency can use. But it doesn’t stop there. Vigilant’s subsidiary, Digital Recognition Network (DRN), maintains a separate database of more than four billion license plate scans of 256 million vehicles across the country, numbers that are growing by 70 million scans per month.

These data are sold to private, non-law enforcement customers for a profit. Their clientele are looking for car repossession opportunities, bail jumpers, and unpaid debts.

DRN claims that their cameras gather information only on license plates, not people. But generally speaking, if information is gathered about a person’s car, then ostensibly the timeline and location information can be pieced together about that person’s location and activity.

Arkansas outlawed the use of ALPR technology by private industry and was promptly sued by Digital Recognition Network and Vigilant Solutions. Their claim? The collection and dissemination of ALPR data through the use of their technology is a freedom-of-speech issue protected by the First Amendment.

A spokesperson for the Arkansas attorney general said with regard to the lawsuit, “Our law is crafted carefully to protect both the privacy concerns of Arkansans and legitimate law enforcement purposes. We are prepared to defend the law.”

Even though DRN and Vigilant succeeded earlier in defeating a similar ALPR ban by the State of Utah, Arkansas held firm and prevailed in legal challenges all the way up to the Eighth Circuit Court of Appeals. Let’s hope more states have the same resolve as Arkansas to protect the privacy rights of their citizens.

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MEMBERS WRITE

The views expressed below do not necessarily represent those of the NMA. Letters are welcomed and should not exceed 300 words. They may be edited for length or clarity. Full-length articles will also be considered and should not exceed 600 words. Send to nma@motorists.org or mail to NMA, 402 W 2nd St., Waunakee, WI 53597

Editor’s Note: Members weigh in on the Spring 2016 Driving Freedoms theme of driverless cars and the future of driving.

Your cover photo asks, “Is this the Future of Driving?” I believe that if you replace the magazine with a cellphone, the photo is actually the present state of driving in the USA.

I do not fear the fully-automated, programmable car of the somewhat distant future so much as this very uncomfortable interim during which more and more of the driving task will be automated (such as emergency braking) while the ‘nut behind the wheel’ becomes ever-more disconnected from the task and reliant upon technology that may fail to protect them -- and us -- from their stupidity each and every time.

Spike Roberson, Ann Arbor, MI

As a professional in the auto industry, I’ve been following the “autonomous car” and “connected car” trends for some years. Thanks for the focus on these issues in the Spring 2016 edition of Driving Freedoms.

I couldn’t agree more with the last sentence of the discussion between Steve Carrellas and Gary Biller:

“Who else other than the NMA will be protecting drivers’ rights during this whole process?”

Some years ago, I naively believed that the American Automobile Association and its local affiliates spoke on behalf of motorists… only to find that the primary interest of this group is its insurance business! And, as a realist I would expect for profit businesses like General Motors and Ford to act in their own interest, not their customers’.

Much of the content of the other articles elaborates on the major legal and regulatory issues involved in these developing trends. The engineering is already pretty darn good in this industry but the legal and regulatory field is far more complex… and subject to lobbying influences from all directions.

So, let me chime in with the hope that NMA can represent OUR interests as drivers (or, someday, passengers!). No one else will!

Brad Pritts, Ann Arbor, MI
Consulting Engineer - Automotive Quality

Great edition on driverless cars, very enlightening. The scenario of four driverless cars pulling up to a four way intersection simultaneously is an easy fix. You know that driverless cars will all be talking to each other as computers often do and there will be a protocol in place that will allow one to move without allowing the other three to do so until it has cleared the intersection. The interesting scenario is when one human driver pulls up to the intersection with three driverless cars simultaneously.

Who goes first?

I think the most dangerous part of driverless cars is the generations of “zombie drivers” it will create. Think about the sales person at the store who struggles to calculate the change from a $10.00 bill without the cash register or a calculator doing it for them. Driverless cars will create millions of incompetent drivers who become totally dependent on technology. Steering wheels and brake pedals will be pointless.

