

# Fight Your Speeding Tickets (FYST)

a document dedicated to helping people fight speeding tickets

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## 1.0 So, you are caught. What do you plead?

You have been pulled over. You can see clearly from the mirror that the red and blue lights are flashing on the cop car. Your hands are sweating, and your heart is pounding. A lot of things are going on in your mind. So finally the cop hands you the ticket, and he conveniently included an envelope, too (so you can more quickly pay up). What do you plead? Guilty or not guilty? There are three options:

### 1. Plead guilty - payment out of court

This option is for those who enjoy random forms of taxation, as if they haven't paid enough income tax (starting from 17%), property tax, sales taxes (7% GST and 8% PST in Ontario, on almost everything from candies to houses), liquor tax, air tax, you name it.

### 2. Plead guilty with an explanation

Essentially the same as option 1. But you get to explain your situation to a justice of the peace, and hopefully if you face a sympathetic one you will get your fine reduced a bit and have more time to pay. However you should realize that the judge cannot reduce the number of km/h over on the charge nor change the charge.

### 3. Plead not guilty - trial option

Why should you plead not guilty? Because:

- if you appear on trial, the cop might not show up, and the ticket is automatically dismissed;
- if the cop does show up, with some preparation, you have a chance to win the case;
- in the worst case, if you lose, it is good education to learn how court works. Just think of it as a legal course fee.

**DON'T JUST PAY UP!** At least, if you chose option 2, you can reduce the fine a bit and have longer time to pay. However, if you care about insurance premium surcharges after the conviction, don't even think about pleading guilty (option 1 or 2). The insurance industry don't care how many km/h over you committed, nor do they care how much fine you paid. All they care is the NUMBER of convictions on your driving record. If you have been convicted for speeding 1 km/h over and paid \$60 fine, you are classified as a "high risk dangerous driver" same as the other guy who is 30 km/h over and paid \$200. Choosing option 1 or 2 means that you agree with what's being charged against you, and a conviction will be entered. Note that even if you choose option 2, the judge can't reduce the number of km/h over on the charge nor change the charge. Considering the insurance premium increase, you have no reason why you shouldn't plead not guilty. The stain stays on your record for 3 (three) years. (Demerit points on your license stay for 2 years.) If you are faced with JUST a \$100 increase in premium per year, you are paying over \$300 extra for this ticket alone. Of course, insurance companies aren't THAT generous.

Remember, it is nothing unethical about pleading not guilty even if you really did it. Technically speaking, pleading not guilty is merely exercising your right to question the prosecution's evidence. You are innocent until there is evidence to prove you guilty. Unfortunately, the traffic court system has turned into a money making system and you have to prove yourself innocent. If enough people fight it this revenue generating system will collapse. At least, if you fight your ticket, the cop has to go to court and there is one less cop out there writing tickets for the day. If everyone fights their tickets then cops either will have to get off streets or be absent from courts. You are not wasting police forces by getting them to courts. Police forces are already wasted by running speed traps in the middle of a highway, unable to respond to emergency dispatch quickly enough. Imagine if your house is being robbed, or your car is being stolen, or your daughter is being raped, and all police officers are too tied up running speedtraps hidden behind a bush, with a radar gun and a cup of coffee in his hands and a donut in his mouth, unable to assist you. By abolishing the ridiculous speed limits police forces can then be restored to do more useful tasks, such as... you guess it... catching real criminals. Please, do everyone a favour, fight your ticket.

## 2.0 You have pleaded not guilty. What's next?

The moment you receive the ticket, quickly write down all the details of it. Make a photocopy if possible, then verify that all information is correct. (More on this later if something is incorrect.)

So you have circled option 3 on the ticket, checked the box "YES, I want to challenge the prosecution's evidence", signed it and handed it to the court clerk. What you do now is wait for the court date to arrive in the mail. Meanwhile, start preparing your case early, when everything is still fresh in your mind. Go to the place where you were cited. Take note of all the buildings, trees, road signs etc. If there are any power lines, telephone lines and neon lights, make note of these, too. If the place is not familiar to you, you can take some pictures of it. The pictures might not be usable in court, but they can remind you of that place and the surroundings. Obtain a map or draw one by yourself, and indicate the location of these important things on the map. In the case where the trial will be scheduled a few months away, it is also a good idea to write down the date, time, location, weather condition, traffic density and other such important things because we tend to forget them as time flies by.

There is one more thing you need to do, although not entirely related to fighting the ticket, is to change your insurance company. That's right, if you don't want your insurance premium to skyrocket in case you are convicted. How does your company find out about your ticket you may ask. Insurance companies rely on the Ministry of Transportation to report any moving violations that you may have, and this is done when demerit points are applied to your license. Demerit points are applied to your license when you pay your fine. But how does the Ministry of Transportation know which insurance company you are with? Remember when you renew your vehicle plate stickers? You have to report your insurance company and policy number while you renew your plates. That's how the MOT knows which insurance company you are with. There is a bit of timing you can take advantage of, because the law only requires you to disclose your insurance information every time you renew your plates, whether it is one year or two years. As long as you have proof of valid insurance, you can change insurance companies as many times as you like, without telling the MOT until the next time you renew your plates. Before then, the MOT would still have your "old" insurance information and will report the violations to your old insurance company, therefore, keeping your present record clean. Having said all these, it becomes clear that it is highly recommended to have your annual insurance renewal date fall on the month after your birthday. The reason is, all vehicle owners in Ontario get to renew their plates the last day of the month which they were born, and at that time they also get to report their insurance information. Having the insurance expiry/renewal date fall on the month after, you can change insurance companies and the MOT will essentially always have old information. You heard it here at FYST first.

### **3.0 Should you hire a lawyer?**

This is entirely your call. If you are facing a loss of license, don't take any chances. Hire a lawyer. If you are facing a possible jail term, hire a lawyer. Since we are only dealing with speeding tickets here, it is not likely that you will be thrown to jail, unless you are charged with 200km/h in a 60kmh zone. In which case, it is reckless driving and you should be facing a loss of license anyway. If you are charged with a normal speeding offence, it is up to you whether to hire a lawyer or not. The services of a lawyer are not cheap, and you and I are not famous football players. You should calculate how much a lawyer and the speeding ticket will cost you ultimately before calling one.

If the face value of the ticket is \$100, plus the insurance premium increase of \$300 over three years, provided that you don't get any speeding tickets in this 3-year period, this ticket costs you \$400. If you hire a lawyer, does he charge you more than \$400? If yes, you can forget it. You'd be better off without a lawyer. If he charges less than \$400, then you should consider the chance of winning. Since you are the one who has the clearest memory of what happened in the citation, you should evaluate how likely you will win if you go to trial. If you are certain that you will win (e.g. fatal error on ticket), go without a lawyer. If you are not 100% certain that you will win, but quite confident anyway, (e.g. radar-backed speeding ticket on a busy highway and you are only one among a sea of cars) go for a lawyer. You don't want to spoil your chances. If you believe that you have little chance of winning, it is usually not worth the cost of hiring a lawyer. Lawyer fees plus the fine and the insurance premium surcharges will cost you a lot.

Often, in a minor traffic offence, a paralegal could be a better choice. Besides the much cheaper fees, they often advertise a "No win, don't pay" policy. If you are all set to battle it out, a paralegal makes much more sense since you don't have any more to lose. However you should be aware that in any offence that is a little more serious than "minor", a paralegal who will only fight might not act to your best interest. The reason is that plea bargain becomes a much more attractive option when fighting it all out is getting risky.

Finally, if you plan to use the "Defense of Necessity" strategy (discussed later), hire a real lawyer.

Of course, when you hire a lawyer, make sure that he/she specializes in traffic-related cases. You don't want a real-estate specialist to represent you in a traffic court.

Read on, if you don't want to hire a lawyer. The rest of the material is written for you.

## 4.0 Before going to court

So finally the court notice has arrived in your mail. Before you start doing anything, you should change your court date. I'm not afraid to tell you right upfront that, most traffic cases are won by dismissal due to no-show of the police officer. If you change your court date, you increase your chance that the cop will not show up. The reason is, the initial court date that you get assigned is the cop's court appearance day. All of his tickets written in the past month or so will get to be dealt with in that court day, so he WILL show up. If you change it to some odd day, it might conflict with his vacation, or he might be on course, or he just simply forgets, you'll never know. You may even specify your preference of what day of the week you wish your court date to be on. From common sense, cops are more reluctant to go to court on Friday afternoons and Monday mornings, particularly near long weekends. Plan your court date carefully.

When you receive your new court date, you'd better start preparing your case seriously. Go to your local library and find information about the specifics of your court. If you have time, you may borrow some law books on the topic of traffic offences. There you will find a lot more information and previous case laws, but the shortcoming to these books is that they are written for lawyers. You may find them containing plenty of law jargons. However, with some background knowledge after reading this page, you will find these books very valuable to help you fight your ticket. The best chance of finding these law books is from a university library, especially a university with a law school. You might have very little luck in a local or municipal library. Here are some very good books to read:

1. "The Law of Traffic Offences", by *Scott C. Hutchison & John G. Marko*, published by Carswell, 1989.
2. "The Law on Speeding and Radar", by *A. Shakoor Manraj & Paul D. Haines*, published by Butterworths, 1991.

The reason why you should read on some of the law books is that these contain a gold mine of information. You may have noticed that the actual official law book, the Highway Traffic Act, is very vague in a lot of respects. For example, it doesn't say anything about using radar to detect speed. There are no written laws which says how a police officer should be trained in order to be a qualified radar operator. These laws are established, through a rather "non-standard" way, by previous relevant cases. These laws are called "case laws". They are essentially decisions made by Judges or Justices in the past, which will be referenced by later court cases of the same nature. The above two suggested books contain a lot of those relevant case laws, which will be very useful for your defence.

The next thing to do is to file a motion to the Provincial Prosecutor's office to request a disclosure of the prosecution's evidence. You have every right to see what the prosecution has against you. When you request a disclosure, be very specific of what you need. Just saying "please send me your evidence that you will be relying upon" will result in a lot of important information missing from the disclosure. If the prosecutor receives something like this, the most they would do is make a copy of the ticket (if you are lucky you may get both sides of the officer's copy ) and send it to you, which you may already have. You should be very specific. Make a short list if possible. Here is a list of "must haves" if you intend to win:

- both sides of the officer's copy of the ticket
- the make, model, and serial number of the radar unit, and its owner's manual
- the officer's training record specific to the said radar unit
- the calibration record and repair history of the said radar unit
- the records of any calibration equipment such as tuning forks
- the officer's log on the alleged offence day, including all tickets he had written on that day

If you ask for the radar manual, they will say this is copyrighted material and will refuse to send it to you. However, you can ask for the brand, model and manufacturer of the radar unit used in the citation, and contact the manufacturer yourself.

One important note is, when you send any motion to the Prosecutor's office, make sure you send it by registered mail. This way they cannot claim that they have never received it because they must sign for it. If they failed to send you the information you requested, or the disclosure is incomplete, you can send a second motion requesting the missing information. If it also fails after the second attempt you should bring out this issue to the justice of the peace on the day of the trial, and move for a dismissal due to a lack of disclosure. Remember to bring your receipt from the post office.

Carefully examine the officer's notes and see what he has written down. You might have a hard time reading his hand writing, as this is not intended for anyone but himself to read. If you didn't make a big mess when he pulled you over, he is not likely to write much down. Do this well in advance to allow yourself ample time to prepare your case. Prepare your questions for cross-examination of the cop, and ask a friend to practise it with you a few times. If you have time, attend some court sessions as a spectator to see how proceedings work.

(See Appendix B on how to prepare for the trial)

What if you have waited for a very long time but never receive the court date? Or what if your trial date is scheduled months away from the date you were cited? This is very good for you. Under the *Canadian Charter of Rights and Freedoms*, ANY PERSON CHARGED WITH AN OFFENCE HAS THE RIGHT TO BE TRIED WITHIN A REASONABLE TIME. No matter what, you are in a very good position indeed. Although there is no absolute time limit of the delay of your trial, previous court cases, namely the famous Askov case law, have indicated that the court has violated your right if you are scheduled more than **8 months** away. That explains why you have to fight every traffic ticket in order to jack up the cases the courts have to handle. If everything is so backed up, all motorists are looking at a very bright future.

## **(Example of a disclosure request)**

*(Your address,  
telephone number)*

*(Date)*

Provincial Prosecutor's Office  
*(Address - copy from ticket or notice of trial)*

Dear Sir/Madam,

I am scheduled to appear in courtroom # \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ (AM/PM) to answer to a charge of \_\_\_\_\_.

