

TRAFFIC  
OFFENCES



U.S. Department  
of Transportation  
National Highway  
Safety Advisory  
Committee

**FINAL  
REPORT  
OF THE  
AD HOC  
TASK  
FORCE  
ON  
ADJUDICATION  
OF THE  
NATIONAL  
HIGHWAY  
SAFETY  
ADVISORY  
COMMITTEE**

**JUNE 1973**

# FINAL REPORT OF THE AD HOC TASK FORCE ON ADJUDICATION OF THE NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

June 1973

## INTRODUCTION

A special ad hoc task force of nine lawyer members within and appointed by the National Highway Safety Advisory Committee, together with administration staff, has reviewed over a three months' period the present traditional judicial adjudication of traffic violations, innovations in New York, Florida, Virginia, and California, available written materials, and similar findings of other commissions studying present United States methods of traffic adjudication.\*

## EXECUTIVE SUMMARY OF TASK FORCE FINDINGS AND RECOMMENDATIONS

The present traditional lower criminal court processing of traffic violations in the U.S., using sentences of fines and incarceration, evolved for the purpose of determining the guilt or the lack of guilt of an offender charged with a criminal complaint.

Because conviction would involve a jail sentence, adjudication historically has been by the judiciary to accord full protection of constitutional due process. In fact, however, jail sentences are imposed in very few traffic cases and all but the most serious offenses are processed by mail or bail forfeiture. In the present process, self-adjudication and self-sanctioning are the norm.

### Findings

- Traffic offense adjudication under the traditional traffic law system is reasonably adequate in the determination of guilt or lack of guilt. However, traffic case processing is beset by many problems and has proved to be less than ideal, in contributing to improvements in traffic safety.
- Traffic offense adjudication as presently constituted has made little demonstrable contribution toward newly formed societal goals of the promotion of traffic safety and the improvement of driver behavior. It is not an adequate subsystem or traffic law system component. It has had little measurable effect in deterring initial or subsequent traffic violation by offenders or other drivers. In this, traditional criminal court traffic case processing is inadequate and ineffective.
- Traffic offense adjudication is a key component of the traffic law system. The promotion of traffic safety depends on adjudication's effectiveness within the system. Traditional traffic case processing does not sufficiently emphasize both selective

\*Detailed information on task force composition, activities and report documentation is contained in the appendices. Advisory Committee member comments are included in Appendix B.

adjudication and the goals of highway safety and driver improvement through retraining and rehabilitation.

- All traffic offenses do not have the same degree of severity or potential severity; thus, all offenses should not command the same degree of criminal processing and sanction time and resources. Traffic case adjudication inadequately differentiates between the problem driver and the average traffic offender.

### Recommendations

To achieve integrated traffic law system components which combine traffic adjudication with traffic safety and improved driver behavior, a new approach to traffic case processing, which contains the following basic features, is recommended:

- Adjudicate a lower-risk category of "Traffic Infractions" by simplified and informal judicial, quasi-judicial or para-judicial procedures.
- Process high-risk offenses criminally.
- Combine "Traffic Infraction" and high-risk criminal traffic offense sentencing with driver improvement and rehabilitation programs. (PART SYSTEM, et al)
- Eliminate incarceration as a "Traffic Infraction" sanction.
- Give priority to identifying problem drivers, assigning them to treatment and monitoring the results.
- Create an adequate electronic data processing system to serve police, law enforcement, driver licensing and traffic adjudication; especially for the purpose of identifying the problem driver.

## REPORT BACKGROUND

### General

The traditional criminal court processing of traffic cases evolved nationally when the only government body available to process these cases was the lower courts and the judges elected and appointed to serve these courts. The punishment for recalcitrant drivers fell within the felony and misdemeanor legislative categories. For many years it was believed that jail confinement or fines or the fear of this punishment coupled with personal appearance before a judge would deter traffic offenders. At that time the volume of traffic cases was not great. As the caseload increased, informal non-criminal case processing methods were adopted. Traffic adjudication was designed to be the key evaluation element in the traffic case disposition process, which consists of law enforcement citation, prosecution of the offense, case adjudication and penalty sanction application on a determination of guilt. Adjudication was intended to provide the legal control and audit of driver behavior in the complex highway safety environment.

With growing motor vehicle registration and numbers of licensed drivers, certain deficiencies and inefficiencies became more evident in the present traditional court processing of traffic cases. To further aggravate this situation, America became an auto-mobile society. While a driver's license as a matter of policy and law is generally a "privilege, and not a right," the license to drive an automobile is the keystone of citizen mobility and frequently a mainstay of economic livelihood.

Traffic cases numerically have escalated and eclipsed the caseload of non-traffic offenses.  
As much as 80 percent of the caseload (exclusive of parking) of many lower courts is traffic.

## Constitutional Due Process

The U.S. Supreme Court has recently ruled that a series of constitutional due process requirements are essential to criminal traffic court trials: elimination of the mayors' courts which assess fines as a revenue source for the political unit of government involved in the arrest; elimination of incarceration for the non-payment of fines; right of trial by jury for other than petty offenses; and right of an appointment of counsel for an indigent for any traffic offense in which there is likelihood of jail confinement. The effect of these decisions has been to make the present system function more slowly and at greater cost, at a time when traffic caseloads were escalating.

## Increasing Traffic Offense Caseloads

Until 1968 this Nation has registered annually an increasing rate of highway accidents and fatalities. This has led to public indignation and outcry to do something to stop the highway slaughter. Legislators have reacted by passing laws defining new traffic offenses, by establishing cumulative point systems for traffic violations which can result in license suspension, and by making sentences mandatory for certain serious offenses. More laws lead to more law enforcement. Greater law enforcement in turn generates more caseload in the court.

To avoid the loss of license and/or jail confinement, offenders threatened with such sanctions increasingly have resorted to litigation to buy time or interim driving privileges. This in turn has increased court caseloads at the appellate level where more traffic cases in competition with non-traffic criminal and civil cases often contribute to case delay.

Penalties which are mandatory or overly harsh tend to be subverted by police or prosecutors, juries or judges and such penalties not only encourage more litigation but have proved to be counter-productive in the promotion of traffic safety. Pending litigation, the offender continues to drive without any correction of failures—and, if dangerous, imperils the driving public.

An unplanned subsystem of traffic justice which is not swift, timely, uniform or professionally managed and frequently is negotiable, is unsatisfactory. Alcohol and drug problems have further pyramided caseloads and have introduced into adjudication medical, as well as behavioral, remedial needs.

## The Judges

Only a limited number of traffic case judges have any special training or interest in their work. A serious problem has been the lack of adequate traffic judge training programs. A moratorium on the American Bar Association's Traffic Court Program's regional traffic court judge training has recently occurred. Although many individual courts and communities are dedicated in traffic service, this form of judicial activity has not proven sufficiently popular or rewarding to produce a large number of judicial experts trained in traffic law adjudication and highway safety.

## Lack of Highway Safety Effectiveness

There is no evidence which demonstrates that the traditional criminal court processing of traffic is highway safety cost effective. However, there is evidence that the offender's appearance in court does not have any positive deterrent effect on subsequent poor driver behavior. Court appearance is more often regarded by the public as an embarrassment, economic nuisance and inconvenience. While certain individuals can be categorized by State licensing authorities as problem drivers, insufficient screening, adjudication and sanction

*good reason to remove from COURTS (may retain in JUDICIARY)*

selection time is applied to them. Nationally, traffic offense processing fails to differentiate between the problem driver and the infrequent traffic offender. To be highway safety cost-effective, traffic adjudication should expend greater resources on identifying the problem driver. Timely access to complete and accurate driver record information is essential to this effort.

### Retraining and Rehabilitation

Traditional criminal court traffic case processing deals in a high volume caseload which minimizes the beneficial latitude of handling cases on a one-to-one basis. The adversary process inherent in court procedures assists in adjudication of guilt or innocence, but it does not assist the individual in resolving his unique driver behavioral, personal or medical problems. The Task Force found that the present traditional criminal court processing of traffic cases emphasizes adjudication to the exclusion of driver improvement oriented programs. It should be stressed, however, that some of this is due to the lack of validated State driver improvement programs.

### Traffic Adjudication Communication, Coordination and Integration

Traffic case processing by the judiciary operates independently of the licensing agency. Violation reporting by the courts is sporadic and incomplete. There is a paucity of driver information exchange from licensing authority record files. Judges generally fail or are unable to access the prior driving record of the traffic offender. Retrieval of data from manually maintained driver record files cannot be speedily accomplished by the adjudicator to identify the chronically bad, medically impaired, alcoholic or drug-using drivers.

Courts processing traffic cases generally operate independently and with minimum communication and coordination with the Governor's Highway Safety Representative, traffic law enforcement, driver licensing, driver education or driver improvement programs and medical rehabilitation agencies.

## REPORT RECOMMENDATIONS AND ELEMENTS

*1. Expand the traffic adjudication component of the traffic law system to embrace both the goals of adjudication and promotion of highway safety, giving equal weight to both purposes.*

This will require the planning of a totally new traffic adjudication subsystem to the traffic law system, which integrates and combines the need of both adjudication and improvement of driver behavior.

This can be accomplished within the proposed revised National Highway Traffic Safety Administration's Standard N-7 on traffic offense adjudication. Development and promulgation of this proposed standard is specifically commended and endorsed by this Ad Hoc Task Force.\*

The adjudication subsystem possible under such a standard will permit maximum State innovation and experimentation within the diversity of the Federal system by utilizing the strengths of the Federal-State partnership.

*2. Reclassify all but the most serious traffic offenses from the categories of criminal felonies and misdemeanors to a newly created third level of offenses to be known as "Traffic Infractions."*

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\*See NHTSA proposed revised Traffic Courts and Adjudication Systems Standard, Appendix K.

