

# SAFETY FOCUS

Published by The National Campaign to Stop Red Light Running



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## D.C. Lauds Police Officers, Camera Program

In an April 26 ceremony to recognize outstanding efforts to save lives, the Washington, D.C. police force honored three of its own officers who work with one of the city's most successful traffic safety programs.

Lt. Patrick Burke, Cmdr. Kevin Keegan and Cmdr. Christopher LoJacono were awarded the Metropolitan Police Department's Lifesaving Award for their efforts in red light and photo radar enforcement in Washington, D.C. The Lifesaving medal is presented to officers or civilians who, through their actions or techniques, save or sustain human life.

The award was presented in front of a crowd of traffic safety experts and fellow law enforcement officers from around the nation at the ACS State and Local Solutions 2002 Photo Enforcement Client Conference in Santa Monica, California.

"This is one of the first times the Lifesaving Award has been presented for prevention," said D.C.'s Executive Assistant Chief Terrance Gainer. "We know the red light and photo radar programs have saved lives, and we want to recognize the officers who have contributed to that effort."

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### The Cameras are Watching— and it's a good thing...Part 2

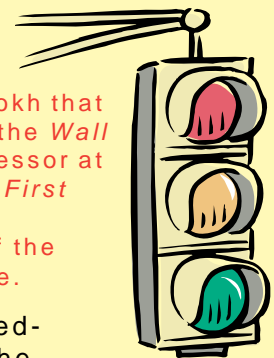
Last month we ran a article by Eugene Volokh that appeared in the March 26, 2002, issue of the *Wall Street Journal*. This month, Volokh, a professor at the UCLA School of Law and author of *The First Amendment*, Foundation Press, 2001, has provided us with his responses to some of the questions he received after the WSJ article.

**Q:** Wouldn't it be better to solve the red-light-running problem by lengthening the yellow lights?

**A:** I agree in principle that one should look carefully at the law being enforced, and inquire whether it really is the sort of law that we'd like to enforce better — or whether there's a possible solution that doesn't involve more enforcement.

But in practice, I don't think this objection really applies here. In nearly 20 years of driving in Los Angeles (though

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## The Cameras Are Watching...Part 2 (continued from page 1)

I realize the situation might be different in some other cities), I don't recall any cases where the yellow was so short that I didn't have enough time to stop before the light turned red.

Rather, my experience is that people who enter the intersection right after the light turned red (like me, sometimes) do so because they saw the light was yellow, and chose to accelerate when they could have safely slowed down instead. So if you lengthen the yellow, people would just compensate: When they see, even from a distance, that the light has just turned yellow, they'll know that they have a few extra seconds; and so they'll try, as they do now, to zoom through the intersection before the light turns red. My sense is that there'll be about as much red-light-running as before. Certainly there'll be plenty of red-light-running, enough to cause quite a few accidents.

**Q:** "It is my understanding that in a court, one has the right to be confronted by one's accuser. I've assumed this is why a police officer issuing me a ticket must appear in court to identify me as the accused when I choose to dispute the ticket. If this is so, then I am at a loss to explain how a camera can act as an accuser. Do we just assume it is a failsafe device and that we can disregard constitutional requirements, or does the provision about being confronted by one's accuser only apply in certain kinds of cases? While I quite agree with you that it does avoid the unpleasantness of being stopped, I am troubled by the deeper potential issue."

**A:** The Sixth Amendment secures a criminal defendant the right to "be confronted with the *witnesses* against him." That means the government can't just bring in an affidavit from someone saying "I saw Volokh kill Doe" — it has to bring in the witness so that my lawyer can cross-examine him, and ask, for instance, where he was when he supposedly saw this, why he thought it was me, whether he might have misremembered, and so on.

But *physical evidence* is admissible even though it itself can't speak, or be cross-examined. If the bullet came from my gun, the bullet can be introduced as evidence. If I left my driver's license at the scene, the license can be introduced as evidence. If a private person videotaped my shooting Doe, the videotape can be introduced as evidence.

Precisely because these aren't "witnesses" but are rather physical evidence, the Sixth Amendment doesn't directly apply to their admissibility. Of course, real people who are asked to explain why the bullet matches up to my gun, or where and how the videotape was taken, or when and how the street-corner cameras were properly calibrated, must indeed appear in court, where I can cross-examine them.

