

CALIFORNIA LEGISLATURE

SENATE COMMITTEE ON PRIVACY

Informational Hearing:

Red Lights and Traffic Cameras

August 28, 2001

Sacramento, California

SENATOR STEVE PEACE, CHAIR



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SENATOR STEVE PEACE, CHAIR: _____ have other obligations, if they could drop by for purposes of establishing a quorum as soon as possible, that would be appreciated.

_____ call the meeting to order and we'll begin as a subcommittee. Before asking the first witness to come forward, I'm going to depart from normal procedure a bit to read into the record a court decision. It's a relatively brief statement, but it's incredibly important. And the reason for its importance, it is a rare circumstance in which the judge, who happened to sit in this case, Jan Goldsmith, was a member of the Legislature at the time that the legislation authorizing the pilot programs, and then the lifting of the sunset to the pilot programs, were approved. And the reason why I believe it is so important to get this -- to read it into the record is, because I really want people to listen to what Judge Goldsmith has to say. It is -- after almost 20 years in this business, I've got to tell you that it is more often the case than not, that legislators pass laws and they end up being implemented in manners inconsistent with what -- to some degree or another -- with what the thought and intention was.

Now I have somewhat of a personal interest in this issue because, in this case, cities throughout the state of California are not only

breaking the law, they're breaking a provision of the law I wrote. And as you might imagine, I take that kind of personally.

I also believe that cities are going to find themselves under extraordinary financial -- are going to pay an extraordinary financial price for having broken the law because, as a consequence of entering into contracts which are illegal, what we might otherwise see as claims against the private contractors, I suspect will ultimately be turned against the taxpayers in those individual cities because it was the cities with the legal advice of their city attorneys who entered into the contractual relationships with the contractors. They weren't coerced into the contracts. They simply entered into contracts that had private parties providing services that the law expressly prohibits.

Judge Goldsmith, in his decision, very accurately outlines the legislative history that led up to the statute the cities now operate under, and routinely violate.

"The trial of this matter was held on July 26th in Department 21, defendant appearing through his attorney, John T. Burke. Officer Byron Hibshman appeared as a witness for the prosecution. The Court finds the defendant not guilty for the reasons discussed herein.

This is a so-called red light camera case in which the prosecution is based upon a photograph and other documentation allegedly showing that defendant failed to stop for a red light in violation of Vehicle Code Section 21453(c). The evidence presented by the prosecution consisted of documents produced by Lockheed Martin in response to a subpoena, as well as the testimony of the officer.

Defendant admits that he is depicted in the photograph but denies he violates the Section. Defense counsel argues that the prosecutor has not met its burden of proof.

Counsel introduced evidence by way of testimony of the officer that Lockheed Martin is under contract with the City of San Diego to maintain and monitor red light cameras and accompanying devices; that Lockheed Martin's compensation is based upon the number of successfully prosecuted cases; that Lockheed Martin's personnel have improperly altered a number of the systems without informing the City of San Diego, or law enforcement; and that the City of San Diego has discontinued use of red light cameras at all intersections pending an independent evaluation of reliability.

Counsel argues that the only evidence provided in this case comes from Lockheed Martin employees by way of an affidavit and accompanying documents, and that their credibility is so in doubt and the information so lacking in trustworthiness, that reasonable doubt is raised in the mind of the trier of fact. The Court agrees.

This is a criminal case. As such, the burden is on the prosecution to prove defendant's guilt beyond a reasonable doubt. No lack of testimony on a defendant's part will supply a failure of proof by the People on any essential element of the crime."

So we established at the outset of this case, that Judge Goldsmith went to law school and knows the difference between a criminal complaint and a civil complaint, which, unfortunately, seems to be something that our city attorneys, and, tragically, police departments throughout this state, have forgotten the difference of, and which I find more than reprehensible, I find it scary.

"There is nothing contained in the law authorizing automated enforcement systems which change due process rights, the rules of evidence or the burden of proof. In fact, the legislation was very careful

to authorize use of the systems under conditions which provide due notice, confidentiality to drivers, and reliability of the systems.

As someone who has had some experience with people mischaracterizing legislation, let me read that paragraph from once legislator, now judge, again.

“In fact, the legislation was very careful to authorize use of the systems under conditions which provide due notice, confidentiality to drivers, and reliability of the systems.”

“To ensure reliability, the Legislature required that only a governmental agency and law enforcement agency may operate the system. This requirement had its roots in the original use of the automated systems at railroad crossings. The first systems were installed in Los Angeles, where a two-year pilot was conducted by Los Angeles Metropolitan Transit Authority, beginning in 1992.”

Now it's important, everyone wants to skip past the history, and I understand in the modern political environment we no longer do the past, we only do the last six months. The only good thing about that is, it means once you get past the six months, the prior six months don't matter. But in this case, if you don't go back to 1992, and understand what the evolution of the Legislature's work product is, you can't possibly understand what the intent of the Legislature was, a legislature that was very suspect of the intrusion of the private sector into getting access to documents previously accessed only by law enforcement personnel, as well as very concerned about infringing upon the evidentiary standards associated with the right of an accused to confront their accuser. And unlike law enforcement in this state, and unlike the city attorneys throughout this state, the Legislature took that very seriously.

"In 1994, Senate Bill 1802 was introduced which extended the authority to all railroad crossings."

So by '94, two years later, we take the pilot program at railroad crossings, extend it to all railroad crossings.

"The legislative analysis in 1994, pointed at the Los Angeles County Sheriff's deputies have been integrally involved in the automated enforcement demonstration program, including the loading/unloading of film.

Now, this may seem trivial but it played, as the judge will point out later in his analysis, it played a critical role in the Legislature's subsequent willingness to extend the use of the cameras to the red light - - to the intersections. Because, the entire debate and discussion was premised on the notion that the equipment would continue to be exclusively handled by law enforcement personnel.

"The legislative staff analysis was in SB 1802 (5/12/94) -- SB 1802 was enacted in 1994, and required, among other things, that a law enforcement agency operate the system. The current law resulted from an extension of the SB 1802 authority to red light enforcement.

"The City of San Diego -- and I might add. This is not the judge's words, and cities throughout California -- has chosen to contract with Lockheed Martin for operation of the system rather than use law enforcement or a public agency. Lockheed Martin employees, and not law enforcement officers, load/unload the cameras and monitor the systems. Lockheed Martin employees are, therefore, the only witnesses who can attest to the reliability of the system. In this case, as in many others, the employees do not appear at trial.

In prosecuting these cases, the prosecution relies upon affidavits submitted pursuant to Evidence Code Section 1561. That provision

allows for production of business records accompanied by an affidavit of the custodian of the records. Under Section 1561, the affidavit and records are admissible into evidence if the requirements of Evidence Code Section 1271 are met.

Evidence Code 1271 allows for the introduction of business records where certain foundation facts are established and where the sources of information and method and time of preparation were such as to indicate its trustworthiness.”

Now, before I go further into the judge’s analysis of what he ultimately concludes as the lack of trustworthiness of the evidence, let me remind some of you who may have been at the last hearing, early on in this process of a few months ago when representatives from Lockheed Martin testified in this committee on the public record that their technology “was infallible.” Not my words, their words. Only a few weeks later, you saw the headlines in which we learned that not only was their technology not infallible, but that a number of intersections in San Diego were regularly producing wrong results, which, incidentally, didn’t even include the intersection which my staff sat and monitored, at the intersection which is responsible for what percentage?

UNIDENTIFIED: It looks like 50 percent.

SENATOR PEACE: For half of the tickets in San Diego come from one intersection, and my staff sat, documented car after car after car, having a light go off when the car did not violate the red light. Not one of the intersections which Lockheed Martin and the city later admitted to being having the loops improperly deployed.

Now the reason why that testimony with respect to infallibility is so critical is, I think, underscored by the judge’s analysis of why, from a legal perspective, the right of the accused to confront their accuser and

the evidence presented against them is critical as a matter of principle and as a matter of law.

“The source of information was Lockheed Martin through its custodian of the records.” It doesn’t matter what the individuals names are.

“This custodian’s affidavit encloses information provided by Mark Soto, a field technician. Both witnesses are employed by Lockheed Martin. It is their connection with Lockheed Martin which raises questions concerning trustworthiness.”

Now, the judge isn’t suggesting here that these two people are, like, untrustworthy people. He is making a point of principle with respect to the inherent economic conflict of interest that the private sector employees have in the outcome, which fundamentally undermines their ability to be the witnesses, or be the accuser. It’s the same reason why we do not, in our society, allow our police officers to be paid by the ticket. In Mexico, they call it mordida, and we don’t allow that in our society. And yet, our entire red light camera system is based on the fundamental underlying system of mordida. It is payoff, for profit, the people who are running the system.

“We regularly instruct jurors that they are the sole judges of the believability of a witness and the weight to be given the testimony of each witness. In determining the believability of a witness, jurors may consider, among other things, the existence of a bias, interest, or other motive.

The fact that these witnesses are employed by a company which is compensated based upon the outcome of this case, indicates to this Court, a bias and interest in the outcome of the case. The American

legal system bans the practice of conditioning payment of fees to witnesses upon the outcome of a case.

He cites the cases.

“A fee may be paid to an expert in advance of the services or guaranteed in the future. The fee, however, must be computed without regard to the success of the trial. The Model Rules of Professional Conduct bar lawyers from acquiescing in such payment.

California courts have long maintained the rule that witnesses may not be compensated contingent upon outcome.” Again, he cites the case.

“The court explained in Baker that such agreements provide too great a temptation to practice deceit and to commit the too common crime of perjury, to obstruct and impair the administration of justice.”

Now, let me add, one of the things to this, one of the things Judge Goldsmith did not look at, which upon being made aware of it thereafter, no doubt would horrify him, is that the Lockheed Martin contract, like virtually every contract in this state, contains a provision, including the contracts here in Sacramento, contains a provision that allows the vendor, at the vendor's initiation, to remove the cameras if the volume of red light violations falls off.

Now, let's think through that a moment. We deploy a dozen cameras in a city that has hundreds of intersections. We get an allegedly good result -- and we'll later on be discussing and debating whether we're even getting a good result -- but we allegedly get a good result in the sense that we're catching red light runners. What does the contract say the private vendor may do? They may -- and by a good result I mean, in theory, you don't just want to catch a lot of people. If our purpose here is to get fewer people running red lights, right? People get conditioned to the fact that there is a light there, presumably their

behavior changes. And indeed, that's precisely what the Oxnard, incredibly embarrassingly flawed work product -- but even amongst the either corrupt or competent people who cite the Oxford Study, they even claim that the alleged findings in the Oxnard Study associated with altering behavior. Now, if we're to accept the tortured conclusion out of the Oxnard Study, which is the only study that these economically motivated people have, if we're to accept those results, we then have to look at their contract and say, "Okay, how do did they react to what they contend is the value of the technology?"

They react by saying, "We have to protect our economic interests because if we do affect behavior, and as a consequence of affecting behavior we have fewer tickets issued, we're not going to make money, are we? So, we're going to move the cameras." That's what the contracts allow, and at the unilateral action of the companies.

"In *Pelkey vs. Hodge*, the court found the compensation agreement to be illegal even though it was entered into after the witness' testimony. After the jury began deliberation the plaintiff promised to compensate the witness if the jury found in their favor. The Court was concerned that the witness may later testify in a new trial in which the event the temptation to perjury against which the rule is directed would exist.

Each of the foregoing cases involved civil disputes. Application of the rules is even more compelling in a criminal case. California courts have not only banned contingent fees for witnesses, but have banned contingent fees for prosecutors in criminal cases because of a duty of the government to be impartial.

In *People vs. Clancy*, the California Supreme Court explained the policy behind the rule that contingent fee contracts for criminal

prosecutors have been recognized to be unethical and potentially unconstitutional.

In the case at hand, the officer testified that Lockheed Martin is under contract with the City of San Diego on a contingency basis, whereby the more tickets that are written and paid the more money Lockheed Martin is paid. The only factual witnesses for the prosecution were Lockheed Martin employees, a company which gets paid more money if the ticket is successfully prosecuted.

Significantly, there is no evidence that they are insulated from corporate pressure to achieve successful prosecution. Nor is there any evidence that Lockheed Martin has implemented any policies to ensure their ability to act impartially.

I might add, you recall the testimony to the contrary, the Lockheed Martin official in this hearing was that that their technology was, what? Infallible.

“The contingency nature of Lockheed Martin’s contracts alone raises sufficient doubt in the Court’s mind as to the credibility of these witnesses so as to support a defense verdict. It impairs the credibility of the witnesses and violates the spirit of the Legislature’s efforts to ensure reliability of the systems.”

“Further doubt is raised by additional facts elicited by defense counsel.”

“First, the evidence in this case shows that Lockheed Martin tampered with the automated enforcement systems at several intersections.

“Second, subsequent to discovery of Lockheed Martin’s actions in moving the loops, the City of San Diego shut down all automated signal devices.”

“The fact that Lockheed Martin employees tampered with automated systems in the past without disclosing their conduct, and the fact the City of San Diego feels it is necessary to discontinue enforcement pending an independent review, leads this Court to further question the trustworthiness of the evidence presented by Lockheed Martin.”

Now, the most important thing about Judge Goldsmith’s work product is the first half. Because unlike most of these cases, where, frankly, the judges don’t go back far enough to understand what the legislative intent is. Eventually, a smart lawyer is going to figure out the gold mine in going after every city that has these cameras.

Now, let me give you a little more legislative history.

The company that originally pursued the approval of this legislation in this Legislature, was a San Diego company. It was the predecessor to Lockheed Martin. It was started by a young man who I know very well and have a lot of respect for. He happens to be the son of one of the founders of _____ . And the first person that Mr. Virturby(?), then the head of the company, came to to carry the legislation authorizing these cameras was me. And I respectfully declined to carry the bill. It was not something I thought was -- that I wanted to lend my name to.

Eventually he went to Senator Kopp and Senator Kopp introduced the bill, and you’ve already heard the legislative history that Judge Goldsmith made reverence to. In the process however, this question of law enforcement level of participation was raised, and it was raised quite overtly. And if you look at the statute you will see, even though there has already, in the prior legislation, the obligation of law enforcement as Judge Goldsmith has pointed out in his case, there was already the obligation of law enforcement to do all the handling and all the checking of the work product. You will note that in the subsequent legislation

there is express language reiterating, emphasizing, the requirement that the police actually do the work. I wrote that language. I know what it meant. I know what counsel told me it meant. I know what the analyst for the committee told me it meant. It meant, the cops do all the work. The specific intent of that language was to prevent exactly the contractual relationship which cities all of this state have entered into. They are illegal. They have always been illegal.

Now, California also adopted a different kind of system than the other states adopted. I think every other state in the Union that allows red light cameras use single camera systems that take a picture of the license plate. We have dual camera systems; more complex; more expensive, but they actually take a picture of the person. The interest in doing that in theory or discussion was, California legislators, and I guess the purveyors of whatever, didn't like the idea that the ticket going out would merely -- if you didn't get the picture of the person you could only send out a parking type ticket. In other words, it wouldn't be the criminal violation and it wouldn't be a moving violation.

Behind the scenes there was a tremendous amount of lobbying by the insurance industry pushing for utilizing this technology over the single camera technology. Now, why would the insurance industry push so hard to do that? Can anyone venture a guess? Points.

There was another special interest that lobbied heavily for the use of the two camera system. It was the traffic school industry. Can we all say traffic school? And can we all guess why the traffic school industry lobbied so heavily for a dual camera system? Because most people go to traffic school so that they don't get points. They don't want points because when they get points they're insurance bill goes up. So understand, the real legislative history behind the scenes of why there is

a two-camera system, it has nothing to do with safety, it has to do with the insurance industry wanting to find another mechanism to drive points on people's driving records so they can raise their insurance rates. It has to do with the traffic school industry wanting to drive points so that they can get more people in their bull traffic schools, usually over the internet, and so, they can make more money.

Had there been any sincerity of purpose with the respect of safety, the California work product would have, as other states did, simply required that the camera take the picture of a single plate. There are even the proponents, who lie about the Oxnard Study, even they do not contend that California has enjoyed any higher level alleged safety value as a consequence of the two-camera system.

So, let's dispose of any of the garbage about defending either the conduct of the cities, their legal advice, the, what I know will be no doubt the effort to try and brand anybody who criticizes the deployment of technology as insensitive to the horrible consequences of accidents. This is total absolute fabrication designed to cover up what is a gigantic rip off. And, more important than the money, far more important than the money, a fundamental compromise of two principles that we seem to be willing to trade anytime somebody strikes an emotional cord to try and make us be in fear. The first being, the fundamental legal rights with respect to how we deal with citizens charged with a crime. The first underlying principle that this entire program trades away, and we might say, well this is red light, this isn't a murder case, but if you start trading away, as Judge Goldsmith very accurately understands, you start trading away those rights at this level, eventually they erode down the line.

