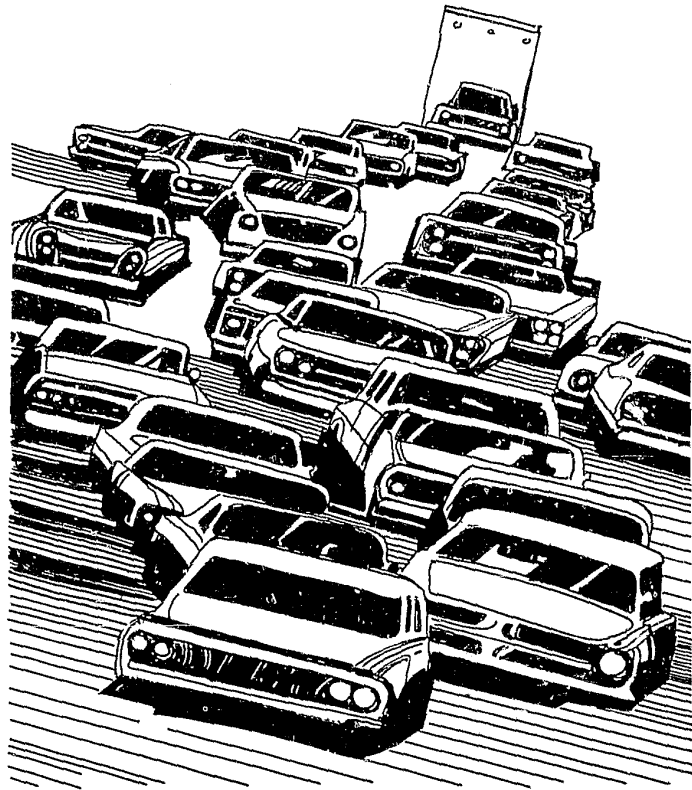


NEW TRENDS In Advanced Traffic Adjudication Techniques



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Abstract

This handbook defines the present problems of the traditional court system in handling traffic matters; informs the reader of new concepts designed to improve the existing system; describes the steps by which interested jurisdictions can change what is now happening in the courts; and details what facilities are available to state and local governments to assist them in bringing about revisions they deem advisable.

The present judicial system, in most instances, is unsuited and unresponsive to today's demands for performance on the adjudication element of the driver control process. Some of the new concepts of adjudication techniques include: (1) improvements within the existing judicial system; (2) a modified judicial approach, where certain decision-making and sanctioning authority is delegated to parajudicial officers; and (3) an administrative adjudication approach, where functions are performed by administrative hearing officers under the supervision of an administrative agency.

An Ad Hoc task force of the National Highway Safety Advisory Committee in-depth study of the existing judicial system, states; "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.

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"Until 1966, this Nation registered annually an increasing rate of highway accidents and fatalities. This 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.

"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.

"There is no evidence which demonstrates that the traditional criminal court processing of traffic offenses is 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 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.

"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 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."

Assistance to state and local jurisdictions toward the improvement of their present judicial programs is available through the National

Highway Traffic Safety Administration. In addition, other state and federal funding can be obtained through the Law Enforcement Assistance Administration of the Department of Justice. The initial step in acquiring this assistance is through the Governor's Representative for Highway Safety in each state.

One of the most important steps in the development of advanced adjudication methodology is the decriminalization of most traffic offenses, except for such serious offenses as driving while intoxicated, hit and run, reckless driving and driving while under suspension or revocation. By removing potential jail sentences as a sanction, this legislative change will eliminate the absolute right for a trial by jury and remove the necessity of appointed counsel for indigents. It is obvious that most minor traffic violations generally are not regarded as criminal acts by the public or the courts that adjudicate traffic cases. It is extremely rare that a jail sentence is actually used as a sanction. In order to achieve the decriminalization of most traffic offenses, it is necessary that legislatures take affirmative action in revising existing state or local laws. Some jurisdictions have already made revisions: Florida; New Hampshire; Minnesota; New York; California; North Dakota; New Jersey; Rhode Island; Pennsylvania; Wisconsin; Ohio; Seattle, Washington; Vermont; Maine and Oregon. A number of other jurisdictions have such changes pending.

Several recent court decisions have important implications in the adjudication of traffic offenses. *Argersinger v. Hamlin*, a 1972 U.S. Supreme Court decision, established that where there is a possibility of a jail sentence for any felony, misdemeanor, or petty offense (including traffic), a person so charged is entitled to a court-appointed attorney if he is without sufficient funds to retain his own counsel. *Baldwin v. New York*, decided in 1970 by the U.S. Supreme Court, found that a defendant has the right to a trial by jury under the Sixth Amendment if his offense is punishable by a potential jail term in excess of six months. In *Johnson v. Jenezka, etc.*, a New York Appellate Court sustained the validity of a New York law establishing an administrative adjudication system. In another New York case, *Rosenthal v. Harnett*, the Court of Appeals concluded that the New York State Legislature may constitutionally authorize administrative rather than judicial adjudication of traffic infractions. It also established "clear and convincing evidence" as the required quantum of proof for a determination of guilt where such determination could result in the imposition of a fine, but not imprisonment.

The procedures for the implementation of advanced traffic adjudication techniques are extensively described in the text of this primer. Basically, these steps are: (1) the determination of which of the new approaches (Judicial, Modified Judicial, or Administrative Adjudication) would be most applicable to the jurisdiction; (2) the examination of existing laws which may require revisions, and all other applicable laws throughout the state's statutes; (3) the establishment of a conference of state leaders to obtain an agreement in support of the new traffic adjudication concepts and techniques and how to achieve their implementation; and (4) the development of a legislative package that will reflect the desired changes.

Support can be obtained for the proposed new traffic adjudication

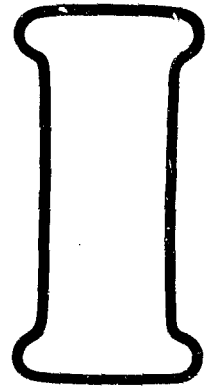
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system through members of the judiciary (from all levels of the courts), local and state police, members of the bar, and other public organizations.

Once the initial steps have been taken, the major portion of the establishment of the modified adjudication system will be under way. Further steps to be taken include the examination of new personnel, physical facilities, procedural processing tools (such as a self-adjudication method), and training needs.

Other items to be considered include: (1) the qualifications of adjudication officers (parajudicials); (2) the cooperation between courts and motor vehicle divisions; and (3) the burden of proof required to obtain a guilty finding.

It is strongly recommended that each jurisdiction concerned with improving its existing traffic adjudication techniques should examine its present laws with a view toward the decriminalization of most of its traffic offenses. This task is critical in developing the procedures necessary for implementing advanced traffic adjudication techniques.



Introduction

(A) *Purpose of Handbook*—It now appears that the American judicial system is looking closely at the existing procedural and substantive methodology in all phases of both civil and criminal matters. In particular, the handling of criminal cases is being studied by numerous federal, state, and private groups to find answers to the overburdening problems of court congestion, recidivism, due process, and equal justice under the law. In the area of traffic offenses, many states have not only recognized the necessity of change in adjudication techniques, but have taken progressive steps to incorporate new concepts and ideas. While many of these actions were motivated by the need for more efficient court management and the desire to release the time of the criminal courts to more “pressing” criminal matters, there are strong indications that improved highway safety will also be advanced through these actions. This handbook defines the present problems of the traditional court system in handling traffic matters; informs the reader of new concepts designed to improve the existing system; describes the steps by which interested jurisdictions can change what is now happening in the courts; and details what facilities are available to state and local governments to assist them in bringing about revisions they deem advisable.

(B) *Traditional Approach*—Every day thousands of citizens, charged with a multiplicity of traffic violations, appear before various courts throughout the country. For most of these people, this experience is their only confrontation with the judicial process. Unfortunately, many of the existing judicial systems are unsuited and unresponsive to the demands for performance on the adjudication

element of the driver control process. The traffic case disposition system is identical in most jurisdictions to the traditional misdemeanor disposition system. Traffic offenses, for the most part, are classified as misdemeanors and are processed by the criminal justice system in accordance with the rules and practices established for criminal cases.

A recent publication by the National Highway Traffic Safety Administration (NHTSA) entitled *Effective Highway Safety Traffic Offense Adjudication*,¹ stated:

“A large number of social, legal, and economic factors have impacted the viability of existing traffic offense adjudication systems and their cumulative influence has prompted a breakdown in the application of the classic criminal approach to traffic offense adjudication. Many existing systems appear to be unsuited and unresponsive to the demands for performance on the adjudication element of the driver control process. Some of the more significant factors which have occasioned this breakdown and the requirements to develop new and more effective approaches are:

- Case loads in our courts continue to increase with traffic cases often comprising 80 percent of the case load.
- Society does not currently recognize most traffic offenses as criminal acts, and application of criminal procedure and associated penalties tends to reduce the regard many citizens have for the administration of justice.”

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One of the more important elements in dealing with traffic violations seems to be minimized in the present system—that of highway safety. The *Final Report of the Ad Hoc Task Force on Adjudications*,² completed in June of 1973 by the President's National Highway Safety Advisory Committee, recognized the lack of highway safety effectiveness generated by the traditional criminal court approach. It stated:

"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 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."

(C) *New Concepts of Adjudication Techniques*--Three basic approaches to traffic offense adjudication were identified in the NHTSA publication, *Effective Highway Safety Traffic Offense Adjudication*:

The Judicial Approach

The responsibility for adjudication is vested in the judicial branch of government and the decision-making and sanctioning functions are performed only by duly constituted members of the judiciary.

Modified Judicial Approach

Jurisdiction over the adjudication of traffic offenses is maintained by the court with certain functions in the decision-making and sanctioning process being delegated to parajudicial officers.

Administrative Approach

All functions in the decision-making and sanctioning processes, as well as the preliminary function in the review process, are performed by administrative hearing officers within the supervision of an administrative agency.