Please provide complete disclosure of the case against me, with the following items:

1. both sides of the officer's copy of the ticket;
2. the make, model, and serial number of the radar unit, and its owner's manual;
3. the officer's training record specific to the said radar unit;
4. the calibration record and repair history of the said radar unit;
5. the records of any calibration equipment such as tuning forks;
6. the officer's log on the alleged offence day, including all tickets he/she had written on that day,

and any document the Crown may rely on at trial.

As I am sure you realize, I require timely disclosure in order to make full answer and defence to the charge. Thank you for your assistance, and please send me all the information to the above address.

Sincerely yours,

\_\_\_\_\_  
*(Your name and signature)*

## 5.0 The court date

You can't sleep last night. Because today is your court date. You should not dress too formally when you go to a traffic court. A T-shirt and a pair of jeans will do, as long as they are neat and not torn. Arrive early so you have a chance to study other people's similar traffic cases and learn how court proceedings work if you haven't already done so.

There are a few things you have to remember when you attend a court session:

- Do not talk in the spectator area;
- Do not wear a hat;
- Stand up when the judge enters or leaves the courtroom;
- Bow to the judge when you enter or leave the courtroom;
- Always address the judge as "Your Worship" or "Your Honour". Don't call him/her "you";
- Show your respect. If you act like a 5-year-old kid, it will only make you look like a jerk and it is definitely not to your advantage;
- Video and/or audio recordings are not allowed. Unobstrusive hand written notes for educational purposes is however permitted in the courtroom (if you are the defendant, you need to take notes).

Unlike the court sessions you normally see in movies, traffic courts are pretty informal. You are expected to be treated leniently, and sometimes you, the judge and the prosecution will involve in 3-way conversations during the trial. Chances are, most of the defendants in the court room know about court procedures less than you. Showing your etiquette in court will impress the judge.

### **Plea bargain:**

In some courts, in order to save time and costs, the prosecution may offer plea bargain prior to the trial. It's your call to accept this. In a plea bargain, you and the prosecution work out what charges satisfy both parties, instead of taking the case through the whole process of a trial. If you want to plea bargain with the prosecution, you may do it after the court opens for admission and before the judge enters the courtroom. Normally, if you are charged reckless driving, you can admit a speeding offence but plead not guilty to the more serious offence. The prosecution may or may not accept this depends on the situation and their evidence. Some courts even allow a speeding charge to be bargained down to a seatbelt violation. I don't think Ontario will accept this, but it happens in the US. After all, they are more interested in your money than anything else. If you agree to pay up in some form or another, they are equally happy.

If you are more concerned with the insurance premium increase, it is better to just take it to court and beat it down. To the insurance industry, it is the number of convictions that counts. Unless you are facing a loss of license, it is worth the risk of rejecting the plea bargain and taking it to trial.

### **The players:**

When you go to court, you have to know who is who and who does what. The players include:

- The judge - usually in a provincial offences court, this person is called a Justice of the Peace ("Justice"). A Justice does not practise law, does not have a law degree, but has a certain amount of legal training. He/she is a lay person, just like you. A Justice should be addressed to as "Your Worship". When you are in a higher appeal court, you will be facing a Provincial Judge, who practises law and has a law degree. A Provincial Judge should always be addressed to as "Your Honour". Throughout this article we will simply call this player the judge. He/she will preside the court and make rulings. The judge will sit at the judge's bench located in the front middle of the court room.
- The court reporter - this person handles the documents for the judge and make tape recordings of the trials. He/she is seated at a desk to the right hand side of the judge. You usually won't talk to this person.
- The prosecutor - this is your enemy. Called the "Crown" in the law profession. The attorney acting on behalf of the Crown will try to elicit facts from their witnesses to convict you.
- The police officer - the Crown's most important witness. Contrary to common belief, he is not your enemy now. He is only the assistant to the Crown and to say what happened from his personal knowledge. If he isn't careful in what he says he might even help your case. If he is not there, congratulations, you win.
- You - the defendant. You are entitled to defend yourself after the Crown has finished presenting its case.
- Your counsellor - your lawyer or agent. He/she will be entitled to cross-examine the Crown's witnesses and try to destroy their evidence and credibility. If you choose to defend yourself, he/she will try to

elicit facts from you in order to prove your innocence. This is called providing contradicting evidence. If you are not represented, you play this role as well.

- Your witnesses - their testimonies should help your case somehow. Your counsellor will try to elicit facts from them to prove your case. The Crown will get the chance to cross-examine them also.
- Spectators - they are a bunch of unfortunate people, just like you. Most of them are waiting for their cases to be heard, and some of them are friends and relatives of the accused's. You don't need to worry about them at the trial.

## 6.0 The trial

When you arrive at your assigned court room, first check the list posted outside on the bulletin board. Check to see if your name is on the list. If not, go to the information desk and ask for assistance. If your name is on the list, then you can take a seat outside of the court room and wait for the court to open. The court will usually open for admission 5 to 10 minutes prior to the designated time, and will be announced on the public address system. When the court room opens, go in and take a seat at the spectator area, then wait for the judge to show up. Look around and see if the cop is there. You should note that, when there is more than one cop involved in your citation, all of them should be present. An example would be a cop running the radar gun, then signalling another cop to pull over the violator. Both of them have to be there to testify. If any one of them is absent, you can rest assured that the case will be dismissed.

When the judge comes, rise. The judge will call the case one by one, usually with the guilty pleas first. He/she might not follow the order on the list posted outside. The guilty pleas are the quick cases, so he/she might leave the trials till the end.

When the judge calls your name, you stand up. He/she will announce the offence you are being charged, e.g. "You are charged with the offence of speeding 130km/h in a 100km/h zone, contrary to the Highway Traffic Act section 128, how do you plead - guilty or not guilty?" You should then answer either "guilty", "guilty with an explanation", or "not guilty".

If you have made this far, and have prepared your case, say "Not guilty! Your Worship." then take a seat at the counsellor's table on the left.

First, it is the prosecution (the plaintiff) to give their testimony by direct examination (also called examination in chief) of their witness(es) (usually the police officer). Then, it is your turn to cross-examine their witnesses. This is the most important step since it is your opportunity to embarrass the prosecution and make the cop look stupid.

After you have cross-examined the prosecution's witnesses, then it is now time to give your testimony. This part is optional. Unless you have some witness who is vital to your defense, it is usually recommended to just skip this part. If you have scored enough points in cross-examining the cop, don't waste your time to give your own defense. Remember, if you give your own defense, the prosecution will have the opportunity to cross-examine you. If you (and your witnesses) are not experienced, you might get screwed up there.

After the defendant's testimony, both parties will give their closing arguments. You should make a summary of points you raised, and WHY you should be innocent. The summary should be brief and concise, and you should not introduce new arguments here. It usually starts with "Your Worship, I sincerely ask that a verdict of not guilty be entered based on the grounds that..." then you state your reason(s).

Then it is the verdict (judge's decision). Good luck.

**A note on technicalities:** The Province of Ontario has a rule that some minor errors on the ticket will not void it. If your name on the ticket is spelled incorrectly, this is NOT a fatal error. As long as the right person is standing in front of the court, and the police officer can identify you, the name on the ticket does not have to match your name exactly. Other minor errors, such as license plate, the defendant's address, and license number etc. will not affect the validity of the ticket. The error must be major enough in such a way that it will mislead you into preparing a defense. An example would be an offense that is not known to law (e.g. speeding 40 km/h in a 63 km/h zone.) Other fatal errors include missing police officer's signature, missing defendant's name, identification and signature etc. The judge will decide whether the error is fatal and if so, he will dismiss it. Otherwise you have to continue with the trial. If you firmly believe that the

ticket bears a fatal error, you might as well just ignore it in the first place. The court will quash the charge as if nothing was issued. However you might want to consult a lawyer before you ignore it if you are not absolutely sure. **DON'T ASSUME A SMALL ERROR WILL VOID THE TICKET AND COME UNPREPARED.**

## 7.0 Appeal

It is unfortunate if you have to consider an appeal. There are three kinds of appeal: acquittal, conviction, and sentencing. Acquittal appeal belongs to the Crown, where they feel a wrongful dismissal had occurred. The latter two kinds of appeal belong to you. You can appeal the conviction, or the sentencing, or both. If you believe that you were wrongfully convicted, consider such an appeal to overturn the guilty conviction. If you do not wish to dispute the conviction, but feel that the fine (sentencing) is too harsh, consider a sentencing appeal. Sentencing appeal is usually not worth the time, money and energy involved, since we are talking about normal speeding tickets here. The typical fine does not exceed \$300, so it is really no point to file an appeal trying to reduce the fine by a small amount.

Conviction appeal is what you should really consider, if you feel that you were treated unfairly in your first trial. If you fall into one of the situations described below, you may want to consider filing an appeal:

- You were compelled to be a witness, even if you chose not to. This is an outright violation to the *Canadian Charter of Rights and Freedoms*.
- You were denied to be a witness in your own defence. You have every right to defend yourself (although you are not recommended to).
- You were denied to cross-examine the Crown's witness, or you were denied to ask certain questions which were entirely appropriate to the case.
- The judge admitted invalid evidence, such as hearsay evidence.
- Anything that the judge erred in law that would prevent a fair trial from proceeding.

The best to do when you want an appeal is to consult a lawyer. You have 15 days to file an appeal from the date you were convicted. If you have exceeded the time limit, order an extension. The provincial court clerk should be able to assist you with that. You may have to pay your fines first, since you can't file an appeal without a receipt of payment. This is done so that the court can make sure that the appellant is not trying to evade payment of fines. You may also have to order three copies of transcript, one for yourself, one for the prosecution, and one for the judge who will be hearing the appeal. The cost can range from \$50 to a few hundred dollars per copy. So appealing is not cheap, you should seriously consider it before you make your move. Consider hiring a lawyer, if possible. If you still want to represent yourself, at least consult a lawyer on how to prepare for the appeal. In an appeal hearing, it will usually be an argument of law, rather than facts. If you are not represented by someone who practises law, it is going to be extremely hard for you.

If you have admitted the offence in your first trial, you have basically spoiled your chances of successfully applying for an appeal (see Appendix B.6).

## Appendix A. How to avoid paying another traffic tax

### 1. Top 10 DO's and DON'Ts of stealth driving

**DO** stay alert. Look as far ahead as you can, and check your mirrors. This is not only a good way to spot speed traps early, it is also a good practice in safe driving.

**DON'T** exceed the speed limit by too much, when you are the only car on the road. Especially at night when traffic is light, and cops are hard to spot. If you are caught speeding, there is no one else you can blame on.

**DO** find a speeding companion. When you are travelling on a highway, there will be some jerk who just loves to show that he is the fastest on the road. It is a good opportunity to use him as a victim. Follow him at a safe distance, if a hidden speed trap is ahead, he will be busted first. However, watching your tails will become your responsibility.

**DON'T** stand out from the crowd. If you drive significantly faster than prevailing traffic and keep weaving from left to right, you are asking for a ticket.

DO look out when you go under an overpass, go by bushes etc. Chances are cops like to hide behind those things. Ask yourself, if I am a cop, where will I hide?

DON'T assume that cop cars are marked and have light bars on the roof. In Ontario, many cop cars don't have lights on the roof, they are on the front grille. Some of them are unmarked, they are plain white.

DO pay special attention to the cars that come up on you from behind at night. Slow down, identify the suspect. Memorize the headlight patterns of the common cop cars in your area.

DON'T ignore cars that are parked on the shoulder. Reportedly heavily used in Quebec, Canada, there will be a cop running a radar gun on the shoulder of the road, then signal another cop ahead to pull over violators. Don't assume it is just an unfortunate motorist whose car suffered a break down. It might have a cop inside holding a radar gun.

DO watch out for sudden changes in speed limits, when you are travelling out-of-state/province. Slam on the brakes if you need to. When the area is not familiar to you, you don't know where the speed traps are. If you are caught speeding out-of-state/province, it is very hard to fight it unless you visit that place on a regular basis. Remember, cops love to pull over motorists with out-of-state/province plates, as they know you are very unlikely to contest it.

DON'T get a "cop magnet" car next time you buy a car. Mustangs, Corvettes, 300ZX's are a few examples. Colour is also important. A "ticket-me-yellow" BMW M3 or an "arrest-me-red" Honda Prelude is surely going to attract a lot of tickets. Get a dull, yet fast 4 door sedan such as Nissan Maxima, Taurus SHO, Volvo T5 or anything with a powerful motor will keep your driving pleasure and avoid tickets.

