

SPEEDING PROSECUTIONS

Case Preparation

The following guidelines are provided to assist in the preparation of Speeding prosecutions.

Documents

- UTC indicating both the speed limit violated and the speed of the violator. **40-6-187**
- If Radar was used: A copy of the Daily Log recording that the radar device was tested for accuracy & the results of the test at the beginning & end of the shift for the date of the violation. **40-14-5**
- If Radar or Laser was used: *Certified* copy of the DPS list of approved Radar/Laser devices. (See Legal Services for assistance if copies are needed.) **40-14-17**
- Original & copy of operator's POST Certification to operate speed detection devices. **40-14-2**
- Copy of the most recent annual Certification of Compliance for the Speed Detection Device (document indicating the device has been tested for accuracy within the last 12 months). **40-14-4 & DPS Rule 570-7-.08**
- Copy of Agency's FCC License. **40-14-4**

Testimony

- Identify yourself, your employment, years of law enforcement and special training for speed enforcement, including when licensed for speed detection (laser, radar, and vascar) issued. If licensed for more than one, testify to all and how long.
- Testify to approximately how many speeding tickets issued in career.
- Describe the incident; include date, time and especially location (venue), ALWAYS giving county (and city, if applicable).
- All of the above applicable documents should be marked as an exhibit for the State and then described by your testimony. After describing the documents, then request they be admitted into evidence. (Certified copies of DPS records are admissible as originals. **O.C.G.A. § 24-3-17**. Ask the court to return originals to you and a copy be placed into the record. If you do not have the documents certified, you must state, "These are business records of the Department, normally kept, maintained & relied upon by the Dept. It is part of the Dept.'s business to maintain these documents and the documents are created at or near the time of the events recorded in the documents.")
- Testify regarding that day's initial and any subsequent accuracy test for the radar, and include, "this test was conducted in accordance with my training & the manufacturer's recommended procedure."
- State to the judge after giving your experience and training, "The reason for my attention to defendant's auto was due to its higher speed, which, in my opinion & based upon my training & experience, was _____MPH (Your opinion as to its speed without the device) and that because of such, I used the radar/laser/vascar to confirm my opinion and the readout was _____MPH (the readout of the device)."
- Testify to the posted or statutorily required speed limit. [Designated by sign 40-14-182 & 183. Designated by statute 40-6-181.]
- Even if the speed detection device results are not admitted/thrown out, you have still established a violation by giving your opinion of the defendant's speed. CASEY v. STATE, 254 Ga. App. 91

Possible Cross Examination of the Defendant

- Ask mileage, age, condition of defendant's automobile and specifically the condition of the speedometer/odometer.
- Has speedometer been calibrated recently (some motorists do calibrate, but most do not)?
- Did Defendant see you running detection?
- Didn't Defendant upon seeing you immediately take foot off the accelerator BEFORE looking at the speedometer?
- Have tires or wheels been replaced from the original equipment on auto?
- If Defendant has testified to his speed as being speed limit or below, ask if he saw any other auto doing exact speed limit or below.
- Ever had any contact with you before the day of incident?

Information which Defendants may argue that GSP must have but which is not required for GSP to establish a speeding case (county, municipal & campus police may have to establish):

- 40-14-2 GSP is not required to have a permit from DPS to operate radar.
- 40-14-5 Troopers do not have to offer violators an opportunity to verify accuracy prior to the time the citation is issued.
- 40-14-6 GSP is not required to establish that warning signs are present warning drivers that speed detection devices may be used.
- 40-14-7 Visibility of vehicle from which the device is operated of 500 feet does not have to be shown.
- 40-14-8 Troopers may cite violators for going 10 m.p.h. or less over the limit.
- 40-14-9 a) Grade measurements, b) location of speed limit signs, or c) use near changes in speed limits are all irrelevant in a GSP case.

ANNUAL CERTIFICATIONS Note: The annual certification of a laser device is not required to be admitted into evidence by any agency. See *In the Interest of B.D.S.*, 269 Ga. Ap. 89 (2004). It is recommended that you admit it, if available, to bolster the credibility of the accuracy of the laser unit, even though the annual certification is not required to establish a speeding violation based on laser. [However, the annual certification of a radar unit is required to be admitted into evidence to establish a speeding case.]

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