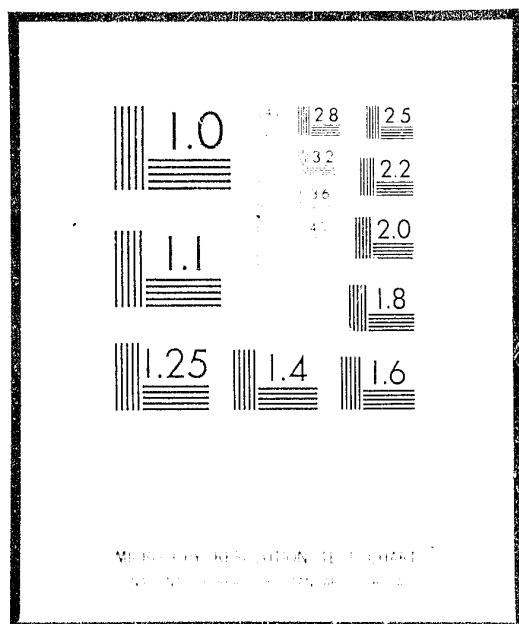


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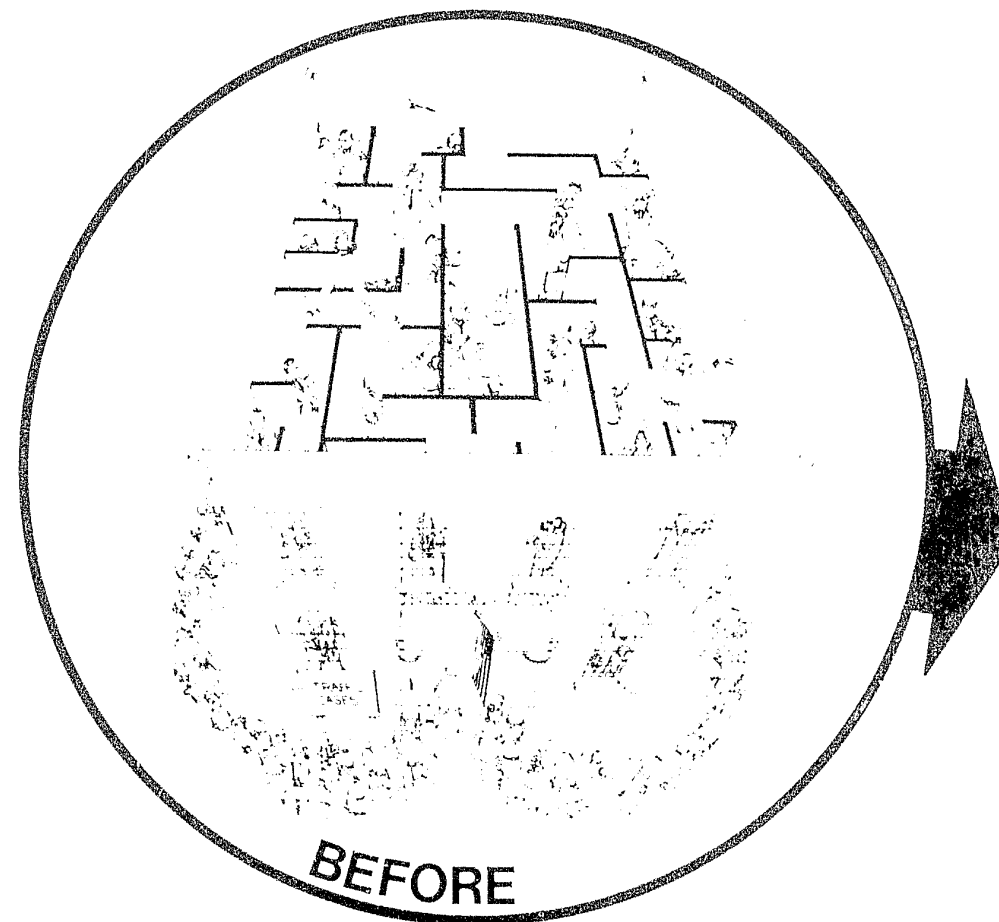
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ADMINISTRATIVE ADJUDICATION BUREAU OF THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES



U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice
Office of Technology Transfer

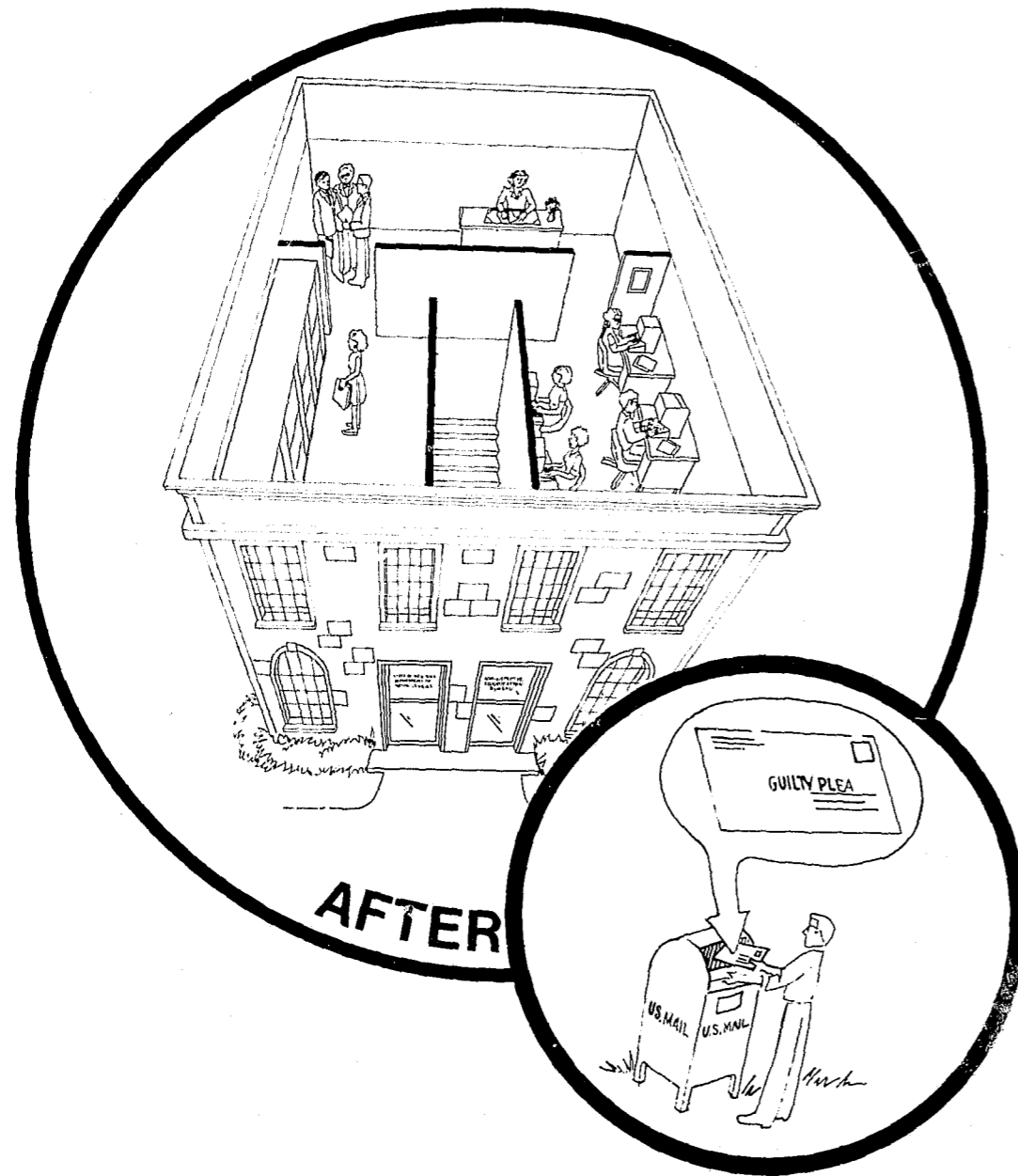


AN EXEMPLARY PROJECT

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES
ADMINISTRATIVE ADJUDICATION BUREAU

By

Andrew Halper
John McDonnell



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U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and
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Office of Technology Transfer
Washington, D.C.

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FOREWORD

Today's traffic problems are not limited to the highways. In many areas of the country the volume of traffic offenses has created a serious backlog of cases in the lower courts. Often, courts are forced to respond by processing traffic offenses in a hasty, ill-considered manner. Justice suffers, and many citizens are turned off by what they see.

The Department of Motor Vehicles of New York State has successfully implemented a better system. Through its Administrative Adjudication Bureau (AAB), traffic offense adjudication has been separated from the mainstream of the criminal court, and coordination between licensing and adjudication authorities has been greatly improved. As a result there has been a dramatic reduction of criminal court congestion, increased efficiency in traffic case processing, simplified methods and procedures for the convenience of motorists, reduction of excessive in-court police time, elimination of plea bargaining, and imposition of more uniform and appropriate sanctions.

These achievements can be traced to organizational and procedural changes involving both the courts and the Department of Motor Vehicles. The National Institute believes that similar—although not necessarily identical—changes in traffic offense adjudication should be considered by other communities. It has designated the AAB an exemplary project and prepared this manual for dissemination to all interested jurisdictions.

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CHAPTER 1: PROJECT OVERVIEW

1.1 Introduction

The number of traffic violation cases has grown rapidly during the past decade, due largely to increases in the numbers of automobiles and drivers, as well as an increasing concern for law enforcement and highway safety. In most sections of the country, particularly in the larger metropolitan areas, traffic violation cases are referred to criminal courts even though these violations are not considered criminal offenses. As a result, many urban court systems are faced with serious caseload congestion. In turn, rising caseloads are leading to a breakdown in the prompt and judicious handling of both criminal cases and traffic cases. Finally, traffic safety is suffering because of excessive delays in clearing the roadways of demonstrably unsafe drivers and applying disciplinary and rehabilitative measures.

By 1969 the criminal courts of the City of New York were handling over 800,000 cases involving moving traffic infractions and over 3,200,000 cases involving non-moving infractions. In response to these problems New York State passed legislation whereby, effective July 1, 1970, responsibility for adjudicating moving traffic infractions was transferred from the criminal courts of the City of New York to the State Department of Motor Vehicles. Companion legislation introduced at the request of the City of New York provided for a similar transfer of cases involving non-moving infractions to a separate agency, the Parking Violations Bureau of the City's Transportation Administration. Since then, the New York State Administrative Adjudication Program has been put into operation in New York City and in Buffalo and Rochester, the second and third largest communities of the state.

The purpose of this manual is to provide a detailed description of the Administrative Adjudication Bureau (AAB) of New York State's Department of Motor Vehicles in an effort to aid other jurisdictions in improving existing traffic offense adjudication systems or implementing new ones. Supporting information, such as the enabling legislation, AAB regulations and forms, and national standards and goals, is provided in the Appendix.

Much of the information presented in this manual was collected through field visits during November 1974 and June 1975 to the AAB's central office in Albany and its field offices in New York City. Additional supporting information was obtained from documents submitted by the program to the National Institute, and from U.S. Department of Transportation studies on traffic offense adjudication systems.

1.2 Project Development

The first in a series of legislative changes which led to the creation of the AAB occurred in 1934. In that year the New York State Vehicle and Traffic Law was amended to include a new category of motor vehicle violation -- traffic infraction:

"...a traffic infraction is not a crime and the punishment imposed therefor shall not be deemed for any purpose a penal or criminal punishment...."*

Such infractions included any violation of the traffic laws not expressly declared to be a misdemeanor or felony. Despite this decriminalization, however, motorists charged with traffic infractions continued to have their cases adjudicated in the New York State criminal courts.

In 1961 the New York State Constitution was amended to permit reform of State Court procedures. In recognition of the special problems which distinguished New York City from other parts of the

* Sect. 155 of the Vehicle and Traffic Law. The full text of Section 155 is included in Appendix A.

state, the legislature passed the New York City Criminal Court Act, effective September 1, 1962, which gave each borough its own separate criminal court and special traffic court with jurisdiction over all misdemeanors and traffic infractions committed within the city.

In 1969, as a response to the rapidly growing backlog of cases awaiting action by the criminal courts, the state legislature passed legislation effective July 1, 1970 to permit the transfer of jurisdiction for New York City's moving traffic infractions to the Department of Motor Vehicles. This enabling legislation declared the AAB's proceedings civil in nature without the possibility of a jail sentence. The legislation authorized the Commissioner of Motor Vehicles to staff the AAB and promulgate regulations for its operations. The regulations subsequently filed provided for hearing offices in each borough of the city, the hours of business, the form of the tickets to be used, descriptions of answers and appearances, detailed hearing procedures, appeals and judicial review procedures, and a schedule of monetary penalties. It should be noted that the Criminal Court of New York City retains concurrent jurisdiction with the AAB, though almost all cases are adjudicated by the AAB.

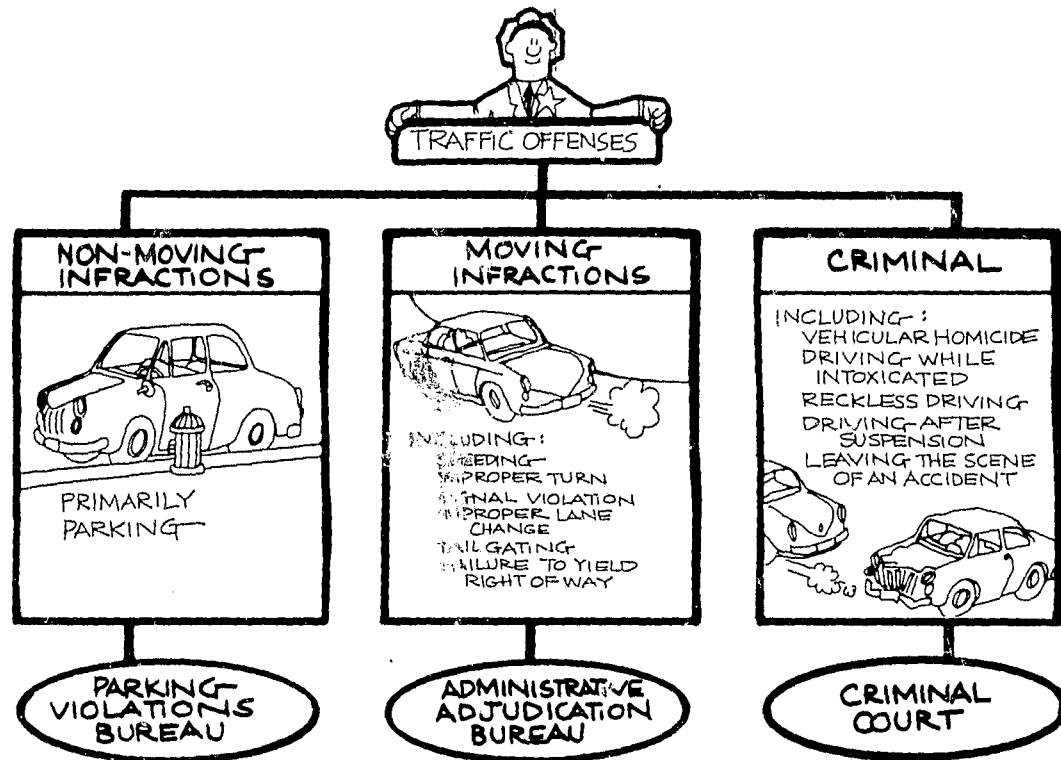
After the AAB began operating in New York City, Buffalo and Rochester recognized the benefits it could bring to their communities. They sought and obtained an amendment to the original legislation which lowered the minimum population required for inclusion in the AAB from 1 million to 275,000.* In 1973, the AAB established offices in Buffalo and Rochester and began adjudicating all traffic infractions occurring in those cities.

1.3 The Program

The program is operated by the Administrative Adjudication Bureau (AAB) of the New York State Department of Motor Vehicles. The Bureau is responsible for handling the vast majority of moving

* See Article 2A of the Vehicle and Traffic Law (Section 225), in Appendix B.

traffic violations, such as speeding, improper turns, following too closely and improper lane changes. Jurisdiction over all traffic offenses deemed criminal, such as vehicular homicide, driving while intoxicated, reckless driving and leaving the scene of an accident, remains with the criminal courts.



The traffic offense adjudication system operated by the AAB is essentially a simple one.* After the issuance of a complaint by a police officer, the errant motorist is given a summons returnable to the Parking Violations Bureau, the AAB, or a criminal court. If the AAB has jurisdiction, the summons clearly and concisely explains the three pleading options to the motorist. If the plea is "guilty" or "not guilty", it may be mailed to the central office or made in person at a local field office. If the plea is a "guilty with an explanation" it must be made in person at the field office.

* The applicable regulations are provided in Appendix C.

The pleas are processed in such a way that all persistent or dangerous violators are required to appear in person. Hearing of pleas of guilty with an explanation are held promptly and do not require the appearance of the police officer. Contested hearings are scheduled to alleviate hearing congestion by coordinating hearing officer and police officer schedules with hearing room availability.

Hearing officers* are experienced lawyers with special training in the New York State Vehicle and Traffic Law and driver safety principles. Hearings are less rigidly structured than courtroom trials but afford everyone the opportunity to be heard. Decisions on the merits of the case are made on the basis of the evidence presented. Sanctions are imposed with appropriate consideration to the nature of the violation and the motorist's past driving record.

Appeals of both the decision and the sanction are initially made to a three member administrative appeals board. Judicial review of an adverse appeals determination is available to all motorists, though it is rarely exercised. Sanctions imposed range from monetary fines through assignment to driver training sessions to license suspension and revocation. AAB proceedings are civil in nature with jail sentences excluded as a sanctioning alternative.

The AAB represents a merger of traffic offense adjudication and driver licensing functions into a single system under the leadership of its director, the system manager. Its computer capabilities facilitate all clerical processing and provide accurate and current information to hearing officers and other personnel.

1.4 Program Achievements

New York State's Administrative Adjudication Bureau has relieved criminal court congestion and has dramatically improved traffic

* The terms hearing officer and referee are used interchangeably throughout this manual.

case processing by creating a single adjudication system employing highly trained personnel working with computer technology. While other states may not be in a position to implement an identical system, certainly many of the AAB's innovations can be used to improve existing adjudication processes. Enumerated below are some of the specific benefits New York State gained by deciding to handle traffic matters through administrative procedures.

- By creating a system which focuses exclusively on traffic offenses, criminal court congestion has been reduced. Since 1970, eighteen judges and five courtrooms in New York City and an additional two judges and two courtrooms each in Buffalo and Rochester have been freed from traffic offense adjudication.
- By permitting motorists to plead and pay fines by mail, the adjudication process has been made more convenient.
- In merging the licensing authority with the traffic offense adjudication authority, the sanctioning process has been improved by providing for immediate access to and update of driver records.
- Using a computer system to expedite processing has reduced the time between citation and case disposition. A case which results in a hearing now takes between 45 and 60 days to process, compared with pre-AAB delays of up to a year or more.
- By establishing pre-set police precinct schedules, the amount of time police are required to spend at hearings has been reduced by approximately 50 percent.
- By using hearing officers in lieu of judicial personnel, costs have been reduced.
- Simplifying hearing procedures has aided motorists in presenting their cases and has allowed hearings to be conducted more efficiently while still assuring due process of law.
- Providing a prompt administrative appeal process has replaced cumbersome and expensive judicial review processes. The administrative appeals process has been so effective that judicial review has been sought in

only about 20 of 2,000 administrative appeals in the past five years.

- Using standard sanctions and impartial, well-trained traffic offense adjudicators has assured more uniform and equitable dispensation of justice.
- By expediting case processing, the number of scofflaws (motorists who evade summonses) has been reduced by 25 percent, and plea bargaining has been virtually eliminated.
- By distributing the net income it receives from fines, the AAB has provided financial relief to its participating communities. During the last fiscal year the AAB distributed \$4.2 million to participating jurisdictions representing an excess of revenues over expenditures. This is an estimated 25 percent increase in revenues over that produced by the prior court system.

The chapters which follow describe the adjudication process, AAB organization, operations, and achievements and specific concerns involved in any replication effort.

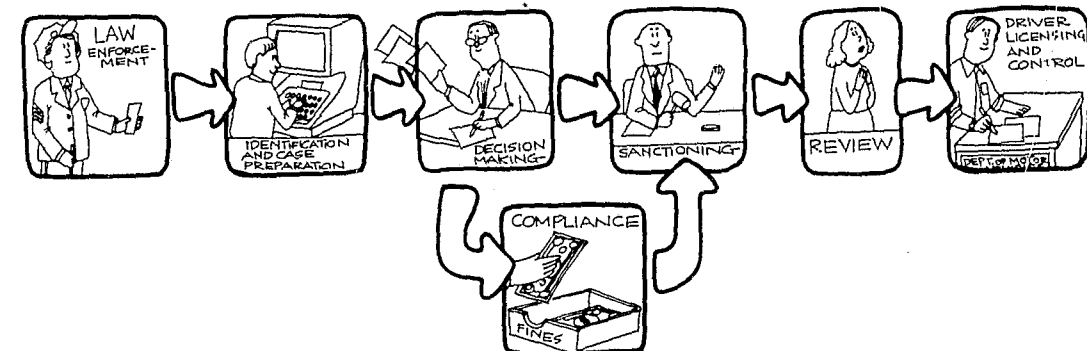
CHAPTER 2: ADJUDICATION PROCESS

Before considering the organization and operation of the program, some attention should be given to what is involved in the adjudication process itself. Once the process is understood, the organization and operation of the AAB can be more easily explained. The basic elements of the process are discussed briefly in Section 2.1, various approaches to adjudication in 2.2, and legal considerations in 2.3.*

2.1 Elements of the Process

The traffic offense adjudication process is composed of seven elements. The relationships among these elements are shown below.

Figure 2.1
Elements of the Traffic Offense Adjudication Process



* The information presented in Sections 2.1 and 2.2 draws heavily from a U.S. Department of Transportation Study on "Effective Highway Traffic Offense Adjudication," (Contract No. DOT 123-2-442) dated June 17, 1974, and is presented to provide a general background on the traffic offense adjudication process.

Law Enforcement

The process begins following the apprehension of a motorist who has violated one or more of the traffic laws. Such enforcement, in reality, is discretionary with the police officer. The exigencies of a given circumstance may lead an officer to overlook a violation, to issue an oral or written warning, or to issue a complaint or other accusatory document. The motorist receives a citation or summons and the officer retains the complaint document.

Identification and Case Preparation

When a law enforcement agency issues a complaint, a copy is sent to the adjudicatory agency. The identification and case preparation process provides the necessary transition from enforcement to adjudication. All necessary clerical processing is performed and the case readied for adjudication.

Decision-Making

Decision-making starts with notification to the defendant of his rights and responsibilities and is followed by the entry of a plea. If necessary a formal trial or hearing is then conducted and a judgement rendered by the adjudicator.

Sanctioning

Following a plea of guilty or a finding of guilty a sanction is imposed. Most traffic offense sanctions involve monetary fines. Mandatory sanctions are often prescribed for certain offenses which allow the adjudicator only limited discretion in determining the penalties that may be applied. Other sanctions such as probation, incarceration and assignment to rehabilitative programs may be imposed by the adjudicator. License suspension or revocation is sometimes mandated by statute for conviction of certain offenses. Such action, however, is generally controlled by the licensing authority and not the adjudicatory agency.

Compliance

The compliance component supports the decision-making and sanctioning components by assuring that the authority of the adjudicatory agency is maintained. It includes the collection of fines, enforcement of jail sentences, and the suspension or revocation of driving privileges.

Review

After a decision has been rendered and a sanction imposed, procedures are available for motorists to appeal adverse determinations.

Driver Licensing and Control

As the final step in the traffic offense adjudication process, the driver licensing and control agency (usually the State Department of Motor Vehicles) is notified that the motorist has pleaded or been found guilty of a traffic offense and the sanction imposed is specified. This notification results in an updating of the motorist's driving record and provides the stimulus for either mandatory or discretionary action against the motorist's driving privileges.

2.2 Approaches to the Process

There are three basic approaches to the adjudication of traffic offenses. Their primary differences are in the responsibility for, and handling of, the decision-making and sanctioning components of the process. The three approaches are:

- *Judicial* -- where 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* -- where jurisdiction over the

adjudication process is maintained by the court, but certain functions in the decision-making and sanctioning process are delegated to para-judicial officers.

- *Administrative* -- where all functions in the decision-making and sanctioning processes, as well as the initial stages of the review process, are performed by administrative hearing officers under the supervision of an administrative agency.

2.3 Legal Considerations

Where the judicial approach is employed, all court practices follow the accepted rules of criminal procedure. In a modified judicial approach, though practices differ, the essential situation is much the same. Since jurisdiction remains with the court, a defendant has ultimate recourse to all the rights and privileges afforded a criminal defendant. The administrative approach, however, raises several legal issues because it removes jurisdiction from the judicial system and vests it in an administrative agency of the executive branch of government. The following section discusses these issues briefly. A more thorough understanding of the laws governing administrative procedures may be found in the many treatises written on the subject.*

There are four primary legal issues which are raised by administrative adjudication of traffic offenses. The right to trial by jury, the right to appointed counsel, the standard of proof required for conviction, and the grounds for judicial review have all been altered by the New York AAB and would probably be similarly altered in any administrative system.

Since incarceration is no longer an available sanction for a traffic infraction, the AAB's lack of any provision for trial by

* Many states have enacted administrative procedure acts, some of which have been modeled after the federal one. States considering implementation of an administrative approach are advised to consult these acts.

jury is consistent with the Supreme Court's ruling in *Baldwin v. New York*, 399 U.S. 66 (1970). That case held that "no offense can be deemed 'petty' for the purposes of the right to trial by jury where imprisonment for more than six months is authorized".

In *Argesinger v. Hamlin*, 407 U.S. 25 (1972), the Supreme Court ruled that appointed counsel for an indigent misdemeanor defendant is only required in those cases where the possible sanction is greater than six months' incarceration. Consequently, the AAB need not, and does not, provide appointed counsel. It should be noted that simplified hearing procedures are intended to enable motorists to represent themselves adequately without the aid of counsel.

The AAB's proceedings are civil in nature and the standard of proof in its proceedings was established to be by "clear and convincing" evidence rather than evidence "beyond a reasonable doubt," the standard used in criminal cases.* The lowering of this standard was initially ruled unconstitutional in a lower court decision (*Rosenthal v. Hartnest*: 36 N.Y. 2d 269) but the New York State Court of Appeals, the highest court in the state, reversed the decision, ruling that the standard employed by the AAB was, in fact, constitutional.**

Judicial review in an administrative system allows an aggrieved motorist to appeal any adverse determinations to the judicial system, thus providing the necessary checks and balances on

* The clear and convincing standard lies somewhere between the civil standard of preponderance of the evidence and the criminal standard of beyond a reasonable doubt. The civil standard is usually defined as requiring that proof be sufficient to make it more likely than not that the allegation is true. The criminal standard requires that proof be sufficient to remove any reasonable doubt as to the truth of the allegation.

** The AAB's "clear and convincing" standard has also been advocated by the National Advisory Commission on Criminal Justice Standards and Goals and by the Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee.

executive authority. Grounds for such appeal can vary within administrative systems from the right to trial "de novo" to appeals based only upon abuse of discretion. Provisions for intermediate administrative appeals of hearing officer determinations can also vary widely. Specific AAB procedures and practices are discussed in Chapter 4.

