



# Driving Freedom

NMA Foundation

Vol. 23 • Issue 3

Summer 2012

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

## Who Really Controls Your Vehicle's Black Box Data?



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**Driving  
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*Driving Freedoms* (permit # 0716556-KWP) is the official publication of the NMA Foundation, Inc. *Driving Freedoms* is published quarterly by the NMA Foundation, Inc., 402 W. 2nd St., Waunakee, WI 53597. (608/849-6000) Email: nma@motorists.org Web site: www.motorists.org. Nonprofit bulk permit paid Madison, WI. Annual membership in the National Motorists Association includes a subscription to *Driving Freedoms*.

**Editorial Staff**

Managing Editor .....John Bowman  
Staff Writer .....Gary Biller  
Staff Writer.....Robert Talley  
Guest Writer.....Ralph Robinson  
Guest Writer.....Malcolm Heymer  
Guest Writer.....Nick Smrdelj  
Editor-at-Large..... Bill Jordan

**Cover**

*“Who Really Controls Your Vehicle’s Black Box Data?”*



**The Spy Within**

*by Gary Biller, President, NMA*

I have long considered my car a sanctuary. Even when faced with oblivious drivers anchored in the left lane or with snarled traffic—usually cause and effect—I feel secure while in command from the cockpit of my Nissan Murano.

But that is a false sense of security. My Murano, and roughly 85 percent of all other vehicles on the road today are equipped with event data recorders (EDRs) that continually monitor driving habits. If your airbags deploy, several seconds of information before and after the safety incident are stored on the EDR. How fast the car was going at the time of the collision and when and how hard the driver applied the brakes are among the data collected.

These and several other bits of driver performance data are stored in the memory of the cigarette-pack-sized device that is hard-wired into the electronic control center of most late model vehicles. If you are surprised by the high percentage of cars that have EDRs, it may shock you to learn that General Motors began installing rudimentary “black boxes” in many of its models as far back as the mid-1990s.

Vehicle EDRs have evolved as a less-sophisticated version of aviation black boxes and have a common goal: to aid accident reconstructionists and safety experts by capturing data that could lead to improved technology, and to reduce the number

and severity of accidents.

But therein lies the rub: The EDR contents are also sought by insurance investigators, lawyers, and other parties looking to assign financial responsibility for accidents. That silent electronic sentinel that you bought as standard equipment on your vehicle can be used to incriminate you.

Thomas Kowalick is outspoken and indefatigable in his crusade to protect the privacy rights of vehicle owners. He wants to provide vehicle owners with a locking mechanism on the EDR data output port that only they control, a feature that the proposed design standard for vehicle event data recorders does not include.

What makes Kowalick’s mission especially interesting is his professional standing as the chairman of the Institute of Electrical and Electronics Engineers (IEEE) committee responsible for setting those EDR design standards.

John Bowman’s interview with Kowalick appears as the cover story of this issue, giving you an insider’s look at some of the technical aspects and privacy concerns we all should have regarding vehicle black boxes.

From the NMA standpoint, there is only one true solution. The vehicle owner should have the option to disable the EDR without affecting the functionality of the vehicle itself. Responsible adults are capable of making responsible

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## Complex Case Means Many Opportunities for a “Not Guilty”

*by Ralph Robinson, NMA Virginia Member*

My story picks up after my original hearing for a speeding ticket (allegedly going 61 mph in a 45 mph zone). At that hearing in December 2011, the district judge wouldn't let me question the officer, testify on my own behalf or submit documents into evidence.

So, I was surprised when he suddenly announced that he was transferring my case up to circuit court, saying that a circuit court judge would be better equipped to handle a complex case like mine. The first judge never even ruled on my guilt or innocence.

The facts of my case have all the elements of a classic NMA ticket-fighting story: substantial errors on the ticket, an illegally posted speed limit, an inexperienced officer and an overzealous prosecutor. But I had done my homework and was prepared to represent myself. So when the circuit court judge called my name and asked for my plea, I confidently replied, “Not guilty, your honor.”

I jumped right in and asked the judge if I could make a motion or if I should wait until later in the trial. The judge said it depends. I told him I wanted to move for dismissal because the officer had listed the wrong city and state statutes (neither of which was a speeding statute) on my ticket. I pointed to two other similar Virginia cases in which tickets were dismissed due to incorrect statute citations.

The judge acknowledged the errors and the other cases I cited but denied my motion to dismiss.

The prosecution then presented its case. The officer used narrative testimony from start to finish, which included the usual information: his

location (wrongly stated) his use of visual estimation of my speed and confirmation using the radar unit. The prosecutor didn't ask the officer any questions. The judge, above the prosecutor's persistent objections, allowed me to cross examine the officer. (The prosecutor objected more than 50 times during this 45-minute proceeding.)

Under my questioning, the officer admitted he didn't have the requisite 24 hours of radar training. He didn't even know if was necessary. The prosecutor objected again. I asked what other cars were on the road near mine at the time of the stop. The officer didn't remember.