## 2. Learn what cops use

As mentioned in the previous section, cop cars are not always marked and always have light bars on the roof. I have seen a plain white Ford Crown Vic with flashing lights on the front grille, and also a dark blue Chevy Blazer SUV doing a chase down the street, also with flashing lights on the grille. So don't make a false assumption that cop cars must bear the word "POLICE" on them.

From my own experience, the OPP (Ontario Provincial Police) uses late model American made large sedans for highway patrol (with one exception), here are the most common ones:

1. Ford Crown Victoria
2. Chevrolet Caprice
3. Ford Taurus (previous model, not the "oval" Taurus)
4. Chevrolet Lumina
5. Chevrolet Camaro Z28

Yes, there are Camaros in the OPP fleet, but reportedly there are no more than probably 8 of them, and they are stationed near the Metropolitan Toronto area to do high speed chases on the 401, the Gardiner and Don Valley Parkways. These are hot spots for the illegal mid-night street race events, especially on the Don Valley Parkway because of the nice curves, so the police responded with Camaro Z28 chase vehicles. These are marked with light bars on the roof. If you have to worry about the Camaros you probably shouldn't be driving on public roads, but others you have to pay attention to in order to not get busted.

Readers from Ontario have reported Volvo S70 T5s as patrol cars. Personally I haven't seen one of these and can't confirm their existence. This maybe a new toy for their rich local police force. A new Volvo T5 sedan starts at what price? CDN\$44k? The speeding ticket you couldn't be bothered to fight last time definitely helped contributing them.

How to identify unmarked cop cars? This is a subject I would like to learn more, too. I have compiled a list of possible "features" that an unmarked cop car is likely to have:

- flashing lights on the front grille or dash;
- suspicious lights on the back window;
- extra antennas (for their radio);

- big fat tires;
- anti-roll bars if viewed from the rear;
- alloy wheels, or missing hub caps (to avoid third-party damage in case they fly off during a high-speed chase);
- the front and rear seats seem to be separated by glass windows;
- suspiciously clean in the winter.

If you see a vehicle with a few of those "features", slow down. Check out the occupants of the suspicious vehicle. If you can find a child car seat, or if there is an old lady in the passenger seat, you are pretty safe. If a young to middle aged person in some kind of uniform is driving the vehicle, don't put your money on the line, slow down or let him pass you. I have no clue to what model of cars might be used as unmarked cop cars, but I can be certain that cops don't use import and underpowered FWD vehicles. Don't expect that the Geo Metro following you will turn out to be a cop car. Unless you also drive a Geo, you can easily outrun him. Also, some really old and rusted out cars will not be unmarked cop cars. I think police equipment is pretty up-to-date. In any suspicious situation, slow down. Remember, I have seen cops use SUVs as unmarked cop cars, so don't rule them out.

### 3. Get a good radar detector

First of all I'll have to say that I have no working experience in using radar detectors, except maybe in computer driving games :-). I think a good radar detector will give you warning when a radar speed trap is ahead, so that you can slow down. However this doesn't work if the cop sets his radar gun on top of a hill, or around a corner. In these cases, when the radar detector goes off wildly, it's also time to pull over. A radar detector is most useful when used on multi-lane, divided, limited access highways. It is less effective in city streets, since there are too many interferences in the surroundings. The best place to mount a radar detector is on the dash, or under the sun visor. It is useless if you stuff it in an empty radio slot. You must give the detector a clear "view" of the road ahead (and behind if your detector has such capabilities) so that it can give you warning in advance. Clipping the detector on the sun visor is probably better than mounting it on the dash, but you have to arrange the power cord a bit if you don't want it hanging down. Most people prefer clipping the cord to the headliner and routing it around the pillars then to the power socket. Some people just use battery operated detectors to avoid the power cord altogether, sacrificing some operational capabilities.

The province of Ontario bans the use of "radar warning devices", namely, radar detectors. Some provinces in Canada, and most states in the U.S., allow the use of radar detectors. A good radar detector is always a good investment. If it can save you from just a few tickets for the life of the unit, it is well worth the money.

Is it worth to get a radar detector in Ontario? First you should know what are the penalties if you are caught having/using one. The fine can range from \$50 to \$200, and the unit is confiscated. Both the sale and usage of such devices are prohibited. You may possess one, provided that it is sealed in a package, such as in an envelope or a box. Now there are tricks you can use to operate a radar detector without getting busted. You may prepare a padded envelope, addressed to a friend living in the U.S., stamped, and always have it in your car whenever you operate the detector. In any case when you are pulled over, quickly unplug the detector and put it in the envelope and seal it. You'll have to do this very quickly or you will be busted. Or more simply, you can just hide it under your clothes. The police cannot search your body without reasonable grounds. You know, suspecting a radar detector on a person is not reasonable grounds for a body search.

It is best if you can get your front passenger to hold the detector for you. In cases when you are encountering road blocks, you can't possibly remove the radar detector just by yourself while you are doing the driving at the same time. You won't have time to do it when approaching a road block. However a passenger can do this for you very handily. Don't try to run away or make a U-turn if you encounter road blocks, this will really tick off the cops thinking that you are a criminal. Cops don't really look for radar detectors during road block stops, but if they see you have one, the penalty still applies. If it is at night and you are driving alone, at least cover up the LEDs. The cops may not notice it. Stay calm. When you operate radar detectors in Ontario, you are risking to lose it and are expected to face a stiff fine.

The Ontario Provincial Police has been known to use radar detector-detectors (VG2). These are devices designed to sniff out the signals leaked out from radar detectors, and give the police warning that a radar detector is in use in close proximity. The cop will cruise along in a marked/unmarked patrol car, and have

the radar detector-detector turned on. When cars with radar detectors pass by, it will give the strongest signal when it is closest to the patrol car. Then the cop will flip on the siren and you-know-what. You see, police forces are wasted in such a way. Instead of catching the real trouble makers, like the tailgaters and left lane rolling road blocks, the cops are out to catch radar detector users who are otherwise safe drivers. It all boils down to money. If left lane hogging were that easy to convict and fines are as stiff, I bet we will see more tickets given to those left lane hoggers.

There are some devices which can sniff out signals emitted from police radar detector-detectors (radar detector-detector-detector?). However I think these are a waste of money unless this capability is built-in to your radar detectors. Most good radar detectors are "stealth", meaning that they are radar detector-detector-proof. However they don't give warnings when radar detector-detectors are present. Always invest in a good radar detector, especially if you need to operate it illegally.

#### 4. What do you do if a cop is behind your tail?

So you can see the red and blue flashing lights in your rear view mirror, and you can hear the siren. He has nailed you. The best to do is to slow down, and pull over to the right as soon as possible. Make your intention very clear, that you are not trying to run away. If you are in urban area, cops are usually happy if you pull into some side streets first to avoid the heavy traffic. The key is to make sure the cop knows that you are not trying to escape. If you are driving a super sports car, don't even think of running away. Cop cars are mostly modified, and they have radio. Even if you can outrun one cop, chances are a bunch of cops will be waiting for you down in the next block.

What do you do if you are pulled over? Should you explain to the cop that you are on some kind of emergency that you have to rush? Or should you beg the cop for mercy? There are a few guidelines you can follow:

- Have your occupants (if any) keep absolutely silent. Don't blame, don't admit, don't make any noise.
- When the cop comes to your window, remain seated, roll down the window and have both hands on the steering wheel. Remove your sun glasses if you have them on.
- When he asks for your driver's license and proof of registration, tell him where you put them and then reach for them. If they are in the glove box, tell him so. If you don't tell him and just reach for the glove box, he might think that you are trying to reach for a gun, since he has no idea of who you are - an innocent citizen or a criminal. In every traffic stop he is putting his life on the line. Don't intensify the atmosphere. Make his job easier and you will be let go faster.
- If he says you were speeding and asks if you would like to see the radar reading, say yes sir and proceed to see the reading. You might want to have a glance at what the radar unit looks like. However, the cop is not required to let you see the reading, the reason being that if you are pulled over along a busy street, the cop doesn't want to bear the liability if you get hit by traffic.
- If he wants to write you a ticket, don't argue, don't explain, don't admit, say nothing. Don't hope for just a warning. People have all kinds of excuses and the cop has heard them all. You may have an imaginative excuse but it is only as good as anecdote to tell your friends. You are here to get rid of the ticket, remember? You want to be as forgettable as possible, because if the cop doesn't remember you, he is not likely to show up in court when you fight the ticket. You should not over use this strategy by trying to make friends with the cop. Remain polite and business-like. Of course, you don't tell him if you are going to fight the ticket!
- When he hands you the ticket, sign it. By signing it you are not pleading anything, just to acknowledge that an offence notice has been served to you.

I can't say it enough times that you must not admit the offence to the cop. If you do this you are incriminating yourself. You have every right to remain silent, and anything you say will be used against you in court. Geez, does that sound familiar? Incriminating yourself means admitting to the cop that you were speeding, or you were travelling at some speed over the posted limit. You should be very careful, since a lot of immoral cops love to ask you questions like "Did you know what speed you were travelling?" or "Did you know you were speeding?" In every case you should answer "Officer, I wasn't sure what speed I was travelling." If you answer something like "I was doing 120km/h passing that truck" then the cop will laugh all the way to the bank. Don't let him. You should also be aware that scumbag cops love to inflate the speed he's going to cite you, and then getting you to admit to a lower but still illegal speed. Example: "Did you know that you were doing 140km/h back there, and I had to really speed up to catch you?" If you say "Officer, I was going probably no faster than 120km/h." then the cop has just nailed you. Since he's going to

write you for 20km/h over anyway you might even thank him for giving you a break. Don't fall into that trap. Just answer "Officer, I believe you were mistaken and I am sure I wasn't going that fast" is good enough.

## Appendix B. How to prepare for the trial

### 1. Plan for the worst scenario

You have read many stories from other people that how they went into court and found that the cop didn't show up and they won the cases. Don't go into court expecting that the cop will be absent. Cops' absence from trials usually get blown out of proportion, and everyone has an impression that cops often don't show up for courts. This is not true, and you should always prepare your case seriously expecting the cop to be there at the trial. In many cases, defendants don't do enough preparation because they are expecting that the cop won't show up, and they lose badly.

### 2. Understand what you are being charged with

So you are being charged with "speeding", right? Wrong, or at least this is woefully incomplete. If you do not fully understand what you are being charged with, you will miss a lot of opportunities where you can spot a technicality and take advantage of it. The prosecution is charging you an offence that is contrary to the "Highway Traffic Act", under the process of the "Provincial Offences Act". These two law books are the **absolute minimum** you should look up in your local library to find out exactly what the charge means. (If you live in the United States or other provinces in Canada, the law books are called "Motor Vehicle Code" or something similar.)

Now get out your ticket, and look at what section under the HTA you are being charged with. Look up that section in the HTA and see if the actions you allegedly committed violated the statute. (Make sure you have an up-to-date version of the HTA.) And even this is not good enough. Now bookmark that section, and look up the "Definitions" part of the HTA. If there are words or phrases used in the section that have definitions, read the definition carefully and see if it fits your situation/description/action. If it doesn't, you didn't violate that law and your charge should be dismissed. For example, if the law defines that a speed limit sign must be erected no higher and lower than a certain height, and must be no more than a certain distance from the edge of the road, but the signs at the place where you were cited didn't meet this requirement, then you weren't speeding. Now you realize that you haven't done enough research, don't you?

To save you a little bit of time, let's take a look at what criterion must be met in order to convict you of speeding:

There are enough evidence to prove that...

- you were driving a **motor vehicle** on or about the time, date and place when the offence occurred.
- you were travelling on a provincial/city **highway/street**.
- **you** were **exceeding** the **posted speed limit**.

All of the criterion above have to be met in order to convict you of speeding. The important keywords have been highlighted in **bold**. First, you had to be driving a motor vehicle. You cannot be convicted of speeding if you were riding a bicycle or a skateboard, because none of which legally qualifies as a motor vehicle. (Look up the definition of "motor vehicle" to see if the vehicle you were driving qualifies as a motor vehicle.) Second, you had to be travelling on a highway/street under the jurisdiction of the province or municipality. If you were on private property, you cannot be convicted of speeding. (Again, look up the definition of "highway" to see if you were really on a highway when you were pulled over.) Then, the most obvious one is that you must be exceeding the posted speed limit in order to be found guilty of speeding. Just saying "speeding 75km/h" isn't good enough. It has to be "speeding 75km/h in a 50km/h zone" or something similar. Finally, the police officer has to identify the defendant who was the one committing the offence. (Look up the definition of "driver", and make sure that the officer didn't hand the ticket to your passenger. "Driver" is the one having care and control of the vehicle at the time of the alleged offence.) Every word and phrase has to fit your situation exactly, otherwise you may get off with a technicality.

