



Driving Freedom

NMA Foundation

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Driving Freedoms

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The NMA Foundation is a non-profit organization dedicated to finding innovative ways to improve and protect the interests of North American motorists.

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TRIALS AND TRIBULATIONS

BY GARY BILLER, PRESIDENT, NMA

Never underestimate what an individual can accomplish when pushed too far by an opponent as intransigent as the federal government.

Such is the case of Terry Bressi who has been stopped more than twenty times a year since 2002 by Customs and Border Protection (CBP) agents on his normal drive to and from work at the University of Arizona's Lunar and Planetary Lab. Bressi's commute from Tucson to the lab necessarily takes him on State Route 86 where a combination of local tribal police and the CBP have repeatedly harassed him.

Bressi was originally stopped under the guise of a sobriety and license checkpoint. When he asked and was told there was no probable cause for his detention, he refused to provide personal identification. The situation escalated and over the years, Bressi has been arrested multiple times by the tribal police even though (or maybe because) his is a familiar face. The CBP went so far as to submit a written request to University of Arizona administrators and the state governor that Bressi be fired because of his resistance to the stops. (He hasn't been.) The agency has also claimed that his videotaping of the encounters puts its agents in jeopardy.

Bressi countered by filing a lawsuit, still pending, that alleges a Department of Homeland Security (DHS) grant program has provided the financial incentive of overtime pay for enforcement agents, including those of the CBP, to continually violate the rights of American motorists at checkpoints. Bressi's complaint notes that during an eight-hour shift on the day of one of his stops, a Pima County Sheriff's

Department deputy, who had no authority at the checkpoint, earned \$600 of overtime to provide a general law enforcement presence.

I found this situation particularly interesting because earlier this year, I presented a seminar on roadside checkpoints, searches and seizures at a Minnesota gathering of about 300 motorcycling advocates from seven Midwestern states. The lively exchange included a discussion of border patrol checkpoints, like those encountered by Terry Bressi.

In 1976, the U.S. Supreme Court ruled in *US v. Martinez-Fuerte*, 428 US 543, that immigration checkpoints are permitted as long as they involve a "brief detention of travelers" where the driver and passengers are only required to produce evidence of a right to be in the United States and answer a brief question or two on that topic.

If you don't think border patrol checkpoints apply to you, please reconsider. DHS has the authority to conduct checkpoints up to 100 miles from national borders. This zone traces around coastal regions and the Great Lakes, not just shared borders with Canada and Mexico, so it encompasses nearly two-thirds of the United States population.

Many legal scholars are hopeful that cases like Bressi's will trigger a judicial review of the 40-year-old Martinez-Fuerte decision and shore up issues of constitutionality under current practice.

Bressi's campaign to end federal funding support for border patrol overtime is not unlike our current efforts in Washington to end hundreds of millions of dollars worth of annual grants

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Report: Future of the Automobile Conference held at the Petersen Automotive Museum, Los Angeles, May 3, 2018

From Michael Jabbra, NMA California Member

I volunteered to attend the Future of the Automobile Conference, sponsored by the Petersen Automotive Museum and the Los Angeles World Affairs Council, so that I could report to NMA on what technological and political schemes that are being cooked up for drivers.

During the first panel, Terry Karges, Executive Director of the Petersen Automotive Museum, stated that autonomous vehicles (AVs) are “not taboo, but welcomed here” – a painful statement for those of us who like to drive our own cars.

Ridesharing was also considered favorably. Many of the panels’ speakers were led by representatives of Tesla, Intel, and McKinsey & Company (a global management consultant) and others representing the automotive, technology, and infrastructure industries. They argued that AVs and ridesharing were here to stay; most believed (or hoped) that individual vehicle ownership would go away.

There was some disagreement as to whether current AV technology is ready for widespread adoption. One AV advocate contended that we should think of AVs the way people thought of aircraft in the early 20th century—some problems to fix, but lots of potential. Another panelist warned that cyber security for vehicles (fully autonomous or not) needs to be addressed.

Human drivers, for all their flaws and recklessness, are not computers. They are decentralized. One cannot upload a virus into billions of humans and cause them to lose

control. However, it is possible with cars connected to each other and to the Internet of Things, where security is largely ignored in the name of convenience.

Panelists spoke often about safety and vehicle congestion. Certainly, these are real issues. However, it is likely that they are being used as excuses for increased control and surveillance. Americans are used to owning cars and driving them where and when they want. Whether for power or profit, there are those who want to take that away.

One panelist spoke eagerly about how his company’s artificial intelligence program (he called it “intuitive intelligence”) would be able to monitor the emotional state of the driver and be able to ask questions or even pull the vehicle over. Perhaps all of this information would be sent to insurance companies. He openly admitted wanting to influence human driving behavior. When I asked this panelist about privacy, he said that we’re already being monitored, so we should get used to it, and that collective safety is more important than privacy.

What about the rest of us who like being unmonitored and in control? Do we have a place in the Brave New World envisioned by a profit and power-seeking few under the guise of knowing what’s safe and best for us?

I spoke with John Rossant, one of the panelists, founder of New Cities and also of the yearly LA CoMotion conference in Los Angeles. He believes that there will be a mixed future of autonomous, ridesharing, and private ownership of vehicles.



