

# Report on Administrative Adjudication of Traffic Infractions

Highway Safety  
Act of 1973  
(Section 222)

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July 1977

U.S. Department of Transportation  
National Highway Traffic Safety Administration  
Washington, D.C. 20590

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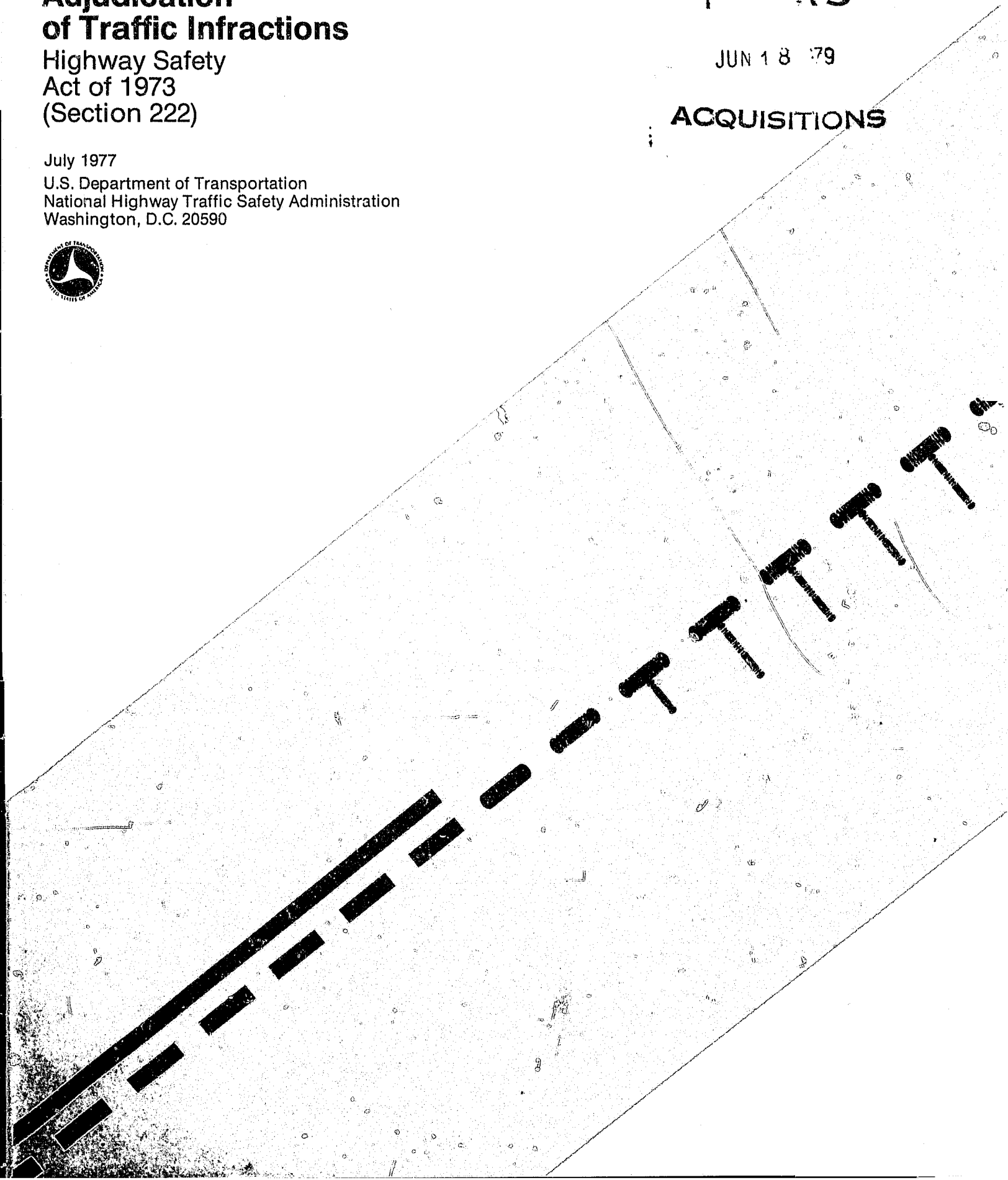
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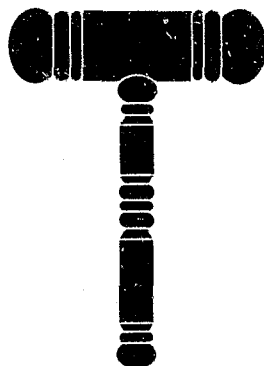
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ACQUISITIONS



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# Preface

The provisions of the Highway Safety Act of 1973, Section 222, direct the Secretary of Transportation to conduct projects to demonstrate the administrative adjudication of traffic infractions and to report by July 1 of each year on the effectiveness of such a system as compared with other methods of handling minor traffic violations. This is the third annual report of the Department of Transportation in response to those directives.

The Special Adjudication for Enforcement (SAFE) approach integrates informal administrative hearings with follow-up driver referrals. This third annual report concludes that SAFE has been a milestone in the history of adjudication and traffic research, and merits being continued as an effective and inexpensive means of streamlining the nation's judicial process. Other communities may adapt the special judicial procedures to their situations. License hearing officers must be duly qualified and any agency influence avoided.

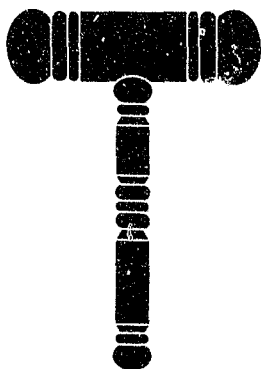
The Seattle SAFE found that the success of the projects was attributable partly to the informal parajudicial proceedings, but that the specific driver rehabilitation programs formed the major benefits.

In Rhode Island, the new program reduced by 17 percent the backlog of cases, as well as the cost of hearings, and saved time to the police departments and prosecutors, and satisfied the public.

In California, the transition from judicial to administrative adjudication was difficult. Opposition stemmed from judicial and legal sources, and the qualifications of the hearing officers were questioned. The California legislature was not persuaded that the safety and cost benefits of the program outweighed questions about the rights of violators and the need for procedural safeguards.

In this and previous reports, the concept of administrative adjudication applies to the noncriminal case processing and adjudication (within the judiciary or an executive agency) of traffic infractions such as speeding and disobeying signs, signals, and roadway markings.

*\*Report on Administrative Adjudication of Traffic Infractions, July 1975; July 1976; Supplemental Report, 1976 (Washington: U.S. Department of Transportation).*



# Foreword

Until 1970 traffic adjudication throughout the country was handled by the courts of limited jurisdiction. In July 1970 the State of New York implemented an Administrative Adjudication Program (NYAAP) for traffic infractions in New York City. A strong lawyer, civil servant, driver-licensing hearing capability provided the cornerstone of the NYAAP.

A national survey was recently completed to determine the status of State driver-licensing-agency hearing authority. In addition, a limited survey was conducted on the qualifications and training of driver-licensing-agency hearing officers.

In recent years, the nation's lower criminal courts have been inundated with a large nontraffic criminal caseload. Limited judicial attention has therefore been given to traffic offenses and driver-licensing cases. The future of administrative, noncriminal traffic infraction adjudication may depend on the willingness of States to strengthen their hearing authority capability and extend it to traffic infractions. (This approach is in keeping with recommendation I. D. of the American Bar Association's Report of Pound Conference Follow-up Task Force, August 1976 on the "increased use of the administrative process as an alternative to resort to the courts.")

## Background

Sec. 222 of the Highway Safety Act of 1973 stated that "administrative adjudication demonstration projects shall be designed to improve

highway safety by developing fair, efficient, and effective processing and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders."

The National Highway Traffic Safety Administration (NHTSA) therefore initiated research and demonstration projects. Two Special Adjudication for Enforcement (SAFE) projects were funded to demonstrate administrative, noncriminal traffic infraction adjudication. The first, awarded in fiscal year 1973 to the State of Washington Department of Motor Vehicles and the Seattle Municipal Court, involved the adjudication of traffic infractions by parajudicials. The second project, awarded in fiscal year 1974 to the Rhode Island Department of Transportation, involved the adjudication of traffic infractions by administrative hearing officers. The reports from both projects were favorable.

Previous NHTSA studies focused on the evaluation of traffic adjudication approaches and the development of innovative, improved traffic case disposition methods. A traffic case processing model developed in one of the studies was used by the State of California in a major feasibility study and in preparing legislation to pilot test administrative adjudication of traffic offenses in that State.

An analysis was made of all State laws that have reduced the bulk of the moving rule-of-the-road violations to infractions. All the available information on administrative adjudication and noncriminal traffic case processing was summarized in a primer on advanced adjudication techniques. The primer, now in its second printing, was obtainable by interested jurisdictions.

