



The following line of questioning has been derived from the "Attorney's Deposition Guide" which is available from the National Motorists Association.

Introductory Questions: These questions are formulated to establish the relevant facts in the case and to create a friendly atmosphere with the ticketing officer.

1. What specific type of radar were you using when the ticket was issued?

*Do not accept an answer like "Doppler Radar" or "Moving Radar"*

2. Would you please tell the facts of the ticket as you remember them?

*Remember your grounds for objections concerning the officer reading directly from the citation.*

3. Was your audio Doppler working at the time the citation was issued?

*If the officer claims he doesn't know what audio Doppler is, remember this response when you get to the question section on audio Doppler.*

4. What speed was your audio warning set on?

*If the officer claims he doesn't know what audio warning is, remember this response when you get to the question section on audio alarm.*

5. Was your automatic speed lock working?

*A crucial response. If yes, you have started building your case for operational error. If no, don't worry, there's a lot more opportunities.*

6. Were you using a manual on-off switch or other radar detector defeating mechanism in association with your radar unit?

7. Were you stationary or moving when your radar unit's alert went off?

8. Was the target vehicle coming towards you or moving away from you?

9. Did you see the target vehicle preceding the time your radar unit's audio alarm went off?

*Another crucial answer. You have essentially asked the officer if he took a traffic history before issuing the citation. If he indicates that he did see you, ask the next three questions. If he did not see you, stop your preliminary questions here.*

10. Were you able to determine the target vehicle's speed from a visual observation?

11. What was the apparent speed of the target vehicle?

12. About how many seconds elapsed between the time you first observed the target vehicle and the time your audio alarm went off?

Establish the officer's qualifications: These questions are directed towards the officer's training on the operation of the radar unit. Keep in mind the national standard of 24 hours of classroom time followed by 16 hours of field training.

1. How many years have you been a police officer?

*This is just a set up for questions to follow.*

2. How long have you operated radar units?

*Again, a set up question.*

3. Have you received formal instruction and training in the operation of radar?

*If he says no, contain your smile with your best poker face!*

4. Under what circumstances did you receive your training?

*This will likely have a variety of responses. A home run for you would be training received from his own department by another officer.*

5. How many hours of classroom instruction did you receive?

*A crucial response. No officer generally has 14 hours of classroom. Remember Kentucky v. Honeycutt is going to be used by the prosecution to justify the officer having less than the 4 hours. If the officer has less than three or four hours he is likely not qualified. This will become painfully obvious to the officer as you continue you line of questioning.*

6. How long ago did you receive this training?

*If it was several years ago it could indicate that he is not current in the proper operation of the specific unit. It could also indicate that he was trained on a different unit than was used for the citation.*

7. How many officers took this training with you?

*If it was an extremely large class, try to downgrade his level of training by asking additional questions such as: Was the training a lecture? Were you seated auditorium style? Where were you seated? Did you have any other classes that day? Were questions allowed? Did you ask any questions? If the officer can't recall the particulars of his radar training class, ask how can he remember the subject taught?*

8. Who taught this classroom portion of the radar course?

*If it was another officer, question that officer's training credentials and ask for the trainer's certification. If it was the manufacturer, you have a potentially biased source of training.*

9. Since your initial training, have you had any additional radar course work?

*He likely has not. If he has, find out the circumstances just the same as you questioned for the initial classroom training.*

10. How many hours of one-on-one field training with a professional instructor have you had in the operation of radar units?

*If he rode along with another officer, again ask for that officer's training credentials. If it was a factory representative, it was likely for thirty minutes or less with multiple officers in the car at the time. Keep pressing for an accurate answer.*

11. Do you believe yourself to be a competent radar operator?

*What else can he say except yes?*

12. Do you hold a certification in the use of radar?

*Not likely but doesn't matter either way.*

13. When was your initial training in the use of the (fill in the actual unit used)?

*If he hasn't received specific training in the actual unit, remember your need for a poker face.*

14. Did your training include the use of other radar units?

*The goal is to subdivide his training and show that he has had little or no training in the specific radar used in our case.*

Establish the officer's trust in the radar unit: This is a faith check for the officer. He likely isn't aware that you know some of the downfalls of the particular unit involved in your case.