He contends that no politician will propose an outright ban on vehicle ownership, except in dense cities. He thinks that the private vehicle lobby might become as powerful as the Second Amendment lobby. That means the National Motorists’ Association needs to become as powerful as the NRA.

One thing was missing from most speakers at the conference: humility. Human society isn’t perfect; neither is technology. Central planning doesn’t work very well; people, especially in the United States, are too interested in doing their own thing. If that means driving their own dumb cars, so be it. The objective of zero accidents is unattainable except by eliminating driving. Surely there is a balance between independent and personal control and acceptable risk.

Give us risk, give us privacy, and give us the freedom to drive our dumb cars.

NMA California Member Michael Jabbra loves to drive and can be reached at his website: <http://www.michaeljabbra.com/>. 



NMA WASHINGTON REPORT

BY ROBERT TALLEY, NMA LOBBYIST

Congress is expected to spend the summer attempting to accomplish something it hasn't done in a long time: pass most if not all of the funding bills necessary to keep the federal government running in FY 2019, which begins in September. For NMA members, this is an opportunity to influence DOT spending, including its grants to local governments to enforce traffic laws.

This year the Senate has gotten off to a quick start. Its transportation appropriation bill has passed out of committee and awaits floor consideration. Recommending over \$45 billion in new spending, the Appropriations Committee has some suggestions for the Administration. For example, expect to see more highway signs flashing "click it or ticket" as Congress sees these signs as a cost-effective way to spread the seat belt message.


The senate committee report reflects increased concern for impaired driving in states that have legalized recreational marijuana. The report states that Congress

"continues to provide substantial support for the Drive Sober or Get Pulled Over high-visibility enforcement campaigns and encourages engagement with law enforcement to make the campaigns more pervasive and effective." Continued support comes in the form of almost \$1 billion in appropriations for the National Highway Traffic Safety Administration (NHTSA) highway safety programs.

For several years, NHTSA has partnered with leading auto manufacturers in an effort to develop DADSS (Driver Alcohol Detection System for Safety), an in-vehicle technology to prevent alcohol-impaired driving. The technology is expected to automatically detect when a driver is intoxicated with a blood alcohol concentration (BAC) at or above 0.08% — the legal limit in all 50 states except Utah — and prevent the car from moving. NHTSA has been directed to have this technology ready for deployment in vehicles by the end of 2020.

While there are many uncertainties in the congressional schedule for

the balance of 2018, the apparent agreement of the house and senate bills on safety measures suggests that the final outcome is likely to include an increase in NHTSA funding.

NMA's attention is focused on having Congress recognize, and stop, NHTSA's use of ticketing metrics to assess the success of the highway safety grants. Currently, NHTSA holds that federal law requires it to use a performance metric for grant funding that essentially creates a tickets-per-hour assessment as a measurement for success. While this mandate exists nowhere in federal law, NHTSA has nonetheless refused to disavow the metric. The result is that police have an incentive to give as many tickets as possible during federally funded activities regardless of whether the objective of enhanced safety is furthered. Our efforts to educate continue and our goal is to have congress expressly direct NHTSA not to use traffic citations as a measure of or means for improved highway safety. 


Trials and Tribulations

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from the National Highway Traffic Safety Administration to states to conduct high-visibility enforcement campaigns. We are rooting for Bressi to prevail on both the constitutional and the financial incentive questions. I like to think he's rooting for us, too.



A gratifying update on a related Fourth Amendment matter: In the cover story of the Winter 2018 issue of *Driving Freedoms*, we highlighted the NMA's involvement in submitting an amicus curiae brief on behalf of Terrence Byrd in the U.S. Supreme Court case *Terrence Byrd v. US*. Byrd borrowed his girlfriend's rental car, which was searched by police over his objections. The government's contention was that a person given permission to drive a rental but without his name on the rental agreement doesn't have the right to deny a search of the vehicle.

In a unanimous decision, the Court ruled in favor of Byrd. Justice Anthony Kennedy wrote in the majority opinion, "Few protections are as essential to individual liberty as the right to be free from unreasonable searches and seizures." Amen. 

No More Policymaking by Procurement

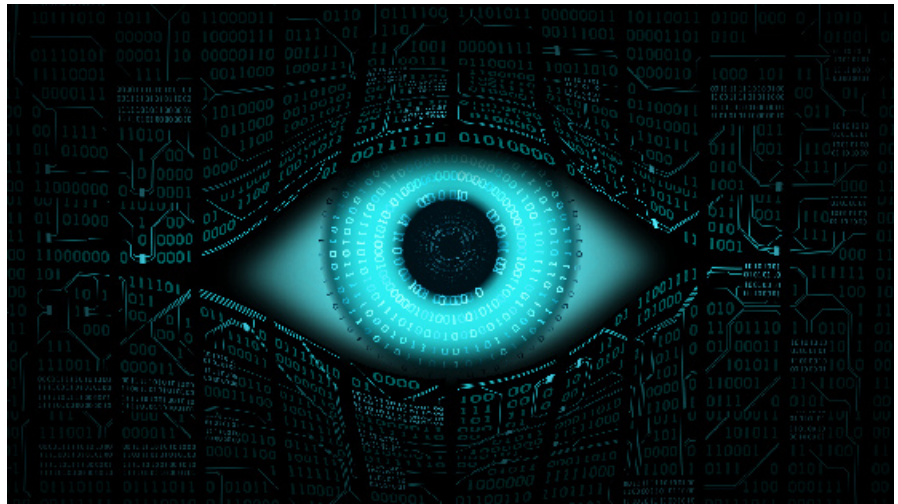
Privacy groups and cities fight back against pervasive surveillance

With no checks and balances, local law enforcement should not be spying on citizens. A number of cities, with the help of privacy groups and the American Civil Liberties Union (ACLU), are successful in opposing unchecked programs by creating local ordinances supporting transparency and accountability in the use of surveillance and data-gathering technology.