When you have verified the above information, you can now prepare an **essential elements' list**, which you can check off when the cop testifies at the trial. Every bit of information in the list, the cop has to offer evidence on. Otherwise the Crown is said to have failed to establish a *prima facie* case.

(A case where all the criterion are met is called a "prima facie" case. If the Crown has failed to establish a prima facie case, the case has to be dismissed).

During the cop's testimony, check off the items that he has raised, and take note of the answers. Be very careful of anything that he has missed. When you cross-examine their witness(es), make sure you don't touch on those things, otherwise you will be doing the job for them. For example, if the cop forgot to testify the speed limit on that road, you don't ask any questions about speed limits. If the Crown has only one witness, which is usually the police officer, then it is best to just call "no questions" for cross-examination. The closure of the Crown's case will then follow, and you immediately raise a motion to the judge that since the Crown has failed to establish a prima facie case, you sincerely ask the court that the case be dismissed. If the Crown has more than one witness, then you will have to cross-examine them anyway, assuming each one of them will subsequently fill up the check list. But the general rule still applies, that you don't ask any questions about the things which the witness didn't touch on. After all the Crown's witnesses have testified, you can move for a dismissal if anything on the check list is unchecked.

Here is an example of the check list:

- Has the prosecution identified the operator of the vehicle who committed the offence? (Y/N)
- Has the prosecution identified that the vehicle was a "motor" vehicle? (Y/N)
- Has the prosecution identified that the vehicle was the one cited, with the license plate, model and colour the same as the one on the ticket? (Y/N)
- What province/territory was the plate registered in?
- Has the prosecution testified that the defendant was travelling on a provincial/municipal highway/street? (Y/N)
- What was the speed limit on that highway/street?
- How fast was the defendant travelling?

Check off the items (don't cross them out) and see if anything is unchecked. Bring them out to the judge at the closure of the Crown's case, and move for a dismissal. When the Crown's case is closed, the court usually does not allow it to be re-opened again. However, if you don't move for a dismissal, but later testified yourself and filled in the missing holes for them, a conviction which follows will stand, and appeals to overturn the conviction will most likely fail.

Unless the cop and the prosecution attorney are dumb, they can usually establish a prima facie case. However, proving all the evidence raised in each element beyond a reasonable doubt goes a lot further than that. Your next step is to try to lower their credibility by attacking the evidence. This mainly takes place by means of cross-examining the police officer, which will be discussed in section 4. Before we talk about cross-examination, we first look at examination-in-chief, which is also called direct examination.

### 3. Examination-in-chief

Here, the prosecution attorney will ask their own witness(es) questions, in order to elicit the facts to prove their point. When the prosecution attorney is asking questions, pay close attention and make objections if improper questions are raised. Object immediately, don't wait until the witness answers or when the next question is asked. Stand up and call out "Objection, Your Worship!" and then state your reason(s). Usually objections are made when the prosecution has violated one or more of the rules of evidence, which will be discussed later. The judge will decide whether to sustain (grant your objection) or overrule it (deny).

There is nothing really you can prepare for examination-in-chief, except to prepare making objections immediately. Don't be afraid to make objections, even if it does not seem to have a strong reason. You might have overlooked something that the judge has noticed, and if you don't object, it will automatically be considered accepted by you. Study the rules of evidence carefully, and compile a list of possible objections in front of you so that you can quickly refer to them during examination-in-chief. That's why you have to come to court as a spectator to see how witnesses give testimonies and the possible violations they might make.

There are limitations of what kinds of questions the prosecution can ask their witnesses. They can only ask non-leading questions, nothing else. Here is an example of a non-leading question:

*Q: What speed was the defendant travelling?*

An example of a leading question:

*Q: The defendant was exceeding the speed limit, right?*

Stand up and call out "Objection, Your Worship. The counsellor is leading the witness."

If you rent the Legal Defense Kit from NMA, there might be suggestions that you object to the officer reading from his notes. This is of no use in Ontario, since the officer will be allowed to read from his notes, and he will swear that his notes are of his own hand-writing. Don't bother objecting to this. The judge will not sustain it.

After the prosecution attorney has finished asking the cop questions, you will be given the opportunity to cross-examine him. If the Crown has more than one witness, then the next witness will only be called to take the stand after you have cross-examined the first one. Then this procedure repeats until all the Crown's witnesses have testified and have been cross-examined.

#### 4. Cross-examination

This is where the fun comes in. The cop will still be on the stand, waiting to be whipped by you. Just a reminder, that you are acting the role of a counsellor. You don't think yourself as the defendant in this part.

There are some techniques to asking cross-examination questions. Unlike examination-in-chief, cross-examination is pretty freestyle. You can ask leading questions, suggest a scenario and ask him if it is possible, or even tell him the correct answer if he spoils it. The ideal cross-examination question is a yes/no question. Make it as little chance as possible for the cop to bring in more evidence favourable to the Crown. If he answers more, stop him and tell him to only answer yes or no. Construct the questions in a way that an answer is obvious. The obvious answer should help your case and create in the judge's mind doubt of the Crown's evidence. If the cop answers otherwise it will make him look stupid or you will have some documents to nail him on the wrong answer. The bottom line is, you should know the answer to every question before you ask the cop.

Conducting a good cross-examination is vital to your defense. The approach is two fold: 1) destroy the credibility of the Crown's witness(es); 2) introduce contradicting evidence. These approaches are not mutually exclusive. You should strive to achieve both. In fact, the second approach is necessary if you want to leave the court room with a not guilty verdict. There are so many ways to introduce contradicting evidence in cross-examination, which will be discussed later in greater detail. We will first look at destroying the credibility of the Crown's witness. Normally, the police officer will be the Crown's most important witness. His credibility is always higher than yours, since he has no reason to lie. But you are here to fight your ticket, so if you offer contradicting evidence yourself you won't be believed. There are two prime examples where you can destroy the cop's credibility: the cop writes traffic tickets to fulfill some quota system, and/or, he was in an unmarked patrol car. If you can get the cop to admit that ticket quotas do exist in his police agency, then his credibility will be reduced since he has some immoral motivation to write traffic tickets (e.g. to gain promotion etc.). This can be very hard to achieve since most cops will not admit it, and most prosecution attorneys will object to your questions on the grounds that these questions are irrelevant. If you were pulled over by a cop in an unmarked patrol car, perhaps you should try asking these questions:

*1. Officer, what is the model of the patrol car in the citation? Was it marked, or unmarked?*

You should know the answer.

*2. Do you believe that abiding by the speed limits will increase safety?*

He has no reason to say no.

*3. Do you believe that exceeding the speed limits is dangerous?*

Again, expect a positive answer here.

*4. Have you ever been in a highway patrol duty in a MARKED patrol car?*

It is very likely that he had.

*5. What is your impression if you see motorists driving at speed then suddenly see a marked patrol car?*

Say congratulations to yourself if he answers "they slow down".

*6. But you were in an unmarked patrol car in the citation, because you don't want people to slow down? I thought you knew that speeding is dangerous, and slowing down is safer? Because your sole purpose is to ticket people, without regard to their safety?*

Rapidly fire these questions at him, don't expect any answers. It doesn't matter what his answer is. You have achieved the goal.

It should be mentioned again that destroying the witness's credibility is not enough to get you off. If you have successfully proved that quota systems do exist in the cop's agency, and that he used unmarked patrol cars to pull people over, but his damaging evidence is never challenged, you will still be convicted. Next we will consider introducing contradicting evidence, or raising reasonable doubt in the Crown's testimony.

In order to testify the speed you were travelling at, the cop has to have a basis to determine your speed, be it radar, pacing, and/or visual determination (= guess). You have to cast doubt about the accuracy of those methods in cross-examination.

You should be very careful of what questions to ask the cop. Only ask those questions that are related to what the cop has testified. If the cop didn't mention radar, you don't ask questions about it. Don't help the prosecution to bring that in. Don't do the job for them.

The following set of questions are by no means enough to get you off, nor are they proven to be working. Every traffic case is unique and there are no universally working questions. These questions are only some starting points. You should not just bring a copy of this article to court and hope that it will do you some good during the trial. You will have to tailor your own questions according to your specific situation based on the idea and suggestions given here.

Here, we will only concentrate on radar-backed speeding tickets. Radar is not something that the court can take for granted. Unlike a stop watch where everybody is satisfied that it is used to measure time, radar is not recognized by courts and it does not appear anywhere in the Highway Traffic Act. Therefore, the accuracy of a radar unit has to be proven in each and every case beyond a reasonable doubt in order to be accepted. A radar unit proven to be accurate in a previous court case does not make it accurate in the next case. Its accuracy has to be proven again.

In order to establish prima facie evidence on the use of radar, the Crown needs to prove the following:

- The radar operator was trained and qualified.
- The radar unit was proved to be working properly by approved test procedures.
- The radar operator had an independent visual estimation of the target speed and the estimation was confirmed by the radar reading.

The very first thing you have to work on is the cop's qualification. If he is not qualified, you can throw him off the stand immediately. Move to exempt the witness on the grounds that he is not competent. Ask the following questions: (if he already testified some of these, you don't have to repeat them.)

*1. Have you received any training in using radar?*

If he says no, you have nailed him. He is not a qualified radar operator, and any radar evidence can be stricken. If he says yes, go on.

*2. How long ago did you receive your training?*

If it is more than 5 years ago, his training is probably out-dated. However since Ontario does not have a standard on how recent an officer's training should be, this is an unimportant question for readers in Ontario.

*3. Who taught you in the training?*

If he says he was sent to the radar manufacturer's school, he is more than capable. However this is rare in Ontario, since they just don't have that much money to provide radar education for their officers. (Otherwise they don't have to run speed traps.) The usual answer is he was trained by his sergeant, or by a fellow officer. This answer can be used against him later.

*4. Do you have any certificate or diploma to prove your training?*

This is a fun question to ask. The reason why it is funny is because you will laugh at the answer. It is very unlikely that the cop will bring his certificate to court to prove his training, let alone he has any if he was trained by a fellow officer. If he can't prove it, there is no basis to prove that he was properly trained. Move to throw him off.

*5. Did your sergeant (or fellow officer) receive any training in using radar?*

If the cop wasn't sent to the radar manufacturer's school, this question is essentially the same as question 1. But this time you are working on his trainer's qualifications. If his trainer is not qualified, or if he can't prove that his trainer is qualified, the point that he is qualified is moot. You should then go on to ask for his trainer's certificate, his trainer's trainer's certificate, his trainer's trainer's trainer's certificate and so on. If at any point a trainer is not qualified, ALL his subsequent trainees are not qualified. Note that this question is even funnier than question 4, since it is extremely unlikely that the cop will bring his trainer's certificate with him. Here comes the closing question:

*6. If your sergeant is not a qualified radar operator, how can you say that you are qualified?*

Now the judge may be a jerk and won't buy any of your motions, and accepts anything the cop says about his qualifications, then you will have to move on.

The next thing you have to work on is the radar unit and the tuning forks. If there is no evidence to prove that the radar unit or the tuning forks were in proper working order and properly tested, there ought to be reasonable doubt that the speed obtained was accurate. Note that in order to make these questions to be of any value, you should have some certified documentation which dictates how this particular model of radar unit should be tested. The ideal document is the manufacturer's operating manual. It should have all the specifications of the radar unit, how, and how often the unit has to be tested for accuracy. If the officer's procedure and/or time interval disagree with what the manual says, reasonable doubt exists.

*1. Do you have any license on the use of such radar unit?*

This question is of no importance in Ontario. However in other provinces and in some States, without proper licenses to operate radar units is inadmissible evidence in courts. In some States, a FCC license is a must. Check with the local regulations to make sure.

*2. How do you test your radar unit?*

If he doesn't know how to test it, he is definitely not trained. Note his answer, and compare it with the official documentation.

*3. At what time on [insert offence date] did you test the unit?*

If he didn't test the radar unit on that day, he is ignoring his training and all readings obtained should be thrown out.

*4. Do you have calibration certificate for the tuning forks?*

Tuning forks are used to test the accuracy of radar units. A tuning fork is a piece of metal which looks like a fork (hence the name), and will generate a specified frequency wave when stricken. Usually it has to be stricken by a non-metallic object, such as the bottom of a shoe/boot. After the tuning fork has been stricken, the cop will hold the fork in front of the radar antenna and see the reading. If the radar reading agrees with the fork's specs, the radar unit is said to be working properly. If not, the radar unit needs repair. Usually there are two tuning forks of different frequencies which will show as different speeds on the radar unit. Both have to be correct.