The study was an in-depth investigation into the

identification of the more significant developments in traffic offense adjudication. Its aim was to assist state and local jurisdictions in the evaluation and improvement of their traffic offense adjudication systems. The approach was designed to take a comprehensive "management view" in assessing the state-of-the-art by examining:

- Legal implications and legislative requirements of traffic offense adjudication;
- Managerial problems inherent in processing hundreds of thousands of cases annually;
- Potential highway safety benefits of traffic offense adjudication; and
- Comparative cost/benefit of alternate approaches to the adjudication of "minor" traffic offenses.

For the purposes of the program, twelve jurisdictions which appeared to offer the greatest potential range of differences in approaches and practices, as well as a cross section of representative jurisdictions, were selected.

The major findings and recommendations of the study were:

"The adjudicatory process employed in each jurisdiction, while it varies in form, is the same in substance. The traffic offense adjudication process is comprised of four basic components: Identification and case preparation, Decision Making, Sanctioning, and Review."

"Each adjudicatory approach (Judicial, Modified Judicial, and Administrative), as employed in the jurisdictions surveyed, satisfies the legal objectives of traffic offense adjudication. Neither the status of the adjudicator nor the nature of the agency responsible for adjudication caused any discernible variance in the quality of justice dispensed."

"An evaluation of the impact which various types of sanctions have in modifying driver behavior is needed before a comprehensive assessment of the three approaches in terms of their effectiveness in achieving the objectives of driver control can be made. However, it is the considered opinion of the project team that the 'people-oriented' processing system employed in Administrative Adjudication is more conducive to promoting a positive attitude toward traffic law and its attendant adjudicatory process."

"Satisfaction of the case processing objectives of traffic offense adjudication are primarily a function of effective system management rather than the adjudicatory approach. Although

NYAAB (New York Administrative Adjudication Bureau) has implemented a number of innovative practices and procedures, the project team could find no legal or logical reason why courts could not implement these practices and procedures as well."

The report included an extensive legal monogram on the constitutionality of administrative adjudication by Robert Force, Professor of Law at the Tulane University School of Law, entitled, *Administrative Adjudication of Traffic Violations Confronts the Doctrine of Separation of Powers*. The paper was not designed as a brief for administrative adjudication, but examined the possible legal obstacles to the adoption of administrative adjudication and exposed those which are of dubious validity. He stated that the transfer of the adjudication function in traffic cases from judicial to administrative agencies does not portend the demise of a viable judicial branch of government. He concluded by saying:

"After reviewing this entire study, the conclusion is inescapable that traffic adjudication in the United States is headed for a marriage between judicial and administrative processes. If there is a shift to administrative adjudication, certain characteristics of judicial proceedings will be retained. If traffic courts continue to adjudicate, we can expect even greater innovations in the direction of administrative process. Regardless of whether administrative agencies will be 'judicialized' to some degree, or whether courts will function more like administrative agencies, it appears inevitable that traffic adjudication will be handled in a manner which incorporates some of the attributes of both."

In the Modified Judicial Approach, the courts in many states have replaced judges with parajudicials, such as traffic referees, commissioners, and other designers who are authorized to hear minor traffic violations. Jurisdictions that have taken action in this area are the states of Ohio, California, Florida, Michigan (Detroit), Washington (Seattle), and Minnesota (Hennipen County).

There does not appear to be any constitutional barriers to the use of parajudicial officers. Not only is this concept gaining favor in the state courts, there is increasing interest at the Federal level in cases of a less serious nature. Some of the recommendations in the use of parajudicials include:

- The parajudicial officer must be a qualified lawyer and member of the jurisdiction's respective bar.

- The parajudicial officer must be authorized to hear contested cases involving low-risk moving offenses only.
- All decisions of parajudicial officers, while binding, are subject to judicial review in accordance with the procedures established by the respective state and jurisdiction.

One benefit of this method is the freeing of the criminal court system by allowing additional time to be devoted to more classically defined "serious crimes." At the same time it allows the motorist a better opportunity to present his case and to receive more individualized attention. In addition, with a proper degree of specialized study and examination, referees and hearing officials may be able to understand more fully the nature of deviant driver behavior, and would, in turn, apply those sanctions most applicable to the situation and the needs of the motorist.

The Administrative Approach is best exemplified by the actions taken in the State of New York.

On July 1, 1970, under the provisions of legislation authorizing the Administrative Adjudication of Traffic Violations Program,³ the New York City Criminal Court retained jurisdiction over all traffic misdemeanors committed within the city, while all less serious traffic violations—classified as infractions—were referred to the Traffic Violations Bureau of the New York State Department of Motor Vehicles. (Parallel but separate legislation authorized the creation of a Parking Violation Bureau within the New York City Transportation Administration to handle all cases involving parking, stopping, standing, and jaywalking violations.)

Some of the advantages of the adjudicative transfer of most traffic offenses from the criminal courts to hearing officers within the Department of Motor Vehicles were:

- Prompt hearing of traffic cases—approximately 3 to 6 weeks after the issuance of a summons for contested hearings;
- Professional, individual treatment by experienced attorneys, trained by professional highway safety administrators;
- Right to representation, should the motorist choose, and the elimination of plea bargaining;
- Prompt and inexpensive appeals at convenient locations and hours;
- Immediate availability of a motorist's current driving records and updating of departmental records; and

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- A large saving in costs to the taxpayer, and time for the police officer.

In addition, a major benefit flowing from the Administrative Adjudication Approach is the merger of the adjudicative function for a violation of a traffic offense and the responsibility for driver record and driver license control. In certain cases, this program eliminates the need for a motorist's appearance at both a court trial and a subsequent departmental administrative hearing. The administrative hearing officer has the authority to adjudicate the charged offense and take the necessary administrative action, such as a suspension or revocation of the driver's license should the driver's record warrant it.

Under Section 222 of the Highway Safety Act of 1973, Congress instructed the Secretary of the Department of Transportation to "conduct research into, and make grants to, or contracts with, State and local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions."

In July 1974, the State of Washington's Department of Motor Vehicles and the Seattle Municipal Court initiated the National Highway Traffic Safety Administration's first three-year Special Adjudication for Enforcement (SAFE) demonstration project. The project emphasized the use of parajudicials to adjudicate non-serious traffic violations, the facilitation of driver improvement and regulatory programs, and the close integration of these programs with adjudication.

In July 1975 Rhode Island implemented the nation's first statewide administrative adjudication program through the State's Department of Transportation adjudicators. This law creates a system throughout the state (with the exception of the City of Providence ordinances) which is similar to that in New York State. All violations of state statutes relating to motor vehicle and traffic offenses, with certain exceptions, shall be heard and determined by the Division of Administrative Adjudication pursuant to regulations promulgated by the Department of Transportation.

(D) *Ad Hoc Task Force Recommendations*--The Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee was established by a resolution of the Advisory Committee on November 30, 1972, "to meet with necessary staff of the Department of Transportation to explore effective adjudication of traffic offenses, including Administrative Adjudication, and consider the ramifications of sentencing alternatives for traffic offenses..."

The Task Force, composed of lawyer members of the Advisory Committee, held numerous public and private hearings and heard testimony from many experts in the field.

The General Task Force found that new techniques must be initiated to improve the level of responsibility in the judicial sector that will enhance highway safety programs and that will encourage the rehabilitation of chronic offenders. A lack of coordinated planning and action was found among judicial bodies and local and state agencies in traffic safety and accident prevention. It was strongly recommended that most traffic offenses be reclassified as "traffic infractions," and that there be improved identification of problem drivers. Such problem drivers should be assigned to appropriate driver improvement screening programs.

The National Advisory Commission on Criminal Justice Standards and Goals, in Standard 8.2, *Administrative Disposition of Certain Matters Now Treated as Criminal Offenses*,⁴ recommended that:

"All traffic violation cases should be made infractions, subject to administrative disposition, except certain serious offenses such as driving while intoxicated, reckless driving, driving while a license is suspended or revoked, homicide by motor vehicle, and eluding police officers in a motor vehicle. Penalties for such infractions should be limited to fines; outright suspension or revocation of driver's license; and compulsory attendance at educational and training programs, under penalty of suspension or revocation of driver's license."

(E) *Assistance Available to Interested Jurisdictions*--(1) Technical Assistance by NHTSA--The staffs of the Regional Offices and the Driver Licensing and Adjudication Division of Traffic Safety Programs, NHTSA, are available to provide advice and assistance to all interested jurisdictions. In addition, State Governors' Highway Safety Representatives can be of help in providing for the following services:

- Assistance in convening workshops formed to consider ways to implement advanced traffic adjudication techniques.
- The preparation of legal position papers for legislative committees and judicial councils on appropriate law and court rules modifications designed to facilitate advanced traffic adjudication techniques.
- Special consultation assistance to those jurisdictions in the final stages of instituting advanced traffic adjudication techniques.

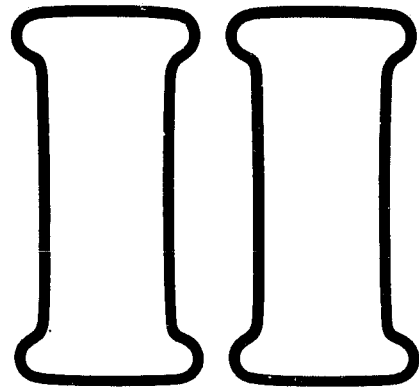
- Financial assistance to implement innovative and potentially productive techniques in traffic adjudication.

Any request for these services should be made through the Governor's Representative for Highway Safety in the respective jurisdictions.

(2) Other State and Federal Sources--In addition to NHTSA services and information, proponents of modifications to existing traffic adjudication procedures should investigate other potential sources. In many states there are programs dealing with the improvement of the judicial process. The state planning agencies are often concerned with improving the criminal processing system of the courts of the state. The Law Enforcement Assistance Administration

(LEAA) of the U.S. Department of Justice is another agency which may be able to provide financial and technical assistance.