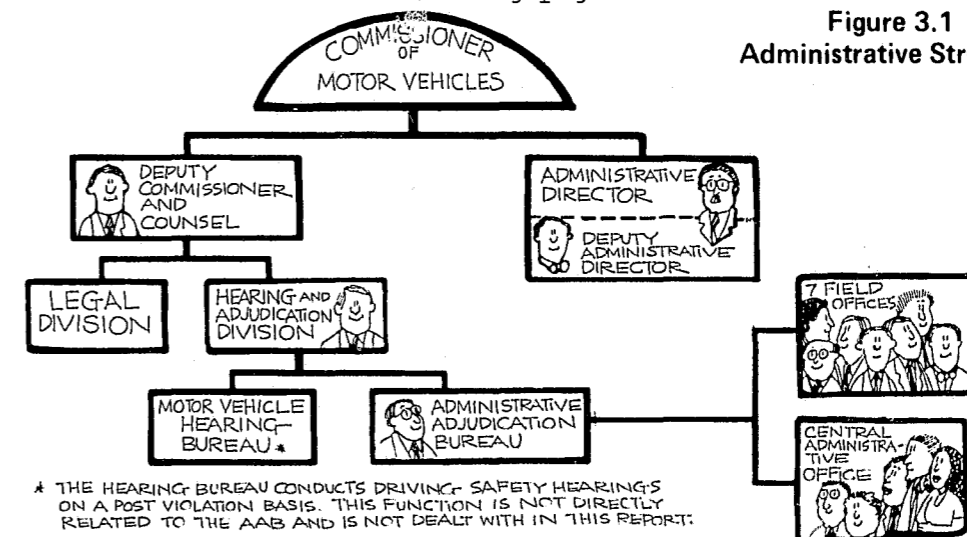
It should be noted that the enabling legislation creating the AAB rested upon a prior decriminalization of traffic offenses. The preceding legal discussion as well as the following chapters concerning AAB operations must always be viewed in the context of AAB jurisdiction -- MOVING TRAFFIC INFRACTIONS. The AAB does not handle the more serious traffic violations such as vehicular homicide, driving while intoxicated, and reckless driving. These cases continue to be adjudicated in the criminal courts.

CHAPTER 3: PROJECT ORGANIZATION

3.1 Structure

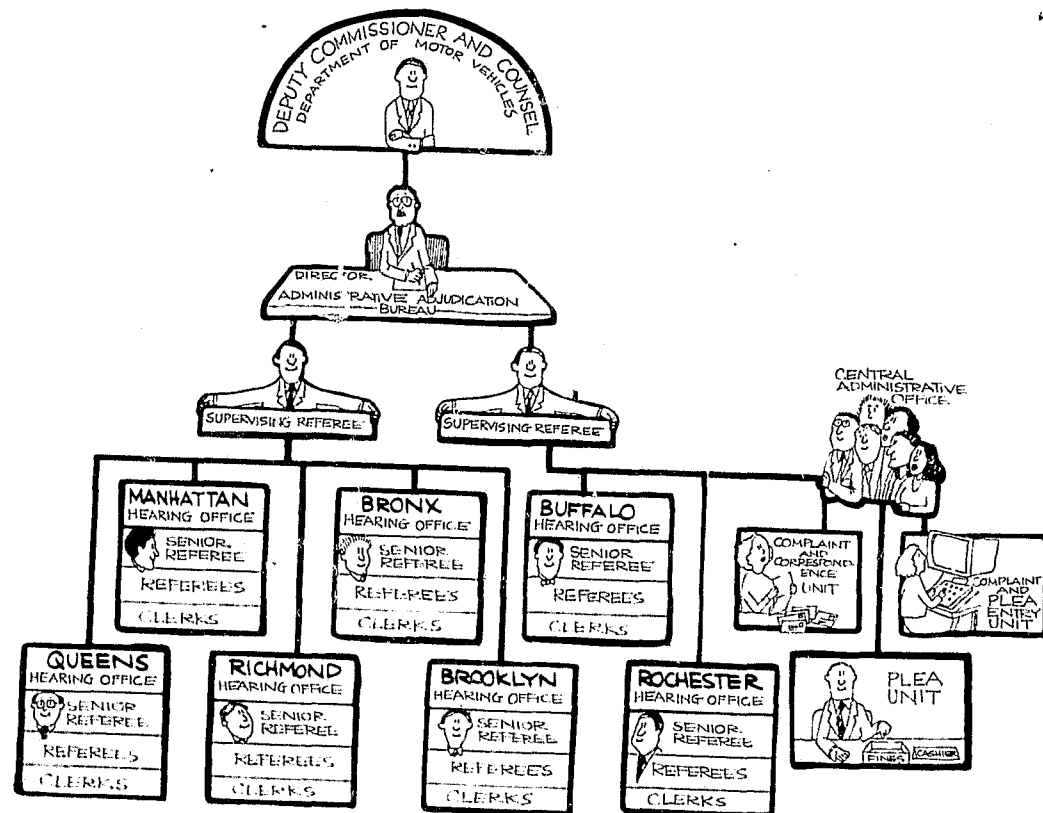
Traditionally the criminal court system has handled the adjudication of traffic infractions and coordinated with the driver licensing and control authority for updating driver records and enforcing some sanctions (e.g. license suspensions and revocations). In the AAB the responsibility for both traffic offense adjudication and driver licensing and control rests with the State's Department of Motor Vehicles (DMV). Therefore, the intergovernmental coordination between the judicial (courts) and executive (DMV) branches of government required in the traditional traffic offense adjudication process is not needed in the AAB. This feature is thought to be largely responsible for the success of the AAB. The position of the AAB within the Department of Motor Vehicles is shown below.

The position of the AAB within the Department of Motor Vehicles is shown below. The detailed organizational structure within the AAB is shown on the following pages.



Reporting to the Director of the AAB are two supervisory referees who monitor the activities of the seven field offices and the contract office, as shown graphically below.

Figure 3.2
AAB Organizational Structure



The responsibilities of the various units in the Central Administrative Office in Albany are as follows:

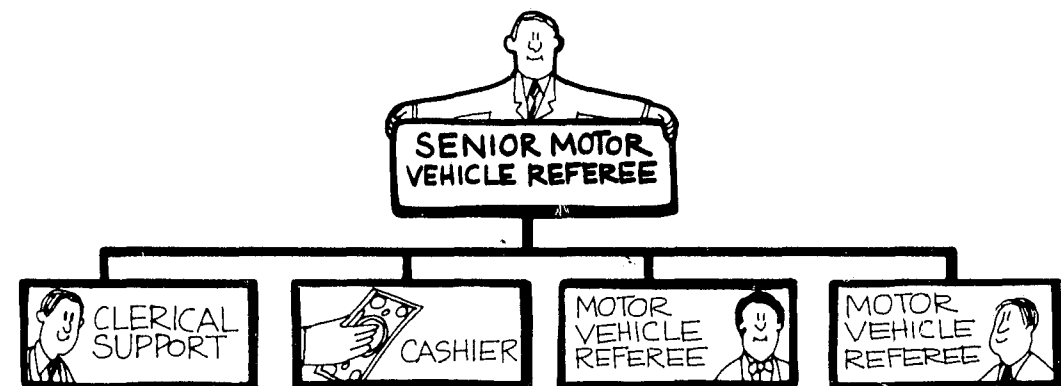
- The Complaint and Correspondence Unit handles complaint coding, public contact, exceptions, resolutions, and correspondence;

- The Plea Unit handles most screening and batching, editing, processing, and filing of pleas, cashiering, and accounting;
- The Complaint and Plea Entry Unit handles the processing, batching and exceptions for complaint entry and searches suspension and exceptions.

A detailed description of the tasks performed by the staff of the Central Administrative Office is provided in Appendix D.

The field offices have two primary functions. The first involves the handling of pleas made in person. This work involves the acceptance and rejection of pleas, the cashiering of fines, and the scheduling of hearings when appropriate. The other primary function of the field offices is to administer all contested and uncontested hearings. They are organized as shown below.

Figure 3.3
General Field Office
Structure



Additional details on the tasks performed by AAB staff are provided in Chapter 4.

3.2 Selection and Training of Staff

With the exception of the Deputy Commissioner and Counsel of the Department of Motor Vehicles, all employees of the AAB are in the Civil Service. This includes the director, supervising referees, senior referees, referees, and all clerks, stenographers and cashiers. All must take competitive civil service examinations and selection is from among the top three names on the list for any given position.

All hearing officers are lawyers and Department of Motor Vehicles referees with at least four years of trial or administrative law experience. After competing in both written and oral civil service examinations, the first three candidates on the prepared list are interviewed. The qualities sought are patience, tact, alertness, quality of expression, good judgement, and warmth in person-to-person contacts.

Training for hearing officers begins with a general 2-4 day orientation at the Albany Central Office. Following this, the new hearing officer is assigned to a series of referees who are each responsible for instructing the new referee in a specific subject area. This part of the training lasts about 3 weeks and includes observations of the actual working of each field office. Subject areas studied include:

- Department history and organization
- Adjudication background, purpose, function and goals
- Interrelationship with courts and parking agencies
- Elements of a Prima Facie case
- Policy on reassignments, reschedules and bonds
- Validity of documents, such as licenses and registrations
- Driver safety sessions
- Point values, misdemeanors

- Fines, propriety and discretion
- Probationary licenses
- Permissive and mandatory suspensions and revocations
- Preparation of orders; use of code numbers
- Mitigation vs. justification
- Feedback entries
- Reading the computer abstracts
- Use of temporary licenses and statements of appearance
- Relationships among senior referee, clerical staff, police coordinator and Field Investigation Bureau (F.I.B.)
- Vehicle and Traffic Law, section by section analysis
- New York City regulations vs. Administrative Code
- Courtesy, emotional control and style development
- Hearings: persistent violations, excessive speeds, etc.
- Appeal Procedures

Following this initiation, each new hearing officer is sent to the field office where he will work and is assigned increasing amounts of responsibility. Occasionally, when the need arises, hearing officers are temporarily transferred among the various field offices. A general seminar is usually held once a year for all hearing officers to discuss all new developments in the administrative adjudication of traffic offenses. Hearing officer conduct is monitored by supervising personnel both in person and by listening to the tape recorded hearings.

Clerical personnel receive training at the particular office where they will work. Procedural manuals have been prepared and are studied by new personnel who are instructed on-site about the responsibilities and duties of their new position.

Guilty with explanation hearings require one hearing officer and two clerks as dockets are being prepared on the spot. Contested hearings only require one hearing officer and one clerk because dockets have been prepared in advance.

There are 35 hearing officer positions authorized for New York City, 2 for Buffalo and 1 for Rochester. The starting salary for a hearing officer is \$19,000. This compares with the approximate \$30,000 salary of a criminal court judge.

The table below summarizes the current staffing levels, Civil Service grades and salary ranges for staff in the central administrative office and the field offices.

**Figure 3.4
Staffing Levels by Site**

| Site | Admin. Dir. | Admin. Ass't. | Sup. Ref. | Sr. M-V Referee | M-V Referee | Cler. Super-vision | Cler. Support | Total |
|------------------|-------------|---------------|-----------|-----------------|-------------|--------------------|---------------|------------|
| Albany | 1 | 1 | 2 | - | - | 2 | 92 | 97 |
| NYC Off. | - | 1 | 1 | - | - | - | 11 | 13 |
| Manhattan | - | - | - | 1 | 8 | 1 | 19 | 29 |
| Richmond | - | - | - | 1 | 1 | 1 | 8 | 11 |
| Bronx | - | - | - | 1 | 6 | 1 | 18 | 26 |
| Queens | - | - | - | 1 | 6 | 1 | 20 | 28 |
| Brooklyn | - | - | - | 1 | 7 | 1 | 23 | 32 |
| Buffalo | - | - | - | 1 | 2 | 1 | 8 | 12 |
| Rochester | - | - | - | 1 | 1 | 1 | 7 | 10 |
| Total | 1 | 2 | 2 | 7 | 31 | 9 | 206 | 257 |
| Civil Ser. Grade | 31 | 18 | 29 | 27 | 25 | 15 | 3-11 | |
| Starting Salary* | 25.5 | 13.5 | 23.9 | 21.5 | 19.4 | 11.3 | 5.8-9.0 | |
| Maximum Salary* | 30.1 | 16.5 | 27.3 | 24.7 | 22.3 | 13.2 | 6.9-10.6 | |

* in thousands of dollars

The staffing level at each field office varies depending on the volume of its adjudication caseload. The staffing levels presented above are current as of June 1975.

The 94 clerical staff in the central office in Albany are distributed as follows:*

| | |
|--|--------------|
| Complaint and Correspondence Plea Unit | 17 full-time |
| Complaint and Plea Entry Unit | 14 full-time |
| | 5 full-time |
| Other Central Office Support | 53 part-time |
| | 5 full-time |

3.3 Costs and Revenues

Although it is difficult to quantify all benefits and costs of the AAB's operation, and to compare them with the corresponding pre-AAB benefits and costs, sufficient data are available to permit some analysis.

There are three major areas in which cost savings and other benefits have accrued as a result of AAB. For two of these -- criminal courts and police -- it is difficult to obtain quantitative information. However, it is generally agreed that with the AAB the amount of time that police officers spend in courts on traffic-related matters has been substantially reduced. Similarly, the AAB has helped to improve the operation of the criminal court system by removing non-criminal traffic cases from its jurisdiction. Such reductions can reasonably be expected to lead to lower costs for police and court services, or increased services in other areas, or a combination of these effects.

The third major area in which cost savings and other benefits have accrued is in the actual operation of the AAB. Although pre-AAB cost and revenue figures are not available, the AAB has reportedly increased overall revenues 25%, while reducing operating costs when compared with the prior court system. This is partly due to the greater number of summonses being issued, reductions in the number of summonses ignored, and a consequent increase in

* As of October, 1975, the staff level was reduced to 69 due to eliminating part-time positions and replacing with full-time slots. The distribution is as follows: Complaint and Correspondence, 30; Complaint and Plea Entry Unit, 27; and Plea Unit, 12.

numbers of motorists adjudicated. It is also due to increasing efficiency in the operation of the adjudication system, which is largely a result of the AAB's sophisticated computer processing system. Since AAB began there are sufficient statistics to demonstrate that the initial investment was certainly justified in terms of its associated receipts and expenses.

Development and implementation of the AAB's system for processing data on complaints, pleas and sanctions has been an expensive and time-consuming process. The basic system had been developed by the state's Department of Motor Vehicles when the AAB began operating in 1970. Since then many improvements have been made, and continue to be introduced, but the major investment phase is finished. All of the development expenses were charged against revenues. It took over two years before total receipts from the system exceeded total expenses. Since then, receipts from the system have continued to grow faster than operating expenses, as is shown graphically in Figure 3.5.

The net difference between receipts and expenses is distributed among the three participating cities, on the basis of the revenues received from each and the differing costs involved in providing services to each. In the last fiscal year, this meant an approximate return of \$6,900,000 to New York City, \$483,000 to Buffalo, and \$166,000 to Rochester.

A financial summary for the first four years of operation is provided in Figure 3.6. It shows wide variations across cities and over time in the average expense of processing a summons. However, for New York City this figure has decreased every fiscal year-- from a high of \$7.21 in its first year to \$4.38 in the year which ended March 31, 1975. This represents a reduction of 33%, which would be even greater if an allowance were made for the effects of inflation during the past five years. In the other cities the cost per summons is higher (in the last fiscal year this cost was \$6.70 for Buffalo and \$10.16 for Rochester) and the trend to lower costs is not so clear. There are at least two reasons for this. First, the caseloads in these cities are so much lower that the fixed expenses play a greater role in determining the cost per summons. Second, data are available for only two full years of operations, since in both cities the AAB was operating for only a few months of fiscal year 1972 (1972-1973). As caseload levels increase

Figure 3.5

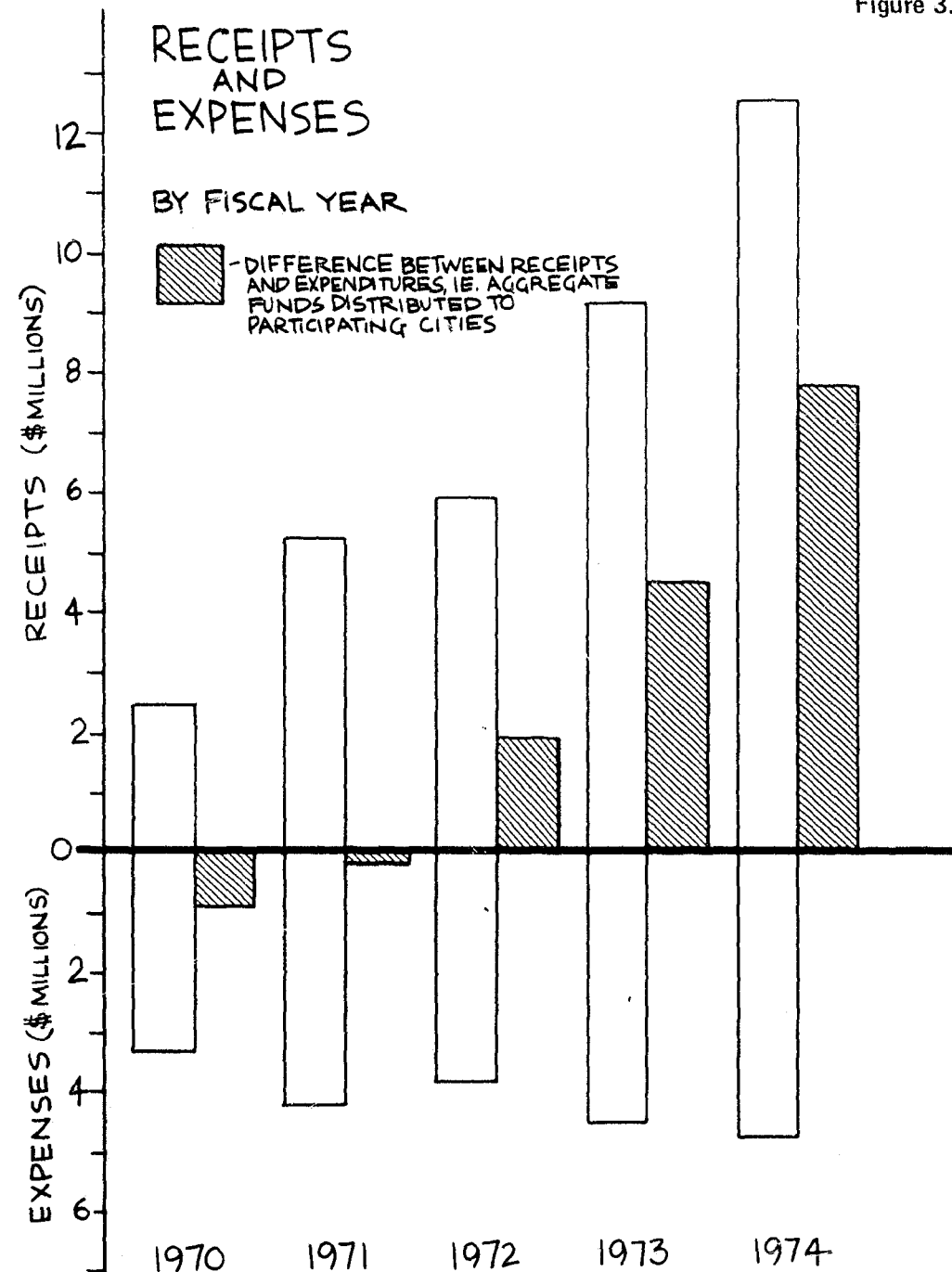


Figure 3.6
Administrative Adjudication Bureau
Cumulative Operating Statement*
Through March 31, 1975

| | <u>Summonses</u> | <u>Receipts</u> | <u>Expenses</u> | <u>. Available for Distribution</u> | <u>Cost per Summonses</u> |
|-------------------------------|------------------|----------------------|----------------------|---|-------------------------------|
| NEW YORK CITY | | | | | |
| 1970-71 | 408,306 | 2,398,372.66) | 3,264,625.70)** | -- | 7.21** |
| 1971-72 | 629,665 | 5,025,412.66) | 4,228,218.50) | -- | 6.72 |
| 1972-73 | 569,910 | 5,534,376.89) | 3,753,907.71) | 1,711,410.30 | 6.59 |
| 1973-74 | 646,723 | 7,463,875.91 | 3,819,387.07 | 3,644,488.84 | 5.91 |
| 1974-75 | 937,611 | 10,966,871.40 | 4,108,913.52 | 6,857,957.88 | 4.38 |
| Cum. Total: | 3,192,215 | 31,388,909.52 | 19,175,052.50 | 12,213,857.02 | |
| BUFFALO | | | | | |
| 1972-73 | 11,875 | 140,890.00 | 56,064.37 | 84,825.63 | 4.72 |
| 1973-74 | 61,201 | 1,106,539.50 | 405,465.93 | 601,073.57 | 6.63 |
| 1974-75 | 55,162 | 852,804.00 | 369,736.34 | 483,067.66 | 6.70 |
| Cum. Total: | 128,238 | 2,000,233.50 | 831,266.64 | 1,168,966.86 | |
| ROCHESTER | | | | | |
| 1972-73 | 2,279 | 9,618.99 | 24,172.43 | -- | 10.61 |
| 1973-74 | 31,973 | 462,580.00 | 318,536.02 | 129,490.54 | 9.96 |
| 1974-75 | 28,858 | 459,200.00 | 293,184.79 | 166,015.21 | 10.16 |
| Cum. Total: | 63,110 | 931,398.99 | 635,893.24 | 295,505.75 | |
| TOTAL: ALL OFFICES | 3,383,562 | 34,320,542.01 | 20,642,212.38 | 13,678,329.63 | |

* 1974-75 expenses estimated, summonses and receipts actual.

** Includes \$320,508.01 of Start-up Expense and \$2,944,117.69 of Operating Expenses. Only Operating Expenses were used in calculating Costs per Summons.

and AAB operations in these cities are refined, it is expected that their cost per summons figures will decline.

The computerized data processing system employed by the Bureau has been largely responsible for the increased efficiency.* It has eliminated personnel who would otherwise have been required for handling paper, verifying data, and statistical updating. It has removed the need for excessive office space for dead files and provided checks and balances throughout the adjudication process, thereby eliminating many costly mistakes.

It should be noted that the \$3,264,625.70 of expenses shown for New York City in fiscal 1970 (4/1/70 - 3/31/71) includes \$320,508 of start-up costs. About one-third of this amount was for staff expenses, and one-third for equipment (primarily visual display units), with the remainder for travel, space rental, telephone and indirect costs. Further detailed cost information is provided in Appendix E.

* A manual system for processing adjudication data was considered when the AAB was being set up in New York City. However, it was rejected because it would have been at least as expensive, and would have more than doubled the estimated time needed to process a summons.

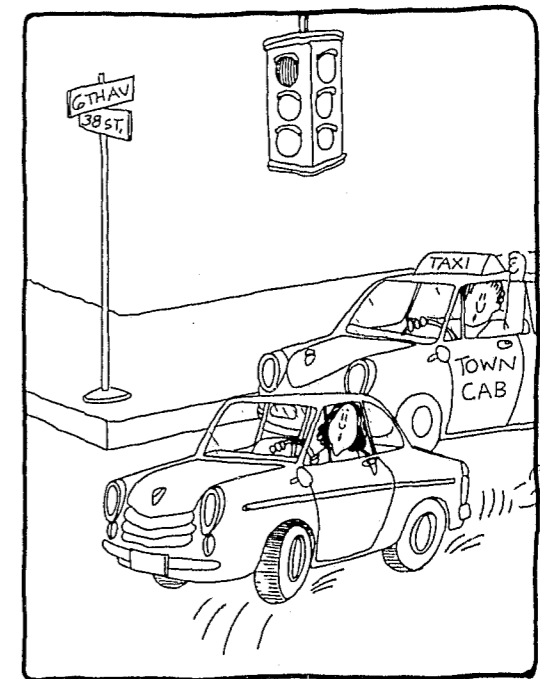
CHAPTER 4: PROJECT OPERATIONS

This chapter describes how administrative adjudication operates, first by using an illustrative example, then by presenting a detailed flowchart of the entire process and discussing its major elements. This is followed by a description of the AAB's computer system. The chapter concludes with a description of AAB field offices and a review of caseflow statistics.

4.1 Administrative Adjudication in Action — A Case History*

Joan M. was driving up Sixth Avenue early one morning when she was suddenly forced to swerve sharply to her left to avoid colliding with a reckless taxi. Somewhat agitated and preoccupied with what might have been a serious accident, she failed to notice the change of traffic signals and proceeded through a red light at Thirty-Eighth Street.

A traffic officer observed the infraction and directed Joan to pull her car to the side of the road. Joan received a summons which explained that

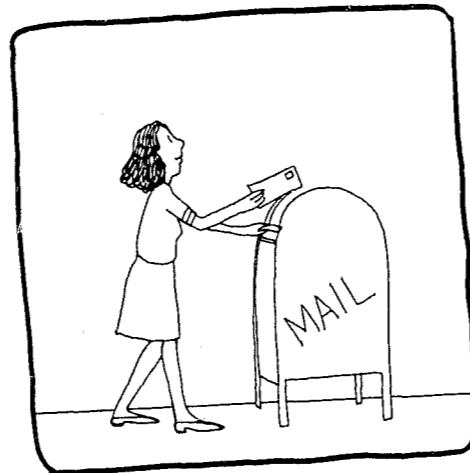


* This section is excerpted from a previously published Exemplary Project brochure on the AAB.

she could plead "guilty", "guilty with an explanation", or "not guilty" of the alleged offense.

Joan Pleads Guilty

Joan decided to plead "guilty". She simply mailed the citation with the prescribed fine to the Central Office. Her plea was accepted, her record was updated, and her payment processed. However, if the computer had found that she had too many "points" on her record due to prior traffic violations or other irregularities such as outstanding summonses, her "guilty" plea would have been rejected. If that had happened Joan would have been required to appear in person at the Manhattan office, where the hearing officer would have determined an appropriate sanction.



Joan Pleads Guilty With an Explanation

Joan felt that her near accident was a mitigating factor and should be considered in determining her penalty, so she decided to plead "guilty with an explanation". She appeared in person at the Manhattan hearing office. The police officer was not required to appear. Joan was given approximately five minutes to present her explanation. After listening to her and reviewing her past driving record, the hearing officer imposed an appropriate sanction. Joan accepted the sanction and her driving record was immediately updated



through a computer terminal located in the hearing room. If Joan had rejected the sanction and decided to appeal, it would have been reviewed by an administrative appeals board.

Joan Pleads Not Guilty

Joan decided to plead "not guilty" because she honestly believed that the light was still yellow when she entered the intersection. When she received her summons to appear for a hearing, the date and time had been scheduled by the police officer, based on the availability of hearing rooms and the police officer's schedule. This reduced the time that Joan and the officer had to wait before the case was heard. It was set for 3-4 weeks after the incident while details of it were still fresh in Joan's mind. It could have been rescheduled at her request.



The hearing took place in the Manhattan AAB office, presided over by the hearing officer. Joan and the police officer were sworn. The officer presented the case for the prosecution and was questioned by the hearing officer and cross-examined by Joan, who could have retained legal counsel if she had wished. Then Joan testified and was questioned by the hearing officer and the police officer. After the evidence was presented Joan was permitted to make a statement in the form of a closing argument. All this took about twenty minutes.