**Q [Self-Incrimination Clause]:** "[Could] the state meet its burden without someone to testify against you, since under the Fifth Amendment you cannot be required to testify against yourself? I guess since the camera took a picture of you and it was recognizable, the state could bring in the people who operate the cameras, but they have no live witness who could testify that he saw you driving. Also, if those cameras are, as I suspect, on automatic pilot, there is a question as to who could be qualified to testify."

Likewise, others have asked questions more or less like the following: Doesn't this whole process violate the presumption of innocence, since once the photo is introduced, you'd have to prove that the driver wasn't you or that the camera was miscalibrated?

**A:** If I'm a criminal defendant, then I am indeed presumed innocent, and I have no legal obligation to testify. But this presumption simply means that the government bears the burden of *introducing enough evidence* that the factfinder (the judge or the jury) can conclude, beyond a reasonable doubt, that I'm guilty.

So if I'm accused of murder, I'm presumed innocent. But once the government puts on, say, an eyewitness who swears that he saw me do the deed, the jury then has enough evidence from which it may convict me (if it believes the eyewitness).

At that point, if I want to avoid conviction, I have to put on some evidence that casts doubt on the witness's story — perhaps that he's blind, or that I saw where he was standing and he couldn't have seen the events clearly from there, or that he is biased against me, or that I was elsewhere at the time. I might even want to testify, if I think my testimony will help cast doubt on the government's case.

The burden of proof technically remains on the government. But since the government has put on enough evidence from which a reasonable factfinder could convict me, I naturally have to do some work to undermine that evidence, if I want to be acquitted.

Likewise with the cameras. The photograph, coupled with evidence that the camera is properly calibrated (i.e., takes the picture when the light turns red, and not 2 seconds before), is pretty powerful evidence that I'm indeed guilty. If I want to be acquitted, I'd have to introduce some evidence that undermines the government's evidence (e.g., the person in the driver's seat is actually a friend of mine to whom I lent the car).

But that's just the normal way that all trials work: Once the government introduces enough damning evidence against me, I do as a practical matter end up having to try to clear myself. That's inevitable, and not unconstitutional.

*(continued on page 5)*

News summaries from across the nation  
**Red light running toll continues**

**Drunken Driving Charge Filed After 2 Die in Brooklyn Crash**

April 22, 2002 *The New York Times*

Paul Chan, 51, and Pedro Bernard, 64, were killed on Linden Boulevard in Brooklyn about 4 a.m. on April 21 when a red light runner crashed into their car.

The two friends were on their way home from work at the Kennedy International Airport when Donnell Daniels, 24, sped through a red light on Nostrand Avenue, crashed into their car and then struck a third car. Mr. Chan and Mr. Bernard were pronounced dead on the scene. No one in the third car was injured. Donnell Daniels was taken to Kings County Hospital Center in critical condition and charged with drunken driving. Mr. Bernard who was to become a U.S. citizen on May 4 is survived by a wife and four children. Mr. Chan is survived by a wife and 11-year-old son.

**High Speed Chase Ends in Arrest**

April 12, 2002 *The San Diego Union-Tribune*

A male driver was chased by police in Pacific Beach after making an illegal turn and running a red light. When a patrol officer attempted to stop him, the driver took off and ran at least six red lights at speeds of up to 75 mph in the neighborhood streets of Pacific Beach. The speeding red light runner clipped another car but no one was injured. Police eventually backed off and let a police helicopter monitor the car. The suspect was apprehended after abandoning his car near a gas station and running behind an adjacent office building.

**Girl, 3, Killed in Crash After Car Runs Red Light**

April 9, 2002 *New York Daily News*

Jalisah John, 3, of Brooklyn was killed while riding to day care with her parents when another driver sped up to make a light, running the red, and slammed into their car. The impact sent the John family's car into a traffic pole crunching the rear half of the vehicle where the three-year-old was sitting.

The driver of the other car, Segundo Quintana, 55, of Brooklyn was uninjured and his two-year old passenger was treated for minor injuries. Quintana has been charged with reckless manslaughter, reckless endangerment and reckless driving.

**Fatal Car Crash Under Investigation by Police**

April 9, 2002 *Pittsburgh Tribune-Review*

Investigators say that someone clearly ran a red light in a fatal accident involving a groundskeeper at PNC Park in Pittsburgh. Paul R. Scott, 43, and Joseph Lang, 41, were on their way to the stadium to prepare for the Pirates' home opener when an SUV driven by Rose Dao, 37, broadsided their car. Paul Scott died at the scene of the crash and Joseph Lang was hospitalized in critical condition. Dao and her passenger were released from local hospitals following treatment.