1. Do you believe the (fill in actual unit used) to be a good radar unit?

*What do you think the answer will be?*

2. Have you ever encountered any problems with the unit?

*Not likely, but if so, get the specifics.*

3. Are you permanently assigned to one specific radar unit?

*Again, not likely since most departments move units around.*

4. Do you believe that there are individual differences among radar units of the same model? Will one unit have an idiosyncrasy that another might not have?

*Likely answer is they all work alike. If he has noticed differences, get the specifics.*

5. Do you believe the (actual unit used) gives deceptive or false readings?

*This is a crucial question. If he says no, you can likely catch him with the manufacturer's documentation (remember your subpoena). He will likely reply that he has never seen any false readings. If so, skip the next question.*

6. About what percent of the time does your radar unit give these false readings?

*Make a note of the percentage.*

7. Do you believe that you can always tell when the unit is giving a false reading?

*He will likely say that he can always tell, which sets up your upcoming reasonable doubt argument later in your presentation.*

8. Is there a special number or symbol that appears on the readout to indicate a false reading?

*Of course not.*

9. Does the unit give some visual indication that the reading is questionable?

*No it doesn't.*

10. How, then, can you tell that the reading you are getting is false?

*He will likely say that there is no target in sight or the target is clearly not speeding. If he says that false readings only occur when there is no target present, then that is essentially saying that the unit never gives false readings. If he says that he can always tell that the target vehicle isn't doing the speed indicated, finish this section with the remaining series of questions.*

11. Since there are no special indications of a false reading, does that mean that all 82 mph readings aren't false?

*Of course not.*

12. So the false reading could be 20 mph or 70 mph?

*It certainly can be. If he says anything other than yes he is either trying to evade the questions or technologically incompetent.*

13. The radar could give a reading of say 70 mph, but you could clearly see, for example, that the target vehicle was only going 30 mph?

*He should agree with this question.*

14. What if the speed limit is 55 mph, and the same 70 mph false reading shows up. Is that possible?

*He should say that this could happen. You should use the speed limit of your particular case in all questions.*

15. Presuming the car approaching you was going 55 mph, could you recognize that the radar was malfunctioning?  
*If he says yes, press on with the remaining questions. If he says no then end this section with this question.*

16. If an approaching car is traveling at 55 mph and the radar gives a false reading of 56, could you recognize that?  
*Not on his best day.*

17. If an approaching car is traveling at 55 mph and the radar gives a false reading of 57, could you recognize that?  
*Keep going until he commits to a specific speed he could recognize or until it becomes obvious that he actually can't recognize the actual speed. If he commits to a speed within the range of your citation, you have established reasonable doubt.*

Audio Doppler, audio alarm and automatic speed lock: These are special features that most radar units incorporate to make the officer's job a little easier. Audio Doppler is on every radar unit except the Speedgun Series. If audio Doppler is used, it will aid the officer in confirming that the target vehicle is speeding. The common problem is that the audio Doppler can be turned down or completely off, thereby contributing zero to the unit's reliability. The audio alarm is a preset speed that the radar unit will sound the alarm to let the officer know he has a fish on his line. The only way to disenable the alarm is to dial in a very high setting such as 99 mph. The automatic speed lock is the worst feature of any radar unit. Once the unit reads a specific speed the unit then locks that speed in on the display. The officer then has no way of knowing if the reading is false or a momentary reading. This section should establish the officer's normal operating methods.

1. Does your radar unit have an audio Doppler? That is, a continuous audio signal tone that converts the radar unit's Doppler shift into an audible tone?  
*This answer should be yes unless the radar unit is a Speedgun. If it is a Speedgun, skip to question 13.*

2. Does the audio Doppler have a volume control?  
*It does.*

3. Do you ever use your audio Doppler?  
*If no, ask the question one more time and skip to question 13. If he says yes, press on.*

4. About what percent of the time do you use the audio Doppler?  
*Make a note and subtract from 100 % for question 10.*

5. When you operate your radar unit with the audio Doppler on, do you operate at full volume?  
*Unless he can't hear at all, he should say no.*

6. At what volume do you normally operate the audio Doppler?  
*This is important if it is a very low setting.*

7. Do you ever turn it off?  
*Unless he answered question 4 with none, he will likely say yes.*

8. Why do you turn it off?  
*It is extremely annoying, any other answer is a cover up.*

9. Does the audio Doppler ever interfere with your use of the police radio or conversation with other officers?  
*Of course it does.*

10. So you operate your radar unit with the audio Doppler turned off about (fill in the number from question 4) percent of the time.