All traffic violations shall be categorized as "Traffic Infractions," except for offenses which involve serious injuries or fatalities, leaving the scene of an accident, driving on a suspended or revoked license, alcohol or drug, or reckless driving, which remain as criminal offenses.

This new category of "Traffic Infractions" shall not require the revision of police or traffic law enforcement methods. It will allow a variety of improved traffic adjudication procedures to be used without application of burdensome and inappropriate criminal procedure requirements. The imposition of jail sanctions shall be eliminated under this category.

Traffic offense adjudicators shall have available a broader range of penalty and treatment sanctions. In first offense "Traffic Infraction" cases a fine would be imposed. On additional convictions more severe fines would be assessed. When the offender is classified as a potential or an actual problem driver, treatment shall be applied in addition to penalties and license restriction or withdrawal action.

3. *Structure a governmental traffic offense adjudication subsystem, either as part of an administrative agency separate from the judiciary, or within the judiciary, as each State may elect.*

Require, in either alternative, adjudicative processes independent of both law enforcement and licensing agency functions.

Establish a new subsystem by legislative enactment or appropriate court rule and require legislative committee or judicial council review of its operation every six years.

Fund the combined adjudicative-rehabilitative and system support efforts with an adequate level of State legislative appropriations apart from identified traffic generated revenue.

4. *Adopt a more simplified, informal and administrative type of procedural machinery for "Traffic Infraction" adjudication and sanctioning.*

Develop uniform sanctioning policies within each State, including uniform bail and fine schedules, to be used by traffic adjudicators.

All "Traffic Infraction" cases shall be disposed of within 30 days of date of citation.

Permit first offender self-adjudication and sanctioning by mail or violations bureau unless the offense is classified as a mandatory appearance case.

Provide every cited motorist with the right to appear in person for adjudication.

Provide every cited motorist with the right to an immediate hearing on "not guilty" or "guilty with an explanation" pleas. } "refere"

Defense attorneys shall not be required, but would be permitted. There shall be no entitlement to court appointment of counsel in case of indigency.

Right of jury trial shall not be afforded.

Rules of civil, rather than criminal procedure, shall be preferred. The burden of proof shall be by preponderance or a predominance of, or clear and convincing evidence, rather than by the criminal standard of proof beyond a reasonable doubt.

Provide every convicted motorist with an immediate, inexpensive right of judicial appeal.

5. *Develop a Statewide traffic case adjudication, coordination and management subsystem which utilizes advanced record keeping, storage, retrieval and dissemination techniques.*

Appoint a traffic adjudication subsystem administrative manager within each State. The manager shall develop and supervise a uniform system and train traffic case adjudicators and administrators. He shall annually collect and evaluate adjudication data and recommend improvements to the appropriate judicial and legislative authorities.

Traffic adjudicators shall be lawyers specially trained in traffic adjudication and highway safety. Continuing re-education programs shall be instituted and required.

Verbatim records shall be maintained in all trials of offenses which could result in license suspension

The licensing authority shall issue a notice of intent to suspend the license of any person cited for a traffic offense who fails to answer a summons.

An ultimate electronic driver record data processing system (EDPS)—with direct input and retrieval terminals at law enforcement, license authority and adjudication facilities—shall be designed. A principal component of such a system shall be the use of a uniform traffic citation within each State.

*6. Improve highway safety implementation by traffic adjudication identification of problem drivers, assignment to appropriate driver improvement screening programs and monitoring of the assignment results.*

Mandatory violator adjudication appearance shall be required in all criminal cases and "Traffic Infractions" arising out of accidents, no operator's license, speeding in excess of 15 miles per hour above the posted limit and violations, the conviction of which might result in licensing agency discretionary action.

In mandatory appearance cases, traffic adjudicators shall be provided with complete offender driving records and all pertinent background information to assist in sanction selection.

Traffic adjudicators shall be given a list of available and qualified driver improvement and medical rehabilitation agencies and programs.

Driver analysts and other rehabilitation and driver improvement specialists shall be used to screen and assign potential problem drivers to treatment programs.

With the possible exception of youthful offenders, the majority of first offenders shall continue to be disposed of by fines. Once a driving behavior problem is identified, adjudication emphasis shall shift from punishment to treatment.

To reduce recidivism, selective and priority attention shall be given to the problem driver.

## CONCLUSION

The Task Force believes that adoption by the states of the Report Recommendations and their elements would result in a more ideal traffic law system which will advance highway safety through traffic offense adjudication. Implementation of the recommended traffic adjudication subsystem would offer a higher probability of contributing to the reduction of traffic accidents and fatalities than the traditional court adjudication process presently in operation. However, to achieve this ambitious highway safety goal through a more cost effective adjudication subsystem may require a higher level of public funding.

The recommended traffic offense adjudication subsystem is conceived to protect the constitutional rights of the driving public, improve driver behavior and enhance society's interest in highway safety. Concurrent by-products would be to undlog the lower court dockets, enable judges to devote their valuable time to serious traffic and criminal cases and to enhance the promotion of traffic adjudication justice.

*New York  
legislation*

AS 23.06

MEMORANDUM

TO: BOB BREEZE  
FROM: JEFF PREEFER  
DATE: NOVEMBER 27, 1974  
RE: DECRIMINALIZATION OF TRAFFIC OFFENSES

You asked for a review of the proposals to decriminalize traffic offenses. This memo reviews only Chapter 6, Administrative Adjudication of offenses.

Sec. 28.06.010 Regulations. (a) It seems a court may have jurisdictions over some charges which may be classified as both an infraction and a criminal charge. I believe that the author is referring to driving while intoxicated, reckless driving, and negligent driving charges. This means that the case could end up either in court or before a commissioner, but no procedure exists to determine who shall hear the case.

(b) Seems to indicate that where a charge alleges an offense other than an infraction, the commissioner shall notify the court and request removal of the case to court. However, the court is not required to accept jurisdiction. Second, if the offense is classified as both an infraction and a criminal charge, is it "an offense other than an infraction"? If not, it is possible the commissioner may choose not to notify the court.

Paragraph (b) also allows a transfer of the case to the courts where motorist fails to appear. Why? Is there no better way to enforce rules. By allowing transfer, the courts will have their time taken up by the very cases they don't want to see. Second, this creates the possibility of forum shopping which lawyers are adept at using. Forum shopping wastes the time this plan is trying to save. That time is wasted is clear. Right now cases go to court in 2 weeks. Whenever a transfer from the commissioner to the courts occurs, at least 15 days must be allowed for the transfer.

(c) Hearing officers are appointed. What qualifications are necessary? Do they use the Administrative Procedure Act or other rules? It is not at all stated what kind of people will be chosen or what rules will govern.

Sec. 28.06.020 (d) Notice to the defendant is by mail. Since notice mailed is considered received, it should be by registered or certified mail to protect defendants. Since a valuable license may be suspended for failure to appear, it would seem under Goldberg v. Kelly and its progeny, a guarantee that notice has been received would be a minimum.

Sec. 28.06.030 (a) Hearings. Procedures may be determined by the commissioner. Do you want to give the commissioner that much latitude. You don't even know his qualifications for the job.

Most important, the evidence necessary to establish guilt is a clear and convincing standard. This is substantially less than beyond a reasonable doubt. In fact, use of this standard should probably result in a 100% conviction rate. If you want convictions, then it's perfect. But remember, you don't even have any idea of the qualifications of the Hearing Officers. Also, cases can be shifted back to the court at the commissioner's request or perhaps by future regulations.

This allows jockeying where some defendants face a clear and convincing standard of proof in hearings and others a beyond the reasonable doubt standard of proof in court. A defendant, by failing to appear for a hearing can force a higher standard of proof in court. Second, Commissioners can do favors for friends. Third, is a finding of guilty for drunk driving by a commissioner a criminal conviction? It can't be because of the different standard of proof. Therefore, a guilty person would want a hearing by a hearing officer. It would keep his record clean and save him from a prior, particularly important in the case of subsequent drunk driving arrests, which increase penalties. An arbitrary procedure for transferring cases thus affecting penalties and standards of guilt probably would violate the 14th Amendment Due Process Clause.

Just as significant are the lack of provisions guaranteeing open hearings, defense counsel or a prosecutor. The hearings may be closed and thus deals could be made without anyone there to inhibit the parties. Defendants probably are entitled to bring defense counsel. How can they be prohibited from being represented when by refusing to appear they can have counsel in court? If defendants have counsel, doesn't the state have an interest in being represented by counsel? Of course, this whole system may be designed to be inquisitorial in nature.

Sec. 28.06.040 Administrative Review. An appeals board is fine. Except at this point the costs of all the hearing officers, members of the appeals board, clerks etc. may be more than the cost of one additional judge hearing these cases. And the courts could continue to hear these cases even if they were civil. Changing the cases to civil in nature does not mean that they cannot be heard in courts or by judges.

(f) Transcripts will exist. What kind? Summaries, taped, written verbatim?

Sec. 28.06.050 (b) Judicial Review. If civil practice law and rules are used in review (but not necessarily at the hearing!) does that include discovery, depositions, interrogatories and other motions. Finally, it should be remembered that courts may also review administrative hearings. So one more appeal always exists -- back to the courts.