(3) Members of the State Judiciary--Perhaps the major source of support and assistance should come from advocates of improved traffic adjudication techniques within the judicial systems of the states. In many states where substantial changes in traffic adjudication have taken place, important members of the state judiciary sponsored, and were instrumental in, the adoption of the new techniques. The support of such persons as State Supreme Court Justices will aid immeasurably in the achievement of advanced traffic adjudication techniques.



Decriminalization of Traffic Offenses

(A) *Necessary Steps Toward Improved Adjudication Techniques*—One of the most crucial steps in the development of advanced adjudication methodology is the decriminalization of the low-risk category traffic offenses. This would result in the classification of the less serious offenses as non-criminal and the removal of a jail sentence as a potential sanction. It would allow a variety of improved traffic adjudication procedures to be used without the need for burdensome and inappropriate criminal procedure requirements. It would also eliminate the absolute right for a trial by jury for each traffic misdemeanor. In addition, it would remove the necessity for the appointment of counsel for any indigents charged with traffic offenses where a potential jail term could be imposed, as required under the *Argersinger v. Hamlin* decision of the U.S. Supreme Court.⁵

It is generally conceded that most non-serious traffic violations usually are not considered criminal acts by the public or the courts. In addition, jail sanctions are rarely used by the courts in sentencing traffic violators. In fact, there is speculation that jail terms can be counterproductive to the desired result of driving behavior modification.

In November 1973, a symposium was held on "Effective Highway Safety Adjudication" in New York City. It was sponsored by NHTSA and included participants from nine states and the District of Columbia. Some of the goals and objectives of the

symposium were to: broaden present understanding of the highway traffic safety problem; explore ways of improving driver behavior through the adjudicatory process; and, examine the utilization of civil penalties in the traffic offense adjudicatory process, except in serious offenses.

One of the major conclusions of the symposium as stated in the *Report on Symposium on Effective Highway Safety Adjudication, Volume 1*, dated March 1975, was:

"Probably the foremost alternative to the present system is the decriminalization of at least some traffic offenses, although most states have not yet taken this step and some indicate that they prefer to retain the criminal classification, and work for reform within that framework. Those who favored a decriminalization approach said that it could provide a more efficient and effective process, while at the same time retaining the fair procedures that are part of the traditional criminal process, but without the criminal stigma attached to it. Thus, instead of constituting a crime, a violation of a traffic law would be an abuse of the privilege to drive on the public highways."

A major study on decriminalization by NHTSA entitled, *A Report on the Status and Potential Implications of Decriminalization of Moving Traffic Violations*,⁶ found that classifying minor traffic

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offenses as criminal acts was inappropriate. Findings included:

"Minor traffic violations are not generally regarded as criminal acts by the public or the courts that adjudicate traffic cases."

"Threats of criminal sanctions appear to be relatively ineffective in deterring commission of minor traffic offenses, and imprisonment is seldom used as a penalty for performance of those acts."

"Criminal due process is excessively stringent in light of the limited penalties actually considered by the courts for these offenses."

The recommendations of the study team were as follows:

"Minor traffic offenses should be removed from state criminal codes and be incorporated into other state codes as infractions, along with definition of appropriate adjudication procedures and sanctions."

"Reclassification of minor traffic offenses as infractions will open the way to development of sanctions which will be more effective in deterring commission of traffic offenses and of adjudication procedures which are more appropriate to administration of justice in these cases."

"Sanctions should be developed and defined which address the causes of traffic law violation; which will be truly effective in deterring violation of driving norms; which are within the capabilities of state and local government to enforce; and which the driving public will recognize as just and appropriate."

"Model legislation should be developed for consideration by the courts and legislatures of the States. Each alternative approach to decriminalization should be supported by a proposed strategy and plan for proposal of the legislation and implementation of that legislation once it is passed."

The National Committee on Uniform Traffic Laws and Ordinances, in May 1974, appointed a special panel to discuss what changes should be made to the Uniform Vehicle Code in regard to reclassifying or decriminalizing violations of traffic laws. The Panel on Reclassification of Traffic Law Violations met in October 1974 and recommended the following actions:

- Eliminate imprisonment as a penalty for violating most sections in Chapters 10 to 14 of the Uniform Vehicle Code relating to

accidents, rules of the road, equipment, inspection, and size of vehicles.

- Amend the Code to provide that violating those sections is not a crime called a misdemeanor, but an infraction called a traffic violation.

The panel cited recommendations by the Committee on the Traffic Court Program of the American Bar Association in June 1974,⁷ which stated that persons accused or convicted of nonhazardous traffic offenses should not be detained or placed in jail.

Decriminalizing traffic offenses has also been recommended by the National Advisory Commission on Criminal Justice and the National Highway Safety Advisory Committee.

(B) *Required Legislative Action*—In order to decriminalize most traffic offenses it will be necessary for each State Legislature to revise its existing statutes dealing with such offenses.

Florida, in amending its statutes to create a chapter known as "Florida Uniform Disposition of Traffic Infractions Act,"⁸ was required to legislatively establish many new procedures and standards and amend other sections of its code in order to achieve the desired effect.

New Hampshire, in establishing a new Criminal Code for the State,⁹ developed a new Classification of Crimes, which included a "violation." Section 625.9(b) stated:

"A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense."

"V. A violation is an offense so designated in this code and, except as provided in this paragraph, any offense defined outside of this code for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty."

Minnesota, in creating a new classification of offenses punishable by fine only (termed "petty misdemeanors"), retained as general misdemeanors, "failure of a driver to stop after an accident," "driving under the influence of alcohol" and "reckless or careless driving." At the same time, it restricted the right to trial by jury for offenses not punishable by imprisonment.¹⁰

In 1925, New York State was the first American jurisdiction to amend its criminal statutes making most traffic offenses "traffic infractions." An infraction, as defined by the New York Vehicle and Traffic

Law, "is not a crime and the punishment imposed therefore shall not be deemed for any purpose a penal or criminal punishment."

In 1968, California enacted legislation classifying certain minor traffic violations as infractions. An infraction was characterized as not being punishable by incarceration and there was no right to trial by jury or right to appointed counsel for indigent defendants.

A far-reaching law enacted in North Dakota, which took effect on July 1, 1973, made most traffic offenses non-criminal and provided for alternate methods of disposing of certain offenses. After being charged, the alleged offender has several alternatives available to him: (1) he can appear before the designated official and pay a statutory fee; (2) he can post bond, in person or by mail, and forfeit that bond (the amount of which will be equivalent to the statutory fee) by not appearing at the first hearing; (3) he can appear at a hearing and make an explanation of his action; and (4) he may request a hearing on his "not guilty" plea. If a hearing is held and the person is found guilty, a fine may be imposed under a standardized fine schedule and the person's conviction is reported to the licensing authority.

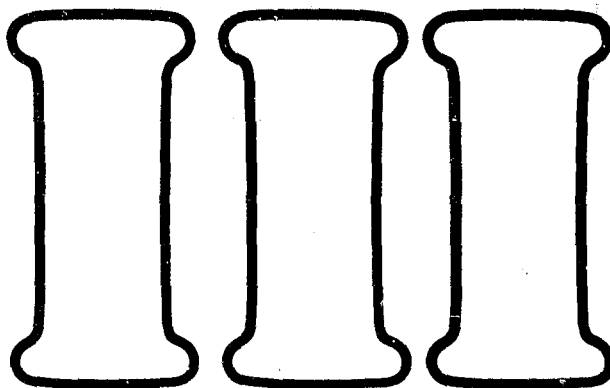
The law establishes a "point system" for offenses leading to the revocation of driving privileges. The system ties in the assessment of points with the adjudication of traffic offenses. Attendance at driver improvement facilities may reduce the number of accrued points. The offender may appeal an adverse decision to the District Court, where he may then demand a jury trial. If he is again found to have committed the violation, no further appeal is allowed. Because the offenses are deemed to be non-criminal,

the prosecution must only prove its charges by a "fair preponderance of the evidence,"—the same burden of proof presently required in civil law suits. In addition, if an offender appeals, the District Court tries the appeal under the rules of civil procedure.

Other jurisdictions which have taken action in decriminalizing traffic laws are New Jersey, Pennsylvania, Wisconsin, Ohio, Rhode Island, Seattle, Washington and Vermont.

(C) *Offenses to be Decriminalized*—Traffic offenses most often reduced in severity in the decriminalization process exclude such violations as driving while intoxicated, reckless driving, and other similar offenses which contain a certain measure of "intent" as a requirement of proof of guilt. Traffic offenses which are decriminalized most often are parking, equipment violations, most non-moving violations, and a limited number of moving violations. In some instances excessive speed (20 mph above the speed limit) has been excluded as an infraction. Hit-and-run and failure to obey the directions of a police officer are usually excluded.

There is growing support for decriminalizing a first offense in driving while intoxicated violations. In October 1972, driving while intoxicated became a first offense civil forfeiture violation in Wisconsin. A similar proposal has been introduced in the New York State Legislature. In 1975 Oregon reduced all traffic misdemeanors to traffic infractions, including the traditionally known "serious moving violations." Driving while intoxicated, along with other similar types of offenses, are now classified as Class A Traffic Infractions. The maximum sentence is set at a \$1,000 fine and no jail term. The law will go into effect July 1, 1976.



Implications in Recent Court Decisions on Adjudication of Traffic Offenses

Recent Supreme Court opinions have had direct importance in trials concerning traffic offenses.

(A) *Argersinger v. Hamlin*—The case of *Argersinger v. Hamlin* established that where there is a possibility of a jail sentence for any felony, misdemeanor, or petty offense (including traffic), a person so charged is entitled to a court-appointed attorney if he is without sufficient funds to retain his own counsel. The Supreme Court rejected the notion that since crimes punishable by imprisonment for less than six months may be tried without a jury, they may always be tried without a lawyer. It held that “no person may be imprisoned for any offense, whether classified as petty, misdemeanor or felony, unless he was represented by counsel at his trial.” The court was not unaware of the effect of its decision on the already overburdened judicial administration in lower courts. Justice Douglas indicated that “a partial solution to the problem of minor offenses may well be to remove them from the court system.” He specifically referred to an American Bar Association Committee recommendation that such cases be transferred to specialized administrative bodies.