Currently, NHTSA is conducting comparative field research on (1), the fairness, efficiency and

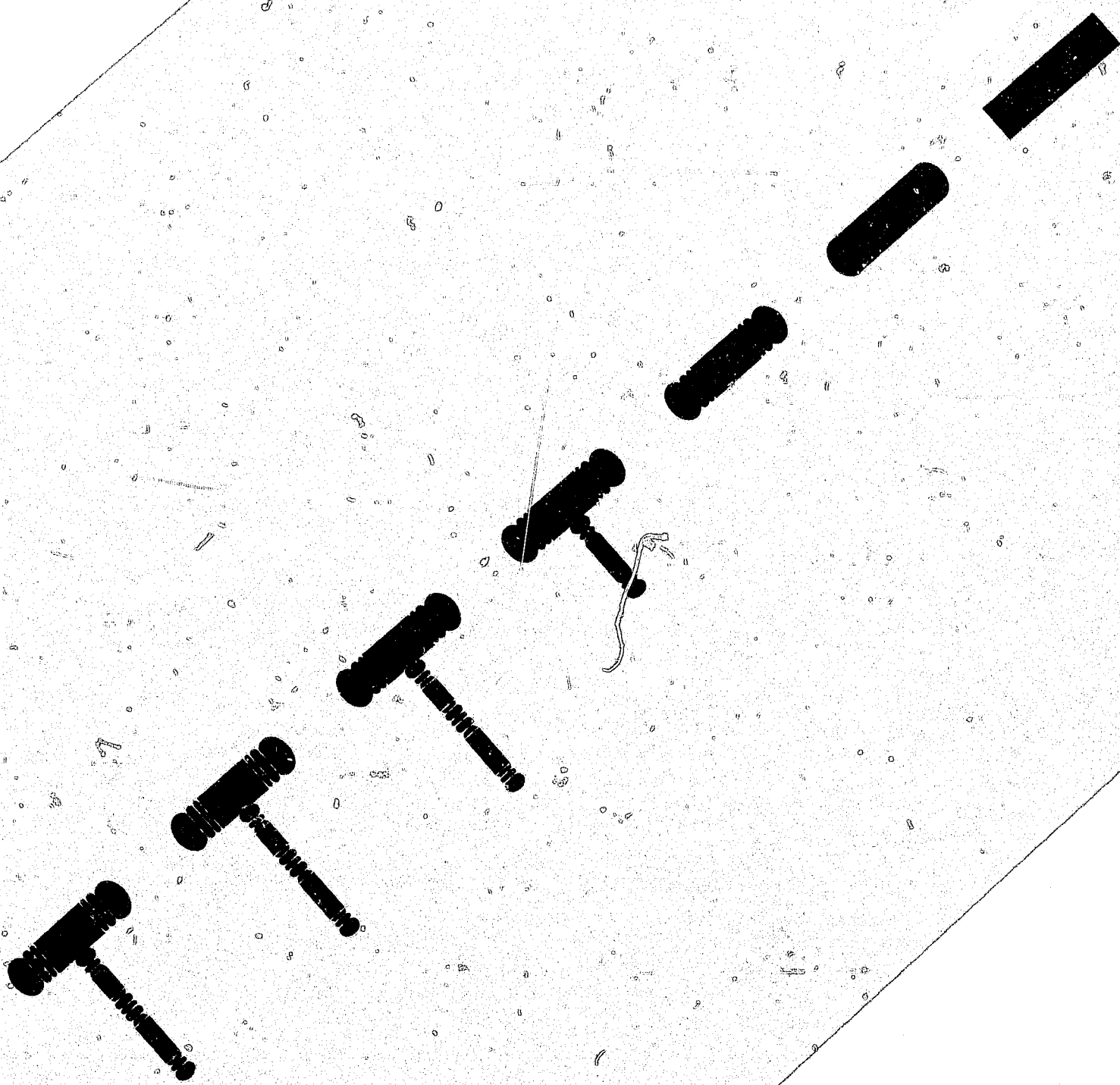
effectiveness of the administrative adjudication of traffic infractions as compared to traditional case processing in New York State, and (2), the North Dakota traffic infraction processing system as compared to the traditional system of South Dakota. There are no new results since the 1976 Supplemental Report on Administrative Adjudication of Traffic Infractions.

## Demonstration and Research Project Status

Federal funding support of the first SAFE demonstration project in Seattle, Washington, ceased on June 30, 1976. The final report required by NHTSA detailing results from the two full years of operations was submitted in March 1977. The Rhode Island SAFE project completed its first full year of operations in July 1976. The first annual report detailing interim results from project activities was submitted in January 1977.

Status reports on the progress to date of contractor efforts are given in an ensuing section. Included are studies of the fairness, efficiency, and effectiveness of administrative adjudication and noncriminal case processing compared to traditional adjudication procedures; of the degree of use by the States of administrative hearings in driver-licensing agencies; of hearing-officer characteristics; of purpose and method of conducting hearings; of conformance to due process requirements as prescribed by recent court decisions; and of the development of a training curriculum for driver-licensing-agency hearing officers.

# Summary Results of Demonstration & Research Projects



## Seattle SAFE

Although not all Seattle SAFE components and combinations of components were equally effective in improving traffic case adjudication effectiveness, certain subsystems revealed considerable promise as a strong nucleus for the development of an optional driver control system. Some benefits were attributed to the informal, parajudicial magistrate hearings, but the specific rehabilitation programs accounted for major benefits.

Limitations of time and money did not allow a detailed analysis of each of the Seattle SAFE system elements available for assessment in this complex system, but the grouping of elements into system components did permit an adequate evaluation of the major features of the Seattle SAFE system. These elements should provide a sound basis for developing new and improved adjudication-sanction-rehabilitation procedures superior to those of the past. The SAFE system elements are the following:

- Defendant's driving records immediately available by video terminal access to State files for the adjudicator at the time the case is heard.
- Informal "one-on-one" adjudication processes, where the defendant and the magistrate discuss the case, and the magistrate renders a disposition.
- Counseling of offenders, and diagnosis of their driving problems by trained driver improvement analysts.
- Application of general and problem-specific driver rehabilitation training programs, where appropriate.

## Rhode Island SAFE

Rhode Island is the first and only statewide administrative adjudication program. The program is based on a State law that decriminalized most traffic offenses and, created an Administrative Adjudication Division, to implement and manage the system, in the State's Department of Transportation.

The first year report from the Rhode Island SAFE project states that the removal of most traffic cases from the court's jurisdiction reduced by 17 percent the backlog of cases and permitted the courts to take on new functions. The report makes the following additional points.

- The public is satisfied and accepts the system.
- Savings of time to police departments and police prosecutors is the result of simplified procedures and the resolution of many cases at first hearing. Only 5 percent of the hearings involved contested cases.
- Hearings costs were lower than in traditional court system.
- Referrals to driver retraining and safety programs were made in 22 percent of the cases which were disposed of at a hearing.
- Processing and disposition of traffic offenses in terms of consistency of sanctions were improved.

The administrative adjudication system installed under the SAFE demonstration in Rhode Island is a workable one which is likely to be retained on a permanent basis. A budget submission was made to the 1977 legislature for State funding for fiscal year 1978.

Among the several advantages found in the structure of SAFE in Rhode Island are centralized record keeping, flexibility in hearing

scheduling, easy access to cooperating agencies such as the registry of motor vehicles, and the promulgation of policies for all elements of the organization.

Whether the Rhode Island model could be transferred to other States would be determined by the scale of the required operation. In larger States, some regional organization may be more desirable than a totally centralized one.

## State Driver-Licensing-Hearing Authority

NHTSA research has demonstrated that States must extend an "opportunity to be heard" to drivers, before their licenses may be withdrawn if there is discretion over the withdrawal. Whenever there are contested facts involved in the license withdrawal decision, the driver is entitled to a "trial type" hearing. State legislatures have full power to determine where within the State—the courts or an executive agency—should be vested the authority (1) to exercise this discretion and (2) to conduct license withdrawal hearings.

Traffic laws and other regulations concerning driver licenses were enacted, historically, as measures to protect the public safety on our highways. Driver licensing agencies were given the primary responsibility for administering traffic safety programs affecting drivers, and for determining when (and sometimes for what reason) a driver's license should be withdrawn. The full authority and control over procedures for the issuance and withdrawal of driver licenses should be vested within a single agency. There are other reasons for vesting the hearing authority with the driver licensing agency, rather than the courts.

Courts have become more and more concerned with the backlog of criminal cases and hence tend to give less attention to traffic offenses and license hearings. Moreover, it can be demonstrated that administrative agencies can more effectively conduct hearings like those concerning the withdrawal of the driver license.

The authority of an administrative agency to conduct hearings and make determinations is strengthened by provisions set forth in the model Administrative Procedures Act (APA) under which a court of law may reverse or modify the agency decisions. First, judicial reviews are to be conducted by the court *on the record*, with the addition of needed oral argument or written briefs. The Model APA identifies specific reasons for which a court may reverse or modify a decision, and these generally relate to the agency's interpretation or application of the law. The model APA states that "the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact,"<sup>1</sup> and thus clearly delineates the authority and responsibility of both the administrative agency and the court with respect to the conduct of such hearings. This concept should certainly apply to driver license cases. The driver licensing agency has sole jurisdictional authority to issue licenses and, similarly, should have sole authority to determine when a driver's license is to be withdrawn, subject to judicial review to guarantee due process. Eighteen jurisdictions currently do not have an APA that applies to licensing agency hearings.

Due process requires the separation of adjudicatory functions from enforcement functions within administrative agencies. This single constraint only precludes a State from having enforcement officials conduct license withdrawal

hearings. Beyond due process there are other factors, however, such as the public perception of the fairness of a proceeding, that should be considered in establishing an organizational entity to conduct these hearings. The appearance of justice often depends on the perceived degree of independence of the decisionmaker, and this affects the acceptable organizational relationships of the various State personnel involved in the proceeding.

From the perspective of the driver the hearing is viewed as either a first or a final contact with driver control officials. It demonstrates how licensing agencies may be using the driver's appearance for a license withdrawal hearing as the first step in screening problem drivers. To use the hearing this way is inappropriate and demeans its importance. The hearing has great import for the driver in that it may determine whether he retains his means of earning a livelihood. The hearing, therefore, should not be subverted by using license withdrawal appearances as simply a screening mechanism.

Current practices were evaluated for their satisfaction of due process requirements. The area of greatest weakness was in notifying drivers that their licenses may be withdrawn and that they have an opportunity for a hearing. The notice of proposed withdrawal is the key document to provide the driver with sufficient information on the reasons for the withdrawal action and on his rights. He can then determine whether or not to request a hearing. This first notice to the driver should clearly state the reason that the license may be withdrawn, and should include an explanation as well as a citation of the authorizing statute. When appropriate, the date and time of the traffic offense should be indicated, particularly for implied consent or financial responsibility cases. For frequent violator cases,

the notice should include a list of the offenses that culminated in the agency's seeking to withdraw the license (See Chart 1).