I asked if he had checked the area for possible sources of electrical interference before using the radar unit. He said no. I asked if the officer had used the radar unit in constant-on mode or instant-on mode. He didn't know. The prosecutor continued her objections, but the judge overruled her. I then made a motion to dismiss based on the officer's lack of training.

The prosecutor objected again, but the judge said he would take the motion under advisement.

It was now my turn. I stated that the posted speed limit was illegal since there was no engineering study on file with the appropriate authorities. To support my claim I submitted a letter from the city highway engineer along with the relevant section from the Manual of Uniform Traffic Control Devices (MUTCD).



(Neither the judge nor the prosecutor had heard of the MUTCD.)

The prosecutor objected and said my statements were hearsay. I pressed on and cited Virginia statute regarding authority to change speed limits. I said the city could not use this statute in this case since no one knew which agency put up the sign and whether or not there was ever a traffic engineering study done. Nonetheless, the judge wouldn't consider my research since I didn't have any expert witnesses to back it up.

I was done and the judge presented his verdict. He noted the complexities of the case and said I knew more about traffic ticket issues than most attorneys. Finally, the judge noted the many questionable factors in this case but ultimately found me not guilty.

While I never found out what tipped the scales of justice my way, I believe my preparation was critical. I took the time to research the statutes and case law. I knew the system was set up to work against me so I wasn't deterred when the prosecutor objected to everything I said or did. Finally, I read the NMA E-book, “Fight That Ticket,” and it greatly helped me every step of the way. ■



## NMA Washington Report

by Robert Talley, NMA Lobbyist



After nine attempts over several years, the House and Senate have finally agreed to a two-year authorization of transportation programs. While this is hailed as a success, few are discussing the fact that Congress failed to address the chronic funding shortfall for federal transportation projects.

For NMA members, the bill is a mixed bag. On the positive side, the bill specifically prohibits the use of federal transportation funds for the installation or operation of any photo enforcement systems designed to enforce traffic laws. This does not preclude states and localities from using their own funds for photo enforcement programs; it simply means the federal government

won't sponsor these initiatives.

Also beneficial will be an agreement to allow for expedited environmental reviews for certain traffic projects—a development that is expected to lower project costs and shorten development time. Also notable was an agreement to allow more states flexibility in using funds that have historically been dedicated to bike paths, trails and beautification projects.

Less positive is the continued creep of federal minimum enforcement standards into states' authority through withholding of federal funding or grants if certain standards aren't met. Examples of these increased enforcement standards include coercion of states to implement mandatory ignition interlock

device installation requirements for certain DUI offenders. On another front, the law includes increased federal funding to support state distracted driving laws and seatbelt use through grants to enforce the laws and for the federal government to pay for advertising. Similarly, the law includes funding for High Visibility Safety Enforcement Programs—programs like sobriety checkpoints and the like.

Of course, this is only a two-year authorization. That means Congress probably has to start drafting the next bill to reauthorize the program as soon as early next year. Whether and how they address the funding problems associated with our federal highway system remains to be seen. ■

### The Spy Within

*(Continued from Page 1)*

decisions for themselves and for their families. If one owner decides that there are benefits to having an active EDR in full information-gathering mode and another doesn't want the data collected, both should be within their rights.

Though well-intentioned, Kowalick's solution is a stopgap measure. Design experts already point to the ease with which the data port can be bypassed by tapping into exposed wires on the backside of the EDR or by cabling directly into the airbag control module where the EDR is located.

While the current EDR design standard does not include the capability for wireless transmission of data, it likely will in the future.

Some insurance companies already remotely upload vehicle performance data with the permission of their clients. That can provide industrious third parties with a means to capture EDR contents without the vehicle owner's permission.

Ownership of tens of thousands of cars is transferred daily. With each used car transaction, the EDR and its contents become the property of a new owner, and presumably so would the key to Kowalick's locking device. What is to stop an insurance company that unsuccessfully tried to get the EDR contents from the prior owner from paying the current vehicle owner for that same information?

Of course, if the EDR has stored information, it can be obtained via a court order. That means going through legal channels, but none-

theless the vehicle owner remains at risk of having to disclose black box information against his will.

So we are back to the one true solution to protect the privacy rights of the vehicle owner: Give him the ability to disable the EDR in his own vehicle. Those who analyze accidents for a living may howl at this, but with over 200 million licensed drivers in the United States, you can be sure that at least several hundred thousand will voluntarily leave their event data recorders on. This will provide more than enough data for experts to improve vehicle safety.

The legal aspects of EDR ownership are far from established—only 13 states have laws that even address this issue—which makes it more imperative that vehicle owners have full control over the use, or nonuse, of their own property. ■

## The Fight for Motorists' Rights Across the Pond

by Malcolm Heymer, Association of British Drivers

*Editor's Note: As the world turns its attention to the Summer Olympics in London this month, we turn our attention to the state of motorists' rights in the United Kingdom. Like the NMA, The Association of British Drivers (ABD) is a membership organization that fights for the rights of Britain's beleaguered drivers. We wish to thank the association's Malcolm Heymer for providing this timely and fascinating look at the evolution of the British traffic enforcement system.*

In the late 1980s Parliament passed The UK Road Traffic Bill. Once enacted, this paved the way for industrial-scale automated speed enforcement in Britain.

