



ADVISORY NEIGHBORHOOD COMMISSION 3E

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BY E-MAIL

December 17, 2012

Mayor Vincent C. Gray, and
Council of the District of Columbia
1350 Pennsylvania Avenue NW,
Washington, DC 20004

RE: Letter Resolution Opposing Automatic Traffic Enforcement Bill

Dear Mayor Gray and Council Members:

ANC 3E writes respectfully to oppose passage of the “Safety-Focused Automatic Traffic Enforcement Act” (“Bill”) as written, which we understand the Council passed unanimously on first reading. We believe the stated basis for enacting the Bill does not support the Bill’s passage. Without material changes, we believe the Bill would fail adequately deter repeat offenders and lead to unnecessary deaths and injuries.

Whereas

Political Support for Significant Fines

The Bill would significantly reduce fines for speeding recorded on speed cameras. A stated reason for doing so is to “avoid[] a public backlash.”¹ The Council must of course take public sentiment into account in legislative decisionmaking. We question, however, whether DC residents broadly oppose, or likely would come to oppose, fines at their current level.

Speeding and pedestrian safety issues are among the most common complaints raised at ANC 3E meetings. We hear many requests for increasing the number of speed cameras in our neighborhood, along with requests for police officers to conduct speed and red light enforcement. We do not, by contrast, hear residents decry the costs of speeding tickets. To be sure, our direct experience lies with only a few neighborhoods in one quadrant of DC. Nevertheless, we have not seen evidence that our experience is incommensurate with the rest of the city.

We suspect that a modest number of residents and others oppose the current fine levels vehemently, and that this interest group – chronic speeders – has lobbied Council Members intensively. Indeed, nothing in the Transportation Committee report on the Bill suggests otherwise.

¹ Council of the District of Columbia Committee on the Environment, Public Works, and Transportation, “Draft Committee Report, Bill 19-1013, the “Safety-Based Traffic Enforcement Act of 2012,” (11/28/12) [hereinafter “Committee Report”] at 3.

Small interest groups notoriously wield undo power in local politics. It might therefore be expected that a public interest advocacy group would consider the possibility, in promulgating policy recommendations, that pressure from interest groups would affect politicians' willingness to take certain actions. Here, it appears to be the politicians themselves worrying about resisting the "speeders lobby."²

We note that comparatively few DC residents are ticketed. Per data presented in the legislative history, *approximately 75% of automated traffic citations go to vehicles registered outside DC*, primarily vehicles registered in Maryland.³ Going strictly by the numbers, it is reasonable to surmise that many speeders who have been bending our Council Members' ears actually live outside DC.

Speed Cameras Work to Promote Safety

Per the report of the Task Force convened by Council Members Cheh and Wells to study the issue, traffic fatalities fell by 69% in the District since automated enforcement began, as opposed to an only 28% decrease nationwide. Likewise, the percentage of fatalities to which speed contributed fell from 60% to 30%.⁴

Per MPD, the limited data available on changes in automated citation frequency before and after fines were raised were insufficient to draw meaningful conclusions.⁵ If one chose nonetheless to rely on these data, they suggest citations "increased slightly after fine amounts rose."

It begs logic to posit that citations increased slightly *because* fines rose. At best, if one relies on these limited data, the most reasonable inference is that fines were not raised *high enough* to deter speeding and red light running more and save more lives.

The Evidence Does Not Show That Fines and Compliance are Uncorrelated

The Task Force report states that "[a] review of national research revealed that the level for speed cameras fines had little or no impact on speeding behavior." Yet, a memorandum attached to and incorporated into the report states that "[t]he literature is sparse on how traffic infraction fines affect compliance with traffic laws."⁶

The Task Force memorandum does note that there is a "strong correlation" between the level of fines and seatbelt use. A statement in the Task Force report from the Council for Court Excellence Committee on Pedestrian Safety amplifies this finding, citing a National Highway Traffic Safety Administration study showing that "[i]ncreasing a State's fine amount from \$25 (the current median value) to \$60 was associated with a nearly 4-percentage-point increase in both Fatality Analysis reporting and observed seat belt use. Alternatively, increasing the fine amount from \$25 to \$100 was

² Even more surprising is the Committee's specific reference to avoiding a backlash such as apparently occurred in Houston, Texas. *See id.* Houston is a city in which, to take just one example, citizens routinely carry concealed guns legally, in a state that executes more prisoners than any state in the union. In short, it is hard to think of many cities more politically dissimilar than Houston and DC.

³ "Safety-Focused Automated Traffic Enforcement Task Force Report," (11/5/12) [hereinafter "Task Force Report"] at 4-5.