And then what's the second right that we're _____ trade away and that's our right of privacy. There is absolutely no case made for why we need to have cameras all around intersections taking pictures of people.

Again, if the issue is safety, you can take pictures of license plates.

Now, let me get to the final element of it. The last time we met probably the most entertaining moment was when Senator Bowen joined us and informed us that she too had had the same experience that I had had; that being, as a senator driving a automobile in San Diego registered to the Rules Committee, I had my picture taken at the infamous intersection at Grape and Harbor. I ran that light not once, but twice. Had my picture taken both times. I never got a ticket.

Senator Bowen joined us in our last hearing informed us that she similarly had her picture taken here in Sacramento, yet never got a ticket.

Now, I had an interesting conversation on the airplane Monday morning, I happened to have the pleasure of being joined by Assemblywoman Charlene Zettel. Charlene had just come from that prior weekend from a community meeting in Poway, the fine city of Poway, also the proud owner of contracts with Lockheed Martin, and she informed me, "You know, it's interesting. I got my picture taken in one of those intersections too." And she was telling me about how her husband had gotten a picture taken down at Grape and da, da, da and had _____ and you know, it's almost one of those things where I didn't think about it, just almost as the conversation was almost ended we were about off to something else, I said to her, "Incidentally Charlene, did you ever get a ticket?"

She goes, "You know, I didn't."

“Charlene, what car were you driving?”

“Well, I was driving my state car.”

Shock. That ought to tell you all you need to know. To my knowledge, and we can check the record, no Senate Rules Committee registered vehicle has ever been cited by a red light camera.

Now, either senators are setting an incredibly admirable standard for driving, or the people running these cameras are corrupt. And that includes the cops who cooperate with them.

I want to make it really clear, because the people that ought to be at the front line attacking these systems, are the police officers who we entrust with access to our personal data, with the credibility of our legal system. And I think what troubles me the most is the example set in San Diego, where repeatedly the chief of police has continued to defend these cameras and this program, stating for the public record that the city allegedly has no financial gain in running the program, when, in fact, as a consequence of information that I have been the beneficiary of from accountants inside the chief's own department, the city has done \$3 million a year --

(tape turned over)

an “independant” on the program. Not to mention the fact that -- how many cameras did they have?

UNIDENTIFIED: San Diego had 19.

SENATOR PEACE: Had 19 cameras. And how many officers?

UNIDENTIFIED: _____

SENATOR PEACE: Now, let's walk through this one for a moment. The City of San Diego has 19 cameras they had deployed. They had nine officers processing the paperwork, already pre-processed by Lockheed Martin to make sure no senators got tickets, and then, sitting on their

a [redacted] all day long, were nine uniformed, fully qualified, post certified police officers in the city in the United States that has the third highest payroll for a police officer in the country.

Now, 19 intersections, nine police officers, let me do the math. If I had deployed those officers in just -- they didn't need a car. They could have stood at the da [redacted] intersections -- four hours at one. Four hours at another. They could have covered all 19 intersections with those nine officers. And I would bet you that you'd have a significantly better result with respect to -- respect for the red light in terms of violations.

Second, you'd have a reliable witness, someone who would meet Judge Goldsmith's standard of not being corrupt. And let me tell you folks, I'm saying it on purpose because it is. It's corruption. And we've minced around with words too much in this whole issue. We've become casual about it. It may not be somebody getting up in the morning and saying, "You know, I think I'm going to go out and rip people off and be corrupt." It's not corruption necessarily for personal gain in the sense of the city and the police officer sense. It's worse than that. It's an intellectual laziness, and an indifference to the most fundamental rights this country is based upon, that is creeping into our society like a plague, and the only word for it is corruption.

Now, with that introduction, I'd like to ask Arthur Tait, who is an attorney for the Red Light Legal Defense Team, to come forward. And let me first ask you to make a brief statement, and I encourage you to be briefer than I was, because I want to provide an opportunity for everybody else to move up here.

MR. ARTHUR TAIT: Sure Senator. It sounds like, Senator, you have a better understanding of the issues than I do. My name is Arthur Tait, and I'm a defense attorney from San Diego. I, along with my

partner, Colleen Cusack, represent close to 450 criminal defendants who are charged under the Red Light Camera Program in San Diego and throughout California. Most of our clients are from the San Diego program.

Essentially to defend our clients, my partner and I decided to form the organization known as the Red Light Camera Defense Team, which is comprised of more than 20 volunteers, including experts from various fields in physics, electrical engineering, mechanical engineering, constitutional law experts, in order to help give our clients, our traffic court clients, the best possible defense. Together we've spent more than \$70,000 and hundreds, maybe thousands of hours of our time over the last year, to give our clients the defense that every single one of them, we believe, is entitled to.

Our litigation efforts at this point, have culminated in a recent pre-trial victory in which Judge Ron Sten, Ronald Sten, in San Diego, issued a preliminary ruling that the Red Light Camera Program in San Diego has violated state law, because, the city has allowed a private company to operate virtually every single aspect of the program, as the Senator recognized earlier. And Judge Sten also ruled that the evidence produced by these devices is so untrustworthy and unreliable, that it is not admissible in a court of law.

SENATOR PEACE: A similar finding to Judge Goldsmith's finding?

MR. TAIT: Yes, Sir.

SENATOR PEACE: Let me ask you a question. Have you looked at the contracts in other cities throughout the state?

MR. TAIT: I have reviewed portions of contracts throughout California and other parts of the country, and the main area that I was focusing my attention on were the relationship between the city and the

private company and how they wanted to structure the yellow light timing issue and any contingent fees that might have existed. It looks like most of the contracts, as the Senator recognized, do require this sort of contingent fee relationship.

SENATOR PEACE: Did you find -- generally, looking at the judge's decision which appears to be similar to Judge Goldsmith's decision, would it be your opinion that there is some material difference in either the technology, or the nature of the contracts in San Diego, that make San Diego fundamentally different than the relationships or the programs run in other parts of the state?

MR. TAIT: No. The program is virtually identical to other Lockheed Martin programs throughout California, and really throughout the country. Some technological differences do exist. Some programs use radar. Some use electromagnetic loops. Some use video. But, fundamentally, they're all technologically the same, and the contractual relationship, I don't see any real distinction based on that.

SENATOR PEACE: Did you, in the process of reviewing the contracts either in San Diego or otherwise, seek the documents out of the city attorney's office and whatnot associated with the legal opinions offered by the city attorney at the time in which the contracts were entered into?

MR. TAIT: Yes, we did conduct a pretty extensive discovery battle for that information, and we were able to obtain some of the information that we believe to exist about the city's interpretation of the contract. Is that what you're referring to?

SENATOR PEACE: Uhm...hmmm.

MR. TAIT: Yes.

SENATOR PEACE: And in the legal analysis that you have been able to find, or get to, or have turned over to you, did you find anything of interest with respect to the city -- the work product in terms of the level of due diligence that was engaged in by the city attorneys in reviewing the legality of the contract? Was there any kind of research that you've been able to find into the legislative record, and the statute, and the history of the statute, to ascertain what the intention of the statute was?

MR. TAIT: I don't recall actually seeing anything from the city attorney's office in San Diego, that really delved heavily into what the Legislature really intended with regard to governmental operation. I believe that the city, and I'm vaguely recalling this, that the city attorney's position was that as long as our agent, the city attorney's agent being the private company, is working with law enforcement in some capacity, then we're covered under the law. And clearly, that's not what the law intended, as the Senator has indicated earlier.

SENATOR PEACE: Okay. Is there anything else you want to add?

MR. TAIT: Yes. I'd appreciate it if I could just briefly cover several points -- several problems with the program that we've witnessed. And I understand that the Senator maybe inclined to have this type of program moved into a more civil penalty system, or at least, that's my understanding of your previous statement. And I believe that that would be a serious mistake, to allow this type of a program to go into a level of the judiciary that has even lesser standards. And based on what I've seen in San Diego and throughout the rest of California, even in the criminal system, the defendants who are trying to defend themselves are up against such tremendous hurdles: due process, the inability to confront their accuser, that if you took away those protections, which are

still so minimally observed by the courts, and push this into a civil realm like a parking ticket, their rights would just be trampled on much more, I believe.

SENATOR PEACE: Well, let's look at what your choices are. If you have the choice of keeping the system in place as it is, now I understand your position as a lawyer, you want to win the litigation. You beat back. It's illegal. All the cameras go away. All right? I'm with you, all right? But if I said to you, that choice is gone and your choice is this system as is currently deployed, or a system that merely takes a picture of the license plate and you have the equivalent of a parking fine at stake, and all of the provisions of the original bill, which require that the cameras actually be operated by police officers, not by private contractors. And those were your two choices, what world would you rather live in? Not what world would you rather litigate in? What world would you rather live in? I'm not really interested in that question in your view as an attorney, but as your view as a citizen who has to live in that world, and those are the only two universes that are offered to you.

MR. TAIT: Senator, based on what I've observed in my experience trying to fight my own parking tickets, I believe that I would rather live in the criminal justice world, and not that civil world.

SENATOR PEACE: And I couldn't disagree more. I'd rather run the risk of over bigger odds in dealing with a fight over my license plate, than fight over my picture. I'd rather deal with the lower odds in a fight over access to just the registration data in the DMV computer banks, rather than allowing these private companies to have access to my drivers license which includes, all the personal information necessary to steal my identity and destroy my life. I think you let the attorney get the better of you in your analysis.

MR. TAIT: May I briefly run through several other of my concerns based on what I've witnessed? I believe that using this technology against citizens extremely poor judgment, because it's impossible for an innocent person who is accused by one of these devices, and innocent people will continue to be accused, it's impossible for that innocent person to defend themselves either realm, criminal or civil. At least not without spending thousands of dollars and thousands of hours to really put up the defense that's necessary to attack the accusations made by these computers.

The most important thing that I hope comes out of these hearings is that the law is changed so that, for sure, government agencies monitor these programs. That there is serious police and government supervision, preferably a requirement that there is an independent, regular independent, audit that goes on to make sure that the programs are working accurately and fairly.

The three malfunctioning intersections, that the Senator mentioned, in San Diego, I think, are just the tip of the iceberg about what has been going on down there behind the scenes. The fact that Lockheed Martin may have gone in and moved some loops around without telling anyone is a problem, but not as big a problem in my mind is the fact that you have untrained technicians inputting the data into these computers without anyone checking to see what they're really putting in. Some kind of lock on the box would be nice to make sure that the data that was in there stays in there and it's not --

SENATOR PEACE: Well there's also no objective standards that -- engineering standards that those boxes have to meet in the first place.

MR. TAIT: That's right.

SENATOR PEACE: It's basically the proverbial black box.

MR. TAIT: True. Senator, I have a three inch manual of calibration requirements for a hunting knife using the same military standard that Lockheed Martin imposes on almost all of its other subcontractors. When Lockheed Martin purchases this equipment from Gatsometer(?) overseas, we have not found anything, and I don't believe there is anything, similar that exists. No standards. No quality control requirements. They buy it. They plug it in. They play. They make money. And I think that's how these programs are operated throughout the country, and that's a serious danger. We need to get some quality control. We need to get requirements. And not only a government agency that is monitoring what's going on, but there are standards that these companies need to comply with, ISO or mil standards.

Traffic engineering, the Senator is aware of the problems with traffic engineering and how it affects, and I'd like to defer to my expert, Dr. John Beck, on that issue. But, at a very minimum, traffic engineering must come up to speed before the Legislature can come in and use this type of law enforcement against the citizens to make money. Because I see it --

SENATOR PEACE: But one of the appropriate provisions, and we will discuss more about this one -- Dr. Beck is with us -- if again, we're making the leap, and understand this whole conversation is -- if it were up to me, there wouldn't be any of these cameras, okay? That goes without saying. But, if we're to deploy these cameras, then we make the conclusion that we're stuck with them, one of the suggestions you'd make is that we do not allow a camera to be deployed at an intersection that is engineered at a substandard level.

MR. TAIT: Yes.

SENATOR PEACE: On the theory that you're taking away the incentive to properly engineer the intersection if you allow cameras to be deployed at poorly engineered intersections.

MR. TAIT: That's absolutely right.

SENATOR PEACE: Okay.

MR. TAIT: A huge problem for defendants, access to records. We fought for months, spent days in hearings calling witness after witness just to find out what types of records are out there. It's important that criminal defendants have the opportunity and the access to every aspect of this technology, and how it's used, and the inner workings of these devices, and how they were installed. That access needs to be available easily, and as part of the citation as to how they can go about obtaining that information if they want to. The judiciary needs to remain independent. We've learned in San Diego that the commissioners and judges pro Tem have had private ex parte meetings with members of the private company, Lockheed Martin, to educate them as to how infallible this technology is. None of those meetings are ever disclosed to criminal defendants. Those meetings need, at least, be disclosed.

SENATOR PEACE: I'm just curious, have you ever checked the public records to see if any judges or city councilmembers or legislators or any public officials have ever gotten any of these tickets?

MR. TAIT: No, we haven't done that check.

SENATOR PEACE: I'm glad to see the judiciary and their local government officials are meeting the same high standard as established by the senators in their driving habits.

MR. TAIT: You know, I find it interesting that one of the commissioners that I had spoken with actually pulled out his wallet in a discussion with me and said, "You know, here's a really good system. It's

called Nestor." I don't know how he got this business card in his wallet where they were having lunch, but he said, "You should really think about having a video camera system." And I just find that it's improper for these commissioners to be having these meetings with these agents and representatives from the private companies, at least, not without disclosing it to the defendants.

SENATOR PEACE: Yeah. I mean, I don't know that I agree because I don't know enough about the meetings and such, but I think you ought to be careful about distinguishing between an effort of a member of the judiciary to attempt to understand what they're ruling on. And clearly, I think the judiciary has done some of the best work in San Diego in terms of -- _____ two cases here that, despite all the hurdles that you had to get through, I think _____ seen through and done a good job. So, I'm not ready to leap to the conclusion that those meetings represent some sort of smoking gun. I just find it -- it's important only to emphasize the issue with respect to -- I'm more concerned about the fact that the initial vetting of the film or the tape, whatever, occurs by a private contractor. And the fact that that review, at a period of time when the appropriateness and the technology has been the subject of public debate and discussion and controversy, there appears to have been a careful effort on the part of the contractors to make sure that legislators and others who would make policy decisions about this, don't get tickets. That's the point. Sometimes you can broaden your brush some way so that you lose focus on what the really valuable point is. And, it's part of their lobbying effort. You don't want to have a bunch of the decision makers to be enraged by the, you know, unfairness of this system as it affects them, or even the fairness of the system. I'm reluctant to leap to the conclusion that you suggest that the mere fact

that these parties are meeting is indicative of -- in fact, I'm glad that the decision makers are learning more about the technology. Because, quite frankly, I think the more they learn about the technology, the more skeptical they're going to be. One of the reasons why -- and we'll hear later from the folks advocating videotape technology -- look, my other life, that's my business. And one of the reasons why this scares the hell out of me is that I know with modern technology, I can put you on tape with my indisputable, infallible technology anywhere I want to put you, anytime I want to put you there. Right now, as a consequence of you appearing here, I get your image one time, I get a piece of your voice, I don't even need you to say what I want you to say later. Say pretty much any two random sentences, and I can put you, your voice, your image anyplace I want it to be, and that's the state of technology. And there is no way, I mean, I had an experience with a friend many, many years ago who was accused in being involved -- done some kind of conspiracy where this nut case guy had tape recorded him and it got into the newspaper, these tapes. Well, it turned out the guy had spliced together a whole bunch of conversations to manufacture a conversation that never occurred. And in those days, the audio experts, and I think in this case the guy wasn't very good at it even. You and I could sit here and just listen to it and it was hilarious. I mean, the background would change and it was pretty obvious what the guy had done. But he had made it look like this other guy had conspired to burn down a house for insurance. Well, we were able to unravel that because, a) he did such a sloppy job and the state of technology at that time was such that experts could detect the fact that the thing had been spliced together. With digital technology that's no longer possible. I can not only put you where I want you to be, I can do it with this infallible, indisputable technology

and no technological expert in the world can prove that I pieced it together.

MR. TAIT: That's a very scary thought.