The main “mover and shaker” behind this Parliamentary Bill was the “road safety” industry (which really meant the speed enforcement industry and those that benefit from its largesse), supported by the Association of Chief Police Officers (ACPO). This latter organisation, composed of supposedly state-employed chief police officers, was later to transform itself into ACPO Ltd., a private company with a similar composition to its pre-spin-off days.

ACPO's then head declared that ACPO's intention was to “make speeding as socially unacceptable as drink-driving.” We were initially informed that ACPO's prosecution trigger limits would be set at “speed limit +10% +2 mph.” There were numerous major problems with this approach:

Firstly, the vast majority of road traffic accidents (RTAs) simply are not caused by speed limit violations. They are caused by observation, hazard perception and consequent hazard response failures.

Secondly, speed enforcement cameras can only address those accidents that involve inappropriate use of



*Left to right: Brian Gregory, Chairman of the ABD; Jim Walker, NMA Foundation Executive Director; Malcolm Heymer, ABD spokesperson.*

speed above posted limits. In the UK five percent (at the very most) of RTAs would possibly fall into this category.

Thirdly, the perpetrators of RTAs that do involve speed that is both inappropriate and illegal are almost invariably impaired. They are often unlicensed, uninsured, and frequently engaged in additional criminal activity such as auto theft. These are the last people who would pay any attention (or often even be able to pay attention) to automated enforcement!

Fourthly, even at the outset of this campaign to make speed enforcement the only tool in the road safety toolbox, many UK speed limits were seriously under posted. For example, our non-urban motorways (equivalent to US rural interstate freeways) have a speed limit of 70 mph, yet measured 85<sup>th</sup> percentile speeds were (and remain) typically near 80 mph.

Fifthly, a programme of “speed management” was undertaken to effect blanket reductions in both urban and non-urban speed limits. This culminated in an astounding Department for Transport (DfT) guidance recommending setting limits as low as the

50<sup>th</sup> percentile speed! Anyone who knows anything about road safety (which clearly excludes the employees of the DfT!) understands how counterproductive this is, if improved road safety is the genuine goal.

So-called Speed (later rebranded “Safety” - yeah right!!) Camera Partnerships were set up. These were composed of police, judiciary and local authority representatives. All funds that these quangos (quasi-autonomous non-governmental organisations) generated above a certain threshold (which was remitted to the UK Treasury) were retained, ostensibly for the purposes of improving road safety.

This was—and remains—entirely contrary to the “Separation of Powers” principle that is enshrined in law—those engaged in the identification, apprehension, trial and sentencing of offenders should have no financial interest in the process.

Since the 1990s, speed-related prosecutions have sky rocketed, accompanied by a tangible deterioration in road safety. An average six percent

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annual decline in road casualties over the previous five decades rapidly flat lined. This also happened contemporaneously in many other European countries which were not subject to such an intense camera enforcement onslaught. At best, this demonstrates that speed cameras have had, taking the most charitable outlook, no positive effect on road safety.

By the latter part of the “Noughties,” even the anti-private mobility Labour administration then in power recognised that the game was up and that the Speed Management policy was not only a “busted flush,” but was also alienating drivers (who just happen to be voters, too) on a monumental scale.

A review of speed camera operations was set in train, and the proceeds from enforcement no longer went primarily to the Partnerships but once again to the Treasury.

Shortly after, a Conservative (right wing)/ Liberal Democrat (left wing) alliance came into power. This is a truly weird and wonderful beast. The closest analogy in US terms would be an alliance between the right wing of the Republican Party and the left-wing of the Democrats.

The Conservatives have pledged to end Labour’s “War on the Motorist,” so far with limited results, possibly because they are being hindered by their left-leaning coalition partners. At least putting speed camera operations under even more intense scrutiny has been one positive consequence.

But the powers of Darkness have been regrouping. ACPO Ltd. (remember them?) has come up with a nifty little wheeze. Rather than being fined and endorsed for speed-related offences (meaning fine revenue would be lost to the Camera Partnerships and go instead to the Treasury), drivers are offered the chance to go on a commercially run Speed Awareness Course. This costs significantly more than the fine (but the driver’s licence doesn’t

get endorsed so insurance premiums don’t rise), and the Camera Partnerships get a rake-off from the course fees allowing them to stay in business.

But the fundamental problem persists: as long as these “partnerships” remain in existence, there is no incentive to set and enforce speed limits according to sound (85<sup>th</sup> percentile) road safety principles.



Indeed, there is every incentive to significantly under post most non-urban speed limits (and now, increasingly, urban ones, too), to vigorously enforce these limits and to continue the “dash for cash,” albeit now via Speed Awareness Courses.