11. During the remaining time, how often do you operate the radar unit with the volume on soft?

*Note this percent amount.*

12. Do you consider the audio Doppler a valuable tool to prevent operator errors?

*This is important if he replies "no" and it ends up that he didn't use it during your citation.*

13. Is your radar unit equipped with a dial which will allow you to select a speed above which an audio alarm will sound if a violation speed is detected?

*All radar units have this feature.*

14. Let's refer to that feature as an audio alarm. Do you commonly use this feature of the radar unit?

*He has to unless he sets it so high as to never work.*

15. About what percent of the time do you use the audio alarm?

*If he doesn't say 100%, then ask him how he disengages the alarm.*

16. If the speed limit is 55 mph, what speed do you normally dial in as the pre-set violation speed?

*Note the speed, but this answer isn't crucial.*

17. Do you find the audio alarm to be beneficial?

*He will likely say that it is sometimes useful.*

18. If a violation speed causes the alarm to sound, you only need to flip a switch to lock in that speed on the radar unit?

*That's how the unit operates.*

19. Does the radar unit also have a mode which will allow the unit to automatically lock in the violation speed?

*Yes, it does.*

20. Do you ever use the automatic speed lock function?

*If he says "no": ask the question again and emphasize the word "ever" while giving the officer a skeptical look. If he still says no, end this question section here. If he says yes, press on.*

21. About what percent of the time do you use the automatic speed lock function?

*Note the amount.*

22. Do you find the automatic speed lock convenient?

*Of course it is.*

23. Do you use the automatic speed lock for any other reasons?

*This should be interesting.*

24. Was the use of the automatic speed lock included in your training?

*This answer doesn't really matter.*

Determining if the officer uses a visual backup: The typical officer has a standard pattern of testimony. This pattern normally indicates that the officer observed the defendant's vehicle doing approximately X mph and he then used the radar unit as a backup to his visual estimation of the speed. This is pure fantasy since the maximum distance a highly trained officer can make a visual identification from is approximately 500 feet. The radar unit can make the same identification for up to 5,000 feet. As a result, the audio alarm will sound before the officer can make the visual identification. This section is designed to verify this fact and try to get the officer to make a statement that will come back to haunt him later in your presentation.

1. Are you familiar with the term "traffic history?" I want to verify that this term refers to the continuous observation of the traffic by an officer.

2. With regard to speeding tickets, it is normal for an officer to observe the traffic patterns for several seconds - usually three to five - before he sees what he believes to be a speeding violation. In other words, three to five seconds before the radar unit sounds the audio alarm. Do you agree with this assessment?  
*He will have to in order to keep up the fantasy of the radar for backup.*

3. With this definition in mind, have you EVER taken a traffic history prior to issuing a speeding citation?  
*He should say yes. If he says no, refer to the answer to question 5.*

4. What percentage of the time would you say that you take a traffic history?  
*This number will likely be very high.*

5. Do you feel that it is important to take a traffic history in speeding cases?  
*He will likely say yes. If he says no, then you have a valid argument that he was relying solely on the radar unit.*

6. At what approximate distance can you determine the exact speed of a target vehicle?  
*Most officers will say about 500 feet. If he doesn't give you a real answer, set up a specific scenario, such as, in the median of a level and straight, uncrowded highway. If he still doesn't answer suggest the 500 foot figure. If he doesn't accept 500 feet, adjust the number until he agrees to a specific distance.*

7. When you take a traffic history and make the visual estimate of speed, do you do so before the radar unit sounds the audio alarm?  
*This is a very crucial question. If he says yes, he's had it since the radar unit has a range of at least 1000 feet. Proceed with questions 8 and 9. If he says no, then he hasn't taken a traffic history. Finish all the rest of the questions in this section.*

8. What is the approximate range of your radar unit?  
*He will likely say he doesn't know. Toss him a high figure in the range of 3,000 to 5,000 feet. If he still doesn't know ask if he would be surprised to know that the radar unit has a range of at least 3,000 feet. If he says yes he would be surprised, you just caught him in a crucial technical question.*

