



NEW YORK CITY LAW DEPARTMENT  
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Press Release

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*For Immediate Release*

**STATE'S HIGHEST COURT SAYS DEP POLICE  
HAVE FULL POLICE AUTHORITY IN NYC WATERSHED**

***NEW YORK CITY "APPRECIATES THE COURT CLARIFYING THE LAW"  
BUT ALSO "LOOKS FORWARD TO CONTINUING TO WORK WITH  
THE LOCAL COMMUNITIES TO ENSURE AND PROTECT THE WATERSHED'S SAFETY"***

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New York, May 10, 2005 – The New York State Court of Appeals affirmed today that the New York City Department of Environmental Protection (DEP) police have full police authority within the watershed of the City's drinking water supply system, including the authority to issue speeding tickets and other traffic violations.

"We appreciate the court clarifying the law in this area," noted Corporation Counsel Michael A. Cardozo, head of the New York City Law Department. "However, the City also looks forward to continuing to work with the local communities to ensure and protect the watershed's safety."

A majority of the Court reversed a 2004 Delaware County Court decision that held that the DEP police did not have such authority, except under limited circumstances that applied only during construction of the water supply works, which concluded some 40 years ago. The Delaware County Court had also held that the Legislature's explicit grant of authority to the DEP police violated the State Home Rule provisions. The Delaware County District Attorney brought the case to the Court of Appeals, and the City of New York and the State of New York joined as *amici* or "friends of the court."

The Court agreed with the City that the State Criminal Procedure Law Section 1.20(34)(o), adopted in 1983 and amended in 2000, makes clear that the State Legislature intended the DEP police to use police authority to protect the drinking water of nearly 9 million New Yorkers throughout the nearly 2000 square miles of watershed. The Court specifically held that the Legislature granted the DEP police the authority to "protect the persons" in the watershed. Since a violation of the Vehicle and Traffic Law creates a danger to the public, the Court stated, the DEP police are properly authorized to issue such tickets. The Court also held that protecting the "vital watershed that supplies water to New York City" is of sufficient State interest to overcome any restrictions under the Municipal Home Rule Law (NY Constitution, Article IX).

The Court stated that the County Court improperly dismissed the two speeding tickets involved in this matter because, as police officers, the DEP police can issue such tickets. The City agrees with the Court that traffic violations are not the "core function" of the DEP police but that the power to enforce traffic laws should be part of their authority as full police officers. Nearly 170 DEP police officers patrol the parts of nine counties that comprise the sources, reservoirs, aqueducts, treatment facilities and other components of the City's water supply. The Court of Appeals, which sits in Albany, is New York State's highest court. Today's ruling was 4-3.

Linda Gearty and Hilary Meltzer of the City's Environmental Law Division worked on the City's *amicus* brief, with assistance from Appeals Chief Leonard Koerner. Scott Pasternak in the Environmental Law Division also worked on the lower court submissions.

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