SENATOR PEACE: It's unbelievably scary. And the people who ought to be at the front line of making sure it's not deployed, are the police officers. And what I'm so frustrated at is, that the people who testified against this legislation initially, were the police officer, and they've disappeared in this debate. And I believe that they've disappeared because they've been bullied by the economic interests of their city, and they've been bullied by the not wanting to be associated with being indifferent to the tragedies associated with accidents. And no human being, none of us, want to be in that position, to be pointed at and told that, "Well, we just don't care about the carnage that occurs as a result of people who have broken the law when they run a red light." And they use that emotional, irrational, inaccurate attack to be the unintended vanguard to pimp for a budding industry whose fundamental role in society is to destroy our privacy. It is scary. And when we do it, and we destroy our identity along with it, and you get these things -- you get enough of this technology deployed around and whatnot, and people, whether they're in the private sector, the public sector, whatnot, and the ability to manipulate, particularly when these guys go digital, you think you've got legal hurdles, it won't matter how low the legal hurdles are because you'll never be able to compete with the technology. And it won't just be running red lights, it'll be people put into positions to get prosecuted for murders and rapes and burglaries and all manner of other kinds of criminal prosecutions in which the people aren't even remotely associated with. It will be situations where businesses are in business conflict with each other, and one businessman will go out and

manufacture a work product, put his competitor over in a situation that compromises his integrity. This is a scary, scary world we're heading into.

MR. TAIT: It really is. I agree then that the key is that we keep the oversight in the hands of the government and law enforcement. Charging discretion must remain then, with law enforcement. And I certainly didn't mean to disparage any of the judiciary, but from what I've seen in the traffic court realm, people aren't being listened to, and we suspect it's because the commissioners, until recently, have been told that this technology is infallible.

And the only other thing I'd like to add, Senator, is that the notice requirements that are in Vehicle Code Section 21455.5, I don't believe are being complied with. If this type of technology is ever going to have any kind of deterrent effect, it needs to be properly signed. And CalTrans has a pretty good sized standard. San Diego doesn't follow the standards. But, I think a requirement that signs be placed in advance of intersections and follow CalTrans would do a lot for noticing the problem, or the upcoming hazard.

Thank you, Senator.

SENATOR PEACE: Thank you. Stick around, we may need your assistance. Michelle Fields. Ms. Fields, before we go into the question, I want to make sure that I understand who you're representing here today. We had requested a representative of Lockheed Martin, and you were identified by Lockheed Martin as the person who would be representing their interests.

MS. MICHELLE FIELDS: That's not true. Or, at least, that's not my intent. Let me explain, I'm with the Insurance --

SENATOR PEACE: _____ and Lockheed Martin said this would be their representative. Okay. I just -- look it, Lockheed Martin says you're representing their interests, and I've certainly seen nothing in your written work product alleged to be unbiased to disagree with that perception, and so, we're going to take Lockheed Martin at their word and if you don't want to --

MS. FIELDS: Then I don't want to testify.

SENATOR PEACE: That's fine. That's your choice.

MS. FIELDS: Because I do not represent Lockheed Martin. You have no interest. I mean, I've flown on very short notice all the way here, and I take it that, you know -- I understood that I was being --

SENATOR PEACE: Well, let me ask the question. We invited Lockheed Martin to have somebody here to testify. We did not call the Insurance Institute; we called Lockheed Martin. How did you find out? Did anybody from my staff call you?

MS. FIELDS: No.

SENATOR PEACE: Okay. Did anybody from the Senate call you?

MS. FIELDS: No.

SENATOR PEACE: Did anybody from a government agency call you?

MS. FIELDS: No.

SENATOR PEACE: How did you find out about the hearing?

MS. FIELDS: I got a call from the former head of NHTSA, National Highway Traffic Safety Administration, and she said there was a hearing, and that --

SENATOR PEACE: Okay. Let me ask a question -- did we call the head of NHTSA?

MS. FIELDS: No, not the current head, the former head.

SENATOR PEACE: Did we call the former head of NHTSA?

MS. FIELDS: Well, I got a call from the former head.

SENATOR PEACE: And how is the former head of NHTSA currently employed? What's that person's --

MS. FIELDS: I believe she is in public relations.

SENATOR PEACE: Oh. And who does she work for?

MS. FIELDS: I believe that she has an agreement with Lockheed Martin.

SENATOR PEACE: Oh. So you lied to me when you said that you weren't asked by Lockheed Martin to represent them?

MS. FIELDS: No, I did not lie to you.

SENATOR PEACE: You didn't. What would you characterize it as? Did I misunderstand your answer?

MS. FIELDS: I have an invitation over your signature to come here today.

SENATOR PEACE: But let me ask the question again and give you a second chance and see if you can do any better. You were asked by Lockheed Martin to testify here today, were you not?

MS. FIELDS: I was asked if I would be willing to come here on behalf of the Insurance Institute for Highway Safety and the National Committee --

SENATOR PEACE: Who asked you to come here and testify?

MS. FIELDS: Marion Blakke.

SENATOR PEACE: And who does she work for?

MS. FIELDS: She represents Lockheed Martin.

SENATOR PEACE: Thank you. Now, why when I asked the question the first time, didn't you just tell me that? I mean, I've got three

teenagers that act this way, but I really -- you know, you could have just said to me the truth.

MS. FIELDS: Sir, I have an invitation from you --

SENATOR PEACE: Not from us. No, we didn't invite you.

MS. FIELDS: We have a letter of invitation

SENATOR PEACE: Did we invite her?

UNIDENTIFIED: They called and requested --

SENATOR PEACE: They called and requested an invitation.

UNIDENTIFIED: Yes, Sir.

SENATOR PEACE: Ahh. Weren't invited to the party so you invited yourself. Look it, I just want to put it on the record. I have very little respect for your organization. You are not unbiased. You will not be viewed in this chamber as unbiased. You are welcome to testify, but don't try to pull the wool over my eyes in terms of what your interest is. We understand what your interest is; you are pimping for this industry. Now, if you care to testify with the understanding of that's how we view your lack of credibility, please proceed. And if you're offended by that, you're welcome to leave. Either way, I don't care.

MS. FIELDS: I think you give me very little choice but to leave because --

SENATOR PEACE: No, I give you all the choice -- it's your choice. But I'm not going to concede to the continued PR fog that your organization is the leading perpetrator of in this country. Frankly, I have a lot more respect for Lockheed Martin; they're trying to make a buck. But you people are the front folk. You're out there conducting phony studies; testifying in committees like this throughout the country in an effort to give the impression that there is some neutral observer looking at this work product.

(tape 3) and you and I both know that what you really are is an extension of an industry that profits from this work product.

MS. FIELDS: That is not true.

SENATOR PEACE: Well, that is my view. And I just want to make sure you understand what --

MS. FIELDS: Sir, I am here to represent the Insurance Institute for Highway Safety and the National Committee on Uniform --

SENATOR PEACE: And the only thing that's deceptive about the title of that institute is everything that comes after the words Insurance Institute. As we discussed at the outset, and I understand why the insurance industry has a vested interest in driving points, and in terms of driving increased in insurance rates. But I personally, as a citizen, resent the distortion, the lies, the misrepresentations, that your organization has consistently perpetrated on this issue to compromise my privacy, my children's privacy, and I believe, the constitution of the United States. I don't respect your work product. I don't respect the fact that you weren't truthful when I've asked you a simple question.

MS. FIELDS: Senator Peace, may I have just a word here?

SENATOR PEACE: You can have all the words you want. I've told you that.

MS. FIELDS: Well, I'd like them uninterrupted, because I don't want to interrupt you. This is, after all, your committee.

SENATOR PEACE: Well no, the last words you told me is you had no choice, you were going to leave, so I assumed you chose to leave. Are you changing your mind?

MS. FIELDS: Well, you made several remarks on the record here that I would like to correct.

SENATOR PEACE: You can't correct them. You can respond to them. You're entitled to your opinion.

MS. FIELDS: Senator Peace, I was involved in the drafting of the model law for automated enforcement. It provides for owner liability. It does not provide for photographs of individual people. It does not provide that there will be a record made of the violations. It does not provide that any sanction other than equivalent of a parking ticket. It does not provide for points. And so consequently, I think it really does misrepresent my position to indicate that I am, as you say, pimping for the industry, for any industry. And my understanding was that very narrow questions were going to be asked of me regarding what the NCUTLO Law did, that's the National Committee for Uniformed Traffic Laws and Ordinances, with its model law and other laws that they looked at. And that I was going to objectively tell you what other states have done with their automated enforcement legislation so that you could use that in your deliberations.

SENATOR PEACE: Well we have the model law. We're familiar with the model law. There are some things about the model law, as you heard me indicate before, that I prefer to what we have, but don't mistake that for respecting the model law. I understand what the model law is designed to do; it's designed to accommodate the deployment of this technology and it's a much more adroitly, politically, sensitively, and smarter work product than California's work product. I give you all credit for doing that. But you should -- where you get cross wise with me is when I ask a simple question. We asked Lockheed Martin to appear. Lockheed Martin's representative asked you to appear. I asked that straight up question, you, for whatever reason, didn't want to

volunteer that information. That was a mistake. You and I would have got off to a very different start had you simply told me the truth.

MS. FIELDS: It is our position, very strongly, that we do not ever testify without the committee, not an individual sponsor's request, but the committee request, that we provide information, and we provide the information from our studies --

SENATOR PEACE: The committee meaning what committee?

MS. FIELDS: Your committee.

SENATOR PEACE: So now Lockheed Martin calls you and says, "Will you testify on this thing for us?" You say, "Yeah, if you get the --

MS. FIELDS: Excuse me, Sir. They did not ask that I testify on their behalf. What they asked was, they said that your position was you were considering changing the law and they asked if I could --

SENATOR PEACE: I'm going to grant you the -- look it, let's not argue about what they asked. I'll grant you the -- you win the parcing of the sentence award of the day, okay. They contacted you. They informed you that there was a hearing. They expressed an interest in you testifying. Is that a fair statement?

MS. FIELDS: They explained to me that I -- they were contacting me because they wanted to bring to your attention, information that I had, because I served on the national committee.

SENATOR PEACE: For crying out loud, they knew we already had that information.

SENATOR ROSS JOHNSON: _____ maybe we should get a new face in this and, hopefully, a new beginning in the dialogue. Did they give you a clue as to why they weren't willing to come and talk themselves?

MS. FIELDS: They felt that I would be the appropriate person to speak about the issues that they informed me that the committee wanted to hear. And that was, what went into the consideration of the National Committee's task force.

SENATOR JOHNSON: Mam, calm down. I'm not upset, okay. I wasn't here to the earlier exchange, so you know, I have no idea what may have transpired before I arrived. My question was a simple question. Did the folks at Lockheed Martin give you any understanding, any comprehension of why they weren't willing to be here? And notwithstanding that they may have felt that you could address these questions perhaps in a more effective way, why aren't they sitting by your side? Why aren't they here?

MS. FIELDS: I think you would have to ask them that. They asked me --

SENATOR JOHNSON: No. They don't talk to me. They apparently call you.

MS. FIELDS: I can't shed any light on that. All I can tell you is I was asked to provide information that I was told the committee was looking for.

SENATOR JOHNSON: I think you might concede that their unwillingness to be here and present their own case reasonably raises some questions in the minds of people who -- I've got an open mind on this. I'm not part of any earlier confrontation, but that's disturbing to me. I think at a minimum, they ought to be sitting beside you.

MS. FIELDS: Well, I would object to their sitting beside me because my position is that I do not represent, or have any relationship with, any vendor. We do independent research. And if the committee wants to know what the other states --

SENATOR JOHNSON: I'm sorry. I really am trying to follow this and I'm -- that being the case, why didn't you simply say to them, "Well, no, I don't think that's appropriate. If Senator Peace wants to call me up on the phone, or his staff, I'll be happy to talk to them. But, why in the world would I be responsive to you?" I'm not following that. I mean, on the one hand you'd think that it ought to be an arms distance kind of a situation where you wouldn't want them sitting beside you. On the other hand, you're indicating your responsive to their suggestion that you're the appropriate person.

MS. FIELDS: Well, perhaps I'm naïve in the workings of California in these matters.

SENATOR JOHNSON: Well, one of us is.

MS. FIELDS: But I was asked if I would be willing to do it and I said we'd do it on invitation from the committee. I got an invitation from the committee, and I'm here.

SENATOR PEACE: Okay. Now, keeping in mind that we already have the model work product, and I'm intimately familiar with it, and that our request for a Lockheed representative was, frankly, driven more by our interest in discussing their technology and the decisions that were made about how this technology was deployed and the manner in which their employees review the cameras work product and how they decide what images move onto their police officer partners and what images don't move on, I give you that as background because I'd prefer to see if I have some questions that would be in your purview that you can answer not on behalf of Lockheed Martin, but on behalf of the institute, that are helpful to us. And the model law is something we're overwhelmingly, intimately familiar with. I have it sitting in front of me, all right? And as I've already indicated, given the devil's choice of the two alternatives, I'd

prefer to live with the model law than what we have here in California. But let me ask you this -- in considering the model law, you say you participated in drafting that law.

MS. FIELDS: Yes, I did.

SENATOR PEACE: What sort of research did you do into the technology itself?

MS. FIELDS: We did not do any research into the technology itself. There have been studies -- there have been feasibility studies where the technology has been used extensively without any citations being issued, principally in Arlington and Howard County, showing that it works.

SENATOR PEACE: Showing that the cameras take pictures.

MS. FIELDS: That the cameras actually work.

SENATOR PEACE: Did you investigate, or at any time look into, the ability to alter images?

MS. FIELDS: No, I did not.

SENATOR PEACE: Did you at any time look into, or investigate, the differences between analog technology and digital technology?

MS. FIELDS: No, we did not.

SENATOR PEACE: Did you at anytime look into, or investigate, the preferences, or lack of preference, for using traditional photographic technology versus video images?

MS. FIELDS: No, we did not.

SENATOR PEACE: So that would account for the fact that your model work product doesn't make any distinction between the deployment of different kinds of technology, I assume?

MS. FIELDS: No. The National Committee takes the position that on issues like that we want our model laws to give jurisdictions the

broadest possible authority to use whatever in their best interest they deem appropriate.

SENATOR PEACE: So it wouldn't make any difference to you if you learned, for example, that a traditional photographic technology is traceable from the standpoint of the original negative as long as the integrity of the original negative is maintained. And even if somebody goes and tries to alter an original negative, it's discernable, detectable and you can tell whether the evidence has been tampered with, whereas a digital technology, electronic digital technology, can be changed, altered, tampered with without any evidence of the tampering. That wouldn't make any difference to how you'd view your model law?

MS. FIELDS: Well our model law basically gave limited discretion to delegate any of these decisions, and so we anticipated that they would be operated and monitored by police officials.

SENATOR PEACE: But doesn't it occur to you that, perhaps, if you're dealing a model law that the nature of the ability to manipulate the evidence in the evidence chain might result in a different viewpoint, or different opinion about what the model law ought to say?

MS. FIELDS: What we did was, we traditionally look at a wide variety of laws that have already been passed, and we look to see what in our view was appropriate legislation and what was the standard that was being used.

SENATOR PEACE: But you didn't look at the actual technology in the ability to make --

MS. FIELDS: No, we did not. I explained, we did not. So basically, we gave states the options of what --

SENATOR PEACE: All I'm trying to get to is that in retrospect, looking back, if you were to learn that there is a substantive difference

between the ability to manipulate evidence, without that manipulation to be detectable, would that, if you learned that to be true, would that, in your opinion, have any affect on how you might view your model law? Would you envision wanting to re-look at what you think the model law ought to say?

MS. FIELDS: Let me make the distinction here very clearly, is that I'm not acting as a legislator when I write a model law, and my personal views are not relevant to that particular function. What I'm doing is I am giving broad discretion to local jurisdictions and giving them language that they can chose to use or not use. We tend to be fairly comprehensive --

SENATOR PEACE: Well, let me ask the more -- what do you view as your constituency then? Who makes up the board that you're drafting this model law? Who is the beneficiary?

MS. FIELDS: The states. The National Committee for Uniform Traffic Laws and Ordinances is a 501(C)3 organization. It's been in existence since 1926. In our constituency we see is basically the states.

SENATOR JOHNSON: What does the word, uniform, mean?

MS. FIELDS: Originally the view was, I think, rather naïve in 1926, and that was, it would be a very good thing for commerce and other issues that as motor vehicles are tending to change the culture dramatically, that we have uniform laws throughout the states, and so that basically you have similar signs, the manual in uniform traffic patrol devices used to be part, one organization with the National Committee for Uniform Traffic Laws and Ordinances. It has since split off. The objective was uniformity originally, and I think there was a naïve assumption that if everybody knew the law, and if it were the same in

every state, that we'd reap tremendous benefits both in safety, and in commerce.

SENATOR JOHNSON: It just strikes me that how you've just described your notion of what your role is, is sort of counter to the idea of the very name of the organization, uniform.

MS. FIELDS: Well, the organization has changed over the years.