## CHAPTER 06. ADMINISTRATIVE ADJUDICATION OF OFFENSES

1  
2 Sec. 28.06.010. JURISDICTION: TRANSFER OF CASES: HEARING OFFICERS:  
3 REGULATIONS. (a) Notwithstanding any inconsistent provision of law  
4 all violations of this title when a penalty of imprisonment is not  
5 prescribed, regulations promulgated <sup>under</sup> ~~by authority of Sec. 05.020~~ of this  
6 title, or ordinances of <sup>municipalities</sup> ~~political subdivisions~~ relating to vehicles  
7 and traffic, except parking, standing, stopping or pedestrian offenses  
8 which occur within an incorporated city or borough and which are  
9 classified as traffic infractions, may be heard and determined pursuant  
10 to the regulations of the commissioner as provided in this chapter.  
11 Whenever a crime and a traffic infraction arise out of the same trans-  
12 action or occurrence, a charge alleging both offenses may be made  
13 returnable before the court having jurisdiction over the crime.  
14 Nothing in this chapter may be construed to prevent a court, having  
15 jurisdiction over a criminal charge relating to traffic or a traffic  
16 infraction, from lawfully entering a judgment of conviction, whether  
17 or not based on a plea of guilty, for an offense classified as a  
18 traffic infraction.

19 (b) When the commissioner determines that a charge alleges an  
20 offense other than a traffic infraction, he shall, and where a charge  
21 cannot be disposed of because of the non-appearance of the motorist,  
22 he may notify the court of appropriate jurisdiction and request re-  
23 moval of the case to the court. Prior notice of the request need not be  
24 given the motorist involved. Upon receipt of the request, the court  
25 may grant an order transferring the case, provided that the date on  
26 which the charge or charges must be answered before the court is not  
27 earlier than the return date which appears on the complaint alleging  
28 the offense. Notice of the transfer shall be mailed to the motorist  
29 at the address appearing on the complaint not less than ten days

before the date of appearance indicated on his summons and not less than fifteen days before his scheduled appearance in the court. The mailing shall constitute due notice of the transfer. Thereafter, the case shall be treated in the same manner as if the complaint had initially been filed with the court.

*Under APD?*

(c) The commissioner shall appoint hearing officers as necessary to hear and determine cases as provided by this chapter. Regulations promulgated by the commissioner may provide for a schedule of monetary penalties to be used where an answer is made, other than before a hearing officer, admitting a charge, provided that no penalty shall exceed the maximum fine established by law for the traffic infraction involved.

Sec. 28.06.020. SUMMONS: ANSWER. (a) The commissioner is authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in sec. 010(a) of this chapter and to establish procedures for proper administrative controls over the disposition of summons. ~~The summons may be the same as the uniform summons provided in sec. 030 of this chapter.~~ The chief executive officer of each local police force which is required to use the summons and complaint prescribed in this section, shall prepare or cause to be prepared records and reports as may be prescribed by the commissioner.

(b) A person who receives a summons for a violation described in sec. 010(a) of this chapter shall answer the summons by personally appearing on the return date at the time and place specified; provided, however, that an answer may be made as provided in (c) and (d) of this section.

(c) If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate

1 form prescribed by the commissioner and forward the form and summons to  
2 the office of the department specified on the summons. If a schedule  
3 of penalties for violations has been established and the schedule  
4 appears on the answer form, a check or money order made payable to the  
5 Department of Revenue in the amount of the penalty for violation  
6 charged, if included in the schedule, must also be submitted with the  
7 answer. The plea may not be made by mail for an offense for which  
8 suspension or revocation of a driver's license is required by law.

9 (d) If the person charged with the violation denies part or all  
10 of the violation as charged in the summons, he may complete an appro-  
11 priate form prescribed by the commissioner for that purpose and forward  
12 the form and summons, together with security in the amount of ten  
13 dollars to the office of the department specified on the summons. The  
14 answer shall be entered and a hearing date established and the depart-  
15 ment shall notify the person by return, <sup>REGISTERED?</sup> mail of the date of the hearing.  
16 The security posted pursuant to this section shall be returned upon  
17 appearance at the scheduled hearing or an adjourned hearing which  
18 results in a final disposition of the charge and otherwise shall be  
19 forfeited and paid into the general fund of the State.

20 (e) If a person charged with the violation fails to answer the  
21 summons as prescribed in this chapter, the commissioner may suspend  
22 his license or driving privilege until the person answers as provided  
23 in this section. If a person fails to appear at a hearing provided  
24 pursuant to this section, the security posted to secure his appearance  
25 shall be forfeited and the person's license may be suspended pending  
26 appearance at a subsequent hearing, or the disposition of the charges  
27 involved. Suspension as permitted by this section, if already in  
28 effect, may be terminated or if not yet in effect, may be withdrawn or  
29 withheld, prior to the disposition of the charges involved if the

1 person appears and posts security in the amount of ten dollars to  
2 guarantee his appearance at a required hearing. If a suspension has  
3 been imposed pursuant to this section and the case is subsequently  
4 transferred as prescribed in 010(b) of this chapter, the suspension  
5 shall remain in effect until the person answers the charges in the  
6 court to which the case was transferred.

7 <sup>APA?</sup>  
8 Sec. 28.06.030. HEARINGS: DETERMINATIONS. (a) Every hearing  
9 for the adjudication of a traffic infraction, as provided by this  
10 chapter shall be held before a hearing officer appointed by the  
11 commissioner. The burden of proof shall be upon the state and no  
12 charge may be established except by clear and convincing evidence.  
13 The commissioner may prescribe, by regulation, the procedures for  
14 the conduct of the hearings.

15 (b) After due consideration of the evidence and arguments offered  
16 in a contested case, the hearing officer shall determine whether the  
17 charges have been established. Where the charges have not been es-  
18 tablished, an order dismissing the charges shall be entered. Where  
19 a determination is made that a charge has been established, either in  
20 a contested case or in an uncontested case where there is an appearance  
21 before a hearing officer, or if an answer admitting the charge other-  
22 wise has been received an appropriate order shall be entered in the  
23 department's records.

24 (c) An order entered after the receipt of an answer admitting  
25 the charge or where a determination is made that the charge has been  
26 established shall be civil in nature, but shall be treated as a con-  
27 viction for the purpose of this chapter. The commissioner may include  
28 in the order an imposition of a penalty authorized by this chapter for  
29 a conviction of the violation, except that no penalty may include  
imprisonment, nor, if monetary, exceed the amount of the fine which

could have been imposed had the charge been heard by a court. The driver's license or driving privileges may be suspended pending the payment of a penalty so imposed.

(d) All penalties collected pursuant to the provisions of (c) of this section shall be paid to the department. After audit is made by the department, the penalties shall be paid to the political subdivision in which the violation occurred, except that the sum of two dollars and fifty cents for each violation occurring in a political subdivision for which a complaint has been filed with the administrative facility established by this chapter shall be retained by the state. However, if the full costs of administering this chapter shall exceed the amounts received and retained by the state for a period specified by the commissioner, then the additional sums required to offset the costs shall be retained by the state out of the penalties collected pursuant to this section.

*Point System*

(e) Unless a hearing officer determines that a substantial traffic safety hazard would result, he shall, pursuant to the regulations of the commissioner, delay for a period of thirty days the effective date of a suspension or revocation of a drivers license or vehicle registration imposed after a hearing conducted pursuant to this chapter, unless the suspension was imposed because of the failure to pay a monetary penalty. However, the commissioner's regulations may provide for the immediate surrender of a drivers license or driving privilege to be suspended or revoked and the issuance of appropriate temporary documentation to be used during the thirty day period.

Sec. 28.06.040. ADMINISTRATIVE REVIEW. (a) The commissioner shall appoint three or more appeals officers to serve at his pleasure, and shall select a chairman for each appeals board from the members

1 so appointed. Appeals officers shall be full time employees of the  
2 department. The commissioner shall assign at least three appeals  
3 officers to serve on each appeals board established to hear appeals  
4 pursuant to this section. The commissioner shall also designate other  
5 members of the department as may be necessary to assist an appeals  
6 board in carrying out its assigned functions.

7 (b) A person who is aggrieved by a determination of a hearing  
8 officer may appeal the determination pursuant to the provisions of  
9 this section. Except as otherwise provided in (c) of this section,  
10 a transcript of the hearing resulting in the determination appealed,  
11 must be submitted on appeal.

12 (c) If the only issue raised on appeal is the appropriateness  
13 of the penalty imposed, the appellant in his discretion may submit  
14 the appeal without a transcript of the hearings, in which event, the  
15 decision of the appeals board may be based solely on the appeal papers  
16 and the records of the department, and such decision is not subject  
17 to judicial review. However, when a transcript of the hearing is  
18 submitted at the time an appeal is filed, the determination of the  
19 appeals board will be subject to judicial review as prescribed in  
20 Sec. 050 of this chapter.

21 (d) Each appeal filed pursuant to this section shall be reviewed  
22 by an appeals board, which shall make a determination of the appeal,  
23 and shall cause an appropriate order to be entered in the records of  
24 the department. However, no appeal may be reviewed if it is filed  
25 more than thirty days after notice was given of the determination  
26 appealed.

27 (e) A person desiring to file an appeal from an adverse deter-  
28 mination pursuant to this section shall do so in a form and manner  
29 provided by the department. The transcript of a hearing which formed

1 the basis for the determination will be reviewed only if it is sub-  
2 mitted by the appellant. An appeal is not deemed to be finally  
3 submitted until the appellant has submitted all required forms and  
4 documents as prescribed in this section and in regulations promulgated  
5 by the commissioner.

6 (f) Transcripts of the record of a hearing may be obtained at  
7 the cost to the department.

8 (g) The fee for filing an appeal shall be ten dollars. No  
9 appeal may be accepted unless the required fee has been paid.

10 (h) Whenever a determination has not been made within thirty  
11 days after an appeal has been finally submitted, a stay of execution  
12 will be deemed granted by operation of law, and the license, certifi-  
13 cate, permit or privilege affected will be automatically restored  
14 pending final determination.

15 Sec. 28.06.050. JUDICIAL REVIEW. (a) No determination of a  
16 hearing officer which may be appealed under the provisions of  
17 sec. 040 of this chapter may be reviewed in a court unless an appeal  
18 has been filed and determined in accordance with that section.