There is one further development to add to this already unappetising mix: the ruling alliance has lately been peddling a “localism” agenda which supposedly gives local people more say in their own government. Actually this doesn’t happen. If government wants to build a wind farm or a high-speed rail link, local opinion –no matter how deeply felt—is overruled and the measure is bulldozed through.

Where local people are given a say is in matters of which they have little real understanding –like 20 mph speed limits. This issue has been hijacked by anti-car campaign groups. Demands for citywide 20 mph limits are sprouting across the UK like mushrooms in a damp forest.

Currently around two percent of adult (and less than one percent of juvenile) urban pedestrian casualties are fatalities. For this to be the case, the Ashton-McKay curve tells us

average impact speeds must already be below 18 kph, never mind 18 mph.

Most accidents are the result of inattention. When you analyse causation for UK pedestrian road traffic accidents (and I’d bet a week’s wages on the US situation being similar), around two-thirds of them are precipitated by pedestrian errors. This proportion is rising with the emergence of the iPod generation. Nobody is tackling this low-hanging fruit: Legislating against pedestrians is hard; it’s much easier to displace blame and responsibility onto the already heavily regulated driver.

But it’s a real struggle to keep most modern, high-g geared, fuel-efficient cars to 30 mph; never mind 20. At this speed, in my own manual transmission Audi, it requires 3<sup>rd</sup> gear or lower and constant attention to the speedo—attention which is not therefore focussed on the driver’s surroundings as it should be.

The key in pedestrian RTAs is not free-travelling speed, but impact speed. Whether for the most well-intentioned of reasons or not, blanket 20 mph limits will actually result in more distracted, less observant drivers. They will potentially therefore hit errant pedestrians with little or no prior braking; increasing average impact speeds and leading to more—not less—severe pedestrian casualties.

Already results from trials (being touted by the supporters of 20 mph as a major success) have exhibited worse casualty-rate trends than in previous years, when the effects of recession on traffic levels, and traffic diversion onto adjacent routes is accounted for—factors studiously ignored by our opponents.

The ABD is in continuing dialogue with the Undersecretary of State for Transport (effectively the minister responsible for safety on major roads). We are emphasising to him the concerns expressed above, and pressing for appropriate reforms. ■

## Who Really Controls Your Vehicle's Black Box Data?

*Editor's Note: The just-passed federal transportation bill dropped a mandate requiring event data recorders (EDRs) in all new cars. Nonetheless, the proposal sparked a debate over the appropriate role of EDRs (black boxes) and their impact on motorists' privacy. We asked one of the leading experts on EDR technology, Thomas M. Kowalick, for his perspectives on the issue.*

*Kowalick heads up an industry working group developing global standards for Motor Vehicle Event Data Recorders (MVEDRs) pertaining to EDR consumer protection of the federal regulation. He has worked extensively with NHTSA and Congress on EDR issues since 1997 and has written seven books covering all aspects of EDR technology. Kowalick offers an insider's perspective into EDRs, and he's concerned about the privacy challenges black boxes pose for drivers.*

*His solution is called the AUTOcyb™, a mechanical lock-and-key product that sits on the vehicle's Diagnostic Link Connector located under the dash and allows the owner to determine (within the limits of the law) who sees the EDR data and when they see it. His company, AIRMIKA, Inc., makes the AUTOcyb, which he hopes to begin marketing nationwide.*

### **Can you talk a little about your background and how you got involved with automotive black boxes and privacy issues?**

I lost my father in 1982. He was a WWII veteran who survived the jungles of New Guinea but not a car crash while driving up a steep mountain after getting the morning mail. He ran off the road and hit a tree. Our family wanted to know what happened, but we never found out. The police report was useless. This tragedy is the real



Thomas M. Kowalick

reason I would later devote whatever time and energy it would take toward helping others determine what really happens when a motor vehicle crashes.

### **What is your role and that of the working group you lead in relation to developing industry consensus standards that impact the federal data standards for black boxes?**

I am Chairman of the Institute of Electrical and Electronics Engineers Standards Association (IEEE/SA) Global Standards for Motor Vehicle Event Data Recorders (MVEDRs). The IEEE is the world's leading professional association for the advancement of technology. We completed IEEE 1616a in 2010, a new industry consensus standard based on IEEE 1616, the first universal standard for motor vehicle event data recorders.

This new standard helps to provide greater consumer protections by improving the effectiveness of automotive "black boxes" with new lockout functionality designed to prevent data tampering and fraud. It also addresses concerns over privacy rights by establishing standards protecting data from misuse.

### **Why are you concerned with the protecting the privacy and integrity of vehicle EDR data?**

Over 90 percent of new cars already have the EDR, but millions of vehicle owners have little knowledge that their vehicles even include EDR technology. Motorists are very vulnerable. At a crash scene, for example, investigators might download the data on the spot. They can do whatever they want to with it. EDR data need to be secure at the time of a crash. This protects all parties involved.