The entire hearing was tape recorded. Although rules of evidence were not strictly applied, evidence which was in the nature of a privileged communication, violated Joan's constitutional rights, or referred to her past driving conduct was excluded. This permitted Joan to present her case effectively without the aid of counsel.

The hearing officer found Joan "guilty". He accessed the Department of Motor Vehicle's computerized data base using a telephone hook-up, and her driving record was displayed on a TV screen. (Prior to reaching his decision, this information would not have been available to the hearing officer.) Based on the nature and

circumstances of the violation and Joan's driving record, he then imposed an appropriate sanction, in this case a fine. He could have suspended or revoked her license, assigned her to rehabilitative driving classes, or imposed a combination of these sanctions.

Joan Appeals

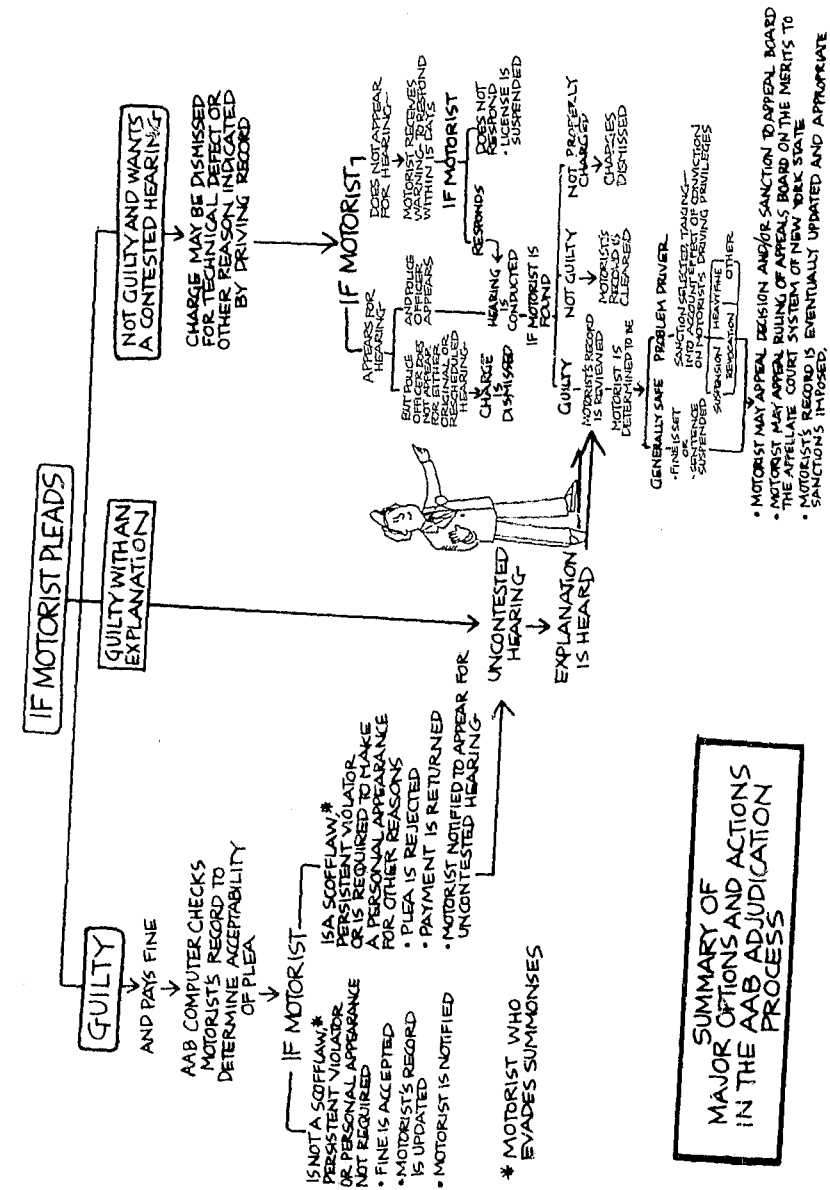
Joan was dissatisfied with the decision, and she appealed it to a three-member administrative appeals board. The tape recording of her proceedings was transcribed and submitted for review to the appeals board. Within 60 days the board reaffirmed the decision. Joan was still dissatisfied and requested judicial review of her case. The court upheld the administrative decision. Joan was not permitted to make a personal appearance before the appeals board but was allowed to comment on the transcript in writing.

Figure 4.1 on the following page summarizes the AAB's actions in processing a traffic case. It illustrates all aspects of New York's unique system, including the motorist's pleading options, the consequences of failure to plead or appear, the kinds of hearings held, and the checks within the system.

4.2 Procedures from Citation to Appeal

This section describes the detailed procedures of the Administrative Adjudication Bureau from the time a traffic law violator is stopped by a police officer through final case disposition. For discussion purposes these procedures are grouped as follows:

- apprehension and jurisdiction
- pleading
- disposition of guilty pleas
- disposition of guilty with an explanation pleas
- disposition of not guilty pleas
- failure to plead or appear
- appeals



Apprehension and Jurisdiction

The adjudication process begins with the apprehension of a traffic law violator by law enforcement authorities. Although New York State has decriminalized many traffic violations and provides only "civil penalties" for such infractions, enforcement remains almost exclusively with the criminal justice system's enforcement arm, the police.

Much discretion rests with the officer. Upon observing a traffic law violation, he may ignore it because he is occupied with more urgent matters, he may stop the motorist but only issue a warning, or he may issue a traffic ticket to the violator.

Under the AAB system, the officer completes a four part traffic ticket. Part I of the ticket is the complaint and is completed for all violations. Parts II, III and IV are summonses. Which one of these if completed depends on the nature of the violation:

- for traffic misdemeanors, such as reckless driving, leaving the scene of an accident, and driving while intoxicated, Part II is completed and the motorist is summoned to appear before a criminal court;
- for non-moving infractions, Part IV is completed and the summons is returnable before the New York City Transportation Authority's Parking Violations Bureau or similar bureaus in Rochester and Buffalo;
- for moving infractions, Part III is completed and the summons is returnable before the Administrative Adjudication Bureau.

When the AAB has jurisdiction, the officer completes the ticket form noting the offense committed as well as the time, date, and location of the hearing. The hearing date is generally 14-25 days from the date of issue and is determined by standard police precinct hearing schedules. The officer retains Part I, and gives Part III to the motorist.

General police procedures provide that all patrolmen at the end of their shift deliver Part I of the ticket to the precinct shift supervisor who then sends them to Albany via courier. Parts II and IV are retained for police records. Section 4.3 discusses in greater detail the ticket form and the manner in which the complaint is processed.

Pleading

The motorist must respond to a summons returnable before the AAB by pleading. There are two basic types of pleas: "guilty" and "not guilty". In addition, it is possible to plead "guilty with explanation", but this can only be done by appearing in person at the hearing office. The two basic types of pleas may be made either by mail or in person at the local field office. The AAB system has been designed to allow the convenience of pleading by mail, to provide a simplified hearing process for contested cases, and to maintain checks within the system so that motorists who are problem drivers or who habitually ignore summonses, can be identified and brought in person before a hearing officer. The next three sections illustrate the mechanics involved in processing each of the three possible pleas.

Disposition of Guilty Pleas

The guilty plea indicates that the motorist admits the truth of the alleged offense noted in the complaint and allows an order sustaining the charge to be made solely on the basis of the plea. To make such a plea the motorist completes the form on the back of the summons, checks the guilty box, and signs his name. The plea must be made on or before the date of appearance on the face of the summons. This plea may be made by either mailing the plea to the central office in Albany or by appearing in person at any field office.

If the motorist decides to plead guilty by mail* he simply mails the completed summons form, the conviction stub** from his driver's license, and the specified fine to the Albany central office. If the plea is acceptable, the motorist's driving record is updated, the conviction stub is annotated and returned, and the case is closed. If the plea is not acceptable, the motorist is notified to appear in person at an AAB hearing office at the time, date and place noted on the summons.

If a motorist decides to plead guilty in person when not required to so appear, the procedure is simple. The motorist appears at any hearing office on or before the appearance date and submits the completed summons, driver license conviction stub, and fine***. The motorist's driving record is updated, the conviction stub is annotated and returned, and the case is closed.

The hearing officer has the authority to suspend a fine in appropriate cases. If the motorist does not comply with the terms of the suspended sentence, however, he will ultimately be required to pay the penalty.

The most severe sanction that can be imposed is suspension or revocation of a motorist's driver's license and driving privileges. When this sanction is imposed, the license itself is suspended and the motorist is issued a 30-day temporary driving permit. When this expires the motorist's driving privileges are suspended

* In certain cases, guilty pleas by mail are not permitted --for example, when a motorist has exceeded the speed limit by more than 25 miles per hour, when a motorist has other outstanding summonses, or when the motorist has accumulated too many points on his driving record.

** In New York State, a conviction stub is that part of the driver's license upon which all traffic convictions are recorded.

*** The motorist may delay payment of the fine for a maximum of 15 days after his appearance. If it is not paid by then, the motorist's license is suspended. The suspension continues until the fine is paid.

or revoked. The suspension or revocation might be effective immediately if the motorist waives his right to a 30-day delay or if the hearing officer denies such delay in the belief that granting it might result in a substantial safety hazard. The length of the suspension period depends on the motorist's driving record and the offense committed.

Most guilty pleas involve fines and are settled by mail. However, serious moving traffic infractions and those which might result in license suspension or revocation require the motorist to make his guilty plea before a hearing officer. This uncontested hearing is also procedurally simple but gives wide discretion to the hearing officer when imposing a sanction. Penalties which may be imposed are not restricted to the fine schedule.

Disposition of Guilty with an Explanation Pleas

The plea of guilty with an explanation permits the motorist to admit to the charge but provides him with the right to offer an explanation. The plea must be made in person before a hearing officer on or before the appearance date noted on the summons. The complainant police officer is not required to be present. After the motorist offers his explanation, for which he is allotted about five minutes, the hearing officer imposes an appropriate sanction. Procedures following this decision are the same as those following an uncontested hearing of a guilty plea.

In certain instances a hearing officer may dismiss a case even though a guilty plea has been made. Such dismissals are limited to cases where a motorist has been charged with operating a vehicle with defective lights (if the motorist repairs the lights in twenty-four hours) or with failing to carry a driver's license or vehicle registration when the computer terminal indicates that these documents have been issued.

Hearing offices are open to the public Monday through Friday from 8:30 a.m. to 4:00 p.m., except Thursday, when the offices are open until 7:30 p.m. Uncontested hearings are scheduled in the order in which summonses are presented to the clerk.

Disposition of Not Guilty Pleas

A not guilty plea indicates that the motorist denies the charge contained in the summons and complaint and requests a hearing to contest it. To do so, the motorist completes the reverse side of the summons. He checks the not guilty box, signs his name and either mails it to the Albany central office or appears in person at any hearing office.

The Commissioner's Regulations require that not guilty pleas be made within 10 days from the date of violation. If the plea is made in person, the hearing office clerk enters the plea and schedules the hearing for the time and date noted on the summons. For pleas by mail, made within 10 days of the alleged violation, a similar procedure is followed.

A plea made in person more than 10 days from the date of violation but before the scheduled hearing date will be accepted and entered. The time and date noted on the summons will be adhered to only if the police officer can appear. If he can, the motorist must appear. If he cannot, the hearing will be rescheduled. The clerk is responsible for notifying all parties of the hearing time and date. A not guilty plea by mail made more than 10 days from the date of violation will be processed if clerically possible. If not, the motorist will be directed to appear at the field office in the borough where the infraction was committed for a rescheduling of the hearing date.

The motorist may request that the hearing be rescheduled. The first request is granted routinely; subsequent requests must be made in person and will only be granted for good cause.

With the plea filed, the hearing scheduled, and all parties notified, the adjudicatory hearing is held. Both the police officer and the motorist are required to appear.

If the officer fails to appear, the police coordinator stationed at the hearing office will try to locate him. If this does not succeed and it is the officer's first failure to appear on this complaint, the hearing officer will normally reassign the hearing

for a later date. If it is the officer's second failure to appear on this complaint, the case is usually dismissed.

If the motorist fails to appear, the hearing officer might permit the clerk to reschedule the hearing. Generally, however, an order will be issued suspending the motorist's driver's license and driving privileges. This order becomes effective in 15 days. If within that time the motorist appears and posts a \$15 bond, a new hearing date will normally be scheduled and the pending suspension removed.

The purposes and procedures of the AAB are explained by the hearing officer prior to the designated hearing time to all parties of all cases to be heard during that session. The order of cases to be heard is determined by the order in which the motorists deliver the summonses to the hearing room clerk.

Contested hearings are conducted in a modified adversary fashion. All witnesses are sworn. The police officer presents the case for the prosecution. He may then be examined by the hearing officer and cross-examined by the motorist or counsel. The motorist then testifies if he wishes. If he testifies, he may be examined by the hearing officer and the police officer. Other witnesses testify in a similar manner. After the evidence has been presented, the motorist or his counsel is permitted a statement in the nature of a closing argument.

The rules of evidence are not strictly applied.* Evidence which is in the nature of a privileged communication, violates the constitutional rights of a motorist, or refers to past driving conduct, is excluded.

* This permits the motorist to present effectively his case without the aid of counsel. Rules of evidence are effectively used only by trained attorneys and are primarily designed to prevent a jury from hearing untrustworthy and irrelevant evidence. Approximately 5% of the motorists who appear for contested hearings are represented by counsel.

The hearing officer has two primary functions. First he must determine the pertinent circumstances of the alleged violation and evaluate the findings to determine the guilt or innocence of the motorist. Second, he must impose an appropriate sanction. It is also his responsibility to protect the motorist's right to due process of law.

If the hearing officer determines that there is not clear and convincing evidence of guilt, he will find that the charges have not been sustained. In that case, the clerk updates the motorist's driving record and the hearing officer dismisses the case.

If the motorist is found guilty, the hearing officer signals the computer to present the individual's driving record. It is presented on a visual display unit like a small television tube, and lists convictions, accidents, and license suspensions and revocations. This information can only be obtained after entry of a guilty determination. The motorist is then permitted to make an explanation in mitigation of the penalty to be assessed. The hearing officer then imposes an appropriate sanction based upon the circumstances of the violation and the motorist's past driving record.

Contested hearings generally last about 20 minutes. Sessions are conducted daily in the field offices at 8:30 a.m., 10:30 a.m., 1:00 p.m., and 2:30 p.m.

Failure to Plead or Appear

If a motorist has failed to plead by the scheduled appearance date and time or if he has pleaded but fails to appear at that time, an order suspending the motorist's driver's license and driving privileges is automatically issued by computer. This order takes effect 15 days from when it is issued.

During the 15-day period the motorist can appear in person before a hearing officer to explain his failure to plead or appear. In certain cases a motorist may respond to the suspension order by mail. Generally, if the motorist appears and posts a \$15 bond

he is permitted to plead and/or the hearing is rescheduled and the suspension order is lifted. Motorists who fail to respond during the 15-day period have their licenses suspended until such time as they do appear.

Procedures do exist, however, to deal with those who persistently fail to appear. The Commissioner of Motor Vehicles or his deputy is authorized to request removal of the case to the criminal court, which has concurrent jurisdiction with the AAB. In addition, reciprocity agreements exist between New York and its neighboring states so that out-of-state motorists are less likely to ignore summonses.

In certain cases, motorists whose licenses have been suspended for a failure to plead or appear are later ticketed for a moving traffic infraction. When the complaint is received by the AAB its records will indicate that the motorist was ticketed for the infraction while his license was suspended. This means that he was operating a motor vehicle while his license was suspended and that is a misdemeanor. The complaining officer is contacted by the AAB, informed of the situation, and requested to arrest the motorist. If the motorist is arrested, he is brought before the criminal court where the judge can use the power of the court to suggest that the motorist take care of all outstanding traffic cases while he suspends the misdemeanor case for a short period of time.

Also, a motorist whose license has been suspended will be unable to renew his license until he settles all outstanding traffic summonses.

Appeals

Within 30 days of a hearing, a motorist may appeal a decision or sanction to a three-member appeals board. The board is appointed by the Commissioner and includes some persons other than AAB personnel. All members must be lawyers admitted to the New York Bar, and two can be AAB hearing officers. AAB appointees do not continue to perform their previous jobs since this is a full-time position. Currently, the appeals board is composed of two outside attorneys and one AAB member who holds the Civil Service grade of a Senior Referee. The AAB member serves as Administrator of the Appeals Board.

An appeal is made by mailing the proper form*, stating the basis for appeal, along with a \$10 fee to the appeals board at the World Trade Center in New York City. The board handles appeals from all of the field offices. The basis for appeal may be a question of fact or a question of law.

All hearing are tape recorded.** Transcripts of hearings from appealed cases are prepared by an outside professional firm at a cost to the motorist of \$1.85 per page.*** A \$15 deposit prior to transcript preparation is required. The balance is due before the appeal will be processed. The average transcript runs about 20 pages. If only the sanction is being appealed, no transcript need be submitted. The decision of the board is final.

After the transcript is prepared, a copy is sent to the motorist. He is permitted 10 days in which to formulate comments on it and submit them to the board. With the appeal filed, fee paid, and transcript prepared, the appeal can be processed.

A board member prepares an initial analysis sheet on the appeal with a recommendation as to the ruling. The full board meets periodically and the outstanding appeals are heard, discussed and voted on. Two votes are necessary for final action on any appeal. The imposition of a license suspension or revocation may be stayed pending the determination of an appeal, most of which are decided within 60 days. Finally a letter indicating the outcome of the appeal including the reasoning is sent to the motorist.

The motorist is also notified of his right to further judicial review. Within four months, he may file an appeal, pursuant to

* A copy of the appeals form as well as appeals analysis sheets are included in Appendix F.

** Tape recordings are stored for 60 days following an appeal. All exhibits submitted during a contested hearing are filed with the summons and made available to the appeals board during the review process.

*** Recently increased from \$1.50 per page.

Article 78 of the New York State Civil Practice Law and Rules*, with the State Supreme Court (in New York, this is a trial level court). If a legal question is involved, the Supreme Court will decide it. If the appeal concerns a factual question it will be transferred to the Appellate Division for resolution. Questions which may be raised on an Article 78 proceeding include, among others, an allegation of abuse of discretion on the part of a hearing officer or an allegation that the initial determination does not rest upon substantial evidence. This judicial decision will be final. During the five years that the AAB has been in existence, only about 20 Article 78's have been filed.

4.3 Data Processing System

The AAB's data processing system plays a central role in the overall adjudication process. There are two major components of the system:

- manual processing which begins at the place where the alleged infraction occurs with the preparation of the complaint form, continues at the Central Office in Albany with the receipt of complaints, pleas and fines, the coding of complaint data for computer processing, and the preparation of accounting records and audit trails;
- computer processing which begins with the entry of the coded complaint form at the Central Office, continues at the field offices and Central Office with the entry of the plea and fine, to the preparation of various complaint reports and data displays, and concludes with the updating of the motorist's driving record to reflect the final resolution of the complaint.

All of these activities are discussed in greater detail below.

* A copy of Article 78 appears in Appendix G.

Traffic Ticket

As indicated in Section 4.2.1, the traffic ticket consists of four parts:

- Part I is the Complaint
- Part II is the Criminal Court Summons
- Part III is the AAB Summons
- Part IV is the Parking Violations Bureau Summons.

The complaint is completed by the police officer. Information recorded includes the motorist's name, address, sex, date of birth, driver's license number and other license data, and vehicle information. The charge is noted along with the time and place of occurrence and the law or regulation violated. If the charge is a speeding violation, posted speed and observed speed are also noted. At the bottom of the complaint form the scheduled time and appearance date are entered by the officer along with the name and location of the adjudicatory agency that will hear the case. The scheduled fine of \$10, \$15, \$25, or "other" box is checked and the officer signs the form as the complainant. On the opposite side of the complaint form there is space for a record of the proceedings, including plea, continuances, sentence, and fine paid. Parts II, III and IV are printed on pressure sensitive paper and record most of the entries written on the complaint form.

When the complaint involves a moving traffic infraction, Part III is given to the motorist and Parts II and IV retained by the police. On the front side of Part III, the AAB summons, are the following messages to the motorist:

"If you fail to answer this summons by the date of appearance, your license will be suspended."

"A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as

prescribed by law."

On the other side of the summons are instructions on how to complete the form. The motorist must specify a plea by checking either "guilty" or "not guilty". After signing the summons, the motorist must submit it for processing by either mailing it to the Central Office or bringing it to a field office.

Processing the Complaint

Complaint forms are sent daily by the police to the Central Office at Albany. There the Complaint and Correspondence Unit staff check the forms for completeness, legibility, etc., resolve all questionable data items on the complaint, code some key items, and generally prepare the complaint for entry to the computer system.

The complaints are entered by keying the data from the form into a computer terminal with a TV-like screen. These data are combined with data from the motorists' driving records to create complaint records which constitute the Complaint File. If the motorist has no driving record, as would an unlicensed driver or a driver licensed in another state, a special record is prepared. Clerks and hearing officers in all AAB offices have immediate access to this Complaint File through the visual display units. The Central Office also maintains a back-up manual file of all complaint forms.

Processing the Plea

The motorist can submit a plea of "guilty" or "not guilty" by mail or in person. A plea of "guilty with explanation" must be made in person at a hearing office.

When pleading guilty in person, the motorist reports to the information desk and gives the completed plea form, driver's license

conviction stub*, and fine payment to the clerk. The clerk then enters the motorist's identification number and summons number and receives a visual display of the complaint. The guilty plea is then entered into the computer records. If it is acceptable, the motorist's conviction stub is annotated and returned to the motorist, the payment is deposited and the record updated. If it is not acceptable, the motorist must appear at a hearing, and is so informed; the conviction stub and payment are returned to the motorist. When pleading guilty by mail, a similar process is followed except that all of the communications are by mail with the Central Office.

When pleading not guilty in person, the motorist reports to the information desk and gives the completed plea form to the clerk. The clerk keys the motorist's plea into the computer system using the visual display unit to create another entry in the Adjudication File. The motorist is reminded of the location, date and time of the hearing, which were specified on the original complaint.

Data items from the complaint forms of these motorists are then used to prepare hearing office dockets, a sample of which is presented in Appendix F. These schedules have greatly reduced in-court waiting time for police and motorists, and have increased police attendance rates at hearing. When pleading not guilty by mail, a similar procedure is followed except that all communications are by mail with the Central Office.

Hearings

During contested hearings the hearing officer uses the visual display unit to check the accuracy of information on the summons by obtaining a readout of the complaint information in the computer records. If the motorist is found not guilty, that result is recorded on the Complaint and entered in the computer's Complaint and Adjudication Files via the terminal, and no record of

* In some states, such as Massachusetts, drivers' licenses do not have conviction stubs. In these cases only the summons and payment are submitted.

the case is entered on the motorist's driving record. An historical adjudication file is maintained which permits responses to inquiries for cases processed within the preceding 45 days.

If the motorist is found guilty, the visual display unit is used to examine the master driving record in an effort to impose an appropriate sanction. The conviction is entered in the computer records as well as the sanction imposed and, if appropriate, its payment.

During uncontested hearings similar procedures are followed. After the motorist has presented an explanation and before imposing a sanction, the motorist's driving record is displayed on the visual display unit. After reviewing this record, the hearing officer determines an appropriate sanction, and the driver's master record is updated along with the Complaint and Adjudication Files.

Failure to Plead or Appear

If the AAB does not receive a plea from the motorist by his scheduled appearance date, the computer automatically generates a notice of suspension. The notice informs the motorist that his license will be suspended in 15 days if the motorist fails to appear. If the motorist does not appear during that period, the suspension becomes effective and is entered on the master driving record.

At any subsequent review of the motorist's record, as when processing another complaint or reviewing the motorist's license, this suspension would be highlighted.

Computer System

The computer system plays a key role in AAB operations. It provides quick and accurate information to all AAB personnel at every stage of the adjudication process, and prevents persons who have

evaded summonses from renewing their licenses.

The heart of the computer hardware system is the IBM 360/65 central processing unit of the State's Department of Motor Vehicles. It receives its input from an IBM 370/145 preprocessor, which in turn is fed by many IBM 2260 Display Station terminals at the Central Office and field offices.

The computer software is quite sophisticated and is constantly being improved. The Department of Motor Vehicles' data processing staff developed and maintain the system. A detailed description of the system and samples of its hard copy output are provided in Appendix H.

4.4 Facilities

There are five field offices in New York City, one for each borough, and one office each in Buffalo and Rochester. All the offices are close to main highways and mass transit facilities, making them easily accessible to the residents of these cities. There is a New York City administrative center at the Brooklyn field office. The central administrative offices are located at Albany, where complaints and pleas are processed, hearing schedules determined, and other clerical functions performed. Also located at the Albany office is the Department of Motor Vehicles' main computer and data bank.

The hearing offices are all clean, light, airy, and have been simply designed. No smoking is permitted. An information clerk meets motorists, accepts pleas, and answers questions; a cashier accepts fines. Each field office has several hearing rooms. The large ones, seating about 50, are used to conduct uncontested hearings resulting from guilty with an explanation pleas and required personal appearances. The smaller ones, with about a 20-person capacity, are for contested hearings, when testimony may last 20 to 30 minutes.

In both types of rooms, the hearing officer, in business clothes rather than judicial robes, sits at a desk which is on a slightly

raised platform at one end of the room. He is flanked by one clerk for contested hearings and two for uncontested hearings.

The field offices are equipped with a number of special features which aid in conducting the hearings. All offices are connected to the main computer in Albany via visual display terminals. These are located at the information desk, at each hearing officer's desk, and in the office of the head clerk. They provide instant access to the computerized records of the Department of Motor Vehicles, permitting a check of the information on the motorist's summons and a look at the motorist's past driving record (but only after the guilty plea or decision has been entered). A printing unit in each office can be used to provide a hard copy record of what is displayed on the computer terminal.

In addition, all hearings are tape recorded in case the motorist decides to appeal the case. Microphones are located at the reference desk and the clerk monitors the recording equipment. There is also a system of pneumatic tubes at each site. These are used to send the licenses of guilty motorists to the cashier along with an indication of the amount of the fine to be collected. This eliminates the need for a messenger while avoiding the risk that the fine will not be paid if the license is returned before payment is received.

These modern devices and the relatively pleasant facilities provide both the atmosphere and the equipment necessary for the prompt and judicious processing of traffic violations.

4.5 Caseload Statistics

Data on eighteen statistics related to caseloads have been routinely collected ever since the AAB began operating. Although these statistics do not provide a comprehensive picture* of how

* Because of delays between the issuance of a complaint and the subsequent adjudication of it, it is difficult to obtain a detailed picture of the operation. The AAB has not attempted to obtain such a picture because it would involve accounting for all of the complaints issued in a year, or accounting for all the pleas processed in a year. Instead, it collects selected statistics which provide general indicators.

AAB operations have grown and evolved, they do give a general indication of the magnitude of these changes.

Regardless of which statistic is selected, it is clear that during the AAB's brief history there has been a dramatic increase in the volume of its cases. In the past five years, caseload and performance measures have generally increased from 50 to 100 percent. The introduction of Buffalo and Rochester in 1972 is partially responsible for this increase. However, even within New York City there has been a steady rise in the volume of cases. This growth is summarized in the table below and the graph on the following page.