(B) *Baldwin v. New York*—In the case of *Baldwin v. New York*,¹¹ the Supreme Court was confronted with the necessity of defining “petty” and “serious” offenses for the purpose of the Sixth Amendment right to a jury trial. The Court held that a defendant has the right to a trial by jury under the

Sixth Amendment if his offense is punishable by a potential sentence in excess of six months imprisonment.

In view of the large number of traffic misdemeanor cases that now require court-appointed counsel and the defendant’s right to trial by jury, many states are decriminalizing misdemeanor traffic offenses—thus negating the necessity for court-appointed attorneys and jury trials.

New York and British Columbia Supreme Courts have recently upheld the validity of informal handling of traffic offenses. Both jurisdictions enacted laws that provided for administrative adjudication of traffic offenses (New York) and non-criminal adjudication (British Columbia).

(C) *Johnston v. Jenczka, etc.*—In *Johnston v. Jenczka, Hearing Officer, et al*, a broad attack was made on the New York System of Administrative Adjudication of Traffic Offenses. Under this system the offense is tried before a hearing officer (an attorney) in a informal non-judicial procedure. Appeal of an adverse ruling is held before the Appeal Board of the Administrative Adjudication Bureau. The Court confirmed a guilty of speeding finding by a hearing officer, and thereby established the validity of the new law that initiated the Administrative Adjudication System.

(D) *Rosenthal v. Harnett*—The case of *Rosenthal v. Harnett*^{1 2} dealt with a constitutional challenge

**Implications in Recent Court Decisions on
Adjudication of Traffic Offenses**

to the concept of administrative adjudication for particular traffic violations in New York. At question were disparities in the burden of proof between agency adjudication (clear and convincing evidence), which is authorized for only certain cities, and judicial proceedings which require proof beyond a reasonable doubt (which applied to the rest of the state). The Court of Appeals stated:

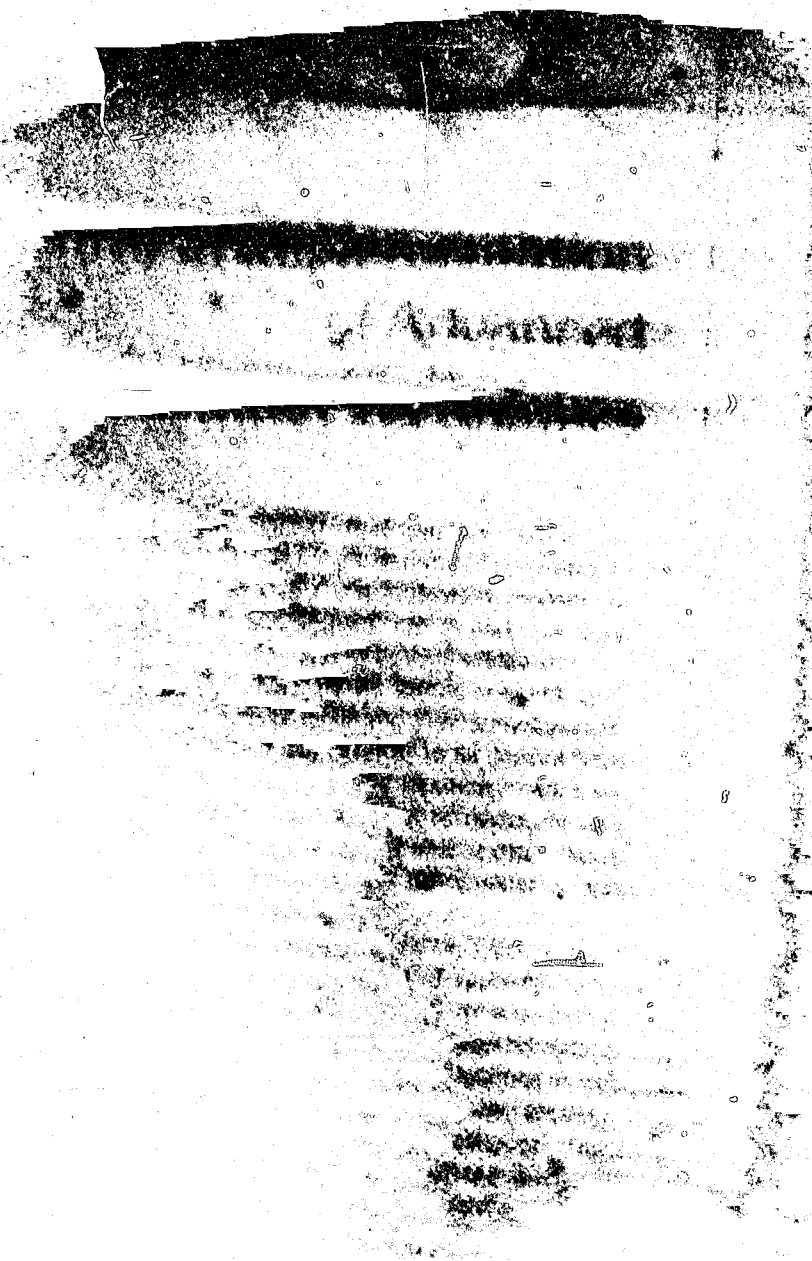
"The Legislature may constitutionally authorize administrative rather than judicial adjudication of traffic infractions and as an incident thereto establish 'clear and convincing evidence' as the required quantum of proof for a determination of guilt where such determination may result in the imposition of a fine but not imprisonment."

Donald L. Paillette, Counsel to the Committee on Judiciary for the State of Oregon has authored a number of reference papers on various constitutional issues dealing with the decriminalization of traffic offenses. In his paper on the constitutionality of administrative adjudication, he concluded that an "administrative adjudication" system that provided for a non-jury method of hearing traffic cases would violate neither the U.S. constitutional provisions relating to trial by jury nor those of the Oregon Constitution so long as the classification of the offenses or the penalties authorized thereunder did

not include the possibility of imprisonment.

Professor Robert Force of Tulane Law School, in his article, "Administrative Adjudication of Traffic Violations Confronts the Doctrine of Separation of Powers," related an essential element in the interpretations of recent cases dealing with this matter. He stated:

"The key to the constitutionality of administrative adjudication of traffic violations may lie in the approach to sanctions. Courts have distinguished between administratively imposed sanctions and penal sanctions. Administrative sanctions are not intended as or regarded as punishment. Agencies do not try criminal cases and ordinarily do not impose incarceration as a sanction. Therefore, any scheme for administrative adjudication of traffic violations would require that these violations be decriminalized. The inability to put a violator in jail under the decriminalized scheme would not be a serious loss since imprisonment is rarely imposed for minor traffic violations. However, sanctions other than imprisonment, such as fines, may be imposed by administrative agencies, although some states require that the precise amount of the fine be fixed by the legislature and not left to the discretion of the agency."



Implications in Recent Court Decisions on Adjudication of Traffic Offenses

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IV

Procedures in Implementation of Advanced Traffic Adjudication Techniques

(A) *Determination of Modification of Traffic Adjudication System*—One of the first steps necessary in the modification of an existing traffic adjudication system, is the determination of what type of system would be most appropriate for the jurisdiction under consideration. The proponents of change should carefully examine those modifications that are practical and feasible within the existing adjudication structure. They should select those which would best serve the community, and would most likely be acceptable to decision-makers within the jurisdiction.

The primary objective of the study, *Effective Highway Safety Traffic Offense Adjudication*, was the development of a highway safety effective model traffic offense adjudication process or processes that could be referenced by State and local jurisdictions in the development of adjudicatory systems which would be responsive to the needs of their respective communities. The model was designed to enhance both the cost-effectiveness and highway safety potential of each approach through modification to existing processes and the utilization of modern case processing management techniques. Significant changes included:

- Review of motorist's driving records to determine persistent violators or problem drivers prior to entering of a plea, and to determine appropriate sanctions for motorists found to be in violation.

- Self-arraignment that can be carried out entirely by mail, if the motorist so wishes.
- Plea advisement and evaluation sessions for motorists undecided on a plea or those wishing to present mitigating evidence.
- More highway traffic safety oriented sanctioning in combination with record review.

The most important benefit to be derived from implementing this model is its flexibility. All jurisdictions should review this section of the study very carefully before embarking on a new traffic adjudication process. The model offers many concepts and procedures. (See Appendix C.)

(B) *Examination of State Laws*—Once a selection has been made as to the type of approach to be implemented, it will be necessary to extensively examine those existing statutes which must be revised to allow for the desired changes. New sections of the law will probably be needed, especially the decriminalization of present major traffic offenses. This would also apply in the adoption of the Administrative Approach. In addition to any new laws, it is essential that a careful study be made of the entire code to determine whether any revisions or amendments are necessary to any peripheral or related statutes. There are many states that have already enacted substantial changes in their laws to establish new adjudicative procedures in traffic matters. Appendix A contains those states that have made

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some of these changes. Samples of new legislation may be available to legislative drafters either through a law library or by contacting the Governor's Representative for Highway Safety of the respective states.

An example of the methodology involved in this area is the New York State experience. The New York City Court in the late 1960's, was faced with a combination of an increased number of serious criminal cases, 800,000 moving traffic infractions, and 3.2 million parking and other non-moving infractions. Despite many efforts, the Criminal Court was unable to cope with the rising case loads and, in 1969, a task force was authorized under the direction of the Commissioner of Motor Vehicles to study the problem and develop an effective alternative. In July 1969, a year prior to implementation, the Commissioner appointed the task force and charged it "with the responsibility of developing a new program for the administrative adjudication of moving traffic violations in New York City." The task force report included recommendations pertaining to the duties and responsibilities of hearing officers, the organization of hearing procedures, uniform summons, and the administrative appeals procedure. Although the members of the task force felt that, in general, the enabling legislation for administrative adjudication was worthwhile, it recommended amendments. These amendments were incorporated into the Vehicle and Traffic Law effective July 1, 1970, which authorized administrative adjudication of traffic infractions in New York State by an agency other than the criminal courts. The legislation was the product of many years of study and development and reflected the culmination of negotiation and compromise among diverse interests.