SENATOR JOHNSON: And a model law, it would seem to me that you would prepare a model law with the end in view that you would hope that that would be adopted in as many jurisdictions and that the effect would be uniform. So, that's why I ask.

MS. FIELDS: Well, it does appear to be a conflict. And what's happened is that we've gotten a lot less naïve over the years and we understand that the states guard very jealously, their prerogative to control traffic and motor vehicle law. And so consequently, what we're trying to do now is to provide model laws that give the states clean language to accomplish their objectives.

SENATOR JOHNSON: With respect, I think my constituents -- we don't draft model laws. We draft some pretty awful laws and some pretty good laws. But, whatever, we draft real laws, and I think that my constituents would be very distressed with me if I were to adopt a system of automated checking, such as we're discussing here, without looking at the technology; without asking the fundamental question about how is it going to work? I mean, are we going to have a sketch artist down there at the corner? And what are the implications of that technology? So, you say that that wasn't looked at.

MS. FIELDS: What we do, basically, is we expect the states to take as much, or as little role, in that as possible, and it's always easier to cross out language and narrow the state's authority, than it is to add.

SENATOR JOHNSON: This document, this model law, was any other documentation to accompany it? Was it just a draft of a model law and it's like a Chinese restaurant -- take one from column A and one from column B, or substitutions are allowed?

MS. FIELDS: Certainly. Certainly. It's an objective --

SENATOR JOHNSON: But not the way of -- or was there something in the way of a study of the background, the effectiveness, how it would be implemented? I'm just -- I'm kind of tripping over how you could make any recommendation, however general, without having looked at the technology and made some conclusions about how it might be used, or abused?

MS. FIELDS: What our perception was, was that the states are moving in this direction, and that we could be of assistance by providing language that we thought was preferable language, and just provide it to the states to use as they chose.

SENATOR JOHNSON: Okay. Thank you.

SENATOR PEACE: Mr. Johnson, I want to draw your direct attention to one of the documents in your booklet, it's tab-8, I'm told. And the reason why that is important is, in looking at the work product - in looking at your product, you cite, apparently, something you didn't attempt to look at was the alleged safety value of the cameras, is that correct?

MS. FIELDS: Yes.

SENATOR PEACE: And in reading from your work product you say, "The purpose of red light camera infractions is to deter drivers from running red lights by making it more likely that a citation will result. Police simply cannot be everywhere and violators depend on that. When enforcement activities are sustained by highly visible programs, potential

violators reconsider their willingness to risk a citation. The cameras are reducing the frequency of violations and intersection crashes. In Oxnard, California, front to side collisions have been reduced 32 percent since cameras were installed. Front into side collisions involving injuries declined 68 percent. Survey shows strong community support both where camera programs are in use and where they are not.”

Did you have any involvement in contracting the Oxnard Study?

MS. FIELDS: No, I did not.

SENATOR PEACE: Did the institute have any involvement?

MS. FIELDS: Yes.

SENATOR PEACE: And are there any other studies other than the Oxnard Study in other cities that you are aware of?

MS. FIELDS: We have reported, I believe, in Arlington.

SENATOR PEACE: And the professor who did the Oxnard Study, was he also the individual who did the study in the other cities?

MS. FIELDS: Yes, I believe you're referring to Richard Redding, are you not?

SENATOR PEACE: Yes, I am. And they have all been contracted by the institute?

MS. FIELDS: Well, Richard Redding is an employee of the institute.

SENATOR PEACE: Okay, I'm sorry. As an employee to the institute, whose board of directors is who again? I started to ask that question earlier.

MS. FIELDS: We are supported -- we are a non-profit research organization supported by the Property Casualty insurers --

SENATOR PEACE: The insurance industry.

MS. FIELDS: Uhm, hmm.

SENATOR PEACE: Okay. Now, does she have a copy of this document? If not, can we get it to her. I'd like you to skip to page 6. There is some interesting information on page 4 and 5 that I assume you've already come into contact. Most of that was the result of Congressman _____ work in looking into the shortcomings of your employees work. But, there is some additional information that I'd like to know to what extent you were aware of or not aware of, in the Oxnard Study, specifically.

In the first section, you're at the bottom of the first paragraph, "because of limited crash type definitions used in -- this is the reporting _____ it was not possible to categorize crashes specifically as red light ran events." Now this is a quote from your employee's study, correct?

MS. FIELDS: Yes.

SENATOR PEACE: Now if you read the next paragraph, "The California statewide integrated traffic record system has a specific data field for such information, meaning the information which your employee said he couldn't get, "the primary collision factor. When one requests the information from the Highway Patrol, the search may be localized to a specific intersection for a given period of time with a number of collisions in each and the primary collision factor. Given the availability of the information, it would be interesting to know what the actual number of crashes was at these key intersections." Did you ever ask those questions of your employee? Were you aware that his claim that the data was not available was inaccurate?

MS. FIELDS: I did not prepare the study. I would have been very, very happy to have brought Richard Redding here. I believe I suggested, when I talked to a member of your staff, that Richard could come and be

able to provide information, and I was encouraged to come because the principal focus of my testimony would be the law.

SENATOR PEACE: That's fair. So, you wrote the law, but you don't know enough about the study to testify to its methodology or its accuracy?

MS. FIELDS: Senator Peace, I'm an attorney and went to law school.

SENATOR PEACE: I'm not, and didn't.

MS. FIELDS: My undergraduate degree is in English and so I don't think that it would be appropriate for me to comment on the technical aspects of the study. Let me do say, however, that our research --

SENATOR PEACE: Well, it's not a technical aspect to ask whether you were aware that the contention that your employee makes, that he couldn't get information was inaccurate. That's not a technical question. I'm just asking you whether or not you were aware that the written claim of your employee that he could not get specific accident information by intersections was not a truthful claim.

MS. FIELDS: I know Richard Redding very well and I do not believe that he ever intentionally lied or misrepresented any situation.

SENATOR PEACE: I didn't say he did. That's your words, not mine.

MS. FIELDS: I don't know what databases were available to him.

SENATOR PEACE: And now that we're telling you that they're available --

MS. FIELDS: And so, I decline to answer any questions having to do with the way the study was undertaken --

SENATOR PEACE: That's fine.

MS. FIELDS: Because --

SENATOR PEACE: You don't know about it.

MS. FIELDS: I have no information about it at all. I do, however, know that our research is repeatedly submitted for peer review and published in peer review journals.

SENATOR PEACE: So you accept -- excuse me -- do you know, for a fact, that this particular study was submitted for a peer review or not?

MS. FIELDS: I will get back to you and find out whether it has been submitted and whether it's in press.

SENATOR PEACE: So you don't know.

MS. FIELDS: I do not know the answer to that.

SENATOR PEACE: So you wrote --

MS. FIELDS: Routinely our studies are.

SENATOR PEACE: Okay. But you wrote the model law under the assumption that the conclusions in this study were accurate ones, did you not?

MS. FIELDS: I believed that the study had not been concluded at the time we wrote the model.

SENATOR PEACE: Oh. You wrote the law before the study was produced.

MS. FIELDS: I don't believe that we ever represented that this study was the only study. I told you that we wrote the model law because states were interested in automated enforcement.

SENATOR PEACE: And so there were other studies that indicated that the red light cameras reduce, or, improve safety?

MS. FIELDS: Please try to stop putting words in my mouth.

SENATOR PEACE: I'm just asking a question.

MS. FIELDS: There were studies that basically showed the incidents of red light running, a very hazardous activity, had been reduced. My understanding is the Oxnard --

SENATOR PEACE: There are studies saying that cameras reduce that?

MS. FIELDS: Reduce the incidence of red light offenses.

SENATOR PEACE: Okay. And what were those studies?

MS. FIELDS: I believe there was a study in Arlington, Virginia.

SENATOR PEACE: Who did that study?

MS. FIELDS: We did. The Insurance Institute for Highway Safety.

SENATOR PEACE: And do you know whether or not that study was submitted for peer review?

MS. FIELDS: I believe -- basically, I brought my studies here, but there is one study that came out on accident analysis and prevention, and I believe it was that study.

SENATOR PEACE: Okay. I'm not trying to put words in your mouth. I'm just trying to retrace the history as I understand it, and correct me if I'm wrong. I didn't go to law school and so I'm not as quick as you are.

MS. FIELDS: Oh, Senator, you're very quick.

SENATOR PEACE: So, just bear with me. As I understand it, you wrote the model law after the Arlington Studies were concluded, but before the Oxnard Study was concluded.

MS. FIELDS: Yes, that's my recollection.

SENATOR PEACE: Okay. So the Oxnard Study really had no bearing on what you chose to write in the model law, because you had already done it before the study was done, correct?

MS. FIELDS: That's true. I don't believe my testimony indicates that it did.

SENATOR PEACE: Yes, it did. I'm just making sure.

MS. FIELDS: I mean, I gave basically background information about the problem of red light running.

SENATOR PEACE: So let me ask you, again, along the line of my prior questions, as you go down and read the rest of this work product, the first statement being that the Oxnard Crash Study failed to factor in all relevant variables upon driver behavior. Then, that there were other bills that were passed in that period of time, probably the most significant of which was Mr. Leslie's bill, which dramatically reduced the number of teenage drivers, unaccompanied teenage drivers, on the road, none of which were factored in. None of these legal changes; higher fines; an active CHP enforcement effort in that same period of time. And you can read the details of those.

And, I have got to ask you for the record, if you were to learn that the Oxnard Study is not reliable, does not indicate any statistical correlation with respect to reduced accidents, and, in fact, the only demonstrable, directly connected conclusion is an increase in rear end accidents, would that change your view with respect to the model law?

MS. FIELDS: No.

SENATOR PEACE: I didn't think so.

MS. FIELDS: No. Because it --

SENATOR PEACE: Because your interest isn't safety. Your interest is money.

MS. FIELDS: That is not true. It is absolutely not true.

SENATOR PEACE: That is my belief, okay? And we just come from a different planet.

MS. FIELDS: No we don't.

SENATOR PEACE: And it's not personal. You and I have a fundamentally difference of opinion.

MS. FIELDS: I don't think we do have a fundamentally different --

SENATOR PEACE: Well, how can you say to me, if you learned that -- what you just said to me was, "Even if I learned that the red light cameras were causing more accidents than they were stopping, I still would be for the model law."

MS. FIELDS: The reason is the accidents -- and I do not for a moment concede that there has been any increase in rear end collisions.

SENATOR PEACE: I understand. I was hypothetical. I didn't say what's --

MS. FIELDS: What I am saying is, is that we do know, and again, this is difficult for me because I am not an epidemiologist, I'm a lawyer, but I understand what I think is self-evident to anybody that drives, is intersection collisions involving front into side vehicles, are among the most dangerous collisions that occur. Rear end collisions are not.

SENATOR PEACE: So you're willing to trade a few rear ends. I get it. I get it.

MS. FIELDS: No, what I'm saying is _____ property damage crashes --

SENATOR PEACE: Well let me ask you this final question and then I'm going to let you go.

MS. FIELDS: To protect us from personal injury crashes. Also, --

SENATOR PEACE: Although, as somebody who has a lifelong whiplash injury as a result of a rear end collision, I'm not sure I necessarily agree with you. But let me ask you one last (tape 4) question and then I'm going to let you go.

MS. FIELDS: May I finish one point that explains why I answered your question as I did?

SENATOR PEACE: Okay.

MS. FIELDS: For 20 years with the Insurance Institute for Highway Safety, I have heard through our research, and repeatedly by other independent researchers, that the critical element in protecting the public when it comes to these issues is, the public's perception of the likelihood of getting sanctioned for violations. It's not necessarily how high the sanction is, it's the likelihood of being caught. Automated enforcement can do what we cannot do through other means and that is, significantly increase the sanctions. Repeatedly in DWI and other areas, we have --

SENATOR PEACE: Well, let me ask you a question. You explained to me -- in San Diego it takes nine police officers to administer a 19 camera program. Now, I'm only not a lawyer, I'm not a mathematician, so I'm probably not very good at this either, but, doesn't it seem to you rather apparent that the physical presence of those officers at those intersections could be at least as effective, if not more effective, than the cameras? These are officers who are taken off the streets. Not only would they be at the intersections, they'd also be out enforcing crimes against persons.

MS. FIELDS: Officers, basically, cannot possibly hope to catch the proportion of red light runners that are --

SENATOR PEACE: Why?

MS. FIELDS: Because it takes a long time for a police officer to make a stop, because sometimes --

SENATOR PEACE: But wait a minute. Did you not hear the math? Nine officers for 19 cameras; that's one officer for every two intersections. All they have to do is stand there. Mr. Johnson.

MS. FIELDS: But they have to stop the vehicle.

SENATOR JOHNSON: How many locations in San Diego do they have these?

SENATOR PEACE: 19.

SENATOR JOHNSON: 19 cameras. Nine officers. I mean, if you just had an officer on a motorcycle sitting there at that intersection, and I got to tell you, I think that would be a h [REDACTED] of a lot more of a deterrent, an officer sitting there, than a sign that tells me that red lights are enforced by cameras.

Is it okay if I ask a question?

SENATOR PEACE: Yes.

SENATOR JOHNSON: You indicated that you went forward with the model law, the design of the model law, as a result of interest in the states and localities in such programs.

MS. FIELDS: Yes.

SENATOR JOHNSON: How was that interest communicated to you? I mean, did you have states writing you letters and saying, "Please give us a model law?" "Please give us some advice about this. We're thinking about that." Or, was that something you undertook on your own initiative?

MS. FIELDS: Well one of the things that we look at is how many states have already done it. And so, several states had already done it. This was basically an initiative that a number of states had taken on on their own. And so that's a key. It's a very strong key to us. Another -- our former chairman is the executive director of the National Association

of Governors Highway Safety Representatives, and we trusted her judgment that there was a need and an interest for this product.

SENATOR JOHNSON: Okay. Now, so there may or may not have been some interest. Some states were moving in this area and that led your organization to conclude that the drafting of a model law would be advisable.

MS. FIELDS: An appropriate thing for us to do.

SENATOR JOHNSON: All right. Now, with all of the controversy that's developed around the country about this technology, members of the congress, members of state legislatures, local elected officials all over the country, myself, most definitely included, who are seriously questioning the wisdom of this technology and this kind of enforcement, is there any thought to reopen the issue? And I recognize you're a lawyer and not a technician, but to look at this in a little more detail and say, "You know, maybe the suggestion of a model law was a little premature. That there are questions that need to be resolved?" For example to me, one of the biggest issues is the length of the yellow light, okay? The length of the yellow light. I think most people want to obey the law. I think most people do. Clearly, it's maddening to see people who go through a light. My wife and I, frequently we say, "You know it was red all the way for that individual." But far more frequently, it's that period of decision, do I hit the brakes? Do I stop? Or do I try and make it through on the yellow? So the length of the yellow becomes absolutely critical to whether this thing even has a chance of being fair to the motorists and not just a way to generate revenues for local government. So, has there been any thought at all to re-evaluating questions like that, and including in the model law, that there should be, for example, a five-second yellow?

MS. FIELDS: No. Because that's inappropriate, is that the length of the yellow should be determined according to traffic engineering principles. It should not be one source fits all, because one critical element that I think everyone can understand is, the speed at which -- the posted speed limit in the area and that varies. And so, consequently --

SENATOR PEACE: Let me ask you a question.

MS. FIELDS: Well, can I answer the first question.

SENATOR PEACE: Yeah you answered it adequately. Let me ask a question, that's the beneficiary of being the chairman. Because I don't want to lose -- you made a very good point and I want to make sure that it gets punctuated appropriately. You said that the yellow light should be determined by traffic engineering standards, correct?

MS. FIELDS: Yes. And the National Committee's model suggests that there be, first, a determination that there are factors that can be corrected other than through enforcement.

SENATOR PEACE: Okay. Very good. Now, you're a 501(C)3, so you're not a lobbying organization.

MS. FIELDS: That's right.

SENATOR PEACE: Okay. Now, you recognize this document?

MS. FIELDS: Yes, I do.

SENATOR PEACE: Okay. Now, this document says< "How state laws measure up." The legend indicates G is for good; A is for acceptable; M is for marginal; P is for poor. And as I go down the various states, I come quickly across California. Do you recall what kind of rating you gave to California?

MS. FIELDS: Frankly, there were a lot of ratings. There were 360 some laws that were rated, I believe, and I should have looked to see what California's law.

SENATOR PEACE: You gave California a G, for good. Now, are you aware that California's law does not require that the yellow light meet engineering standards and that, in fact, most of the cameras in California are deployed at intersections in which the yellow light is below the CalTrans engineering standard?

MS. FIELDS: The institute looked at --

SENATOR PEACE: It's just a simple question. Were you aware of that? First of all, were you aware that the California law does not require that the yellow light meet the safety standard -- an engineering safety standard?