### **What are the implications of dropping the EDR mandate from the new transportation bill?**

It would be a mistake to conclude that excluding EDRs from federal legislation somehow protects vehicle owners' privacy. In fact, the opposite is true. Automakers are now better protected from having to share evidence on the status of the vehicle obtained from an EDR.

The proliferation of electronics in automobiles will necessitate logging critical data on unusual system and vehicle behaviors. It is now more likely that many problems in software and electromagnetic interference may leave no physical trace behind, and Congress has made it more difficult to detect and diagnose these problems.

Motorists' will continue to have no ability to control how their data are accessed or used unless they crash in one of the thirteen states that have EDR statutes, which have conflicting rules. Bottom line—privacy was misused as a smokescreen.

### **Can you describe your proposed solution and its benefits?**

Very simple, I seek to provide the vehicle owner with a keyed mechanical lockout whereby the vehicle's download port is secured (locked) and controlled by the owner. It is similar to locking the glove compartment in

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a vehicle. The rationale is that valuable property should be secure. EDR crash data are very valuable property.

**If adopted, how would the lockout apparatus affect motorists' control over their black box data?**

During pre-crash mode the owner/motorist can unlock the port to permit inspection, maintenance or emissions testing, etc. During crash mode the motorist can control who has immediate interest in downloading the data. If the data port is secure at the time of a crash then the data have scientific and probative value. A secure data port establishes a chain of custody and prevents corruption of evidence. In the post-crash mode the time and date that the connector port was accessed is established.

**How would motorists benefit?**

Protecting the integrity of data is the key. Most motorists are aware that under current law, a person transferring ownership of a motor vehicle must disclose the mileage registered on the odometer. Odometer disclosure requirements are invaluable to consumers. Without accurate disclosure how can the consumer understand the condition, safety and reliability of a used vehicle? How can they determine the true value? Unfortunately, the rule governing odometer disclosure requirements is woefully lacking coverage of used cars of average resale age. Basically, the rule exempts vehicles that are over ten years old. According to RI. Polk, an automotive information and data collection organization, the average age of a used car for sale is 11 years. Odometer fraud is a major economic crime in this country, and so is auto theft through VIN (vehicle identification number) cloning. Controlling access to the data port is critical in preventing this kind of data tampering. Limiting access helps maintain data privacy, stops in-vehicle systems re-engineering and secures in-vehicle networks. This will help protect information that a manufacturer's dealer might

want to alter so that future disclosures of electronic or mechanical problems may not come to light quickly or at all.

**What about the potential to access EDR data wirelessly?**

A few high-end vehicles have the capability to relay data wirelessly to the dealership, although it may become

data pertaining to restraint systems exclusively while ignoring the remainder of the automotive electronics network.

**And along these same lines, what about the integration of EDR technology with GPS functionality?**

A requirement to capture GPS data via the EDR was explicitly removed



more common over time. But wireless transfer does not take away for the need to secure the vehicle's electronic network. There are literally hundreds of electronic tools available that can access vehicle electronics through the download port and perform the kinds of tampering I just mentioned. The port is the doorway to the vehicle electronics controlled area network. The connector lockout proposal is similar in concept to adding yellow tape at a crime scene, however it's best to seal the download port pre-crash.

**What are the chances that wireless transmission of EDR data will become more widespread?**

I am not knowledgeable of EDR data being transmitted via telematics. Although it may be technically feasible, it also would be challenging and expensive to widely implement. I believe a greater concern is that currently state EDR statutes and pending federal EDR regulation are focused on the electronic

from a previous Senate bill. It is currently not one of the 15 data elements required to be captured by a vehicle EDR.

**Could EDRs capture GPS data in the future?**

Maybe, maybe not, your guess is as good as mine—that's why they call it the future. There is one important thing that the history of technology has taught us—no technology is infallible!

**You are an advocate for EDRs as tools to improve highway safety. What are some of the safety benefits?**

There are 5.5 million vehicle crashes in America every year, and each one is unique. If you really want to know what's going on, you need evidence that hasn't been tampered with. But the impact of improved crash data goes beyond just understanding the dynamics of a single crash. It affects a myriad of important societal and

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business functions. Both individual crash events and aggregate data have value for end users. For example, the automotive industry uses large crash data sets to design and evaluate the safety performance of its vehicles.

Crash data can aid emergency responders with on-scene field triage of crash victims, improve diagnostic and therapeutic decisions, provide automatic notification of emergency responders and better organize trauma and EMS system resources. However, it is also important that the vehicle owner/motorist consents to using the data for these purposes, especially if incapacitated and unable to provide consent to access the data at the crash site.

