TRAFFIC TICKETS - THE NEW TAX

In an era of massive government debt and economic uncertainty, traffic tickets have taken on a dramatic new role in local government. Not long ago, these hearings were rarely staffed by prosecutors and courts would often give an individual a break if their driving record was clean or the driving itself was minimal. Those days are gone and just about every city and county has placed young prosecutors in their courtrooms to fight for these precious local funds. Even now, when an individual hires an attorney to fight these tickets, the government fights back. More than any other area of traffic law, the courtroom has changed.

THE PERFECT "CRIME"

Although it's not a crime but merely a "civil" offense, it's still the perfect crime for the government to collect on. It's nearly impossible to drive one day in a large metropolitan area without "technically" exceeding the speed limit, crossing a line, taking a wide turn, or failing to come to a complete stop. The government know this too. They also know the middle class does not want another tax increase.

THE CAMERA TICKET

Witness the birth of the camera ticket. There is no better evidence that the government is using this for "tax" revenue and not for public safety. In Washington State, along with many others, the very first words on a camera ticket notice indicates that paying this fine "**will not go on your driving record**." They usually print it in bold. This is strange because if you are caught speeding and a human pulls you over, it DOES go on your driving record and, if you get enough, it can suspend your license. In fact, if you get enough human tickets, you can be revoked as a Habitual Traffic Offender and lose your license for seven years. It's difficult to see the difference between a driver with twenty camera violations and twenty human.

Decreasing Public Safety

These camera tickets are also making the national news where angry citizens are pushing back on City Councils even discovering that cities are actually increasing the danger by shortening their yellow lights to lengthen their income.

http://sanfrancisco.cbslocal.com/2013/06/25/california-red-light-camera-critics-say-yellow-lights-too-short/

http://www.wtsp.com/news/local/story.aspx?storyid=316418

No Rules of Evidence

Beyond these concerns, the government does not legally prepare its evidence as it would with human tickets and merely provides the camera footage without testimony or other proof that the equipment is working. This is a fundamental violation of longstanding court and evidence rules.

As far as we know, the Law Office of David C. Mason was the first law firm in the state to legally and successfully challenge this evidence on appeal to the higher courts. Surprisingly, the local city immediately asked the higher court to return the case back to their jurisdiction where they dismissed the charge. The appeals judge actually remarked that they were disappointed the case was returning as they thought our law office had "raised some pretty interesting issues."

THE RADAR AND LASER TICKET

The "non- camera" tickets have been around for nearly a century and most "moving" violations go onto a driver's formal driving record. Although a driver can violate a number of traffic laws, the majority are cited for speeding.

Police measure an automobile's speed five basic ways in ascending order of precision: (1) rough estimate, (2) aircraft pace, (3) speedometer lag pace, (4) radar, and (5) laser. Each of these methods requires specific training and certification, a particular protocol, and some form of proof that any equipment the officer used was in proper working order. Each method also has its own unique pitfalls.

A ROUGH ESTIMATE OF SPEED

Washington case law allows any person who observes a motor vehicle to estimate its speed. A mere observation however should never hold up in court at least not where the final issue is the exact speed like in a contested ticket hearing. Police make rough estimates all the time but this is usually a preliminary step to using a measuring device or used solely for "probable cause to stop" a car for further investigation. Even so, a "rough estimate" still fails as probable cause unless the officer can demonstrate training, experience the method he used to check his accuracy.

AIRCRAFT PACE

Is done more often than you think. It is regularly performed along the I-90 corridor. This method requires more than one officer. One officer flies above the roadway and looks for vehicles that appear to be speeding. They then spot pre-marked hash marks along the roadway and clock the car between the two marks. A simple consultation with a math chart then calculates the speed. If the vehicle is speeding, the officer communicates to a

car on the ground and the driver is contacted. More often than not, the government fails to provide the required affidavits from the observing officer and their case fails.

SPEEDOMETER LAG PACE

Is a relatively simple procedure. The officer maintains a constant lag distance behind the car and simply paces the vehicle for a quarter of a mile or so. They then consult their own speedometer and compare that to the posted speed limit. If the officer is travelling at or above the posted limit and the suspect car is pulling ahead, the officer will cite the driver for speeding. This method raises three basic issues. The government must prove the officer's speedometer is accurate. Current regulation requires the speedometer to be certified accurate on a regular basis. When demanded, the government must produce and deliver this certification. Next, this method limits the ability to determine the driver's exact speed. The most fail safe method is for the officer to pace with his own vehicle at a fixed number above the speed limit and to simply cite the driver at that speed. Otherwise, even if the vehicle is pulling away, the excess rate is again, nothing more than a rough estimate. Finally, the officer must demonstrate training and experience in this lag pace method

RADAR

Radar used to be the most common speed detection method but laser devices are starting to catch up. Radar systems emit and receive electromagnetic waves to measure the speed, distance, or altitude of moving and still objects. Many inventors helped develop the technology that lead to modern radar detection systems incuding Christin Hulsmeyer and Nikola Tesla in the early twentieth century. The modern radar guns are based upon the Doppler principle. In the 1840s, an Austrian physicist named Johann Christian Doppler first developed the hypothesis that the frequency and wavelength of any wave, including sound, will perceive to change when any observer detects that wave as its source is moving toward or away from them.

Today, the government uses two basic types of radar detections systems, (1) Frequency Modulation and (2) Pulse. Frequency modulation is used in most aircraft, shipping and military applications and is significantly more accurate. This is because the radar unit is usually in a continuous mode. It also changes the frequency of the returned signal and compares it to the signal it originally transmitted. Pulse technology is used in most traffic applications. It simply transmits a quick radio pulse and calculates the time it takes to bounce off the object and return to the device. Speed is then calculated by emitting a number of signals and calculating the relative change in measurements.

RADAR GUNS

While a radio wave is fast (186,000 mph), unlike a laser beam, it is not a single line of energy. The greater distance it travels, the larger the signal spreads out and with it, so does its accuracy and power. If a police officer is targeting a busy I-5 corridor, these problems multiply. For example, at one to two hundred feet, a radar gun beam width will

spread over two lanes of traffic. At one-thousand feet, the width approaches three lanes. Because the unit captures everything in its path, larger objects, like semi trucks, are more likely to come up on detection even if a smaller vehicle is closer than that target. Like every other police equipment procedure, the test results are only as accurate as the officer's, training, experience, and operation on that day. Although this is not an exhaustive list, there are a great number of factors and errors that can effect radar results. These include panning, radio or microwave interference, shadowing, mechanical interference, moving cosine error, stationary cosine error, reflection, batching and arm-swing.

The National Bureau of Standards compiles model performance specifications for all police traffic radar devices. These were developed in conjunction with the National Highway Traffic Safety Administration. A typical police certification process or "quality assurance test" includes a number of specific procedures including a signal generator test which tests the machine's accuracy against a known speed and an internal calibration check. In addition to following national standards, law enforcement must also perform certifications and maintenance as required by the specific manufacturer.

OTHER MOVING VIOLATIONS

There is a host of non-speeding tickets that can also accumulate on your driving record and ultimately suspend your license or raise your insurance rates. Their method of proof and successful defense are as varied as their situation.

The Law Office of David C. Mason has twenty years of experience both prosecuting and defending these violations. We are also in consultation with former police officers with thirty years of experience in operating speed measuring devices and training officers to operate these machines, detect and prove these infractions.

PLEASE CONTACT OUR OFFICE FOR A FREE CONSULTATION