9. Despite knowing this range you still contend that the radar unit does not sound the audio alarm before you are able to identify the speed of a vehicle?  
*The real escape for him is the answer "no". He won't say that, he will most likely say sometimes it does and sometimes it doesn't.*

10. If the radar unit sounds the audio alarm before you have determined that the target vehicle is speeding, how can you say that you have taken a traffic history?  
*He will have to say that the alarm alerts him to the presence of a potential speeder.*

11. Do you look at the radar unit to see what the reading is?  
*He will likely say that he looks. If he denies looking he has to admit that he knows the vehicle is going at least as fast as the audio alarm setting.*

12. Does the fact that the audio alarm has sounded influence your judgment as you make your visual estimate of speed? In other words, are you more likely to agree that a target vehicle is traveling a certain speed since the audio alarm has already acknowledged this fact?  
*He should agree. If he doesn't ask him why he doesn't just run the audio alarm setting up so high that it will never go off?*

Determining knowledge of beam width and range: Remember that Kentucky v Honeycutt will be used to show that the officer does not need to be an expert in the field of radar. You are trying to demonstrate to the court that the officer lacks certain basic knowledge that he should have.

1. Do you know what the normal range of your radar unit is?  
*Get him to give you a figure of some sort. Then give the manufacturer's data if you have it. If not it will likely be at least 3,000 feet.*

2. At a distance of 1,000 feet, how wide is the radar beam?

*Again, try to pin him down to a figure of some kind. Figure a traffic lane to be 12 feet. In reality, a 12 degree beam will measure 287 feet at a distance of 1,000 feet while a 24 degree beam will measure 574 feet.*

3. How far away from the unit will the beam travel before it covers one lane?

*Again, get a figure. The true amount is about 50 feet but most officers will guess around 500 feet.*

4. With what degree of confidence can you aim your antenna at a specific lane of traffic at a distance of 500 feet.

*The answer is no confidence at all.*

5. In the stationary mode, you can operate to record traffic going away from you or coming towards you, is that correct?

*This is correct.*

6. Can the radar unit distinguish between traffic directions?

*It will pick up traffic in either direction.*

7. In the moving mode, can the radar unit pick up traffic in both directions?

*The Speedgun 8 unit can, most all others can only pick up traffic coming towards the radar unit.*

8. What types of things will stop the radar beam? For example, will the radar read through bushes and tall grass?

*Radar can pass through light brush*

9. Can you get the speed of a vehicle around a curve or over a hill?

*Not even possible. Remember, the beam travels in a straight line.*

10. Will the beam bounce off a metal building or sign?

*Certainly.*

11. If the beam bounces off something could it pick up the speed of another vehicle at an angle to the radar unit?

*Absolutely.*

12. Can a high-voltage power line interfere with the radar beam?

*Again, absolutely.*

13. What about neon signs or street lights, can they cause interference?

*Notice a pattern here?*

Final questions: These are designed to apply the specifics of your case against the answers the officer gave for the typical operation of the unit.

1. Could you again recall the facts of this particular citation?

2. Was your audio Doppler on at the time and if so how loud?

3. What speed was the audio alarm set for? Did you make any adjustments to it during your shift?

4. Was the radar unit's automatic speed lock engaged?

5. Were you using a manual on-off switch?

6. Were you in a stationary or moving mode at the time?

7. Was the defendant approaching you or traveling away from you?

8. Did you see any other traffic around the defendant's vehicle? If so, what types and where were they located?

9. Was there any traffic moving in the same direction as you?

10. Did you see the defendant before your audio alarm sounded?

11. Did you determine an estimated speed of the defendant's vehicle based on your visual identification? If so what was your point of reference?

12. How many seconds passed between the time you first saw the defendant and the time your audio alarm

sounded?

13. Were there any power lines in the area? Any cars or trucks with CB radio antennas? Were you using your police radio at the time? Was your police car's engine running at the time?

14. As for the calibration of the radar unit, at what times before and after you wrote the defendant's citation did you use the radar unit's internal calibration function?

15. At what times before and after you wrote the defendant's citation did you use an external tuning fork for calibration?

16. In your opinion, what is the difference between the internal calibration and the tuning fork calibration methods?

17. Do you feel that one calibration method is more accurate than the other?

Questions 14 through 17 are critical to establish the calibration procedure followed by the officer. Remember that case law has shown that the officer should calibrate, with tuning forks, prior to and immediately after writing a citation.