

## Violation of Constitutional Rights

It's called a straw man. You set up a bogus argument and debunk it. Camera proponents keep repeating that photo enforcement doesn't violate privacy rights. That's basically correct. However, photo enforcement's ticket by mail scheme definitely violates several rights both in letter and spirit of our Constitution, including the Fifth, Sixth and Fourteenth Amendments.

"Photo enforcement violates the right to due process," says Florida ACLU. In most states, regardless of who is driving (friend, relative or employee), the ticket gets mailed to the vehicle's owner. Illegally reversing the burden of proof from the state to the defendant, the vehicle owner must prove his/her innocence by turning in the violator's name, address and driver's license number.

The Fourteenth Amendment is supposed to protect U.S. citizens from having their due process rights violated by the state in which they reside. Cameras obviously violate this right as well.

An article by Richard Retting and Allan Williams (IIHS) in "The Police Chief", July 1997, revealed the problems with owner liability. In a sample of 300 red-light violation tickets issued by Arlington Police, 72% of the drivers (216) were the vehicle owners. An additional 9% (27) lived with the owner. This leaves 19%, or 57 people, who are not the registered owner of the vehicle and live apart from the owner. This, somehow, is a good thing to the IIHS. "Based on these results, it is likely that drivers who run red-lights are either the vehicles owner or reside in the same households as the driver. Therefore, sanctions against the vehicle owner could be expected to deter many potential violators." It's okay to punish the innocent to deter the guilty?

An analysis of the volume-oriented reality of photo enforcement would magnify these results for a more honest perspective. For simplicity, we'll start with 3,000 camera enforcement tickets. This equates to 2,160 tickets issued to the actual violator. This leaves a whopping 840 innocent owners (28%) who must either grit their teeth and pay, or turn in the violator. Contesting the ticket requires a day off from work, which in most cases means lost wages. Remember, this person is innocent. Next, he or she must perform the state's job to determine the real guilty party, which could be a real hassle among friends, relatives or employees. Nobody is talking about the problems with fleet or rental cars, or delivery and trucking firms.

How would a tourist feel who graciously spent several grand in a resort town, when upon returning home received a photo enforcement ticket in the mail? What a predicament to endure as the rental car company

Manager, who would be required to turn in his valued customer. With two driver rentals common these days, who was driving may not be honestly known, even by the rental customers.

As a professional driver since 1978, I can vouch for the multitude of problems photo enforcement would create for truckers. Some companies won't even hire – no matter how experienced – a driver with a traffic citation on record. Trucks take longer to stop than cars. Yellow lights are timed for cars, which means trucks are more prone to run a red, especially when loaded, simply by design. Add to this unfair disadvantage the fact that many delivery drivers traverse hundreds of intersections a week. This creates a plethora of opportunities for an honest mistake. Should truck drivers have their livelihood threatened for an honest, non-dangerous mistake? Even when the violation carries no license points, the boss still knows because he/she owns the vehicle. Delivery drivers are under enough pressure already – low pay, lack of respect, everyone wants their products yesterday, weight restrictions, high fuel prices, inspections, lower speed limits, etc. And, for the record, Florida data shows that in accidents between cars and trucks, the car driver causes the crash 7 out of 10 times.

Cameras also violate the tenet of the Fifth that all persons are innocent until proven guilty. Photo enforcement says, “Guilty, now prove that you are not!”

“The defendant’s right to confront witnesses has long been identified as among the minimum essentials of a fair trial,” according to Florida Supreme Court Justice Barbara Pariente. Camera enforcement clearly violates this Sixth Amendment right. As one Florida Representative asked in the Community Affairs Committee, “How do you cross examine a camera?” There occurs no living witness to the violation. Photos are inconclusive evidence, not a witness. And with all the amber time deficits and other malpractices going on, the photo can be deceitful hearsay, which is inadmissible in court under honorable proceedings. Even in jurisdictions that photograph the driver, there still remains no witness.

Note: Recently crowned CHIEF Justice Pariente’s statement refers to a civil trial. Changing red-light violations from criminal to civil penalties does NOT mean our 6<sup>th</sup> Amendment rights become invalidated, as some lawyers have implied.

Retting (IIHS) claims, “Photographs are admissible evidence either as an independent and accurate ‘silent witness’ to an event or as a reasonably fair and accurate representation of events in support of in-court witness testimony.”

“Silent witness” is a theory, not fact. The accused maintains the right to a completely fair, not “reasonably fair” trial. For more on accuracy problems, see chapters, “The Camera or Pictures Don’t Lie” and “The Trouble With Traffic Control Devices.” “In-court witness” refers to a biased camera technician claiming that the equipment worked properly. Meaningless. He did not witness the violation, hence it remains inadmissible hearsay and a violation of the Sixth.

Note to government officials: Your job is to protect the Constitution, not subvert the meaning of our rights for political expediency, or to sanction unethical government and corporate financial gain. Abraham Lincoln once said, “Our safety, our liberty, depends upon preserving the Constitution.” He advised, “Overthrow the men who pervert the Constitution.”

The preferred method (read: most profitable) of camera proponents involves photographing the rear license plate and also the vehicle entering the intersection on the red signal. A ticket is mailed to the registered owner usually without the photos, requiring a court visit to view the evidence. This unfair hassle deters many innocent owner/drivers from challenging the ticket, especially when no points are assessed. Plus, if innocent, the time and effort involved to determine the actual driver may result in lost wages exceeding the cost of the ticket. Hence, this method garners the most paid citations.

In San Francisco, four photos are mailed with the citation, including a close-up picture of the driver. According to the DOT study, “Approximately 40% of all violations that are photographed by the automated enforcement systems are matched with a driver and result in the issuing of a citation.” “Overview of Automated Enforcement in Transportation” points out, “A disadvantage to photo matching is that a significant number of citations may be discarded due to the lack of a match or lack of clarity in the photo.” In Paradise Valley, Arizona, 25% of the citations were dismissed because of photo problems. Photo matching is also more time consuming. Hence, the license plate photo only method garners a much greater volume of paid tickets in a shorter period of time. This proves again that money, not safety, motivates this agenda.

Ticketing someone via first class mail does not provide adequate notification. Mail can be delayed, lost or misplaced. In many camera programs, the summons arrives up to 30 days after an alleged violation. A delivery driver or active motorist may traverse hundreds of intersections a week, making clear recall next to impossible. Proponents constantly compare photo enforcement tickets to parking tickets. There occurs one major difference: All traffic citations – even parking tickets – are issued at