



# OLR RESEARCH REPORT

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## RED LIGHT CAMERA ENFORCEMENT CASES

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You asked about recent court cases involving red light camera enforcement and for an update of OLR Report [2010-R-0073](#). Some sections of this report require a legal opinion on the possible impact of court cases. Because the Office of Legislative Research is not authorized to issue legal opinions this report should not be considered one.

### SUMMARY

Red light cameras photograph vehicles that drive through a red light. Citations are issued to the vehicle owner, and the photographs are used as evidence of the offense.

According to the Governors Highway Safety Association, 23 states and Washington, D.C. had red light camera systems in February 2011. Ten states bar red light cameras, speed cameras, or both.

There have been a number of recent cases involving these systems, many of which appear to be specific to the law in a particular jurisdiction, and may not apply in others.

One case that might affect red light camera enforcement, however, is *Melendez-Diaz v. Massachusetts* (129 S. Ct. 2527), a 2009 case in which the U.S. Supreme Court found that a trial court had violated a criminal defendant's Sixth Amendment right to confront the witnesses against him.

In 2010 several California courts overturned red light camera convictions or excluded evidence in red light camera cases; at least two

courts cited *Melendez-Diaz*. But it is uncertain how relevant these cases are to Connecticut, because Connecticut does not yet have a law specifically authorizing red light camera enforcement, and we do not know what form such a law would take. Also, disregarding a traffic signal in Connecticut is considered an infraction, not a criminal offense, which means Constitutional guarantees in criminal cases would probably not apply. (However, there may be cases in which running a red light would be a factor in a criminal charge, such as misconduct with a motor vehicle.)

Researchers continue to evaluate the efficacy of red light cameras. In a February 2011 report (attached) the Insurance Institute for Highway Safety (IIHS), an independent, nonprofit organization supported by car insurance companies, found that red light cameras saved 159 lives between 2004 and 2008 in the 14 largest U.S. cities with the cameras. According to IIHS, 815 lives would have been saved if cameras had been operating during that period in all U.S. cities with populations of more than 200,000 people.

However, some other studies have questioned the efficacy of red light camera enforcement. We have attached two articles by University of South Florida (USF) researchers that question the value of, and rationale for, the systems. We also have attached a *St. Petersburg Times* article about the USF studies.

## **LEGAL ISSUES**

### ***Overview***

“Photo red light enforcement is a relatively new enforcement tool. Thus, case law is not well established,” the National Highway Traffic Safety Administration (NHTSA) stated in a 2003 report, *Guidance for Using Red Light Cameras* (<http://www.nhtsa.gov/people/injury/enforce/guidance03/Guidancereport.pdf>.)

The NHTSA guidelines cautioned that red light systems might raise a number of legal issues, the most important of which is whether a jurisdiction treats a red light camera violation as a civil or criminal offense. Other legal questions could involve a photograph’s authenticity; the distribution or misuse of photographs; violation of a criminal defendant’s right to confront a witness (this was the issue in *Melendez-Diaz*); privacy concerns; allegations that the system is primarily designed to generate revenue, rather than enforce the law; and presuming that a vehicle’s registered owner is driving when the violation occurs.

We searched on-line and on Lexis for recent cases involving red light camera enforcement. Many of the cases we found are particular to the laws of a specific jurisdiction, and therefore may not be applicable elsewhere.

For example, a Minnesota three-judge panel overturned a Minneapolis red light enforcement ordinance in 2006 because it conflicted with state law. Similarly, in August 2010 a Florida judge overturned an Orlando ordinance, finding that state law preempted it. In 2008, a California court upheld red light camera enforcement in San Diego County, rejecting claims that the program was a waste of taxpayers' money.

### ***Melendez-Diaz v. Massachusetts***

A case that could significantly affect some red light enforcement systems is *Melendez-Diaz v. Massachusetts* (129 S. Ct. 2527), a U.S. Supreme Court case that dealt with drug trafficking. As noted above, the impact of this case may be limited to jurisdictions in which red light violations are criminal in nature. In Connecticut, running a red light is an infraction, and not a criminal offense. However, there may be state crimes, such as misconduct with a motor vehicle (a class D felony), in which running a red light is a factor and to which *Melendez-Diaz* might apply.

Prosecutors charged the defendant in *Melendez-Diaz* with cocaine trafficking, and at trial offered certificates signed by state laboratory analysts identifying evidence in the case as cocaine. The Supreme Court ruled that the lower court denied the defendant his Sixth Amendment rights because he was not allowed to question the analysts who prepared the certificates. (The Sixth Amendment guarantees a criminal defendant the right to cross-examine a witness against him.)

The high court's ruling that a criminal defendant has the right to confront the technicians who prepare lab reports could apply to the technicians who set up, calibrate, and maintain red light camera systems, especially where red light camera violations are considered criminal offenses, according to the National Campaign to Stop Red Light Running, a national advocacy group. "While the ruling does not appear to apply to photo traffic enforcement programs where infractions are considered civil violations, the ruling's impact is less clear when photo enforcement violations are considered criminal offenses," the organization said in a press release.