The information considered during the sanctioning portion of the hearing depends primarily upon the policy of each licensing agency as to what may be considered in withdrawing the driver's license. For example, some States may provide occupational licenses to those using their license as a means for earning their living; other States do not believe that the need to drive should affect whether or not a problem driver is permitted to retain his license. Furthermore, the driver's attitude, as shown by his conduct during the hearing, may be considered more by some States than by others in setting the sanction. Specific guidelines would be helpful in determining the amount of discretion over this process; these should also apply to interviews providing the "opportunity to be heard."

Driver licensing administrators are concerned with whether a special staff of legally trained hearing officers must be established to conduct license withdrawal hearings. Although this is not necessary to satisfy due process, many agencies may take this approach to obtain the capability for conducting proper hearings.

Due process does not require hearing officers to be lawyers. Nevertheless, the type of hearing envisioned requires someone familiar with many legal techniques, such as how to accept evidence and enter it into a record, how to create a record that will stand up to court review, and how to judge facts and make decisions. These skills can, of course, be taught through training programs, such as that being conducted by NHTSA.<sup>2</sup> Hearing

<sup>1</sup> Model State Administrative Procedure Act, subsec. 15(g), Uniform Laws Annotated, Vol. 9c, 1967 Com. Supp. pp. 134-161.

<sup>2</sup> In-service training seminar for the Driver Licensing Administrative Hearing Officer, contract no. DOT-HS-5-01268, Applied Science Associates, Inc., 1976.



officers must be able to control the conduct of the hearing and to interact with lawyers representing licensees (these counsel often do not understand the procedures applicable to driver license hearings). States faced with a choice of training nonlawyer hearing officers or of hiring new personnel, may opt for the hiring of lawyers as a means of obtaining qualified personnel as hearing officers.

### Openness of Jurisdictions to Proposed Changeover

The transition from judicial adjudication of traffic infractions to administrative adjudication in California was a difficult one. Judicial and legal interests opposed the use of nonlawyer hearing officers as traffic infraction adjudicators. There was also considerable opposition to changing traffic infraction adjudication from a criminal to a civil and administrative procedure.

A central issue in the California legislature's consideration of administrative adjudication of traffic infractions was the status and qualifications of the hearing officers. Nonlawyer hearing officers who come from the ranks of the department of motor vehicles may have too much of an "efficiency/safety" orientation to be fair and impartial in decisionmaking.

The case for highway safety and cost benefits of administrative adjudication has not been as persuasive to the California legislature as concern over the rights of the violator and the need for special procedural safeguards in case processing.

## Chart 1. Sample of Proposed License Suspension Form

### DEPARTMENT OF TRANSPORTATION DRIVER LICENSE DIVISION

TO: DRIVER'S NAME  
ADDRESS

DATE: \_\_\_\_\_  
DRIVER LICENSE NO.: \_\_\_\_\_  
CASE NO.: \_\_\_\_\_

### NOTICE OF PROPOSED LICENSE SUSPENSION

You are hereby notified that your driver's license will be suspended due to your accumulation of \_\_\_\_\_ points on your driving record as a result of the following traffic violations:

Date	Time	Location	Violation

Under the authority of Section \_\_\_\_\_ of the State Code of Laws, your license will be suspended for \_\_\_\_\_ days beginning on \_\_\_\_\_, unless you request a hearing.

**YOU HAVE A RIGHT TO A HEARING BEFORE YOUR LICENSE IS SUSPENDED.**

**IF A WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THIS DEPARTMENT WITHIN 30 DAYS OF THE DATE OF THIS NOTICE**

The hearing will determine whether there is adequate reason for the proposed suspension, or whether you may be allowed to attend driving school and retain your license because of your need to drive. To request a hearing, please detach and complete the form below and mail it to:

Driver License Division  
P. O. Box  
City, State  
Telephone: \_\_\_\_\_

John Doe, Director  
Driver License Division

Driver's Name: \_\_\_\_\_

Driver License No.: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Case No.: \_\_\_\_\_

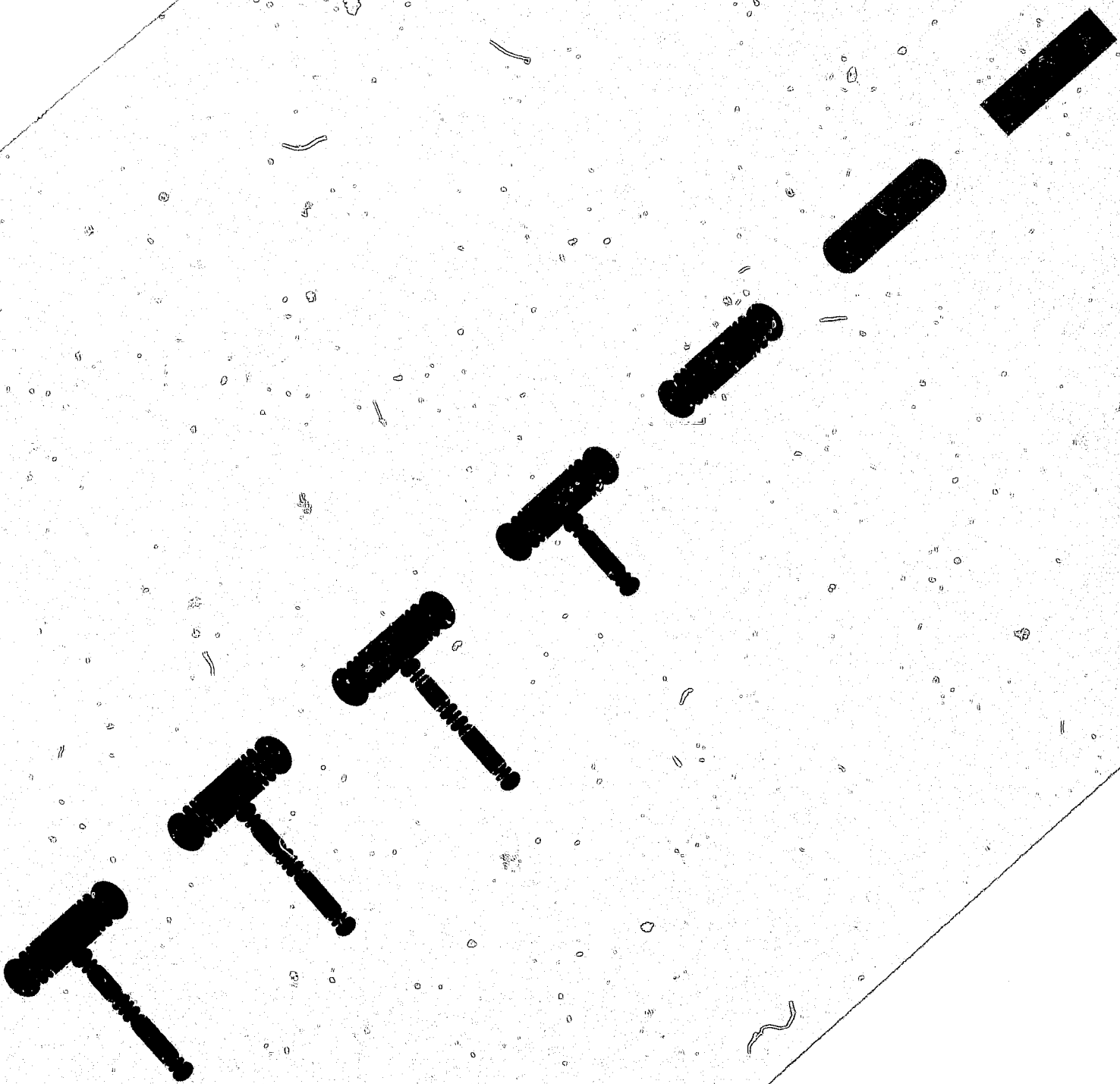
I request a hearing on the proposed suspension of my driver's license. This request is made to (check one):

- refute the traffic convictions shown above
- discuss my need to drive at work or to my job
- discuss my driving record and the reasons for the above violations
- other: \_\_\_\_\_

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

# Conclusions



SAFE in both States freed the courts of a large traffic caseload and reduced the per case processing costs. The impact on the subsequent driving performance of offenders processed by the Seattle SAFE magistrates was clearly demonstrated to be as effective as the traditional court procedure. On the other hand, the even simpler bail forfeiture was also found to be least expensive and almost as effective as either the magistrate or traditional system. It could not be determined whether either magistrates or driver analysts could improve the effectiveness of driver improvement programs by selecting the clients referred to these courses.

Communities considering a parajudicial approach to handling traffic cases of the type covered by the SAFE project should continue evaluation of these procedures however, to insure that the SAFE results are applicable to their particular jurisdiction.

In addition to relieving court caseload, a pivotal factor to any jurisdiction's decision to adopt a parajudicial or administrative adjudication of traffic infraction should be the feasibility of integrating judicial sanction decisions with driver-licensing-agency rehabilitation and license withdrawal decisions. The Seattle SAFE parajudicial model should be the standard for this integration. If such an integration is not feasible, serious consideration should be given to the administrative adjudication approach.