MS. FIELDS: I did not consider that when we were doing the evaluation.

SENATOR JOHNSON: Should that reasonably be a part of the model law?

SENATOR PEACE: It is.

MS. FIELDS: It is a part of the model law. As you're looking at different documents here, the model law is the national study --

SENATOR PEACE: But what's important here, and I know you get frustrated with -- I understand that you're frustrated at my perception at the lack of credibility of your organization, but can you appreciate why it's difficult to take your organization seriously when you promote a model law, you correctly, in this case, to your credit, indicate in the model law that the yellow light should meet appropriate engineering standards. All the independent studies corroborate that you made a good decision in including that. They say that the yellow light is far more

important than any other consideration with respect to safety, and yet, when you evaluate the states laws, California gets a good.

MS. FIELDS: California got a good because the criteria that we used was that we thought that the laws should be broad enough to allow local jurisdictions to implement automated enforcement programs.

SENATOR PEACE: So your position is, you should allow the local jurisdiction to determine whether or not to meet engineering standards on yellow lights?

MS. FIELDS: Frankly, there was no consideration when looking at the laws what we were looking to to see did it give comprehensive authority statewide? California's did and we gave it credit for doing that.

SENATOR PEACE: Let me just leave you with this, and then we're going to move on to the next witness. Your document only gives poor to states that don't have -- that don't authorize red light cameras.

MS. FIELDS: Well, for automated -- if they don't authorize automated enforcement, and we're evaluating whether or not they have automated enforcement, and you're using poor as an evaluator, if that's the term you're going to use, then you would give poor.

SENATOR PEACE: Why? I thought you weren't a lobbying organization.

MS. FIELDS: We're not a lobbying organization.

SENATOR PEACE: Well, then why are you suggesting that some people have done good and some people have done poor? If you're a non-profit organization, it seems to me the appropriate judgment would be they do have a law or they don't have a law. It wouldn't be to -- I assume you'll accept the idea that the word, poor, is somewhat judgmental.

MS. FIELDS: Yes, it's a judgmental term. I will agree with that.

SENATOR PEACE: Okay. And so you've judged those states that have failed to allow cameras to have done a poor job. And those states who have allowed cameras, indiscriminately as to the quality of the law, because as you have indicated, California didn't the California model law, and we still got the highest rating. We still got a "good." I shudder to think what one has to do to get a "marginal." Now, personally, I think this is a violation of your non-profit status. This is a lobbying document.

MS. FIELDS: Oh, I would disagree with that.

SENATOR PEACE: I know you would, and you should. You're their lawyer.

MS. FIELDS: What we are doing is we objectively explained what our criteria were, and we kept it relatively simple, and we reported how felt the states did with regard to those criteria.

SENATOR JOHNSON: But the whole thrust to your testimony, since I arrived, with respect to the model law, has been that you put out language that you pick and choose, my definition, not yours. Chinese restaurant; one from column A, one from column B. You started off looking at them in Maryland. You come with a model law, and the whole thrust, the entire thrust of your testimony has been that you didn't look at the technology. You didn't consider those kinds of issues because you wanted those choices to be made by local people.

MS. FIELDS: Yes.

SENATOR JOHNSON: Then you turn around and have a document like this where you're assigning a letter grade to states. If your whole purpose, which has been the entire thrust of your testimony, is, let them make the decision, then why are you judging that decision after the fact?

MS. FIELDS: First of all, the National Committee for Uniform Traffic Laws and Ordinances and the Insurance Institute for Highway Safety are not the same organization.

SENATOR JOHNSON: Oh, so you take off one hat and put on another.

MS. FIELDS: Well, I think a lot of people in our field and other fields, work on committees and organizations and whatever, that do not employ them. This is a non-profit organization. The institute has been involved with it for over 20 years that I'm aware of, and I basically served on this task force, because I'm viewed among the people that were available to serve, one of the more knowledgeable ones about the law. And so, --

SENATOR JOHNSON: Would you concede that those are two different approaches. One, embodied in model law. We want to leave lot of the details. Let them make up their minds and their decision. And the approach that says we're going to judge the performance of states based on whether they've adopted a red light camera system or not, regardless of whether it was you, the different hat, or different committees or organizations, would you concede that they are going in opposite directions?

MS. FIELDS: I don't think they're going in opposite directions, Senator. Had the chairman not exercised his prerogative interrupting me, I would have completed my answer to your earlier question. And what I would have told you is, is that what our research shows in the highway safety field is that general deterrence is a critical aspect. And that widespread relatively low sanctions and the public's perception of the likelihood of getting caught, is very, very important. So, therefore, the Insurance Institute for Highway Safety felt that it is a better law that

provides maximum flexibility for local jurisdictions to utilize it. Some states have basically passed laws authorizing a very select number of communities to use automated enforcement. The Insurance Institute's view is, it is better if it be statewide because that gives the maximum opportunities for jurisdictions that want to use this technology to do it. And so consequently, one of our criteria, and we were not getting really complicated. If you read our criteria regarding DWI --

SENATOR PEACE: I'm going to have to, because you're going over ground you've already covered, and I have other witnesses here. Mr. Dunn has a question.

SENATOR JOSEPH DUNN: Thank you, Mr. Chair. And my apologies for not being here. And hopefully, I don't cover some ground that's already covered. You just indicated to Senator Johnson that it's two separate organizations. I believe, if I'm following correctly, it's the Institute on Highway Safety, the Insurance Institute on Highway Safety that did the study, a different organization that did the model law.

MS. FIELDS: Yes.

SENATOR DUNN: What's the organization that issued the model law again?

MS. FIELDS: The National Committee on Uniform Traffic Laws and Ordinances, NCUTLO.

SENATOR DUNN: And you participate in both organizations.

MS. FIELDS: Yes. I'm general counsel in the Insurance Institute and I basically sit on NCUTLO's board.

SENATOR DUNN: Okay. Are both of them 501(C)3s?

MS. FIELDS: Yes.

SENATOR DUNN: Let's go to the Insurance Institute on Highway Safety. How do they derive their money in which to operate their 501(C)3?

MS. FIELDS: We are funded entirely through Property Casualty Insurers.

SENATOR DUNN: Okay. And what about the other organization?

MS. FIELDS: NCUTLO basically gets funding through states, through memberships, through states, I think approximately -- the states come and go. I think they're typically about half the states are members now. And other monies they get through grants, principally from the National Highway Traffic Safety Administration.

SENATOR DUNN: Okay. Does either organization -- has either organization been financially supported by any manufacturer or distributor of red light monitoring products?

MS. FIELDS: No.

SENATOR DUNN: Okay.

SENATOR PEACE: I have one final question. You indicated in your extended remarks to Mr. Johnson, that the institute has found that deterrence is the best medicine. Is that a fair?

MS. FIELDS: Yes. A general deterrent.

SENATOR PEACE: And so, one of the things that led to your conclusion that deployment of the red light cameras was a good thing is to increase the perception in the mind of the driver that there would be a higher likelihood of being caught if they violated the law, correct?

MS. FIELDS: Yes.

SENATOR PEACE: Okay. Did you have any discussion or interchange about what the dimension of deployment should be? Because the logical conclusion from just that statement is, we should

have a camera every 20 feet and simply take pictures of every action ever citizen takes, and you'll have absolute deterrents. Was there ever any conversation about how far we should go? Should we have a camera at every intersection?

MS. FIELDS: Basically, the deterrents model is based on enforcement, and enforcement can be by traditional means, or it can be by automated enforcement.

SENATOR PEACE: But you stated repeatedly that the camera does a better job of enforcement than police organizations can.

MS. FIELDS: It does a better job of getting a higher percentage of offenders of certain types of offenses, like running red lights and speed offenses that are very well suited to automated enforcement, yes.

SENATOR PEACE: Okay. So, I assume then that you're a supporter of ubiquitous deployment of cameras. Every intersection we can afford to put a camera, and every speed zone, is there any place you would be against putting a camera?

MS. FIELDS: If a jurisdiction believes that a camera is necessitated because of high crashes, high violations, or difficulty of handling the problem through traditional enforcements, then, yes, I believe that it would be appropriate to put a camera there.

SENATOR PEACE: So, if I propose to put a camera every half mile and at every intersection on every road and highway in California, I'll get a "good?"

MS. FIELDS: No, because that wasn't our -- well, yes. I mean, you'll get a "good," but our criteria wasn't demanding anything like that.

SENATOR PEACE: I didn't say you did. But do you understand how significant what you're saying is?

MS. FIELDS: What was requested was that local jurisdictions --

SENATOR PEACE: Now, let me ask you a question. You know, you're right. We all wear multiple hats. I'm going to ask you to take off both of your non-profit organization hats and put on your citizen hat. Do you have kids?

MS. FIELDS: Yes.

SENATOR PEACE: Put on your mom hat. Now, mom, do you want cameras every half mile and at every intersection? Do you want to live in that society?

MS. FIELDS: I don't see the conflict in what I'm proposing, wearing my other hats and my mom hat. No, I do not want a situation that you described, where there are cameras observing everyone all the time.

SENATOR PEACE: All right. Now, somewhere between here and here, if we're going to take the step into allowing cameras anywhere is a rational place to stop, did you ever have the conversation about where you stop?

MS. FIELDS: No, because I don't feel that's my role. I believe that that is uniquely a political decision that is made properly by politically accountable people. That is why I prefer a law that gives broad general authority, and none of these laws that I understand, mandated anywhere

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SENATOR PEACE: But you recognize in your other role as a citizen, mom, etc., that there is a need to have this broader public debate about to what extent we're willing to compromise.

MS. FIELDS: Now I think I told you that wearing all of my hats, I see that as an issue that is appropriate for local determination, hence, I support a state law that leaves it to local jurisdictions.

SENATOR PEACE: Interesting. Now, let me have you put your attorney hat on. Did you ever practice any defense work?

MS. FIELDS: No, I have not.

SENATOR PEACE: You haven't practiced any criminal law?

MS. FIELDS: No.

SENATOR PEACE: All right. Do you have to go back to law school then? I don't mean you have to go back there, but go back to thinking to law school.

MS. FIELDS: Sure. I'm putting my law student hat on.

SENATOR PEACE: Right. Does it disturb you at all that the principles outlined by Judge Goldsmith's decision, that he felt it being compromised in terms of the ability to confront both the evidence and your accusers are undermined by the deployment of the camera?

MS. FIELDS: I can respect his decision and I can certainly understand his decision. I feel that it's very, very likely. I mean, certainly, Judge Sten and Judge Goldberg felt that -- was Judge Goldberg also San Diego?

SENATOR PEACE: Goldsmith.

MS. FIELDS: Excuse me. Goldsmith. That basically they felt that the plain language of the statute had not been followed in terms of whether or not it was the officials in the jurisdiction who are operating the cameras and that there was insufficient --

SENATOR PEACE: All right. Thank you for coming. I apologize to the uncomfortableness that the kind of questions at the outset. I hope you appreciate our uncomfortableness with Lockheed's decision, from our perspective, to use the institute as a shield and so that they did not appear as an empty seat. I think some of the information that you provided today was helpful. I think it was principally helpful in

underscoring how little serious thought has gone into developing some of the work product amongst those who, by your own testimony, were the most involved in promoting the use of these cameras throughout the country. Thank you.

SENATOR JOHNSON: Thank you very much.

MS. FIELDS: Well thank you for hearing me. I've been uncomfortable before I do not characterize -- I don't accept your characterization of little serious thought.

SENATOR PEACE: I understand that.

SENATOR JOHNSON: You can take off your uncomfortable hat.

SENATOR PEACE: That's right.

MS. FIELDS: No, I have to fly on transcoastal flight, so --

SENATOR PEACE: They have cameras at those airports so be careful.

SENATOR JOHNSON: Your white knuckle hat goes on now.

MS. FIELDS: Yes. Thank you.

SENATOR PEACE: Thank you. Chad Dornsife, National Motors Association.

MR. CHAD DORNSIFE: My name is Chad Dornsife. I represent the National Motor Association. And our primary concern and testimony here today is to concern ourselves with engineering practices in relationship to red light cameras, or the lack thereof.

SENATOR PEACE: Okay.

MR. DORNSIFE: Essentially, at every single photo enforcement, be it speed or red light camera installations, there is an underlying violation of engineering practices occurring to allow the cameras to exist in the first place.

A camera to be profitable needs a large number of violations. A large number of violations in engineering legal practice according to the Federal Highway Administration is a notice of defect, and it's a legal requirement for the traffic engineer to correct that defect. In every case where the cameras are existing, those defects have not been corrected. In fact, sometimes they have been made worse and the cities have turned

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SENATOR JOHNSON: Just so I follow the basic point that you're making -- a situation that would involve that be a speed limit set at 25mph, then a traffic study is done that indicates that the average motorist there at 40mph and there is then an adjustment?

MR. DORNSIFE: Exactly. In fact, the irony of it is here, most people in California, in fact, most of the country don't know, she said that the 1926 Uniform Vehicle Code was naïve. Well, there is a federal law called the Uniform Manual on Traffic Control Devices, and that is a federal law that in 1988, congress changed it that applied to every roadway in the country regardless of jurisdiction, and for a --

SENATOR JOHNSON: City street?

MR. DORNSIFE: City street. A traffic signal. A stop sign. A speed limit sign, must have an engineering basis, in fact, to be posted, which includes the number on the sign. So, even though California has a speed trap law, independent of that, it requires an engineering study to support the number posted. And engineering practices for traffic signals, there is a basic premise that the prevailing speed of the approach traffic be determined and that's the beginning point of the timing of the yellow upon an intersection. But in addition to that, if you continue to have a large number of violations, there's a requirement that the engineer go out and examine that and try and figure out what's going on, because

apparently the conditions at that particular intersection have created -- let me put it another way. Long ago in engineering practices in the 1930s, in fact, 1930 to be exact, a principle came forth, or a notion with an engineering came forth, that if you had a large number of violators, that there's an underlying engineering defect. It's not a violation. They're not violating the law intentionally, there is something that the engineers have done to cause this. And at one of the Insurance Institutes "study locations" in Virginia, the other place Mr. Redding had checked, we had a red light location that was issuing about 56 citations a day. By simply adjusting the camera to prescribed engineering practice levels, which under federal law would be required, we were able to reduce that number of people entering that intersection on red to less than one a day. This was not done at any intersection in San Diego. In fact, it was the opposite.

One intersection in San Diego was intentionally causing, as far as I'm concerned, the engineer was allowing to occur, 4,000 a month at one month entries on red. So that means, the engineer is sitting there watching 4,000 people a month enter that intersection on red when they've given the cross traffic a green light. If that late vehicle entering that red happens to be a bus, which drives at a slower speed, or a gravel truck or something else, that means it's going slow enough when it hits the limit line where a vehicle four lanes over, five lanes over will have seen the green and been able to pull out, and that's where you get your horrific collisions from. It's the fact that they have known entries on red occurring and giving the green light to cross traffic intentionally. And what are they doing from it? They're profiting from it. Where in fact, at one intersection, not doing prescribed practice, just adding an increment onto the yellow in San Diego, they changed the number of citations on

average from 2,262 a month, or violations recorded, down to 205. So that was over 2,000 entries a month that were being caused simply because the engineer didn't properly --

SENATOR JOHNSON: That the yellow wasn't long enough.

MR. DORNSIFE: Right. Truncated yellow.

It's interesting in the court case from San Diego, they cited California law, and you cited it, and the Insurance Institute cited it, that particular chart in the California law has never gone through the proper procedure for approval. That is a truncated yellow standard that was proposed by

Mr. Redding and others and got through the political process without ever having a field verification, which is required under federal law. So even the standard that is in California that's not being met, is shorter than the last verified standards that the engineers had actually gone out and done field tests and showed reduced accidents.

SENATOR PEACE: Mr. Dunn.

SENATOR DUNN: Actually, just a request to the Chair. It would be interesting to request all of the marketing material for these red light products, sensoring products, to determine whether they're being marketed to the cities as a revenue stream versus a law enforcement --

SENATOR PEACE: We will make that additional request, but we already do have documents in hand provided to us (tape 5) not only promotional materials, but actual work product. As well as former officials of the Lockheed predecessor company who are willing to testify, and sales people who moved over when Lockheed bought the company, will testify to the fact that they marketed and promoted their product to police chiefs and to cities for revenue.

