



## **Hand-held speed-detection devices: How and why they should be challenged**

**by Paul Rooney, QEB Hollis Whiteman**

It is a common sight on most A roads throughout the country: a traffic car parked on the side of the road, the driver's window down and a police officer's arm pointed at approaching traffic with a 'speed gun' in his/her hand. The suspected speeding vehicle passes by; the traffic car pulls onto the road with blue lights on and sirens blaring, pulling it over further down the road. The driver of the vehicle is sat in the back of the traffic car, shown a reading on the 'speed gun' and given a fixed penalty ticket or reported for summons.

It appears that most people don't argue with the reading, whether it's because they accept that they were driving too fast – i.e. in excess of the speed limit in force for that road – and believe the reading they are shown, or because the reading they are shown is lower than they expected it to be. Whatever the reason, it is almost as if the 'speed gun' is infallible and not worth challenging.

Here are some interesting facts that just may make you think it is worth testing the evidence of that reading.

### **What type of hand-held device was used by the officer?**

The codes of practice published by the Association of Chief Police Officers (ACPO) should be consulted in the first instance to ensure that the correct procedures have been complied with. A hand-held radar gun is not to be confused with a hand-held laser/optical speedometer.

Here are a few of the procedures relating to hand-held radar guns:

- In operational use the operator and the device must be outside any vehicle;
- The vehicle must not be used as a power source;
- Hand-held radar speedometers should only be used by officers on foot.

It can be seen, therefore, that in the scenario above, with the officer sitting in the car and pointing the gun out of the window, if the device used was a hand-held radar gun, then on these three procedures alone it may well be enough successfully to challenge any prosecution.

---

### **QEB Hollis Whiteman Barristers**

Queen Elizabeth Building, Temple, London EC4Y 9BS

DX LDE 482 Telephone 020 7583 5766 Fax 020 7353 0339

[barristers@qebholliswhiteman.co.uk](mailto:barristers@qebholliswhiteman.co.uk) [www.qebholliswhiteman.co.uk](http://www.qebholliswhiteman.co.uk)

The hand-held radar gun is to be used only as corroboration for the personal observations of the operator. In other words, the officer has to suspect that the vehicle is driving at a speed in excess of the speed limit in force for that particular carriageway before he points the radar gun at it. (This applies equally to laser/optical hand-held speedometers.)

In many cases it would appear that most police officers think every vehicle is speeding, as the arm seems to remain out of the window pointing at a constant flow of traffic.

This point may be worthy of some detailed cross-examination of the officer. If it can be established that the officer didn't suspect the car was 'speeding' but was just routinely scanning a whole tranche of passing cars and relied upon the equipment alone to show an offence had occurred, then that in itself may be enough to have the matter discontinued.

### **How many other vehicles were on the road ?**

Speeding laws should only be enforced when one vehicle is isolated in the view of the radar device and the operator. The code states:

'Radar speedometers are designed to measure the speed of one vehicle at a time. Should there be more than one vehicle present in the radar field of the view, it is possible for the device to detect two different signals, and alternately display different speeds in which case the check must be aborted.'

### **What if there was a larger vehicle behind the 'target vehicle'?**

If, for example, an HGV was behind the 'target' vehicle, the code states:

'With more than one vehicle (especially when they are of a smaller size) within the range of the radar, the meter may read the nearer vehicle, but not necessarily, since the reflected signal from a vehicle is very complex and fluctuates rapidly as the view of the vehicle changes slightly. An operator must not make detections for prosecution when more than one vehicle is within the radar detection range.'

It may be worth checking the officers' notes as to the traffic conditions at the time and possibly comparing them with any CCTV that may exist or any video from the traffic car itself.

### **Laser/Optical Speedometers**

Such hand-held devices function by emitting pulses of infrared laser beams, which are targeted at the vehicle whose speed is being measured. Measurement of speed is performed by aiming the device at the target vehicle in the area around the registration plate, when sufficient pulses of light have been emitted and have returned, within the in-built tolerances and checks, then a reading is displayed on the device.

The beam must not be projected through glass or mirrors but may be used from within a vehicle, so this type could be used by the officer with his/her arm out of the window. However, it can only be so used from within the vehicle provided there are no radio transmissions during the measurement. Any GSM phones must be turned off and any TETRA radios turned off, unless they have a transmission inhibit switch, which is activated.

With the correct approach in cross-examination of the officer, it may be possible to show that there has been a failing in respect of the procedures in relation to radios or phones.

It is also worth bearing in mind that the minimum range from the target vehicle is 50 feet, so precise cross-examination and a detailed map to scale may be useful.

If the device is used from an elevated point – e.g. a bridge over the carriageway – then a formula has to be used in order to calculate the exact distance to the vehicle when the device was first used. This includes a precise measurement from the bridge to the carriageway directly below. It would be interesting to see how an officer dealt with that calculation in the witness box if he hadn't taken it at the time!

### **Has the device been invalidated?**

Any change or addition to the device, the software, and any unapproved power source will invalidate the device, unless agreement has been authorised by the Home Office. This includes the leads and connections used whilst in operation.

The device has to be calibrated annually and a certificate of calibration issued. Most devices will have a sticker applied to them showing the date of the last calibration or the due date of the next.

It may be worth investigating this avenue in depth, as if a valid certificate cannot be produced by the Crown the device may be considered invalid and the prosecution would fail.

I hope this short article has given you a flavour of how to challenge the evidence presented when a hand-held speeding device is used by the police.

Remember:

'Accept nothing at face value, challenge everything and make the prosecution prove their case.'

Paul Rooney