Since 9/11, local law enforcement agencies have had access to massive federal grants that allow police to use new surveillance tools. These devices include Stingrays (cell phone trackers), facial recognition cameras, automatic license plate readers (ALPRs), drones, social media analytics, gunshot-locators, predictive policing algorithmic systems and surveillance cameras of all kinds. Police departments have generally been able to procure these items without the scrutiny of elected officials or transparency to the public at large.

Without oversight, surveillance devices can be used by police to violate free speech rights, target minorities and spy on those who peacefully dissent. Of course, intrusive surveillance can also waste taxpayer money and feed the growth of statewide and national private-information databases gathered on citizens whether they are criminal suspects or not.

Over the last five years, a growing number of communities have passed laws preventing enforcement agencies from creating policies by procurement. Instead, city councils have worked with citizens to create limits on the use of police surveillance. These municipalities include Nashville, Tennessee; Seattle, Washington; Somerville, Massachusetts; and the California jurisdictions of Berkeley, Davis, Oakland, and Santa Clara County. In June, the St. Louis, Missouri,



city council announced it will soon work on its own ordinance.

The ACLU has led this work with a coalition called *Community Control over Police Surveillance*. Spearheaded by 17 organizations in addition to the ACLU, they have created a model bill to establish ordinances to control, limit and oversee use of these technologies. The ACLU's Northern California affiliate also published a guide for local governments to help extend policies of "privacy localism" even further.

The coalition announced support of California SB 1186 which passed the Senate in late May and is currently in the Assembly. If passed, SB 1186 would help restore oversight at the local level and permit residents to be heard when governments pitch surveillance proposals in the name of public safety.

Cities and counties developing their own ordinances generally address three key issues:

1) **Accountability**

Requires approval by local government prior to acquisitions or deployments of surveillance technology.

2) **Transparency**

After procurement and deployment, public agencies must file regular reports on how the technology was

used, its expected benefit to the community, and its cost relative to this benefit.

3) **Community Participation**

Includes a local policy framework that incorporates feedback from both experts and the public.

For example, Seattle's ordinance applies to any technology (cameras exempted) that observes or monitors individuals "in a manner that is reasonably likely to raise concerns about civil liberties, freedom of speech or association, racial equity or social justice." All technologies need approval from the city council to ensure that departments only acquire tools that are appropriate and cost-effective. Council approval also includes a check of secret adoption or improper use of surveillance.

For transparency, Seattle, Berkeley, Oakland and Santa Clara County require law enforcement to publish reports on when and how frequently the technology was used and how the data were shared. The three cities also require reporting on the impact these technologies have on particular communities of color, ethnicity and minority religions. Oakland has gone even further by prohibiting

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nondisclosure agreements with vendors and allowing for the protection of any future whistleblowers.

Oakland has a permanent Private Advisory Commission that provides the city with information regarding technical matters and data collection privacy issues. The commission is charged with issuing annual reports on how surveillance technologies were used, policies that govern their use and the type of data collected. The commission can also hold public hearings.

Brian Hofer, a member of the citizen group Oakland Privacy, helped draft Berkeley's ordinance and in March wrote this for the local newspaper:

Transparency taken to extremes can run amok. Case in point: the Newark, New Jersey, police department recently installed 62 surveillance cameras that stream footage to a public online portal.

This is reality TV at its most dreadful...real-time spying of citizens going about their business. The department did this purportedly to build trust between the police and the community.

The stream went live on April 26 and the next day 662 people logged into the site according to the mayor's office. The department calls this project, *Citizen Virtual Patrol*. The first 60 days are a test phase and the ultimate goal is to install a total of 300 cameras across the city.

program called *Rekognition* to police departments. Forty-one privacy and civil liberty groups cosigned a letter in May asking Amazon to terminate its program. From the letter:

"This product poses a grave threat to communities, including people of color and immigrants, and to the trust and respect Amazon has worked to build. People should be free to walk down the street without being watched by the government. Facial recognition in American communities threatens this freedom."

100 employees of Amazon recently sent a letter to CEO Jeff Bezos asking him to reconsider. A number of Amazon shareholders also wrote their own letter asking for the same result.



"In the current political climate, California privacy advocates say it is more critical than ever that the amount of surveillance and personal data collected be the bare minimum, to ensure the safety of our community from unlawful and inhumane targeting."


Even without public commissions, input from the public is critical. For example, the California city councils of San Pablo and Alameda canceled planned expansion of ALPR use after holding a public meeting and listening to residents' concerns. In Santa Clara County, elected officials listened to citizen concerns about surveillance and police body cameras. The commissioners voted to prohibit facial recognition with these devices.