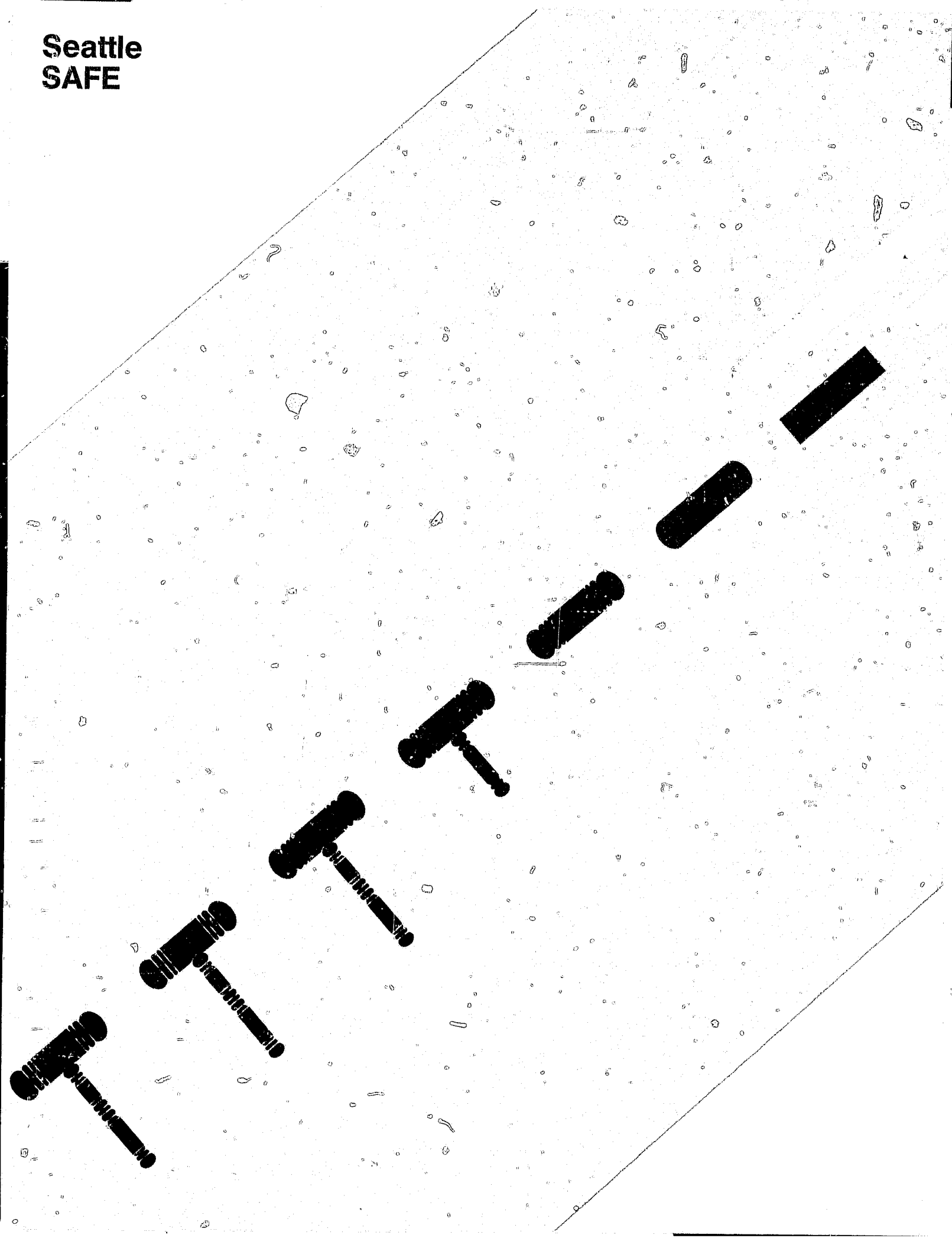
Attention must be given also to the status and qualifications of the driver-licensing-agency hearing officers. If the proceedings are to be noncriminal in nature and some of the hearings officers nonlawyers, it will be necessary to try to insulate the hearing process from any appearance of undue driver-licensing-agency influence in infraction case fact finding.

Most jurisdictions need to improve and upgrade their existing driver-license-withdrawal hearing capability. Jurisdictions should be aware that the impression of justice left by these administrative hearings on the motoring public and judicial and legal interests will reflect on their professionalism and competency in highway safety. Pending adoption of the Seattle SAFE parajudicial model by more jurisdictions, progress will rest on jurisdictions' willingness to improve their licensing agency hearing capability. The following areas are identified for improvement:

- The authority to withdraw the driver license and to conduct driver license hearings should rest with the administrative agency responsible for issuing and controlling driver licenses.
- Administrative procedures acts should be adopted by all the States and made applicable to driver-license-withdrawal proceedings.
- An independent unit responsible for conducting trial type hearings be established and trial type hearings be provided in all license withdrawal actions involving contested facts.
- Driver control interviews and other driver screening mechanisms should be clearly separate from license withdrawal hearings.

- The notice of proposed license withdrawal should clearly inform the driver of his rights.
- The notice of schedule appearance should clearly inform the driver of the schedule and purpose of the appearance.
- The driver should be informed of any procedures for administrative appeals of a hearing officer's decision. Further appeals to a court of law should be made on the record.
- The driver should be informed of the findings of the hearings and reasons for the agency's determination.
- Trained specialists should serve as hearing officers.
- The hearing officer position should be a senior level one in the agency.

Seattle  
SAFE



Special Adjudication for Enforcement (SAFE)<sup>3</sup> became operational in Seattle in July 1974 and received Federal funds through June 1976. SAFE combined the adjudication processes of the courts and the driver improvement functions of the State department of motor vehicles and the local safety council in an effort to improve traffic safety and the utilization of public resources and facilities devoted to solving driver problems. The project's objectives were the following:

- To apply swift and fair adjudication to traffic defendants.
- To identify problem drivers and refer them to appropriate corrective programs.
- To remove chronic traffic-law violators from the roads.
- To implement cost effective adjudication and rehabilitation programs.
- To reduce the traffic-case burden of the municipal courts.
- To develop programs that are accepted by the public and people who come in contact with the programs.
- To reduce traffic violations and accidents.

The SAFE program, designed to meet these objectives, included these central features:

- Appearance for adjudication at the defendant's discretion, without having to await a court date.
- Defendant's driving records immediately available by video terminal access to State files for the adjudicator at the time the case is heard.
- Informal "one-on-one" adjudication processes, where the defendant and the adjudicating magistrate discuss the case, and the magistrate renders a disposition.

- Counseling of offenders, and diagnosis of their driving problems by trained driver improvement analysts.
- Application of traditional sanctions of fines and license suspension where appropriate.
- Application of general and problem-specific driver rehabilitation training programs where appropriate.
- Education of the public concerning the SAFE program.

SAFE was designed and implemented to permit scientific evaluation of the effectiveness of the program and its elements. Major features of the evaluation strategy were the following:

- Random assignment to treatment and control groups, where appropriate and consistent with preservation of equal justice.
- Comparisons of alternative experimental treatments for handling minor traffic violations.
- Large sample sizes to facilitate statistical and practical detection of significant differences in treatment outcomes.
- Multiple criteria, or outcome measures, to assess the project's impact.

The evaluation was directed toward two broad issues: The efficiency of administering the program, and the impacts of the program on those involved. Efficiency and impacts were assessed for both the adjudication and rehabilitation

components of the system. A number of factors were measured: (1) Case processing time—adjudication, analysis, rehabilitation; (2) caseload volume—numbers of cases entering and completing programmatic system parts; (3) case dispositions—verdicts, appeals, referrals; (4) revenue and costs—fines and program administration costs; (5) driver recidivism—violations and accidents; (6) attitudes toward SAFE of affected population groups—SAFE defendants, public, police, attorneys, adjudicators.

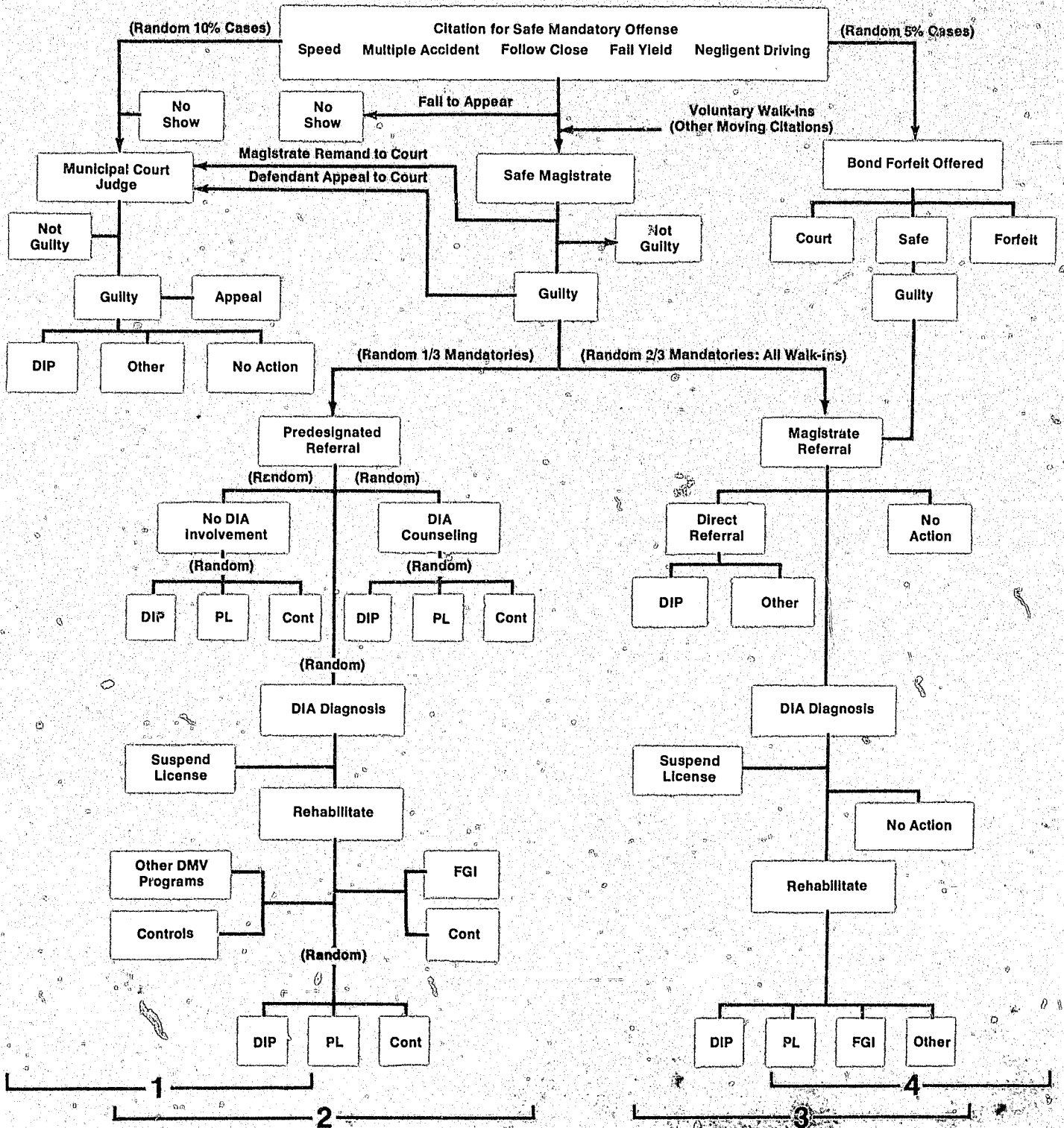
These outcomes were assessed and compared for three adjudication alternatives as shown in Chart 2: SAFE—adjudication in an informal magistrate-defendant hearing; court—adjudication by trial with a judge in the city municipal court; and no adjudication—the traditional pre-SAFE practice of allowing forfeiture of bail (ticket payment) by mail or personal delivery.