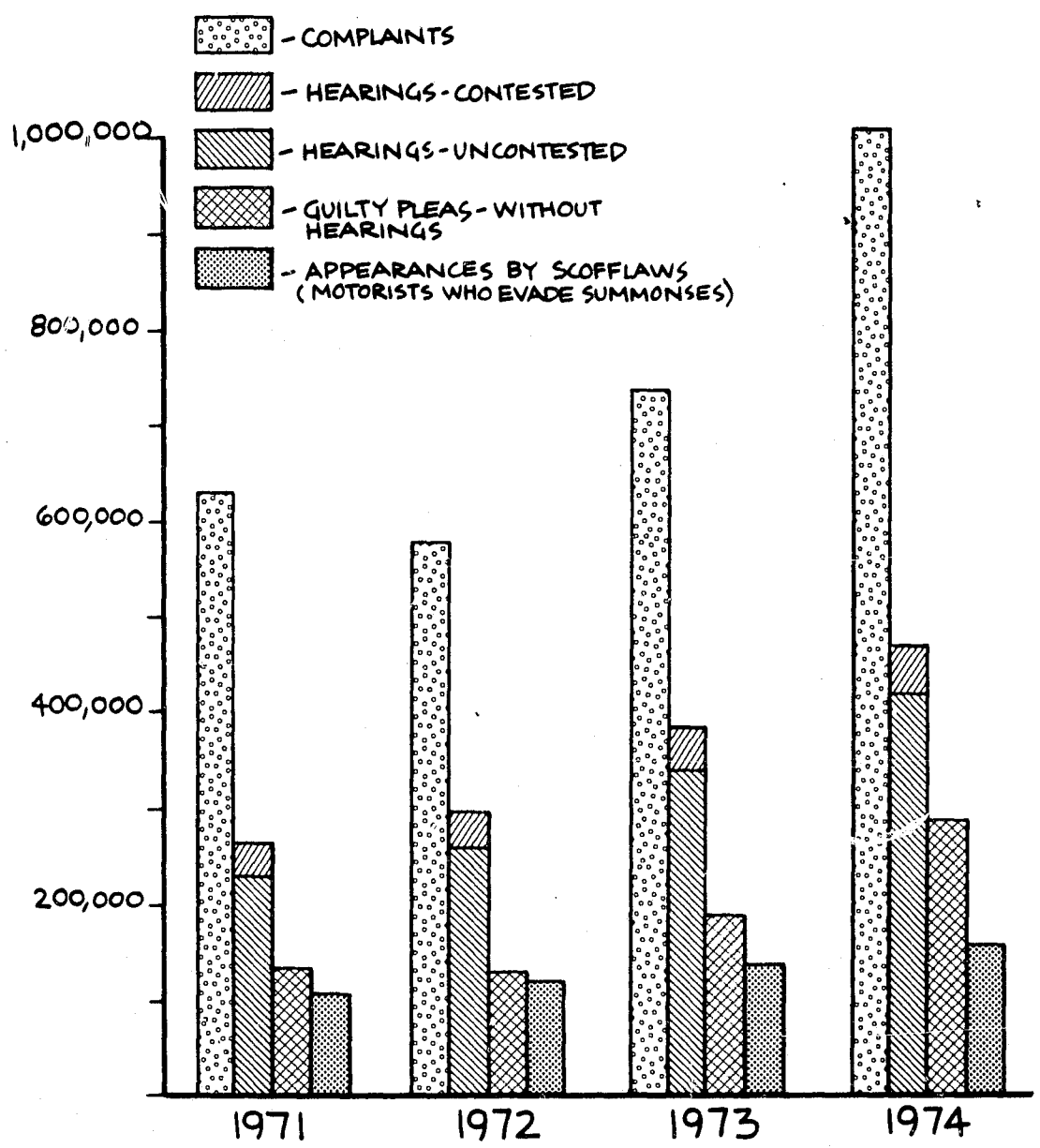
Summary of Selected Operating Statistics*

| | 1971 | 1972 | 1973 | 1974 |
|--|------------------|------------------|------------------|--------------------|
| Complaints | 629,665 1.000 | 584,064 .928 | 739,897 1.175 | 1,021,631 1.622 |
| Hearings Contested | 33,627 1.000 | 35,238 1.048 | 43,641 1.298 | 52,643 1.565 |
| Hearings Uncontested | 231,990 1.000 | 262,588 1.132 | 342,913 1.478 | 415,521 1.791 |
| Guilty Pleas without Hearings | 130,126 1.000 | 130,068 1.000 | 192,224 1.477 | 290,637 2.234 |
| Appearances by Scofflaws (motorists who evade summonses) | 109,617 1.000 | 122,304 1.116 | 137,311 1.253 | 162,072 1.479 |

The higher relative growth in "uncontested hearings" and "guilty pleas without hearings" in comparison to "complaints" may be indicative of the gradual acceptance of the system by traffic violators as an equitable approach to traffic offense adjudication.

* Each caseload statistic is expressed in absolute terms on one line and in relative terms (using 1971 as the base year) on the next line.

GRAPHICAL SUMMARY OF SELECTED OPERATING STATISTICS



CHAPTER 5: PROJECT ACHIEVEMENTS

Ever since it was established, the AAB has had two objectives*:

- To reduce substantially the number of cases being processed by the criminal courts, thereby permitting a "more judicious disposition of criminal matters."
- To provide for "speedy and equitable disposition of charges which allege moving traffic violations."

This chapter considers, in Sections 5.1 and 5.2, the degree to which these two objectives have been achieved. Sections 5.3 and 5.4 compare New York's Administrative Adjudication System with National Standards and Goals and with a model system developed for the U.S. Department of Transportation.

5.1 Reduction of Criminal Court Caseloads

There are ample statistics available for determining the degree to which the first objective has been achieved. In 1969 when all traffic cases were being processed by the Criminal Court, the New York City Court handled about 4.6 million cases. In 1973 when only traffic criminal cases were being processed by this court, its traffic cases amounted to about 87,000 cases. Unquestionably this represents a dramatic decrease. However, is this decrease due solely to the introduction of the Administrative Adjudication Program?

* As discussed in the preamble to the enabling legislation for the AAB, included in the appendix to this manual.

Traffic criminal cases in 1969 involved only 100,000 (or about 2.2%) of the Court's 4.6 million traffic cases. The remaining 4.5 million cases were split between 3.8 million non-moving (82.3%) and .7 million moving (5.5%) infractions. On this basis, therefore, the AAB should receive only 15.5% of the credit for reducing the volume of cases processed by the Criminal Court of New York. If the establishment of the AAB had not been coupled to the establishment of the New York City Parking Authority, the Criminal Court would have continued to be burdened with its non-moving traffic infraction cases. Therefore, although the goal of "substantially reducing the number of cases being processed by the criminal courts" has clearly been achieved, it should be acknowledged that much of the credit for this belongs to the New York City Parking Authority.

However, one cannot rely on case processing numbers alone. It can be shown that parking violations take up clerical time, but no significant amount of courtroom time. Therefore, the fact that eighteen judges and five courtrooms in New York City have been freed from traffic offense adjudication is largely attributable to the impact of the AAB. It is further estimated that two full-time judges and two courtrooms in both Buffalo and Rochester are now available for processing criminal and other cases.

On balance, it can be said that the AAB has had a significant impact in reducing congestion in the criminal court of all three cities.

5.2 Improved Handling of Traffic Offense Cases

Determining the degree to which the AAB has provided "for the speedy and equitable disposition of charges which allege moving traffic violations" is difficult because of the paucity of hard data. However, it seems clear that the establishment of the AAB has:

- reduced the time between citation and disposition;
- provided a prompt appeals process;
- improved the adherence to due process of law;

- had several other beneficial effects.
- Each of these is discussed in this section.

Reduction of Time Between Citation and Disposition

The computerized operations of the AAB have resulted in the reduction of the time between the issuance of citation to the motorist and the disposition of his case. It is estimated by AAB staff that a case which results in a hearing takes between 45 and 60 days to process, as compared with pre-AAB delays of up to one year or more. There are several advantages to such processing. The hearings are conducted while the circumstances of the incident are still relatively fresh in the minds of both motorist and police officer. Further, if the motorist is found guilty his sanction is more meaningful because he can more directly relate it to the offense itself.

Prompt Administrative Appeal

The AAB provides the motorist the opportunity to appeal inexpensively any adverse decision. Within thirty days of a determination against the motorist, he may register an appeal with the appeals board by paying a ten dollar fee. His appeal will be decided within sixty days. Should the appeal board affirm the decision of the hearing officer, the motorist is entitled to make a further appeal to the judicial system. As previously noted, while an appeal is pending, the imposition of license suspension or revocation may be stayed. In fiscal year 1973-74 in New York City approximately 5% of all complaints resulted in contested hearings. Of this number, approximately half were found guilty. Two and a half percent of these findings were appealed. Thus, about 1% of all contested hearings and .06% of all complaints were appealed. Pre-AAB comparison statistics are not available according to the Criminal Court Administration of New York City.

Provision of Due Process

The AAB has established and implemented procedures which attempt to guarantee that the rights of the motorist are protected. The following elements of due process are now incorporated in all AAB cases:

- adequate and timely notice of hearing and of every material step in the proceeding.
- hearing before an impartial adjudicator
- full opportunity to be heard
- all parties have the right to:
 - be represented by counsel
 - remain silent
 - hear all the evidence against them
 - offer evidence and witnesses in their behalf
 - cross-examine witnesses against them
 - use the power of subpoena
- clear and convincing evidence is necessary to support the pertinent findings of law
- decisions are promptly communicated to all the parties
- notice of the right to administrative appeal is given at the time of decision
- judicial review is permitted after administrative appeal.

Because the courts generally considered traffic infractions to be relatively unimportant offenses, these traffic cases received hurried processing usually at the expense of some of the due process elements listed above. For example, it was not uncommon for a judge to seriously limit cross-examination, exhibit bias toward certain defendants, determine guilt by a lesser standard of proof than is now required, and give full credence to police testimony. He was able to do this partly because appeal was unlikely.

Other Benefits

Several ancillary benefits have accompanied the achievement of the AAB's objective "for the speedy and equitable disposition of charges which allege moving traffic violations".

• *Improved Police Attitude*

Before the AAB, plea bargaining was frequently used in traffic cases. This resulted in unequal treatment of motorists who were charged with identical violations. It also interfered with getting off the road those drivers who were a threat to public safety. Under the AAB there is no plea bargaining.

• *Reduction of Summonses Evaded.*

Before the AAB, over 50% of the motorists charged with traffic violations failed to respond to the issuance of a summons. According to AAB estimates this figure has been reduced to between 20 and 25%. This reduction is largely the result of the suspension order sent to a motorist who initially fails to respond. Part of the remaining problem results from insufficient reciprocity arrangements with other states. This is particularly true in Buffalo because reciprocity arrangements do not exist with Pennsylvania and Canada. On-the-spot bail for that particular area is being considered as a possible solution. The persistent offender is difficult to control because the AAB has no authority to issue warrants. It must seek the cooperation of the courts in this regard.

• *Elimination of Excessive Police-Court Time.*

Before the AAB, the police spent many hours in court waiting for their cases to be called. Under the AAB scheduling system, the amount of waiting time has been greatly reduced. The central office in Albany schedules hearings in conjunction with preset schedules for the various police precincts. Further, hearings are conducted at four pre-determined intervals during the day. Police officers, therefore, never have more than a ninety minute wait for an appearance. Uncontested hearings do not require police attendance and the absence of in-court arraignment procedures saves still more police time. As a result, officials estimate that the time police officers spend in court is about 50% of what it was before the AAB.

• *Improved Police Attitude*

Police have voiced the opinion that traffic violators receive a fairer hearing and a more appropriate penalty now than they did before the AAB. For this reason, it has been suggested that the police are inclined to enforce the traffic laws more uniformly.

• *Improved Traffic Safety*

There is no hard data that shows any improvement in traffic safety that can be attributed to the AAB. However, this may not be a weakness inherent in the New York System. The Department of Transportation Study on Traffic Offense Adjudication* concluded:

"Our study and analysis provided no evidence to indicate that any of the traffic offense adjudication systems or approaches included in our survey were noticeably superior to the others in effecting a reduction in recidivism.

Examinations of the data from our study and the work of other researchers would indicate that traffic offense adjudication systems or approaches must be measured in terms other than its effect on recidivism because no given traffic offense adjudication system has been shown to be more effective than another."

* "Effective Highway Safety Traffic Offense Adjudication," June 17, 1974 (Contract No. DOT 123-3-442). An annotated bibliography of further research in the field of highway safety is included in Appendix I.

• *Fiscal Relief*

The AAB's revenues more than offset its expenditures. During the last fiscal year, revenues were approximately \$12.3 million and operating expenses only \$4.75 million. Most of the \$7.5 million "net profit" from AAB operations was distributed among the three participating cities: \$6.8 million to New York City, \$483,000 to Buffalo, and \$166,000 to Rochester. Pre-AAB cost and revenue figures are not available for comparison purposes.

5.3 *Comparison with National Standards*

There are two sets of standards against which the AAB can be compared. One has been developed by the National Advisory Commission on Criminal Justice Standards and Goals for Courts ("the National Commission"). The other has been developed by the National Highway Safety Advisory Committee's Ad Hoc Task Force on Adjudication ("the Taskforce").

The National Commission's Standard 8.2 on Administrative Disposition of Certain Matters Now Treated as Criminal Offenses contains the following seven recommendations:*

* See Appendix J.

- "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 officer in a motor vehicle."

AAB satisfies this requirement completely for moving traffic violations. Parking violations bureaus in New York City, Buffalo, and Rochester satisfy this requirement for non-moving traffic violations.

- "penalties for such infractions should be limited to
 - fines
 - outright suspension or revocation of driver's license
 - compulsory attendance at educational and training programs, under penalty of suspension or revocation of driver's license."

AAB satisfies this requirement completely.

- "violators should be permitted to enter pleas by mail, except where the violator is a repeat violator or where the infraction allegedly has resulted in a traffic accident."

AAB satisfies the essential part of this requirement. The fact that an alleged traffic offense has resulted in an accident is not considered by the AAB in determining the necessity for a personal appearance.

- "No jury trial should be available."

AAB satisfies this requirement completely.

- "A hearing, if desired by the alleged infractor, should be held before a law-trained referee. The alleged infractor should be entitled to be present, to be represented by counsel, and to present evidence and arguments in his own behalf. The government should be required to prove the commission of the infraction by clear and convincing evidence. Rules of evidence should not be applied strictly".

AAB satisfies this requirement completely.

- "Appeal should be permitted to an appellate division of the administrative agency. The determination of the administrative agency should be subject to judicial review only for abuse of discretion."

AAB satisfies the first part of this standard. Grounds for judicial review are, however, broader than only abuse of discretion. Appeal may be taken on the allegation that the determination of the hearing officer is not supported by clear and convincing evidence.

- "Consideration should be given, in light of experience with traffic matters, to similar treatment of certain non-traffic matters such as public drunkenness."

Such considerations are outside the scope of authority of the AAB.

The National Safety Advisory Committee's Ad Hoc Task Force on Adjudication has made the following six recommendations.*

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

The Task Force suggests that this recommendation can be fulfilled by satisfying the requirements of Standard N-7** of the National Highway Traffic Safety Administration. The AAB meets this standard with only two exceptions. The preparation of a presentence report is not as complete as is suggested. Economic, medical, and psychological information is not included with the basic past driving record. The other exception is the absence of any formal evaluation procedure. The AAB does have the capacity, however, for generating significant traffic adjudication and safety data.

- "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."

* See Appendix K.

** The full text of this standard appears in Appendix L.

AAB fulfills this recommendation. The New York State Vehicle and Traffic Law was so amended in 1934.

- "Structure a governmental traffic adjudication subsystem either as part of an administrative agency separate from the judiciary, or within the judiciary, as each state may elect."

AAB fulfills this recommendation with the exception that there is no provision for legislative or judicial review every six years as the comments of the Task Force suggest that there should be.

- "Adopt a more simplified, informal and administrative type of procedural machinery for 'traffic infraction' adjudication and sanctioning."

The AAB fulfills this recommendation with two exceptions. The comments of the Task Force state that cases should be disposed of within 30 days from date of citation. The AAB averages 45-60 days. Also immediate hearing on 'not guilty' pleas are not available. Such hearings are held according to master police precinct schedules with the motorist having the right to a continuance.

- "Develop a statewide traffic case adjudication, coordination, and management subsystem which utilizes advanced record keeping, storage, retrieval and dissemination techniques."

AAB has developed a system which could be expanded statewide, but currently is operating only in the three largest cities of the state.

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

AAB fulfills the first part of this recommendation. The use of compulsory attendance at driver safety sessions, however, has decreased in frequency because of the rate of recidivism among session graduates. The results of such driver improvement programs are monitored by the Department of Motor Vehicles.

Overall, the New York Administrative Adjudication Program comes

very close to satisfying all of the standards set by the National Commission and the Task Force.

5.4 Comparison with Traffic Offense Adjudication Process Model

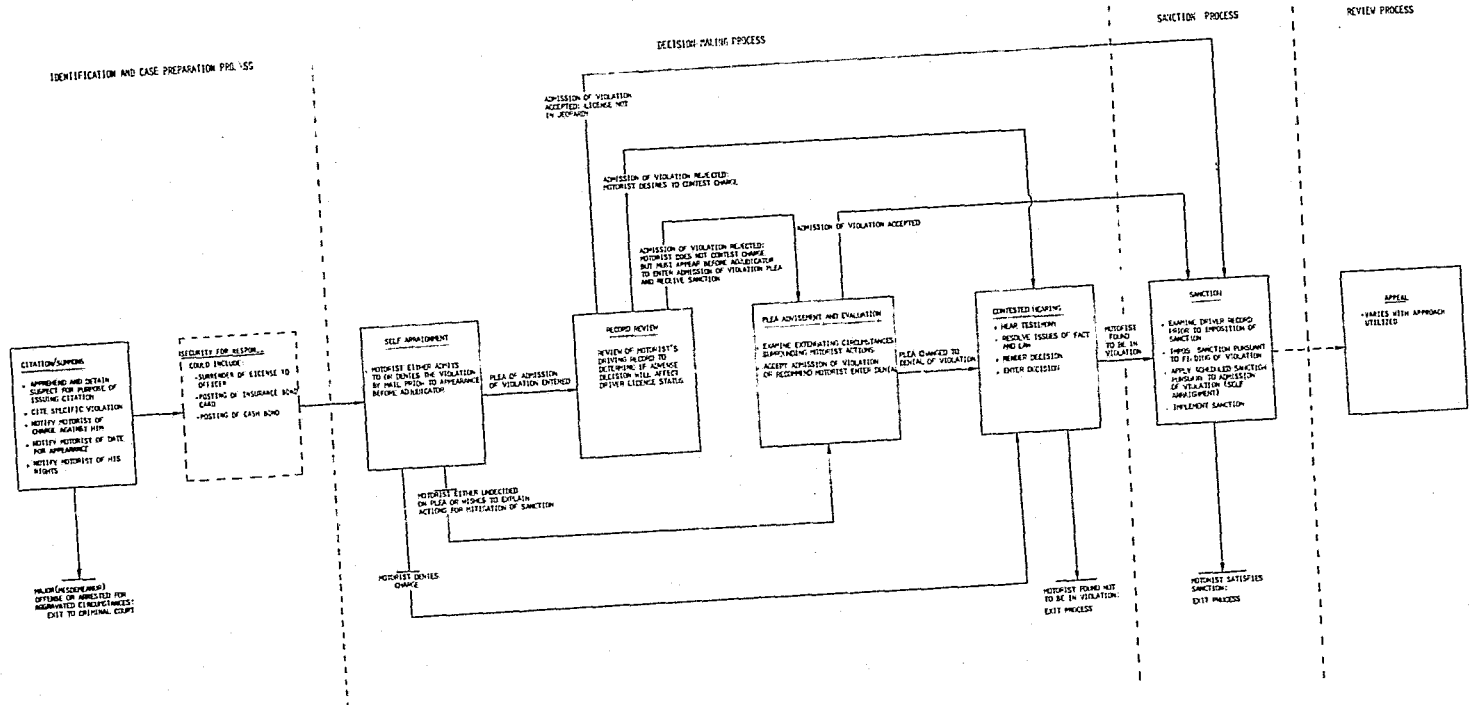
The traffic study* prepared for the U.S. Department of Transportation included a general traffic offense adjudication process model based upon the best elements of all adjudicatory approaches. The elements of that general model and the New York AAB version of it are shown graphically on the following pages. A comparison of the two indicates that the New York system follows the DOT study model very closely. The two areas where New York differs from the model are:

- No requirement for the posting of security to assure response to the summons;
- No formal procedure for plea advisement and evaluation.

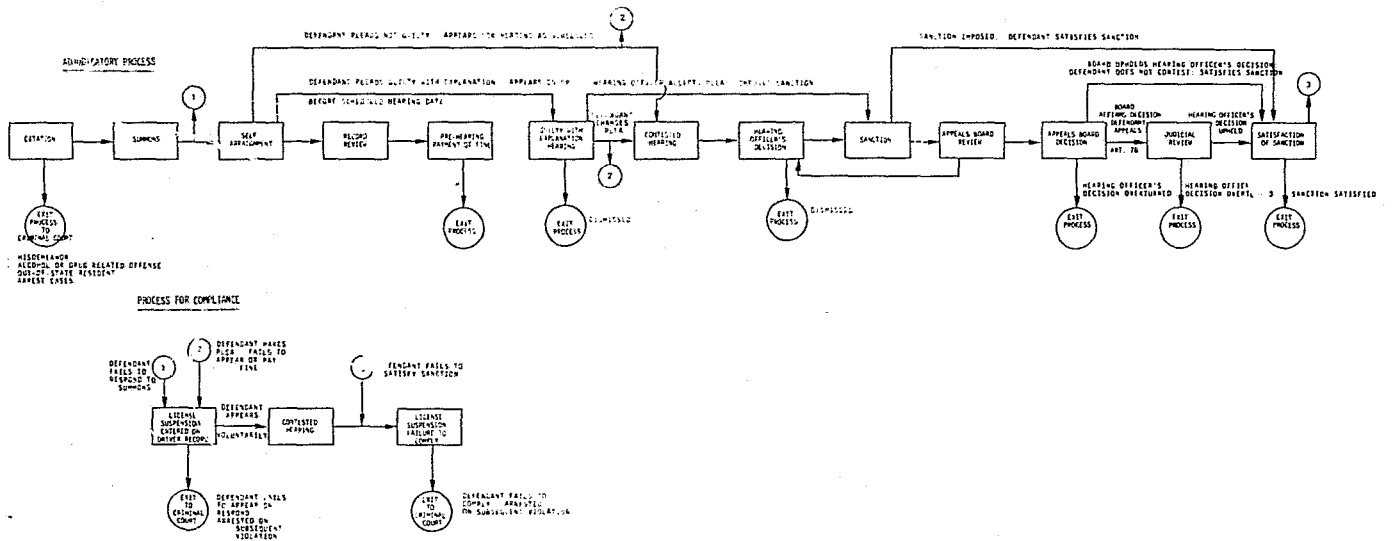
In lieu of a security requirement, the AAB uses the threat of license suspension for failure to respond to a summons. The lack of formal plea advisement procedures is balanced by permitting a plea of guilty with an explanation. Both plea advisement and guilty with an explanation pleas are essentially directed at the motorist who has in fact committed a violation but believes there are extenuating circumstances.

* Op. cit.

TRAFFIC OFFENSE ADJUDICATION PROCESS MODEL



NEW YORK STATE ADMINISTRATIVE ADJUDICATION



CHAPTER 6: REPLICATION

The Administrative Adjudication Program addresses an extremely common concern. Every state and/or local jurisdiction has the responsibility of adjudicating both criminal and traffic offenses. With only minor exceptions and modifications, the adjudication of both types of offenses is performed by the criminal court system. Because of this, almost every major city in the country is plagued with congestion of its criminal court calendar. Administrative adjudication of traffic violations provides a means of eliminating this congestion, while at the same time improving the processing of traffic infractions. Section 6.1 deals with the legal considerations involved in any replication effort. The special features of the AAB to be considered are discussed in Section 6.2. The varying approaches to traffic offense adjudication are compared in Section 6.3. The chapter closes with suggestions on ways in which the experience of the New York AAB might aid in a replication effort.

6.1 Legal Considerations

The administrative adjudication of traffic offenses presupposes that these offenses are not legally considered as criminal. As long as they are considered criminal, these offenses will necessarily fall under the jurisdiction of the criminal courts. Therefore, the first step in the implementation of administrative adjudication is the decriminalization of minor traffic offenses. Many states have already done this (AAB officials suggest as many as 16) although adjudication still continues under the jurisdiction of the judiciary.

Coupled with this decriminalization, the responsibility for adjudicating these offenses should be transferred from the criminal

courts to an administrative agency. It should be noted, however, that many of the innovations of the New York program could be incorporated in a quasi-judicial approach. These include computerized information systems, specially trained adjudicators, pleading by mail, and preset police court schedules.

Reclassification of traffic offenses and administrative adjudication have already been recommended by experts in this field. Justice Douglas, in a recent Supreme Court decision (*Argesinger v. Hamlin*, 407 U.S. 25 (1972)), stated that:

"How crimes should be classified is largely a state matter . . . One practical solution to the problem of minor offenses may well be to remove them from the court system."

Similarly, the American Bar Association's Special Committee on Crime Prevention and Control has concluded that:

"The handling of . . . non-serious offenses, such as housing codes and traffic violations, should be transferred to specialized administrative bodies."

Such a solution, it added, was within the "province of State and Local legislatures."

To date, however, there have been few legislative attempts to transfer responsibility to administrative agencies. The U.S. Department of Transportation's study on traffic offense adjudication found that New York is the only state in which there is administrative adjudication of any traffic offenses. Rhode Island is now implementing administrative adjudication statewide with the exception of municipal violations in the cities of Providence and Warwick. North Dakota has a quasi-administrative system. All other states have adjudication systems which are judicial or para-judicial in nature. For example, Seattle, Washington, operates an extremely informal para-judicial system which is closely combined with licensing agency-driver improvement analysts, sanctioning policy and record keeping. Specially trained lawyers counsel motorists and have jurisdiction to impose fines, suspend licenses, and require attendance at driver improvement clinics. However,

jurisdiction over the adjudication process is retained by the judiciary rather than an administrative agency. Both the Seattle and Rhode Island efforts have received full Federal funding as special adjudication for enforcement (SAFE) projects.

In addition to the Seattle and Rhode Island SAFE projects, the U.S. Department of Transportation plans to initiate several new demonstration projects in FY'77 which are related to administrative adjudication. The Traffic Safety Adjudication Subsystem (TSAS) project will continue the work started with the SAFE administrative adjudication projects to develop a fully integrated, highway safety oriented traffic infraction subsystem. The SAFE projects are establishing the efficiencies of administrative and other non-criminal adjudication processes. The TSAS will develop and perfect the components and processes of an entire subsystem.

The Driving Under the Influence (DUI) Regulatory Adjudication project will re-orient first offense DUI adjudication from a criminal justice mode to a regulatory mode to provide accurate, timely and complete DUI offender identification, adjudication, and regulation. The Department also has under contract a national survey of driver licensing agency hearing authority, additional research on administrative adjudication and the development of a curriculum to train administrative hearing officers. The results of these efforts will become available during the next 13-26 months. They are expected to provide valuable information to others interested in considering an administrative approach to the adjudication of traffic infractions.

Information on these projects and research, as well as a copy of the Department of Transportation's first annual report to Congress can be obtained from the Adjudication Branch, Traffic Safety Programs, N42-15, National Highway Traffic Safety Administration, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

6.2 Special Features

There are five special features which are primarily responsible for the successful implementation and maintenance of the Administrative Adjudication Bureau:

- support from the judicial system
- sophisticated computer systems capabilities
- organizational structure
- assurance of due process
- substantial planning and monitoring.