In 2017, the Newark PD received an award for community policing from the NJ Attorney General even though the department is under a consent decree from the US Department of Justice (DOJ) on its stop, search and arrest policies. The department is currently overseen by an independent monitor that meets quarterly with the public. Newark also received a \$700,000 DOJ Smart Policing Initiative grant to create the *Citizen Virtual Patrol* which will cost \$1 million annually to maintain.

Prominent companies are also becoming more involved in the surveillance arena. Amazon recently came under fire when it was revealed that the online shopping giant was pitching its facial recognition

Smart cities are coming to America. Smart street furniture such as streetlights may soon monitor your every move. Drones may monitor traffic and traffic violations. In China, crosswalks with facial recognition cameras shame you publicly if you jaywalk. Many US towns are scrambling to place ALPRs at all their entry and exit points to monitor who is coming in and going out of town.

As cities become smarter, they also need to become more accountable and transparent with their use of surveillance techniques that are meant to keep us safer. Supposedly.

Otherwise, we will be living in the novel wastelands of *1984* and *Brave New World*. 

The Ominous Road to Digital Driving

Blame the smart phone. Many of us have them, these robust computers in our pockets. Now government agencies and profit-seeking industries are figuring out how to manipulate the use of mobile technology to their benefit.

Distracted driving may be disruptive to highway safety but that is not what we are talking about here.

State departments of motor vehicles (DMVs) and law enforcement agencies, for example, know that the wireless computer in your pocket can help monitor your actions while cutting their own costs and avoiding cumbersome bureaucratic red tape and due process. This raises concern for the potential loss of personal privacy and individual autonomy.

In the next ten years, all states may require drivers to have both digital driver's licenses and license plates. Traffic courts might also expect us to discharge traffic tickets exclusively online. Law enforcement may soon ask for electronic search warrants to take blood from DUI suspects.

Welcome to your digital driving future!

Digital Driver's Licenses

Iowa leads after several years of testing a digital driver's license (DDL). Its DMV has been working with "augmented identity" specialists at IDEMIA, a company that works with 80 percent of all US DMVs on existing licensing programs. The Iowa DDL is applicable to all situations where a driver's license is required (traffic stops and car rentals) or requested (airport check-in and alcohol or cigarette purchases). IDEMIA official Jenny Openshaw remarked that Iowa's DDL will use a high level of encryption (including facial recognition) to access an Android or IOS app. Alabama, Arizona and Delaware also have IDEMIA pilot programs underway.

Gemalto, a company similar to IDEMIA, is working with four other states, (Idaho, Colorado, Maryland and Wyoming) and the District of Columbia on similar DDL projects.

Pennsylvania and other states are also considering DDLs. As yet there are no standard protocols for accessing or authenticating digitized licenses. This jeopardizes personal privacy and security as government agencies and commercial businesses enter the DDL age.

American Association of Motor Vehicle Administrators spokesperson Claire Jeffrey outlined some DDL

advantages over the current driver's license:

--Personal information could be updated without going to the DMV.

--More privacy—only an age could be disclosed for someone buying alcohol or cigarettes.

--To access the DDL, the owner would need a security number or code.

The major disadvantage: without a smart phone or cellular service nothing works. A non-government cellular provider is not only essential but it has access to all data exchanged. Also, if your phone's battery dies, you will not be able to access your information.

The various companies that test DDLs explain that the personal data that is a part of any driver's license would not live in the cloud but reside on the phone itself. However, the DMV would have the ability to revoke a person's license remotely if needed.

Consent is also a concern. In 2017, the Supreme Court ruled that to search a suspect's phone, police require a warrant. If a driver willingly hands over the phone to give the officer access to the mobile driver's license, is that to be considered implicit consent to examine the phone's contents?

DDL developers contend that they will provide a command that locks the DDL screen so there is no possibility an officer can snoop. But what if the phone is seized before the driver can activate the command? What if a text message or a phone call arrives while the officer holds the phone? What if drivers want to use their phone to record the interaction with police or make calls or send texts during the traffic stop?

For all the claims of convenience and adequate personal security, the introduction of digital driver's licenses raises far more privacy and due process questions than answers at this time.

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Digital License Plates

Is information on a license plate personal? A recent case in Virginia highlighted this very question after a motorist objected to his license plate being photographed and uploaded by Fairfax County law enforcement automated license plate readers. The state Supreme Court ruled in favor of the motorist and suggested that the use of ALPRs violates state privacy laws.

Developed by Reviver Auto, digital license plates are already on sale in California and soon will be available in Arizona, Florida and Texas. Company CEO Neville Boston said recently that his company is working to legalize RPlates in another nine states by the end of 2018.

Car owners with Rplates would never need to renew their tags in person either at a local DMV or through the mail. All is done online, presumably saving time and the state processing costs. California officials say the state could potentially save \$20 million annually on postage alone.

Sacramento is using Rplates on a number of city-owned cars. Remotely, city managers can access an OBDII port and see where the car has been,

its miles, and other travel-related data. This summer the plates will be put on 35 all-electric Chevy Bolts and will allow the city to test deployment of its 5G network. Sacramento will be the first US city to have a functional and commercially available 5G network—notably faster than previous generation networks and able to connect many more devices simultaneously than previously possible—which is one of the reasons Reviver Auto chose the city to test the plates.