### **Case Processing: Volume and Speed**

During 21½ months of operation, SAFE processed 41,660 minor traffic cases, of which 65 percent involved mandatory appearances; 36 percent were speeding cases and 28 percent were multiple offenders, having three citations in 1 year or four in 2 years. The caseload averaged 101 a day or 505 a week. Most of the defendants were men (72 percent), white (83 percent), relatively young (65 percent between the ages of 18 and 34), with low-to-moderate incomes (88 percent earned less than \$15,000). Voluntary defendants included more women and people with better driving records.

<sup>3</sup> Seattle Special Adjudication for Enforcement (SAFE) Project, contract number DOT-HS-343-3-682, 1973, Final Report, December 1976. Parts of this section are a verbatim extract from the Final Report.

## Chart 2. SAFE Evaluation Design



Cont - Control  
 DIA - Driver Improvement Analyst  
 DIP - Driver Improvement Program\*

FGI - First Group Interview  
 PL - Programmed Learning  
 \*See Page 13

It took an average of 52 minutes to process a SAFE case, excluding any time spent in rehabilitation programs. The defendant spent about 6 minutes with the magistrate and 11 minutes with the driver improvement analyst (DIA). Half of the defendants had to wait less than an hour for their hearing; 86 percent saw a magistrate within an hour. The times the DIA spent either counseling offenders or diagnosing their driving problems did not differ substantially.

### Case Dispositions

Eighty-nine percent of the cases were judged guilty, exclusive of approximately 8.5 percent of the cases which were referred to court for formal trial. Offenders were fined an average of \$20, of which \$10 was typically suspended. For offenders assigned to rehabilitation and also fined, the amounts suspended were higher. Twenty percent of the defendants were referred to some form of rehabilitation; of these, 5,989 (73 percent) were assigned to Defensive Driving Courses, 1,543 (19 percent) were sent to First Group Interview and 668 (8 percent) were referred to other Department of Motor Vehicles (DMV) programs. DIAs recommended driver license suspensions for less than .3 percent of the defendants. The exception rate on predesignated referrals was approximately 16 percent.

### Case Processing Costs

Based on established volume, it cost \$13.22 to process a SAFE case, including only costs associated with

direct defendant processing. Excluded are enforcement costs and some ancillary office management costs. Comparable costs for formal court trial and bail forfeiture was \$40 and \$9, respectively. The diagnostic-rehabilitation component of SAFE accounted for 61 percent of the administrative cost. The addition of costs incurred by the defendant (fine and time) and the subtraction of savings due to recidivism prevention, produced a net societal economic cost of \$17.35 per case.

### Adjudication Efficiency

SAFE's effect on the efficiency of court operations was that of permitting the courts to maintain a manageable docket despite a 25 percent increase in total court trials. Except for a significant increase in the fine-based court revenues, there was no consistent or reliable improvement or decrement in court performance during the SAFE program period. A comparison (across quarters) of the proportion of cases heard by the courts which were not related to traffic and the number of cases awaiting trial for

various lengths of time showed similar caseload characteristics at the beginning and end of the SAFE program, although with marked differences between the first and second year of operation.

### Equality in Adjudication

Notwithstanding different personal characteristics, defendants with few exceptions fare equally in their SAFE hearings. Only driving exposure was related to verdicts, with guilty outcomes more common for people who reported that they typically drove fewer miles per week. Fines levied on offenders appeared superficially to vary with their sex, age, education, and income. The effects of such personal characteristics were minimal or nil, however, when the influence of other factors, such as offense committed and driving record, were partialled out (controlled). Thus, for example, while men were fined more than women, men also tended to have had poorer driving records and to have committed more serious offenses, which carry higher fines. The only characteristics related to fines, which could not be explained

Activity or Outcome	Magistrates		
	(1)	(2)	(3)
Average cases heard per working day	42	30	24
Percent of cases referred to court	2.1	10.7	10.8
Percent of cases found guilty	87.4	86.3	88.1
Average dollar fine per case	19.08	20.40	21.05
Average fine after part-suspension	9.28	9.92	10.28
Minutes spent by defendant in SAFE	43.07	47.87	50.07
Number of magistrate-determined direct referrals to DIP <sup>1</sup>	18	258	84
Percent of defendants recidivating <sup>2</sup>	8.0	9.4	8.2
Percent of defendants recidivating <sup>3</sup>	15.6	16.7	16.3

<sup>1</sup> DIP—Driver Improvement Program.  
<sup>2</sup> SAFE citation.  
<sup>3</sup> Other citation.

by other logical correlates, were the defendants education and income. High school graduates were fined more than people with either less or more education. Except for offenders earning less than \$3,000 per year, those earning more money tended to be fined less, after fine suspensions were taken into account.

### Magisterial Consistency

SAFE employed three magistrates at any given time. What ultimately happened to the defendant generally did not depend on which magistrate heard his case (see Table 1). Magistrates spent different amounts of time with defendants, differed in the average number of cases they heard in a workday, and differed in their referral patterns (that is referrals to court and to rehabilitation). They were consistent in their verdicts, however, with each one finding approximately 89 percent guilty. Although magistrates differed significantly in their fines, the magnitude of the difference

(after partial fine suspensions) was on the order of only \$1. Citation recidivism rates were equivalent for offenders who saw different magistrates.

### Driver Improvement Analyst Consistency

Offenders directed to post-adjudication driver improvement diagnosis and rehabilitation program referral were treated essentially the same by each of the three Driver Improvement Analysts in cases where the initial referral (to the DIA) was at the discretion of the magistrate, and DIAs had totally free choice of their actions (see Table 2). Although between-analyst variance was minimal, strong preferences for certain types of available referral actions were noted.

### Attitudes toward the SAFE Program

Defendants who experienced the SAFE process were generally

favorably disposed toward the program, though their degree of satisfaction and perceptions of convenience did not differ from those of court and forfeit defendants. Most SAFE defendants thought their driving improved after their SAFE experience, due to having learned something new or more about driving. Sixty-five percent felt the magistrate was helpful, and 66 percent thought the DIA was useful. Eighty percent of those who attended rehabilitation programs considered those programs worthwhile. Defendants generally reacted well to components of the adjudication system, particularly rehabilitation.

Attitude surveys of other population groups showed that SAFE was most favorably received by the public and personnel of the host court. There were some ambiguities between the program objectives and (a) attorneys' preferences for bail forfeiture and (b) the "harder-line" viewpoint of police officers toward sentencing traffic offenders.

### Effectiveness of the SAFE Adjudication Process

An important feature of the SAFE program was the use of a research design permitting the magistrate hearing system to be compared with traditional court trial procedure in its effect on the subsequent driving records of the defendants. All the drivers used in this portion of the study were randomly assigned to one of three processes; bail forfeiture, magistrate hearing, or court trial. In this way, differences

**Table 2.—Percentage of Different Actions Applied by the Driver Improvement Analysts**

Action Recommended	Driver Improvement Analysts		
	(1)	(2)	(3)
License suspension	2.4	2.6	2.1
FGI <sup>1</sup> rehabilitation	26.8	25.8	28.5
DIP <sup>2</sup> rehabilitation	18.0	12.6	16.9
PL <sup>3</sup> rehabilitation	1.8	2.1	1.2
None	48.6	52.6	46.7

<sup>1</sup> First Group Interview—a DMV driver improvement program designated primarily for overly aggressive drivers.

<sup>2</sup> Driver Improvement Program—a local term for the Defensive Driver Course (DDC).

<sup>3</sup> Programmed Learning—a modified version of DDC employing tape players and cassettes for self-instruction.



between drivers (in age, sex, socioeconomic status, previous record, etc.) which had often made comparisons between various alternative court programs impossible, were eliminated as sources of bias in the SAFE study. A well-controlled study of the effectiveness of the magistrate hearing in comparison to the court trial was important because, while the magistrate system supposedly improves efficiency and reduces costs, the procedure should be at least as effective as the traditional system in influencing the subsequent driving behavior of traffic offenders.

The three basic alternatives bail forfeit, magistrate hearings, and court trials, were compared separately from the influence of rehabilitation procedures by limiting the study to those judged not guilty or who received fines but were not assigned to a school. The results indicated that there were no differences in the proportion of each group who were subsequently involved in accidents. The drivers who received either a magistrate hearing or a court trial had fewer subsequent traffic offenses than did those who were allowed to forfeit bail (see Table 3). The results indicated, therefore, that those who received a magistrate hearing did at least as well as those who were treated in the traditional way. In fact, there was some evidence that the magistrate hearing produced better results. Those offenders who had had such a hearing delayed longer in committing either a traffic offense or being involved in an accident than did individuals who had had a court trial (see Table 4). It should be noted, however, that

there was no difference between bail forfeiture and magistrate hearings (SAFE) as regards the accident delay measure. These results suggest that the increased efficiency and savings associated with magistrate hearings and bail forfeiture can be achieved without a loss in the effectiveness of the process for reducing accidents.