MR. DORNSIFE: I've included in my written testimony such an example in Washington, D.C., and it was quite an irony, because the contractors that Lockheed Martin had convinced the police chief, who directly profits from the revenue and his agency directly benefits, that with five patrol vehicles that Lockheed Martin supplied to the city, that he had promised the city that the productivity of these vehicles should be pretty close to a million citations a year extra in addition to what they're currently doing in a city that's not much larger than Sacramento Metro. In the public press, the chief of police of Washington, D.C. complained because the productivity of these patrol cars has been substandard. In the first ten days of the program, they were only able to actually issue 15,000 citations. And when you watch, it's the classic example of how these camera systems pay for themselves. And the profit motive is, they had a news crew with the camera guy in the car and the traffic is going along 42, 41, 37, 40, 41, 42, every vehicle, click, click, click, click; as fast as they drive by, that officer wrote 200 tickets in a little over an hour. Posted 25, statutory limit; no engineering study on a major parkway. That is the incentive to the wrong side of the equation. If they had brought that speed limit to 40 - 45mph where the traffic engineering study would have been found on that parkway was reasonable, the cameras would have made no money. They're simply profiting from poor engineering practices. And the irony of it is, is irrespective of California law, there are federal standards that are being violated here and no one is holding these cities accountable.

SENATOR JOHNSON: Could I ask you to -- I didn't quite follow your point about Mr. Redding and the yellow.

MR. DORNSIFE: Well, the Insurance Institute of Highway Safety has a traffic engineer, "traffic engineer" on its staff that has been a lead

proponent of a shortened yellow program in the country. In fact, he was on the ITE board that examined this, and it got written into ITE practice, which is the Institute of Transportation Engineers. And ITE has not been able, to date, to produce the verification and field -- in other words, before a practice can be accepted it has to go through field verification. This truncated yellow practice has never gone through field verification.

SENATOR JOHNSON: Well, what's the theory behind -- or, what's the argument?

MR. DORNSIFE: The argument is, that you can give -- the old days, there was a clearance interval. In other words, cars approaching the intersection, there was the yellow light was a clearance interval.

SENATOR JOHNSON: An opportunity, you see the light is going to change to red, it puts you on warning, and you can stop safely before you enter the intersection. It's common sense.

MR. DORNSIFE: Right. But, in addition to the yellow, there is an all red period. And the all red was to assure that even after the light had turned yellow --

SENATOR JOHNSON: So that if somebody goes on the yellow, and they don't quite make it --

MR. DORNSIFE: Or somebody misses or whatever, they can still make it through before the cross traffic gets the green. And by applying that, the AAA, in Michigan, was able to reduce accidents in an entire area by over 50 percent, just by changing the lights and not telling anybody what was going on, just by adjusting the timing of the yellow.

SENATOR JOHNSON: There's a brief -- less than a second that all -- it's red in all directions.

MR. DORNSIFE: Right. In fact, on the worst intersection, or the worst accident in an intersection in the Michigan Study, they changed it.

The all red, they increased from 1.8 to 2. While the truncated yellow standard shortened the yellow -- and if you look at the California statute, it doesn't require an all red; it's optional at the engineers discretion. And because of traffic flow and they're trying to encourage traffic to move faster, they're not putting it in. They're creating accident areas by not following sound -- the first duty of an engineer is to reduce the number of accidents. He's not supposed to be involved with cameras. And they're not fulfilling that basic duty.

SENATOR PEACE: Mr. Dunn.

SENATOR DUNN: If I could just follow -- one quick question. On the all red situation, it really doesn't change the equation concerning whether a local jurisdiction, for example, is tinkering with the yellow to maximize revenue, does it?

MR. DORNSIFE: No.

SENATOR DUNN: That's what I thought. So that you could still have the all red situation for one to two seconds, but still be artificially increasing your revenue by a shortened yellow.

MR. DORNSIFE: Actually, the all red is important to a degree that because in some areas you have heavy gravel trucks and other things coming downgrade, and you've got to assure that anybody having trouble stopping, either clears or goes through. Federal standards says that a yellow shall between 3 and 6 seconds. Federal standard says an all red can be up to 6 seconds, and if necessary, you can lengthen it farther. The object is to reduce accidents in intersections.

SENATOR PEACE: Okay. Thank you very much. I appreciate your testimony. And please hang around, we may call upon you again.

SENATOR JOHNSON: He didn't even have to change hats.

SENATOR PEACE: You know, probably because he answered the questions.

SENATOR JOHNSON: Call me crazy.

SENATOR PEACE: Lieutenant Maccoun, the City of Sacramento. And David Valle-Schwenk, the City of San Francisco.

LIEUTENANT JIM MACCOUN: My name is Jim Maccoun. I've been marking my 20th year with the Sacramento Police Department this year. And I'm pleased to address this body about this important topic. I would hope that the Legislature carefully considers the tool that they gave us with automated enforcement and the future of automated enforcement in this state.

Twenty years ago, when I joined the Sacramento Police Department, we actually gave a pretty lousy level of service. We didn't respond well to domestic violence, a lot of the different issues in our communities, but we had a lot of free time. And at the end of our shifts we would turn in a log accounting for our time. And in the free time, we were expected to do traffic enforcement. In the years that have passed, we've had a number of requirements put upon us, rightfully so, that we give the public more service, yet we have not increased the number of officers on our streets in our city and most cities in the state due to funding issues.

As you know, the municipalities are probably the hardest hit when it comes to funding issues and maintaining staffing on their streets.

So, basically, over the last 20 years, we've gotten into a position where traffic enforcement has fallen way behind in priorities in the ability of officers on the street to conduct, based on the time they have available. We don't even track citations written by normal patrol officers

in our department currently because they have no free time; they go from call to call to call.

A few years ago, the topic of automated enforcement came up and our department looked at it and realized that the public is identified in our city three main priorities; drugs, gangs and traffic. They've told us this through a variety of surveys we did as we got into community oriented policing with our Chief Venegas.

We started working on the gangs and drugs. Started making some headway, but we really weren't making any headway in the area of traffic. We've had two independent studies done by the University of California, Berkeley Traffic Management Institute, and our city ranks very poorly.

Well the Legislature came along and offered us an alternative with automated enforcement. So we decided to look at what technology had to offer and what this law had to offer. And the first thing we did is we realized that it's essentially an evidence collection device. We use a variety of technical evidence collection, and some of it we have to pay for to private entities. Examples would be drug analysis, the use of radar equipment that we don't calibrate or maintain ourselves, intoxailizers and intoximeter equipment which we cannot maintain, or service ourselves, film and video processing, evidence storage, and other forms of forensic analysis. We also realized that there exists a system, even though its seemingly repugnant of contingency fees already at use in this state by public agencies, and some of these contingency fees include parking enforcement, child support enforcement, and the collection of failure to appear, or failure to pay fines, because, quite frankly, there is not enough police officers to go around to serve warrants. So we reviewed the laws that were put on the books by the Legislature with our

counsel and we decided to enter into a contractual agreement with Lockheed Martin.

Now, we had no basis to judge what the cost would be to our agency. And when they proposed the contingency arrangement, it presented very little risk to the city and to the department. In fact, all the risk was with Lockheed Martin.

Now, originally, Lockheed Martin estimated, based on some surveys that they did, that our city would realize revenues approximately \$2.1 million per year. And they based a lot of their costs on those types of revenues in their share.

Well, I can report that last year for fiscal year 2000/2001, the City of Sacramento only realized \$120,000 of revenue of the \$2.1 million that we were told to expect. But we really don't care, because we have no financial risk in the very expensive equipment and housings and installations that are put up to do red light camera enforcement.

SENATOR JOHNSON: Question, Mr. Chair.

SENATOR PEACE: Mr. Johnson.

SENATOR JOHNSON: How many locations in Sacramento do you have these cameras?

LT. MACCOUN: We currently have 15 housings, or installations, up with 10 cameras operating in those 15.

SENATOR JOHNSON: 10 --

LT. MACCOUN: Fully operational. It's like a shell game; you move the camera equipment from the housings.

SENATOR JOHNSON: Okay. So the answer really then is 10, but they might be at any one of 15 locations.

LT. MACCOUN: Right. And you have the investment for each location of about \$100,000 plus.

SENATOR JOHNSON: Okay. It sounds as if you're saying that the Chairman's earlier comment was correct, that this was pitched to the city not on the basis of the improvement in traffic safety, but in terms of revenue. And it sounds like that's a substantial amount of revenue for Lockheed Martin in the bargain. I think it's to your credit, by the way, that you say that you don't care whether they're making money on it or not. But is that accurate, that the pitch to the city and to the department was based upon money? It sounds like that's what you're --

LT. MACCOUN: I was not involved with the negotiations with the actual contract. My predecessor did that. But, our feeling from the very beginning, and I became a part of this program a little under two years ago, was that this was a way for us to conduct traffic enforcement that we have no other way to conduct.

SENATOR PEACE: Which is another way -- do you understand from the perspective, from the policy makers perspective, when you say that, it's exact same thing as saying, "We're doing it for the revenue," because your alternative is to spend more money for police officers. It would be more expensive for you to get the, presumably, same level of enforcement than you're able with your camera, so whether it's actually bringing net revenue or diminishing the amount of revenue you would otherwise pay for more law officers, it's just a different way of articulating that our reason for this is revenue.

LT. MACCOUN: And from a uniformed perspective, these machines conduct enforcement that we could never do even if we had the officers.

SENATOR PEACE: But let me ask first, how many officers do you have administering your program?

LT. MACCOUN: For my program, I have three officers who administer it part-time in addition to the duties they already had as hit-and-run investigators. And then I have on average, two to three civilian CSOs who assist part-time with the program.

SENATOR PEACE: What do the CSOs do?

LT. MACCOUN: The CSOs conduct some of the screenings when the public wants to come and review their violation.

SENATOR PEACE: I don't even want to ask you anymore because I don't want to make the city's legal case even worse than it already is. I mean, read the law. I mean, you talk about revenue, the City of Sacramento and _____, they're going to end up getting their clocks cleaned. You can't have a CSO doing that. You also use automated pens for your signatures. Isn't Sacramento the one that uses automated pens?

LT. MACCOUN: No. We did it for a short period of time. We no longer do that.

SENATOR PEACE: Well, okay. I'm glad you gathered that real quick.

LT. MACCOUN: And, if I could correct you, the CSOs don't issue the violations. When a citizen has already been issued a citation, the citizen has the right to come into our shop and view the violation on the computer so they have a better graphic, that's all the CSO does, is make that appointment. Show the citizen what has occurred. They don't make a decision as to the violation, which we think is amore efficient way to run our operation.

SENATOR PEACE: Well, it may be efficient, but the reason the Legislature, it restricted the access to the evidence only to police officers was out of, first, the concern to protect the chain of evidence, it's

integrity. And second, to protect the privacy of the citizens who are having their picture taken.

LT. MACCOUN: And, Sir, if you were involved in an injury accident here on the street, in our city, there is a good chance a non-sworn community service officer would respond and handle the entire investigation, as they do in other cities.

SENATOR PEACE: Sure. But can they pick up the phone and get my DMV?

LT. MACCOUN: Absolutely.

SENATOR PEACE: Oh. Well, we need to fix that.

LT. MACCOUN: And it's been that way since --

SENATOR PEACE: Je [REDACTED]. It just keeps getting worse.

LT. MACCOUN: It's been that way for 25 years in this state. But it all basically comes down to what do you want to pay your police officers to do? Do we want to pay police officers to sit on a motorcycle at a cost of about \$125,000 year to watch the red light.

SENATOR PEACE: Or at a desk, looking at pictures.

LT. MACCOUN: I can't comment on how they do their staffing and deployment. I can just tell you, we're very lean and mean with ours.

SENATOR PEACE: Mr. Dunn.

SENATOR DUNN: I'm sorry, Lieutenant. I don't mean to interrupt your testimony. I, at least from my perspective, I can't speak for the other members in the committee, that I think we understand the benefit it provides on law enforcement's side, at least from my perspective. The concern though, that has materialized in a bigger way than I would have ever expected it today is, we have to eliminate the temptation for revenue production out of the use of it. That is, as Senator Johnson indicated before, this is a law enforcement technique, not a revenue generator.

LT. MACCOUN: Absolutely.

SENATOR DUNN: And therein lies the problem because, at least, it seems on the surface to my humble perspective, that there have been jurisdictions that have tinkered with its effectiveness on the law enforcement side for the sole purposes of increasing revenue and not really for the designed purposed of law enforcement. And I think that's the real concern. I don't think anybody is here to say, "You're sitting on lots of extra cash. Go ahead, hire the extra officers and station them out there at those busy intersections." We know that problem. We know that problem.

LT. MACCOUN: And I would agree with you. And I would hope that all agencies in the state use this as a tool, not a solution, but a tool to increase their traffic safety programs.

SENATOR PEACE: You heard the reference to -- you were here when I referenced the testimony of Lockheed Martin folk the last time we had this hearing, and I apologize for that. They weren't here to testify for themselves. I would have asked them to repeat their testimony, rather than hear it third-hand from me. But, their contention was that their technology was infallible. Do you believe the technology to be infallible?

LT. MACCOUN: I believe that if we use technology to land airplanes without pilot assistance, and technology to conduct surgery, I certainly will accept the technology of a red light camera.

SENATOR PEACE: Okay. I have a letter here from a Todd Elsey(?). Let me just read a portion of it.

"Your recent experience has shown me that the photographs of the driver are often the only evidence that an innocent party may have to prove that they were not the person who ran a red light. On, or about, April 5, 2001, the Sacramento Police Department mailed to my ex-wife's

address a citation issued against me, by name, for running a red light. This citation was based on the red light camera at the intersection of El Camino Avenue and Evergreen Street. While I have not been able to confirm with anyone else as yet, I am presuming the citation was issued in my name because the driver pictured was male, and I'm the only male listed in the vehicle registration.

It is interesting to note the lack of review that must be occurring on these tickets.

First, although the citation lists my California ID information. Apparently, the Sacramento Police Department was not dissuaded from issuing a citation in my name, even though I'm a white male in my mid-30s, and a pictured driver was a black male in his early 20s.

Likewise, apparently there was no consideration given to the fact that my ID number listed on the citation is for a California ID card, not a drivers license. I do not possess a California drivers license because I'm legally blind."

Now, that's what happens when people enforcing the law decide the technology is infallible.

LT. MACCOUN: That's a processing error obviously, not a technology problem.

SENATOR PEACE: That's my point. And that was the point of the Legislature.

SENATOR JOHNSON: Yes, Sir. That really is the point, is the presumption that the machine is right. That scares a lot of us, okay? I mean, across the board in terms of political philosophy, this is something that scares a lot of us. Ms. Fields, earlier talked about the most important factor in traffic safety being, you know, the fear of punishment. Up to a point I agree with that. But it's also the belief that

the system is fair, and there are major, major numbers of people in California who are becoming to believe this is just not fair. And I hope that we can talk a little bit about the technology since we did --

SENATOR PEACE: That's where I wanted to go. My next question, in fact, Mr. Johnson, is, what's your background from the standpoint of the technology? Do you have any technical background into this?

LT. MACCOUN: I have Bachelors Degree in Criminal Justice.

SENATOR PEACE: Okay. So you're suffering from the same shortcomings as I am on the technology issues.

You heard the discussion we had earlier about the evolution of just photographic technology and the electronic technology that I'm experiencing, because in my other life I'm a motion picture producer. And, from a law enforcement perspective, not the technology, I'm not expecting you to have a level of technological expertise, it isn't fair to expect of you, but does the prospect of ubiquitous deployment of a digital technology that can be altered or changed at any time by parties, private or public, without the ability after the fact to detect the change, does that slow you down at all in the enthusiasm you express for embracing the moon shot technology that you described earlier?

LT. MACCOUN: I am very concerned that we have a clear chain of evidence, and that's why we have stuck with the wet film technology.

SENATOR PEACE: So you would oppose moving to a digital technology?

LT. MACCOUN: Until it's proven without a doubt that it would be tamper proof.

SENATOR PEACE: Well, it's proven without a doubt to be absolutely tamperable. I mean, there's nothing anybody could ever do to make digital -- you can process in codes, and theoretically build in traps

so that they could be detected when they come back, but that's all. A good engineer can undo all the codes. That's just the grim reality, whether we're talking about web-base technology, or digital film stuff. You all see it when you go to the movies and you see actors that are dead acting live and in front of you, and that's all ultimately on a film. It's on cellular, but that's transferred off a digital work product that goes onto the film. So, I'm glad to hear that you appreciate the significance of the difference between an old film-base technology --

LT. MACCOUN: Whether it's a homicide, or a red light camera violation, the images have to be tamper proof.

SENATOR PEACE: Okay. Now, let me ask you the next question. So we agree that we need a tamper proof image. You heard the exchange I had with the representative from the Insurance Institute with respect to making the -- if we are all to agree we're going to allow cameras, let's assume we're in that world, and assuming we meet your standard with respect to the chain of evidence being securable and tamper proof, what's your feeling about the level of deployment of the cameras? Taking your policeman's hat off and putting your citizen hat, do you want to live in a society in which there is a camera every half mile and a camera at every intersection?