Each of these features, discussed briefly below, should be considered when attempting to replicate the AAB.

Judicial Support

Experience has shown that the judicial system is generally supportive of the transfer of responsibility for adjudication of traffic offenses to a quasi-judicial system. There is some evidence that the judiciary will not support complete loss of jurisdiction over traffic offense adjudication. This may be due to a very real concern over jobs. It is estimated that in some states 80% of lower court caseload is traffic related. Large, embarrassing, and cumbersome criminal case backlogs and the commonly held opinion that most traffic cases are not essentially criminal in nature, however, may persuade the judiciary that more efficient traffic offense adjudication is necessary. In New York State many jurisdictions have expressed interest in the implementation of administrative adjudication in their areas.

Computer Systems Capabilities

Computer technology plays a key role in the success of the AAB. Using the data storage and retrieval capabilities of high speed computer systems, the AAB can access, update, retrieve and display driver records. This is essential in the expeditious handling of every summons. In addition, the AAB relies heavily on computer systems in its overall operation and control activities. These include such areas as the scheduling of hearing officers and rooms; the assignment of hearing dates and times for police precincts and the analysis of operational data needed to manage the entire activity. An administrative adjudication system which relied on manual processing would not be as efficient as one with a sophisticated data processing capability. But even a manual system

would still represent a significant improvement by virtue of its separation from the processing of criminal cases.

Generally the computer capabilities of state Motor Vehicle departments are considered to be sophisticated enough to support the requirements of an administrative adjudication program modeled on the AAB. However, as usual, there is wide variation among the states. Even in New York over \$500,000 was spent on start-up expenses primarily for the hardware and software needed to satisfy the requirements of the AAB. Although much of this software could probably be shared by other interested states, in any program modeled on the AAB some additional hardware (e.g., display units for every hearing room) would probably be required.

Organizational Structure

The parent organization of the AAB is the state's Department of Motor Vehicles. This appears to be a key factor in the success of the AAB. Because of it, the requisite knowledge, capabilities and computer hardware was readily available to the AAB. Bureaucracies being what they are, it seems unlikely that the AAB would be as successful if it were not an integral part of the Department of Motor Vehicles. Such achievements as reduction in summonses ignored, efficient case processing, and accurate, up-to-date records are directly attributable to the single agency control of traffic offense adjudication. The operating experiences of Seattle and Rhode Island can eventually be used to test this conclusion.

Assurance of Due Process

The fourth special feature of the AAB is its ability to ensure that the adjudicatory process provides the motorist with due process of law. This has resulted from the implementation of effective procedures and the use of highly trained lawyer-hearing officers operating within the civil service system of New York.

Procedural safeguards have been taken to ensure due process in such areas as:

- citation/summons issuance
- self-arraignment procedures
- record review relative to plea acceptance
- plea advisement and evaluation
- conduct of contested hearings
- imposition of sanctions.

Relevant details are provided throughout the AAB operating procedure description in Section 4.2.

Substantial Planning and Monitoring

The last special feature of the project which has contributed to its success is its concern for planning and monitoring. This is clear from its operating policies and procedures in such areas as:

- establishing procedural (process) and performance (outcome) standards
- providing sound educational and experiential training
- performing job task analyses
- personnel policies
- handling employee and motorist complaints
- maintaining records
- obtaining feedback.

It should also be noted that, although there is no formal evaluation component, AAB officials regularly and frequently review and analyze operating statistics in light of well-defined performance standards. Whenever actual performance falls significantly below standards, the cause is investigated and appropriate corrective action taken.

6.3 Comparison with Other Programs*

The following comparison relates jurisdictions with a judicial approach, modified judicial approach, and administrative approach. The cities of Atlanta, Baltimore, Chicago, Columbus, Denver, Minneapolis and Syracuse are representative of the judicial approach. The cities of Detroit and Oakland employ a modified judicial approach, while Buffalo and New York City use the administrative approach.

Of all these jurisdictions, those that employed the administrative approach provided more ample and convenient mechanisms for motorists. This was particularly true with respect to the convenience of the self-arraignment (pleading by mail) and speedy appeals processes. With respect to case disposition, however, there was not a significant differential. This can be seen in the following chart.

| <u>Mean Case Disposition Time:</u> | <u>Average Time in Months Required for Disposition</u> |
|------------------------------------|--|
| JUDICIAL APPROACH | |
| Atlanta | 0.7 |
| Baltimore | 1.7 |
| Chicago | 1.8 |
| Columbus | 0.9 |
| Denver | 1.3 |
| Minneapolis | 2.3 |
| Syracuse | 1.1 |
| MODIFIED JUDICIAL APPROACH | |
| Detroit | 1.9 |
| Oakland | 1.9 |
| NEW YORK AAB | |
| Buffalo | 0.9 |
| New York City | 1.7 |

* The information presented in this section draws heavily from a U.S. Department of Transportation study on "Effective Highway Safety Traffic Offense Adjudication," dated June 17, 1974. (Contract No. DOT 123-2-442).

Comparison of the estimated total expenditures which would be incurred under each approach (adequate actual cost data being unavailable) indicates that the administrative approach, everything else being equal, offers the jurisdiction a significant reduction in the cost of operation. The chart below from the Department of Transportation's traffic study, presents detailed cost estimates.

Composite Models
(Manpower requirements based upon a jurisdiction which handles an annual caseload of 150,000 minor offenses)

| Personnel | Number | Relative Salary Level | Relative Level of Effort | Relative Cost |
|-----------------------------------|--------|-----------------------|--------------------------|---------------|
| JUDICIAL APPROACH | | | | |
| Presiding Judge | 1 | 30,000 | 25% | 7,500 |
| Judge | 3 | 30,000 | 100% | 90,000 |
| Court Clerk | 3 | 8,000 | 100% | 24,000 |
| Bailiff | 3 | 8,000 | 100% | 24,000 |
| Cashier | 3 | 10,000 | 100% | 30,000 |
| Pres. Judge's Secretary | 2 | 6,000 | 100% | 12,000 |
| Judge's Secretary | 1 | 8,000 | 25% | 2,000 |
| | 3 | 7,000 | 100% | 21,000 |
| Total Estimated Expenditure | | | | 210,500 |
| MODIFIED JUDICIAL APPROACH | | | | |
| Judge | 1 | 30,000 | 25% | 7,500 |
| Para-Judicial | 3 | 24,000 | 100% | 72,000 |
| Court Clerk | 1 | 8,000 | 25% | 2,000 |
| Court Clerk | 3 | 8,000 | 100% | 24,000 |
| Bailiff | 1 | 8,000 | 25% | 2,000 |
| Bailiff | 3 | 8,000 | 100% | 24,000 |
| Cashier | 2 | 6,000 | 100% | 12,000 |
| Judge's Secretary | 1 | 8,000 | 25% | 2,000 |
| Secretary | 1 | 7,000 | 100% | 7,000 |
| Total Estimated Expenditure | | | | 152,500 |
| ADMINISTRATIVE APPROACH | | | | |
| Supervising Officer | 1 | 20,000 | 100% | 20,000 |
| Hearing Officer | 3 | 19,000 | 100% | 57,000 |
| Hearing Room Clerk | 3 | 7,000 | 100% | 21,000 |
| Information Clerk | 1 | 6,000 | 100% | 6,000 |
| Cashier | 2 | 6,000 | 100% | 12,000 |
| Administrative Assistant | 1 | 9,000 | 100% | 9,000 |
| Total Estimated Expenditure | | | | 125,000 |

It should be noted, however, that the DOT study concluded that "satisfaction of the case processing objectives of traffic offense adjudication is primarily a function of effective system management rather than the adjudicatory approach. Although NYAAB 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."* AAB officials agree with this conclusion provided the adjudicatory system has access to the records of the Department of Motor Vehicles.

6.4 Aid in the Replication Effort

Since July 1, 1970, the AAB has received national attention and hundreds of interested visitors. Project officials have participated voluntarily in inter-state conferences, workshops, and seminars, describing their project's methodology and operations to others contemplating changes in traffic offense adjudication. The officials are proud of their system and welcome inspection of any or all of its components. Cognizant of the many implications the project has for criminal justice and highway safety, they have freely participated in special data collection projects to determine the success or failure of the Bureau in achieving its goals.

The project has been in operation in New York City since July 1, 1970, and in Buffalo and Rochester since January 1, 1973. It has been firmly institutionalized within the Department of Motor Vehicles and is expected to be extended eventually to include more jurisdictions within the state.

To facilitate external investigation of the AAB, the project officials have had a series of procedural, regulatory, and training handbooks developed to cover all functions and personnel in the system. A comprehensive public relations effort has also produced several pamphlets on the procedural aspects of the project.

* "Effective Highway Safety Traffic Offense Adjudication", dated June 17, 1974, Volume II, page 69. (Contract No. DOT 123-2-442).

Thus, the methodology and operations of the AAB have been thoroughly documented. This documentation, much of which is contained in the Appendices, includes:

- legislation which established the program*;
- regulations of the AAB (outline of its operations)*;
- manual for adjudicators;
- task force report on the implementation of the project;
- organizational charts of personnel;
- citation and appeals forms*;
- computer handbook*;
- central office clerical processing instructions*;
- adjudication form letters covering all contingencies*;
- cost data and much project-generated information on caseload and case disposition*.

In addition the U.S. Department of Transportation has recently initiated several projects related to administrative adjudication and the training of administrative hearing officers for traffic infractions. These projects are described briefly on page 67.

* Included as an Appendix to this manual.

APPENDICES

- A. Section 155 of the New York State Vehicle and Traffic Law
- B. Article 2A of the Vehicle and Traffic Law of New York State
- C. Regulations of the Administrative Adjudication Bureau *
- D. Central Office Processing Guide **
- E. Administrative Adjudication Bureau Cost Figures
- F. Forms of the Administrative Adjudication Bureau
- G. Article 78 of the New York State Civil Practice Law and Rules
- H. Computer System Description **
- I. Annotated Bibliography of Driver-Oriented Research in the Field of Highway Safety
- J. National Advisory Commission on Criminal Justice Standards and Goals: Courts, Standard 8.2
- K. Final Report of the Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee
- L. Highway Safety Program Standard No. N-7: Traffic Courts and Adjudication Systems

* These regulations are subject to change as they are now undergoing an in-depth review to emphasize the civil nature of the AAB's proceedings.

** These materials are periodically updated to reflect operational improvements and revisions and should not be considered final documentation.

APPENDIX A

**Section 155 of the New York State
Vehicle and Traffic Law**

§ 155. Traffic infraction.

The violation of any provision of this chapter, except title eleven, or of any law, ordinance, order, rule or regulation regulating traffic which is not declared by this chapter or other law of this state to be a misdemeanor or a felony. A traffic infraction is not a crime and the punishment imposed therefor shall not be deemed for any purpose a penal or criminal punishment and shall not affect or impair the credibility as a witness or otherwise of any person convicted thereof. This definition shall be retroactive and shall apply to all acts and violation heretofore committed where such acts and violations would, if committed subsequent to the taking effect of this section, be included within the meaning of the term "traffic infraction" as herein defined. Outside of cities having a population in excess of two hundred seventy-five thousand, courts and judicial officers heretofore having jurisdiction over such violations shall continue to do so and for such purpose such violations shall be deemed misdemeanors and all provisions of law relating to misdemeanors except as provided in section eighteen hundred five of this chapter and except as herein otherwise expressly provided shall apply except that no jury trial shall be allowed for traffic infractions. In cities having a population in excess of two hundred seventy-five thousand, the criminal court of the city shall have jurisdiction to hear and determine any complaint, alleging a violation constituting a traffic infraction, except that administrative tribunals may also be established in such cities, when authorized by law, to hear and determine any charge of an offense which is a traffic infraction, except parking, standing or stopping. In cities having a population in excess of two hundred seventy-five thousand, administrative tribunals may also be established when authorized by law to hear and determine any charge of an offense which is a parking, standing or stopping violation. Any fine imposed by an administrative tribunal shall be a civil penalty. For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.

APPENDIX B

**Article 2A of the Vehicle and
Traffic Law of New York State**

Enabling Legislation for
Administrative Adjudication Program

Article 2A
Of the Vehicle and Traffic Law

Amended by the 1972 Legislature

Article 2-A Adjudication of Traffic Infractions

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

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

2. Whenever the commissioner or his deputy determines that a charge alleges an offense other than a traffic infraction, he shall, and where a charge cannot be disposed of because of the non-appearance of the motorist, he may notify the court of appropriate jurisdiction and request removal of the case to such court. Prior notice of such request need not be given the motorist involved. Upon receipt of such request, the court may grant an order transferring such case, provided that the date on which the charge or charges must be answered before the court shall not be earlier than the return date which appears on the complaint alleging the offense. Notice of such transfer shall be mailed to the motorist at the address appearing on such

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

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

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

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

(b) Answer by mail -- admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations

of the commissioner, such plea may not be made by mail or any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provision of subdivision three of section five hundred ten of this chapter.

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

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

§ 227. Hearings; determinations. L. Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the

commissioner. The burden of proof shall be upon the people, and no charge may be established except by clear and convincing evidence. The commissioner may prescribe, by rule or regulation, the procedures for the conduct of such hearings.

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

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

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

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

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

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

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

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

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

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

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

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

determination appealed from.

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

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

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

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

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

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

CONTINUED

1 OF 3

determination appealed from.

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

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

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

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

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

APPENDIX C

Regulations of the Administrative Adjudication Bureau *

* These regulations are subject to change as they are now undergoing an in-depth review to emphasize the civil nature of the AAB's proceedings.

Regulations

**Administrative Adjudication of
Traffic Violations**

January 1, 1973

**State of New York
Department of Motor Vehicles
Administrative Adjudication Bureau**

Part 121
Administrative Adjudication Bureau

Sections:

- 121.1 Introduction
- 121.2 Administrative Adjudication Bureau
- 121.3 Hearing Sites

Section 121.1 Introduction. Article 2-A of the Vehicle and Traffic Law Authorizes the Department of Motor Vehicles to adjudicate "moving" traffic infractions occurring in cities having a population in excess of two hundred seventy-five thousand. Subdivision 3 of Section 225 of that article authorizes the Commissioner to "promulgate such regulations as shall be necessary or desirable to effect the purposes of "Article 2-A, including regulations establishing a schedule of monetary penalties. In addition to this general authority, other provisions of Article 2-A authorize the Commissioner to promulgate regulations governing specific matters such as the filing of certain complaints (§225(1), the entry of pleas (§226(2), the waiver of statutory security requirements (§226(2)(c), and hearing procedures (§227). These regulations establish an Administrative Adjudication Bureau in the Department to accomplish the purposes of Article 2-A, and set forth the rules and procedures governing the administrative adjudication of traffic infractions.

121.2 Administrative Adjudication Bureau. There is hereby established within the Department, under the supervision of the Deputy Commissioner and Counsel, a bureau to be called the Administrative Adjudication Bureau. The bureau shall consist of those hearing officers and supervisory and clerical personnel as shall be assigned thereto for the purpose of administering an adjudication program pursuant to the provisions of Article 2-A of the Vehicle and Traffic Law and these regulations.

121.3 Hearing sites. (a) Hearing offices shall be located in each of the counties of the City of New York, at the following addresses:

2455 Sedgwick Avenue
Bronx, New York

50 East 26th Street
New York, New York

350 Livingston Street
Brooklyn, New York

60 Bay Street
St. George, Staten Island
New York

1 Lefrak City Plaza
Forest Hill, Queens, New York

and in other participating cities at:

Ellicott Square Building
295 Main Street
Buffalo, New York

33 Chestnut Street
Rochester, New York

(b) Hearing offices shall be open between the hours of 8:30 a.m. and 4:00 p.m., Monday, Tuesday, Wednesday and Friday. In addition each hearing office will be open from 8:30 a.m. until 7:30 p.m. Thursday, for the purpose of receiving pleas of guilty, pleas of not guilty, and for pleas of guilty with explanation. (Also see Section 123.1, Definitions.)

Part 122
Summons and Complaint

Sections:

- 122.1 Introduction
- 122.2 Definitions
- 122.3 Specifications of Ticket
- 122.4 Form of Ticket
- 122.5 Enforcement Agency Procedures and Reports
- 122.6 Issuing Officer Procedures
- 122.7 Departmental Procedures

Section 122.1 Introduction. Section 226 of the Vehicle and Traffic Law authorizes the Commissioner to prescribe the form of a summons and complaint to be used for traffic infractions occurring in cities having a population in excess of two hundred seventy-five thousand. (The term "summons" is equivalent to the term "appearance ticket" as used in the Criminal Procedure Law. The term "complaint" is equivalent to the terms "accusatory instrument" or "simplified traffic information" as used in the Criminal Procedure Law.) The Commissioner is also empowered to prescribe procedures for the proper administrative control over the disposition of such summonses and complaints, including the preparation and maintenance of appropriate records and reports by enforcement agencies. In exercising this authority, the Commissioner has determined that it will be in the public interest to establish a single summons and complaint form which can be used for any offense for which a summons may be issued. Accordingly, this Part sets forth the

specification and form of, the procedures relating to a summons and complaint which may be utilized in cases returnable before the Department, the Criminal Court of the City of New York, the City Court of Buffalo, the Rochester City Court, and the Parking Violations Bureau of the City of New York.

122.2 Definitions. (a) Ticket shall mean the packet consisting of a complaint, agency copy and summons in conformity with the specifications set forth in Section 122.3 in the form prescribed in Section 122.4 of these regulations.

(b) Summons shall mean those parts of a ticket, including plea forms and appropriate instructions given to a motorist upon being charged with a traffic violation.

(c) Complaint shall mean part I of a ticket which shall be filed with the administrative tribunal or court before which the violation is returnable.

(d) Issuing officer shall mean a person qualified to issue a summons for a traffic violation; that is, a police officer or other public servant authorized by law to issue the same. (Also see Section 123.1, Definitions, relating to Answers and Appearances, Part 123.

122.3 Specifications of ticket. Tickets conforming to the following specifications shall be used whenever a summons is issued for a violation occurring in a city having a population in excess of two hundred seventy-five thousand.

(a) It shall be a multi-copy packet, approximately 4 1/4" by 8 1/2", including a one-half inch stub for binding.

(b) It shall consist of at least three parts.

(c) A serial number shall be printed at the top of the ticket in a series and form approved by the Commissioner.

(d) The warning required by Section 1807-1 of the Vehicle and Traffic Law shall be printed in red, bold-face, 12-point type on all summonses except summonses issued for a parking violation.

(e) The form of ticket to be used, including type size and color, and paper used, must be approved by the Commissioner before that form of ticket may be used.

122.4 Form of ticket. Cities in which traffic infractions may be adjudicated pursuant to Article 2-A may provide tickets for use within such city. Tickets so issued will be deemed to comply with the specifications set forth in Section 122.3 if they substantially provide with respect to such city the information and format required as hereinafter set forth. Variations in the form, compatible with any differing procedures and terminology of courts and enforcement agencies of the several cities are permissible only if approved by the Commissioner and may be approved by the Commissioner if all essential requirements are provided. Tickets adopted under Article 2-A, and any redesign or modification of such tickets, must substantially comply with the following form:

(a) Part I (front). Part I of the ticket is the complaint, and after having been affirmed by the issuing officer is delivered to the court of administrative tribunal before which the alleged violator is notified to appear. It shall be printed in the form shown in Exhibit I.

The reverse side may contain any information desired by agency, court or tribunal.

(b) Part II (front). Part II of the ticket is the Court summons and is given to the alleged violator when appropriate. It shall be printed in the form shown in Exhibit II.

The reverse side may contain any information desired by the court except that the warning provided by Section 1807-1 of the Vehicle and Traffic Law must appear on the reverse of the summons if it does not appear on the front of the summons.

(c) Part III. Part III of the ticket is the Administrative Adjudication summons and is given to the alleged violator when appropriate. It shall be printed on gold stock in the form shown in Exhibit III.

(d) Part IV (front). Part IV of the ticket, where applicable, is the Parking Violation summons and is affixed to the vehicle which is allegedly in violation. It shall be printed in the form shown in Exhibit IV.

The reverse side may contain any information desired by the Parking Violations Bureau.

(e) Where there is no Parking Violation summons, Part IV, or any additional parts, may be used upon approval of the Commissioner.

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COPY OF NOTICE OF VIOLATION COMPLAINT
THE PEOPLE OF THE STATE OF NEW YORK--VS--
VOID

LAST NAME FIRST NAME INITIAL
STREET ADDRESS
CITY (as shown on license) STATE ZIP NO.

LICENSE OR IDENTIFICATION NUMBER

| STATE | TYPE OF LICENSE | DATE EXPIRES | SEX | DATE OF BIRTH | OPERATOR OWNS VEHICLE |
|-------|-----------------|--------------|-----|---------------|--|
| | | | | MO DAY YR | <input type="checkbox"/> YES <input type="checkbox"/> NO |

THE OPERATOR OR REGISTERED OWNER OF VEHICLE DESCRIBED BELOW

| YEAR | MAKE OF VEHICLE | COLOR | BODY TYPE |
|------|-----------------|-------|-----------|
| | | | |

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

PLACE OF OCCURRENCE

COUNTY DATE TIME IN VIOLATION OF

TRAFFIC REGULATIONS VEHICLE AND TRAFFIC LAW ADMINISTRATIVE CODE OTHER LAW

A PARKING CODE PARKING METER NO. VEHICLE FROM HYDRANT

B TRAFFIC INFRACTION DISOBEY TRAFFIC CONTROL DEVICE
SPEEDING MPH IN MPH ZONE SIGNAL SIGN PAVEMENT MARK
DESCRIPTION OF TRAFFIC INFRACTION IF NOT SHOWN ABOVE

C OTHER OFFENSE (INCLUDING TRAFFIC MISDEMEANOR)

SCHEDULED FINE \$10 \$15 \$25 \$35 OTHER \$

THE PERSON DESCRIBED ABOVE IS SUMMONED TO APPEAR AT IF CRIMINAL COURT, SUMMONS PART INDICATE PART

LOCATED AT COUNTY

DATE OF APPEARANCE 123 OR MORE DAYS AFTER DATE ISSUED AM PM

DAY OF 19 AT

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW - PERSONALLY OR THROUGH THE COMMISSION OF THE OFFENSE CHARGED ABOVE AFFIRMED UNDER PENALTY OF PERJURY ON DATE OF ISSUANCE

PARA/SIGNATURE OF COMPLAINANT SQUAD COMMAND

COMPLAINANT'S NAME (PRINTED) TAX REGISTRY NO. AGENCY

front

Exhibit I Part I

INFORMATION

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law. Affirmed under penalty of perjury.

Date Signature

PLEA

Defendant pleads Guilty Not Guilty

Date Judge

ADJOURNMENTS

1
2
3

TRIAL

Defendant tried and found Guilty Not Guilty

Date Judge

SENTENCE

Fined \$ or in default of payment imprisonment for days.

Imprisonment for a term of

Date Judge

CASH REGISTER IMPRINT

reverse

97

SUMMONS
THE PEOPLE OF THE STATE OF NEW YORK--VS--
VOID

LAST NAME FIRST NAME INITIAL
STREET ADDRESS
CITY (as shown on license) STATE ZIP NO.

LICENSE OR IDENTIFICATION NUMBER

| STATE | TYPE OF LICENSE | DATE EXPIRES | SEX | DATE OF BIRTH | OPERATOR OWNS VEHICLE |
|-------|-----------------|--------------|-----|---------------|--|
| | | | | MO DAY YR | <input type="checkbox"/> YES <input type="checkbox"/> NO |

THE OPERATOR OR REGISTERED OWNER OF VEHICLE DESCRIBED BELOW

| YEAR | MAKE OF VEHICLE | COLOR | BODY TYPE |
|------|-----------------|-------|-----------|
| | | | |

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

PLACE OF OCCURRENCE

COUNTY DATE TIME IN VIOLATION OF

TRAFFIC REGULATIONS VEHICLE AND TRAFFIC LAW ADMINISTRATIVE CODE OTHER LAW

C OFFENSE

FOLLOW INSTRUCTIONS ON REVERSE SIDE

SCHEDULED FINE \$10 \$15 \$25 \$35 OTHER \$

The person described above is summoned to appear at CRIMINAL COURT of the City of New York SUMMONS PART

LOCATED AT COUNTY

DATE OF APPEARANCE DAY OF 19 AT 9 A.M.

PARA/SIGNATURE OF COMPLAINANT SQUAD COMMAND

COMPLAINANT'S NAME (PRINTED) TAX REGISTRY NO. AGENCY

CRIMINAL COURT

front

Exhibit II Part II

CRIMINAL COURT - CITY OF NEW YORK

Failure to comply with these instructions may result in the issuance of a warrant for your arrest.

TO PLEAD GUILTY

By Mail:
If a specific fine is NOT designated on the face of this summons you may NOT plead guilty by mail and a personal appearance will be necessary. Consult the instructions under "In Person" below.
If a specific fine is designated on the face of this summons then, within ten days after receipt of this summons, complete the PLEA FORM below checking the "Guilty" box therein and mail the specified fine together with this summons to the Court and location specified on the face of this summons. Make your check or money order payable to the Criminal Court. DO NOT MAIL CASH.

In Person:
On the date and time set for appearance you MUST appear in person or by counsel at the Court and location specified on the face of this Summons.
For New York licensees: If a traffic offense is charged, your Record of Convictions (Part 2 of your Driver's License) must be presented at that time.

TO PLEAD NOT GUILTY

By Mail:
Within 48 hours after receipt of this summons complete the PLEA FORM below checking the "Not Guilty" box therein, and mail this summons to the NOT GUILTY UNIT at the Court and location specified on the face of this summons. The Court will then notify you by mail of the date to appear for trial.

In Person:
Appear in person or by counsel on the date and time set for appearance at the Court and location specified on the face of this Summons. A second court appearance will then be required at a later date for trial.

UPON APPEARING FOR ARRAIGNMENT - YOU HAVE THE RIGHT:

- To the aid of counsel at your arraignment and at every subsequent state of the action.
- To an adjournment for the purpose of obtaining counsel.
- To have counsel assigned by the Court if you are financially unable to obtain counsel except if you are charged with a traffic infraction only.
- To have a supporting deposition filed as provided in section 100.25 of the Criminal Procedure Law when the accusatory instrument filed against you is a Simplified Traffic Information.

IF TRAFFIC OFFENSE OTHER THAN PARKING OR JAYWALKING IS CHARGED:
A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

DO NOT DETACH. SUBMIT ENTIRE SUMMONS.

PLEA FORM

I hereby plead GUILTY NOT GUILTY

NAME (Print)

ADDRESS

CITY STATE ZIP NO.