(C) *Conference or Meeting with State Leaders*—In order to achieve the implementation of planned changes, it is necessary that there be significant agreement for the new traffic adjudication techniques by major judicial and political leaders within the jurisdiction. Therefore, it is essential that a conference be planned and carried forth with utmost care and tact.

Prior to the initiation of the conference, all necessary plans should be developed in some detail and the feasibility of these plans should be explored with the principal actors attending the conference. When this has been completed, a checklist of items to be accomplished both before and during the conference should be prepared.

Matters to be considered include:

- Choosing the site carefully, with attention

towards convenience, facilities (meeting rooms), and services.

- Being certain that all appropriate persons are invited to the conference. Check with major speakers personally to ensure their attendance.
- Distributing the agenda and some explanatory material to the conferees in advance. Be certain that the participants are aware of the purposes and objectives of the conference.
- Preparing each phase of the presentation carefully, utilizing as many visual aids as possible. Do not present a constant stream of lecturers or speakers. There should be visual variation in the presentations. Demonstrate points with slides, flip charts, and overhead projections.
- Have supporting data, statistics, and research material to uphold positions. This data should include both Federal and State Court decisions and examples of successful implementation of the program being proposed by other states.
- It is important that participants have ample opportunity to present their views and opinions during the conference. It is advantageous for the conference members to be an integral part of the decision-making process. Criticisms and supporting statements should be encouraged from the conference attendees during each major phase of the conference.
- During the summary phase of the conference, it is important that the decisions reached by the group be clearly demonstrated. In this way all participants are fully aware of what has transpired. The chances of successful implementation of the proposed plans will be greatly enhanced when there is near unanimity of purpose and a common understanding of the goals and benefits of the programs.
- Preparing and distributing a summary report of the conference proceedings as soon after the conference as possible.
- Requesting additional statements or comments from conference participants, and other relevant persons, on the basis of the summary report. Upon receipt and evaluation of these comments, prepare the final report.

(D) *Development and Enactment of Legislative Package*—Once the direction of the approach has been established, and support from judicial, administrative, and political leaders has been obtained, it will be necessary to prepare and develop a legislative package to reflect the desired changes. Much of this work will have been accomplished during the examination of existing state laws and the preparation of conference material. At this stage, the precise statutory language authorizing the desired changes should be prepared and offered for enactment by the general legislature.

If possible, it would be best to obtain sponsors from both houses who are most closely related to the subject matter of the bills. While this varies from state to state, the ideal sponsors would be the Chairmen of the Judiciary, Transportation, and other similar types of committees. With the support of these legislative members, the enactment of the laws will be well on its way.

On April 11 and 12, 1975, an NHTSA-sponsored conference was held to review the research methodology, findings, conclusions, and recommendations of the NHTSA study on "Effective Highway Safety Traffic Offense Adjudication." One of the major findings of the participants was that "efficient and cost-effective processing should be stressed as good 'selling points' for inducing legislators to adopt innovations in traffic offense adjudication."¹¹

The report of the conference further stated in regard to "selling" changes in traffic offense adjudication:

"Cost is an important persuader when it comes to influencing legislators because it is both immediate and relevant. Lower costs should be readily demonstrable when promoting any new adjudicative approach and where large capital outlays may be required for data processing capability, hearing locations, personnel and the like, there should be a strong effort to emphasize upgraded highway safety potential and lower overall costs in the long run."

It will also be important to gain the support of the administrative and executive arms of government. These include the governor and the administrators or executives of major cities or counties within the State.

One of the keys to "law-watching" is to closely follow bills through each legislative step. It is wise to pay careful attention to what committee the law is assigned. Another consideration is the clock. Many bills are not enacted because there is not sufficient

attention to bills "getting out of committee" prior to the end of the legislative session.

Once the bill has been passed, it is necessary that the concept be presented in its best light to the Governor's office to avoid any possible misunderstanding. While this step should have been completed earlier, it would be safest to avoid any possible snag at this stage.

There are numerous other issues that must be addressed in the area of the legislative package. The support of the judiciary is often pivotal in the enactment of this type of legislation. It would be best to try to obtain the courts support as soon as possible. In New York, California, and Rhode Island, sponsors of the bills worked closely with the judiciary in the enactment of the needed legislation. In addition, as in the case of Rhode Island, Federal financial assistance, both as Section 402 and Section 403 funds, may be available in establishing a new system. This, too, can be brought to the attention of legislators, who are conscious of the funding of new programs.

Another important feature in the enactment of needed legislation is the support of citizens and citizen groups. Indications of such support should be presented to legislators by state organizations and individuals at the appropriate times.

An added ingredient in the enactment of new measures is a "champion" within the legislature. It is vital that strong supporters of the new concepts be identified within the legislature and that they be enlisted to help in the passage of the laws.

(E) *Illustrations of Support for New Traffic Adjudication System*—There are many areas where support can be garnered for the proposed traffic adjudication system. Some of these resources are:

- *Judicial Area*—The Judicial Council of the State of California, in 1967, recommended the enactment of legislation reclassifying minor traffic violations as non-criminal traffic infractions. These infractions were punishable by a money penalty, license suspension, attendance at a school for traffic violators, or any combination thereof. The right to a jury trial or the appointment of counsel was denied in such cases. In 1968, California enacted legislation providing non-criminal provisions for parking, equipment violations, most non-moving offenses, and a limited number of moving violations. The California Legislature has recently reclassified most violations of the rules of the road

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as infractions if they took place after January 1, 1974.

A report entitled *National Survey of Court Organization*, sponsored by the U.S. Department of Justice in 1973,¹³ showed that courts of limited jurisdiction are predominantly misdemeanor and traffic courts. Eighty-three percent of the 13,221 courts of limited jurisdiction hear lesser criminal cases and about the same percentage hear traffic cases. Over one-half of the "limited" courts estimated that more than 50 percent of their judge-time was spent in traffic cases.

- **Police Area**--Law enforcement agencies have generally shown a positive attitude toward the concept of administrative adjudication. At the annual meeting of the International Association of Chiefs of Police in 1970, the body took the following actions:

"Resolved, that the IACP support the concept of Administrative Adjudication as an alternative to mandatory court appearance for all moving hazardous traffic violations."

Members of the New York City Police Department, when asked about their general attitude toward the administrative adjudication system for traffic offenses, generally were favorably impressed with the new system. The most noticeable changes cited by officers were the decrease in time required for their court appearances and the implementation of a new, simplified summons which required far less time to complete. The New York City Police Department was one of several organizations which supported the development of the State administrative adjudication legislation.

- **Public Area**--Public support for administrative adjudication measures can readily be obtained if properly organized. There are indications that the general driving population strongly supports the establishment of fair and efficient new adjudication techniques.

In 1971, a survey conducted by the Automobile Club of Southern California, showed that over 70 percent of the members surveyed expressed support for legislation which would have eliminated trial by jury for minor traffic violations, but would have

retained the right to trial by judge. Over two-thirds of those surveyed favored judgment by a DMV Administrative Officer where the adjudicator would have a sound legal background and where an appeals process would be clearly defined and easily available to all.

During the legislative hearings in New York State concerning the administrative adjudication proposal, the Automobile Association stated:

"To the motoring public there has never been any logic in specifically defining by statute that a traffic infraction is not a crime and then to continue to treat it as a crime when the defendant appears in court, and to view the defendant as a criminal."

"Little or no distinction is made between the intentional, reckless and irresponsible offender and the law-abiding citizen who may be in court because he made a mistake through no fault of his own."

"We believe it is time to look to another tribunal to hear and determine traffic cases, one which might treat an offense as a civil breach of the conditions under which a driving license is issued."

(F) *Establishment of Modified Adjudication System*--The enactment of enabling legislation is the foundation upon which the Modified Adjudication System is built. The next step is the determination of how much new manpower or additional personnel will be required, and what, if any, new physical facilities will be needed.

An important procedural adjudicative processing tool is the self-adjudication method. The overwhelming majority of traffic offenders do not wish to contest an enforcement action and are willing to forego formal adjudication. In such cases, self-adjudication, where the offender admits his guilt without trial and perhaps without court appearance, is most welcome. This approach is explored in the NHTSA report, *Improved Disposition of Traffic Cases*:¹⁴

"A number of states have adopted practices to facilitate the processing of traffic cases at the adjudicative state. Many of these practices are designed to assist the offender who wishes to plead guilty and thus self-adjudicate.

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"In traffic cases not amounting to major offenses, Oregon permits the defendant to appear personally or to submit bail by a written appearance and waiver of hearing with a plea of guilty, or submit a statement in mitigation. The effect of the statement in mitigation is to waive a hearing and to consent to judgment and forfeiture of bail on the basis of the written statement of the enforcement officer and/or other witnesses.

"New Jersey permits a similar adjudication and allows the defendant to submit his defense by affidavit upon a finding by the court that undue hardship would result from the defendant's appearance at trial.

"The New Mexico alternative to a violation bureau allows the defendant to elect a penalty assessment in lieu of prosecution for a traffic offense. The defendant elects the penalty assessment by signing the traffic ticket and may pay by mail a predetermined fine.

"Illinois procedure permits a defendant who has posted bail to enter a plea by mail in certain cases. The fine and costs are then deducted from the posted bail.

"Other states utilize similar procedures. Although a procedure of this nature may not have been adopted on a statewide basis, local jurisdictions frequently develop procedures that effectuate it."