Driving skills are learned from hands-on-the-wheel daily driving under diverse weather and traffic conditions. Someone who relies upon a driverless feature of their vehicle 90% of the time will not acquire these skills in a proficient enough way for them to become instinctual and allow them to take control of the vehicle to avoid an impending crash situation.

One example would be driving along a row of parked cars in a residential area at 25 mph, and a child dashes into the street almost at the point of impact. A conscious, alert, and proficient driver will not only perhaps observe the child on the other side of the parked cars before they dart between the vehicles and anticipate by slowing down, but will also apply maximum braking power and most importantly turn the wheel and swerve to avoid impact.

A driverless car will not be intuitive and will not anticipate this as it cannot see beyond the view of the road ahead and beyond the parked vehicles to the side blocking its view and will not brake until something is actually detected in its path. If it is a split second decision and road conditions are not optimal no matter how fast the driverless system can apply the brakes an impact will occur possibly causing severe injury or even death.

There is no substitute for human skill and training. Even drones, the epitome of driverless technology that have replaced fighter jets in many military instances, still need a hands on, eyes on, brain on, human controller back at base. As the old adage of computing goes: “Garbage in, garbage out”.

Doug Stead, San Marcos, CA

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National
The U.S. Supreme Court heard oral arguments in May in a pair of cases to decide whether laws in North Dakota and Minnesota that make it a crime for motorists to refuse to take a breathalyzer, urine or blood test violate the US Constitution. The defendant’s attorney Charles A. Rothfeld stated to the court, “The fundamental problem with the statutes at issue in these three cases is they make it a criminal offense to assert a constitutional right. Under the laws of ND & MN, a person who is stopped on suspicion of impaired driving is obligated to take a warrantless chemical test to determine the alcohol content of their blood.”

Arizona
Gov. Doug Ducey signed a law that bans photo radar on state-maintained highways. Local cities though may still use photo radar on locally maintained roads and streets.

California
In late May, motorist Ebrahim Mahda sued The Toll Roads (operator of publically owned toll facilities in Orange County) in federal court, claiming the payment system and its signage is confusing, perhaps on purpose. His attorney is seeking class-action status for the lawsuit and $5 million restitution of penalties. Toll roads in Orange County went to a cashless system two years ago.

District of Columbia
Twenty-five percent of all fines (parking, speed, red-light camera violations) in the D.C. area have not been paid for 2015. The staggering amount equals $86 million dollars. D.C. is now working hard to make sure those fines are paid and if motorists don’t pay, credit ratings agencies will be notified and monies taken out of offenders’ state tax return refunds.

Idaho
The Idaho Supreme Court scaled back Idaho’s DUI law. The Court ruled that implied consent does not revoke the right of a motorist to refuse a blood test. Idaho police will no longer be able to forcibly draw blood from motorists suspected of DUI. The Court insisted that the 4th Amendment requires the use of a warrant for such a search.

Illinois
The Chicago City Council passed a towing bill of rights ordinance for motorists in June. The new city law will compel tow truck drivers to record all tows using a dash cam, to take a photo of a vehicle in violation of any posted signs before it is towed, and it will require the towers to comply with eight other regulations.

Kentucky
Governor Matt Bevin vetoed the state’s newest version of the REAL ID bill even after several extensions from the federal government. Beginning in 2017, the U.S. government will require REAL ID’s to fly on domestic and international airlines as well as for passport applications.

Louisiana
Louisiana motorists with lapsed auto insurance will now be allowed to pay their debt and keep their driver’s license. The legislation stems from last year when motorists caused an uproar after they were notified of fines for failing to carry current auto insurance. At one point, state officials say that $444 million was owed to the state.

Michigan
Car hackers could get life in prison if caught in Michigan. The legislative bill specifically states that “a person shall not intentionally access or cause access to be made to an electronic system of a motor vehicle to willfully destroy, damage, impair, alter or gain unauthorized control of the motor vehicle.” Currently, there is no distinction between repair personnel and actual hackers.