SIGNATURE DATE

reverse

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SUMMONS
NOTICE OF VIOLATION

VOID

LAST NAME _____ FIRST NAME _____ INITIAL _____

STREET ADDRESS _____

CITY (as shown on license) _____ STATE _____ ZIP NO. _____

LICENSE OR IDENTIFICATION NUMBER

| | | | | | |
|-------|-----------------|--------------|-----|----------------|--|
| STATE | TYPE OF LICENSE | DATE EXPIRES | SEX | DATE OF BIRTH | OPERATOR OR REGISTERED OWNER OF VEHICLE |
| | | | | NO. / DAY / YR | <input type="checkbox"/> YES <input type="checkbox"/> NO |

THE OPERATOR OR REGISTERED OWNER OF VEHICLE DESCRIBED BELOW

| | | | |
|-----------|------------|-----------------|--------------|
| PLATE NO. | PLATE TYPE | STATE | DATE EXPIRES |
| YEAR | AND | MAKE OF VEHICLE | COLOR |
| | | | BODY TYPE |

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

PLACE OF OCCURRENCE _____

COUNTY _____ DATE _____ TIME _____ IN VIOLATION OF _____

SECTION _____ SUBD _____ OF _____

TRAFFIC VIOLATIONS _____ VEHICLE AND TRAFFIC LAW _____ ADMINISTRATIVE CODE _____ OTHER LAW _____

PARKING _____ CODE _____ PARKING METER NO. _____ FINE/FEES/ADJUDICANT _____

YOU MUST ACT WITHIN 7 DAYS

TO PAY FINE:

- Check guilty on the Plea Form (back of summons, bottom middle)
- Mail this summons within 7 days with a check or money order for the amount checked below to:
Parking Violations Bureau
P. O. Box 127
Peck Slip Station
New York, N. Y. 10038
- Write the summons number and plate number on the front of your check or money order

TO PLEAD NOT GUILTY OR GUILTY WITH AN EXPLANATION

See back of summons

SCHEDULED FINE \$10 \$15 \$25 \$35 OTHER \$ _____

Failure to plead on time may cause additional penalties up to \$25 and may lead to a default judgment.

I PERSONALLY OBSERVED THE COMMISSION OF THE OFFENSE CHARGED ABOVE AFFIRMED UNDER PENALTY OF PERJURY ON DATE OF OFFENSE _____

RANK/SIGNATURE OF COMPLAINANT _____ SQUAD _____ COMMAND _____

COMPLAINANT'S NAME (PRINTED) _____ TAX REGISTRY NO. _____ AGENCY _____

FOLLOW INSTRUCTIONS ON REVERSE SIDE

A **PARKING VIOLATIONS BUREAU**

front

Exhibit III
Part III

DEPARTMENT OF MOTOR VEHICLES -
ADMINISTRATIVE ADJUDICATION BUREAU

TO PLEAD GUILTY

- Read Notice printed in red on face of this Summons.
- See Fine Schedule below to determine amount of your fine.
- Complete the Plea Form below and check "Guilty" box.
- Mail your check or money order in the appropriate amount, payable to Department of Motor Vehicles, within 10 days together with this Summons and your Record of Convictions (Part 2 of your Driver's License) to the Mailing Address below. **DO NOT SEND CASH.**

Bring this Summons and your Record of Convictions (Part 2 of your Driver's License) to any of the hearing office locations listed below, on or before date of appearance.

FINE SCHEDULE FOR GUILTY PLEAS

SPEEDING Inspection or Equipment Violation \$15
1 - 14 MPH over limit \$25 All Other Offenses \$25
15 - 24 MPH over limit \$35
25 MPH or more over limit - personal appearance required.

TO PLEAD GUILTY WITH EXPLANATION

- Read notice printed in red on face of this Summons.
- Bring this Summons and your Record of Convictions (Part 2 of your Driver's License) to any of the hearing office locations listed below, on or before date of appearance.

TO PLEAD NOT GUILTY

- Complete the Plea Form below and check "Not Guilty" box.
- Send this Summons to the Mailing Address below within 10 days.
- Enter your "Not Guilty" plea in person within 10 days of any of the hearing office locations listed below.
- Your hearing will be on the Date of Appearance and at the time indicated on the face of this Summons, at the hearing office location in the county in which the Summons was issued.

HEARING OFFICE LOCATIONS:

| | | |
|--|--------------------------------|-------------------------------|
| Bronx 2455 Sedgwick Ave. | Brooklyn 350 Livingston St. | Manhattan 50 East 26th St. |
| Queens 1 Lefrak City Plaza (Junction Blvd. & Long Island Expressway) | Richmond 60 Bay Street | |

Daytime hours are Monday through Friday 8:30 A.M. to 4:00 P.M.
Evening hours are Thursday 4:00 P.M. to 7:30 P.M.

MAILING ADDRESS
Administrative Adjudication - Plea Unit
Department of Motor Vehicles
The South Mall
Albany, New York 12228

Rules and regulations of the Administrative Adjudication Bureau may be inspected at any of the above offices.

PLEA FORM DO NOT DETACH

I, the undersigned, plead GUILTY NOT GUILTY

NAME (PRINT) _____

ADDRESS _____

CITY _____ STATE _____ ZIP NO. _____

SIGNATURE _____ DATE _____

reverse

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SUMMONS
THE PEOPLE OF THE STATE OF NEW YORK -VS-

VOID

LAST NAME _____ FIRST NAME _____ INITIAL _____

STREET ADDRESS _____

CITY (as shown on license) _____ STATE _____ ZIP NO. _____

LICENSE OR IDENTIFICATION NUMBER

| | | | | | |
|-------|-----------------|--------------|-----|----------------|--|
| STATE | TYPE OF LICENSE | DATE EXPIRES | SEX | DATE OF BIRTH | OPERATOR OR REGISTERED OWNER OF VEHICLE |
| | | | | NO. / DAY / YR | <input type="checkbox"/> YES <input type="checkbox"/> NO |

THE OPERATOR OR REGISTERED OWNER OF VEHICLE DESCRIBED BELOW

| | | | |
|-----------|------------|-----------------|--------------|
| PLATE NO. | PLATE TYPE | STATE | DATE EXPIRES |
| YEAR | AND | MAKE OF VEHICLE | COLOR |
| | | | BODY TYPE |

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

PLACE OF OCCURRENCE _____

COUNTY _____ DATE _____ TIME _____ IN VIOLATION OF _____

SECTION _____ SUBD _____ OF _____

TRAFFIC VIOLATIONS _____ VEHICLE AND TRAFFIC LAW _____ ADMINISTRATIVE CODE _____ OTHER LAW _____

IF YOU FAIL TO ANSWER THIS SUMMONS BY THE DATE OF APPEARANCE, YOUR LICENSE WILL BE SUSPENDED.

TRAFFIC INFRACTION

| | | |
|--------------------------|--------------------------|--------------------------------|
| SPEEDING | IN WPH ZONE | DISOBEY TRAFFIC CONTROL DEVICE |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DESCRIPTION OF TRAFFIC INFRACTION IF NOT SHOWN ABOVE _____

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

The person described above is summoned to appear at
N.Y.S. - DEPARTMENT OF MOTOR VEHICLES
ADMINISTRATIVE ADJUDICATION BUREAU
Located in the County where the summons was issued.
OFFICE ADDRESSES ON REVERSE.

DATE OF APPEARANCE _____

DAY OF _____ AT _____ AM

I PERSONALLY OBSERVED THE COMMISSION OF THE OFFENSE CHARGED ABOVE AFFIRMED UNDER PENALTY OF PERJURY ON DATE OF OFFENSE _____

RANK/SIGNATURE OF COMPLAINANT _____ SQUAD _____ COMMAND _____

COMPLAINANT'S NAME (PRINTED) _____ TAX REGISTRY NO. _____ AGENCY _____

FOLLOW INSTRUCTIONS ON REVERSE SIDE

A **PARKING VIOLATIONS BUREAU**

N.Y.S. DEPT. OF MOTOR VEHICLES **B** ADMINISTRATIVE ADJUDICATION BUR.

front

Exhibit IV
Part IV

Parking Violations Bureau

City of New York

TO PLEAD NOT GUILTY OR
GUILTY WITH AN EXPLANATION

BRING THIS SUMMONS and all PROOF to any PVB HEARING OFFICE and have a hearing within 7 days, (Schedules permitting)

OR

FILE IN THE FOLLOWING:

- DATE: (weekdays 31-40 days after the issue date of this summons)
- HOURS: 9 - 11 - 1 - 3 (Circle one)
- LOCATION: Bronx, Brooklyn, Queens, Manhattan, Richmond (Circle one)
- NOTE: If you are not guilty or guilty with an explanation, not on the PLEA FORM, WRITE your name and address on the plea form.

MAIL TO:
PARKING VIOLATIONS BUREAU
P.O. BOX 152, PECK SLIP STATION
NEW YORK, N. Y. 10038

This summons will be returned confirming the hearing date you have selected or filing a new date if your choice is not available.

BRING THIS SUMMONS and all PROOF (evidence, witnesses, etc.) with you to your HEARING.

IF YOU HAVE EITHER OF THE FOLLOWING DEFENSES, CHECK THE APPROPRIATE BOX AND MAIL TO: Parking Violations Bureau, P.O. Box 70, Peck Slip Station, New York, N. Y. 10038.

Special Vehicle Identification

Fair Meter

PLEA FORM I have/plead

GUILTY GUILTY WITH AN EXPLANATION NOT GUILTY

NAME (PRINT) _____

ADDRESS _____

CITY _____ STATE _____ ZIP NO. _____

SIGNATURE _____ DATE _____

HEARING OFFICES

LOCATIONS:

- 100 Arthur Avenue
- 7th Floor
- Brooklyn
- 44 Court Street
- Manhattan
- 117 West 4th Street
- 1st Floor
- Queens
- 1 Lefrak City Plaza - 2nd Floor
- (Junction Blvd. & Long Island Expressway)
- Richmond
- 60 Bay Street

DAILY HOURS: Monday to Friday 9am to 4pm

EVENING HOURS: Only on nights indicated below from 6:30 pm

Thursday
Monday
Wednesday

reverse

122.5 Enforcement agency procedures and reports.

(a) Ticket supply

(1) Cities having a population in excess of two hundred seventy-five thousand shall secure and maintain a sufficient supply of tickets for distribution to agencies empowered to issue summonses for violations occurring within each such city and shall distribute such tickets to such agencies upon request. The form agencies of each of those cities which are responsible for obtaining tickets shall maintain records by serial number of all tickets secured, and of the distribution made to such other agencies.

(2) Each agency, except the Division of State Police, empowered to issue summonses shall request from such cities a sufficient supply of tickets to meet the needs of such agency, and the agency shall maintain by serial number a record of tickets received.

(3) The Division of State Police may obtain its own supply of tickets for use in cities having a population in excess of two hundred seventy-five thousand, and the Division shall maintain by serial number a record of the tickets obtained.

(b) Distribution of tickets by agencies.

(1) Each agency receiving tickets and the Division of State Police shall be responsible for the assignment of tickets to issuing officers under its jurisdiction.

(2) Tickets shall be assigned to such persons in consecutive order.

(c) Record keeping.

(1) Each agency shall maintain a control record of all tickets assigned to issuing officers under its jurisdiction and a record of the disposition of all summonses issued.

(d) Safeguarding of tickets. Each agency to which tickets are issued shall maintain adequate facilities for the storage of all tickets held by them.

(e) Reports. Each agency using such tickets shall make a report to the Commissioner in a manner or on a form directed by the Commissioner of all tickets secured by such agency and all summonses issued. Such report shall be made on or before September 1 of each year and shall cover the period from July 1 through June 30 immediately preceding such date.

(f) Delivery of complaint. The agency shall segregate the complaint portion of all tickets issued by court or tribunal before which the summons is returnable and shall deliver the same to the appropriate court or tribunal. With respect to summonses returnable before the Administrative Adjudication Bureau of the Department of Motor Vehicles, the method of delivery to the bureau will be in accordance with directions given to that agency by the Commissioner.

122.6 Issuing officer procedures.

(a) Issuance of summons. When an alleged violator is issued a summons, the issuing officer shall sign part I (complaint) of the ticket which shall be affirmed under the penalty as provided by Section 210.45 of the Penal Law. He shall deliver parts II or III of the ticket, whichever is appropriate, to the alleged violator; or if issued for a parking violation, part IV shall be affixed to the vehicle which is in violation. He shall deliver the completed part I and the agency copy of the ticket to a person or place designated by his agency.

(b) Mutilated or voided tickets. If a summons or ticket is mutilated or voided, the issuing officer to whom it has been assigned shall return all parts of the ticket thereof to the agency which assigned the same to him.

(c) Lost ticket. If a summons or ticket is lost, the issuing officer who lost the same shall file with the enforcement agency a report as to the loss of such summons or ticket, together with any remaining parts of the ticket in the event only part of the ticket has been lost.

122.7 Departmental procedures.

(a) Disposition of complaints. Upon receipt of a complaint returnable before the Administrative Adjudication Bureau, such complaint will be forwarded to the Albany office of the Department of Motor Vehicles and will be maintained in the files of the Department for at least four months from disposition of the charge.

Part 123
Answers and Appearances

Sections:

- 123.1 Definitions
- 123.2 General

- 123.3 Plea of Guilty
- 123.4 Plea of Not Guilty
- 123.5 Personal Appearances Required

Section 123.1 Definitions.

(a) Answer admitting charge shall mean a plea of "guilty"; that is, an answer to a charge, made by mail or in person, in which the person charged admits to the violation as charged in the summons and complaint. a "plea of guilty" shall, upon acceptance, form a sufficient basis for entering an order sustaining the charge.

(b) Answer admitting charge, with explanation shall mean "guilty, with explanation"; that is, that the motorist charged admits to the violation as charged in the complaint. An answer admitting charge, with explanation may be made by the motorist before a hearing officer in person with an explanation of the circumstances surrounding the admitted charge.

(c) Answer denying charge shall mean "not guilty"; that is, that the person charged denies part or all of the violation as charged in the complaint. A "plea of not guilty" may be made by mail or in person, and a hearing is deemed requested by such plea.

(d) Complainant shall mean the person who affirms a complaint filed with the Administrative Adjudication Bureau.

(e) Date of appearance shall mean the date which appears on the summons, or such date as may be supplied by the Department, on or before which the motorist is directed to answer the charge alleged in the summons.

(f) Motorist shall mean a person charged with an offense in a complaint filed with the Administrative Adjudication Bureau.

(g) Conviction stub of a driver's license shall mean that part of a driver's license issued by the Department which is marked "Part 2, Record of Convictions" and upon which convictions for traffic offenses are recorded pursuant to law.

123.2 General

(a) Except as otherwise provided in Section 123.5, a motorist charged with a violation which is returnable before the bureau may submit an answer on the plea form provided on the summons pleading guilty or not guilty, either by mail or in person. In addition, a plea of guilty, with explanation, may be made by a motorist in person before a hearing officer.

(b) Time for answers.

(1) Plea of guilty or guilty with explanation. Such answers shall be made on or before the date of appearance on the face of the summons.

(2) Plea of not guilty. Such answer shall be made not later than 10 days after the date of violation, excluding the date of violation. Provided, however, if such answer is not made within such 10-day period, but is made on or before the date of appearance, it, nevertheless, shall be accepted and entered, if made at the hearing location in the county in which the summons was issued. If the delay in making such answer shall result in the inability to schedule the complainant for a hearing on the date of appearance, the motorist will be notified of such fact when he appears on such date, and a new hearing date will be scheduled.

(3) If an answer is made by mail, it shall be deemed to have been made on the date of postmark.

(c) Failure to answer.

(1) If a motorist shall fail to make an answer within the time limits prescribed in subdivision (b), the bureau shall issue an order suspending such motorist's driver's license and driving privileges. Such suspension shall take effect 15 days after such order has been issued, excluding the date of issuance, and the order shall not be withdrawn nor the suspension terminated unless an answer is made and accepted pursuant to this subdivision and security may be required to be posted pursuant to Section 226, subdivision 3, or the Vehicle and Traffic Law.

(2) If a suspension order has been issued pursuant to paragraph (1), an answer may only be made in person before a hearing officer, except that an answer by mail may be accepted by a hearing officer upon good cause being shown. The schedule of penalties shall not apply in any case subject to the provisions of this paragraph, and the penalty, if any, to be imposed shall be determined by the hearing officer who accepts the answer. Upon receipt of a plea of not guilty in such cases, a hearing will be scheduled when the complainant is next available.

123.3 Plea of guilty.

(a) By mail. Except as provided in Section 123.5, an answer by mail pleading guilty may be made within the time limits set forth in Section 123.2, by completing the "plea" form appearing on the summons. Such plea must be mailed with the penalty

specified in Section 126.2 and the conviction stub of the driver's license to:

Administrative Adjudication Bureau -- Plea Unit
Department of Motor Vehicles
The South Mall
Albany, New York 12228

Upon receipt of an acceptable plea, such plea will be accepted and the summons will be marked accordingly. A record of conviction shall be entered in the Department's records and, if required by law or regulation, on the conviction stub of the driver's license. A plea of guilty with explanation may not be made by mail.

(b) In person.

(1) Plea of guilty. A plea of guilty in person may be made by delivering the summons, with the "plea" form properly completed, to the appropriate clerk at any of the bureau's hearing locations in the City of New York, the City of Buffalo, or the City of Rochester, within the time limits set forth in Section 123.2. Upon receipt of a proper plea and the penalty prescribed in Section 124.6, the clerk shall accept same and mark the summons accordingly. A record of conviction shall be entered in the Department's records and, if required by law or regulation, on the conviction stub of the driver's license.

(2) Plea of guilty, with explanation. A plea of guilty, with explanation, may be made by the motorist personally appearing before a hearing officer, within the time limits set forth in Section 123.2, at any hearing location of the bureau in the City of New York, the City of Buffalo, or the City of Rochester. The motorist shall submit his driver's license, conviction stub and summons, with the plea form properly completed, to the clerk designated for such purpose. Motorists shall be called to appear before the hearing officer in the order that such summonses are received by the clerk, and will be given an opportunity to explain the circumstances surrounding the alleged offense and to offer such other matters as the hearing officer shall determine to be appropriate. The schedule of penalties set forth in Section 126.2 shall not apply in such cases, and the hearing officer shall impose such penalty as shall be deemed appropriate in view of the offense and such explanation, or shall accept such plea without the imposition of penalty. The record of conviction will thereafter be prepared, entered and recorded as provided in paragraph (1) of this subdivision.

123.4 Plea of not guilty.

(a) By mail. A plea of not guilty by mail may be made within the time limits set forth in Section 123.2 by properly completing the plea form appearing on the summons and mailing the summons to the bureau's Albany office. The bureau shall return the summons and notify the motorist of the acceptance and entry of such plea prior to the hearing. In the event such plea is made more than 10 days after the violation, but prior to the date of appearance, the summons will either be returned to the motorist or be delivered to the appropriate hearing office and shall be returned to the motorist on the date of appearance.

(b) In person. A plea of not guilty in person may be made as provided in Section 123.2 by delivering the summons, with the plea form properly completed, to the appropriate clerk at any of the bureau's hearing locations in the City of New York, the City of Buffalo, or the City of Rochester, regardless of the city in which the charge is returnable. The clerk shall enter such plea and return the summons and notice of acceptance of plea to the motorist or his agent.

(c) Hearings. Upon acceptance of a plea of not guilty, a hearing shall be scheduled as provided in Part 124 of these regulations.

123.5 Personal appearances required. Pursuant to Section 226(b) of the Vehicle and Traffic Law, a motorist may not plead guilty by mail and must appear before a hearing officer on the date of appearance in the following cases:

(a) if, considering the motorist's prior driving record, a determination sustaining the charge might result in a suspension or revocation action being taken against the motorist's license or registration;

(b) if the charge alleges speeding 25 miles per hour or more over the speed limit;

(c) if the charge alleges driving while ability is impaired by consumption of alcohol;

(d) if the charge alleges a speeding offense and the motorist has been convicted of two speeding violations or two misdemeanors relating to traffic, or any combination thereof, committed within the 18-month period immediately preceding the date of the alleged offense;

(e) if the charge alleges an offense specified in Section 510-b of the Vehicle and Traffic Law, and the motorist held a probationary license at the time of the alleged offense;

(f) if the charge alleges a violation of Section 401, 501, or 503 of the Vehicle and Traffic law; or

(g) if the motorist is the holder of a junior license.

Part 124 Hearings

Sections:

- 124.1 Plea of Guilty, With Explanation
- 124.2 Plea of Not Guilty - Scheduling Cases
- 124.3 Plea of Not Guilty - Hearings
- 124.4 Hearing Sites; Procedures
- 124.5 Rules of Evidence
- 124.6 Penalties
- 124.7 Rescheduling
- 124.8 Failure to Appear for Scheduled Hearing

Section 124.1 Plea of guilty, with explanation.

(a) Where a plea of guilty, with explanation, is made, it shall be made by the motorist in person before a hearing officer who shall, after accepting the "guilty plea", permit the motorist to offer his explanation as provided for in subdivision (c) of Section 123.3. The hearing officer may examine the motorist concerning the offense or the explanation offered, prior to making a determination as to the penalty, if any, to be imposed. The motorist shall not be permitted to withdraw his plea after such determination has been announced.

(b) Plea of guilty where personal appearance is required. Where a plea of guilty is made in any case in which a personal appearance is required, it shall be made by the motorist in person before a hearing officer who shall, after accepting the guilty plea, permit the motorist to make a statement and examine the motorist concerning the offense, his driving record, and the statement, if any, prior to making a determination as to the penalty, if any, to be imposed. The motorist shall not be permitted to withdraw his plea after such determination has been announced.

124.2 Plea of not guilty - scheduling cases. Upon receipt of a plea of not guilty made within 10 days of the violation, the bureau shall schedule a hearing for the time and date of appearance which appears on the summons, or such other date as may be supplied by the Department. The issuing officer will be notified of such answer, and a hearing will be held on such date to determine whether the charges should be sustained, unless the case is otherwise disposed of by an amended answer admitting the charge. Where an answer is made more than 10 days after the date of violation, the case will be rescheduled based on such issuing officer's appearance schedule.

124.3 Plea of not guilty - hearings. Except as otherwise provided in Sections 124.2 and 124.7, a hearing in a contested case will be held at the hearing location, time and date of appearance appearing on the summons. Such hearing shall be held in the order that the motorists appear, pursuant to Section 124.4.

124.4 Hearing sites; procedures.

(a) Hearing sites. One hearing site shall be located in each county of the City of New York, one in the City of Buffalo, and one in the City of Rochester, and each site shall have sufficient hearing rooms to accommodate the number of cases to be heard without causing undue delay. Receptionists and other clerical personnel will be available at each site to answer inquiries concerning the adjudication program, and to otherwise explain the pertinent rules and procedures. Copies of these regulations and appropriate summaries of procedures shall also be available for the guidance of motorists and counsel.

(b) Hearing procedures.

(1) General. Each hearing room shall be equipped with a rostrum for the hearing officer and clerk, and sufficient seats for the motorists and counsel scheduled for the designated hearing time. There will be four hearing times during the day, at 8:30 a.m., 10:30 a.m., 1:00 p.m., and 2:30 p.m. Motorists scheduled for hearings shall be present at the hearing site at the hearing time appearing on the face of the summons. The motorist shall deliver his summons and all driver's licenses held by such motorist, including such portion as may contain a listing of prior convictions, to the clerk in the hearing room, and cases shall, to the extent practicable, be heard in the order such summonses are received.

(2) Representation. At any hearing the motorist may be represented by counsel (an attorney duly licensed to practice

law in the State of New York) or any other person designated by the motorist as his representative.

(3) Explanation of procedures. Prior to the commencement of any hearings for the designated hearing time, the hearing officer may briefly describe the purposes and procedures of the adjudication program, and, in his discretion, may answer any general questions which may be asked. Such explanation may include a warning that conviction of any charge may result in the suspension or revocation of a driver's license or privileges or of a certificate of registration, and that each motorist is entitled to be represented by counsel or representative. Since such warning and advice appears on the summons form, the provisions of this paragraph shall be directory only, and the failure to make an explanation as specified in this paragraph, or a motorist's failure to be present at any explanation offered, shall not form a basis for appeal.

(4) Conduct of hearing.

(i) Hearing on alleged offense. When the motorist's name is called, he shall proceed to the hearing officer's rostrum and stand facing the hearing officer at the microphone designated for the motorist. The issuing officer shall stand at the microphone designated for him and shall, after being sworn, testify as to the facts concerning the alleged offense. After such examination as may be made by the hearing officer, the motorist, his counsel, or his representative, if present, may then examine such officer. Thereafter, the motorist may offer his sworn testimony and, if such is offered, shall answer such questions as may be asked by the hearing officer, and by the complaining witness in the discretion of the hearing officer. If the testimony of additional witnesses is to be offered, the order in which such witnesses shall testify shall be within the discretion of the hearing officer. Any such witness shall be sworn and shall testify, and he may then be questioned by the hearing officer, and thereafter may be examined by the party, other than the party who produced such witness, his counsel, or his representative. Upon the conclusion of such testimony and examination, the hearing officer may further examine the issuing officer, after which the motorist, his counsel, or his representative may also further examine such officer. After such examination, and any further examination of the motorist by the hearing officer, if such motorist has offered testimony, the motorist, his counsel, or his representative shall be permitted to make an appropriate statement in the nature of a closing argument. Thereafter, the hearing officer shall announce his determination as to whether the charges have

have been sustained. If the charges have not been sustained, an appropriate entry will be made in the Department's records and on the summons, and the summons and driver's license shall be transmitted to the appropriate clerk for disposition.

(ii) Determination of penalty. If a determination is made that the charge has been sustained, the clerk shall enter such fact in the records of the Department and the clerk shall turn over the conviction stub of the motorist's license to the hearing officer. After comparing the record of convictions appearing on such stub, if any, with the official records of the Department, the hearing officer shall receive any explanation offered by the motorist, and may, in his discretion, make such inquiry of the motorist as he shall deem appropriate. The hearing officer shall then announce the penalty to be imposed, if any.

(iii) Imposition of penalties. Any penalty imposed shall be recorded in the records of the Department, on the summons, and on the conviction stub if required by law or regulation. If a penalty includes suspension or revocation action, the hearing officer shall obtain the surrender of any license, certificate, or registration affected, and shall advise the motorist of the provisions of Section 124.6. The summons, driver's license and registration certificate, as the case may be, shall be transmitted to the appropriate clerk for disposition.

(5) Post hearing procedures.

(i) Charges not sustained. Where charges are not sustained, an appropriate entry shall be made in the records of the Department and on the summons, and the driver's license shall be returned to the motorist.

(ii) Charges sustained. Where charges have been sustained, whether in a contested case or in any other case in which an appearance was made before a hearing officer, the cashier receiving the summons and license from the hearing room shall receive the monetary penalty, if any. After appropriate entries have been made in the records of the Department and on the summons, a receipt for any penalty collected shall be furnished to the motorist.

(6) Conduct at hearings. Hearing officers shall comply with canons of judicial ethics. All persons appearing as counsel before the Administrative Adjudication Bureau must conform to the standards of conduct required of attorneys appearing before state courts. Failure to conform to these standards will

be grounds for declining to permit their appearance in any further proceedings.

124.5 Rules of evidence.

(a) The rules governing the receipt of evidence in a court of law shall not apply in hearings of the bureau, except as provided in this section.

(b) On the issue of the guilt of the accused, the hearing officer shall exclude on his own motion, in his discretion, or on the motion of a party having legal standing to raise an objection:

(1) privileged communications;

(2) evidence which would not be admissible for constitutional reasons, in the Criminal Court of the City of New York, the City Court of Buffalo, or the Rochester City Court, if such case were heard by such court; and

(3) evidence of prior misconduct, incompetency or illness, except where such would be admissible in the Criminal Court of the City of New York, the City Court of Buffalo, or the Rochester City Court, if such case were heard by such court.

(c) The hearing officer may exclude any evidence which is irrelevant or immaterial.

124.6 Penalties.

(a) General. Where a charge has been sustained after an appearance before a hearing officer, such hearing officer may impose any penalty which could have been imposed by a court for the same offense, except imprisonment.

