

THE SPOTLIGHT

MURRIETA POLICE DEPARTMENT

LET'S GO TO TRAFFIC COURT

PART THREE OF THREE

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Last month we covered part two of this three part series on Traffic Court. If you missed the first two parts you can view them on the City of Murrieta's website at www.murrieta.org.

Your trial court day has arrived. You went to your arraignment and plead not guilty; you did your research and got all your documents in order. You're wearing your best business attire, and you are sitting in court with your officer present. The judge walks in and goes over the order of trial. Listen carefully to these instructions.

The officer has the burden of proof in the case. The officer will testify first. He should start by laying the foundation that qualified him to be out there working enforcement as a police officer. The officer will go over his training; his equipment used the calibration of that equipment, engineering surveys, and relevance if required. The officer will then lay out the case as to where he first saw you, and what occurred to justify stopping and detaining you at the roadside, and ultimately writing a citation. Let the officer completely finish before you start your testimony.

When it is your turn, you will cross examine the officer and ask any questions you may have regarding his/her testimony. Make notes on a steno if you need too during his testimony. Have any questions you thought about before hand written out so you do not forget to ask them. Then present your case in a logical and sequential order or events.

If you brought photos or diagrams, first show them to the officer, and then present them to the bailiff in an effort to have them entered into evidence. Photos should be from the day of the violation or as close as possible, and from your perspective. Do not fudge perspective. It does not look good if the judge suspects you are stretching things with your photos.

Diagrams are great. Make sure you have copies of photos and diagrams for the officer and judge if you are going to testify while referring to them.

Written notes you made to yourself at the stop are just as relevant and admissible as the written notes the officer makes to himself at the stop. They are great for refreshing your recollection of the facts. You did not think we really are able to remember everything from each and every stop??? Heck no, we use notes to help us recall the traffic stop.

If you subpoenaed any material such as engineering surveys, the officers training records, or equipment calibration records, and find an anomaly in those records, or need them explained to you, now is the time to bring this up. If things are not in order you might be able to win on a technicality. This does not happen often, as it is our job as a professional to make sure these records are in order and all equipment we use is maintained and properly calibrated.

The officer will then be given a chance to clarify anything from his testimony, answer your questions, and then you will be given the last word.

This is where things can go sideways for you. The last word, as the judge will instruct, is for you to present anything **new or relevant**. New and relevant are the key words here. If you do not have anything new or relevant to the case, then rest your case. Many defendants at this point slip into what I'll call the "Soccer Mom Syndrome." This syndrome occurs when the driver has made all the relevant points regarding the case. They might have even done a great job and possibly opened the door ever so slightly in the judge's mind as to reasonable doubt. Then, the defendant short circuits and forgets what the judge said about keeping testimony relevant. The defendant feels the need to bolster the case by trying to enter a litany of personal attributes, that in their mind, makes them a great human being, therefore, an innocent party, or at least more likable to the judge. These things can be quite comical at times, but really tests a judge's patience, especially after specific instructions were given to keep testimony relevant. Remember, unlike the motor officer that cited you, the judge is human, and has a very amount of limited time to hear all the cases before him. Your non relevant issues take time away from other cases.

I'd like to share a few with you that I've heard over the years. I've heard folks go over their service to their community in the scouts, youth sports, and church. People say things like, I donate money to the police fund, whatever that is?? I'm a member of this or that. I'm a professional and would never commit an infraction. I'm a Christian. I have not had a ticket in 30 years, I just got 5 tickets last year and have learned my lesson, so this ticket is no good, my car is too old to go that fast, my car is new and still being broken in so I could not have been going that fast. I consider myself a law abiding citizen and would not do what the officer is saying I did. I know several judges who are very good friends. I'm a veteran. I know the Chief of Police in this city. I'm a doctor. I'm a lady or gentleman and always follow the law. I used to race cars and am highly experienced and safe at these speeds, and on and on. All of these things are not relevant to your case and wastes the courts time. This upsets the judge and does not help your case. Try to stick to the facts of the case.

The judge will make his ruling and that will be it. You have a right to an appeal, and the clerk outside the courtroom will explain that procedure if you wish to go that way. If you win, maintain your composure. No high fives in the courtroom. If you lose, also maintain your composure and leave the court room quietly. I've seen the bailiff ordered on more than one occasion to go retrieve a defendant that walked out, slammed the door,

or had some choice words to say about our judicial system. Those defendants found themselves taken into custody for a bus ride over to county jail for contempt or court.

Nest month we'll go over several short subjects I've been meaning to get to, as well as look at some of the new laws that went into effect on January 1, 2006.

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.