In addition to the determination of the necessary staff members and working space, the training needs of the new personnel must be considered, and the training process itself must be undertaken. Implicit in the training material is the concept of traffic safety as an integral part of the adjudication process. It is not sufficient to merely improve the processing or movement of traffic cases. The quality of justice and the improvement in driving behavior and/or attitudes must play a paramount role in the new traffic adjudication techniques.

There are many other matters that must be considered in this regard. Some items may fall within the legislative area—others in the procedural process.

In the SAFE (Special Adjudication for Enforcement) Project in Seattle, Washington, several classes of traffic offenses were decriminalized. At the same time informal, simplified hearings before a special magistrate were initiated. The driver is given an option of either entering into the new procedure or being adjudicated in the traditional manner. Upon a finding of guilty, the driver is referred to a Depart-

ment of Motor Vehicles driver improvement analyst who determines what action, if any, should be taken with regard to the driver's license. This is an excellent example of the cooperative efforts between the judiciary and the Department of Motor Vehicles.

In New York, where the adjudication of guilt and the determination of driving privilege restrictions is made by a hearing officer of the Department of Motor Vehicles, the question of the qualifications of the hearing officer was paramount in the enactment of the legislation. The State determined that all hearing officers be attorneys. In other states, such as North Dakota, such a requirement was deemed unnecessary. In California, where a Summary Traffic Trial Project was conducted by the Judicial Council of California using Federal 402 funds, subordinate judicial officers adjudicated traffic citation cases. These Traffic Commissioners are required to be attorneys and must meet the same qualifications established for judge appointments. It is anticipated that on the basis of the successful results of the project, the Judicial Council will officially recommend the use of subordinate judicial officers to handle minor traffic matters in all courts in the State where substantial volumes of such matters occur.

The issue of the burden of proof required to obtain a guilty finding is another point that requires considerable attention. In most jurisdictions, such as the new laws in Florida, the requirement of proving the case "beyond a reasonable doubt" has been retained. In New York State, "clear and convincing evidence" is used for its findings. The Rhode Island law states that: "the burden of proof shall be upon the state, and no charge may be established except by clear and convincing evidence." In North Dakota the degree of proof required to obtain a conviction is "the preponderance of evidence" rule. This issue may not be resolved nationally for some time and it is necessary that the matter of the burden of proof be given careful consideration by each jurisdiction.

These are only some of the many problems that may evolve in the construction of a new traffic adjudication system for a state or jurisdiction. There is much assistance available to those persons seeking such changes, both at the federal and state levels. What is most important is the *need* for some change. As stated in the findings of the National Highway Safety Advisory Committee's Ad Hoc Task Force:

"It is questionable whether present traffic court case processing is adequately performing its function of providing effective adjudication of traffic offenses. Techniques must be developed

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to improve the level of responsibility in the judicial sector that will enhance highway safety programs and effective rehabilitation of chronic offenders.”

The key to the development of new advanced traffic adjudication techniques lies in the decriminalization of the less serious traffic offenses. As stated by George D. Brandt of NHTSA in a recent article:¹⁵

“The principal benefits of decriminalization are:

- (1) Maximizing violation deterrence through speedy and inexpensive trials;
- (2) Expediting trials of persons accused

of serious offenses, both traffic and criminal;

- (3) Improving the implementation of rehabilitation and retraining measures against high risk traffic violators; and
- (4) Strengthening the driver control features of state highway safety programs.”

Any jurisdiction that is concerned with improving its existing traffic adjudication techniques should first examine its present laws with the view towards decriminalizing its traffic offenses. This task is crucial in the development of the necessary procedures required to implement these new techniques.

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Appendix A

Summary of Actions Taken by Jurisdictions Toward New Traffic Adjudication Techniques

California

During the 1973 Regular Session, the California Legislature enacted Chapter 1162 (SB 620), classifying *all* moving violations as infractions, except the following:

- Driving under the influence of alcohol or drugs.
- Reckless driving.
- Speed contests.
- Throwing substances at vehicles.
- Disobeying lawful orders of peace officers.
- Hit-and-run offenses.
- Driving under suspension or revocation of licenses.

The law, effective January 1, 1974, establishes infractions as one of three categories of crimes and public offenses in the state: felonies, misdemeanors, and infractions.

Under the law there is neither a right to a jury trial nor access to an appointed counsel at public expense. At the same time, incarceration may not be imposed. A defendant convicted of an infraction is subject to a maximum fine of \$50, \$100, or \$250 for a first, second, or subsequent conviction within a year's time.

Some California jurisdictions are utilizing commissioners or referees—lawyers appointed by judges—to hear specified cases. Generally, all provisions of law applicable to misdemeanors apply to infractions, including the power of peace officers to make arrests, the jurisdiction of courts, and the burden of proof.

The court may order a defendant convicted of a traffic infraction to attend a violators school. Willful failure to comply with the order to attend traffic school is a misdemeanor as is the willful failure to pay

a fine. A person may enter a written plea of guilty or not guilty.

The trial judge has jurisdiction to suspend a defendant's license for speeding offenses (i.e., 30 days for first conviction, 60 days upon second conviction, and up to six months for third or subsequent violations).

The enactment of the 1973 infraction legislation was the culmination of an extended effort by the State Judicial Council to provide a simplified procedure for the trials related to minor traffic and other violations.

In 1965 the Judicial Council supported a bill to classify minor traffic violations as infractions; however, the bill was defeated. In 1968 legislation was enacted classifying non-moving violations as infractions. The 1968 law classified parking violations, equipment violations, and other minor vehicle code violations as infractions. Moving violations were excluded. The 1973 legislation extends the infractions classification to cover virtually all moving violations except those specifically excluded.

Florida

The 1974 Florida Legislature enacted legislation that decriminalized many traffic offenses and established well defined procedures for the adjudication of traffic infractions. The law (Senate Bill 171; Chapter 318 Florida Statutes), effective July 1975, is designed as Florida Disposition of Traffic Infractions Act.

All moving offenses are decriminalized except: evading a police officer; leaving the scene of an accident; driving under influence of drugs or alcohol; reckless driving under license suspension or revocation; and making false accident reports. These of-

fenses continue to be classified as criminal.

All other moving offenses are designated as infractions. Infractions are defined as non-criminal violations and are not punishable by incarceration. In addition, there is no right to a trial by jury, and there is no right to court-appointed counsel.

The law is premised on the principle that most traffic violations do not warrant the penalties and procedures prescribed for criminal acts. A simplified judicial hearing is established and the commission of a charged infraction must be proved beyond a reasonable doubt at the hearing. The law provides for a standard statewide adjudication system, and a uniform fine schedule which is utilized in conjunction with a point system.

Under most offenses, a motorist may enter a plea of guilty by mail, and may forward the required standard fine for that offense (up to \$25 for all moving violations not requiring a mandatory appearance).

Mandatory court appearances are required for: (a) instances where death or injury results or where property damage is in excess of \$250; (b) infractions which result in the suspension or revocation of a license upon conviction; (c) speeding in excess of 25 mph over the speed limit; and (d) other prescribed offenses.

Under the law if a person elects to have his guilt adjudicated at a trial or is charged with an offense requiring a mandatory court appearance, the judge may impose a civil penalty up to \$500 and/or require attendance at a driver improvement school.

A motorist is required to post a bond insuring his presence at a trial. The bond is equal to the amount of the standard fine for the charged offense, and if the person does not appear the bond is forfeited and a finding of guilty is recorded. A person's driver's license and privileges are suspended if he: (a) fails to post bond and fails to appear at the hearing; (b) fails to attend driver improvement school; and (c) fails to pay a civil penalty imposed upon a finding of guilty. A determination of guilt may be appealed to circuit court.

The law provides for immediate transfer of conviction records to the state licensing authority, and the assessment of points against a person's license in accordance with the existing point system.

In summary the law provides:

- (1) Decriminalization of most traffic violations—except the most serious. Decriminalized violations are classified as infractions.
- (2) A procedure by which a person cited for an

infraction may either pay the penalty by mail, post and forfeit bond, or appear at the hearing and plead guilty or guilty with an explanation.

- (3) A statewide penalty schedule for those persons who choose to pay the penalty by mail or to post bond. The bond to be posted is identical in value to the standard penalty.
- (4) Appeals to circuit court.
- (5) Requirements for prompt reporting of infractions and applicable points to the State Motor Vehicle Department.
- (6) Utilization of driver improvement schools.

The law removes unrealistic formalities and penalties for traffic offenses and increases the incentive to comply. It also provides a traffic law subsystem within a statewide court structure.

New York

In 1970, the New York Legislature adopted administrative adjudication of minor traffic offenses.¹ This legislation authorized the creation of administrative tribunals in jurisdictions of certain population size to adjudicate all cases involving traffic infractions. Jurisdiction to adjudicate infractions is vested in the State Department of Motor Vehicles and a separate Administrative Adjudication Bureau has been established for this purpose. Impetus for this simplified approach came from the realization that the criminal courts were inundated by trials involving minor traffic offenses.

Under the law, most traffic offenses are heard by referees or hearing officers of the Department of Motor Vehicles. These officials are lawyers specially trained in traffic law and highway safety.

Virtually all moving traffic infractions are affected. However, misdemeanors, such as driving while intoxicated, reckless driving, leaving the scene of an accident, and driving without a license or registration continue to be heard before criminal court judges. Jurisdiction over parking violations are not covered by this law, but are under a separate administrative agency of the City of New York.

Hearings are conducted in a quasi-judicial setting. Defendants are given a specific time to appear if they wish to contest a charge. In most cases a person can be in and out of the hearing within an hour. Persons found guilty can appeal to an administrative

¹ Enabling legislation is found in Article 2A of the New York Vehicle and Traffic Law (Amended 1970); see also Ch. 337 and 682 of the Laws of 1970, eff. July, 1970.

board and ultimately have recourse to a state trial court.