19 (b) A determination of the appeals board in a case where a  
20 transcript of the hearing has been submitted shall be subject to  
21 review pursuant to the provisions of civil practice law and rules.  
22 A statement by the hearing officer at the conclusion of the hearing  
23 indicating that the charges have been sustained and announcing the  
24 penalty imposed, together with a summary of the reasons the appeal  
25 was denied by the appeals board, shall constitute sufficient findings  
26 for the purpose of the review.  
27  
28  
29

A-23.06

~ Denver ordinance

MEMORANDUM

TO: BOB BREEZE  
FROM: JEFF PREEFER  
DATE: NOVEMBER 27, 1974  
RE: DECRIMINALIZATION OF TRAFFIC OFFENSES.

You asked me to review the proposals to decriminalize traffic offenses. This memo reviews "an act relating to adjudication of traffic offenses and penalties."

*proposed*

Sec. 28.05.070 This is an informal hearing. Fine. But,

1. What is the standard of proof?
2. Who has the burden of proof?
3. Do criminal or civil rules of law apply?
4. What offenses will be made infractions?
5. If civil, does the defendant lose the 5th Amendment right to refuse to testify against himself?
6. Does this informal hearing require that the clerk make a transcript?
7. Can defendants bring attorneys?
8. Does the state have a right to an attorney?
9. Will the procedure be inquisitional or accusatorial?
10. On appeal what record does the judge review?
11. Who pays for the transcript?
12. Does the State or Borough have the right to appeal?
13. Does the Court hear the case de novo or use a substantial evidence or clear and convincing standard of proof test?
14. The clerk may sustain, reduce, or cancel a fine. Does this mean the clerk must follow a fine schedule? Or is a clerk free to set any fine up to the maximum?

Sec. 28.05.070(e) Anyone who desires a court appearance can have one. In the end will this be more work or less when one considers the time and energy involved in transferring cases and judicial review of clerk decisions in cases involving accidents, personal injuries or property damage. Second, allowing the defendant to choose between this hearing procedure and Court, creates many potential problems if standards of proof and burden of proof are different.

Sec. 28.05.070(c) Where a clerk makes a recommendation, how does the judge evaluate it? Can he look at the transcript? Can he review the sufficiency of evidence? Don't we want some sort of uniform procedure?

Sec. 28.05.070(a) The defendant appears before the clerk of the district court. Is there only one clerk or will each judge's clerk hear his cases? If each judge's clerk hears his cases, friction could develop between judge and clerk and possibly some pressuring by the person with ultimate responsibility, the judge.

JP:msm

# M. H. WAGNER & COMPANY

Please address all replies to DENVER OFFICE

Mrs. Annette Finesilver, Project Director  
7100 East Exposition Avenue  
Denver, Colorado 80222  
(303) 322-0330 or (303) 388-1597

WASHINGTON OFFICE  
9128 Christopher Street  
Fairfax, Virginia 22030  
(703) 591-8885

December 10, 1974

Mr. Dennis Robertson  
Consultant  
State of Alaska  
Department of Public Safety  
Pouch N - State Capitol  
Juneau, Alaska 99801

Dear Mr. Robertson:

On January 5-7, 1975, a workshop on "New Trends In Advanced Traffic Adjudication Techniques" will be held in Seattle, Washington.

The workshop will provide a forum for the exchange of ideas dealing with re-defining goals of effective adjudication of traffic offenses in terms of safety and cost effectiveness; implementation of advanced adjudication procedures; and national trends in effective adjudication. In particular, the workshop will be centered around the interests and activities of the participants who will be invited from Alaska, Oregon and Washington and will cover the above mentioned areas and other areas yet to be determined.

This workshop, to be conducted by M. H. Wagner & Company, has been made possible through a grant from the National Highway Traffic Safety Administration (NHTSA); U.S. Department of Transportation.

Because of your prominence and interest in the area to be discussed, I am extending an invitation to you to attend and participate extensively in the workshop. Also, any suggestions you may have in the areas you personally may wish to have covered will be appreciated.

Due to the nature of our contract with the NHTSA, we cannot pay any expenses incurred by the participants; however, we will make all arrangements for the workshop as well as to provide speakers and materials.

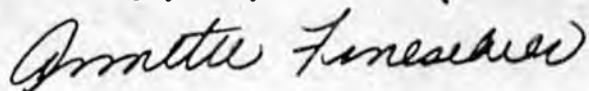
Mr. Dennis Robertson  
December 10, 1974  
Page Two

We sincerely hope you will find it possible to be present. We know that your ideas will contribute to the success of the meeting. There is some urgency in our request for an early reply. As soon as we hear from you we shall make the necessary arrangements for your accommodations at the Edgewater Inn in Seattle.

Do not hesitate to phone if I may be of any assistance to you. I can be reached at the above Denver numbers or at (303) 297-3171.

We look forward to an early reply.

Sincerely yours,



Annette Finesilver, Project Director  
for the Contractor  
M. H. Wagner & Company

AF/sl

ADMIN ADSUD

# M. H. WAGNER & COMPANY

Please address all replies to DENVER OFFICE

Mrs. Annette Finesilver, Project Director  
7100 East Exposition Avenue  
Denver, Colorado 80222

(303) 322-0330 or (303) 388-1597

WASHINGTON OFFICE

9128 Christopher Street  
Fairfax, Virginia 22030

(703) 591-8885

November 26, 1974

Mr. Dennis Robertson  
Consultant  
State of Alaska  
Department of Public Safety  
Pouch N - State Capitol  
Juneau, Alaska 99801

Dear Dennis:

Thank you so much for your letter of November 20, 1974. It appears that our plans for the workshop are formulating with a definite time and place.

Assuming that we receive full clearance from Washington, the workshop will be held commencing Sunday evening, January 5, 1975, and will continue until late afternoon, January 7th.

We prefer not to begin our meetings on Sunday night; however, the state of Oregon has notified us that they have a legislative orientation conference which is scheduled for January 8-10. Thus, we must begin on Sunday evening. I hope that this will not inconvenience you or members of the Alaska delegation who will undoubtedly have to travel on Sunday.

Of course, I will be sending invitations for this workshop, but because of the necessity of the early requisition of monies, I felt that it was important to inform you that the plans are quite definite.

As soon as our agenda is approved we will mail you a copy. In the meantime, please save those dates. We tentatively plan to hold the workshop at the Edgewater Inn in Seattle.

I am holding a block of rooms tentatively until our list of invitees is firm and reservations can be made.

DEPT. OF PUBLIC SAFETY  
Alaska Traffic Safety Bureau

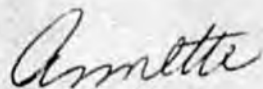
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Mr. Dennis Robertson  
November 26, 1974  
Page Two

Thank you, Dennis, for your sincere cooperation.

Sincerely yours,



Annette Finesilver, Project Director  
for the Contractor  
M. H. Wagner & Company

P.S. You might wish to alert the other members of the Alaska group  
and I will send them invitations as soon as everything is cleared.

AF/sl

cc: Mr. Paul Orris



# Denver County Court

ADMIN. NO JUA

*Denver Robertson*

CITY AND COUNTY BUILDING  
Colfax and Bannock  
DENVER, COLORADO 80202

January 3, 1974

Mr. Dennis A. Robertson  
State of Alaska, Dept. of Law  
Pouch K-State Capitol  
Juena, Alaska 99801

773  
Law  
JAN 8 1974  
PM  
1:56  
1

Dear Sir:

In response to your letter we are enclosing a copy of the ordinance which established the referee system. Also enclosed is a copy of the fine schedule for moving violations; which governs the fines that may be paid, by mail or in person, and those violations for which a court appearance is mandatory.

107 UNITED  
BIZ SERVED  
MET 1/3/74

We are not contemplating a transfer of the referee function to the office of the City Attorney. However, academically speaking, it might be feasible.

If we can be of any further assistance please do not hesitate to call on us again.

Sincerely,

Orville M. Holben  
Ass't Court Administrative Officer

OMH:cg

156—COUNTY COURT REFEREE SYSTEM

.1. County Court Referee System Created. The Presiding Judge in and for the City and County of Denver be and is hereby authorized and empowered to appoint one or more referees to hear certain municipal ordinance violation matters relating to:

.1-1. Parking.

.1-2. Non-moving traffic violations.

.1-3. Non-hazardous moving violations to be designated, from time to time, by the Presiding Judge.

.1-4. Certain matters in the General Violations Division to be designated, from time to time, by the Presiding Judge.

.1-5. In no instance will said referee or referees be empowered to hear violations of a municipal ordinance wherein there has been a motor vehicle accident, personal injury or wherein a victim of said offense has been involved (Ord. 151, Series 1971)

.2. Election To Appear Before Judge. Said referee or referees shall conduct hearings in the manner provided for the hearing of cases by the Court. Prior to conducting a hearing, the referee shall inform the parties that they have the right of a hearing before the judge in the first instance; if such request is made, the referee shall terminate the hearing. (Ord. 151, Series 1971)

.3. Duties. All orders made and proceedings had by the referee under this rule shall be made as provided for acts of the Court done before the judge.

However, that in all matters other than parking violations and non-moving traffic violations said referee or referees shall make written recommendations to a judge of the County Court for disposition of said violation or violations and the Court may enter an order upon the complaint for disposition of the matter as recommended by the referee. The County Court judge may or may not follow the written recommendation of the referee. (Ord. 151, Series 1971)

.4. Appeal. Any defendant or respondent affected by an order or action of the referee, under the authority of this rule, may have the matter heard by a county judge by filing a motion for such hearing within ten (10) days after the entry of the order or the taking of the action. Upon the filing of such a motion, the order or action in question shall be vacated, the motion placed on the calendar of the Court for as early a hearing as possible, and the matter shall be heard by one of the county judges. If such a motion is not filed within ten (10) days, of the order or action vacated by the judge on his own motion within such period, the order or action of the referee shall be final. (Ord. 151, Series 1971)

.5. Oath and Testimony. That said referee or referees are hereby empowered to administer oaths and take testimony. (Ord. 151, Series 1971)

# Administrative Adjudication of Traffic Violations in New York City



V. SUMMARY

The key elements of the New York Administrative Adjudication System are the following:

1. Pleas are accepted by mail except where the loss of a license may occur on conviction for the offense or the motorist is a scofflaw; then personal appearance is required.