Sacramento Chief Innovation Officer Louis Stewart said, “We’re looking at the possibility of setting standard communication protocols around autonomous cars so that we can actually track and trace them and figure out if they’re performing well or not.” Because digital plates can track and transmit data to authorities, they open a potential basis for a vehicle-miles-traveled tax.

Of course, hacking is a major concern with any wireless network. Reviver Auto CEO Boston contends that encryption is built into Rplates from the ground up, which makes its systems more difficult to hack. He adds that consumers will be able to choose who

has access to their plates’ data, and his company will not sell personal data.

The Rplates currently cost \$699.00 each, excluding installation plus a monthly \$7 user fee. Sold directly to consumers by car dealerships, not the DMV, digital license plates might be convenient, but do you want this level of conspicuousness within a broader cellular network?

Electronic Traffic Courts

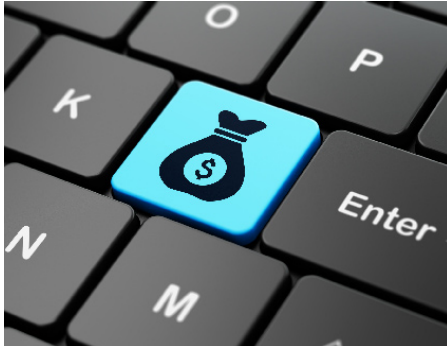
Most drivers already take the convenient way of dealing with traffic tickets—by admitting guilt and paying the fine. The advent of electronic traffic courts takes this a step further by allowing the accused to settle cases from the comfort of home computers. The winners—the jurisdictions and other agencies who share no-muss-no fuss ticket revenue.

In North Carolina, the online traffic court allows drivers receiving speeding tickets for exceeding posted limits by 15 mph or less to request the charge be reduced if they don’t contest the charge in court. McDowell County District Attorney Ted Bell said of the service, “Instead of missing work and wasting

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The Ominous Road to Digital Driving

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time having to sit in court, people can take care of these tickets on their computer at home.”

McDowell DA Bell said that once the request is sent, his office will check the driver’s history and ticket information to see if the person qualifies. If approved, the reduction goes to 9 mph over the limit and the applicant is directed to a link to pay the fine online. If denied, drivers will receive emails directing them to appear in court.

Bell added, “Last year, we implemented a system where people who were charged with an expired inspection or tag or no driver’s license could go online and request a dismissal of the issue once they corrected the problem. This is just one step in increasing efficiency, saving taxpayer money and respecting people’s time.”

Stamford, Connecticut, State’s Attorney Richard Colangelo likes the convenience of negotiating these deals from his home computer. He said, “I’m very reasonable. If they came to court, they would get the same offer from us. I’m not treating anyone differently because they are doing this online.”

The Stamford-Norwalk Judicial District began a pilot online traffic court this year. Since it began, 506 people pleaded not guilty online and were invited to participate in the program. 346 agreed and of those 316 accepted Colangelo’s offer. The remaining 30 chose to contest their cases in court.

Superior Court Operations Official Stacy Manware remarked that the success of the Stamford pilot program has encouraged the Central Infractions Bureau to consider expanding the program to each of the state’s judicial districts by 2019.

State’s Attorney Colangelo added, “Realistically, if we could do this online, it makes it easier on people, it cuts down on the traffic in court, which is probably the biggest thing. So, that it allows me not to assign multiple prosecutors to the infraction docket. With the limited resources we have, it makes it more efficient.”

Electronic Search Warrants for DUI Blood Draws

Arizona recently announced that all state law enforcement agencies may obtain blood draw warrants electronically for suspected DWI drivers. In 2012, the state Supreme Court authorized an experimental

Warrants, it is part of the Bureau of Criminal Apprehension’s (BCA) integrated charging system. Officers seeking a warrant for a blood test log on to a secure portal and submit an electronic warrant to a judge. The system integrates with the DMV so that the form can auto-populate with the pertinent information, making fewer mistakes and saving the bureaucracy time.

The on-call judge receives an email with a hyperlink to the warrant in the BCA system. The judge reads the warrant and decides whether to approve or disapprove it by electronic signature. Average processing time is between 15 and 20 minutes. Since the eSearch Warrants system has been online, over 2,500 applications for DWI-related search warrants have been submitted with 98 percent approved by a judge.

Utah, Delaware and two counties in Texas have a similar electronic search warrant systems.



electronic search warrant program in Maricopa County (Phoenix). Instead of a police officer driving to a judge’s current location to obtain a warrant, an electronic request is sent to an on-call judge, who approves or denies the request.

A similar system has been in place in Minnesota since 2017. Called eSearch

Many individuals and institutions benefit from the greater efficiency afforded by digitized information and electronic legal settlements. Buyers beware though. Those conveniences come at a price: the gradual erosion of individual privacy, autonomy and potential loss of constitutional guarantees. ❤️

#484 NMA E-Newsletter: All Hail More Traffic Congestion

The math is simple. More cars on the streets equals more traffic congestion.