#### **What are some of the potential privacy abuses related to black boxes?**

Improper EDR data access will only trigger increased criminal sanctions and claims of unfair or deceptive practices. Technically, EDR data may or may not get “locked” or “frozen” after an airbag deployment. EDR data may not be “locked” especially if an airbag does not deploy. EDR data can be accidentally or deliberately overwritten. Many plaintiff experts are not knowledgeable on potential for EDR spoliation and they can accidentally erase data. Evidence of deliberate data spoliation will be difficult to prove because automakers use re-writable media which permits the data to be tampered with or erased.

E-tools are available to roll back odometers and tamper with EDRs. For an eye-opener just type in “erase crash data” on YouTube. Once the data are erased or overwritten there is no trace it ever existed.

Data collected by EDRs, without the driver’s knowledge, have been used in civil and criminal cases in several states and in Canada. At least one automotive insurance company is considering basing policy rates on EDR data. Auto manu-

facturers could use EDR data to void warranties. The possibilities are endless.

#### **Do you get the sense that others who are working in this area, including policymakers, are concerned about the privacy issues represented by black boxes?**

My sense is that most are in denial and those who do know the negative implications of mandating a disruptive technology without adequate consumer protection just seek to have the technology mandated with the rationale that it will be more practical to be reactive than proactive. Of course, I disagree. This is not the time to be silent.



*The AUTOcyb mechanical lock*

#### **What are your thoughts about giving drivers the option of disabling their black box if they so choose?**

I disagree that this is a feasible option now based on discussions I have had with others over the years on this exact proposal. Then again, if it had been presented to the NHTSA EDR working groups back in 1997, it may have had a chance as the technology evolved (if it got linked to the rationale of turning off the airbag). But I simply believe the toothpaste is out of the tube now. It would be very challenging and would require national awareness and serious federal legislation/regulation. Just giving the owner/motorist control of the data their vehicles generate seems to be the better option now.

Then again, you would probably have a hard time finding anyone in the country who would not like the option of disabling the device—that is, until they realized that maybe the data within could

be an asset to them and not a liability. When you need evidence you really need evidence. What I’m trying to say is that I do not think anyone did a good job explaining to the American motorist what this is really all about. The water now is very muddy and there are few journalists around who dare jump in at this point.

#### **How do you see this all evolving over the next 10-15 years?**

There are pros and cons, but it is hard to deny that we are headed toward greater automation of the transportation system. The problem, according to a GAO report titled “Foresight Issues Challenge DOT’s Efforts to Access and Respond to New-Technology-Based Trends,” is that NHTSA is ill-equipped to deal with such radical changes in surface transportation technologies. While the technologies set the pace, policymakers and the legal system have a hard time understanding the big picture. Journalists don’t understand them either, or they intentionally avoid them. And that leaves motorists in the dark.

#### **What can motorists do about it?**

Support organizations such as the National Motorists Association and gain control of the data that their vehicles generate. It is also important that motorists individually add their two cents by responding to regulation and legislation. When the EDR regulation is released there will be a period to respond at [www.regulations.gov](http://www.regulations.gov). Few motorists have the access and clout of federal lobbyists, and maybe everyone should know that they spent \$65 million in 2011. But if motorists’ collectively blow the horn then the message will be heard.

Personally, I believe one person can make a difference. I intend to continue to advocate for increased EDR consumer protection. I am also motivated to commercialize the IEEE standardized technology as an automotive aftermarket product to fill the void that NHTSA created and Congress neglected. ■

## Yet Another Example of How Speed Cameras Try to Scam You

by Nick Smrdelj, NMA Ohio Member

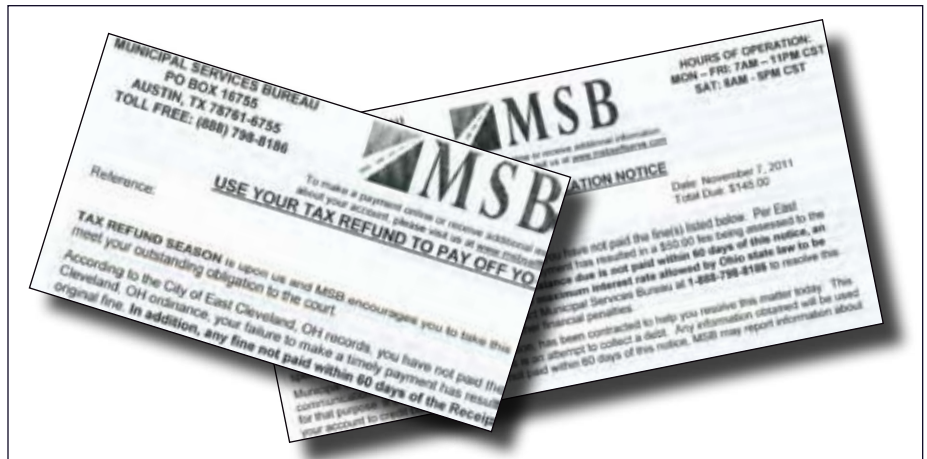
*Editor's Note: Several members have called us questioning the methods of Municipal Service Bureau (MSB). Most are confused by the letters they receive and don't even remember the alleged violations referenced in them. The example here is the first we've seen in which a member was able to document the successful disposition of his case. Even so, the harassment has continued.*

*We don't know the extent to which the parties involved (the city, camera vendor, and collection agency) have colluded to perpetrate this scam, but we do wonder how MSB received notice of the citation five years after the case was closed. It is not uncommon for unpaid ticket fines to show up on your credit history, so you may want to access your report and clear up any bogus entries.*

After reading numerous stories about the abuses perpetrated by red-light and speed cameras systems, I am compelled to share my ongoing story that highlights these shenanigans. My situation shows how they are trying to scam me, five years after the original ticket.