2. The plea may be guilty or not guilty or guilty with explanation.

3. Every defendant has a right to appear in person, and in all cases, adjudication hearing officers are authorized to impose sanctions as determined by regulation.

4. The hearing officers are lawyers.

5. The state-wide data bank links each adjudication office with the New York Motor Vehicles Department.

6. If the defendant wants to plead not guilty, he is ordered to appear at the Hearing Office in the borough where the alleged offense took place. Appearances are scheduled by date and time to reduce lost time for both the defendant and

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## The New Traffic Court Reform

Ever since the turn of the century, when traffic violations first became a public concern, they have been handled in our Criminal Courts. This has meant that persons accused of committing a traffic violation have been subject to criminal procedures, criminal punishments including jail sentences, and the time-consuming and costly processes for appealing a criminal conviction. It has also meant incurring the stigma and experiencing the delays and inconveniences associated with our overcrowded Criminal Courts.

To anyone who has ever received a traffic summons the need for a change in this archaic system has long been evident. As of July 1, 1970, such a change has occurred. A unique, new program has been inaugurated — the first of its kind in the Nation — to handle all traffic cases, other than misdemeanors, occurring in New York City. The Administrative Adjudication Bureau of the New York State Department of Motor Vehicles will hear all cases involving moving traffic violations.

The Parking Violations Bureau of the New York City Transportation Administration will hear all cases involving parking, stopping, standing or jaywalking violations.

This booklet describes the program of Administrative Adjudication of traffic violations by the Department of Motor Vehicles.

By emphasizing an educational, rather than a punitive approach to the handling of traffic violations, the new Administrative Adjudication system is designed to improve driver safety by providing efficient administration and convenience to the public. Individual rights will be preserved and effective enforcement of our traffic laws will be maintained.

By removing from the Criminal Court the nearly one million traffic summonses issued for moving violations in New York City each year, this program will aid the administration of criminal justice and will permit the release of 18 judges so that they may spend their full time on serious criminal matters.

Since the program is self-supporting, persons who do not receive traffic summonses will not have to share in the cost of operating this new Administrative Adjudication program.

## How the New System Will Benefit You

### *Professional and Individual Treatment in Each Case.*

Experienced lawyers, trained by professional highway safety administrators, will serve as hearing officers in cases involving pleas of guilty with explanation or not guilty.

### *Elimination of Long and Indefinite Delays for Hearings.*

Every summons issued for a moving traffic violation in New York City specifies the date of appearance for hearings or not guilty pleas. That date will be approximately one month after the summons is issued.

*Modern Techniques to Assure Fair Hearings.* Testimony in each case is electronically recorded and penalties are determined upon a determination of guilt only after review of the motorist's driving record which appears on a visual display unit on the hearing officer's desk.

*Elimination of Appearances in Criminal Court for a Traffic Infraction.* Moving traffic violations, other than misdemeanors, will be handled by the Administrative Adjudication Bureau of the Department of Motor Vehicles.



***Elimination of Unnecessary Travel and Waiting for Hearings.*** Most pleas can be made, and most fines can be paid, by mail. All hearings are conducted at a centrally located office in each Borough where only traffic violations are processed.

***Time-Saving and Inexpensive Appeals.*** A motorist can take an administrative appeal from an adverse decision, which may eliminate the need for costly and time-consuming appeals through the court system. However, the right of judicial review is preserved.



## How the New System Works

The Summons is divided into three categories of offenses as follows:

**Parking.** Parking, stopping, standing and jaywalking violations will be heard in the Parking Violations Bureau of the New York City Transportation Administration.

**Traffic Infraction.** Moving traffic violations will be heard in the Administrative Adjudication Bureau of the New York State Department of Motor Vehicles.

**Other Offense.** (Including Traffic Misdemeanor). Offenses such as reckless driving and certain non-traffic violations will be heard in the Criminal Court of the City of New York.

**Answering a Summons Under Instruction**

**GUILTY PLEAS**

Guilty pleas may be made by mail, except in cases of excessive speeding or where conviction may result in suspension or revocation of a motorist's driver's license. In those instances, a notice of required appearance will be mailed to the motorist informing him of when and where to appear for a hearing. Also, guilty pleas, with explanation, may be made at any of the five Hearing Office Locations listed below. All guilty pleas must be made on or before the Date of Appearance indicated on the Summons.

**NOT GUILTY PLEAS**

Not guilty pleas may be made by mail or in person at any of the Hearing Office Locations indicated below, within ten days after the issuance of a Summons. Hearings will be held on the Date of Appearance and at the time designated on the Summons, at

the Hearing Office Location in the Borough in which the Summons was issued.

**ADJOURNMENTS**

A first adjournment will be granted for reasonable cause and may be arranged by a motorist, prior to the Date of Appearance, in person, by mail or by telephone at the Hearing Office Location at which the hearing was to be held. A second or subsequent adjournment may be granted only at the discretion of a Hearing Officer, and the request must be made in person.

**APPEALS**

An appeal from an adverse decision of a Hearing Officer may be made, within 30 days, to the Appeals Board of the Bureau. There is a \$10 fee required upon filing an appeal. Any suspension or revocation of a driver's license which has been imposed may be stayed during the period of appeal. Where a transcript has been submitted with an administrative appeal, judicial review of the Appeals Board's decision may be sought in the New York State Supreme Court.

**SCOFFLAWS**

A scofflaw is a person who has failed to enter a plea of guilty or not guilty on or before the Date of Appearance indicated on the Summons. Such persons are subject to having a driver's license suspended until a plea has been entered. Once a person has become a scofflaw, all pleas — both guilty and not guilty — must be made in person at any Hearing Office Location. Where a suspension is in effect, a scofflaw must post a \$15 security deposit upon entering a not guilty plea if he wishes to have the suspension terminated prior to final disposition of the charge. A security deposit will be refunded upon appearance on the adjourned hearing date.

Hearing Office  
Locations

Fine  
Schedule  
for Guilty  
Pleas

**BRONX**  
2455 Sedgwick Avenue  
Bronx, New York 10268  
Telephone: a.c. 212 295-1905

**BROOKLYN**  
350 Livingston Street  
Brooklyn, New York 11017  
Telephone: a.c. 212 834-8578

**MANHATTAN**  
50 East 26th Street  
New York, New York 10010  
Telephone: a.c. 212 889-8555

**QUEENS**  
1 Lefrak City Plaza  
Flushing, New York 11368  
Telephone: a.c. 212 592-9100

**RICHMOND**  
60 Bay Street  
Staten Island, New York 10301  
Telephone: a.c. 212 448-0868

Monday through Friday  
8:30 A.M. to 4:00 P.M.  
Thursdays 8:30 A.M. to 7:30 P.M.

The following fine schedule is applicable for guilty pleas made by mail or in person at a Hearing Office Location. This schedule is NOT applicable upon a plea of guilty with an explanation made before a Hearing Officer, or where a Hearing Officer finds a motorist guilty after a hearing where a plea of not guilty has been entered.

All offenses other than speeding	\$15
Speeding	
1-14 MPH over speed limit	\$15
15-24 MPH over speed limit	\$25
25 MPH or more over speed limit	

\*Motorist must appear before Hearing Officer.



ENABLING LEGISLATION FOR  
ADMINISTRATIVE ADJUDICATION PROGRAM

ARTICLE 2-A  
OF THE VEHICLE AND  
TRAFFIC LAW

Amended by the 1970 Legislature

ARTICLE 2-A

ADJUDICATION OF TRAFFIC INFRACTIONS

- Section 225. Adjudication of violations; hearing officers.  
226. Summons; answer.  
227. Hearings.  
228. Administrative review.

§ 225. *Jurisdiction; transfer of cases; hearing officers; regulations.* -1. Notwithstanding any inconsistent provision of law, all violations of this chapter or of a local law, ordinance, order, rule or regulation relating to traffic, except parking, standing, stopping *or pedestrian offenses*, which occur within a city having a population of one million or more, and which are classified as traffic infractions, may be heard and determined pursuant to the regulations of the commissioner as provided in this article. *Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable before the court having jurisdiction over the crime.* Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic *infraction*, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for any *offense* classified as a traffic infraction.

•2. *Whenever the commissioner or his deputy determines that a charge alleges an offense other than a traffic infraction, he shall, and where a charge cannot be disposed of because of the non-appearance of the motorist, he may notify the court of appropriate jurisdiction and request removal of the case to such court. Prior notice of such request need not be given the motorist involved. Upon receipt of such request, the court may grant an order transferring such case, provided that the date on which the charge or charges must be answered before the court shall not be earlier than the return date which appears on the complaint alleging the offense. Notice of such transfer shall be mailed to the motorist at the address appearing on such complaint not less than ten days before the date of appearance indicated on his summons and not less than fifteen days before his scheduled appearance in such court. Such mailing shall constitute due notice of such transfer. Thereafter, such case shall be treated in the same manner as if the complaint had initially been filed with such court.*

•3. The Commissioner shall appoint such hearing officers as shall be necessary to hear and determine cases as provided by

this article and may promulgate such regulations as shall be necessary or desirable to effect the purposes of this article. Such regulations may provide for a schedule of monetary penalties to be used where an answer is made, *other than before a hearing officer*, admitting a charge, provided that no such penalty shall exceed the maximum fine established by law for the traffic infraction involved.