The use of the random assignment procedures also provided a good test of the relative effectiveness of the four rehabilitation programs. (The results of this analysis will be presented in NHTSA reports on driver education.)

Although most of the defendants processed by the SAFE were "predesignated" for one or another type of course on a random basis to permit the program's evaluation, some were left unassigned so that the magistrates and the DIA counselors might make referrals to treatment. It was not possible to evaluate the effectiveness of these referrals because appropriate control groups were not available. The individuals referred to the Defensive Driving Course (DDC) by

the magistrates did not do as well as those predesignated at random for this treatment. This may indicate that the magistrates required the drivers with the worst records to take DDC. On the other hand, the drivers referred to the DDC by the DIA counselors generally did better than the randomly assigned drivers. This may indicate that they sent the drivers with better records to DDC and used the other sanctions or treatments for the drivers with a poorer driving prognosis. Until the effectiveness of magistrate or Driver Analyst referrals to treatment can be tested with appropriate controls, it cannot be determined whether magistrates improve the impact of an otherwise effective rehabilitation program by selecting the individuals assigned to it—an important question since fine forfeiture appears to be almost as effective as the magistrate hearings. If a driver education program can be added to this simpler, less expensive forfeiture procedure without significant loss in effectiveness relative to magistrate referred, then it may be possible to process most cases without a hearing.

**Table 3.—Percent of Traffic Offenders Recidivating**

Procedure	Violations	Accidents
Formal court	36.1	10.0
Bail forfeiture	140.5	11.3
Magistrate hearings	35.1	11.8

<sup>1</sup> Significantly higher than the other two case-processing procedures.

**Table 4.—Mean Time in Days to Occurrence of New Offense or Accident (High Scores Are "Good")**

Procedure	Violations	Accidents
Formal court	125	141
Bail forfeiture	125	186
Magistrate hearings	1150	184

<sup>1</sup> Significantly different from the other two case-processing procedures.

Rhode  
Island  
SAFE



The Special Adjudication for Enforcement (SAFE)<sup>4</sup> demonstration project in Rhode Island is operated by hearing officers of the Administrative Adjudication Division (AAD) of the State Department of Transportation. On July 1, 1975, a State law became effective in Rhode Island which decriminalized most traffic offenses and established the AAD to adjudicate these cases. SAFE began on the same date. These results are based on the first year's experience of a 2-year operational period. The project's objectives are the following:

- To remove the bulk of the annual traffic caseload from the district courts permitting the reduction in backlog of other types of cases and assignment to the district courts of certain functions previously handled by the superior courts.
- To implement a reliable system that permits the nonchronic offender to pay a fine by mail in minor traffic violations or, if desired, to contest the facts or explain the circumstances at an administrative hearing.
- To identify the chronic offender and require him to appear at an administrative hearing to adjudicate his offense.
- To make accurate and up-to-date driver histories available at hearings (after judgment) so that sanctions can be applied based on the facts of the case and on the driving history.
- To require individuals who represent a possible traffic safety hazard to complete a driver retraining school as an alternative or adjunct to the sanctions imposed.

- To reduce the elapsed time from the violation to the final imposition of sanctions.
- To provide consistent case dispositions throughout the elements of the adjudication system.

### Case Processing

During its first year of operation AAD disposed of approximately 65,000 traffic summonses, with 49,626 of these having been paid by mail and the remainder adjudicated at hearings. The pay-by-mail summonses generated fines in the amount of \$1,089,682 of which \$113,761 came from follow-up procedures implemented by the project.

The volume of summonses paid by mail declined by approximately 14 percent compared to the 12 months prior to the project. AAD's ability to enforce the condition that a motorist can pay only one summons by mail in a 12-month period was the responsible factor.

Analysis of the violations paid by mail revealed that speeding charges account for 78 percent of all summonses. Seven of 51 violations payable by mail (speeding, obedience to devices, conditions requiring reduced speed, obedience to stop and yield signs, operating left of center and overtaking where prohibited) account for 94 percent of the pay-by-mail volume.

Of persons paying summonses by mail 73 percent were State residents. Drivers under age 25 were overrepresented in summonses paid, in comparison to their numbers in the licensed driver population.

At the end of June 1976, 3,742 persons who received summonses and were eligible to pay by mail, had not responded. They had their driver licenses or rights to operate in the State suspended.

### Hearing Officer Staff and Case Disposition

The AAD hearing section is composed of three full-time commissioners and one part-time commissioner and security and clerical personnel. The commissioners sit at various sites around the State to adjudicate violations requiring the driver to appear personally. During the first year of operation, 14,982 summons containing 16,254 violations were disposed of. This was an increase of some 70 percent in the number of personal appearances required, compared to the 12 months prior to AAD.

Approximately 56 percent of the hearings were required because the motorists were not eligible to pay by mail, while 40 percent involved offenses that could not be paid by mail. Less than 2 percent of the hearings were of people eligible to pay by mail but wishing to contest the case or to admit culpability with explanation.

Five percent of the AAD hearings involved contested cases requiring the appearance of the issuing officer. This figure contrasts with the 9 percent contested rate in the last year of court jurisdiction over the relevant traffic violations.

The sustained rate in contested cases was 54 percent and 85 percent in uncontested cases. Both rates are significantly higher than those in the courts in the year before AAD. (Table 5).

<sup>4</sup> Rhode Island SAFE Project, contract number DOT-HS-4-00956CA, Annual Report, July 1975-June 1976. Parts of this section are a verbatim extract from the Annual Report.

Variations existed in the sustained rates of various violations and among the hearing sites. Also certain violations (those related to an accident) were more likely to be contested.

Fines for similar violations were found to have been levied with a high degree of consistency among the hearing sites. The average fine in uncontested cases was higher under AAD than the courts; the reverse was true in contested cases.

In 22 percent of the cases disposed at hearings referrals to driver retraining were made. Variations in referral rate occurred among the hearing sites. These differences related to variations in driver history and residence, and to policy on referral as an alternative to fines.

Rhode Island residents made up 93 percent of those disposed at hearings, a significantly higher proportion than the 73 percent figure for summonses paid by mail. This difference was occasioned by Rhode Island residents being more likely to be ineligible to pay by mail (that is, have a prior violation) and to be more likely to receive a summons for an offense that cannot be paid by mail. No differences were found in the sustained rates as a function of residence.

### Defendant Characteristics and Attitudes

Approximately 86 percent of the persons adjudicated at hearings were males, a higher rate than the 78 percent of males who paid summonses by mail. The reasons are probably the greater likelihood that males are ineligible to pay by mail and to be issued summonses for offenses that require a hearing. Differences were found in the sustained rates for males and females charged with like violations. The sustained rates for males and females also differed among the hearing sites.

Young drivers were overrepresented among those disposed at hearings compared to the licensed driver population and to those who paid summonses by mail. Significant differences related to age were found in the likelihood of having uncontested charges sustained—older drivers were more likely to have charges dismissed. Drivers who contested cases were found to be somewhat older than those who did not contest.

Ninety-three percent of motorists leaving hearings sites said they had been treated fairly. Approximately 41 percent said there could have been a better time for the hearing.

There was no unanimity of opinion, however, about when that time would be.

### Appeals and Scofflaws

Appeals of hearings are taken first to an AAD appeal board and then to court. During the first year, 35 appeals were filed, representing a rate of about 13 percent of all contested hearings where the charges were sustained. To date, two appeals have continued into the court system.

The noncompliance rate (failure to pay by mail or appear at a hearing) was found to be higher for out-of-State residents than among those holding Rhode Island licenses. A recent policy of adjudicating through the mail out-of-State residents who do not appear at hearings has had a compliance rate of 50 percent.

**Table 5.—Sustained Rates in Contested and Uncontested Violations**

	Contested violations		Uncontested violations	
	Guilty or Sustained	Other	Guilty or Sustained	Other
AAD	306	262	8,909	1,607
Court	310	585	4,454	1,469

## **Data Systems and Costs**

The AAD data system has been implemented at the State's central data processing installation. Consisting of 26 functional subsystems made up of 48 programs, the data system supports the major activities of AAD. These include summons and fine accounting and control, determination of eligibility to pay by mail, hearing scheduling, generation of suspension notices, and the production of various reports. The bases of the system are driver-based files of violation, accident, suspension, and driver retraining history.

The typical monthly charge for data processing was \$8,200 of which about 62 percent came from computer time and the remainder from keypunching. The cost per disposed summons amounts to \$1.53.

Operational costs during the first year amounted to \$369,814 with the hearing process the major cost element. The unit cost of disposing a summons paid by mail is estimated to be \$2.78, while the unit cost of a hearing disposition is \$16.82.

Limited data make cost comparisons with the district court disposition of traffic cases difficult. At a gross level, the average court cost of disposing of a case regardless of type was at least \$19.56. The AAD hearing cost of \$16.82 is therefore cost competitive.

## **Recidivism**

Because of the relatively short period of operation and some problems associated with the data base, it seems premature to discuss recidivism at this point. An encouraging finding was that the average elapsed time between offenses among those who went to more than one hearing was 105 days compared with 92 days for multiple violations requiring court appearances in the year before the project.

The median time from issuance of the summons to hearing disposition was approximately 45 days in uncontested cases and over 90 days in contested cases. The 45-day figure is substantially higher than the less than 30 day median for the courts in uncontested cases because of the initiation of the AAD scheduling system. No data are available on the time to court disposition of contested cases.

