Statement before the California Legislature Senate Committee on Privacy

Automated Enforcement Laws

Michele Fields, J.D.

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INSURANCE INSTITUTE
FOR HIGHWAY SAFETY
1005 N. GLEBE RD. ARLINGTON, VA 22201-4751
PHONE 703/247-1500 FAX 703/247-1678
website http://www.highwaysafety.org

The Insurance Institute for Highway Safety is a nonprofit research and communications organization that identifies ways to reduce the losses caused by motor vehicle crashes. We are supported by the nation's automobile insurers. At this committee's request, I am submitting for the record information about the model law on automated enforcement drafted by National Committee for Uniform Traffic Laws and Ordinances (NCULTO) and about automated enforcement laws in the United States, with specific emphasis on red light camera laws.

Red Light Running

Traffic laws are, first and foremost, health and safety laws. Their objective is to reduce crashes and injuries; traffic law violators put lives in jeopardy. This is especially so in the case of sign and signal violations. When a driver runs a red light, he or she can come into direct conflict with vehicles or persons approaching the intersection on the green light. Disobeying red lights and other traffic controls is the leading cause of urban crashes, and crashes involving signal violations are most likely to result in injuries.[1,2] Yet red light violations are rampant. At one intersection in Arlington County, Virginia, Institute researchers found a light runner every 12 minutes on average—every 5 minutes during peak travel times during the morning rush hour.[2]

Red Light Cameras

The purpose of red light camera enforcement is to deter drivers from running red lights by making it more likely that a citation will result. Police simply cannot be everywhere, and violators depend on that. When enforcement activities are sustained by highly visible programs, potential violators reconsider their willingness to risk a citation. The cameras are reducing the frequency of violations and intersection crashes. In Oxnard, California, front-into-side collisions have been reduced 32 percent since cameras were installed. Front-into-side collisions involving injuries declined 68 percent.[3] Surveys show strong community support, both where camera programs are in use and where they are not.[4]

The objective of red light camera enforcement is to prevent crashes and injuries, not to generate income for the community. For the programs to work, they not only have to increase the level of enforcement but also must have broad public support. They must be fairly administered, and the appearance of fairness must be preserved. This does not mean that contractors cannot be involved in every aspect of the program.

A recent ruling on a motion to dismiss hundreds of red light camera citations issued in San Diego, California, held the photographs inadmissible, not because the camera systems were inherently unreliable or the technology on which they are based was flawed, but because San Diego did not exercise sufficient control over the program and because the contractor's payment was based on the volume of convictions. The court ruled that the contractor's financial interest in the cases, coupled with its role in selecting photographs from which the police determined who got a citation, rendered the photographs inadmissible.

NCUTLO anticipated problems like those on which the San Diego court ruled when it drafted its model law on automated enforcement. And in several important respects, San Diego officials followed the NCUTLO model. They did not impermissibly delegate decisions about camera placement, programming, or the final judgment about which pictures resulted in citations. They did, however, choose an inappropriate method of compensating the contractor.

NCUTLO Model Law

NCUTLO is a nonprofit membership organization dedicated to achieving throughout the states consistent, well-drafted traffic laws that permit policy makers to meet legitimate objectives, particularly with regard to highway safety. NCUTLO has been in continuous existence since 1926. It publishes the *Uniform Vehicle Code* and drafts model traffic laws. The Insurance Institute for Highway Safety is a member of NCUTLO and has served on numerous NCUTLO task forces on model laws, including one on automated enforcement.

The NCUTLO model law on automated enforcement was designed to ensure that automated enforcement is used to protect the public. The law is available on NCUTLO's website, www.ncutlo.org. It provides:

- Government officials should not delegate essential functions (site selection, signal timing, programming decisions that determine when a photograph is taken, the final determination whether a citation is issued).
- Contractors should be paid based on the value of their services, not on revenue generated by the program or by the number of citations issued.
- Camera enforcement should be at sites with high incidences of violations, or crashes, or where traditional enforcement has failed to deter violators.
- Deployment sites should be evaluated in advance to ensure that violations are not the result of inappropriate signal timing or other factors that can be corrected.

The task force that drafted the NCUTLO model law first reviewed the automated enforcement laws that already had been enacted. Based on this review, Maryland's law was chosen as a starting place because it had the virtues of simplicity and clarity, and the task force's inquiries indicated it was working well in the real world. The task force intentionally chose a law that did not require identification of the driver and, like a parking ticket, imposed only a fine.

The task force's objective was to design a law that gave states maximum flexibility with regard to the violations that could be considered for automated enforcement. The NCUTLO model permits automated enforcement for red light violations and for any other violations of traffic law. The penalty was deliberately made low so that it would be unlikely that existing state law relating to due process would require personal service of citations or would preclude registered owner liability.

The following table shows how the current state laws on automated enforcement stand with regard to violations, owner liability, and privacy.

Jurisdiction	Authorized Use	Owner Liability	Privacy Provision
Arizona	No state statute; red light camera programs are operational in Chandler, Mesa, Paradise Valley, Phoenix, Scottsdale, and Tempe		
California	Red light	Driver	Yes
Colorado	Any traffic violation	Driver	No
Delaware	Red light	Owner	No
District of Columbia	Moving violations	Owner	No
Georgia	Red light	Owner	Yes
Hawaii	Red light and speed	Owner	Yes
Maryland	Red light	Owner	Yes
New York	Red light	Owner	No
North Carolina	Red light	Owner	No
Ohio	No state statute; red light cameras authorized by ordinance in Toledo		
Oregon	Red light*	Owner	No
Virginia	Red light	Owner	Yes
Washington	Red light, school zones, and railroad crossings (limited pilot program)	Owner	Yes

*Oregon has separate statutes for red light and photoradar enforcement. The red light provision is described above.

Conclusion

Most states that authorize automated enforcement by statute limit its use to enforcing red light laws. By far, most states make the registered owner primarily responsible. Permissible defenses include a sworn statement that the owner was not driving at the time of the offense, the vehicle was reported stolen when the offense occurred, or the vehicle was rented. Privacy provisions vary. Some, like California's, permit the photograph to be used only for purposes described in the automated enforcement law. Others prohibit contractors from using motor vehicle records for any purpose other than administration of the automated enforcement program.

References

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3. Retting, R.A. and Kyrychenko, S.Y. 2001. Crash reductions associated with red light camera enforcement in Oxnard, California. Arlington, VA: Insurance Institute for Highway Safety.
4. Insurance Institute for Highway Safety. 2001. Public favors red light cameras. *Status Report* 36(4):2. Arlington, VA.
5. Automated enforcement laws: CAL. [VEH.] Code § 21455.5 (West 2000); COLO. REV. STAT. ANN. § 42-4-110.5 (West 2000); DEL. CODE ANN. Tit. 21 § 4101(1998); D.C. CODE ANN. § 40-751 (1999-2000); GA. CODE ANN. § 40-6-1 (2001); HAW. REV. STAT. §§ 286-45 & 172 (1998); MD. CODE ANN. [TRANSP.] § 21-202.1 (1999); N.Y. [VEH. & TRAF.] § 1111-a (McKinney 2000); N.C. GEN. STAT. § 160A-300.1 (West 2000); Toledo, OH Municipal Code § 313.12, February 8, 1999; 2001 Oregon Enrolled House Bill 2380, amending §§ 1 and 2, chapter 851 Oregon Laws 1999; VA. CODE ANN. § 46.2-833.01 (Michie 2000); Washington Laws, chapter 3, Second Special Session 2000.