Under the law, motorists can plead in person or by mail to traffic infractions. Upon the filing of a denial of the charges and a \$15 security, a motorist wishing to contest charges is granted a hearing before a referee, who decides the case. A motorist who fails to answer a traffic ticket is subject to suspension of his driving privilege until a response is made. A defendant has no right to a jury trial or appointed counsel and a jail sentence may not be imposed. The enforcement officer appears in all cases where the charge is denied and the case contested.

The Commissioner of Motor Vehicles is authorized to establish a schedule of fines for various infractions. If a specific fine has been set for the violation charged, a motorist admitting the charge by mail can send the specified fine, along with the traffic ticket and the record of convictions portion of his driver's license, to the Department.

Any suspension or revocation of a license by the hearing officer is delayed for 30 days to give a motorist time to appeal. No penalty set by a referee or scheduled by the Commissioner can include imprisonment.

In urging enactment of the law, Governor Rockefeller stated:

"By relieving the criminal courts of most traffic cases, this program should enable the criminal courts to provide prompter handling of serious criminal matter in a more judicious atmosphere. The special problems of criminal court congestion, lengthy incarceration of defendants before trial and the inability of courts to grant a trial date for up to a year should be greatly alleviated.

"In addition, the hearing of traffic cases by qualified hearing officers of the Department of Motor Vehicles would result in the more expeditious disposition of these cases."

The state administrative adjudication law is in operation in New York City, Buffalo, and Rochester. Expansion to other New York jurisdictions is under study.

A New York Supreme Court has recently upheld the constitutionality of the law, i.e., *Johnston v. Jenczka, Hearing Officer, et al*, (Erie County, Supreme Court N.Y., Justice Marshall, July 19, 1974).

North Dakota

Following a comprehensive study by a legislative-citizen committee reviewing the entire court system, a far-reaching law was recently enacted in North Dakota.² The law makes traffic offenses non-criminal and provides for alternate methods of disposing of certain offenses.

The adjudication of traffic offenses operates within the existing court structure but drastically varies procedures. The law implements a statewide system of court-appointed hearing officers who are vested with jurisdiction to adjudicate traffic offenses. Moving and non-moving violations are covered by the law and all but the more aggravated traffic offenses are included. Excluded offenses are: alcohol and drug related; reckless driving; vehicular homicide; hit and run; and driving under license suspension. A person charged with one of these offenses is tried in a criminal law procedure and is subject to any penalty, including imprisonment.

The basic rationale of the legislation is (a) to provide alternative methods of disposing of most traffic offenses, (b) to decrease the caseload of the lower courts, (c) to reduce the number of appearances a private citizen has to make before adjudication, and (d) to provide legally trained adjudicating officials. Another consideration at the time of enactment was the realization that the traditional approach of disposing of traffic offenses did not seem to be adequately deterring poor driving habits.

The law provides that anyone cited for a state or municipal traffic offense, except serious offenses, is charged with a non-criminal offense. A jail sentence cannot be imposed and the offender is not entitled to a jury trial or court-appointed counsel.

After being charged, the alleged offender has several alternatives available to him: (1) he can appear before the designated official and pay the statutory fee; (2) he can post bond, in person or by mail, and forfeit that bond (the amount of which will be equivalent to the statutory fee) by not appearing at the first hearing; (3) he can appear at a hearing and explain his actions, or (4) he may request a hearing on his "not guilty" plea. A deposit of \$15.00 as a prepayment of all costs of the hearing is required.

If the person is found not to have committed the offense, the \$15.00 hearing cost prepayment is returned. If the offender is found to have committed the offense, an additional fine may be imposed under

²Senate Bill No. 2033 enacted by the North Dakota Legislature at its regular session took effect on July 1, 1973.

a standardized fine schedule and the conviction is reported to the licensing authority.

The offender may appeal an adverse decision to the district court, where he may then demand a jury trial. If he is again found to have committed the violation, no further appeal is allowed.

During the course of the appeal, the district court may, at the offender's request, order the licensing authority to stay any action suspending the offender's driver's license or direct the licensing authority to issue a temporary restricted license.

Because the offenses covered by the law are deemed non-criminal, the prosecution must only prove its charge, by a "fair preponderance of the evidence"—the burden of proof presently required in civil law suits. In addition, if an offender appeals, the district court tries the appeal under the rules of civil procedure.

If a person charged with an offense fails to appear at the time designated in the citation, without paying the statutory fee or posting bond, he is also guilty of a misdemeanor.

The law establishes a "point system" for offenses leading to revocation of driving privileges. The system ties in the assessment of points with the adjudication of traffic offenses, thus assuring the uniformity of treatment of offenders.

Attendance at driver improvement facilities may reduce the number of accrued points. A well defined centralized license suspension system is an integral part of the law.

The law strengthens the sanction of driver license suspension and revocation but de-emphasizes terms of imprisonment and monetary penalties. It provides for expeditious and simplified adjudication of offenses.

Rhode Island

A 1974³ Rhode Island law provides for the administrative adjudication of traffic offenses within the State Department of Transportation.

A simplified civil adjudication system is established for all motor vehicle offenses except serious transgressions such as driving under the influence of drugs or alcohol, accidents involving death or injury, reckless driving, driving under suspension or revocation of license, or leaving the scene of an accident. These offenses continue to be criminal in nature. However, all other traffic violations are removed from the jurisdiction of the district courts.

³See State Law 73-S 648 Amending Title 31 of General Laws; effective date of Law March 1, 1975.

Under the law most traffic offenses (designated infractions) are referred to a legally trained hearing officer within the Administrative Adjudication Division. The offense must be proved by "clear and convincing evidence." Jury trials are not required and attorneys need not be appointed to represent defendants. Only monetary fines may be imposed and imprisonment is eliminated for such offenses.

An appeal of a hearing officer's adverse ruling may be taken to an appeal board established within the Administrative Adjudication Division. A further appeal may be taken to the state superior court.

The law provides for paying a standard fine by mail and establishes a simplified procedure for obtaining a hearing date for the offense.

Broad powers to promulgate rules and to appoint hearing and appeal board officers is vested in the Assistant Director of Transportation or his designee.

Hearing officers are granted the authority to suspend or revoke licenses for failure to pay fines and also under other specified circumstances.

Prompt recordation of infraction convictions are an integral part of the law. Driver retraining programs constitute an extension of the activity of the Transportation Department in having control over adjudicating offenses, licensing, and correcting driver behavior.

Under Rhode Island law the administrative agency (State Department of Transportation) is vested with the responsibility to adjudicate alleged violations and impose monetary fines. The hearing officer can refer violators to department retraining programs.

Seattle, Washington

The City of Seattle, with support from the National Highway Traffic Safety Administration, has initiated a two year prototype adjudication program (July 1974 to July 1976).

Project SAFE—Special Adjudication For Enforcement—decriminalizes several classes of traffic offenses and these infractions are heard in an informal, simplified procedure before a special magistrate. The magistrate may impose a fine, but a jail sentence cannot be imposed and there is no entitlement to a jury trial.

Magistrates are judges *pro tem* who are appointed by the presiding Judge of the Seattle Municipal Court and who have specialized training in traffic laws and highway safety.

The principle objectives of the project are: (a) the prompt disposition of enumerated traffic of-

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fenses, and (b) the immediate referral of an offender to a driver retraining and rehabilitation program upon a finding of guilty by the Magistrate. A peripheral objective is the reduction in the logjam of minor cases referred to criminal courts. These cases constitute a tremendous burden on the court system lending support to the exploration for alternative means of adjudication.

The project philosophy centers on two basic principles: (a) there must be an organized and systematic program for driver rehabilitation and improvement, and (b) problem drivers should be identified and exposed to driver retraining or license suspension as soon as possible.

Under the SAFE procedure, the Seattle Municipal Court has redefined four categories of traffic violations:

- (1) Speeding in excess of 15 mph over the limit;
- (2) Certain accident cases;
- (3) A violation or charge which is the fourth in two years or the third in one year; and
- (4) Failure to yield, negligent driving, and following too close.

The charges driving while under the influence of alcohol or drugs, reckless driving, hit-and-run, or any other offense which could carry a jail sentence are not included in the new adjudication process. These continue to be heard through regular criminal court procedures.

The following is an example of how the program works: A driver is cited by Seattle Police officers for speeding at or above 15 mph over the limit. The Traffic Violations Bureau of the City of Seattle generates a computerized bail notice that is mailed to the driver the day following the infraction. This indicates to the driver that an appearance before a magistrate is required, and that he has 10 days in which to make that appearance, at his convenience. If the motorist does not appear, a Traffic Violations Bureau Warrant is issued.

At SAFE hearing offices he is offered the opportunity to tell his side of the story to a magistrate in a relaxed, informal atmosphere. There are no police officers, prosecutors, or regular court personnel present--only the driver and the magistrate, unless the driver wishes to bring along witnesses or an attorney.

Thus, one appearance has been eliminated, since the cited driver formerly would have had to have made two appearances--one for the arraignment, and one for the hearing itself.

If, at the hearing, the finding is guilty, the magistrate imposes sentence by either following a predesignated course of action or by levying a standard fine and referral according to what he feels is necessary for the driver's benefit. One third of the drivers found guilty will be referred to control groups in order to evaluate the impact of driver retraining and rehabilitation programs on subsequent recidivism. The close-working relationship between the Department of Motor Vehicles, driver improvement analysts, and the Seattle Municipal Court is a unique feature of the SAFE project.

Following adjudication, a driver may immediately be referred to an on-site driver improvement analyst. The analyst will review with the driver his driving record, which is secured by means of a remote video terminal connected directly to the Department of Motor Vehicles computer in Olympia. Following the interview, the analyst may refer the driver to a driver improvement program already sponsored by the Department of Motor Vehicles, to the National Safety Council's Defensive Driving Course, or to one of the specially developed driver learning programs which utilize tape players and cassettes to reeducate the driver. Strictly monitored control groups have been established to measure the comparative value of the different rehabilitation programs on different types of drivers.