## **Case Backlog and Enforcement Costs**

AAD had a major impact on the court system. Removal of most traffic cases from the court's jurisdiction brought about a 17 percent reduction in the backlog of

cases and permitted the courts to take on new functions. Thus AAD helped alleviate court caseload and permitted progress to be made to a restructuring of the court system.

AAD also provided savings to the police departments through the reduced need for police prosecutors at arraignment of traffic cases; officers spending less time at contested hearings than at contested court cases; reduced clerical tasks owing to the elimination of warrants in most traffic cases and the elimination of the *capias* as the follow-up to defaulted court appearances.

**State Driver-  
Licensing-  
Hearing  
Authority**



## Background<sup>5</sup>

All 50 States enacted driver licensing laws and established agencies to administer those laws. Driver licensing agencies historically issued licenses to qualified drivers, collected licensing fees, and maintained information on those licensed to drive. At first, these agencies were primarily concerned with fee collection and driver identification. With the advent of traffic safety programs, the agencies took on new responsibilities to identify problem drivers, to conduct driver control and improvement programs, and to withdraw licenses from those deemed no longer qualified to drive. Agency actions to withdraw driver licenses led many courts to direct that certain individual rights must be afforded to drivers before their licenses may be suspended or revoked. Some courts regarded the driver license, once issued, as a right in itself, although other courts still considered it a privilege extended by the State. These

differences in interpretation affected numerous court decisions in upholding or denying various individual rights in the license withdrawal process. In 1970, considering the dependency of Americans on their driver licenses, the Supreme Court, in *Bell v. Burson*,<sup>6</sup> went beyond the basic question of whether a license is a right or a privilege. The Court determined that before a State could withdraw a driver's license, the State must afford the individual certain due process rights. This decision recognized the right of the individual to request a hearing, with the State, on the reasons for a proposed license withdrawal.

Although, the Supreme Court ruled that hearings are required in license withdrawal actions, in *Bell v. Burson* it did not specify how these hearings are to be conducted or what aspects of due process are necessary in a license withdrawal proceeding. Although many States have implemented administrative procedures to guarantee due process rights, some of which provide for formal hearings, many others have not done so. Part of the problem is that lower courts have differed in their interpretations as to which license withdrawal procedures are necessary to guarantee individuals rights. For these reasons, research was undertaken to (1), provide guidelines as to the due process rights that must be afforded in license withdrawal proceedings and, (2), identify the extent to which State driver licensing agencies have adopted adequate procedures.

## Authority to Withdraw Drivers Licenses

State legislatures have authorized driver licensing agencies to withdraw licenses for several different reasons. For example, as a deterrent to violating traffic laws, the suspension of the driver license is used as a sanction against those convicted by the courts of serious or repeated traffic violations. License withdrawals also serve as an administrative sanction to enforce other statutes, such as laws requiring drivers to take alcohol tests when requested by enforcement officials, or laws requiring drivers to be financially responsible for liabilities as a result of their involvement in automobile accidents. Licenses may be suspended for a specific period of time, or revoked indefinitely, depending upon the reasons for the action. The term "license withdrawal" is used in the report to refer to both actions.

<sup>5</sup> State Driver Licensing Agency Hearing Authority, contract number DOT-HS-5-01252, Arthur Young and Company, Final Report, April 1977.

<sup>6</sup> *Bell v. Burson*, 402 U.S. 535 (1971).

## License Withdrawal Process

Driver licensing agencies have developed various methods for taking action against drivers whose licenses may have to be withdrawn. Once an agency determines that license withdrawal proceedings should be initiated against an individual, a notice is sent to that driver to inform him of this action, the reasons that his license may be withdrawn, and what the next steps, if any, are in these proceedings. At this point in many States, a driver may request a hearing for several reasons: He may want further explanation of why his license is being withdrawn; he may contest the facts upon which the agency has begun the license withdrawal action; or he may want to tell the State how dependent he is on his license.

## License Withdrawal Hearing Procedures

States follow different procedures in responding to requests for hearings from drivers subject to license withdrawal actions.

In some States a formal hearing is scheduled before a hearing officer. The driver may present his case in person, sometimes with the assistance of an attorney. The hearing officer then determines whether the driver will be allowed to keep his license and, if so, under what conditions.

In other States, the driver is told to come in for an interview before a driver improvement officer or similar official. Driver improvement officers are the State officials, involved in the traffic safety programs in the State, who may conduct driver improvement sessions, interview problem drivers, or identify those who should attend certain driver improvement clinics. Interviews before a driver improvement officer may be very informal, and sometimes procedures fail to recognize certain basic due process rights.

The reasons for the license withdrawal in some States determines that the driver is given no opportunity for a hearing until after the withdrawal takes effect.

To summarize, drivers are not always afforded an opportunity for a hearing as part of a license withdrawal proceeding. There is great variation in the types of hearings provided and in the due process procedures incorporated into the license withdrawal proceedings and the hearings.

## "Trial Type" Hearing vs. Interview

What some States refer to as a "hearing" is only an "interview" in other States, some of which conduct formal hearings in addition to driver improvement interviews. Professor Force, Tulane University School of Law, distinguished a "trial type" hearing—one providing for the submission and rebuttal of evidence before an impartial tribunal—from other proceedings such as interviews. He believes a "trial type" hearing was the type contemplated by the Supreme Court in *Bell v. Burson*.

Using this definition of a hearing, Professor Force determined when, and in what cases, such a hearing is required to satisfy due process in a license withdrawal proceeding. Generally, he believes a hearing is required when there are questions as to the factual basis for the State's action to withdraw the driver's license. Moreover, Professor Force asserted that even when the factual basis for withdrawal is not being contested, additional factors (such as the driver's attitude or need for his license) may enter into the agency's decision as to whether or not to withdraw the license. Some "opportunity to be heard" should be extended to the driver before this decision is made. Thus, Professor Force defined a new area, a middle ground between the absolutes of requiring or not requiring a hearing, when an informal interview, for example, would be appropriate in providing an opportunity to be heard.



To determine what constitutes an adequate hearing, Professor Force reviewed case law for those specific procedures that may be appropriate for driver license withdrawal actions. For example, he reviewed the notice requirements which would insure that the opportunity for a hearing be extended to a driver and that the driver be aware of his full rights. Specific procedures applicable to the conduct of the hearing were analyzed. It appears that drivers must be allowed to bring an attorney to the hearing, to present evidence on their behalf, and to cross-examine those testifying against them. Additionally, it may be necessary that States notify drivers of the final decision as a result of the hearing, and also of the reason for taking that action.

With respect to who conducts the hearings, Professor Force found few limitations as to who may be assigned to this function in a driver licensing agency. The hearing officer need not be an attorney. No conflict with due process appears to exist when the same individual serves as both a hearing officer and a driver improvement analyst.

## Findings

The findings of the national survey on license withdrawal proceedings indicate that great variations exist among States in meeting a number of due process related requirements (see Tables 6, 7, and 8). The survey revealed that most States provide a hearing as required for when an opportunity for a hearing must be extended; moreover, most States provide opportunities to be heard in cases deemed appropriate. Of great concern was the fact that several inadequacies were cited in how drivers are notified that their licenses may be withdrawn. They were not sufficiently informed of either the opportunity for a hearing or of their rights in the license withdrawal proceeding (Table 6). Also, many jurisdictions do not provide a hearing prior to license action (Table 7).

There was also a general lack of notification to the driver of the reasons for the final decision. With respect to the actual conduct of the hearings, there were many minor variances from the criteria established by Professor Force. Yet in general, States appear to be providing an adequate hearing that meets due process requirements (Table 8).

Lastly, with few exceptions the States are using personnel qualified to conduct the hearings as compared to minimum due process requirements. Although these personnel meet minimum due process qualifications, those responsible for conducting hearings generally lack training as to the due process rights and procedural requirements. Also most hearing officers have other duties (Tables 9 and 10).

**Table 6.—Responses to Questions on Contents of Hearing Notice**

Contents	Yes	No	No Response
Time and Place of Hearing .....	46	1	4
Details of Reason License in Jeopardy .....	40	6	5
A Statement of Where Burden of Proof Rests .....	14	31	6
List of Sanctions that May Be Imposed .....	31	12	8
Action Taken on Nonappearance of Driver .....	29	13	9
Where To Get Information On Hearing Procedures .....	14	29	8
Statement of Rights of Licensee .....	17	26	8

**Table 7.—Number of States According or Denying Driver Rights to Hearing by Type of Action**

Action	Number of States			
	Prior to Action	After Action	No Hearing Provided	No Response
<b>Denial:</b>				
Mandatory .....	11	13	16	11
Discretionary .....	23	17	1	10
<b>Suspension:</b>				
Mandatory .....	17	13	13	8
Discretionary .....	33	14	0	4
<b>Restriction:</b>				
Mandatory .....	11	14	9	17
Discretionary .....	20	13	3	15
<b>Revocation:</b>				
Mandatory .....	13	13	18	7
Discretionary .....	26	12	1	12
<b>Cancellation:</b>				
Mandatory .....	12	13	10	16
Discretionary .....	16	15	3	17

Beyond the requirements of due process additional measures may be used to judge whether adequate hearings are being conducted. Obviously, there are many traffic safety implications in this overall process, because the original reason for withdrawing driver licenses was to remove those who may pose a safety risk to other drivers and passengers from our highways. Thus, it is helpful to review the conduct of hearings with respect to whether they meet, or have a role in meeting, the traffic safety objectives of a particular driver licensing agency. Should the hearings be used as a method to identify drivers for certain driver control sanctions? Many situations arise where the hearing officer determines that the individual's license should not be withdrawn. Yet other sanctions may very well be appropriate, such as attendance at a driver improvement school, an occupational license, or probation. The understanding of these factors by a hearing officer depends upon his having an integral role in the State's driver safety program.