Ridesharing companies such as Lyft and Uber have tipped that delicate balance between street traffic and transit alternatives.

Many city officials are finally taking notice.

In a recent Boston survey of 944 rideshare users over four weeks in late 2017, nearly six out of 10 respondents said they would have used public transportation, walked, biked or even skipped the trip if the ride-hailing companies with their app-easy services weren't available.

According to a June 2017 report, San Francisco, the birthplace of Uber, rideshare vehicles of all stripes rack up over half a million miles every day on city streets. Uber and Lyft are regulated at the state level by the California Public Utilities Commission (CPUC), while cities and counties regulate taxi services. This is a problem because San Francisco can do very little with the 5,700 extra vehicles per day on city streets in addition to regular commuter and commercial traffic. Both companies refuse to share usage information with the city, which resulted last summer in the San Francisco city attorney subpoenaing Uber, Lyft and the CPUC for their data.

The Chicago Tribune reported in February that the number of registered rideshare vehicles quadrupled over a three-year period, going from 26,800 in March 2015 to 117,557 last December. Cab Union spokesman David Kreisman said the number of taxis operating in the city is limited to 6,999 to reduce congestion and assure coverage but there are no such limits on ride sharing.

Ron Burke, executive director of the Chicago Active Transportation Alliance said, "Uber and Lyft have not delivered what they said they would—fewer cars, less traffic and more mobility." He added, "They're convenient and people like them, but it appears that they're creating more cars and more traffic in the downtown area if not elsewhere. That's not a sustainable trajectory."



The predictable response from cities is to increase the taxing of ridesharing services, making the cost less attractive to passengers.

Late last year, Chicago implemented a 15-cent increase to the already existing 52-cent fee for every rideshare trip. In late March, instead of congestion tolling in Manhattan, the state budget included new rideshare and taxi trip fees, with some of the collected revenue being diverted to help fund the subway system. Cities in Massachusetts, California, Georgia and Washington D.C. have also raised or are thinking about raising rideshare fees to provide financial supplements for transit alternatives. Raising fees though will not really help urban core traffic congestion.

The most disturbing element to this cultural phenomenon is the push by some cities to alleviate core traffic by hitting up motorists for more fees.

Seattle may well be the first city to have congestion tolling in the United States, with Mayor Jenny Durkan recently telling reporters that she plans to set up an expensive ring of automatic tolling gantries. (Who wants to bet that congestion or not, the tolling will continue once in place?)

Nevertheless it is hard to ignore the fact that something has to be done to ease traffic congestion in larger metroplexes. Uber reports that in the Seattle area it has 15,000 active drivers with 800,000 active riders. That is just data from one ridesharing company.

The math is simple--more cars on the road leads to traffic tie-ups and longer commute times. Ridesharing services offer a convenience that is quickly being overshadowed by the realities of urban core congestion.



Uber Cheaper than Driving in 4 out of 5 US Cities

Results of a study released in late May found that commuters in New York City, Chicago, Washington, DC and Los Angeles spend less on ridesharing than owning and driving a car. In the **Mary Meeker's Essential 2018 Internet Trends Report**-- Transportation Section, page 130, Dallas was the only city of the five that indicated it is still cheaper to drive. Here are the weekly cost estimates for the five cities:

	Drive	Rideshare
Chicago:	\$116	\$77
Dallas:	\$65	\$180
Los Angeles:	\$89	\$62
New York City:	\$212	\$142
Washington, D.C.:	\$130	\$96

Expansion of Automated Traffic Enforcement Devices

In April, the NMA's National Office in cooperation with NMA Foundation Executive Director James C. Walker started the weekly blog, the Automated Traffic Enforcement or ATE Racket Report. We did so because efforts to profit from photo enforcement continue to expand. Here is what we have tracked in 2018:

Double Trouble

Cities in the US and Canada are beginning to use 'Speed on Green' cameras, otherwise known as Intersection Safety Cameras (ISCs). These are speed cameras mashed up with red-light cameras. At each placement, inductive proximity sensors, or ground loops, are cut into the surface of the road, and detect when a vehicle passes over them. If a driver goes through an intersection when the light is red and is also above the posted speed limit, the automated camera takes two photographs and the car's owner will receive two tickets. Each photo will include when the photo was taken, the speed of vehicle and the road lane identification. In May, Medford, Oregon, announced it placed ISCs at three intersections. Chandler, Arizona has used ISCs since 2007.

Mobile Phone Use Detection

Australian police are looking into some emerging camera technologies that can detect if a motorist is using a phone while driving. Currently, New South Wales police use a variety of detection methods: line-of-sight by trained officers, long-range cameras and helmet cameras used by motorcycle police. The new technology replaces these labor-intensive techniques with an automated stationary camera to take photos of offenders as a first step to issuing a citation. An officer reviews the images to complete the ticketing process.

NSW Minister for Roads Melinda Pavey contends that developing this

technology would be a world-first and is one of the priorities for the Road Safety Plan 2021. In March, an amendment to the Road Safety Bill was introduced that would allow camera technology to enforce mobile phone offenses.