LT. MACCOUN: It would be an extremely inefficient use of police resources, or public resources.

SENATOR PEACE: Okay. Where is the -- that's an interesting answer. So you believe that the cameras then should be deployed to the extent to which the deployment of the resources is efficient?

LT. MACCOUN: Correct.

SENATOR PEACE: So you understand that that's another way of saying, for revenue purposes? What if it could be a little more inefficient --

LT. MACCOUN: Well, if a tree falls in the forest does it make any noise? I mean, we're back to that.

SENATOR PEACE: No, not at all. Because, what if my next deployment of camera is costly but saves lives?

LT. MACCOUN: And how would you have that relationship if there were no violations occurring?

SENATOR PEACE: Well no. Whether you have violations or not, you still have accidents -- you still may have an accident. But if I can put a camera and prevent an accident, I thought that was the purpose of the program. But you're now telling me that it ought to be deployed as long as it's efficient. That means you have to have a revenue return and a displacement of other revenue expenditures that otherwise would have to be made to get a given level of enforcement.

LT. MACCOUN: We view red light cameras as behavior modification and driver awareness. And there is not always a relationship between an intersection that has a high volume of violations and the number of collisions that are reported there, and there are a number of reasons for that.

SENATOR PEACE: I understand. I understand that and we don't -- I don't dispute the notion that a higher level of enforcement at a given intersection may affect behavior at nearby intersections, however that enforcement is accomplished. But by what criteria, or upon what objective basis, do you draw the conclusion that you're succeeding in changing that behavior or reducing accidents?

LT. MACCOUN: Well we do know that in the last year, following the first control year, the first full year that we were in operation, the number of violations reported to the system, not the citations, the number of violations reported to the system, meaning that a car ran the red light and triggered the system, went down by 35 percent, okay?

SENATOR PEACE: What was your accident numbers?

LT. MACCOUN: The accident numbers are about 10 percent.

SENATOR PEACE: City wide?

LT. MACCOUN: At the selected intersections.

SENATOR PEACE: At the selected intersection where the camera is deployed.

LT. MACCOUN: Correct. But at those same intersections in a one-year interval, we have a 35 percent reduction in red light running. And maybe we're overly optimistic, but we like to believe that that behavior is going to carry over to all the other intersections in the city that have a red light.

SENATOR PEACE: Okay. What's the criteria, the basis upon which you decide where you're going to put your red light camera?

LT. MACCOUN: What we do is we meet with the city traffic engineer, the police department and Lockheed Martin, our contractor, and we tell them, "Here's some intersections we have problems with. Take a look at these." They conduct surveys using video equipment, strictly for the purpose of surveying.

SENATOR PEACE: They being Lockheed Martin?

LT. MACCOUN: Correct. They come back to us and predictably, express an interest in putting in the equipment at where there is a high violation count. We don't always agree.

SENATOR PEACE: So the cameras get deployed where there is the highest level of history of violations.

LT. MACCOUN: We have to have either a survey that shows a high number of violations, or a collision data, which shows us that there is a problem there, so it's a combination of both. Because, it would be wasteful to put the equipment in if there wasn't.

SENATOR PEACE: In your contract with Lockheed, it contains the exact same provision that San Diego's does, that allows Lockheed to unilaterally take down a camera if the volume of tickets goes down.

LT. MACCOUN: When you say take down a camera, what do you mean, take down a camera?

SENATOR PEACE: Move the camera. Take it down. Stop operating it. Your contract says --

LT. MACCOUN: I'm not aware of that contract provision exists, or is exercised in the City of Sacramento.

SENATOR PEACE: Have you read your contract?

LT. MACCOUN: Yes.

SENATOR PEACE: And you're not aware of that provision?

LT. MACCOUN: No, I'm not.

SENATOR PEACE: You should read it again.

LT. MACCOUN: I have it here with me.

SENATOR PEACE: It's there.

LT. MACCOUN: I'll be happy to -- I'm not aware where it's ever been exercised unilaterally by Lockheed Martin.

SENATOR PEACE: Okay. Have you surveyed your yellow light durations in the intersections where the cameras are deployed? (tape 6)

LT. MACCOUN: When we took this broad leap into this new technology, after the system was up and running, the city traffic engineer

started looking at the systems in the intersections, and he realized that some of these intersections were not to CalTrans standards. And without the notification or any consent on the part of Lockheed Martin, we went ahead as the City of Sacramento and changed them and upgraded them to the CalTrans standards.

SENATOR PEACE: So all of the CalTrans, all of the Sacramento lights are at CalTrans standard yellow light?

LT. MACCOUN: That is what the city traffic engineer has told me, and we have certified in court.

SENATOR PEACE: Okay. Sir.

MR. DAVID VALLE-SCHWENK: Thank you. Good morning. My name is David Valle-Schwenk, and I'm the program manager of San Francisco's Red Light Camera Program.

Just as a little background I would like to tell you that there are presently 17 camera enforced intersections in San Francisco, and that's roughly 31 different approaches that we have, about one percent of all signal lights approaches in the area of about 46 square miles. We have 20 cameras that we rotate to those intersections.

I recently took a look at Switter's data and pulled the 1992 - 1996 collision data where red light running was deemed a contributing factor and averaged the injury collisions five years prior to the installation of camera enforcement in San Francisco, and then pulled injury collision data after the installation of red light cameras beginning in 1997 to the present. And we've, just so you know, the five-year average in injury collisions in San Francisco was 786 injury collisions, 4 fatalities, and 1,324 total injuries after the use of automated enforcement those numbers declined to an average of 725 injury collisions, 2 fatalities and 1,192 total injuries.

We've tried to weigh the costs and the benefits, in economic terms, of the use of these cameras. We don't want to fall into the problem of determining the value of human life or the cost of life and limb, but understand that in court it's been a common practice for jury decisions and insurance settlements to put monetary values on collisions and injuries and fatalities.

Based on the Federal Highway Administration's Technical Advisory on Motor Vehicle Accident Costs, we've cited the following averages as social costs related to automobile collisions.

- A fatal collision is estimated by the FHA to be approximately \$2.5 million.
- A severe injury collision is in the area of \$179,000.
- The cost per other visible injury collision is \$36,000.
- And the minor injury collisions are roughly \$19,000.

And some of the factors considered include, medical expenses, lost work hours, using wage rates and expected work life, court fees, legal fees, emergency response, property damage costs, pain and suffering.

In San Francisco, our civic leaders there decided that it was no longer a socially, economically, or politically acceptable to suffer these losses.

We know, in San Francisco, that the average number of injury collisions, given the before and after data from Switter(?), at the present time is about 750 injury collisions, which equates to approximately \$40 million in social costs annually if you take the Federal Highway Administration's numbers.

For every paid citation --

SENATOR PEACE: This is the same -- during this period of time the state law was also changed to increase the citation amount

substantially, and San Francisco engaged in a very high profile public information program spending quite a bit of money on that, to your credit, public information program. How do you desegregate the role that those, and other factors that I'll make reference to the memo prepared by staff in response to the Oxnard Study, as opposed to going through all of the independent things that changed during that same period of time, in addition one of which was the change in the -- what do you call it? When kids get their drivers license, the mandatory six --

MR. VALLE-SCHWENK: The provisional drivers license.

SENATOR PEACE: Drivers license element, which studies have already indicated allegedly results in a 30 percent reduction in accidents. And at some point, if you accept all of these studies work, I think we were working through this the other day, we were able to come up with something to the order of a 270 percent reduction in accidents. That's pretty good. It's, like, do you get my point? I mean, you can't --

MR. VALLE-SCHWENK: Absolutely. We're not trying --

SENATOR PEACE: You and I both know, the numbers are bull [REDACTED].

MR. VALLE-SCHWENK: But we're not trying to give all the credit to the red light cameras.

SENATOR PEACE: Well, but you are. You want to read these statistics, and this is precisely the kind of demagoguery I made reference to earlier, where the proponents of red light cameras want to authoscate(?) the very serious and legitimate issue associated, essentially with, what level of tradeoff do we want to give with respect to freedom and safety? That's fundamental to our society. We know we can make -- look, we could hire

5 billion more police officers. Have one stationed at every corner. Have the death penalty for spitting gum off the curb. We could be, as my wife believes should be, Singapore. I mean, she's right there. But, and that's the only thing your statistics prove out, is that, yeah, as you incrementally deploy more and more resources toward enforcement, you make the penalties higher and higher, you can get a higher level of obedience, or, behavior modification as you refer to it as. Do we really want to go there? Ironically, of all cities in this country, does San Francisco really want to go there? Let me ask you the question, do you want a camera at every half mile and at every intersection?

MR. VALLE-SCHWENK: I actually, I think in the small city like San Francisco, I mean small in terms of its area, we pretty much have that already. If I walk down Market Street --

SENATOR PEACE: Well, and you're okay with that?

MR. VALLE-SCHWENK: Well, you know --

SENATOR PEACE: It doesn't concern you at all?

MR. VALLE-SCHWENK: The prevalence of sign -- excuse me, of the cameras is a concern. I think, though, that I've also learned to live with being videotaped every time I go on the bus in town; every time I go into the bank; every time I go into the grocery store; whenever I go to an ATM; when I drive on the state highways that run through the city, I know CalTrans has video cameras there.

SENATOR PEACE: Do you know that CalTrans used those video cameras a couple of months ago to pull of people's license plates and then send surveys. Do you know how many complaints we got from citizens outraged? You said it best, you just said it. You said it all. "I've gotten used to." "I've become accustomed to." You think it's inevitable, right?

MR. VALLE-SCHWENK: Well, I don't think that that stops me from my responsibility with the city to push forward with trying to reduce collisions.

SENATOR PEACE: Forget the city. I'm just saying, is that -- you're okay with giving in to that world?

MR. VALLE-SCHWENK: I think we're there. But I think there are places we can go to escape that as such.

SENATOR PEACE: Now, if we take that world -- are your cameras digital or film based?

MR. VALLE-SCHWENK: We use wet film based technology.

SENATOR PEACE: But many of the cameras that you made reference to, like for banks and, I suspect, in the transit system, are probably at least video, not film based and probably digital, right?

MR. VALLE-SCHWENK: I assume so.

SENATOR PEACE: Does it change your view point, or your level of concern at all, if you find that those images are subject to manipulation without trace?

MR. VALLE-SCHWENK: I didn't mean to insinuate that it's never been a concern. I mean, I'm growing up in a technological era where I understand that the manipulation of data is feasible; it's possible. You know, I grant that. I don't let it concern me, however.

SENATOR PEACE: I appreciate that. That's a generational difference in viewing it; you don't let it concern you. And that's what concerns me, frankly, is what worries me. I think, as a society, because we all seek these values, you monetized it, and the lieutenant referred to it in terms of -- and there is nothing. Look it, I've been there at a motorcycle accident where a little kid is on the back of a motorcycle that doesn't have a helmet and died in my arms. And I commend every officer

and public safety official, firefighter and everybody else who is willing to live their life dealing with that day in and day out, and it's the toughest job in the world. But it also can lead us, in terms of public policy, down some strange paths, not dissimilar to what we've done, for example, in the fire industry.

MR. VALLE-SCHWENK: It's a tremendous experiment in criminal justice and public safety. I mean, there is no way around it.

SENATOR PEACE: Well, I'm glad you used the word, experiment. I'm comforted by the fact that you still view it as an experiment. What I'm concerned about is whether, and I think the issue, the reason I read Judge Goldsmith's opinion is, that I fear that the underlying institutions that we've built to protect our freedoms are not getting enough public debate as the experiments move forward. It was a dialogue and debate we had in this Legislature when we authorized this program. And if I can leave you all with one thought above all else, it was the Legislature's intent to keep this program entirely in the hands of law enforcement officials.

MR. VALLE-SCHWENK: Sir, if I could ask you a question. Do you really believe it would be efficient for \$100,000 a year public cost to police officers, to go out and change film at these locations.

SENATOR PEACE: A very well put question. And because it puts in stark contrast what the public policy debate was versus what the police department city deployment of law was. Our concern wasn't efficiency, our concern were the rights of our citizens.

MR. VALLE-SWENK: Sure.

SENATOR PEACE: And what is literally happening here, is cities have deployed a very carefully crafted statute designed to allow for the technology in the event that it could be done with these restrictions

efficiently. We said, "Okay, if you can do it under these criteria, and these criteria only, you can go forward." What happened in the real world is, cities came to the conclusion that the restrictions the Legislature put into law made the program inefficient, so you broke the law. You put efficiency over the law. The law you're implementing isn't the law I voted for.

MR. VALLE-SCHWENK: And maybe we could both agree that maybe the law isn't definitive enough as it exists.

SENATOR PEACE: I think it is, and I think the courts are in the process of informing you how definitive it is. And what's particularly concerning from a taxpayer perspective is, the nature of contracts with Lockheed Martin and others up and down the state, all indemnify the contractors against the lawsuits your cities are all going to face and you're all going to lose. You have no chance of winning these lawsuits. None. You're going to have the Legislative counsel opinions, the record of the hearings that are in process, the guy who wrote the language, all agreeing with the judges who have looked at the law to date. And as it moves forward through the appeals process and these appellate cases take hold, and suddenly your city attorneys are going to scramble and say, "Oh cr █, this suddenly has applicability to us." And then you're going to look more carefully at your contracts, and they're going to see that you're going to have class-action lawsuits. The attorneys sitting out here are going to see the opportunity to pursue class-action lawsuits against the cities. They'll be limited in the claims they can get to against the private contractors because of the nature of the contract with the cities. You assumed the liability in these contracts, indemnified the contractor. What's that going to do to your budget? What's that going to do to your efficiency?

MR. VALLE-SCHWENK: So the alternative for local law enforcement agencies with meager resources for traffic enforcement is what?

SENATOR PEACE: What would I do if it were my decision right now if I were in your shoes? I'd shut the cameras down right now, today.

MR. VALLE-SCHWENK: And how would you address the ever raising collision rates?

SENATOR PEACE: I'd come in and work on this Legislature to get an auth -- if I was in your shoes and I believe in the cameras and I want the cameras deployed, I'd be working with -- I'd shut myself down because I don't want to expose myself to further financial jeopardy. And I'd work with the Legislature to get a product that I thought I could live with and make work financially if you believe, under the current provisions of the law, that it doesn't work financially. But I certainly wouldn't continue to operate a program that's in violation of law. And you already have more than one judge saying it's in violation of the law, and it's just a matter of time until you eventually get an appellate decision. And I, frankly, believe that your city attorneys have been nothing short of reckless in allowing these programs to go forward. And the same, and it isn't the guy sitting down _____ selling you, but I know the forces that are behind creating the momentum in terms of this. I know who the real players are. It's the insurance industry lobbying in this place. It's the traffic school industry lobbying in this place. It's Lockheed Martin and other companies lobbying in this place. Have no illusion that they woke up one day and they just suddenly had this magnificent desire to go out there and make things safer. If they were, they'd be in your job. They'd be on the street doing the people's business. They wouldn't be working for a private company making five

times what you're making, pretending to share your commitment. They don't. Their commitment is to money.

MR. VALLE-SCHWENK: Their commitment is to their stockholders and our commitment is to the public.

SENATOR PEACE: And what I'm suggesting to you is, they've gilded the lily, they've doctored the work product, and they've spun us all like a top to exploit our sincerity of purpose with respect to protecting the public for the benefit of their pocket, and the net beneficiary is neither safety, nor the public wheel. And I don't suggest for a moment that you'd all have walked into that relationship on purpose. But I think the facts, over time, will pretty well spell itself out. Thank you.

All right. Let me ask Allan Lind and Zev Fogel and John Beck all to come forward. I understand Robert Kerr is here for Nestor Traffic Systems. I'm not sure you really want to do this.

Let me dispose of you first. You have a digital system?

MR. ROBERT KERR: Yes. It's a video system.

SENATOR PEACE: It's an analog video system.

MR. KERR: Analog video.

SENATOR PEACE: Oh. That's better. And the point you want to make is?

MR. KERR: Well, I guess, what I'd like to say --

SENATOR PEACE: I'm sorry.

MR. KERR: I'm Rob Kerr, Vice President with Nestor. I guess what sets our system apart from the conventional wet film, or digital still film, is it's video. And we are in it for safety. We have a collision avoidance system within our system that, in fact, was talked about a little bit before, that extends the all red phase.

SENATOR PEACE: So you believe your competitors are in it for the revenue?

MR. KERR: I wouldn't say that, and I'm not about to speak on their behalf.

SENATOR PEACE: Well, it's a logical implication. You said what differentiates our system is, we're in it for safety. Now if that's differentiating, what's it differentiating it from?

MR. KERR: I said --

SENATOR PEACE: You can't have it both ways. You see, you can't go out and promote your product and saying, "We've got a better product because we're in it for safety," and then say, "But I don't want to say anything bad about any competitor."