**Table 8.—Rights of Driver at a Hearing in All States**

Rights	Number of States		
	Yes	No	No Response
Present Evidence and Have That Evidence Considered? .....	48	0	3
Examine Witnesses? .....	44	1	6
Subpoena Witnesses? .....	37	7	7
Subpoena Records? .....	34	10	7

**Table 9.—Additional Duties of Hearing Officers**

**Table 10.—States Having Formal Training in Hearing Procedures, Driver Improvement, and Traffic Safety**

	Conducts DL Exam	Driver Improvement Counselor	Driver Training	Legal Counsel to DMV	Heads Driver License or Driver Service Div.	Traffic Violations Hearings	Non-driver Administrative Hearings		Pre-Service Training	Inservice or Refresher Training	Hearing Procedures	Driver Improvement	Traffic Safety	Hearing Procedures
Alabama	+	+	-	-	-	-	-	Alabama	•	•	•			
Alaska								Alaska						
Arizona	-	+	-	-	-	-	-	Arizona						
Arkansas	-	+	-	-	-	-	-	Arkansas	•	•	•	•	•	•
California	-	+	+	-	-	-	+	California	•	•	•			
Colorado								Colorado	•	•	•	•		
Connecticut	-	-	-	-	-	+	+	Connecticut					•	•
Delaware	+	+	-	-	-	-	-	Delaware				•	•	•
D.C.	+	+	-	-	-	-	+	D.C.	•	•	•	•	•	•
Florida	-	+	+	-	-	+	-	Florida	•	•	•	•	•	•
Georgia	-	+	-	-	-	+	-	Georgia	•	•	•	•	•	•
Hawaii	+	-	-	-	+	+	-	Hawaii	•	•	•	•	•	•
Idaho	-	-	-	-	-	+	+	Idaho					•	
Illinois	-	-	-	-	-	-	+	Illinois				•		
Indiana								Indiana	•	•		•		
Iowa	+	+	-	-	-	-	-	Iowa				•		
Kansas	-	-	-	+	-	-	-	Kansas						
Kentucky	-	+	-	+	-	+	+	Kentucky	•	•	•	•	•	•
Louisiana								Louisiana	•	•		•		
Maine								Maine	•	•	•			
Maryland	-	+	-	-	-	+	+	Maryland	•	•	•	•		
Massachusetts	-	+	-	-	-	+	+	Massachusetts	•	•	•	•	•	•
Michigan								Michigan	•	•		•		•
Minnesota		+	-	-	-	+	-	Minnesota	•	•		•		
Mississippi		+	-	-	-	+	-	Mississippi				•		
Missouri								Missouri					•	
Montana	•	•						Montana				•	•	
Nebraska								Nebraska						
Nevada	-	+	-	-	-	-	+	Nevada						
New Hampshire	•	+	+	•	-	••••	+	New Hampshire						
New Jersey								New Jersey						
New Mexico	+	+	-	-	-	+	-	New Mexico						
New York	-	+	-	-	-	+	+	New York	•	•	•	•	•	•
North Carolina	-	+	-	-	-	+	-	North Carolina	•	•		•		
North Dakota	-	+	-	-	-	+	-	North Dakota	•	•				
Ohio								Ohio						
Oklahoma	•	+	-	+	-	+	-	Oklahoma					•	
Oregon	-	+	-	-	-	-	-	Oregon				•		•
Pennsylvania	-	+	-	-	-	-	-	Pennsylvania				•	•	•
Rhode Island	-	+	-	-	-	+	-	Rhode Island						
South Carolina	+	+	-	-	-	+	-	South Carolina	•	•	•	•	•	•
South Dakota	+	+	-	-	-	+	-	South Dakota	•	•		•		
Tennessee	-	+	+	-	-	+	+	Tennessee	•	•	•	•	•	•
Texas								Texas						
Utah	+	+	-	-	-	-	-	Utah				•	•	•
Vermont								Vermont						
Virginia	-	+	+	-	-	+	+	Virginia					•	
Washington								Washington	•					
West Virginia	-	+	-	-	-	-	-	West Virginia						
Wisconsin	+	+	-	-	-	-	-	Wisconsin	•	•	•	•	•	•
Wyoming	-	+	-	-	-	-	+	Wyoming						

+ = YES  
 - = NO  
 BLANK = NOT AVAILABLE  
 • = SPECIAL EXAMS  
 •• = ON OCCASION  
 ••• = PARAPROFESSIONAL  
 •••• = ADMINISTRATIVE ONLY

# Receptivity of Jurisdictions to Administrative Adjudication



In the March 1977 Supplement to the 1976 Report on Administrative Adjudication of Traffic Infractions, brief descriptions of advances made in traffic law adjudication were presented. These covered the States of California, Kentucky, Maine, Michigan, Oregon, and Washington. Some additional or supplementary reports are provided in the following paragraphs.

### **California**

The California Assembly is at present considering a second legislative proposal<sup>7</sup> that allows for the processing, adjudication, and disposition of traffic infractions by administrative adjudication hearing officers in a pilot project based in three counties. This legislation, like the first legislation considered by the California Senate, is based on a major feasibility study requested by Senate Concurrent Resolution 40 and conducted by the Department of Motor Vehicles, in cooperation with the Judicial Council and in consultation with the League of California Cities and the County Supervisors Association of California. An advisory committee chaired by the Director of the

Department of Motor Vehicles reviewed the study and submitted comments to the governor and legislature. Although the advisory committee made a preliminary finding of feasibility, it recognized that certain questions relating to feasibility remained and had to be resolved through the regular legislative process. A minority report submitted by the traffic commissioner of the Oakland-Piedmont Municipal Court stated that the legal training of an attorney was more appropriate for a hearing officer than that of a driver improvement analyst because of its adjudicatory nature. It was also pointed out that California had eliminated lay judges and the use of non lawyer hearing officers would be a return to that situation. The project will be conducted for 5½ years and be independently evaluated in terms of cost, service to the public, improvement of driver behavior, and reduction of accidents. Also the California Judicial Council will evaluate the impact of administrative adjudication on the judicial system during the pilot project.

Two major provisions of the legislation would (1) allow for the appointment of non lawyer hearing officers "attached to, but independent" from the department of motor vehicles, and (2) summary hearings without the presence of the citing law enforcement official. These provisions were criticized by representatives of the California State Bar Association, the American Civil Liberties Union, and the American Trial Lawyers' Association at an Assembly judiciary committee hearing on May 9, 1977, in Sacramento. They questioned whether these hearing officers

could be impartial especially in the summary trial situation where they would serve both as prosecutor and judge. The groups contended that the hearing officers would have an "efficiency/safety" bias. The hearing officer appointment provision required that they "have legal training at least in the areas of evidence, criminal law, administrative law, and constitutional law, in addition to education and experience in traffic safety as established by the State Personnel Board." Under this legislation, unlike the first legislative proposal, infractions would remain a crime or public offense with concurrent jurisdiction within the courts. The burden of proof of the infraction was changed from the civil one of clear and convincing evidence back to the criminal burden of beyond a reasonable doubt. At the committee's suggestion, this second legislative proposal was withdrawn to make whatever changes are necessary to answer this criticism.

### **Washington**

A bill<sup>8</sup> before the Washington State legislature designates minor violations of traffic laws as traffic infractions and creates a modified judicial adjudication system. The proposed adjudication system would permit an offender to request a formal or contested hearing to which he could subpoena witnesses or an informal hearing to explain mitigating circumstances.

<sup>7</sup> California Senate Bill No. SB 1949, introduced in April 1976, was referred to an interim study which became the basis for compromise Assembly Bill No. AB 1068.

<sup>8</sup> Washington Senate Bill No. SB 2293, 1977.

## Denver, Colorado

A study funded by the Colorado Division of Highway Safety with concurrence and cooperation from the Denver County Court was initiated to develop recommendations for a modified system of adjudication for routine offenses. The final study report was prepared by the University of Denver College of Law and Denver Research Institute. The report, titled "Traffic Adjudication in Denver, Colorado," was submitted as phase I of a three-phase study. Phase II will be a pilot demonstration of the adjudication model which will provide experience as to process and procedures prior to initiation of phase III, the institution of the adjudication model, city or countywide.

## District of Columbia

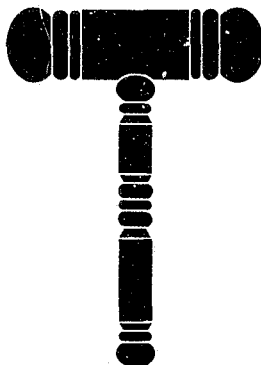
The District of Columbia Department of Transportation is seeking District Council approval of a broad-based program of Improved Parking and Traffic Enforcement.<sup>9</sup> The problems the program is designed to alleviate are frequent incidents of illegal parking and its adverse effect on safe and rapid traffic movement; an unmanageable volume of unpaid parking tickets; and the high cost and inefficiency of processing parking and non-hazardous moving violations in overcrowded criminal proceedings. The program proposes decriminalizing parking and minor traffic violations; establishing efficient administrative hearings in place of formal trial proceedings; using a civilian, nonpolice, ticket-writing cadre to complement police enforcement; denying vehicle registration renewal to motorists who fail to respond to ticketing or to appear for adjudication; and the expanding use of driver rehabilitation for habitual offenders through individual or group counseling or structured attendance at a driver improvement school.

## Virginia

A new law,<sup>10</sup> approved March 31, 1977 designates certain traffic offenses as traffic infractions. Traffic infractions are violations of public order and are not deemed criminal in nature. The new law provides for the establishment of a uniform fine schedule applicable throughout the State. A maximum fine of \$100 is set. District courts are empowered to hear traffic infraction cases without jury and to suspend the operator's license for failure to pay fine and costs or failure to appear.

<sup>9</sup> "Improved Parking and Traffic Enforcement in the District of Columbia" (Washington: Metropolitan Police Department, Office of the Corporation Counsel, and D.C. Department of Transportation, April, 1977).

<sup>10</sup> Virginia State Laws, 1977 chap. 585.



**END**