If the tuning forks don't have calibration certificates from the testing laboratories, their accuracies are doubtful. A tuning fork is an extremely delicate tool where slight discrepancies or scratches can result in huge differences in readings. Note that tuning forks do not appear anywhere in the list of things the Crown needs to prove to establish prima facie evidence. However if the tuning forks are not accurate or are not in proper working order there ought to be a reasonable doubt on the accuracy of the radar unit. Move to strike radar as evidence against you if something is not right.

Again, we will assume the judge is a jerk and doesn't buy any of your motions. Read on.

They usually have a "model testimony" to give during their show, and would cover everything that is needed to convict you. Most cops will say they saw this car coming, in his trained eyes it appeared to him speeding, and the radar reading confirmed it. **THIS IS WRONG!** They can never judge a car's speed using plain eyes farther than a radar can determine. The law requires that the officer has to form his own **INDEPENDENT** visual opinion that the car was speeding, and be supported by radar. This can never happen. A radar, even the cheapest one, has a much longer effective range in determining target speed than the most capable plain human eyes. If a cop says he saw this car coming and it appeared to be speeding, then he checks his radar to confirm it, he is lying. The radar would have clocked the target speed long ago before he could even see it. The following line of questions will reveal this fact:

*1. Officer, how far ahead can you see using plain eyes, given the weather condition on [insert date of offence]?*

Take note of his answer. The intelligent officer will say he doesn't know, or it depends. Throw a number such as 200m at him and see if he agrees. If he still refuses to accept a figure, move on.

*2. Do you know the approximate range of your radar unit?*

If he is a competent radar operator, he should know the answer. If he doesn't know, make a motion to the judge that the officer is not a competent witness. Also move to strike radar as evidence. A typical radar unit has a range of approximately 400m (1200 feet).

*3. Do you think that you can see farther than the range of the radar unit?*

The obvious answer is no.

*4. Isn't it true that you cannot see a car coming until the radar has already picked it up?*

It is true, unless he sets up the radar around a curve or on a hill.

*5. That means the radar has already told you a car is speeding even before you can see it?*

Yes.

*6. Would the radar reading somehow influence your decision about a car is speeding?*

The honest officer will answer yes.

*7. Can you form an INDEPENDENT [with emphasis] opinion about a car is speeding when the radar has told you it's already got one?*

Obviously he can't.

You are in very good shape if you were not the only moving car on the road when the citation occurred. The classical approach is to blame it on somebody else. Ask the following questions:

*1. Can your radar unit distinguish between different directions of traffic?*

Almost all traffic radar can't. They can register speed both coming towards or going away from the radar unit.

*2. How wide is the radar beam at a distance of 100m, 200m, 300m...?*

Note his answers. If he says he doesn't know, tell him to answer in number of lanes. A typical radar can cover all four lanes of traffic at 200m.

*3. Can your radar unit distinguish between targets? In other words, does it tell you which car is responsible for a reading?*

No! The ones which can cost millions of dollars.

*4. Since your radar unit cannot distinguish target direction, nor identify targets, that means any moving car on all 4 lanes of traffic in range can produce a reading?*

Yes, certainly.

*5. How do you know the alleged radar reading [insert offence speed] wasn't produced by that truck in the right lane?*

He doesn't know. Hence reasonable doubt exists.

If you have made this far, congratulations. In the cop's testimony, he might have stated that you were passing other cars and thus were fastest. But don't worry, as long as there were other cars in the opposite direction, the classical approach still works.

*6. Officer, you testified that I was the fastest among traffic. Is it possible that the radar reading was produced by opposite traffic, while I was only passing vehicles who were travelling below the speed limit?*

See? Going faster than other vehicles isn't against the law. The cop can't possibly compare speeds in opposite directions, therefore reasonable doubt still exists.

If you weren't so fortunate, that you were the only car on the road, things are a little more difficult for you. You may have very little chance of winning, but you've got to try anyway. (assuming you already know the range of the radar unit, and the approximate range that the cop can see ahead.)

*1. Do you agree that the radar unit has a longer range than your eyes?*

Yes.

*2. Is it possible that the radar is clocking some moving vehicle that is beyond your visual range?*

Yes.

*3. then is it possible that more than one car were in range of the radar, but the defendant's car was the only one visible to you?*

Yes, it is possible, but the clever officer will answer unlikely.

If things are not looking too good for you at this stage, it isn't the end of the trial yet. Hopefully you have the radar manual in your hands, and you should make good use of it. You should have studied it well in advance. If you don't have time, at least find out what are the pitfalls and shortcomings of the radar unit. They should be documented in the manual. For example, some radar units will produce unreliable readings if the ambient temperature falls below or rise above a certain range. If the offence date happened to be a cold or hot day which will likely affect the reliability of the radar unit, then you make sure that you ask the cop how hot or how cold that day was, and show him at that temperature, the radar wouldn't give reliable readings.

The opportunities of attacking the Crown's evidence are plentiful. The above questions are only some good starting points. I hope you find them useful, and I always welcome suggestions (email: fyst@gamma.ca).

## 5. Why you are not recommended to defend yourself

When you take the stand and are sworn in, you are expected to testify truthfully to the best of your knowledge. The reason why you should not defend yourself is simple: you don't want to shoot yourself (see later) or lie under oath. Unless you really didn't speed, and you strongly believe that the cop caught the wrong person, you should not testify and defend for yourself.

If you defend, you either will have to say you really did speed (shoot yourself), or you really did not speed (lie). If you lie and say that you were really only going 40 km/h on that road, unless you have special recollection of other facts to support that claim, nobody will believe you, and the prosecutor will have its own way to reveal that you either lied or weren't really sure that you were only going 40km/h. The police officer's credibility is always higher than yours. Remember, the judge has full power to choose whom to believe, you or the cop. If the cop says you were speeding, and you say you were not, both testified under oath, then it would be his words against yours. The judge will always, always choose to believe the cop. Unless you scored big time during cross-examination, the credibility of the cop will be always higher than yours. If you have already scored big time, why destroy all the hard work? Furthermore, the judge's choice of not believing in your testimony is NOT valid grounds for an appeal.

Lying under oath is a felony - which will cost much much more than the face value of the ticket itself. You are here to get rid of the ticket, not to get into bigger trouble. You really lose nothing more if you can't win, but you will lose more than just money (freedom?) if you lied.

You are under absolutely no obligations whatsoever to defend. If you have scored enough points, raised reasonable doubt in cross-examination, that's good enough. If you don't win, don't ruin your chances of taking the case to a higher court for appeal. If you defend, you will either have to admit (ruin your chances) or lie.

## 6. Don't shoot yourself

When you choose "not guilty" on the ticket, and pleaded so to the judge, you should understand the true meaning behind it.

Excuses like the following will certainly fail:

"I didn't know the speed limit to this road"

"I didn't pay attention"

"My wife was about to give birth and we were rushing to the hospital"

"My speedometer broke"

"I was just following the flow of traffic"

"The tail wind was too strong"

"The throttle stuck"

"I was only going xx km/h over not yy km/h over"

If you are planning to give any of these to the judge, you should have chosen option 2 (guilty with explanation) on your ticket. Ignorance of the law doesn't make you innocent. If you admit that you actually broke a law, even with a very good explanation, you should have chosen "guilty with explanation" instead of "not guilty". Speeding is an "absolute liability" offence which means there is no defence unless the prosecution couldn't prove it. Your job is to disprove the prosecution's evidence. Any explanation or any other defence is useless.

Remember, even if you really did it and pleaded "not guilty", you are not lying. You don't have to admit it, since it is up to the prosecution to prove you guilty. You don't have to lie anything and I don't encourage anyone to do so. Concentrate on attacking the prosecution's evidence, instead of showing to the judge how innocent you are. If the prosecution fails to prove you guilty beyond a reasonable doubt, you are innocent.

## 7. Some basic rules of evidence in court

Here is a list of common violations witnesses and/or prosecutors might make when testifying/questioning:

### **Hearsay:**

Witnesses cannot testify something that is beyond their personal experience or knowledge. They cannot testify something that is said by another person, or else that person has to come and testify what he said. For example, if the cop says "the computer operator told me the defendant's driver's license was under suspension", then you immediately stand up and call "Objection! Hearsay!". The computer operator has to come and testify, or the cop must produce certified printout to support his claim, otherwise the evidence cannot be admitted.

### **Lack of foundation:**

The cop cannot testify something that has no basis on. He cannot comment on the accuracy of the speedometer of his cop car, without a calibration certificate, for example.

### **Speculation:**

This is equivalent to a wild guess. The prosecutor might make a statement saying "the defendant knew that he was speeding anyway." Then you should immediately object because the prosecutor cannot be sure what you know.

### **Irrelevant:**

If the cop says something that is irrelevant to the charge, or he mentions some other offences that weren't written down, object. For example, if you were charged speeding, then the cop says in court that you were not wearing a seatbelt at that time, it is irrelevant unless he also charged you with a seatbelt violation.

### **Immaterial:**

Similar to irrelevant, but the evidence is somehow related to the charge, only that it is too remote to be of any use. For example, your past driving record.

### **Non-expert witness:**

If the cop says something that is beyond his professional skills and training, object to his testimony. e.g., if he says "the defendant was crazy when I pulled him over", then you should object because he is not a psychologist. "His car's wheels were out of alignment", object because he is not a mechanic.

## 8. Defence of necessity

In rare circumstances, you may want to consider this approach. Please keep in mind, that defence of necessity is not acceptable in many courts. Ontario is one exception. It is entirely possible to use this strategy to defend yourself if you think you fall into the following situation: you must speed to avoid a nasty accident or collision, which would be very likely to endanger yourself and others.

The concept of defence of necessity is to plead not guilty to the charge, but do not dispute the charge. You will state your side of the story why speed was the only possible solution to avoid being involved in a bad accident. I have personally witnessed such a case in court, where the defendant was charged 90 km/h in a 60 km/h zone. He was travelling on the right lane, which was going to merge into the left lane, and obstruction was ahead so merging late was not a possibility. There was a bus (much greater in size and weight) behind

him gaining on him, so braking was not possible either. There were traffic in the left lane beside him, so the only possible way was to speed up, overtake the left lane traffic, find an open space and merge in. The judge decided that the defendant was not guilty.

Using defence of necessity is best left to be handled by a lawyer.

## 9. Relax

This is an unfair battle. You are not expected to win, especially if this is the first time you are to defend yourself in a court of law. There is nothing more to lose if you are convicted. Just pat yourself at the back for a job well done, pay the cashier on your way out, put everything behind you and get on with your life. You have made the system work for your money, and this is good enough. Think of it as a bonus if you do win. In most cases, even if you lose, you can get the fine reduced by a considerable amount just by sitting in the courtroom for a while. Routinely courts will reduce your fine and/or grant an extension of up to 90 days to pay. Then you already come out ahead.

## Appendix C. How radar works

This is not intended to teach you any technical aspects of radar. You don't need to know how to assemble a radar unit to fight it. You only need to know the basic principles of radar so that you know how to deal with it both in court and on the road.

You can think of a radar unit as a flash light. Instead of emitting visible light, radar emits invisible electromagnetic waves at a certain frequency. When you shine a light beam from a flash light over an object, the light is reflected back to your eyes so that you can see the object. The same principle applies to radar beams. The electromagnetic wave that radar emits is called microwave, which will reflect off most metallic objects, concrete, trees, wood etc. It will however go through grass, bushes etc, just like light will go through glass and transparent objects.

The radar unit uses an antenna to "read" the microwave that is reflected back from an object (such as a car), just like you use your eyes to capture the reflected light from your flash light. If the microwave from the radar hits a moving target, the waves' frequency will change based on the "doppler shift" principle. With the reflected wave's changed frequency, and the known frequency that the radar emits, the computer inside the radar unit will be able to calculate the target speed. Note that radar cannot determine the target speed when the target is travelling perpendicular to the radar beam, since there will be no doppler shift relative to the radar antenna.

It's that simple. However, you might be already aware, that there are so many shortcomings to traffic radar. First of all, radar is prone to interference. It is not too hard to figure out that the radar's antenna will accept any microwave that it is able to "hear". In other words, the antenna might not be "hearing" the waves which originated from its own unit. High voltage power lines, telephone lines, power stations, even neon lights, do emit lots of electromagnetic waves. There is absolutely no way to tell which wave the antenna is hearing. Secondly, radar cannot determine which target reflected off the waves. If there are two cars both travelling in a close proximity, no one can tell who is responsible for the radar reading if such is obtained. Identifying the target is a job left to the radar operator, who frequently makes mistakes. At a distance of 200m, the width of the radar beam can usually cover all 4 lanes of traffic travelling in both direction. In other words, it is impossible for the cop to know exactly which vehicle is responsible for the radar reading he obtained, even if there is only one vehicle on the road he can see. The reason is radar has a typical range of approximately 400m (1200 feet), which is beyond the visual range of most human eyes. The radar might be clocking a speeder at a distance of 300m, but the cop can only see an innocent driver coming towards him at a distance of 100m. As a result, an unjust ticket will be issued. Not to mention if there are more than two cars in the visual range of the cop.