In *Melendez-Diaz*, Justice Scalia, writing for the majority, said the laboratory analysts' certificates were "functionally identical to live, in-court testimony, doing 'precisely what a witness does on direct examination.' "

The justice noted that while documents kept in the regular course of business are generally admissible at trial, this "is not the case if the regularly conducted business activity is the production of evidence for use at trial." In any case, Justice Scalia wrote, "whether or not they qualify as business or official records, the analysts' statements here--prepared specifically for use at petitioner's trial--were testimony against petitioner, and the analysts were subject to confrontation under the Sixth Amendment."

### ***California Cases Overturning Red Light Camera Convictions***

California courts have overturned red light camera convictions or excluded red light camera evidence in at least four cases. In two of these cases the courts cited *Melendez-Diaz*.

***People v. Khaled.*** In a May 2010 decision (*Orange County Superior Court, Appellate Division, Case No. 30-2009-304893*), a three-judge California appeals panel overturned a red light camera conviction, finding that the introduction at trial of photographs and a supporting declaration violated the hearsay rule and the defendant's Sixth Amendment rights.

"The photographs contain hearsay evidence concerning the matter depicted...including the date, time, and other information. The person who entered that relevant information into the camera-computer system did not testify [and] ...was not subject to being cross-examined," the court found. The prosecution instead submitted the testimony of a police officer who "could not establish the time in question, the method of retrieval of the photographs, or that any of the photographs or the videotape was a 'reasonable representation of what it is alleged to portray."

***People v. Bevacqua.*** The judge in this 2010 case (Kern County Superior Court No. P29052) reversed a red light camera conviction, finding that the declaration accompanying the photographic evidence did not qualify as an "official record" exception to the hearsay rule because it was not prepared by a public employee and the witness who testified at trial could not establish the method and time of preparation for the evidence to show its trustworthiness.

***People v. Calhoon and others.*** In these August 2010 Orange County cases (Orange County Superior Court, Case Nos. SA151929PE and others) the judge, citing *Melendez-Diaz* and other cases, dismissed several red light camera cases because a police officer's testimony about the circumstances of the cases was "testimonial hearsay."

"At best," the judge wrote, "the officer's testimony establishes in general how the photo enforcement system...is supposed to work, and that, had it worked as it was supposed to, it should capture video and photographs like the ones before the court. The officer could not (and did not purport to) testify based on his own personal knowledge about any of the facts and circumstances of the particular infractions in issue here..."

***In Re: 8 City of San Diego Photo Red Light Cases, Motions to Exclude Evidence Packets.*** In these August 2010 cases (San Diego Superior Court, Case Nos. B16464A and others)I, a San Diego Superior Court commissioner cited *Melendez-Diaz* in excluding from evidence portions of identical "evidence packets" submitted by American Traffic Solutions, the red light camera company for the City of San Diego. Commissioner Karen A. Riley noted that four of the five paragraphs in each affidavit contained "testimonial hearsay" and that "without testimony...the court is hindered in finding that the sources, method of preparation, transfer and storage, and time are trustworthy..."

"The court points out that it is not ruling against the red light camera system as a whole," she wrote. "Rather it is ruling that sufficient foundation and evidence must be presented and appropriate witnesses must be present at trial to testify and be subject to cross-examination by the defendants."

## **RESEARCH STUDIES**

### ***IIHS Report***

The IIHS study focused on 14 of the 99 U.S. cities with more than 200,000 people. It compared accident rates for a four-year period when these cities had red light camera programs (2004 - 2008) with a four-year period when they did not have such programs (1992 -1996). The study also examined 48 such cities which did not have a red light camera program during either period.

The study found that the average annual rate of fatal red light running crashes declined for both study groups, but the decline was larger in cities with red light programs (35%) than those without (14%). It found the average annual rate of all fatal crashes at intersections with traffic lights decreased by 14% for cities with camera programs, and increased by 2% for cities without the cameras.

“After controlling for population density and land area,” the study found, “the rate of fatal red light running crashes during 2004-2008 for cities with camera programs was an estimated 24% lower than what would have been expected without cameras. The rate of all fatal crashes at signalized intersections during 2004-08 for cities with camera programs was an estimated 17% lower than what would have been expected without cameras.”

### ***Florida Public Health Review Studies***

University of South Florida researchers wrote in the 2008 *Florida Public Health Review* that their review of the data found that “comprehensive studies conclude cameras actually increase crashes and injuries.” In a 2011 update, also in the *Florida Public Health Review*, the same researchers said that “the public health concern with red light cameras is the increase in crashes and injuries being reported in some studies.” They called for restoring and improving federal standards assuring proper intersection engineering, such as extending how long yellow lights stay on, before considering the installation of red light cameras.

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