Minnesota
In May, legislators struggled with passing legislation that would bring Minnesota into compliance with federal REAL ID requirements because they were stuck on a dispute over allowing undocumented residents to obtain driver’s licenses.

New Jersey
New Jersey lawmaker Declan O’Scanlon is working on legislation that would increase the state’s speed limit on the Garden State Parkway, the New Jersey Turnpike and other state highways to 70 or 75 mph.

New York
Lawmakers will need to fix a 1971 state law that requires at least one hand on the steering wheel at all times to pave way for driverless cars. Also, the NY legislature is trying to pass Evan’s law, which would allow law enforcement officers to use
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a device called a textalyzer to see if drivers who have been involved in a collision were using their phones at the time of contact.

North Carolina
Due to a backlog at the DMV, thousands of North Carolina motorists have lost their license through no fault of their own. The NC DOT had a backlog of information that was not inputted in a timely fashion. In the meantime, the NC DMV has no idea how many motorists lost their licenses. Motorists have reported losing their jobs, housing and other important services due to this snafu.

According to the Beaufort Observer, the Chocowinity Police Department has decided to solve its revenue shortfall by catching speeders with radar, which illegally circumvents the state constitution because it is keeping the fines itself instead of using the money for the school district as prescribed by law. School District officials are afraid to confront the police about this issue even though they are also short on funding.

Ohio
Ohio towns are still using automatic photo cams on the interstate even though they are prohibited by law. Cities with populations under 50,000 cannot use speed cams on interstate highways due to a recent change in the Ohio State Code. Ticket revenue is a hard thing to give up apparently.

Pennsylvania
In early May, Pennsylvanians caught driving drunk for the first time will be required to use ignition interlock devices. Only two US states are currently without some form of ignition interlock for first-time offenders, according to Mothers Against Drunk Driving.

Philadelphia Council members are asking for an audit of both the city’s Parking Authority and the Red Light Camera Enforcement Program. Since 2006, the red-light camera ticket program in Philly has generated more than $102 million while the Philadelphia Parking Authority’s on-street parking system (meters and tickets) generated more than $611 million in revenues for fiscal years 2011 – 2015. Neither program has ever been audited even though an audit has been promised for many years.

South Carolina
A bill that forbids police departments from requiring law enforcement officers to write a certain number of tickets in a set period of time (ticket quotas) is winding its way through the SC legislature. The measure already passed the house in a vote 99 to 0. Bill Sponsor House Representative Justin Bamberg hopes the bill will strengthen community police relations and make law enforcement officers’ jobs less stressful. The bill also includes a whistleblower provision.

Texas
The State Attorney General issued an opinion that shuts down the use of automated license plate readers to issue tickets for expired insurance.

Drivers who don’t pay Dallas red-light camera tickets will no longer get a bad mark on their credit reports. City officials are now scrambling for a new way to encourage ticketholders to pay their RLC fines.

Utah
Despite the fact that Utah has seen a 5-cent-per-gallon state gasoline tax hike amid claims that transportation needs are critical, state lawmakers approved transferring what is estimated at nearly a half-billion dollars from state road projects for the next eleven years. Roughly half will go to water projects with the other half going to education.

Vermont
The Vermont legislature defeated a Right to Privacy Amendment for their constitution. Ten other states currently have this as a right which is more important than ever with advances in the use of surveillance technology.

Washington
Motorists involved in fatal crashes who recently used marijuana more than doubled in 2014 according to AAA Foundation for Traffic Safety. Seventeen percent of fatal crashes in Washington in 2014 involved a stoned driver. That was up from 8 percent in 2013, the year before recreational marijuana was allowed there. But according to a separate study from the same group, it is difficult to determine whether a pot-using driver is too impaired to drive.

Wisconsin
Wisconsin drivers will now need to turn on their lights in bad weather according to a new law passed this year.