Furthermore, radar does not necessarily pick up the fastest moving object. The strongest return signal can be affected by a number of different factors, such as the target's size, the cross-sectional area facing the radar antenna, its relative speed and the distance from the radar unit. For example, if a Corvette is travelling at 80km/h 50m from the radar, and a truck is speeding 110km/h at 200m away, the radar may pick up the return signal from the truck and register a speed of 110km/h. The officer however might think that the Corvette is the one responsible for the violation and therefore issues an undeserved ticket. In addition, when

traffic radar is used near an international airport, the radar will pick up the return signals from airborne objects. In this case, extremely fast speeds such as 300-400km/h will be registered on the radar. Even if an aircraft is flying at a few km's away, the radar will still be capable to pick up the return signal since an aircraft is much greater in size and has much faster speed than any ground vehicle. I can't imagine if you are being charged 300km/h in a 60km/h zone by a clueless cop.

Of course, there are radar units which can identify multiple targets, determine their speeds, range, shape, altitude, direction of travel etc., but these radar units cost millions of dollars and are properties of the military and airports. Traffic radar units have to be cheap, small, and thus error-prone.

There is a variation of traffic radar, which is called moving radar. It works pretty much the same way as the type described above (stationary radar), only that moving radar is used when the cop car is moving (for the purpose of highway patrol, for example). There are two readouts on the radar unit, one shows the target speed, one shows the cop car speed. The target speed is obtained the same way as stationary radar. The cop car speed, is however obtained by striking the radar beam to the side of the road, reflecting off stationary objects on the roadside, such as lamp posts, trees etc., to get a speed reading. Since the target speed will only be relative to the cop car speed, therefore by adding the cop car speed to the relative target speed, one will get the absolute speed of the target. Moving radar is subject to all the errors stationary radar has, plus the error of determining the cop car speed.

There is another type of traffic radar, which is photo radar. It was used for a short time in Ontario, then slashed when the new Government took over. However, photo radar is used in many other provinces and in the States. Strictly speaking, photo radar is not a variation of traditional radar. It is basically a stationary radar with the capability of taking photos. Photo radar is never used in moving mode. A police officer often sets up the photo radar on the shoulder of a highway, pointing the radar towards oncoming traffic. For stealth reasons, the radar unit is hidden in a vehicle, usually a minivan. There will be a camera mounted on top of the vehicle, connected to the radar unit. After the photo radar unit is set up, the police officer can go to sleep, read the paper, or eat donut. The radar will monitor traffic speed continuously, if a violation speed above the threshold speed is detected, the camera will automatically take a picture of the violating vehicle's license plate. At the end of the day, all the pictures will be developed, and a ticket will be mailed to the respective registered owners of the vehicles.

Radar is not infallible as most people and courts believe. Although the technology has advanced a lot during the years, and the radar units have become more and more user friendly, it doesn't change the fact that radar still makes mistakes especially at the hands of a poorly trained operator. I have received emails from police officers and provincial prosecutors who read this page, telling me that today's radar units no longer need any calibration. All they need to do is to push a test button on the unit. If the unit says pass then the radar is good, if it says fail then it is bad. This is absolute nonsense. The test button on the radar unit is only a simple check of the unit's internal circuitry. Successfully completing this INTERNAL check says absolutely nothing about how accurately the radar will display speed readings from EXTERNAL inputs. Usually tuning forks are used to perform this external calibration test. Since tuning forks are extremely delicate tools, and they need regular certification, so the prosecution will want to minimize the cost of operating radar units by introducing this blatant nonsense.

Only we get our act together the Government will slash this error-prone technology to enforce traffic speed. Much of the research and development work of radar manufacturers has been concentrated on defeating radar detectors, therefore we can be quite certain that Governments are not really interested in road safety, only money.

## **Appendix D. Speed kills? Or does it?**

You have heard it so many times from the government, police, and the insurance industry:

"SPEED KILLS."

"Speed is a direct cause of almost all fatal or major accidents."

"Speed limits exist for a reason."

"We should target all sorts of aggressive/dangerous driving, including speeding."

Not surprisingly, according to the 1996 Ontario Road Safety Annual Report, 449,508 speeding tickets were convicted, accounting for 60% of all Highway Traffic Act related offences. If we estimate a 90% conviction rate, close to 500,000 speeding tickets were handed out in Ontario during the year 1996.

But have you ever wondered why almost nobody obeys the speed limits, we haven't yet all died of motor vehicle collisions? Maybe they lied to us?

Not quite. They are just very good at manipulating and twisting the meaning of the term "speeding", and use it to their maximum advantage to hit home their propaganda. They even managed to do it so subtly that the masses get brainwashed into thinking that speeding really kills.

First, let's clarify what I mean by "speeding", and later we will see how this gets twisted so subtly that you don't even notice at first sight.

"Speeding" is defined as driving a motor vehicle in excess of the posted limit by 1km/h or more. This is a fact and a law. If you are caught driving 61km/h in a 60km/h zone, you are speeding and it is illegal. Following me? Ok, read on.

"But driving 61km/h in a 60km/h zone isn't necessarily dangerous," you may wonder. That's right, any competent driver knows that the maximum safe speed at which one can drive at is affected by a number of factors:

1. the road condition (dry, wet, snowy, icy etc.)
2. the vehicle's mechanical condition (drive-train, tires, brakes, steering etc.)
3. the driver's ability (fatigue, age, emotion, mind concentration, drug influence etc.)
4. the traffic condition (dense, moderate, light)
5. visibility (day, night, fog, snow storm, heavy rain etc.)

These conditions change every minute and a fixed speed limit sign is hardly useful. Collisions occur because drivers fail to heed one or more of the 5 factors above, not solely because a magic number painted on a white sign is exceeded.

Now this is the catch. When they tell you that speed kills, the term "speed" really means "too fast for conditions", which is precisely why collisions occur. But perhaps more than 98% of the "speeding" tickets are cited for "too fast for speed limit", rather than too fast for conditions. When the police say they want to target dangerous drivers (including speeders), what they really do is that they setup a speed trap on an open highway on a warm and sunny day (the least dangerous condition to go fast).

This is how the government, police and insurance industry so subtly manipulate the meaning of "speed" to get you to buy in to their propaganda.

In addition, the insurance companies intelligently use this double meaning of "speeding" to charge otherwise safe speeders extra premium while assuming no risk. They don't even bother to make the distinction between different levels of speeding. A 1km/h over ticket has absolutely the same effect as a 40km/h over ticket. If you are caught speeding 1km/h over twice in three years, you are a dangerous high risk driver and the insurance company can refuse to insure you, and can refer you to the Facility Association, which is the high risk insurance group. You may find yourself paying premium that is even larger than your car loan payments plus ownership costs.

So the government, the police and the insurance industry have made it look like "speeding" is a really bad thing. If slow is what they believe to be safe, then how can they explain the use of unmarked patrol cars? Isn't a marked police patrol car more effective than an unmarked one? When motorists see a marked patrol car, they will voluntarily slow down. Then isn't the goal already achieved? What is the purpose of using unmarked cop cars anyway? Deliberately setting the speed limit too low, and then sending a cop out in an unmarked vehicle to sneak behind motorists, is highway robbery disguised as traffic safety enforcement. When you have been given a speeding ticket, you have been robbed. The robber is the plaintiff and the victim is the accused.

Why does Ontario disallow the use of radar detectors? Ask any radar detector user in the U.S.:

"What will you do when the detector sounds an alarm?"

"SLOW DOWN."

Isn't the "safety" goal already achieved? But they don't want this to happen, because they want you to pass that speed trap at an illegal speed and therefore hit you with a ticket. It almost makes you forget that speeding limits were for safety! Repeat after me: speed limits have absolutely nothing to do with safety.

The government might be telling you that almost all accidents are due to driving in excess of the speed limits so and so, and they have statistics to prove that. This point is moot because if the speed limits are set too low then no wonder why all accidents happen at above them. Imagine if all speed limits are 1km/h, then all accidents will have to be due to driving in excess of speed limits. This tells you absolutely nothing useful because some other factors such as alcohol might be related, but they put the blame on speed instead. One can interpret statistics by correlation in anyway they wish. If I say 99% of the drivers who are involved in accidents did not wear rocket ship underpants (Calvin and Hobbes), then should the Government make a law and require all motorists to wear such underpants while driving? This is also a perfectly valid correlation, albeit a ridiculous one.

According to the same 1996 Ontario study, this correlation is not even true. Of the 384,453 vehicle collisions involving property damage, personal injury and fatality, only 25,943 were deemed to be speed related. That's a whopping 6.7%. Other major factors include following too close, failure to yield right-of-way, inattentive driving and so on. Yet, 60% of all the Highway Traffic Act convictions were for speeding! It seems like they are targeting the wrong group of people. If we leave out the equipment violations, administrative tickets such as vehicle registration and other non-moving violations, 4 out of 5 traffic tickets were speeding tickets. And they keep telling us that speeding tickets were for safety! And that they only target the "dangerous drivers who jeopardize the safety of our kids and other road users".

Now you know that those safety bureaucrats are just a bunch of liars, but they are really honest when they told you that "speed limits exist for a reason". They didn't provide you with a clear answer, but it is pretty obvious: it is a healthy source of revenue. Let's take a look at the 449,508 speeding tickets convicted in 1996. 241,831 of them were convicted for 15km/h or less over. If the average fine for those tickets was \$80, while the remaining 207,677 tickets carry an average fine of \$150, we are looking at a whopping 50 million dollars, and this does not include other traffic offences and parking tickets. Keep in mind that a speeding fine of \$150 is a very conservative estimate. When this much money is at stake here, it becomes clear why the government, police and the insurance industry all collaborate their efforts to rationalize and legalize this blatant extortion. How do they do it? The following is a few simple steps:

1. Underpost all speed limits. Bureaucrats, instead of qualified traffic engineers, take control.
2. Distort statistics and use false correlation to get you to think that speed really kills.
3. Pass enough laws to punish speeding.
4. Remove as much due process protection as is legally possible.
5. Adjust speeding fines to be just below the motorists' tolerance (above which most people will start to fight their citations aggressively where most profit is gone).
6. Catch speeding drivers in a sneaky manner, i.e. by using unmarked patrol cars, instant-on radar, hiding in bushes etc.
7. Charge convicted drivers extra premium on their insurance policies, while taking no significant extra risk.
8. When the lies of "speed kills" are starting to expose, they start to coin other terms such as "dangerous/aggressive driving", "road rage" and associate them with "speeding". Then, mix in with a bit of emotional tactics such as "it's for our kids".

Now when you have understood the truth behind "Speed Kills" and the purpose of speed limits, please don't further support this highway robbery by sending in the fine without first fighting it. When you fight your ticket you are making them work for your money. Court costs are tagged onto your fine whether you fight it or not, so there is no reason for you to just pay up. The majority of tickets are paid by mail and credit card charges without the trials actually happening. And you get to pay your own postage too when you send in your payment. So I don't know how most of the "court costs" are spent when processing a payment only takes a few minutes of a court clerk's time. This speeding ticket system is not only the most legalized crime

in the country, it is also a multi-million-dollar business. If we take the profit out by fighting every ticket, the system will automatically collapse.

## Appendix E. Other related cases

### 1. How to deal with a photo radar ticket

Although photo radar is already gone for good in Ontario, there are still many installations throughout other provinces in Canada and in the United States. Legislation were in place to serve vehicle owners photo radar tickets by mail, even though photo radar has been scrapped by the provincial government, the options are still open for municipalities. Ticket service legislations are different in different provinces and states, so check to make sure that your province/state does not allow serving moving violations by mail. If such is the case, the best strategy to deal with such a ticket is to **ignore it**. If the ticket is not served to you in person by a law enforcement officer, they can do absolutely nothing to you if you simply ignore it. You are not legally responsible to check your mailbox, nor to read all your mail. So if you just toss out the photo radar ticket in the trash, you cannot be held accountable.

In most cases, the owner of the vehicle, instead of the driver, is charged the speeding offence. The government can only demand money from the owner, but it cannot apply demerit points to the owner's driver license, nor suspend the owner's license if the fine is in default. However, it can deny the owner from renewing the license plate sticker until the fine is paid in full. By now you should be able to realize that this is legalized extortion in its worst form. In BC, the situation is a little bit better since serving moving violations to vehicle owners by mail is not allowed. So if a photo radar ticket is ignored, the government has to attempt service in person.