Truck Cams

This spring, Baltimore's DOT set up six stationary cameras to catch trucks that stray off designated truck routes to reach the nearby port. For years, Southeast Baltimore residents claim that trucks have been rolling through their neighborhoods, shaking houses, waking babies and knocking mirrors off cars. Resident Shirley Gregory says that the effect of the camera near her home was instantaneous. Before the cameras, she would sometimes see 50 trucks a day pass by her house—now, only about three per week. A resident task force is already interested in asking the city council to add more truck cams in the future. Fines for truck drivers can be up to \$250.

Move-Over Cameras

Speed camera company Brekford announced in May that it will introduce a camera to automatically ticket drivers if they don't move a lane over when passing a police car on the side of the highway. Brekford explained to investors: "The patent-pending system will combine cutting edge camera and radar technology with an advanced triggering mechanism to detect, capture, and record 'move over' law violations. It will also include built-in artificial intelligence-based automated license plate reader (ALPR) capability." The announcement is silent on the alternative rule of slowing in the lane adjacent to the emergency vehicle if the "lane over" is already occupied. All states have move-over laws on the books that are intended to protect roadside police and emergency personnel. The definition

often is extended to include road maintenance workers, utility crews and tow truck operators.



Sound Traps for Loud Cars

The city of Edmonton, Alberta has been measuring vehicle noise, intending that by summer of 2019, it will have an audio/video system in place to automatically ticket loud-noise offenders. Office of Traffic Safety Executive Director Gerry Shimko explained that working on the sound trap idea began in 2008. He added, "Basically, it's activated when the noise exceeds a threshold, and then it'll capture a video of the allegedly offending vehicle and give you an idea of who's responsible." City Councilor Ben Henderson says he hopes that they will eventually be able to track and catch frequent offenders.

Facial Recognition at US borders

Beginning in August, Homeland Security's Vehicle Face System will be tested at the Texas Anzalduas Port of Entry. The facial recognition system monitors drivers and passengers leaving the US. According to a Customs official, the purpose of the project is to capture facial biometrics and compare these images to file photos in government databases. The Customs and Border Protection agency has been developing the technology to recognize facial features through a vehicle's windshield as part of a broader biometric exit program to physically verify visa-holders' identities as they leave the country.

NMA's ATE Report comes out every Tuesday on the Blog at www.motorists.org/blog. You can also check out the Report on Facebook at www.facebook.com/ATERacketReport. 



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Arkansas

A local TV station has changed the town of Bauxite’s designation from “speed trap” to “tint trap,” due to complaints from motorists for window-tint citations. The police chief says that he recently equipped his officers with tint test devices that allows them to write tickets for window tint violations. Arkansas law requires that front side windows must be more than 25 percent transparent. Rear and back windows can be more opaque. This same TV station plans to review all tint tickets issued over the past year.

California

Good driving is creating a budget shortfall. In a release by the State Auditor, revenue collection from citations has decreased from 39 to 25 percent over the last three years, resulting in revenue less than budgeted requirements. The state budget relies on more than \$450 million from penalties and fees collected from drivers for both criminal and traffic violations. In addition to fewer tickets, the report found that fewer drivers are paying their fines even when faced with accumulated substantial late fees. The report recommends that the state “eliminate the use of penalty and fee revenue as funding sources for state and county programs.”

Florida

In early May, the state Supreme Court unanimously rejected a motorist’s challenge to the way the city of Aventura handled its red-light traffic violations. Justices said the city may use a private contractor to review images of red-light camera violations as long as a city officer

makes the ultimate decision on whether a citation is issued.

Georgia

The Georgia Department of Transportation (GDOT) plans to build the US’s first truck-only lanes southeast of Atlanta. At a cost of \$1.8 billion, two commercial-vehicle-only lanes would be added to northbound Interstate 75/475 from Macon to McDonough. The 40 miles of non-tolled lanes will have fewer entrance and exit points and will not affect noncommercial traffic lanes. GDOT estimates that the lanes will reduce delays by 40 percent in 2030. Construction begins in 2025.

Illinois

In early March, an Appellate Court ruled that Chicago’s less-than-three-seconds yellow lights are legal and that the city would not have to pay back \$7.7 million in refunds to 77,000 motorists. The court also absolved Chicago for entering in a deal with Redflex Traffic Systems in 2003, before the General Assembly legalized such arrangements.

Michigan

The Genessee County Sheriff’s Office has begun investigating the Thetford Township’s two-man police department. Since 2006, the department has acquired over 950 pieces of ex-military equipment worth more than \$1 million. Nearly a third was housed on non-township property. The equipment is from a federal Department of Defense program that distributes excess equipment to local law enforcement agencies. DOD has since suspended

the township’s participation pending the sheriff’s investigation. Thetford, 15 miles north of Flint, is a farming community of 6,800 people. In 2015, the township was considered the fourth safest municipality in the state.

Missouri

A Missouri Appellate Court ruled in April that police are required to have a warrant to download data from a vehicle’s black box or electronic control module (ECM). One judge wrote, “The driver possesses an actual, subjective expectation of privacy in data recorded by an ECM regarding the driver’s operation of a vehicle. We can affirm the trial court’s order granting motion to suppress based on longstanding Fourth Amendment jurisprudence.” The case involved truck driver Anthony West who struck a pickup truck killing its driver. No warrant was obtained prior to downloading the ECM and seizing the black box, a standard procedure for the highway patrol.