§ 226. *Summons; answer.* •1. *Summons.* The commissioner shall be authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in subdivision one of section two hundred twenty-five of this chapter, and to establish procedures for proper administrative controls over the disposition thereof. Such summons may be the same as the uniform summons provided for in section two hundred seven of this chapter. The chief executive officer of each local police force which is required to use the summons and complaint provided for herein shall prepare or cause to be prepared such records and reports as may be prescribed by the commissioner.

• 2. *Answer.* (a) *General.* Any person who receives a summons for a violation described in subdivision one of section two hundred twenty-five of this chapter shall answer such summons by personally appearing on the return date at the time and place specified therein. Provided, however, that an answer may be made as provided in paragraphs (b) and (c) of this subdivision *and the regulations of the commissioner.*

• (b) *Answer by mail—admitting charge.* If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations of the commissioner, such plea may not be made by mail or *any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter.*

(c) Answer by mail—denial of charges. If the person charged with the violation denies part or all of the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner for that purpose and forward such form and summons, together with security in the amount of fifteen dollars, to the office of the department specified on such summons. Upon receipt, such answer shall be entered and a hearing date established by the department. The department shall notify such person by return mail of the date of such hearing. The security *posted pursuant to this paragraph or subdivision three of this section shall be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited and paid into the general fund. Provided, however, the commissioner may, by regulation, suspend in whole or in part the provisions of this section relating to the posting of security.*

\*3. Failure to answer or appear. If the person charged with the violation shall fail to answer the summons as provided herein, the commissioner may suspend his license or driving privilege until such person shall answer as provided in subdivision two of this section. If a person shall fail to appear at a hearing, when such is provided for pursuant to this section, the security posted to secure such appearance shall be forfeited and such person's license may be suspended pending appearance at a subsequent hearing, or the disposition of the charges involved. *Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of fifteen dollars to guarantee his appearance at any required hearing. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this chapter, such suspension shall remain in effect until the motorist answers the charges in the court to which the case was transferred.*

§ 227. Hearings; determinations.\*1. Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the commissioner. The burden of proof shall be upon the people, and no charge may be established except by clear and convincing evidence. The commissioner may prescribe, by rule or regulation, the procedures for the conduct of such hearings.

\*2. After due consideration of the evidence and arguments *offered in a contested case*, the hearing officer shall determine whether the charges have been established. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, *either in a contested case or in an uncontested case where there is an appearance before a hearing officer*, or if an answer admitting the charge *otherwise* has been received an appropriate order shall be entered in the department's records.

\*3. An order entered after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as a conviction for the purpose of this chapter. The commissioner or his designee may include in such order an imposition of any penalty authorized by any provision of this chapter for a conviction of such violation, except that no penalty therefor shall include imprisonment, nor, if monetary, exceed the amount of the fine which could have been imposed had the charge been heard by a court. *The driver's license or privileges may be suspended pending the payment of any penalty so imposed.*

\*4. All penalties collected pursuant to the provisions of subdivision three of this section shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall be required by the comptroller, such penalties shall be paid to the city in which the violation occurred, except that the sum of *four dollars for each violation occurring in such city for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties collected pursuant to this section.*

\*5. Unless a hearing officer shall determine that a substantial traffic safety hazard would result therefrom, he shall, pursuant to the regulations of the commissioner, delay for a period of thirty days the effective date of any suspension or revocation of a

drivers license or vehicle registration imposed *after a hearing pursuant to this article, unless such suspension was imposed because of the failure to pay a monetary penalty. Provided, however, the commissioner's regulations may provide for the immediate surrender of any item to be suspended or revoked and the issuance of appropriate temporary documentation to be used during such thirty day period.*

§ 228. Administrative review.\*1. Appeals board. The commissioner shall appoint three or more appeals officers, to serve at his pleasure, and shall select a chairman for each appeals board from the members so appointed. Appeals officers who are not full time employees of the department shall be selected from names submitted by the state bar association, and by the general county or city bar associations of the city in which the appeal board shall sit. The commissioner shall assign at least three appeals officers to serve on each appeals board established to hear appeals pursuant to this section. Any appeal officer who is not a full time employee of the department shall receive a per diem at a rate to be fixed by the commissioner, with the approval of the director of the budget, for each day he serves on an appeals board, in addition to all necessary expenses. The commissioner shall also designate such other members of the department as may be necessary to assist an appeals board in carrying out its assigned functions.

\*2. Right of appeal. (a) Any person who is aggrieved by a determination of a hearing officer may appeal such determination pursuant to the provisions of this article.

(b) *Except as otherwise provided in this subdivision, a transcript of the hearing resulting in the determination appealed from must be submitted on any such appeal.*

(c) *If the only issue raised on appeal is the appropriateness of the penalty imposed, the appellant, in his discretion, may submit such appeal without a transcript of the hearings. In such event, the decision of the appeals board may be based solely on the appeal papers and the records of the department, and such decision shall not be subject to judicial review.*

(d) *Where a transcript of the hearing is submitted at the time an appeal is filed, the determination of the appeals board will be subject to judicial review as prescribed in subdivision nine of this section.*

\*3. Appeals boards. Each appeal filed pursuant to this section shall be reviewed by an appeals board, which shall make a determination of such appeal, and shall cause an appropriate order to be entered in the records of the department.

\*4. Time limitations. No appeal shall be reviewed if it is filed more than thirty days after notice was given of the determination appealed from.

\*5. Appeal procedures. Any person desiring to file an appeal from an adverse determination pursuant to this section, shall do so in a form and manner provided by the commission. The transcript of any hearing which formed the basis for such determination will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this section.

\*6. Transcript of hearings. Transcripts of the record of any hearing may be obtained at the cost to the department, if prepared by the department, or at the rate specified in the contract between the department and the contractor, if prepared by a private contractor.

\*7. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be accepted unless the required fee has been paid.

\*8. Stays pending appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination.

\*9. Judicial review. (a) No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this section.

(b) *A determination of the appeals board in any case where a transcript of the hearing has been submitted shall be subject to review pursuant to the provisions of article seventy-eight of the civil practice law and rules. Provided, however, a statement by the hearing officer at the conclusion of the hearing indicating that the charges have been sustained and announcing the penalty imposed, together with a summary of the reasons the appeal was denied by the appeals board, shall constitute sufficient findings for the purpose of such review.*

ADMIN. ADJUD.

AMERICAN BAR ASSOCIATION COMMITTEE ON  
THE TRAFFIC COURT PROGRAM

STANDARDS FOR

*Traffic Justice*

*June 1974*

AMERICAN BAR ASSOCIATION COMMITTEE ON  
THE TRAFFIC COURT PROGRAM

STANDARDS FOR

*Traffic Justice*

*June 1974*

The views and opinions contained in this publication, until approved by the House of Delegates or the Board of Governors of the Association, represent only the views of the Committee on the Traffic Court Program and do not represent the views of the American Bar Association.

AMERICAN BAR ASSOCIATION  
JUDICIAL ADMINISTRATION DIVISION  
*COMMITTEE ON THE TRAFFIC COURT PROGRAM*

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*Staff Director*

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## *Preface*

Traffic courts are the only courts that most Americans have ever seen in action, and they remain the basis for much of the public's impression of the administration of justice. From recitation of individual court experiences, good or bad, a folklore is developed and renewed, affecting attitudes toward courts and law enforcement beyond jurisdictional limits, terms of office and other niceties of individual responsibility.

In continuing recognition of the legal profession's major responsibility for traffic court reform, the ABA Committee on the Traffic Court Program offers these *Standards for Traffic Justice* to protect both the rights of the individual charged with a traffic violation and our motorized society's need to control behavior which annually costs tens of thousands of lives and untold pain, injury and other damage.

Since New Jersey's late Chief Justice Arthur T. Vanderbilt and others focused nationwide attention on traffic courts prior to World War II and developed and implemented standards for their improvement, dedicated local courts have served as a spawning ground, proving ground and training ground for improvement of all our courts. More importantly, they have shown that the public wants and supports fair, innovative and effective traffic courts.

These *Standards* are intended as a concise but comprehensive program for traffic court reform. They have been developed from over thirty years of ABA effort toward traffic justice. Upon adoption by the organization's House of Delegates, they would replace the present *National Standards for Improving the Administration of Justice in Traffic Courts*.

While experience with the present *Standards* through educational programs for court personnel, court evaluations and participation in citizens' and safety organizations is a major source for these proposals, recent developments in law, social scientific evaluation of traffic safety efforts and experiments in traffic adjudication have also been incorporated.