In summary, if the driver is found innocent of the charge, the case will be dismissed immediately. If there is a finding of guilty:

- (1) The driver may be fined the standard amount;
- (2) Any or all of the fine may be suspended;
- (3) Any or all of the fine may be suspended and there may be referral to a driver improvement program; or
- (4) The driver may be referred to a driver improvement analyst of the Department of Motor Vehicles.

If the driver does not agree with the guilty finding a regular trial date in court is set. At the trial the driver can question the police officer and witnesses in the traditional manner.

Even though certain traffic infractions by themselves may not justify license suspension, action may be taken by the Department of Motor Vehicles, using its discretionary powers, to suspend the repeater's license when a driving record so warrants.

The driver improvement analyst may conclude that a driver with a poor driving record should lose

his driving privilege for a period of time. The analyst is required to inform the driver of his recommendation and may issue a 15-day temporary license. The report, by the analyst, to the Department of Motor Vehicles triggers action by the Department. The Department of Motor Vehicles promptly and thoroughly reviews the analyst's recommendation. If the Department concurs, the official suspension order is published. In the event that the Department does not concur, the driver's license is summarily returned. The important step of immediate action has been taken, and the driver knows exactly where he stands within a very short time of the adjudication.

A thorough evaluation of all aspects of the project will be continuously monitored by safety and research specialists.

If the SAFE demonstration project proves successful in relieving crowded court conditions; reducing the number of traffic fatalities, accidents, and accident-causing violations; and improving driver behavior; efforts will be made to adapt the program to other court jurisdictions in Washington.

Minnesota

In 1971 Minnesota adopted a system of traffic classification making all violations of the vehicle code, unless otherwise specified, "petty misdemeanors" (as distinguished from "misdemeanor"). A defendant charged with a petty misdemeanor is not entitled to a jury trial and does not have the right to a court-appointed counsel. There is no jail sentence authorized for a petty misdemeanor and the maximum fine is \$100.

There are a few exceptions to the petty misdemeanor classification. These exceptions are misdemeanors which carry the right to a jury trial. The classification of misdemeanors includes: a third moving violation within a 12 month period, and traffic violations which would otherwise be petty misdemeanors if "committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property."

Minnesota generally follows a traditional approach in the adjudication of traffic violations. When a person is charged with most traffic violations, either misdemeanors or petty misdemeanors, he receives a traffic citation. In a few serious cases (negligent homicide, driving under the influence of alcohol or drugs, hit-and-run, or an offense causing a personal injury accident), he must be brought before a magistrate. The defendant may plead guilty by mail and forfeit bail.

Courts having jurisdiction over misdemeanors

also have jurisdiction over petty misdemeanors.
Pennsylvania

Pennsylvania's traffic offense classification system differs substantially from that of other states. All violations of the vehicle code are "summary offenses," with the exception of driving under the influence of alcohol, driving without lights to avoid arrest, and speed contests. All offenses provide for both a fine and a jail sentence. The most common penalty is a \$10 fine and/or five days imprisonment.

There is no right to a jury for a summary offense and there is no right to assigned counsel except in those cases where "there is a likelihood that imprisonment will be imposed."

Under court rule, a simplified court procedure is followed and a defendant may plead guilty by mail. A traffic citation commences the adjudication procedures.

If the defendant fails to appear at the time of his trial, he is considered to have consented to trial in his absence. The court then hears the evidence and makes its determination of guilt. If the defendant is found guilty, his security is forfeited.

Ohio

In Ohio most traffic violations are treated as "minor misdemeanors" or "petty cases" (as distinguished from "misdemeanors"). The maximum fine is \$100 and there is no provision for a jail sentence. Other more serious offenses provide for jail sentences. For example, a second violation within one year, and certain speeding violations are treated as fourth degree misdemeanors. The penalty for a fourth degree misdemeanor is up to 30 days in jail and/or a \$250 fine. A third violation within one year is treated as a third degree misdemeanor and the penalty is up to 60 days and \$500.

Driving under the influence of alcohol or drugs and drag racing are considered first degree misdemeanors. The maximum penalty is six months in jail and/or a \$1000 fine. A three day jail sentence is mandatory for alcohol or drug related offenses.

Driving under a suspended license is not classified, but carries a fine of up to \$500 and imprisonment of not less than two days or more than six months.

In offenses where there is no provision for a jail sentence, counsel need not be appointed; however, the court may assign counsel in potential jail cases. In such cases, confinement may not be imposed unless counsel is assigned or waived.

Under Ohio Traffic Rules (Supreme Court

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Rules for traffic cases in inferior courts) a traffic case is initiated with the filing of a Uniform Traffic Ticket. Arraignment is then conducted in open court.

A court may create a traffic violation bureau and appoint a traffic referee (many courts follow this procedure). Except in certain specified serious offenses the referee may accept a waiver of trial and a plea of guilty and assess a fine in accordance with a fine schedule provided by the court.

Traffic courts may appoint a hearing referee to take pleas, hear statements in explanation or mitigation, and recommend fines in traffic cases; but violators must consent to referee adjudications.

Wisconsin

In most traffic offenses, Wisconsin has amended its traffic laws to provide for fine forfeitures rather than traditional criminal procedures. The criminal definitions of felony and misdemeanor specifically exclude motor vehicle offenses and consequently, most traffic offenses are designated as regulations. When a defendant is charged with the violation of a traffic regulation he is subject to a forfeiture of fine procedure.

The procedure for violations of traffic regulations may be summarized as follows:

When a defendant is arrested the officer is required to release him when he (1) makes a deposit on a scheduled amount of a fine, (2) makes a stipulation of no contest and a deposit, or (3) deposits his license with the officer. The officer then issues a temporary license valid until the appearance date. A traditional criminal procedure is followed for aggravated offenses.

The deposit requirement for the scheduled amount is completed when the defendant either mails or takes the required amount to a designated depository.

If he appears at the arraignment, the defendant is informed of his right to a continuance and a jury trial. He may plead guilty, not guilty, or no contest. If he pleads guilty, he may be immediately sentenced. If he pleads not guilty, he may be tried immediately with his consent and the consent of the prosecuting attorney.

If the defendant fails to appear and has made the required deposit by mail, the court may: (1) consider that the defendant has pleaded no contest, accept the plea, and forfeit; or (2) reject the plea of no contest and issue a summons. If the defendant fails to appear in response to the summons, a warrant may be issued. Also, if the defendant has deposited his license and does not appear as directed, the court

may order his license suspended for 30 days or until the completion of the case, whichever is longer. The defendant may move to vacate the suspension within 10 days.

Under the law the defendant is entitled to a jury trial upon the payment of jury fees.

If the defendant is found guilty he may be fined an amount up to the maximum amount of forfeiture and he may be sentenced to jail for failure to pay. The defendant may be allowed a work release and apply his earnings to the forfeiture. When the forfeiture amount is paid, the defendant is released.

British Columbia

In 1968, British Columbia enacted an innovative no-fine approach to the adjudication of non-aggravated traffic offenses. Under this system, a hearing magistrate (a Provincial Court Judge who is part of the judicial system) holds a full hearing to determine whether an alleged traffic offense has taken place. His function is limited to a determination of whether the alleged violator has committed the offense. In the event he is satisfied the violation occurred, he informs the Superintendent of Motor Vehicles of his determination. He has no jurisdiction to record the conviction or take any action; nor can he impose any penalty or sanctions of any kind. The Department of Motor Vehicles takes such actions and may revoke or suspend a license as may be warranted.

The Supreme Court of British Columbia recently upheld the constitutionality of the act and its regulations (*In the Matter of a Traffic Violation Report Issued to Nathan Ganapathi etc.*, opinion by Mr. Justice Hinkson, Vancouver, B.C., January 8, 1973 (also designated *In the Matter of an Application Pursuant to Section 85 of the Summary Convictions Act, R.S.B.C., 1960*)).

The Court stated:

"In the present case, as part of this licensing legislation, the Legislature has seen fit, as a matter of policy, to leave the determination of whether a violation has occurred to a magistrate but to provide that the penalty is to be fixed by the Superintendent. The respondent said that there could be no objection if the whole matter was left to an administrative tribunal, but that there was no right to have the magistrate deal with only one aspect of a matter involving an alleged violation. I am not aware of any constitutional principle that prevents the Legislature

dealing with the matter in this way. It is not a case of the Province seeking to

invade the federal sphere. I conclude this subsection is not valid.”

Appendix B

Recommendations and Findings of the Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee

The Recommendations of the Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee were as follows:

- "Expand the traffic adjudication component of the traffic law system to embrace both the goals of adjudication and the promotion of highway safety, giving equal weight to both purposes.
- "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.'
- "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.
- "Adopt a more simplified, informal, and administrative procedural machinery for 'traffic infraction' adjudication and sanctioning.
- "Develop a statewide traffic offense case processing management, adjudication, and coordination capability which utilizes advance record keeping, storage, retrieval, and dissemination techniques.
- "Improve highway safety implementation through traffic adjudication identification of problem drivers, assignment of such drivers

to appropriate driver improvement screening programs, and monitoring the results."

Some of the general Task Force findings were:

- "It is questionable whether present traffic court case processing is adequately performing its function of providing effective adjudication of traffic offenses; however, the present traditional process is reasonably accurate in the determination of guilt or innocence of offenders.
- "It is questionable whether exposure to the traditional process by an offender has any significant deterrent effect on subsequent individual violations or on the general driving public.
- "There is a lack of persuasive evidence to indicate that traditional court processing of traffic cases promotes the goal of increased highway safety or improved driver improvement and retraining.
- "Techniques must be developed to improve the level of responsibility in the judicial sector that will enhance highway safety programs and effective rehabilitation of chronic offenders. Only a minority of traffic judges have any special training or concerted interest in traffic offense adjudication.
- "There is a lack of coordinated planning and action among judicial bodies and local and State agencies in traffic safety and accident prevention."

Traffic Offense Adjudication Process Model

Appendix C