I received a \$95 speed camera ticket on August 2006 for driving 36 mph in a 25 mph zone. In November 2006, I finally had my day in court, fought it and won. The city agreed that had an officer been present and witnessed the situation, I would not have been ticketed because I had to drive quickly and carefully to maintain my safety under the specific circumstances. I was given a court paper showing that the case was dismissed and had to pay nothing. Like all documents that I feel are important, I simply hung onto both papers.

Fast forward to November 2011; yes, 5 years later! I received a letter



*Copies of the scam collection notices Nick received five years after he fought and won his traffic case.*

from Municipal Services Bureau that looked like a letter from a city. It stated that I had an unpaid speed ticket for \$95 from 2006, but the new total with late fees was \$145. Being generally trusting and figuring computers don't make mistakes, I almost paid it. However, I know for a fact at how organized I am, and I would never let any ticket simply be forgotten and go unpaid.

Upon looking at the letter closer, I realized it was from a collection company in Austin, Texas. I went to my file cabinet and instantly pulled out the original speed camera ticket and the dismissal ruling from five years ago. I called the collection agency and told them I don't owe any money. They didn't want to hear it. Unbelievably, around January 24, 2012, I received a new letter stating that I now owe \$245!

This letter stated to "use your TAX REFUND to meet your outstanding obligations to the court." Furthermore, I come home from work nearly every day to hear a new message on my answering machine stating that I owe these people money. I also answer some of these collection calls before I leave for work in the morning, during supper, and later in the evening. I

delete the messages or hang up when I hear the robo-dial voice start to talk. The letters and calls are harassing.

What infuriates me the most is thinking about how many other victims have been scammed. How many people can remember five years ago and the circumstances of their ticket? With so many events in life demanding attention every day, it would be easy to forget about paying a simple traffic ticket.

Victims may indeed think they forgot to pay it and end up paying twice. As with my case, theirs may have been dismissed too, but they may have no proof. Furthermore, I'm sure there are those who are easily intimidated and simply buckle under the harassment from the collection agency. This seems like a flat-out scam and the speed camera people behind these shenanigans should be thrown in jail for running a fraudulent operation.

Ironically, all this is taking place in East Cleveland, the only city in the country in which the people actually voted to keep the cameras in place. This is totally mind boggling. Makes me wonder what kind of fraudulent operation they may be running with their voting system. ■



## Members Write

Your newsletter (NMA E-Newsletter #174: A Ticket-Fighter's Guide to Public Information) fails to mention the "deferred adjudication" option that may be available to those ticketed.

Under deferred adjudication the ticketed individual requests that the presiding judge allows him/her to pay the fine, court costs, cost of providing any other documents the court requires and a "court processing fee," and after a state defined period of time without another ticket (usually 90 days) the initial ticket is cancelled. The ticketed individual will most likely have to sign a sworn affidavit attesting to not having been convicted of another ticket during the 90 days.

Pending tickets will not show up in any databases. By using the deferred adjudication option the original ticket does not appear on any department of motor vehicles records. This method is good for several reasons: 1) if the ticket is from out of state or out of area you don't have to travel to fight the ticket; 2) the ticket is canceled and will not show up on your record so there won't be any future surcharges by any state; 3) your insurance company won't know you got a ticket. Deferred adjudication is at the discretion of the judge but is allowed under all state laws.

*Ted Levitt  
Alba, TX*

We've all seen it. We may even have done it ourselves.

I'm talking about those drivers who position themselves in the middle lane of a three-lane freeway—and never deviate until their exit arrives.



I'm sure there are many reasons that justify this action in their mind—they don't have to worry about traffic that is merging on to the freeway; they don't have to worry about checking traffic to change lanes; and it's one less distraction if trying to carry on a conversation with other passengers, or taking a call on their cell phone.

Unfortunately, it's also a discourtesy to other drivers who are trying to obey the rules of the road and keep traffic moving smoothly. It can be very frustrating trying to navigate around these situations, which can often lead to unnecessary traffic back-ups. In some states, it is even illegal to pass on the right—leaving only one lane open to pass legally.

This type of behavior can also lead to drivers paying less attention to their driving and to the actions of other drivers around them—making it less safe for everyone. Not to mention increased frustration and road rage incidents.