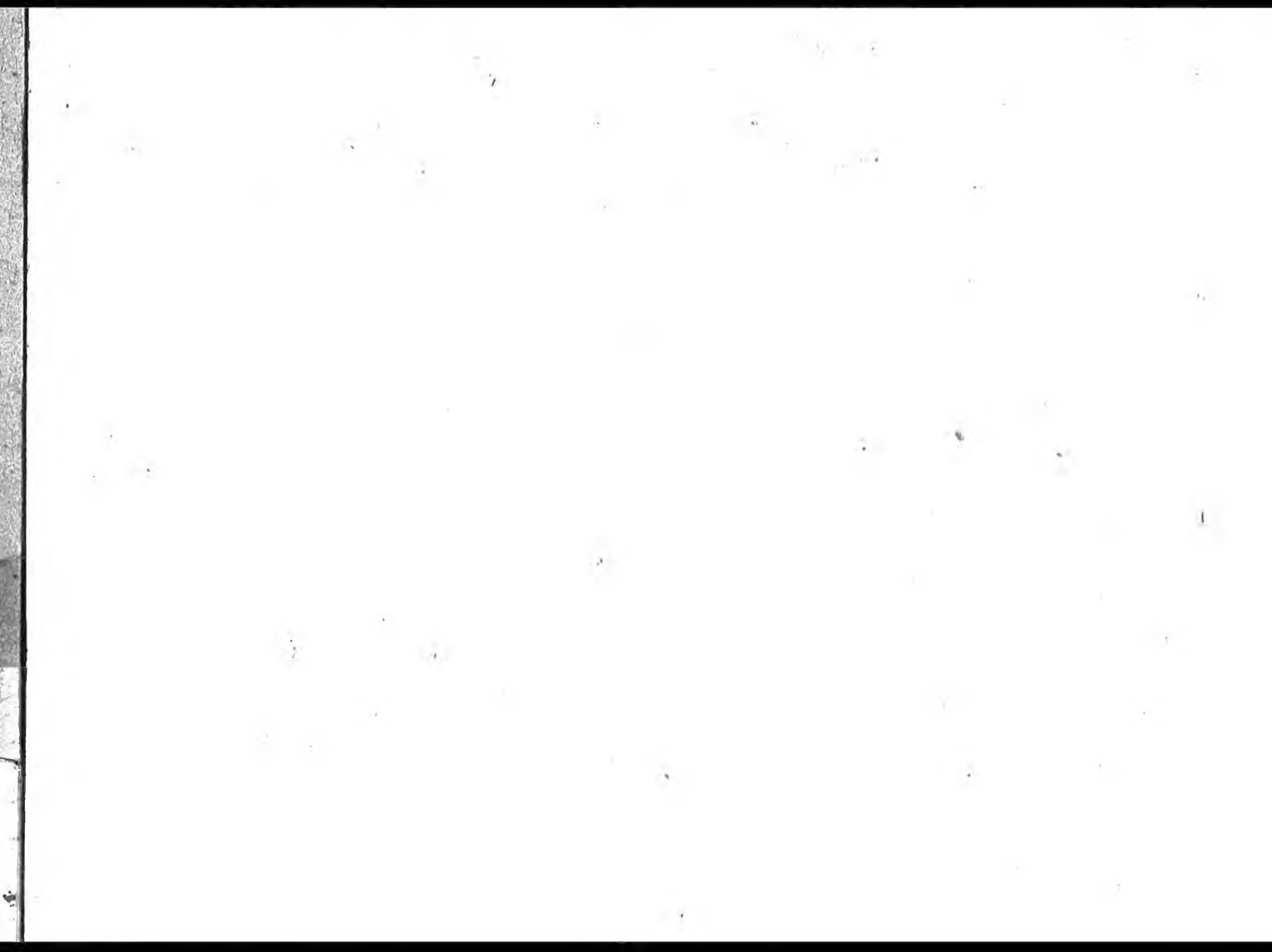
These Standards draw upon the efforts of the ABA commissions on Standards of Judicial Administration and Standards for Criminal Justice which have produced widely-acclaimed proposals in recent years.

The Committee on the Traffic Court Program, which serves as the ABA's contact with public, safety and other groups interested in traffic court improvement, has concluded that traffic cases can most effectively, efficiently and fairly be handled within the courts, rather

than the executive branch of state government as is currently proposed in some quarters. Accordingly, these Standards oppose administrative branch adjudication, but use the generic term "tribunal," rather than the traditional "traffic court," so that standards which should be applied to administrative agencies which hear traffic cases can be readily identified.

Where the term "court" is used in these Standards, it represents a level of authority which the Committee feels is inappropriate for an administrative traffic tribunal.

This revised draft is based upon comments on the April, 1974 preliminary draft received from ABA members and the interested public around the country. The Committee on the Traffic Court Program welcomes your comments on this substantially revised proposal.



## *Part 1—Traffic Regulations*

**Section 1.0—General Principle.** Traffic regulations should encourage safe and expeditious movement of traffic and pedestrians.

### *Commentary*

Traffic laws placing duties on drivers and pedestrians and other regulations, such as those concerning highway design and traffic control engineering, should be coordinated so that unreasonable burdens are not placed on the average motorist or pedestrian. Sound traffic laws and related regulations are a prerequisite to an effective traffic adjudication system.

**Section 1.1—Standard for Behavior.** Traffic regulations should set reliable standards for driver and pedestrian behavior.

### *Commentary*

Since behavior in traffic is based in part upon reliance on the anticipated actions of others, laws which are not generally known or enforced can create unsafe conditions.

**Section 1.2—Uniformity.** Traffic regulations should be uniform as well as reasonable.

### *Commentary*

Efforts toward uniformity of traffic regulations within a state and throughout the several states should continue. Studies should encourage uniform adoption of the best traffic regulations. Obsolete, vague and unenforceable regulations should be abolished.

## *Part 2—Traffic Adjudication*

**Section 2.0—General Principle.** Traffic tribunals should be free from political influences and should be operated without regard to

**revenue production requirements. Traffic cases should be decided within a unified court system in the judicial branch of government.**

*Commentary*

The principle of separation of powers should be preserved in the trial of traffic cases. Tribunals should not be subject to control or supervision by an individual or agency responsible for law enforcement, as where a Division of Motor Vehicles has police functions, or is part of the state police.

Traffic tribunals presently within the executive branch should comply with these standards wherever applicable, and their decisions should be appealable directly to a court, rather than to an administrative body.

These standards are not intended to apply to administrative hearings on license suspension or revocation where the facts or law concerning a specific traffic citation are not at issue.

*See generally, Standards Relating to Court Organization, ABA Standards of Judicial Administration (1974) regarding unified court structure and judicial selection.*

**Section 2.1—Record of Proceedings. It is desirable that a verbatim record be maintained of all proceedings.**

*Commentary*

Current technology provides a variety of means of producing a verbatim record; the circumstances of each tribunal and the nature of the charges to be heard should be considered in choosing a method.

**Section 2.2—Appeal. An appellate review by a court should be available as a matter of right.**

*Commentary*

The appellate review may be limited to a review of the record. Review on the record saves time for the witnesses and the appellate tribunal, prevents use of the original hearing as a discovery device and allows review of the tribunal's conduct of the original proceedings.

**Section 2.3—Judicial Officers. Where judicial officers, other than**

**judges, hear traffic cases, they should be full-time public employees, appointed in accordance with prescribed regulations.**

*Commentary*

Political and personal patronage in the selection of para-judicial officers to adjudicate traffic offenses should be avoided. Judicial officers should be legally trained and selected in accordance with the qualifications and procedures of Section 1.26, *Standards Relating to Court Organization, supra*. See Sections 1.12 (b) and 1.26 of the *Standards* for the definition and function of judicial officers.

**Section 2.4—Code of Conduct. All persons hearing traffic cases should adhere to accepted standards of judicial conduct.**

*Commentary*

The ABA Code of Judicial Conduct sets high standards with respect to the integrity and independence of the judiciary. It can serve as a model.

**Section 2.5—Criminal Charges. Any charge for which a jail sentence may be imposed should be heard by a judge within the court system under applicable rules of criminal procedure.**

*Commentary*

Legislative consideration should be given to whether jail sentences for non-hazardous traffic violations should be eliminated. See Part 5-Incarceration for Non-hazardous Offenses.

**Section 2.6—Separation of Traffic Cases. Traffic cases should be treated apart from other court business, and traffic sessions or divisions should be established wherever the caseload is sufficient.**

*Commentary*

Separation of traffic cases reduces waiting time, permits use of opening remarks for education about available constitutional safeguards, hearing procedure and traffic safety goals, and facilitates case processing. Periodic, regular assignment to traffic court allows a

judge to develop expertise and a consistent policy of educational penalization.

**Section 2.7—Hearing Facilities.** The court or hearing room should be dignified, public and well-maintained.

*Commentary*

Appropriate surroundings help build respect for traffic justice. Students, civic groups and other members of the public should be encouraged to attend traffic hearings.

**Section 2.8—Procedure.** Tribunals trying traffic cases should be governed by published rules, uniform throughout the state, with local deviations allowable only where expressly permitted by the state-wide rules.

*Commentary*

Procedure should be simple. Uniform rules, such as the *Model Rules Governing Procedure in Traffic Cases* (1957) published by the National Conference of Commissioners on Uniform State Laws, reflect the expertise and experience of many jurisdictions and readily implement desired standards.

It is desirable that the uniform rules be promulgated by the highest judicial authority in the state. Uniform procedure eases the burdens of police officers, lawyers and others required to appear in court throughout a state. They help insure a higher quality of uniform justice.

*Part 3—Pleas and Hearings*

**Section 3.0—General Principle.** Everyone charged with violation of a traffic regulation is entitled to a fair and speedy disposition of the charge before an impartial and qualified tribunal.

*Commentary*

Availability of a trial *de novo* on appeal does not satisfy the constitutional requirement for a "neutral and detached judge in the

first instance." See, *Ward v. Village of Moureeville*, 409 U.S. 57 (1972). The hearing official may not have a personal financial interest in the disposition of cases, such as directly or indirectly from a fee system. There should be no minimum requirements for conviction rates.

The presence of the police officer or other complaining witnesses is necessary for the fair determination of the facts of the charge.

Out-of-state motorists should have the opportunity for fair and expeditious disposition of traffic charges.

See Section 6.5 opposing use of fines and costs to raise revenue.

**Section 3.1—Single Appearance.** Multiple appearances should be avoided, except where appearance at a separate arraignment is required. A single in-person appearance by a person charged with a traffic offense should resolve most ordinary traffic charges. Appearance time and date should be scheduled to minimize waiting time for all persons involved.

#### *Commentary*

Conviction of a traffic infraction or offense can have serious financial consequences, apart from those imposed by the tribunal; therefore, defendants should not be discouraged from presenting their cases by unnecessary demands on their time.