However, when a photo radar ticket is challenged, it is almost always dismissed because the defendant cannot face his/her accuser. Imagine the photo radar operator is being brought to court to testify and cannot run his photo radar installation for the day - major "loss" in revenue big time!

Check the laws in your province/state, ignoring a photo radar ticket could be your easiest and most hassle-free option. If they don't bother to actually patrol the highways and pull people over for dangerous driving, but instead mail vehicle owners with speeding tickets, why would you bother to send in a payment to further support this? Maybe you should simply mail a photo of a cheque to them?

### 2. Careless driving tickets

Unlike speeding offences, careless driving is not an absolute liability offence. Simply put, if the driver has taken all possible steps like any reasonable man would do to avoid it ("due diligence"), but eventually couldn't, he/she cannot be convicted of careless driving. An excuse is a valid defence to a careless driving charge. In order to convict you, the prosecution not only has to establish that the action was dangerous, it is also required to prove your negligence. The hard part is the latter.

I have received a couple of emails from people who read this page, asking how to deal with careless/reckless driving tickets. In all situations the defendants weren't doing anything particularly dangerous, only because the police officers didn't know what charges to lay, and just wrote down careless/reckless driving. This is ignorance by the police officer and should be stopped. In all cases the defendants were offered plea bargains by the prosecution voluntarily. The prosecution knew that they couldn't win. So they would like to strike a deal, make people pay up in another offence.

The bottom line is, you should always plead not guilty to a careless driving charge. Careless driving is a very serious offence, if you are convicted, it doesn't look good on your driving record. Insurance companies will immediately hit you with a big hike in premiums. If you plead not guilty, you have an option to offer and/or accept a plea bargain, or simply take it to a full trial and beat it down. Hiring an attorney is advisable. You should always testify for yourself, the prosecution will have a very hard time proving your intention of committing the offence.

### 3. LIDAR (laser) tickets

Contrary to common belief, LIDAR is not another form of radar. Strictly speaking, it is technically incorrect to refer LIDAR to as laser radar. LASER stands for Light Amplification by Stimulated Emission Radiation. Suffice it to say, laser is some kind of light with special properties. Contrary to radar, which works on the doppler shift principle, LIDAR works on the time-distance-velocity relationship. Since the speed of light is a known constant, therefore one can derive both the range and speed of the target object by using the relationship. Laser can be visible or invisible to the human eye, depending on its frequency. LIDAR does not need any FCC certificates since the FCC does not regulate that part of the spectrum.

When compared to regular radar, LIDAR has a much narrower beam angle. A well trained police officer can accurately pick out a single target from a group of cars. Even the best police officer can't do this with a regular radar gun. A LIDAR is almost always used in stationary mode since a moving patrol car will make targeting the laser beam extremely difficult. One important property of laser is that it goes through glass. Normally, a LIDAR detector is useless since when it goes off, the cop has already got a reading and it is also time to pull over. But when the cop is targeting the car ahead of you, some of the laser beam goes through the windshield of the leading car and is picked up by your LIDAR detector, then you will have time to slow down before the cop turns to target you.

LIDAR has not received judicial notice in many states, therefore when contested, expert testimony is required to demonstrate that the technology works as advertised. The court simply cannot take for granted that the theory of using laser to detect speed is valid. (Note that even if regular radar has received judicial notice, the prosecution still needs to prove every time that a radar unit is accurate, expert testimony is however no longer required.) If the prosecution do not have an expert witness, then the LIDAR evidence will be stricken and they will have nothing against you. Qualifying an expert witness is more tedious than simply calling a regular witness, so you want the prosecution to do their job properly if they want easy money (they are glad that not many people know this).

As of the date this article is updated, **Ontario does not have judicial notice for LIDAR**. When you are given a LIDAR ticket, always fight it in court. LIDAR manufacturers are reluctant to bring their experts to court to testify, because this would reveal their patented technology and company proprietary information to the public. No expert testimony means no case for the Crown, and you would be free. Why would you not go to court for a sure win?

### 4. Impaired driving charges

Also called DUI (Driving Under Influence of alcohol/drugs) or DWI (Driving While Impaired). This is a serious offence and there is no reason not to obtain the services of a lawyer. I do not promote drinking and driving. A lot of people are misled by the fact that as long as you are not over the legal BAC limit (0.08% in Ontario), you are OK. So many people tend to think, "hey, I will have just one or two beers and I won't be over the limit." But this is wrong. You CAN be charged Impaired Driving under the Criminal Code of Canada even if you are under the limit. If in the opinion of the arresting officer that you cannot safely operate a motor vehicle while under the influence, you can be charged with impaired driving. The BAC limit of 0.08% draws the line where you WILL be charged Impaired Driving under the Criminal Code no matter how sober you appear to be.

Please don't drink and drive.

### 5. Parking tickets

Normally I wouldn't advocate contesting parking tickets, since they aren't worth your time and energy involved for such a small fine. Parking violations do not stay on your driving record nor your insurance policy. If you feel that the city is ripping you off with a questionable parking ticket, the best to do is to plead guilty with an explanation, and your fine will almost always get reduced to \$10 or \$20, depending on how imaginative your excuse is. Sometimes if you face a sympathetic judge you may even get a "suspended sentence" which essentially means \$0 fine.

Of course, you can always try your luck with a not guilty plea. My estimates indicate that close to 50% of the disputed parking tickets are dismissed due to no-show of the officer. However when the officer does show up, you are in for an uphill battle because the judge and the prosecutor seem like playing in the same

team. You can't expect a judge to be impartial when the city has the incentives to raise as much money as possible from parking fines. The city by-law officers enforce the parking regulations, and the city gets to retain all the parking fines. You will be surprised at how many small towns are almost fully funded by traffic fines. In these cases you can't expect reasonable rules and fair treatment. In most cities, you can't mail in your ticket to request a trial, you have to make a trip to the city's by-law office, and fill out a form to do so. Of course when you approach the clerk, he/she will try his/her best to talk you out of going to court and ask you questions like, "well are you actually guilty? Then why don't you not waste our taxpayers' money and pay the fine instead?" You don't even have to be polite to him/her when he/she tries out these dirty tactics. Just tell him/her, "are you trying to deny my right to request a trial or what?"

I have one case which I'd love to share with you where I won big time just recently over a disputed parking ticket. To cut the long story short, the officer handed the ticket over to someone who appeared to be a passenger of mine while I drove to find another parking space. Since the law never allowed serving a parking ticket to someone other than the driver/owner, (otherwise it has to be affixed to the windshield), therefore the ticket was not properly served, and thus was invalid.

I received a "failure to pay" notice in the mail (another scam), and disputed the ticket in court. The officer showed up, and he testified what happened, as if he doesn't even know the proper service procedure. After the officer has finished, both the prosecutor and the judge still pretended the ticket was valid, even though it is pretty clearly spelled out in the law book that it wasn't. If the judge were interested in justice he would have interrupted the officer and have the charge dismissed.

Then it was my turn to cross-examine the officer. First of all I made sure that the officer was positive that he handed the ticket to someone who appeared to him as a passenger, and he agreed. Then I pulled out the Provincial Offences Act, read out aloud the part about proper service, turned my face to the judge and asked the court to dismiss the charge based on the grounds that the ticket was never properly served. I had to tell you the judge almost fell off his chair, the officer's jaws nearly dropped to the floor and the prosecutor was just plainly surprised. The courtroom was filled with a stunned silence for at least a few minutes. Meanwhile both the judge and the prosecutor pulled out their own law books, flipped the pages around, looking for a word to say. Finally silence was broken as the judge ordered a 10-minute recess so that he could go back to his officer to look for case laws. The spectators were just looking at me, amazed.

Needless to say I won the case. Seeing the dejected look on the cop's face and the judge's embarrassment was no doubt one of life's most precious moments. This stunning victory doesn't come without doing homework though. Spotting a rare technicality like this requires knowledge of the relevant laws and the process involved. I will bet the judge himself hasn't seen such technicalities ever before, and someone so dedicated to his defence. For me, I only view this as an opportunity to practise my in-court skills. Going to court just as a spectator to see how trials unfold is a very good education particularly when you have a speeding trial coming up. If you have a chance to dispute some minor parking tickets as an exercise it will be even better.

## 6. Red light camera tickets

As much as I hate photo radar, red light cameras are equally obnoxious. Please note that I do not promote running red lights. I only oppose to all kinds of automated traffic enforcement. When you are caught by a machine, then a few weeks later you receive a ticket in the mail, there is no way you can accurately recall all the details surrounding the offence. How can you prepare a full answer to the charge when you can't even remember anything that happened at an unknown time a few weeks ago? Furthermore, it is the legislation that takes away the due process to facilitate prosecution that is worst. Namely, using only a photo as the sole piece of evidence from the Crown to establish a prima facie case against the defendant is justice at its lowest. To our Ontario readers, the province has given the green light to red light cameras, and they are coming to an intersection near you. As of today, I still do not know what legislation will be in place to partner this government new toy (and another cash cow with a safety disguise). The Insurance Bureau of Canada has very quickly offered \$1 million in funding to help support this campaign. You can only conclude that this initial "investment" will pay off very soon with premium surcharges as a result of red light running convictions. If you don't already know, the Insurance Bureau of Canada is a group which represents the common interest of the insurance industry, which is to make as much profit as possible, from you, the motorist.

Red light running is a serious problem, but I highly doubt that red light cameras are the right answer. Crashes occur at intersections because drivers fail to see a red light due to too many distractions. However,

the majority of red light running is when drivers hurry through an intersection the split second after the light just turns red. Even the most senseless driver won't deliberately drive into a crowded intersection. Red light cameras (and their decoys) won't solve the distracted driver problem, which is what is killing people. The solution is to improve the design of the intersection, and to post more warning signs ahead so that drivers won't fail to heed a red light. If you oppose red light cameras, please write to your MPs and voice out your concern.

The legislation to support red light cameras will be similar to that of photo radar. Essentially, a violation ticket will be mailed to the vehicle owner, and if the owner fails to respond to the ticket, conviction will be entered in the owner's absence. The fine will be in default if it is not paid on time, and the owner will be denied renewal of the license plate stickers until the fine is paid in full. However, demerit points will not be applied and license suspension is not possible. It looks like the province is not really interested in justice. When a driver went through a red light, punish the owner. It doesn't care if it can't apply demerit points, but the fine has to be paid. Please fight your red light camera ticket and vent your disapproval with your not guilty plea.

## Appendix F. Demerit points

Note: This only applies in Ontario, Canada. The laws may be different in other provinces and in the U.S.

<ul style="list-style-type: none"> <li>• Failure to remain at scene of an accident</li> </ul>	7 points
<ul style="list-style-type: none"> <li>• Careless driving</li> <li>• Racing</li> <li>• Exceeding speed limit by 50 km/h or more</li> <li>• Failing to stop for school bus</li> </ul>	6 points
<ul style="list-style-type: none"> <li>• Driver of bus failing to stop at unprotected railway crossings</li> </ul>	5 points
<ul style="list-style-type: none"> <li>• Exceeding speed limit by 30 to 49 km/h</li> <li>• Following too closely</li> </ul>	4 points
<ul style="list-style-type: none"> <li>• Exceeding speed limit by 16 to 29 km/h</li> <li>• Driving through, around or under railway crossing barrier</li> <li>• Failing to yield right-of-way</li> <li>• Failing to obey a stop sign, traffic signal or railway crossing signal</li> <li>• Failing to obey directions of police officer</li> <li>• Drive wrong way on a divided highway</li> <li>• Failing to report an accident to a police officer</li> <li>• Improper driving where highway divided into lanes</li> <li>• Crowding driver's seat</li> <li>• Wrong way on one-way street or highway</li> <li>• Driving or operating a vehicle on a closed highway</li> <li>• Cross divided highway where no proper crossing provided</li> </ul>	3 points
<ul style="list-style-type: none"> <li>• Failing to lower headlamp beam</li> <li>• Improper opening of vehicle door</li> <li>• Prohibited turns</li> <li>• Towing of persons on toboggans, bicycles, skis, etc. prohibited</li> <li>• Failing to obey prescribed signs</li> <li>• Pedestrian crossover</li> <li>• Failing to share road</li> <li>• Improper right/left turn</li> <li>• Failing to signal</li> <li>• Unnecessary slow driving</li> <li>• Backing on a highway</li> </ul>	2 points

When you accumulate 6 demerit points on your license, you will receive a letter from the Ministry of Transportation, urging you to improve your driving habits. When you reach 9 points, you will be required to attend an interview with the ministry. If in the interview you cannot offer a reason why your license shouldn't be suspended, your license will be suspended. When you reach 12 points, your license will be suspended.