MR. KERR: Senator, let me rephrase that. I guess what I should say is, what differentiates us is that we have collision avoidance and a safety feature built into our product, and it's not just an enforcement device.

SENATOR PEACE: How does that work?

MR. KERR: How does it work? It actually detects -- we don't run off loops. We actually -- our company was founded by a --

SENATOR PEACE: How does the collision avoidance work? How do you --

MR. KERR: What it does, it predicts -- if somebody is going to run a red light, it predicts they're going to run a red light. And then what it does is extend the all red phase so that --

SENATOR PEACE: In the other direction.

MR. KERR: In the other direction so that the cross traffic does not blunder out in front and you get broad sided.

SENATOR PEACE: Have you deployed this system anywhere?

MR. KERR: Yes. It's in Virginia, Falls Church and Vienna. It's also run as a trial in Irvine, California.

SENATOR PEACE: How long has it been in place?

MR. KERR: A couple of years now in Vienna. Irvine, ran a trial of the technology. The police department actually evaluated a number of technologies and had that running for the last year, and they've come to the conclusion that our technology is the way they want to go because of the video evidence, which gives more concrete evidence and it gives a complete objective view of what went on.

SENATOR PEACE: A clearer picture.

MR. KERR: A clearer picture. It gives all the evidence as if an officer were standing at the corner, because it basically gives the entire picture from front to back of the changing of the phases. Plus, they've tested the collision avoidance within the lab and outside in the streets and they're convinced that it does what it's supposed to do, which is to extend the red phases and prevent accidents.

SENATOR PEACE: Okay. Thank you. Mr. Lind, what is an otherwise good citizen like yourself, doing in this?

MR. ALLAN LIND: What's a nice guy like me doing in a place like this?

SENATOR PEACE: Yes.

MR. LIND: For the record. I'm Allan Lind. I'm here on behalf of my client, Advocates for Highway and Auto Safety. And Mr. Chairman, as you know, I'm a lobbyist. I'm here to advocate on their behalf. I've got a bias. Our bias is in favor of red light cameras because, frankly, we think the public safety trumps privacy in this case. It's as simple as that. That's our orientation.

For the record, I wasn't invited to this hearing. I had to ask my way in. But as you know, I've been an opponent of your -- a loyal opponent of your SB 667, when it was proposed to repeal red light cameras. So I don't think I'm an unknown quantity to you. I just want to be sure that you understand that I wasn't invited here, and yet, I've been an advocate on behalf of the other side. So, I say this in deference to my colleague from the Institute of Highway Safety. I think that it was -- people, like ourselves, get word of these hearings through the grapevine. I heard about it from my federal colleague in Washington, D.C., who is a lobbyist back there, who heard it from the Lockheed --

SENATOR PEACE: From your written work product, though, Allan, the reference, the only reference that you make in justifying your conclusion that safety trumps privacy, is the Oxnard Study. Now, have you read the staff analysis of the Oxnard Study?

MR. LIND: No. And I just saw it this morning. So, it's an intriguing write and -- but I wouldn't -- if my material is predicated --

SENATOR PEACE: Let me give you my intriguing write on the Oxnard Study. Let's say if I ignore all the flaws that are pointed out in the staff analysis, which I also just saw this morning, when I read the work product, I note that the author is very careful, obviously interested despite his employment status and maintaining some semblance of credibility. He obviously doesn't feel he has a job for life. If you read carefully what he says in his disclaimers at the front-end of the study, he basically says everything you're about to read here is a bunch of cr ■, but this is what I got hire to do and here are the limits of the conclusions you can draw from the work product because of the inadequacy of the data that was available to me and the many variables that are out there. But, given the assignment I was given by my bosses and the conclusion

they told me to come to, this was the best I could do.” I mean, that’s literally what -- not literally, but that is in essence what the author says. So without their independent analysis in going through the failings of -- all you have to do is read the guy’s own work. And if you really read his words instead of just quoting the selective paragraphs that the Institute and others choose to quote from, you couldn’t possibly come this grand conclusion that safety trumps privacy. Which is why, if you detect some lack of patience, tolerance, respect, pick a word, for your clients, you’re right. Because, I think they’re exploiting people I think in the worst possible way, essentially accusing anybody who disagrees with them as being indifferent to safety, and by reference, virtually culpable in the deaths of people. I mean, they engage all manner of deplorable lobbying tactics. They’ve issued press releases that have been downright false. And you were here, and I think you have been around long enough, I think, to appreciate why I didn’t appreciate the _____ of the prior witness with respect to what was a pretty simple question, you were asked to appear here on Lockheed’s behalf, and she wanted to correct behalf and say, “No, I was contacted by Lockheed, but I’m here independent”, which is fine. But what she really tried to do is, avoid saying she was even contacted by Lockheed.

Now, the only reason why that’s significant is that it’s indicative of a behavior that’s consistent with what has been the big picture promotional program behind this. It’s not really unlike what I watched the energy companies do for a year in this state on the energy stuff. They did a better job in manipulating the press than they did in manipulating the market. And as a consequence, it cost billions of dollars until this place started getting focused on where the real problem was back in FERC.

There's no difference. I mean, you have industry interests here that co-habitate in their economic interests, and they have not allowed for a serious dialogue about what you articulate as the tradeoff between privacy and safety. _____ as safety Nazis. It's safety at all price. And that's why I asked the question; is it every half mile; is it every quarter mile; is it every 10 feet? When do I -- let's assume that I come to the conclusion that the Nestor Technology is the best technology of the lot in terms of protecting the chain of evidence, in terms of having some qualitative value, in terms of promoting safety, when do I stop deployment? Once I leap to the conclusion that it's okay to do it, where do I stop?

MR. LIND: A good question, Steve. I don't know where you stop. From our take, we're interested in improving safety in intersections, and we have a menu of proposals to improve safety at intersections and this is one tool to work with --

SENATOR PEACE: I get that. I get that. But that's -- see, that's what I'm trying to breakthrough on; if there is a reservoir of legitimate commitment to public purpose with respect to your client in this, they have to do more than simply say, "From our perspective, our thing is safety. Other people worry about the dialogue about what gets compromised while we get safer. Because, that's not a real position. It's an out of body experience. I mean, the real world we have to deal with inherently involves that compromise. And I have yet to see a single document, a single conference, a single exercise, in openly and honestly and with the sincerity and seriousness of the civil rights issues posed by the safety desire to be engaged in. It isn't that it's an unworthy position, it's a strident promotional tone as opposed to a studied good government tone that won't be breached until your clients accept the fact that none

of their viewpoint is worthwhile at all to public policy makers until they're willing to say, "Yeah, we need ourselves to consider how far we'll go." At this point, they're just willing to say, "We're the people advocating for safety. Somebody else can advocate for civil rights." And that's not fair.

MR. LIND: Well, I'll just say that my guys have engaged in that kind of debate in the congress.

SENATOR PEACE: You should be able to answer the question, how far do we go?

MR. LIND: And how far do we go? I think, frankly, is a judgment call at the local level. If you're authorizing local governments to make decisions about how to best improve the traffic intersection safety of their community, then they have a number of options. They can re-engineer their intersections for greater improved visibility.

SENATOR PEACE: Then why do your guys oppose the yellow light?

MR. LIND: They're not. They're not. We were opposing your 667 when it repealed the red light camera law. Your bill had an _____

SENATOR PEACE: _____ you say it's supposed to be done at the local level, why aren't you in there advocating at the local level for yellow light standards?

MR. LIND: I'll be happy to do that. And we'll happily testify in support of your 667 to standardize or calibrate yellow traffic signals. I think that that's a perfectly legitimate thing to do. A correction --

SENATOR PEACE: It also proves why your basic position, which interestingly are the same words as the Insurance Institute's position, which I find interesting. Not just the same position, the same words. The fact that it had to be cured at the state level, and you didn't lobby for

it at the local level, is prove in the pudding that you need to have a standardized law that sets the parameters from the state level.

I ask you to take back two messages to your clients. They expect me to take them seriously. I don't particularly know that they care about me taking them seriously and that's fine. I'm term limited. I'll be out of their way in a very short period of time. I get it.

MR. LIND: It was over my better judgment to be here, so they take you very seriously.

SENATOR PEACE: To me, nothing they say is of any value until they're willing to try to answer the question, how far do we go?

MR. LIND: How would you expect that answer to be made though, Steve. It seems to me that this is a --

SENATOR PEACE: If I knew the answer, I'd put it in a bill.

MR. LIND: But I don't think that you can say, "One out of every five intersections, or one out of every two intersections." I mean, how far are you willing to go?

SENATOR PEACE: I'm not asking that it be articulated. I'm just trying to get the issue on the table and make the point that it is unfair to be an unfettered advocate of safety. It's like saying, "I'm for the flag. Everybody who argues against my position is anti-safety." And that's the position your clients are taking. "We're for safety and everybody else is for killing people."

MR. LIND: I hope that you don't get that from me.

SENATOR PEACE: Not you personally, no. But I get it clearly from your client.

MR. LIND: Not from my client either. (tape 7)

SENATOR PEACE: Oh.

MR. LIND: _____ suggestions to throw the baby with the bath water over complaints about things that can be fixed.

SENATOR PEACE: I understand that. But they have been very strident in their alliance with the Insurance Institute in public relations stunts all designed to prop up -- and it's interesting how much they backed off. Initially they were very active down in San Diego, all kinds of press stuff and all kinds of things happening and trying to interrupt people on radio talk shows. And then as the facts started to sprinkle out with the movement of the loops and the court cases started matriculating in San Diego, people have gotten a little quieter, a little more sober. And I suspect as they learn more of deficiencies and more attention is placed elsewhere, they're going to get more and more sober.

MR. LIND: And it truly was a very sobering experience to learn of some of those imperfections, some of those errors in judgment.

SENATOR PEACE: There's more to come, Allan.

MR. LIND: We, of course, don't support any of that. It goes without saying.

SENATOR PEACE: But tell your clients, that when they go out there and they get themselves hung out supporting this stuff without knowing those things, because they didn't, just as the Insurance Institute; they haven't done the studies; they don't know the engineering; they don't know what has been done and not done; they don't have any traffic safety studies; they leapt to a conclusion before they got any work product. You ought to tell them, it's in their best interest to know they've got themselves hung out in a position the facts don't support. And they've got themselves trying to get facts to chase the conclusion they've already drew. And their danger is this, even if, in the future, their conclusion turns out to be a good one, nobody is going to believe them

because they've made -- drawn the conclusion before any reasonable vetting of the facts.

I'm sorry. You're last, sir.

DR. JOHN BECK: Thank you. Thank you for inviting me here. And I'm very happy to say that I'll admit to -- who invited me was Arthur Tait, and I'm very happy to be here.

Just a little bit in the background I would like to offer though. I started on this red light camera investigation slightly before I met Arthur Tait. I was angry at Roger Hedgec [REDACTED] for blaspheming the red light camera, and I've tried to prove him wrong. Well, I was making my tests and so forth and I got flashed by the camera, and I found out that the light at Harbor Drive and Grape was, in fact, three seconds.

SENATOR PEACE: Excuse me for interrupting. Just for the record, they're tape recording. Could you state your name? I'm sorry.

DR. BECK: Excuse me?

SENATOR PEACE: Could you state your name for the record?

DR. BECK: Oh. My name is John Beck. I'm an engineer and I'm employed by Clean Air Partners in San Diego as the chief technical officer, and I do consulting on the side as expert witness.

SENATOR PEACE: Thank you. And so you were at Grape and Harbor.

DR. BECK: I was at Grape and Harbor. And this was 15 months ago. I've been studying this for 16 months, and I've put in almost 1,000 hours of pro bono time, to give you an idea how strongly I feel.

Anyway, that's the background. And I would like to say, Senator, that I could truncate my comments very quickly by saying that I agree spot on with your perception of the red light camera enforcement. It is very badly handled. And even if it were done correct, I'm not sure that it

ought to be accepted. But it is terribly badly handled. And I have to believe that the top management at Lockheed Martin knows that it is 98, if not 100 percent, extortion and not safety. It's not just revenue --

SENATOR PEACE: You say you entered this process as a defender of the camera originally. What was it that you discovered specifically that changed your view?

MR. BECK: When I found out, in fact, that the yellow interval was way too short. I thought that somebody was mistaken. And I thought that these guys ran the red light deserved a ticket, but not let's argue that.

SENATOR PEACE: So what did you find at Grape and Harbor as you studied it?

MR. BECK: It's a three second yellow interval and it ought to be 5.4. And that about 98 percent of the violations are unjustified.

SENATOR PEACE: Because?

MR. BECK: Because they did not have time to stop at three seconds. That's a very busy intersection. You have to go with the flow of traffic. And if you don't know that it's a short yellow light, you're --

SENATOR PEACE: You're hung out in the middle. And it's also a very -- it's a two-lane left turn so you have a very broad turn there.

MR. BECK: Sure. And I haven't proven it yet, but I have reason to believe that the equipment has been tampered with in addition.

SENATOR PEACE: At Grape and --

MR. BECK: At Grape and Harbor.

SENATOR PEACE: In what way do you believe it was tampered with?

MR. BECK: There are two ways of measuring the speed and they have to measure the speed in order to give the citation. They always use

the high one because that gives you the most chance of citing the vehicle. Also, it's not tamper proof because there is a keypad for inputting all of the constants, like the distance between loops and intervals. I find no supervision of how that keypad is punched. There is a log book that says what numbers should be in there. I don't see any record of what actual numbers got in there. So, without oversight, supervision and validation, there is no way of proving that it's tamper proof. It is not tamper proof. Also, it's inaccurate, unreliable. I have one citation in which the speed and violation was measured in lane two, and the citation given to the photograph of the vehicle in lane one.

SENATOR PEACE: And what kind of response do you get when you confront officials with that kind of product?

MR. BECK: Pretty good. Those who are paying attention, like Jim Madafer(?), are being heard.

SENATOR PEACE: But if you take that -- for example, you say you have a picture that allegedly has a driver in lane one, and the data suggests it's in lane two --

MR. BECK: If you'd like to see it, I have it here with me.

SENATOR PEACE: I have no reason to believe that you don't have it. Did you take that to -- not to Jim Madafer(?), but to either the police department, or Lockheed Martin?

MR. BECK: I abide by the timing of my attorney and he said it's not time yet.

SENATOR PEACE: So you haven't confronted the department with

--

UNIDENTIFIED: We're going to wait for trial.

SENATOR PEACE: Okay. Sir, did you want to add?

MR. BECK: I wanted to --

SENATOR PEACE: Anybody else who wants to add something, come up.

MR. BECK: I wanted to add this: The City of San Diego took pretty good data. They changed the lights, the yellow light intervals, on three out of the four lights I have here.

SENATOR PEACE: Shortening them?

MR. BECK: What was that?

SENATOR PEACE: Shortening the yellow light interval, or lengthening?

MR. BECK: Well they all started at three seconds, which is what gave you the 3,000 --

SENATOR PEACE: Okay. And so then they --

MR. BECK: At Grape and Harbor. They lengthened it in one and it goes down in violations by a factor of 10 to 100. So there is more than 90 percent of the citations issued in San Diego are unjustified.

SENATOR PEACE: Because of short yellow lights.

MR. BECK: Yes.

SENATOR PEACE: Sir.

MR. DORNSIFE: Yes. You opened up with a premise --

SENATOR PEACE: For the benefit of the sergeants, state your name.

MR. DORNSIFE: Chad Dornsife with the National Motors Association.

You opened up with the premise that none of your staff vehicles have ever received a citation. Having dated a Superior Court clerk, and also, my family is in law enforcement, whatever, I can tell you that there is a database at DMV that tags the license plate that you're law enforcement related and even during a simple traffic stop, you're given a

“good to go.” So I don’t know how far they’re doing this on the -- I don’t know how far this extends in red light cameras, but I know for a fact, that even a friend of mine, who is dating a sheriff’s deputy, his girlfriend has her plate in the system. That’s how far it goes. So, it doesn’t even have to be someone you’re married to, it can be just somebody you’re dating. So, I know for a fact that my, when I was dating the judge’s staff, that she did not get tickets, no matter what the circumstance.

MR. BECK: I forgot to make a comment. I also studied in depth the yellow light intervals recommended by various institutions, and I have reason to believe that there is a significant error in the CalTrans recommendation. It’s better than what’s used at San Diego, but it appears like they left out the one second reaction time. So, one second, in my opinion, should be added to the CalTrans numbers.

SENATOR PEACE: The similar issue was raised with respect to assuring they had the all red period.

MR. BECK: Yeah. That’s right.

SENATOR PEACE: Okay. Thank you very much. I appreciate your participation.

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