North Carolina

Pender County residents who live along Cedar Avenue, a private street, have decided to set a \$5 toll for non-residents who want to use this renowned shortcut to reach Surf City Beach this summer. In 2014, residents started a community road maintenance organization after the developer informed them that the company would no longer maintain the road. The road is a mix of handmade speed bumps, potholes and dirt. The local fire department has threatened to not use the road due to its dilapidated condition.

New York

A federal appeals court ruled in late March that the NY State Thruway Authority had the right to use toll money collected from commercial truckers to maintain upstate barge canals. The American Trucking Associations filed the suit in 2013 arguing that it was uncon-

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stitutional for the Thruway Authority to use toll revenue for anything other than maintaining toll roads. The court upheld the February 2017 ruling by US District Judge Colleen McMahon. *Note: The NY decision is based on an old state law and does not establish a precedent for the ongoing toll-collection lawsuit by the NMA and Owner Operator Independent Drivers Association against the Pennsylvania Turnpike Commission.*

The Toll Payer Protection Act S7344A is headed for the Governor's desk. If passed into law, the act would provide a greater level of transparency, efficiency and fairness for motorists who have to deal with the non-cash tolling system now in place throughout NY. Bill sponsor Senator David Carlucci wants to streamline the process of toll payment notification. His legislation was prompted by electronic tolling complaints from the Governor Mario M. Cuomo Bridge, formerly the Tappan Zee Bridge.

Ohio

The town of New Miami (pop. 2,321) will probably go bankrupt due to more than \$3 million it owes to motorists who did not receive due process when served with \$180 red-light camera tickets. The state Supreme Court ruled in early June that the town had lost its last appeal. The suit had bounced around the courts for five years.

The issue of red-light cameras may soon be on the November ballot in Dayton if the local NAACP has anything to say about it. At the conclusion of its May 21st town hall meeting about the cameras, those present voted to organize a petition drive to collect 5,000 signatures with hopes of ending the city's automated enforcement money-collection scheme. NAACP Dayton Chapter President Derrick L. Forward said in a statement, "While we all agree that safety is a huge concern and must be dealt with swiftly to keep our seniors, our neighbors and our children out of harm's way, let it not be at the expense of only the poorest

communities in Montgomery County." On the same day of the meeting, Dayton turned on five more red-light cameras.

Oregon

The Portland Bureau of Transportation (PBOT) announced recently it will use revenue from cannabis taxes to fund a Vision Zero educational campaign called "Struck." PBOT has already spent \$300,000 on the campaign to slow down drivers. The city is expected to spend another \$40 million for safety improvements to city streets this year under the Vision Zero moniker. No word yet if the cannabis tax also goes directly toward streets improvements.

Tennessee

In early May, Governor Bill Haslam signed into law a joint legislative resolution calling for a nationwide recall of the X-Lite guardrail that has been tied to at 11 deaths across the US, including four in Tennessee. Last year, the state announced plans to remove from roadways most of the roughly 1,800 X-Lite components, which account for about seven percent of the state's guardrails. Another 13 states have made similar pledges to remove some if not all of the X-Lite guardrails.

Texas

Nearly one-third of Waco's population of 123,000 could be going to jail. That is the number of motorists that have not paid their traffic tickets. As of mid-May, the city had 46,895 arrest warrants related to more than \$16 million in outstanding fines. The city is not allowed to send the fines to collections agencies and has only one warrant-collection officer on payroll.

In Houston, thieves are targeting truck tailgates with backup cameras, which could record the theft of a truck's contents. It is a crime that happens in a matter of seconds since tailgates generally are held in place with cables that can be quickly cut. Houston Police spokesperson Sgt. Tracy Hicks said at least 800 tailgate thefts have occurred in the area with

about 750 stolen with the cameras. For protection against theft, police recommend locking the tailgate with a hose clamp or backing up the truck against the garage so the tailgate cannot be opened as easily.

Utah

Under a new law, police ticket quotas are no longer allowed in Utah. Enforcement agencies are not permitted to penalize or sanction officers who fail to meet a predetermined number of arrests or tickets. Promoting, compensating, rewarding or disciplining an officer on the basis of ticket quotas are also forbidden. Points of contact, however, can still be used for performance purposes.

Governor Gary Herbert also signed into law an expansion of the state's authority to collect tolls on any roadway. The Utah DOT will be responsible for making decisions on which roads can be tolled and has been authorized by the new law to use automated license plate readers (ALPRs) to charge tolls and impose penalties to vehicle owners for non-payment.

Virginia

Is the license plate information collected by an ALPR private? The state Supreme Court ruled in April that the devices may violate state laws governing data privacy. The ruling stated that the purpose of Virginia's Data Act is to preserve the rights of free citizens by limiting the collection and dissemination of personal information.

Motorist Harrison Neal has fought ALPR usage since 2013. He disliked that the Fairfax County Police had tracked and photographed his car, even though he was never suspected of any criminal activity. In 2016, Neal's case was tossed by a lower court who said the data collected by police were not "personal information" subject to privacy protections. Neal, along with the American Civil Liberties Union, Electronic Freedom Foundation and the Rutherford Institute, appealed, arguing the information stored in the ALPR database could readily be converted into personal information. 