Police said Dao may have been drinking and her blood and urine test results will be sent to the district attorney who will then decide whether or not to file charges.

*(continued on page 4)*

## Legislative Update

**New York** Assembly Bill A02785 awaits passage in the Transportation Committee. The bill would extend the use of traffic-control signal violation-monitoring systems to Nassau County.

**Pennsylvania** House Bill 1572 would allow municipalities in Pennsylvania to use red light cameras. The bill establishes owner liability, rear-vehicle photography only and a \$100 fine unless municipalities choose to set lower fines. The bill is expected to be heard in the House Committee on Transportation in mid-May.

**Washington** state HB 1118 and SB 5610 to authorize red light camera use statewide did not pass. The legislature adjourned before HB 1118 was voted on and SB 5610 died in the Senate Rules file.

**Florida's** SB 1234 and HB 21, which would allow counties to enact ordinances permitting use of automated enforcement, were both withdrawn from consideration this year by their sponsors.

House Bill 1400 in **Colorado** passed amended out of the Senate Committee on Public Policy and Planning and is headed to Conference Committee. The bill requires a sign announcing the use of photo radar speed enforcement technology no less than 300 feet before the area where radar enforcement will be used. The bill also limits photo radar to use on roads in school zones, neighborhoods and streets bordering parks.

*The legislative update portion of the newsletter is a synopsis of recent bills pertaining to automated enforcement. For a more comprehensive list, please see Advocates for Highway and Auto Safety's webpage at [www.saferoads.org](http://www.saferoads.org).*

## **Red light running toll** *(continued from page 3)*

### **Cameras Now Ready to Catch Light Runners**

April 11, 2002 *The Fresno Bee*

A 30 day warning period is over and red light cameras at two north Fresno, California intersections will begin issuing citations April 12, 2002. The cameras will operate 24 hours a day, seven days a week and violators will be fined \$270. The cameras were originally slated to begin operation last July, but technical problems with the camera systems Fresno's vendor, Nestor Traffic Systems, Inc., stalled the program. Cameras are to be installed at a third major intersection by August 31, 2002.

The Insurance Institute for Highway Safety reported that Fresno led California in the number of deaths from red light running in 2000.

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### **Crash Kills Girl, 6, After Easter Party– Alcohol Believed Involved in Early Morning Wreck**

April 2, 2002 *Milwaukee Journal Sentinel*

Six-year-old Santana Sneed was killed after a car driven by her aunt in which she was a passenger ran a red light and struck two cars. Santana and three young relatives were in the backseat of a car on their way home from an Easter celebration. No one else involved in the crash was seriously hurt. It is believed that the girl's injury was caused by her seatbelt. After the crash, the girl's aunt was in police custody, and investigators said that alcohol was probably a contributing factor in the crash.

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## **Research Update**

The Insurance Institute for Highway Safety released new findings reinforcing that red light cameras reduce crashes and speed cameras can significantly reduce the number of drivers exceeding the speed limit. The study re-analyzes Oxnard study data and finds a 20% reduction in all crashes involving signal or sign violations and a 46% reduction in injury crashes. The study also compares speeding decline from seven locations in Washington DC with speed enforcement cameras to eight locations in Baltimore, MD without speed cameras and found that speeding decreased between 38% and 89% in Washington, DC and stayed the same or increased slightly in Baltimore. These findings are available in the IIHS Status Report, Vol. 37, No. 5, May 4, 2002 online at [www.iihs.org](http://www.iihs.org). We will have more on the findings in our next issue.

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## **Recent events**

Leslie Blakey, Campaign Coordinator, presented on the National Campaign to Stop Red Light Running at the 12th Annual Midwest Traffic Engineering and Parking Seminar in Peoria, Illinois. The conference was held April 3-4 and was attended by a collection of traffic engineers and parking specialists from the midwest region. The conference covered topics ranging from red light camera enforcement to parking deck maintenance. For more information on the conference, please contact Lee Ann Kriegshauser, Bradley University at 309-677-2377 or [leeann@bradley.edu](mailto:leeann@bradley.edu).

## **New member joins the National Campaign to Stop Red Light Running team**

We are proud to announce that **Brandy Anderson** is joining the staff of the National Campaign to Stop Red Light Running this month.

As an employee of Blakey and Agnew, she will help lead the firm's traffic safety efforts on the issues of red light running and drunk driving. Brandy was the Director of Public Policy for MADD National.