⁴ Task Force Report at 4.

⁵ *See* Task Force Report at 27.

⁶ Task Force Report at 24.

associated with a nearly 7-point increase in use.”⁷ The statement also cited a research report that showed the same, common-sense result with cigarette smoking, where every 10 percent increase in the real price of cigarettes reduced consumption by three to five percent.

Thus, per the Task Force’s report, evidence on correlation or lack thereof between speeding and speed camera fines is “sparse,” and thus, presumably, insufficient to draw strong conclusions from, while in other areas of safety-regulation where data are better, the result expected by classical economic theory obtains: as the price of a risky behavior increases, “demand” for it decreases.⁸

The Proposed Fines Move Farther Away from the District’s Longstanding Position on Chronic Speeding

We are surprised by the absence of discussion in the legislative history about the role of points in deterring speeding. Per the legislative history, speeding 10 to 20 mph over the limit constitutes the “overwhelming majority” of speed camera tickets.⁹ Under the Bill as engrossed, a vehicle owner whose vehicle was caught via automated enforcement going 16 mph over the limit three times in a two year period would receive tickets totaling \$300. The three moving violations would not be reported to the owner’s insurer, and no other penalties would accrue. By contrast, if the vehicle owner was caught going 16 mph over the limit three times in a two year period by a police officer, the owner would be fined, would have the violations reported to his or her insurer and likely see her insurance rates rise, *and would lose his or her license for six months -- at a minimum.*¹⁰

The point system has been in place for many years, and reflects the settled societal belief that repeat violators should be punished severely. Although there may be an element of retribution in this longstanding scheme, we believe the primary purpose is deterrence: some violators just do not get it until they are punished severely.

We understand that reasons exist not to award points to violators caught by automated enforcement, including the practical difficulty of identifying drivers of the offending vehicles. Nonetheless, no good reason exists to abandon in automated enforcement the basic principle embodied in the point system: repeat offenders must be punished severely. We note that mild punishment for those who commit moving violations rarely, coupled with harsh punishment for those who commit moving violations frequently, vindicates the principle of proportionality in punishment.

Resolved

⁷ Task Force Report at 15.

⁸ The legislative history suggests that the Transportation Committee hopes to expand the speed camera program to achieve an almost *Minority Report*-level of enforcement certainty. We recognize that were a system in place that caught every speeder every time he or she speeded, the size of fines for individual infractions would matter little. DC is far from such a scenario, however. Our experience has been that DC adds speed camera capacity at a glacial pace and, even if the city accelerated this pace, it would be a long time before it reached an enforcement saturation point. In any event, the Bill contains no provisions for purchasing new cameras, instead merely directing the Mayor to prepare a report on expansion.

⁹ Task Force Report at 5.

¹⁰ See “Driver Point System,” download from <http://dmv.washingtondc.gov/info/points/violations.shtm> on 12/12/12 [attached hereto as Exhibit 1] (noting that speeding 16 mph over limit earns four points and that mandatory license revocation is triggered at 12 points).

ANC 3E believes the current fine regime, which per the legislative history puts DC near the middle of state fine regimes,¹¹ is not unduly harsh. Evidence is strong that speed cameras save lives in DC. By contrast, the evidence is weak that higher fines do not promote more safety, as economic theory predicts, or that a majority of DC residents want to see fines lowered.

Whether or not the Council chooses to reduce some fines, however, we strenuously urge the Council to establish a system of fines for moving violations that escalates after a set number of offenses of a given severity.¹² The escalation scheme should parallel the point system for violations in a police officer's presence. Thus, an owner whose vehicle is ticketed three times in a two year period for driving 16 mph over the limit should receive a fine on the third offense whose magnitude would be akin to the magnitude of license suspension for a 6+ months. Although we do not formally recommend such a sum, we believe that it should be at least \$500.

If the Council does not amend the Bill to create such an escalating scheme, we respectfully urge the Mayor to veto it, and respectfully urge the Council to reconsider creating such a scheme.

The resolution passed by a vote of 4-0-1 at a properly noticed meeting held on December 13, 2012, at which a quorum was present, with Commissioners Bender, Quinn, Serebin, and Sklover voting in support, and Commissioner Frumin abstaining.

ANC 3E

¹¹ Task Force Report at 17. *See also id.* at 17 (noting *minimum* speed camera fine is \$446 in California and \$375 in Illinois).

¹² Such a system must of course contain safeguards to ensure that a violator receives notice of each infraction before fines escalate for subsequent offenses.