(b) Suspensions and revocations. Pursuant to the provisions of Section 227(5) of the Vehicle and Traffic Law, the imposition of any suspension or revocation ordered after a hearing, except for the failure to pay a monetary penalty, shall be delayed for a period of 30 days, unless the hearing officer shall determine that a substantial traffic safety hazard would result from such delay. Any New York license affected by such order shall be surrendered to the hearing officer and a temporary driving permit will be issued for the 30-day period. If a motorist, after being advised of the provisions of this subdivision, waives his right to such delay, the suspension or revocation shall take effect at 12:01 the following morning. Notwithstanding the

effective date of a suspension or revocation, the period during which a license or registration shall be withheld shall not commence to run until any affected certificate or number plate is surrendered as required by law.

124.7 Rescheduling. A hearing may be rescheduled once by mailing a request for such rescheduling to the hearing office where the hearing is to be held at least four days prior to such hearing or by contacting the appropriate clerk in such office in person or by his agent at least one day prior to the date of such hearing. The hearing shall be rescheduled and notice of the new hearing date will be mailed or given to the motorist or his agent, as the case may be. A second rescheduling in the same case will not be given except upon good cause being shown at a personal appearance before a hearing officer at least one day prior to the scheduled hearing.

124.8 Failure to appear for scheduled hearing.

(a) If a motorist shall fail to appear at a scheduled hearing, his driver's license and privileges shall be suspended pending the final disposition of the charge.

(b) Any later appearance shall be before a hearing officer who may, in his discretion, terminate the suspension upon posting of security pursuant to Section 226, subdivision 3, of the Vehicle and Traffic Law.

Part 125 Appeals and Judicial Review

Sections:

- 125.1 Appeals Board
- 125.2 Fees; Transcripts; Procedures
- 125.3 Appeal Without Transcript
- 125.5 Determinations
- 125.6 Judicial Review

125.1 Appeals board.

(a) An appeals board is hereby established under the supervision of the Commissioner, to hear and determine appeals filed pursuant to this Part. Such board shall consist of at least three attorneys and counselors at law, two of whom may be hearing officers. At least two votes shall be required to take final action on any appeal.

(b) Any post-hearing application such as normally made to a trial court is deemed to be an appeal.

125.2 Fees; transcripts; procedures.

(a) Fees; transcripts. A fee of \$10 which shall not be refundable must be paid at the time an appeal is filed. Transcripts may be ordered from the Adjudication Bureau on a form prescribed for such purpose, at a fee of \$1.50 per page, upon payment of a deposit of \$15.

(b) Procedures. Appeals must be submitted on a form prescribed for such purpose not later than 30 days from the date of hearing, excluding the date of hearing. If a transcript must be submitted, such appeal will be deemed to have been timely made if the appeal is filed and the transcript is ordered prior to the expiration of the 30-day period, provided that the charges for preparing such transcript are paid upon receipt of such transcript or within 10 days of the date such transcript becomes available, whichever occurs sooner.

125.3 Appeal without transcript. An appeal may be submitted without a transcript only if no questions of fact are raised or in connection with a post-hearing application or the only issue is the appropriateness of the penalty imposed. Where an appeal is so submitted, the decision of the board shall be final.

125.4 Appeal with transcript. Except for an appeal filed pursuant to Section 125.3, no appeal shall be deemed finally submitted until a transcript of the hearing involved is submitted by the motorist. A transcript will be deemed submitted when the charges for preparing such transcript have been paid to the Department.

125.5 Determinations. The appeals board shall issue a determination in the form of a letter to the motorist with 60 days of the date an appeal is finally submitted. In the event the imposition of a suspension or revocation has been delayed pursuant to Section 124.6, such delay will be extended until a determination on the appeal has been issued.

125.6 Judicial review. A determination of an appeal submitted pursuant to Section 125.4 may be reviewed pursuant to Article 78 of the Civil Practice Law and Rules.

Part 126
Miscellaneous

Sections:

- 126.1 Posting of Security
- 126.2 Monetary Penalties
- 126.3 Failure to Pay Monetary Penalty
- 126.4 Transfer of Cases
- 126.5 Dismissal of Certain Cases
- 126.6 Exceptions

Section 126.1 Posting of Security. The provisions relating to the posting of security on entry of a plea of not guilty contained in subdivision 2 of Section 226 of the Vehicle and Traffic Law is suspended.

126.2 Monetary penalties.

(a) Monetary penalties for guilty pleas. The following monetary penalties shall be assessed upon the entry of a plea of guilty where personal appearance is not required or made before a hearing officer.

(1) For all speeding offenses where the speed charged is 14 or less miles per hour in excess of the speed limit, the monetary penalty shall be \$25.

(2) For all speeding offenses where the speed charged is at least 15 but not more than 24 miles per hour in excess of the speed limit, the monetary penalty shall be \$35.

(3) For the offense of uninspected vehicle, or any equipment violation, the monetary penalty shall be \$15.

(4) For all other offenses, the monetary penalty shall be \$25.

(b) Monetary penalties assessed by hearing officers. The monetary penalties set forth in subdivision (a) of this section shall not apply to monetary penalties assessed by a hearing officer. A hearing officer may assess any monetary penalty which could have been imposed by a court for the same offense.

126.3 Failure to pay monetary penalty. Whenever a monetary penalty is assessed by a hearing officer, such penalty shall be immediately payable. If the motorist is unable to pay such penalty

at the time, the hearing officer may, in his discretion, grant an adjournment for payment of the penalty for a period not to exceed 15 days. In any such case, the license must be immediately surrendered and a temporary license valid until the date established for payment will be issued. If the penalty is not paid on or before such date, the license of the motorist will be suspended until the penalty is paid.

126.4 Transfer of cases. A request for removal to a court having appropriate jurisdiction of a case made returnable to the bureau which alleges an offense other than a traffic infraction shall be made to such court. Upon the granting of an order of removal by such court, the case shall be transferred to such court and notification of such transfer shall be mailed to the motorist as required by subdivision 2 of Section 225 of the Vehicle and Traffic Law.

126.5 Dismissal of certain cases.

(a) Whenever a complaint is filed with the Administrative Adjudication Bureau which alleges a violation, the disposition of which can be determined solely from the records of the Department of Motor Vehicles, a search of the appropriate records shall be made, and if such records reveal that the charge should not be sustained, the charge shall be dismissed and notification of such action shall be mailed to the motorist. Upon receipt of such notification, the motorist need not make any further appearance in connection with such charge.

(b) Whenever a complaint is filed with the Administrative Adjudication Bureau alleging an equipment violation which is dismissable by the terms of Section 376-a of the Vehicle and Traffic Law, and documentary proof of repair is presented in accordance with the provision of said section, the charge shall be dismissed, and notification of such action is to be given to the motorist. Upon receipt of such notification, the motorist need not make any further appearance in connection with such charge.

126.6 Exceptions. The Commissioner may permit deviations from the provisions of this subchapter where he is satisfied that the specific circumstances involved in any situation would result in a subversion of the intent of Article 2-A of the Vehicle and Traffic Law if this subchapter were to be strictly applied.

APPENDIX D
Central Office Processing Guide *

* These materials are periodically updated to reflect operational improvements and revisions and should not be considered final documentation.

**Central Office Processing
Guide**

A. Complaint Processing

1. Coding - This operation involves:

- a. Receiving the courier bag of complaints each morning and logging in the volume.
- b. Distribution of the packets to the assigned clerks for date stamping, review for completion and accuracy of necessary information. Complaints are then coded for entry on the CRT.

2. Exception Resolutions - As a result of the review of the complaints for January, 5,993 exceptions resulted. Types of exceptions received are:

- a. Bad date of appearance
- b. Missing information such as date of birth, tax registry number, command, infraction, illegible name and address, precinct, etc.

3. Transfers - Complaints written for Administrative Adjudication which in reality must be transferred to Criminal Court due to the nature of the violation. As a result, an AD-18 must be prepared and filed.

4. Dismissals - Sorting and batching unlicensed and unregistered for verification by the key punch operators.

Man Days for transfers and dismissals are low as presently the Key Punch Operators will prepare the AD-18 necessary for Criminal Court transfer and also dismiss the complaint when proper. It is necessary to utilize the night staff for this function as we do not have sufficient visual displays available for a complete day-time program.

5. Re-Routes - Complaints written for Criminal Court and Parking Violations Bureau which have been forwarded to the Administrative Adjudication Bureau in error by the police.

B. Plea Processing - Mail is received, reviewed and recorded. Hearing mail is separated and dispersed to that unit. Mis-directed correspondence must be re-routed back to the mail room. Administrative Adjudication mail is recorded and batched into bundles of fifty (50) and given to the clerks

for editing. This process involves separating Buffalo from New York City due to the difference in time schedules. The actual editing of the summons and check involves:

1. Date of appearance.
2. Hand writing summons number on reverse side of check.
3. Reviewing summons to insure that the plea box has been completed.
4. Inserting date of birth on check under the signature.
5. Insuring that the amount of the check is proper according to the fine schedule.

Bl. Guilty Pleas Cashiered - Summons together with checks that are acceptable for entry are batched and forwarded to the Senior Key Punch Operator to be made ready for entry. Cashiering is performed the following morning when the DCR has been balanced.

1. Exceptions - As a result of the editing process, exceptions occur. For example:
 - a. Reschedule summons when date of appearance has already past.
 - b. Splitting checks when the improper amount has been submitted.
 - c. Bad checks returned from the bank.
 - d. Refunds when motorist has satisfied a summons at one of our field offices and submitted mail plea also. Experience has shown that in most instances Albany must refund, as a lower fine has been levied by our referee.
 - e. Conviction stub must be marked and returned to motorist.
 - f. Correspondence received together with summons and check must be read and answered.
 - g. Copies of all dismissals for section #319, uninsured, must be made and forwarded to the Insurance Control Unit.
 - h. Dockets and Police appearance listings, weekly and daily print-outs must be sorted and forwarded to our six (6) offices.

2. Cashiers -

- a. Balance the DCR
- b. Cashier the summons
- c. Prepare the bank deposit
- d. Take necessary action for bad checks and maintain a pending file for follow up
- e. Prepare compliance letter for out of state suspension
- f. Prepare the vouchers and correspondence for split checks

C. Notices - Computerized

D. Correspondence - Practically all correspondence requires two (2) searches, namely copy of complaint(s) in addition to an abstract of the driving record before a reply can be prepared. On occasion, a third search is necessary of the plea batch.

E. Filing - Consisting of the Not Guilty dispositions, Criminal Court transfers and complaint dismissals plus the purge routine.

F. Control Desk - was incorporated with the plea processing unit.

G. CRT - You are aware that we are assigned one (1) Principal Key Punch Operator plus four (4) Senior Key Punch Operators to prepare the work for night entry plus train and supervise the staff. Training is a constant operation due to the turnover of part-time employees in addition to new modifications. For example, the recent modification to include Buffalo and Rochester resulted in the necessity that three (3) extra key strokes must be made for every type of transaction.

1. One of the many functions performed by the Principal Key Punch Operator each day is to resolve all exceptions such as:
 - a. Invalid entry - Albany only
 - b. Duplicate entry for five (5) offices. Therefore, it is necessary to list each duplicate entry and forward a daily listing to the respective office.
 - c. Resolve exceptions resulting from two (2) or more

transactions for one (1) summons on the same day.

- d. Deletions - must be justified, for security reasons.
- e. Update lag payroll sheet daily due to the time element involved.
- f. Assign work to seniors.
- g. Telephone calls from field offices concerning entries such as convictions or suspensions, plus keeps close watch on down-time in order to schedule overtime when necessary to keep file current.

2. Senior Key Punch Operators:

- a. Sorts and batches pleas received from Plea Unit.
- b. Pulls pending date for all No Hits, which must be performed daily.
- c. Batches complaints received from coding unit according to type of infraction.
- d. Sorts previous nights pleas for No Hits, Guilty Pleas Not Acceptable; No Hits return to Pending file Guilty Pleas Not Acceptable are returned with the appropriate form with the summons and check to the motorist.
- e. Prepares request from referees concerning Criminal Court transfers and AD-10 (Exception Form).
- f. Pull out-of-state suspension notices for searching by night staff.

H. Telephone Calls - Different types of phone calls are received.

- 1. The majority are from the general public requesting information concerning their outstanding summonses. In order to aid the motorist, a search of the master file in addition to the Administrative Adjudication file is required. Complaints must be pulled in order to supply information requested.
- 2. We also receive calls from our field offices concerning complaints, as the file does not contain all the information given on the complaint, that is, place of occurrence, time of occurrence, registration informations, etc.
- 3. Enforcement agencies and interdepartmental calls from Driver Improvement are also received.

APPENDIX E
AAB Cost Figures

**Administrative Adjudication Bureau
Statement of Receipts and Expenses**

April 1, 1973 - March 31, 1974

| | <u>City of Rochester</u> | <u>City of New York</u> | <u>City of Buffalo</u> |
|--------------------------------------|------------------------------|-----------------------------|----------------------------|
| Receipts | \$ 462,580.00 | \$ 7,463,875.91 | \$ 1,006,539.50 |
| Expenses | | | |
| Personal Services | \$ 129,858.00 | \$ 1,726,588.63 | \$ 163,318.39 |
| Fringe Benefits (28.17%) | 36,581.00 | 486,380.02 | 46,006.79 |
| Contractual Services | 71,453.14 | 590,992.53 | 81,497.40 |
| Supplies | 820.60 | 7,030.64 | 858.38 |
| Equipment | 10,329.94 | 48,086.34 | 14,893.35 |
| Travel Expenses | 590.86 | 11,389.22 | 802.71 |
| Computer Costs | 11,928.61 | 241,297.02 | 22,835.80 |
| Indirect Costs | 56,973.87 | 707,622.67 | 75,253.11 |
| | <hr/> | <hr/> | <hr/> |
| Total Expenses | \$ 318,536.02 | \$ 3,819,387.07 | \$ 405,465.93 |
| Excess Receipts over Costs: | \$ 144,043.98 | | |
| Less: Prior Year Deficit | 14,553.44 | | |
| | <hr/> | | |
| Amount Available for Distribution | \$ 129,490.54 | \$ 3,644,488.84 | \$ 601,073.57 |

**Department of Motor Vehicles
Administrative Adjudication of Traffic Violations
Costs Incurred by the State Pursuant to
Article 2-A of the Vehicle and Traffic Law**

| | |
|--|----------------|
| <u>Starting-up Costs</u> | |
| Personal Service | \$112,344.84 |
| Fringe Benefits | 29,417.41 |
| Travel Expense | 4,287.34 |
| Rental | 2,605.20 |
| Telephone | 476.55 |
| Equipment | 123,554.16 |
| Indirect Costs | 47,822.51 |
| | \$320,508.01 |
| | |
| <u>Operating Costs July 1, 1970 to March 31, 1971</u> | |
| Personal Service | \$959,871.36 |
| Fringe Benefits | 277,813.18 |
| Office and Equipment Rental | 678,417.85 |
| Supplies | 10,537.96 |
| Travel Expense | 5,872.71 |
| Computer Costs | 296,190.72 |
| Indirect Costs | 715,413.91 |
| | \$2,944,117.69 |
| Total Costs | \$3,264,625.70 |
| | |
| <u>Operating Costs April 1, 1971 to March 31, 1972</u> | |
| Personal Service | \$1,317,255.83 |
| Fringe Benefits | 382,902.51 |
| Office and Equipment Rental | 758,568.84 |
| Supplies | 6,839.47 |
| Equipment | 57,100.81 |
| Travel Expense | 6,744.52 |
| Computer Costs | 466,259.38 |
| Indirect Costs | 1,232,547.14 |
| | \$4,228,218.50 |

**Department of Motor Vehicles
Administrative Adjudication of Traffic Violations
Costs Incurred by the State from April 1, 1972 to March 31, 1973
Pursuant to Article 2-A of the Vehicle and Traffic Law**

| <u>Operating Costs April 1, 1972 to March 31, 1973</u> | <u>New York City</u> | <u>Buffalo</u> | <u>Rochester</u> | <u>Total</u> |
|--|--------------------------|----------------|------------------|----------------|
| Personal Service | \$1,442,397.15 | \$20,392.57 | \$6,920.91 | \$1,469,710.63 |
| Fringe Benefits | 441,084.72 | 6,456.21 | 2,089.94 | 449,630.87 |
| Office and Equipment Rental | 613,434.77 | 1,031.33 | 518.52 | 614,984.62 |
| Supplies | 4,169.85 | 156.69 | 87.40 | 4,413.94 |
| Equipment | 34,683.82 | 6,363.96 | 8,072.70 | 49,120.48 |
| Travel Expenses | 8,522.77 | 91.67 | 17.61 | 8,632.05 |
| Computer Costs | 485,017.62 | 10,090.04 | 1,938.47 | 497,046.13 |
| Indirect Costs | 724,597.01 | 11,481.90 | 4,526.88 | 740,605.79 |
| | \$3,753,907.71 | \$56,064.37 | \$24,172.43 | \$3,834,144.51 |

**Department of Motor Vehicles
Administrative Adjudication of Traffic Violations
Costs Incurred by the State from April 1, 1972 to March 31, 1973
Pursuant to Article 2-A of the Vehicle and Traffic Law**

| <u>Operating Costs April 1, 1972 to March 31, 1973</u> | <u>New York City</u> | <u>Buffalo</u> | <u>Rochester</u> | <u>Total</u> |
|--|--------------------------|---------------------|---------------------|-----------------------|
| Personal Service | \$1,643,649.77 | \$155,469.24 | \$125,757.89 | \$1,924,876.90 |
| Fringe Benefits | 486,380.02 | 46,006.79 | 36,581.00 | 568,967.81 |
| Office and Equipment Rental | 590,992.53 | 81,497.40 | 71,453.14 | 743,943.07 |
| Supplies | 7,030.64 | 858.38 | 820.60 | 8,709.62 |
| Equipment | 48,086.34 | 14,893.35 | 10,329.94 | 73,309.63 |
| Travel Expenses | 11,389.22 | 802.71 | 590.86 | 12,782.79 |
| Computer Costs | 324,235.88 | 30,684.95 | 16,028.72 | 370,949.55 |
| Indirect Costs | 707,622.67 | 75,253.11 | 56,973.87 | 839,849.65 |
| | <u>\$3,819,387.07</u> | <u>\$405,465.93</u> | <u>\$318,536.02</u> | <u>\$4,543,389.02</u> |

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**Analysis of Direct Costs
Administrative Adjudication Bureau
April 1, 1973 to March 31, 1974**

| <u>Direct Costs</u> | <u>New York City</u> | <u>Buffalo</u> | <u>Rochester</u> | <u>Total</u> |
|--|-----------------------|---------------------|---------------------|-----------------------|
| <u>Incurred by Administrative Adjudication Offices</u> | | | | |
| Personal Services | \$1,242,965.74 | \$117,549.41 | \$105,949.92 | \$1,466,465.07 |
| Materials, Supplies, services and other costs | 579,740.13 | 90,692.94 | 79,350.51 | 749,783.58 |
| Total | <u>\$1,822,705.87</u> | <u>\$208,242.35</u> | <u>\$185,300.43</u> | <u>\$2,216,248.65</u> |
| <u>Allocation of Central Office Expenses</u> | | | | |
| Personal Services | \$483,622.89 | \$45,768.98 | \$23,908.08 | \$553,299.95 |
| Materials, Supplies services and other costs | 319,055.62 | 30,194.70 | 15,772.64 | 365,022.96 |
| Total | <u>\$802,678.51</u> | <u>\$75,963.68</u> | <u>\$39,680.72</u> | <u>\$918,322.91</u> |
| <u>Cummulative</u> | | | | |
| Personal Services | \$1,726,588.63 | \$163,318.39 | \$129,858.00 | \$2,019,765.02 |
| Materials, Supplies, services and other costs | 898,795.75 | 120,887.64 | 95,123.15 | 1,114,806.64 |
| Total | <u>\$2,625,384.38</u> | <u>\$284,206.03</u> | <u>\$224,981.15</u> | <u>\$3,134,571.56</u> |

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APPENDIX F
Forms of the Administrative Adjudication
Bureau

- Hearing Docket
- Miscellaneous Short Forms
- Appeals Forms
- Notice of Transfer Forms

Note: Traffic Ticket Forms are provided in Appendix C.

HEARING DOCKET

| Hearing Location | | Time | Room Number | Page | Date | Hearing Officer | |
|------------------|-----------|------------|-----------------|-------------------|------------------------------|-----------------|---------------------|
| MANHATTAN | | 1:43 | 1 | 1 | 4/28/72 | | |
| Summons Number | Defendant | DOB/Sex | Previous Action | Date of Violation | Type of Violation and Points | | Disposition |
| 22552133 | VICTOR | 3/19/34 F | 1 | 2/11/72 | IMPROPER PLATES | 2 | HENRY REGINALE J |
| 22493560 | RICHARD | 6/16/51 F | | 2/11/72 | DISOBEYED TRAF DEV | 2 | CARR FRANCIS |
| 225367304 | JULIO C | 2/17/42 F | 1 | 1/22/72 | DISOBEYED TRAF DEV | 2 | CSULLIVAN JOHN J |
| 22624544 | MAX | 8/25/51 F | 2 | 1/15/72 | DISOBEYED TRAF DEV | 2 | GATES THOMAS E |
| 225502885 | BENJAMIN | 2/11/36 F | 1 | 2/11/72 | OBSTRUCT INTERSECT | 2 | KELLY BEANARE G |
| 22555119 | JOSEPH | 10/27/26 F | 1 | 2/14/72 | DISOBEYED TRAF DEV | 2 | MARONEY WILLIAM L |
| 213599212 | LESLIE A | 7/29/34 F | 1 | 1/25/72 | IMPROPER PLATES | 2 | MARONEY WILLIAM L |
| 214733724 | JOHN J | 1-7-6/45 F | 1 | 1/29/72 | CRUISE WINDG DIR | 2 | MURKIN JAMES JOHN J |
| 217892135 | GREGORY G | 7/11/61 F | 1 | 1/23/72 | UN-EG MUT VEH-IMP | 2 | BUTTANI THOMAS J |
| 217815555 | KENNETH F | 7/11/78 F | 1 | 2/23/72 | DISOBEYED TRAF DEV | 2 | LOROVAN JOHN P |
| 217815544 | EUGENE A | 10/14/34 F | 1 | 2/21/72 | DISOBEYED TRAF DEV | 2 | LOROVAN JOHN P |
| 113115656 | WALTER J | 5/31/72 F | 1-2 | 4/1/71 | DISOBEYED TRAF DEV | 2 | LOROVAN JOHN P |
| 215654022 | IRVING | 2/2/71 F | 1-1 | 1/29/71 | CRUISE WINDG DIR | 2 | MUYLAN EDWARD |
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Miscellaneous Short Forms

Date of Appearance Change
Plea Rejection
Notice of Unacceptability of Mail Plea
Notice of Suspension

State of New York - Department of Motor Vehicles
Administrative Adjudication Bureau

DATE OF APPEARANCE CHANGE

The Date of Appearance as shown on your Summons is incorrect. No plea has been entered on our records. To enter a plea of "Not Guilty", please follow instructions given on the reverse side of the summons. Your new Date of Appearance is: _____

_____ Date of Appearance _____
 _____ Summons Number _____
 _____ Tax Registry Number _____

If summons has been answered, please disregard.

AD-35 (10/73)

PLEA REJECTION

Please correct your plea as indicated and follow all required instructions for pleading "Guilty" or "Not Guilty"

Then mail your plea to this address:
Administrative Adjudication Bureau - Plea Unit
Department of Motor Vehicles
Empire State Plaza
Albany, New York 12228

We cannot process your plea because:

- Your check should be made payable to Department of Motor Vehicles.
- You did not submit the proper amount of fine which is \$_____.
- We cannot accept third party checks.
- Your check requires two signatures.
- Signature on check does not agree with the printed name on check.
- The plea form on reverse side of the summons was not signed.
- The box marked "Guilty" or "Not Guilty" on the plea form was not checked.
- _____
- _____

AD-16 (8/74) New York State - Department of Motor Vehicles

State of New York - Department of Motor Vehicles
Administrative Adjudication Bureau

NOTICE OF UNACCEPTABILITY OF MAIL PLEA

Because conviction of this violation may result in the Suspension or Revocation of your driver's license, you cannot plead Guilty by mail. In order to enter a plea of Guilty, you must appear before a Hearing Officer on or before the Date of Appearance indicated on your Summons. If you wish to plead "Not Guilty" follow the instructions on your Summons. A Notice of Required Appearance has been issued and mailed to you.

The items you submitted are enclosed.

AD-5 (7/70)

NOTICE OF SUSPENSION

Your driver's license is hereby suspended as of the Suspension Date shown below. This action is taken pursuant to the Vehicle and Traffic Law, Section 226(3) for failure to appear for a hearing. This Suspension shall remain in effect until your plea has been properly entered and accepted. If you fail to appear before the Suspension Date you must surrender your license to the Hearing Location shown below.



Commissioner of Motor Vehicles

See instructions on reverse side.

INSTRUCTIONS

- To terminate this Order you must appear in person, on or before the Suspension Date, at the Hearing Location shown on reverse.
- Bring your Summons, driver's license and vehicle registration with you.
- You may be represented by counsel.

IMPORTANT

Your attention is directed to the following provisions of the Vehicle and Traffic Law:

Section 510 - 7. Failure of the holder or any other person possessing the license card, registration certificate or number plates, to deliver the same to the suspending or revoking officer is a misdemeanor -

Section 511. Any operator or chauffeur operating a motor vehicle or motorcycle upon a public highway while his license is suspended or revoked shall be guilty of a misdemeanor -

NOTICE

Statutory requirement for Traffic Violators.
A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition, your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

PLEA FORM

I, the undersigned, plead

 GUILTY NOT GUILTY_____
Signature_____
Date

APPEAL FROM DETERMINATION

FOR OFFICE USE ONLY

INSTRUCTIONS:

File your appeal on this form within 30 days of your hearing date. An appeal fee of ten dollars must accompany this form. This fee will not be returned.

If you are appealing only your penalty, you do not need a transcript of the minutes of your hearing.

If you are appealing the guilty determination, you will need a transcript obtained from the Administrative Adjudication Bureau at a cost of \$1.50 a page. In such case, a fifteen dollar deposit for the minutes must be sent along with your appeal fee. If the total cost of your transcript comes to less than your deposit, the difference will be refunded; if more, you will be billed for the additional amount, which will be payable within ten days thereafter. If an additional payment for the transcript is required and is not paid, the appeal will be considered incomplete and it will not be referred to the Appeals Board but will be dismissed. NOTE - Payments for transcripts that are supplied are not returnable. You will receive a copy of your transcript after full payment is made.

Your appeal fee (and fifteen dollar deposit for transcript, and additional payment for transcript) must be in the form of a check or money order payable to the Commissioner of Motor Vehicles. This must be sent to Appeals Board, Administrative Adjudication Bureau, 350 Livingston Street, Brooklyn, New York 11217.

You will be notified of the determination of the Appeals Board within thirty days of the date that your appeal (including all fees and transcript, if ordered) is submitted. Personal attendance before the Appeals Board is not required or permitted.