Her work at Mothers Against Drunk Driving will be a huge asset to the Campaign in helping us develop and support grassroots programs nationwide to support the anti-red light running cause.

Please join us in welcoming Brandy! She can be reached at 202-828-9100.

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## **WE WANT TO HEAR FROM YOU!**

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We'd love to hear your comments or story ideas, and we'd be happy to provide more information on the Campaign. We can be reached at 202-828-9100 or [bplevelich@blakeyassociates.com](mailto:bplevelich@blakeyassociates.com). Or visit us on the web at [www.stoppedlightrunning.com](http://www.stoppedlightrunning.com).

## The Cameras Are Watching...Part 2 *(continued from page 3)*

**Q [Underenforcement as a Good Thing]:** Is perfect law enforcement really good? Would we want to have every one going 36 in a 35 mph zone be busted?

**A:** Sometimes, perfect law enforcement is a lot better than the current highly imperfect law enforcement. The red-light-running laws are a good example. Other laws, it's true, are set up in particular ways precisely because people expect that they'll be underenforced. Speeding laws are one example: "We need a limit of 35, because then people will drive 45; if we raise it to 45, then people will drive 55," a common argument goes.

But I think that broader and more evenhanded enforcement will generally (not always, but usually) lead to improvements in the law. If lots of citizens get pulled over for speeding, and the limit also ends up making everyone else drive too slowly, City Hall will react.

Yes, the bureaucrats do like getting the money from the traffic fines, but their bosses like to get re-elected. When enforcement is widely spread, and not focused on just a few people, the political reaction is likely to be quite strong.

**Q [Right to Put on a Defense]:** "Isn't a real problem with the red light cameras that they effectively deprive the individual of an opportunity to put on a defense, since by the time you get the ticket in the mail you probably have no way of remembering the event — which you would have a very clear memory of if an officer had pulled you over?"

**A:** When I got ticketed, I knew that I'd probably been caught, because I saw the camera flashing as it took the photo. But say this wasn't so (and it might not be so for future cameras, or even for some cameras today); and say that you therefore don't remember exactly what happened by the time you get and fight the ticket.

Even given this, I strongly suspect that the fact-finding process at trial would be *more* accurate, even given your lack of recollection, than it would have been with a traditional traffic stop. People are notoriously bad at observing and remembering exactly what happened. Just how fast were you driving? Exactly where were you the moment when the light turned red? Few motorists can know this with any accuracy even a minute or two after the fact; and even police officers are probably not very good at this sort of thing.

So the question isn't "Is the camera perfectly reliable?," but "Which is more reliable: the camera, with no observation by the police and little recollection by the motorist, or the observation and memory of the police officer and the motorist, without the camera?" I think the answer will generally be the camera — assuming, of course, that it's properly calibrated, but it's easier to verify the camera's calibration than the police officer's observational acuity.

Nor is this one of the rare situations where Constitution — or justice — forbids a certain trial process even when it's more accurate than the alternatives. You do have the constitutional right to put on your defense; but there's no constitutional right to be sued or prosecuted only for those things that you remember. If the government has sufficient reliable evidence that you violated the traffic law, it can properly punish you even if you can't recall all the details

## D.C. Lauds Police Officers, Camera Program *(continued from page 1)*

Since August 1999, when red light cameras were first installed in Washington, D.C., red light running violations have decreased 63 percent at the 39 intersections where they are located. That means 24,000 fewer red light running violations every month.

In testimony presented to the D.C. City Council on Oct. 22, 2001, Metropolitan Police Chief Charles H. Ramsey described the impact of the program at the New York Avenue and 4<sup>th</sup> Street intersection, the site of one of the first two red light cameras installed in the District. "In August 1999, that camera caught nearly 7,600 motorists running the red light at that location," Ramsey said. "Last month, the number of violations was fewer than 1,600 — a reduction of 79 percent."

The drop in deaths due to red light running is equally impressive. In 1998, 16 percent of the traffic fatalities in the District were attributed to red light running. Last year—the first full year of red light enforcement—the number was just 2 percent.

"Our philosophy is that we want to modify people's behavior," said Commander Chris LoJacono, who oversees the red light camera program along with Lt. Patrick Burke. "We want people to know cameras are out there and to start thinking about their actions. Even if you don't get a ticket, just hearing about it and hearing other people talking about it around the water cooler has a psychological affect. Instead of seeing a yellow light and pressing the gas, you start putting on the brakes."