## Appendix G. Insurance risk points

Note: This only applies in Ontario, Canada. The laws may be different in other provinces and in the U.S.

At-fault accident (last 5 years)	2 points where four or more years of driving experience, 4 points with less experience
Criminal code or similar conviction (last 3 years)	4 points
Major conviction (last 3 years) examples: failing to report an accident, speeding in a school zone	2 points where four or more years of driving experience, 4 points with less experience
Minor conviction (last 3 years) examples: seat belt infraction, speeding, illegal turn, fail to yield	1 point where four or more years of driving experience, 2 points with less experience
No evidence of coverage under an automobile insurance policy for at least 12 months out of the last 24	4 points (no typo!)
Automobile insurance fraud (no time limit)	4 points
Material Misrepresentation (including failure to disclose on application form) (last 3 years)	4 points
Cancellation of a policy for non-payment of premium (last 3 years)	1 point

Note: Insurance risk points are not the same as driver license demerit points. Only if your driving record or insurance experience generates four or more insurance risk points can an automobile insurer refuse to insure you. Facility Association may be your only option if your record generates four or more insurance risk points. You cannot be referred to the FA unless your driving record generates four or more insurance risk points.

## Appendix H. Excerpts of relevant laws

### HIGHWAY TRAFFIC ACT

#### Definitions

- "driver" means a person who drives a vehicle on a highway;
- "driver's licence" means a licence issued under section 32 to drive a motor vehicle on a highway;
- "highway", includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- "intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other;
- "median strip" means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement;
- "motor vehicle" includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in this Act, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of this Act;
- "roadway" means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively;
- "trailer" means a vehicle that is at any time drawn upon a highway by a motor vehicle, except an implement of husbandry, a mobile home, another motor vehicle or any device or apparatus not designed to transport persons or property, temporarily drawn, propelled or moved upon such highway, and except a side car attached to a motorcycle, and shall be considered a separate vehicle and not part of the motor vehicle by which it is drawn;
- "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or street car;

### PART IX

#### RATE OF SPEED

- 128.** (1) No person shall drive a motor vehicle at a rate of speed greater than,
- (a) kilometres per hour,
    - (i) on a highway not within a city, town, village, police village or built-up area, or
    - (ii) on a highway designated by the Lieutenant Governor in Council as a controlled-access highway under the *Public Transportation and Highway Improvement Act*, whether or not such a highway is within a city, town, village, police village or built-up area;
  - (b) subject to clause (a), 50 kilometres per hour on a highway within a city, town, village, police village or built-up area;
  - (c) the rate of speed prescribed for motor vehicles on a highway in accordance with subsection (2), (4), (5), (6) or (7); or
  - (d) the maximum rate of speed posted in a construction zone designed under subsection (8).
- (2) The council of a municipality and the trustees of a police village may, for motor vehicles driven on a highway or portion of a highway under its jurisdiction, by by-law prescribe a rate of speed different from the rate set out in subsection (1).
- (3) The rate of speed prescribed under subsection (2) shall be 40, 50, 60, 70, 80, 90 or 100 kilometres per hour.
- (4) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles driven in any public park or exhibition ground than is prescribed in subsection (1), but the lower rate of speed shall not be less than 20 kilometres per hour.
- (5) The council of a municipality and the trustees of a police village may by by-law,
- (a) designate a portion of a highway under its jurisdiction that adjoins the entrance to or exit from a school and that is within 150 metres along the highway in either direction beyond the limits of the land used for the purposes of the school; and

- (b) prescribes a rate a speed of 40 kilometres per hour for motor vehicles driven on the portion of a highway so designated on days on which school is regularly held and prescribe the time or times between the hours of 8:00 a.m. and 5:00 p.m. at which the speed limit is effective.
- (6) The council of a municipality and the trustees of a police village may by by-law prescribe a lower rate of speed for motor vehicles passing over a bridge on a highway under its jurisdiction than is prescribed in subsection (1) or in a by-law passed under subsection (2), but the lower rate of speed shall not be less than 10 kilometres per hour and signs indicating the maximum rate of speed shall be posted in a conspicuous place at each approach to the bridge.
- (7) The Minister may make regulations prescribing a rate of speed for,
  - (a) motor vehicles driven on a highway or portion of a highway within a provincial park;
  - (b) any class or classes of motor vehicles driven on the King's Highway or portion of the King's Highway whether or not the King's Highway is within a city, town, village or police village, and the rate of speed may be different for any period or periods of the day or night or direction of travel; and
  - (c) motor vehicles driven on a highway or portion of a highway in territory without municipal organization.
- (8) An official of the Ministry authorized by the Minister in writing may designate any part of the King's Highway as a construction zone, and every construction zone shall be so marked by signs in accordance with the regulations.
- (9) A designation under subsection (8) is not a regulation within the meaning of the *Regulations Act*.
- (10) Signs posting the maximum rate of speed at which motor vehicles may be driven in a construction zone may be erected in accordance with the regulations by an official of the Ministry.
- (11) No by-law passed under subsection (2), (5) or (6) or regulation made under clause (7) (c) becomes effective until the highway or portion thereof affected by the by-law or regulation, as the case may be, is signed in accordance with this Act and the regulations.
- (12) Where a by-law or regulation passed under this section becomes effective, the rates of speed prescribed in subsection (1) do not apply to the highway or portion of the highway affected by the by-law or regulation.
- (13) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to,
  - (a) a fire department vehicle as defined in section 61 while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call;
  - (b) a motor vehicle while used by a person in the lawful performance of his or her duties as a police officer; or
  - (c) an ambulance as defined in section 61 while responding to an emergency call or being used to transport a patient or injured person in an emergency situation.
- (14) Every person who contravenes this section or any by-law or regulation made under this section is guilty of an offence and on conviction is liable, where the rate of speed at which the motor vehicle was driven,
  - (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$3 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
  - (b) is 20 kilometres per hour or more but less than 35 kilometres per hour over the maximum speed limit, to a fine of \$4.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;
  - (c) is 35 kilometres per hour or more but less than 50 kilometres per hour over the maximum speed limit, to a fine of \$7 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and
  - (d) is 50 kilometres per hour or more over the maximum speed limit, to a fine of \$9.75 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit.
- (15) Subject to subsection 207 (7), where a court or judge has convicted a person for a contravention of this section and has determined that the person convicted was driving at a rate of speed of 50 or more kilometres per hour greater than the maximum speed limit, the court may suspend the driver's licence of the person for a period of not more than thirty days.
- (16) In this section, "motor vehicle" includes street car.

#### **CARELESS DRIVING**

**130.** Every person is guilty of the offence of driving carelessly who drives a vehicle or street car on a highway without due care and attention or without reasonable consideration for other persons using the

highway and on conviction is liable to a fine of not less than \$200 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both, and in addition his or her licence or permit may be suspended for a period of not more than two years.

**REGULATION 615**  
**SPEED LIMIT SIGNS**

1. A speed limit sign,
  - (a) shall be not less than 60 centimetres in width and 75 centimetres in height;
  - (b) shall bear the word "maximum" in black letters not less than 10 centimetres in height on a white retro-reflective background;
  - (c) shall display in black numerals not less than 30 centimetres in height on a white retro-reflective background the prescribed maximum rate of speed; and
  - (d) may display a tab sign not less than 20 centimetres in height and not less than 60 centimetres in width immediately below the speed limit sign and the tab sign shall bear the legend "km/h" in white retro-reflective letters not less than 10 centimetres in height on a black background,or a speed limit sign shall,
  - (e) be not less than 60 centimetres in width and 90 centimetres in height;
  - (f) bear the word "maximum" in black letters not less than 10 centimetres in height on a white retro-reflective background;
  - (g) display in black numerals not less than 30 centimetres in height on a white retro-reflective background the prescribed maximum rate of speed; and
  - (h) bear the legend "km/h" in white retro-reflective letters not less than 7.5 centimetres in height on a black background.
2. (1) Subject to section 4, where a maximum rate of speed other than that prescribed by subsection 128 (1) of the Act is prescribed for a highway in a city, town, village, police village or built-up area, speed limit signs shall be erected on the highway, in each direction of travel,
  - (a) not more than 600 metres apart where the speed limit prescribed is 60 kilometres per hour or less; and
  - (b) not more than 900 metres apart where the speed limit prescribed is greater than 60 kilometres per hour and not more than 70 kilometres per hour.(2) Where the maximum rate of speed for a highway in a built-up area more than 1,500 metres in length is that prescribed by subsection 128 (1) of the Act, speed limit signs shall be erected on the highway not more than 900 metres apart.
- (3) Where the maximum rate of speed for a highway in a built-up area 1,500 metres or less in length is that prescribed by subsection 128 (1) of the Act, speed limit signs shall be erected on the highway not more than 300 metres apart.
3. The commencement of the part of a highway for which a maximum rate of speed is prescribed shall be indicated by a speed limit sign accompanied immediately below by a sign bearing the word "begins" in white retro-reflective letters not less than 12.5 centimetres in height on a black background.
4. A speed limit sign shall be erected on the right side of the highway, facing approaching traffic, not more than 4.5 metres from the roadway, and the bottom edge of the sign shall be not less than 1.5 metres or more than 2.5 metres above the level of the roadway.

**REGULATION 615**  
**GENERAL**

44. The dimensions of a sign may be greater than the dimensions prescribed and illustrated in this Regulation so long as each dimension is increased and, when increased, has the same relation to the other dimensions of the sign as the dimensions prescribed and illustrated in the Regulation have to each other.
45. A sign prescribed by this Regulation shall be so placed as to be visible at all times for a distance of at least 60 metres to the traffic approaching the sign.
46. No person, other than a municipal corporation or other authority having jurisdiction over a highway, shall erect or maintain a sign prescribed by the Act and regulations.

47. Where the characteristics of a highway make it impracticable to place a sign or pavement markings as specified in this Regulation, the sign or pavement markings shall be placed so as to comply as nearly as practicable with those requirements.

48. No speed limit sign bearing the words "speed limit" is valid.

**PROVINCIAL OFFENCES ACT**  
**Interpretation**

1. (1) In this Act,

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) "prescribed" means prescribed by the rules of the provincial offences courts;
- (h) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an information and includes counsel or agent acting on behalf of either of them;
- (i) "provincial offences officer" means a police officer or a person designated under subsection 2;
- (j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

## Final words

I urge everybody who is reading this document, to fight any speeding tickets you get. Only when we unite we can make this highway robbery system collapse. An overwhelmingly large amount of speeding tickets are being written every year, every month, every day. The government is counting on you to pay up as fast as possible to maximize the cash flow. If the court only has to handle 50 more cases per day - we don't even have to win every one of them - the system is going to be so held up that the province will start to think about the feasibility of writing speeding tickets at all.

This page is written for those who insist on driving at a comfortable, safe, efficient, but illegal speed, and was caught doing so. I am not here to promote driving the public roads at warp speed. If you think I am a kid with a sports car, who disregards all traffic laws, and could not get into enough accidents, you are dead wrong. I am an educated professional, and I don't even like driving fast. I only have a 4-door sedan with a measly 150hp 4-cylinder engine moving nearly 3200lbs of steel. It can't even go very fast. In all my driving years I have never had a single accident, not even a fender-bender, not even a scratch. I am responsible behind the wheel and I break speed limits for the sake of safety and efficiency. If you love to drive excessively fast, please take your car to a race track. If you are late for work, please wake up FIVE minutes earlier the next morning. Irresponsible drivers should face a stiffer penalty than just a monetary fine.

The purpose of this page is nothing unethical. Any person who is charged with an offence - be it a speeding offence or murder - even if he/she really did it - should deserve the best possible defense before a conviction can be entered. Pleading not guilty to an offence which the person really did commit is not lying. He/she is simply exercising his/her constitutional rights. Unfortunately, too many motorists don't know their rights, and are often told that a responsible person should just pay up. But the truth is, responsible people don't fear dealing with the consequences of their own actions, such as going to court to fight a ticket. After you have read this page, please help to spread the message.

FYST needs your support to keep this document circulated and updated. If this document saved you money, please consider donating some to the **FYST foundation**. I am happy to accept any amount that you kindly give, and all will be used to pay for expenses such as website space, connection time, and for research into more ticket fighting opportunities. All information on this site will continue to be provided absolutely free, and any new ticket fighting strategies will be added as soon as possible for everyone's benefit.

Please send donation to the following address, either in US or Canadian funds, cheques payable to **FYST Foundation**:

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