Also, do car manufacturers still include turn signals as standard equipment on vehicles? It seems not. More and more drivers seem to treat these as optional equipment, often using them only in instances where they are cutting you off in traffic and feel they are doing you a service by warning you about it. Let's make sure to warn others

of our intentions well before the action. June is Lane Courtesy Month. Let's all do our part to sharpen our driving skills and remember some basic courtesy for the safety of all drivers on the road.

*Tom Miller  
Waunakee, WI*

I would like to thank you for being a service provider for fighting tickets. I used the ticket-fighting handbook and researched all components. After requesting a continuance for two months, which I got, I had several arguments lined up, the first of which was an investigation into the relevant statute in MA that had been quoted on the citation. This was trying to enforce a special speed regulation, and upon asking the DOT if a traffic engineering study had been done, it had not, and therefore this statute was not the correct one to cite me for—so the speed limit was not enforceable under this statute.

The magistrate found me not responsible straight away when confronted with this evidence, and I didn't even have to go into any other of my carefully planned arguments from the ticket-fighting handbook. I was so confident with all of my arguments and I was so well prepared; it felt great. Thank you again for laying out the steps to investigate.

*Phillip  
New Caanan, CT*

The views expressed in member letters do not necessarily represent those of the NMA. Your 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. Submissions may be emailed to [nma@motorists.org](mailto:nma@motorists.org) or mailed to 402 W 2nd St., Waunakee, WI 53597



## News From Around The Country

Now featured, with daily updates,  
as "NMA Driving News" at [www.motorists.org](http://www.motorists.org)

### United States

The National Highway Traffic Safety Administration estimates that 32,310 people died last year in traffic accidents, the lowest number since 1949 and a 1.7 percent decrease from 2010. NHTSA data also show the fatality rate dropped to 1.09 deaths per 100 million vehicle miles traveled in 2011.

A study shows that out of 2.7 million traffic accidents recorded in twenty-five states over the course of a year, only 1.6 percent were caused by drivers who exceeded the posted speed limit. The figures come from an analysis of annual reports typically compiled by each state for use in applying for grant money from the National Highway Transportation Agency (NHTSA).

### Connecticut

Controversial legislation enabling cities to install red-light cameras has failed for this year, its chief House sponsor conceded.

### Florida

A judge in Sanford ruled that a Lake Mary man was lawfully exercising his First Amendment rights when he flashed his headlights to warn neighbors that a deputy had set up a speed trap nearby. That decision is another victory for Ryan Kintner, who sued the Seminole County Sheriff's Office last year, accusing it of misconstruing a state law and violating his civil rights, principally his right to free speech.

As attorneys become more successful at defending red-light camera ticket cases, the red-light camera opera-

tors are flying in experts from around the country to testify in the normally low-key traffic courts. Attorneys are winning dismissals because camera operators are based in other states and typically not present to authenticate evidence firsthand.

### Illinois

Mayor Rahm Emanuel's controversial speed-camera ordinance won Chicago City Council approval. The vote came after the mayor made changes to the camera plan in an effort to build support among aldermen leery of backing a package that some of their constituents viewed as a cash grab by the city.

### Iowa

Another attempt at banning traffic cameras in Iowa was scuttled in the Senate. A bill to ban the cameras passed the House, but the Senate declined to take it up.

### Missouri

Red-light camera firm American Traffic Solutions handed another \$5,000 check to Missouri Attorney General Chris Koster. Such donations are key because the Show Me State remains one of the last states where automated ticketing machines are in use without the sanction of the legislature.

### New Jersey

A man who rushed from his car to save his son from drowning received two citations from police after his car plunged into a river.

### Oklahoma

Bernice, Oklahoma trustees voted not

to refund illegally collected speeding ticket fines. The notorious speed trap town of just 500 residents was busted last month by the Oklahoma State Auditor and Inspector for charging up to \$545 for a single traffic ticket when it could only legally collect \$50.

### Virginia

The road through Hopewell isn't exactly paved with gold, but a mile-and-a-half stretch of interstate generated \$2 million worth of speeding tickets for the town last year—and a fight between the AAA and the local sheriff. The town of about 23,000 issued almost half as many traffic tickets in 2010 as Virginia's most populous county, Fairfax County, which has more than one million residents.

### Washington D.C.

Forgetting to pay a speeding ticket in the District could lead to a lower tax refund from the city beginning as soon as next year. Under the 2013 budget that lawmakers tentatively approved, the District's chief financial officer would be empowered to reduce tax refunds of individuals who owe the Department of Motor Vehicles "taxes, fees, fines or other liabilities."

Mayor Vincent Gray said he ultimately wants to blanket the entire city with traffic cameras, days after he proposed raising \$30 million by installing more of the devices that churned out an estimated \$63 million in tickets last year. Gray proposed an expansion of the program as part of his effort to close a \$172 million budget gap in his proposed 2013 budget, an idea that drew criticism even before the mayor described his larger vision for the cameras. ■

This information is current at time of printing. For more information on this and other motorist news, visit [www.motorists.org](http://www.motorists.org)