

THE SPOTLIGHT

MURRIETA POLICE DEPARTMENT

LET'S GO TO TRAFFIC COURT

PART TWO OF THREE

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Last month we covered part one of this three part series on Traffic Court. If you missed the first part you can view it on the City of Murrieta's website @ www.murrieta.org. Make sure you visit the City of Murrieta's website for other info too. It has been revamped and really looks great with lots of new information and links.

As we closed last month, we were discussing the situation where traffic school was not an option for you, and we were going to go to court. Back at the traffic stop it is imperative that you do not sink your pending traffic case with what you say. Exercise our constitutional right to not incriminate yourself. Many times in the conversation with the officer, a driver will blurt something out that will be hard to defend in court. For example, a driver may have been stopped for speeding. The officer states the motorist was going 60 mph in a 40 mph zone. The driver is shocked and does not believe the speed was that high. The driver is courteous to the officer and signs his ticket. The officer explains what to expect as far as a courtesy notice and court, and then asks the driver if he has any questions. The driver states, "Officer, are you sure your radar is calibrated? I mean, I thought I was just going with the flow of traffic. I might have been going 50 mph, but definitely not 60 mph." This driver's court case has all but been lost right at the traffic stop. The driver implies he was not paying attention to his speed and just moving with the flow of traffic, and outright admits the violation of speeding by saying he was going 50 mph in a 40 mph zone.

This is just one example of self incrimination. The officer of course will make notes as to what the driver said for court purposes. Also, many officers tape record their entire stops for court with a digital tape recorder mounted on their duty belt. Officers also frequently tape their contacts with citizens to, unfortunately, defend themselves against false accusations of misconduct. All the comments made by the driver are admissible in court and carry considerable weight as to the mindset and totality of the situation on the day of the traffic stop. So be careful what you say if you plan to go to court.

Time to prepare for court. There are a lot of books out there on how to fight traffic tickets. Some are even specific on the type of ticket such as speeding. It might be worth your while to spend twenty bucks to learn the procedures of the court, and what type of documents you might want to subpoena from the officer depending on the type of ticket.

Is a lawyer worth it for traffic court? I would say unless you are facing a license suspension or some very serious consequences if found guilty, probably not. My experience in Los Angeles County when I worked for LAPD, and currently Riverside County, is that the success rate of those who win their case with a lawyer is not any higher than those who win without. A lawyer usually helps a driver get organized and take some of the stress out of the court appearance by doing all the testifying, but if the officer wrote a sound ticket and testifies to it correctly, there is not a whole lot a lawyer can do to help a driver.

When thinking about court and your defense try to remember a few things.

First, go to <http://www.leginfo.ca.gov/calaw.html> website, click on Vehicle Code, and in the search window enter the specific section you were cited for on the day you got your ticket. Get educated as to what the law says about your particular violation.

Secondly, realize that in California, violating the vehicle code and committing an infraction does not require any specific intent from the driver. For example, if you are driving down road approaching an intersection on a red light. You are in the lane closest to the curb. You come to a complete stop, then make your right turn and an officer pulls you over. He says he stopped you for violating signage that prohibits a right on a red. You tell him you never saw any signs and had no intention of breaking the law. If that is your defense in court for that ticket, you will lose, because no intent is required for an infraction in California. The fact that you were driving the car and made the turn, are the facts the officer is required to prove. If the signs were posted in clear view, and you missed them, the ticket will hold up in court.

Next month we will wrap this series up in the court room.

As always, I look forward to hearing from you with your ideas for improving this column, your questions, and your suggestions for future articles in The Insider. I receive many calls and e-mails every month and appreciate the feedback. Please feel free to contact me at 951-461-6302 or e-mail at jfroboese@murrieta.org.