Tools for efficient scheduling of traffic cases include scheduling them apart from other business (See Section 2.6) and scheduling an officer's traffic appearances. Properly scheduled traffic adjudication, such as use of the officer's day in court system and pleas by mail in cases not requiring mandatory court appearances, conserves police time. Adequate facilities, manpower and resources are necessary for efficient case processing and maintenance of respect for traffic laws.

**Section 3.2—Advice of Rights.** A defendant should be fully apprised of his constitutional rights and should be fully advised of the consequences of a plea of guilty, no contest, or bail forfeiture and the maximum penalties provided by law, prior to acceptance of his plea or forfeiture, whether accepted in person or by mail.

*Commentary*

The vast majority of traffic cases are terminated by pleas of guilty, or an equivalent. A defendant, whether or not he appears in court, should be advised of his rights and the consequences of his plea, including sanctions imposed for repeated offenses (*i.e.*, point system; habitual offender acts) by some other means, so that an intelligent and knowing plea can be made, but "guilty with explanation" pleas should be discouraged. Careful explanation of the consequences of bail forfeiture or failure to appear is required because of local variations. Defendants' rights should not be abridged in the name of efficiency or expediency.

**Section 3.3—Mandatory Court Appearance.** Motorists charged with hazardous or repeated traffic violations should be required to appear in court to answer the charge in person. Hazardous violations should at least include: a violation that contributes to a serious collision; is punishable as a felony; involves operation of a motor vehicle while under the influence of alcohol or another drug; reckless driving; leaving the scene of a collision; or, driving while the driver's license is suspended or revoked, together with such other offenses as may be added locally.

*Commentary*

Judges should meet periodically with representatives of the state licensing authority and traffic safety officials, to consider which additional specific offenses should, at that time and location, be treated as hazardous.

**Section 3.4—Non-Mandatory Appearances.** Motorists may be allowed to admit to a violation as charged and pay fines by mail, as prescribed in a schedule promulgated by the tribunal for non-mandatory court appearance cases.

*Commentary*

A motorist may, after full advice of his rights and the effect of his plea (See Section 3.2), be allowed to mail a fine in lieu of personal payment at a traffic violations bureau. Where mail or bureau payment is allowed, procedures must be adopted to assure court appearance of

persons charged with hazardous or repeated violations, and to remove properly terminated cases from the courts and witnesses' calendars.

*Compare, Standards Relating to Pleas of Guilty, ABA Standards for Criminal Justice (1968).*

**Section 3.5—Individual Attention.** When hearings are held, each traffic case should receive individual attention from the tribunal.

*Commentary*

In addition to opening remarks (See Commentary to Section 2.6), efforts must be made in each case to insure that the person charged understands the proceedings, the finding and the reason for any penalty imposed. Individual attention will help to educate the person charged to observe traffic laws and may identify drivers with visual or other disabilities.

**Section 3.6—Juvenile Cases.** Cases involving juveniles charged with moving violations should receive special treatment to insure that the juvenile realizes the importance of safe driving habits.

*Commentary*

The presence in court of a parent or guardian is desirable. A mandatory appearance policy should be established for juveniles charged with moving violations. Traffic school is recommended as a sentencing alternative in juvenile cases. See Section 4.1.

**Section 3.7—Prosecution.** It is improper for a police officer, witness, a judge or a hearing officer to act as prosecutor. It is advisable that a prosecuting attorney be present at all stages of the proceedings.

*Commentary*

Prosecutors accelerate adjudication, maintain impartiality, and relieve the hearing official of the burden of buffering hostilities among defendants and witnesses.

**Section 3.8—Defense Counsel.** A person charged with a traffic offense should be advised of his constitutional right to counsel at all stages of the proceeding.

*Commentary*

See Section 3.2. Where there is a likelihood that, following conviction, an indigent person may be deprived of his liberty or property, defense counsel should be appointed. *See, Argersinger v. Hamlin*, 407 U.S. 25 (1972).

*Part 4—Corrective Sanctions*

**Section 4.0—General Principle.** Sanctions for traffic law violations should be based upon an informed judgment as to the penalty most likely to help the individual violator be a safer driver.

*Commentary*

Sanctions for traffic offenses should be designed to achieve safer driving. See Section 6.5.

**Section 4.1—Drivers' Records.** The tribunal should have available the accurate and current state-wide driving record of each offender after judgment, but prior to sentence. The record should be consulted when sentence is imposed.

*Commentary*

Driving records should not be used in determining guilt or innocence of the offense charged. They do form an important basis for effective penalization. The violator should be informed of the approaching imposition of point system license suspension, or even more serious habitual offender status.

**Section 4.2—Sentencing Alternatives.** Traffic tribunals should employ a variety of sanctions to improve traffic safety. Courts should have the discretionary power to suspend or restrict driving privileges.

*Commentary*

All tribunals should have access to driver improvement schools which would educate drivers in the fields of traffic laws, drivers'

attitudes, hazards and procedures, and such other programs as may be thought to be effective. Sanctions should be based upon knowledge of the individual's past driving record.

Probation with supervision should be considered as a sentencing alternative. *See generally, Standards Relating to Sentencing Alternatives and Procedures* (1968), and *Standards Relating to Probation* (1970), ABA Standards for Criminal Justice.

Suspension or restriction of driving privileges is a more relevant deterrent than assessment of fines for aggravated violations of traffic laws. Where courts do not have that power, they should recommend suspension or review to the licensing authority in appropriate circumstances.

Tribunals should not embarrass or humiliate the defendant.

Fines levied should reflect the nature and circumstances of the offense, but no person should be incarcerated because of his inability to pay a fine. Each tribunal should establish procedures for handling such cases. *See, Tate v. Short*, 401 U.S. 395 (1971).

**Section 4.3—Judicial Discretion.** Courts should have discretion in the imposition of sanctions provided by law, including discretionary power to suspend terms of incarceration, license suspension, or revocation of drivers' licenses required by law.

#### *Commentary*

A number of states have passed statutes requiring incarceration and/or license suspension upon conviction of major violations, such as drunk driving and unlicensed driving. Such mandatory sentence statutes cause distortion throughout the traffic enforcement system, from arrest to trial. They foster plea-bargaining, which subverts public confidence in the enforcement system and driver records. They cause inequities to drivers charged in similar circumstances, and may subvert rehabilitation efforts. Serious traffic cases should be heard only by fully qualified judges, and the discretion of such judges to alleviate penalties should be no more limited in traffic cases than in other forms of anti-social behavior.

*Part 5 — Detention or Incarceration for Non-Hazardous Offenses*

**Section 5.0—General Principle.** Persons accused or convicted of traffic offenses, other than hazardous, should not be detained or placed in jail.

*Commentary*

Section 3.3 defines hazardous violations. A variety of techniques are being applied in lieu of pre-trial incarceration of persons charged with criminal offenses. See, *Standards Relating to Pre-Trial Release*, ABA Standards for Criminal Justice (1968).

For the prohibition of incarceration for inability to pay a fine, see *Tate v. Short, supra*.

*Part 6—Administration*

**Section 6.0—General Principle.** The court, or other tribunal, should maintain strict control over case processing, to insure that all charges are properly classified and terminated.

*Commentary*

The obligation for sound administration cannot be delegated. The supervising judge or hearing official is responsible for the proper disposition of every citation returnable to his tribunal, and constant vigilance of non-adjudicatory functions should be maintained.

Ticket-fixing should not be tolerated. A ticket "fix" is an obstruction of justice, destructive of the rule of law, public morality and public safety.

**Section 6.1—Discretionary Disposition.** Once a ticket has been issued, discretionary disposition of traffic charges should be accomplished only in a public hearing by the judge or judicial official.

*Commentary*

Reduction or dismissal of charges and official cancellation of voided traffic complaints should be by informed ruling of the judge or judicial officer in public session. Fines for violations bureau cases should be set by the supervising court.

**Section 6.2—Citations.** Tribunals should coordinate with law enforcement agencies to insure that all citation forms issued to police officers have been accounted for, without exception. Citation forms should be uniform for law enforcement officers, tribunals, state registrars and other officers. See Uniform Traffic Ticket and Complaint prepared by the ABA Traffic Court Program.

*Commentary*

The Uniform Traffic Ticket is designed, in part, to eliminate ticket-fixing, but only if all tickets issued are accounted for by each agency concerned. Careful supervision and auditing, allocation of responsibility and checks on the disposition of cases are necessary.

**Section 6.3—Internal Audit.** The internal operations of each tribunal should be audited, to insure that funds are properly reconciled, the disposition of every citation is properly recorded, and that all convictions for moving traffic violations are reported to the state traffic records system.

*Commentary*

With growing use of inter-state driver record compacts, the National Drivers Register, point systems and habitual violator statutes, it is improper that some locations report all convictions while others do not. Such disparity penalizes citizens who support safety conscious tribunals and motor vehicle departments.

**Section 6.4—Reports.** Each tribunal handling traffic cases should report publicly at least annually, with a full description of its operations, costs, revenues, and programs.

*Commentary*

Information concerning the cost and effectiveness of the traffic adjudication system should be publicly disseminated.

**Section 6.5—Fines and Costs.** Fines and costs should not be imposed for revenue production purposes. Tribunals should be financed by appropriations, rather than by anticipated fines or cost revenues.

*Commentary*

Some jurisdictions have used fines and costs as a means of taxation entirely unrelated to the proper goals of traffic adjudication. The cost of adjudication should be borne by the general public, which benefits from the efficient and safe flow of traffic and the fair and proper administration of justice. See Sections 1.50-1.53, *Standards Relating to Court Organization, supra*; see generally, *Court Finance and Unitary Budgeting*, ABA Commission on Standards of Judicial Administration (1973).