NOW FILL IN INFORMATION BOXES BELOW:

| | | | | | |
|--------------------------------|-------|------|-----------------|-------------------|-------------------|
| Last Name | First | M.I. | Date of Birth | Sex | Date of Violation |
| Address (Number and Street) | | | Violation | | |
| City or Town | State | ZIP | Summons Number | | |
| Motorist Identification Number | | | Date of Hearing | County of Hearing | |

CHECK ONE:

- I appeal penalty only and need no transcript.
- I appeal guilty determination and request transcript.

PLEASE COMPLETE REVERSE SIDE OF FORM AND SIGN

THIS BOX FOR OFFICE USE ONLY

| | | |
|---|------------|----------|
| <input type="checkbox"/> Appeal Fee submitted | Date _____ | \$10.00 |
| <input type="checkbox"/> Transcript Deposit submitted | | \$15.00 |
| Transcript, _____ pages @ \$1.50 | | \$ _____ |
| Amount to refund | | \$ _____ |
| (or) Amount to bill | | \$ _____ |

Please write or type your explanation or basis for appeal in the space provided below. Attach additional sheets if necessary. When you have completed your explanation, sign the Statement at the bottom of the page.

I CERTIFY that the information that I have given on this Appeal is true, to the best of my knowledge.

SIGN
HERE X

Sign name in full

Date

Appeals Board — Analysis and Check-List

Defendant: Summons #:
Violation Charged:
Plea: Finding:
Hearing on at Referee
Disposition: Fine-\$
() Revocation () Mandatory
() Suspension for () Discretionary

Attorney in Appeals
() Yes
() No

Appellant submits
() Only appeal form () Letter(s) (#)
() Appeal form plus () Brief
() Other documents

Appellant argues:

Minutes show:

Attorney at Hearing
() Yes () No

Testimony by
Police (#):

Defendant:

Other:

(Defendant:)
Exhibits:
Significant Factual Issues:
Significant Legal Issues: () Credibility
() Sufficiency of Evidence
() Other

Quality of Minutes:

Conclusions:

Proof of violation:

Disposition:

Due Process:

Added Comments:

Recommendation

By Analyst: By Vice-Chairman:

Disposition by Appeals Board:

I concur disagree:
I concur disagree:
I concur disagree:

OFFICIAL:
Vice-Chairman, Appeals Board

Notice of Transfer Forms

NOTICE OF CASE TRANSFER

You were issued a Summons No. _____

Due to the nature of the offense, your case has been transferred to the New York City Criminal Court. If you have already submitted a plea to this Department, your Summons will be returned to you. You will be contacted by the Criminal Court concerning a new appearance date. Please do not appear or contact the Criminal Court until you are so notified.



State of New York - Department of Motor Vehicles
Administrative Adjudication Bureau

AD-18 (7/71)

State of New York - Department of Motor Vehicles
Administrative Adjudication Bureau

NOTICE OF CASE TRANSFER

You were issued Summons No. _____

Due to the nature of the offense, your case has been transferred to the Buffalo City Court located at Delaware Avenue and West Eagle Street, Buffalo, New York. On the date and time of appearance, you or your legal representative must appear as specified on the face of the summons. Bring your summons, drivers license and conviction stub to the hearing.



AD-18.1 (2/73)

State of New York - Department of Motor Vehicles
Administrative Adjudication Bureau



NOTICE OF
CASE TRANSFER



You were issued Summons No. _____

Due to the nature of the offense, your case has been transferred to the Rochester City Court, City Public Safety Building Civic Center Plaza, Rochester, New York 14614. You will be notified by mail when to appear at City Court. Bring your summons, driver's license and conviction stub to the hearing.

AD-18.2 (10/73)

APPENDIX G

**Article 78
New York State Civil Practice Law and Rules**

§ 7801. Nature of proceeding. Relief previously obtained by writs of certiorari to review, mandamus or prohibition shall be obtained in a proceeding under this article. Wherever in any statute reference is made to a writ or order of certiorari, mandamus or prohibition, such reference shall, so far as applicable, be deemed to refer to the proceeding authorized by this article. Except where otherwise provided by law, a proceeding under this article shall not be used to challenge a determination:

1. which is not final or can be adequately reviewed by appeal to a court or to some other body or officer or where the body or officer making the determination is expressly authorized by statute to rehear the matter upon the petitioner's application unless the determination to be reviewed was made upon a rehearing, or a rehearing has been denied, or the time within which the petitioner can procure a rehearing has elapsed; or

2. which was made in a civil action or criminal matter unless it is an order summarily punishing a contempt committed in the presence of the court.

§ 7802. Parties

(a) Definition of "body or officer". The expression "body or officer" includes every court, tribunal, board, corporation, officer or other person, or aggregation of persons, whose action may be affected by a proceeding under this article.

(b) Persons whose terms of office have expired; successors. Whenever necessary to accomplish substantial justice, a proceeding under this article may be maintained against an officer exercising judicial or quasi-judicial functions, or member of a body whose term of office has expired. A notice of the proceeding shall be served upon the attorney-general, and any party may join the successor of such officer or member of a body or other person having custody of the record of proceedings under review.

(c) Prohibition in favor of another. Where the proceeding is brought to restrain a body or officer from proceeding without or in excess of jurisdiction in favor of another, the latter shall be joined as a party.

(d) Other interested persons. The court may direct that notice of the proceeding be given to any person. It may allow other interested persons to intervene.

§ 7803. Questions raised. The only questions that may be raised in a proceeding under this article are:

1. whether the body or officer failed to perform a duty enjoined upon it by law; or

2. whether the body or officer proceeded, is proceeding or is about to proceed without or in excess of jurisdiction; or

3. whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed; or

4. whether a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence.

§ 7804. Procedure.

(a) Special proceeding. A proceeding under this article is a special proceeding.

(b) Where proceeding brought. A proceeding under this article shall be brought in the supreme court, special term, in the county specified in subdivision (b) of section 506 except as that subdivision otherwise provides.

(c) Time for service of notice of petition and answer. Unless the court grants an order to show cause to be served in lieu of a notice of petition at a time and in a manner specified therein, a notice of petition, together with the petition and affidavits specified in the notice, shall be served on any adverse party at least twenty days before the time at which the petition is noticed to be heard. An answer and supporting affidavits, if any, shall be served at least five days before such time. A reply, together with supporting affidavits, if any, shall be served at least one day before such time.

(d) Pleadings. There shall be a verified petition, which may be accompanied by affidavits or other written proof. Where there is an adverse party there shall be a verified answer, which must state pertinent and material facts showing the grounds of the respondent's action complained of. There shall be a reply to a counterclaim, denominated as such and there shall be a reply to new matter in the answer or where the accuracy of proceedings annexed to the answer is disputed. The court may permit such other pleadings as are authorized in an action upon such terms as it may specify.

(e) Answering affidavits; record to be filed; default. The body or officer shall file with the answer a certified transcript of the record of the proceedings under consideration, unless such a transcript has already been filed with the clerk of the court. The respondent shall also serve and submit with the answer affidavits or other written proof showing such evidentiary facts as shall entitle him to a trial of any issue of fact. The court may order the body or officer to supply

any defect or omission in the answer, transcript or an answering affidavit. Statements made in the answer, transcript or an answering affidavit are not conclusive upon the petitioner. Should the body or officer fail either to file and serve an answer or to move to dismiss, the court may either issue a judgment in favor of the petitioner or order that an answer be submitted.

(f) Objections in point of law. The respondent may raise an objection in point of law by setting it forth in his answer or by a motion to dismiss the petition, made upon notice within the time allowed for answer. If the motion is denied, the court shall permit the respondent to answer, upon such terms as may be just; and unless the order specified otherwise, such answer shall be served and filed within five days after service of the order with notice of entry. The petitioner may re-notice the matter for hearing upon two days' notice. The petitioner may raise an objection in point of law to new matter contained in the answer by setting it forth in his reply or by moving to strike such matter on the day the petition is noticed or re-noticed to be heard.

(g) Hearing and determination; transfer to appellate division. Where an issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall make an order directing that the proceeding be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced; the court may, however, itself pass on objections in point of law. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issue in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

(h) Trial. If a triable issue of fact is raised in a proceeding under this article, it shall be tried forthwith. Where the proceeding was transferred to the appellate division, the issue of fact shall be tried by a referee or at a trial term of the supreme court and the verdict, report or decision rendered after the trial shall be returned to, and the order thereon made by, the appellate division.

§ 7805. Stay. On the motion of any party or on its own initiative, the court may stay further proceedings, or the enforcement of any determination under review, upon terms including notice, security and payment of costs, except that the enforcement of an order or judgment granted by the appellate division in a proceeding

under this article may be stayed only by order of the appellate division or the court of appeals. Unless otherwise ordered, security given on a stay is effective in favor of a person subsequently joined as a party under section 7802.

§ 7806. Judgment. The judgment may grant the petitioner the relief to which he is entitled, including in an appropriate case restitution or damages, or may dismiss the proceeding either on the merits or with leave to renew. If the proceeding was brought to review a determination, the judgment may annul or confirm the determination in whole or in part, or modify it, and may direct or prohibit specified action by the respondent. Any restitution or damages granted to the petitioner must be incidental to the primary relief sought by the petitioner, and must be such as he might otherwise recover on the same set of facts in a separate action or proceeding suable in the supreme court against the same body or officer in its or his official capacity.

APPENDIX H
Computer System Description *

* These materials are periodically updated to reflect operational improvements and revisions and should not be considered final documentation.

COMPUTER SYSTEM DESCRIPTION

Introduction

The following computer system has been designed to facilitate the New York State Program for the Administrative Adjudication of Traffic Violations. Its purpose in serving the adjudication process is to analyze previous driving records in conjunction with specific traffic infractions. This analysis results in various computer generated output which, besides servicing the adjudication process, enables the adjudication process to be combined with a driver control program.

This system services the adjudication process by preparing output such as court dockets and cash reports. It services the driver control program by forcing a defendant who is in jeopardy of losing his driving privileges to appear before a hearing referee.

The following overview is presented, not to show the controls present in the computer system, but to show the concepts upon which the system is based. A brief definition of terms precedes this analysis. Although these definitions may not be legally correct, they are provided to show the relation of these terms to this outline.

I. Definition of Terms

1. *Citation*: refers to a multiple part form charging a driver with the abuse of a traffic regulation.
2. *Defendant*: refers to the driver to whom a citation is issued.
3. *Complaint*: refers to:
 - a. the administrative copy of a citation issued for a traffic violation.
 - b. a computer record of the information found on 'a' above.
 - c. a computer file composed of records described in 'b' above.
4. *Summons*: refers to:
 - a. that copy of an issued citation which is given to the defendant.

- b. the identifying number found on all copies of an issued citation.
- 5. *Disposition*: refers to the positive or negative finding by a hearing referee in relation to a particular complaint.
- 6. *Plea*: refers to the positive or negative agreement to a particular complaint by the defendant.
- 7. *Court*: refers to:
 - a. the local office at which presides the hearing referee for the purpose of conducting trials and hearings or at which the defendant may enter a positive or negative plea against the complaint.
 - b. those transactions entered into the adjudication computer system at the local office described in 'a' above.
- 8. *Central Office*: refers to:
 - a. the single location, relevant to the central computer, where the complaints are entered into the computer system and where mail pleas by the defendant are serviced.
 - b. those transactions entered into the computer system at the single location described in 'a' above.
 - c. the batch computer processing of those transactions entered into the computer system at either the court or central office location.
- 9. *Day*: refers to transactions and processing of transactions entered at a court location, as described in (7) above.
- 10. *Night*: refers to transactions and processing of transactions at the central office, as described in (5) above.
- 11. *Mandatory*: refers to:
 - a. the particular defendant whose driving privileges may be affected by the positive disposition of the complaint.
 - b. the particular form or notice advising the defendant described in 'a' above that he must appear for trial.
- 12. *Reschedule*: refers to the assignment of a new trial date at the request of the defendant.
- 13. *Reassignment*: refers to the assignment of a new trial date due to the adjudication procedure or a request by the police.
- 14. *Adjournment*: refers to the assignment of a new trial date for the purpose of complying with the imposed penalty after a positive disposition of the complaint.

- 15. *Cafeteria*: refers to the area of a court where the defendant may be serviced without appearing before the hearing referee.

II. Establishment of a Complaint Record

All input to this system is via visual display. After a citation has been issued, the complaint copy is forwarded to a central bank of visual display units where the complaint information is linked to the defendant's driving record and stored on magnetic tape.

When entering complaint information, it is the responsibility of the visual display operator to retrieve license records and determine which license record should be attached to each complaint. This operator also has the ability to enter the name and address appearing on the complaint if a driving record cannot be found or if a discrepancy appears in name or address between the driving and complaint records.

After the complaint records have been entered and accumulated, they are processed by the complaint file update program which inserts the records into the complaint file in summons number sequence. Although the file is maintained in sequence by summons number, a separate index is provided which enables the summons record to be retrieved and displayed by the defendant's name, date of birth and sex.

As each complaint record is added to the file, it is analyzed by a driver control routine. The driver control routine determines if the violation with which the defendant is charged in the complaint is one of the following violations:

1. Excessive Speed
2. Unlicensed Operator--Junior
3. Speed Contest--Junior
4. Speed (15MPH over limit)--Junior
5. Driving While Ability Impaired.

If a driving record is attached to the complaint information, the driver control routine will then compare the charge with the previous driving history to determine if conviction of the charge will constitute one of the following:

1. Probation Violation
2. Third Speed in 18 months

3. Persistent Violator¹
4. Open Stop a Date of Violation.

If the determination is made that the violation is one of the above five, or if conviction of the charge will result in one of the above four, the complaint record is constructed in such a manner that a guilty plea by mail or in the court cafeteria is not acceptable.

In addition, a computer generated notice is printed. This notice tells the defendant that he must appear before a hearing referee whether or not a trial is desired. If a trial is desired, the guilty plea before the hearing referee is treated as a guilty disposition by this system.

III. Activity Against Complaint Records

After a complaint record has been added to the computer complaint file, it is possible to enter activity against this record. This activity can be of various types and, depending on the type, can be entered at either a court location or the central office.

As with the actual entry of complaint records, the entry of activity against complaint records is also accumulated on magnetic tape. After each day's activity has been accumulated, it is passed to a program which assures that this activity is reflected in the complaint records.

The visual display program, which is responsible for controlling all input to this system, assures that activity that is pertinent to court procedure can only be entered through a court visual display and activity pertinent to the central office can only be entered through a central office visual display. The visual display program also assures that no activity can be entered against a particular complaint record unless the complaint record has been previously established. If the complaint record had been previously established, a final check is made to insure that the summons number entered with the activity matches the summons number in the

¹Persistent Violator is determined by 9 points in 18 months or 12 points in 24 months. The time periods are considered from the date of violation in the complaint. Previous hearings, clinics, and warnings are not considered by the adjudication driver control program.

complaint record. If these do not match, the activity entered against the complaint record will not be accepted.

The types of activity which can be entered against an established complaint record are the following:

- A. Reschedule -- This activity is the assignment of a new trial date and time of appearance at the request of the defendant. This results in the changing of the appearance date and time in the computer record. In addition, a counter in each complaint record keeps track of the number of times the trial for a particular complaint has been rescheduled.
- B. Reassignment -- This activity has the same result as a reschedule except that this change of trial date is due to the adjudication process or a request by the police. A separate count of the number of reassignments is kept in each record.

Since it is necessary to coordinate a new trial date with the police schedules, the reassignment and reschedule can only be entered at a court location.

- C. Pleas -- It has been estimated by the Commissioner's Task Force that 75% of the issued complaints will be disposed of by guilty pleas. It has been further estimated that an additional 5% of the issued complaints will result in requests for trials by pleas of not guilty.

Pleas of guilty and not guilty can be made by mail to the central office or in person at a court location. Therefore, this type of activity can be entered through a court or central office visual display unit.

A plea of not guilty simply results in the adding of a notation to the particular complaint record.

A plea of guilty, however, requires special processing before it is accepted by the visual display program. As stated previously in the description of the establishment of a complaint record, when the record is added to the complaint file it is passed through a driver control program and if any of the criteria are met, notations are added to the record. The entry of the guilty plea requires the visual display program to look for any of these driver control notations in the record.

If one of the driver control notations is in the record, the visual display program does not accept the guilty plea and the defendant must be told to appear before a hearing referee.

If a driver control notations is not in the record, the plea of guilty will be accepted. This results in the generation of a conviction transaction which is later used to add the record of conviction to the defendant's license record. Since this record of conviction is due to a plea, it will be processed by the current batch driver control program when it is added to the defendant's license record.

After the plea of guilty is accepted and the record of convictions sent to license processing, the adjudication process is complete and the complaint record is permanently removed from the complaint file.

- D. Dispositions -- Those defendants who are either mandated or requested to appear before a hearing referee may be found either guilty or not guilty. Such a finding is termed a disposition. Since both a guilty disposition and a not guilty disposition are pertinent to court procedures, they both should be accepted only through court visual display units. However, this is only true for the guilty disposition. Rather than tie up the court procedures with the entry of not guilty findings which require no other processing, these are forwarded to the central bank of visual display units for entry to the adjudication computer system.

The only effect that the entry of a not guilty disposition has on the complaint file is the removal of the complaint which was found not guilty.

As with the guilty plea, the guilty disposition also requires special processing by the visual display program. In order to assure that a trial cannot be prejudiced by a review of the defendant's driving record, the entire license file will not be available to any court visual display units. In addition, the driving record attached to each complaint record will never be displayed unless a guilty disposition is entered against the complaint.

The special processing of the guilty disposition is necessary since the guilty disposition must include the penalty. However, the penalty cannot be imposed until after the guilty disposition has been entered and the driving record reviewed. This problem has been overcome by entering

guilty dispositions in the following manner:

1. The notation of guilty is entered with the referee code and accepted by the visual display program.
2. The program responds by displaying the defendant's driving record.
3. The penalty imposed by the referee is entered and added to the notation of guilty by the visual display program.

In order to insure that guilty dispositions are not entered merely to review a driving record, the referee code has been added to the guilty disposition entry and, once the guilty has been entered, no other records may be processed until the imposed penalty has been entered. The only entry that can be made on that particular visual display unit is the review entry. This will only allow the hearing referee to recall a page of the driving record if the record requires multiple screens of display.

It should be recalled at this point that the purpose of this system was to combine an adjudication process with a driver control program. It should further be recalled that when this system establishes a complaint record, the record is analyzed by a driver control program for the following criteria in the following order of severity:

1. Probation Violation
2. 3 Speeds in 18 months
3. Driving While Ability Impaired
4. Excessive Speed
5. Open Stop at Date of Violation
6. Unlicensed Operator - Junior
7. Speed - Junior (15 MPH over limit)
8. Speed Contest - Junior
9. Persistent Violator

If any of these criteria had been met, notations were made in the complaint record. These notations are used by the visual display program to notify the referee after the defendant has been found guilty. In other words, when a guilty disposition is entered by a hearing referee and the defendant's driving record is displayed, the visual display program will perform the last phase of driver control for this system. Before displaying the driving record, it will look for the above notations in the complaint record. If any are found, the most severe will be displayed at the beginning of the driving record. It is then the responsi-

bility of the hearing referee to conduct any hearings and issue any feedback resulting from these hearings.

Like the guilty plea, the guilty disposition results in the removing of the complaint record from the computer complaint file and the sending of a conviction record to the batch license processing. However, unlike the guilty plea, the conviction record, added to a license record due to a guilty disposition, is only processed by the batch driver control program if the defendant had not been considered a mandatory. This concept is based upon the assumption that the hearing referee has been notified by the visual display program that a hearing is necessary and that he has controlled any necessary hearings. Therefore, each guilty disposition against a complaint record requiring a hearing will also result in the adding of a hearing trailer to the defendant's license record.

A final concept in relation to the sending of records of conviction to the license file is that, if a license record is not attached to the complaint record, a transaction will also be sent to the license file to add a license record. In line with this, if a hearing referee determines that the license attached to a complaint record is not the defendant's driving record, the record of conviction will not be sent to the license file. Instead, an exception will be generated. This exception must be resolved and the conviction entered on the correct license record in batch processing. Since the correct license record was not available to the hearing referee, this conviction will be processed by the batch driver control programs.

- E. Adjournment -- When a defendant has been found guilty and cannot pay the fine imposed, the defendant is given a sentence adjournment. The entry of this activity, like the entry of a guilty disposition in which the fine has been paid, results in a record of conviction being passed to the license file. On the advice of the Administrative Adjudication Task Force that a bill enabling suspensions for failure to pay fine will be passed, the entry of a sentence adjournment also results in the passing of a suspension to the license record.

After the suspension and record of conviction have been passed to the license processing, the defendant will be assigned a new trial date and the complaint record will remain on the complaint file, awaiting notification that the fine has been collected.

When the fine is finally collected by the referee, the guilty disposition must be re-entered along with the collected fine. This will result only in the passing of a "go" transaction against the "failure to pay" suspension in the license file. Another record of conviction will not be passed.

The entry of a sentence adjournment may also include a notification that the license attached to the complaint record is not the defendant's driving record. As with the guilty disposition entry, a sentence adjournment containing this notification will result in an exception which must be resolved. Later, batch entry of the suspension and record of conviction will result in the conviction being processed by the batch driver control program.

As with the guilty disposition, sentence adjournments are only acceptable as court entry.

- F. Deletion -- It is felt that rather than design an elaborate process for the changing of any area in a complaint record which is in error, it is easier to delete the incorrect record and re-establish it correctly. This deletion is only acceptable from the central office visual displays and a copy of each record deleted will be printed. The use of the deletion and review of each record deleted should be strictly controlled by the adjudication procedures.

IV. Other Processing of Complaint Records

As described previously in the establishment of a complaint record and processing of activity against complaint records, the entire day's activity is accumulated on tape. Each night this accumulation of activity is employed by a program called the Complaint File Update to produce an undated complaint file.

In addition to assuring that the latest activity is reflected in each complaint record, the Complaint File Update program also examines each record every night to produce other reports and output for the adjudication process.

Each night, before the update program is run, three dates are added to the program. A description of the use of each of these dates follows:

A. Docket Date -- Each run of the complaint file update results in the preparation of a court docket. The date the docket is to be prepared for is determined by the docket date entered into each run. As each record is reviewed, the program will determine if the date the defendant is to appear in court is the same as the docket date. If the dates are the same, the program will look to see if the record reflects any of the following activity:

1. One of the criteria of the driver control program has been met.
2. The defendant has pleaded not guilty.
3. The trial date has been rescheduled.
4. The trial date has been reassigned.
5. The defendant has been found guilty but has received a sentence adjournment.

When the record matches the docket date and reflects one of the above activities, a copy of the record is sent to the docket print program. If the record matches the docket date but does not reflect one of the above activities, the record will be counted and not printed on the docket.

A separate docket will be printed for each time period and court location. Included on each docket is the count of those records not showing one of the above activities. Also, the docket print program is responsible for assigning an equal amount of trials in each courtroom and assuring that the same police officer does not have to appear in more than one courtroom during any one time period.

Previous activity will be printed for each record appearing on the docket. This will include the number of times a complaint has been rescheduled and reassigned, and will indicate whether the disposition had previously been adjourned.

After printing the dockets for a particular trial date, the records will be passed to another print program. This program will print a listing for each police command, telling them which officers are scheduled to appear for the trials listed on the docket. However, a police officer will only be told that he is scheduled to appear if the defendant had pleaded not guilty, or had the trial date rescheduled or reassigned.

Since, when entering the complaint records it is easier to enter a police identification number rather than each policeman's name, a special file containing policeman's name and number is also maintained. This file is used to convert policeman's number to name for each docket and police appearance

record printed. The identification number is also converted to policeman's name each time a complaint record is displayed.

B. Scofflaw Date -- The second date added to the Complaint File Update program prior to each run is the trial date which is now considered a scofflaw. During its nightly review of each record, the update program will match the trial date in the record with the scofflaw date in the program. If the two dates match or the date in the record is older than the scofflaw date and the defendant has not already been considered a scofflaw, a notation will be added to the record indicating that the defendant is now a scofflaw. In addition a computer generated notice of suspension is sent to the defendant and a suspension record is added in the license files. When printing the notice of suspension, the effective date will be fifteen days later than the date the defendant was to appear.

After a scofflaw suspension has been issued, an appearance by the defendant must remove the suspension. Therefore, the addition of any activity against a record which has been considered a scofflaw generates a "go" against the suspension that was added to the license files.

C. Purge Date - The final date to the Complaint Update Program is the date of the batch file to be purged.

Since complaint information is only saved for the processing of trials and scofflaws, once the final disposition has been made, the complaint paper can be purged. Also, since the computer system handles the activity against complaints, it is possible to batch file the paper back-up for each computer complaint record. The complaint paper will be batch filed by the date of entry as described in the Manual Filing Systems section of this report.

As you recall from previous discussions of activity entered against complaint records, when the final disposition has been made, the complaint record is removed from the computer complaint file.

Therefore, approximately six months after a batch of complaints has been entered, it is possible to look for records on the file with the six month old batch date to see which complaints must be saved before purging the rest of the batch.

Those records having a batch date equal to the purge date entered in the program will either be scofflaws or will have been reassigned or rescheduled many times. Those that are

scofflaws will be removed from the computer file and those that are still active due to the assignment of new trial dates will remain on the file. The batch date of the active record will be changed to the current date.

For each record having a batch date equal to the batch to be purged, the computer will print a copy of the record. If it is still active, the paper must be moved to the current batch which corresponds to the new batch date assigned to the record. If the record is a scofflaw, the paper must be filed by summons number in a scofflaw file.

V. Manual Filing Systems

The following three manual filing systems have been added to this report in order to assure that procedures developed for these systems relate to the computer system. This is necessary in order to provide valid paper back-up for the computer records.

The first of these systems is the batch filing of complaints. Each night's work will be batched by dividing the total work into measured counts. Each batch will then be assigned a number in the range of 1 to 999. The operator will sign on with two or three initials followed by the batch number assigned to the complaints to be entered and the program will respond with the formatted batch number. Since the first part of the batch number is composed of the entry date, the assigned numbers, 1 - 999 may be duplicated from day to day but not within the same day.

In order to alleviate the necessity for entering the batch number, the computer will save the batch number and add it to each transaction entered. This, however, necessitates the signing off and signing back on if one particular operator is to enter more than one batch.

The batch containing a particular complaint will not be handled again until six months after entry date. At this time, if any record in a batch has not been disposed of and is not a scofflaw, the computer will assign the record a new batch number. This will necessitate the removing of the active complaint from the old batch and moving it to the new batch.

The second filing system related to the computer for the adjudication system is the batch filing of conviction certificates. A conviction certificate is the issued summons which is collected

from the defendant by the court and upon which is noted the disposition of the charge and the penalty imposed. Since the conviction certificates can emanate from either trials, pleas to court cashiers, or pleas entered by mail, the certificates are batched both centrally and by the courts. Therefore, it is necessary to assure that the batch numbers do not overlap. This will be done by assigning a three digit batch number of those convictions entered as mail pleas at the central office and by generating a unique four digit batch number for the guilty pleas and dispositions entered at the courts.

The central office batch numbers described for complaint entry can be applied to the central office conviction entry. There will be no overlap in batch numbers caused by this since complaints and convictions are maintained in two separate batch files.

The four digit court batch number will be assigned by the computer and will be the result of an adjudication sign-on (SAD) when only operator's initials are entered. The four digit number will be program-generated from the visual display address and added to the operating date. As with central office batch numbers, the computer will also save the court batch number and add it to each transaction entered. In addition, at noon each day, the computer will change the batch number of each court visual display. A message will be sent to each operator advising her of the new batch number. This will alleviate the possibility of having oversize batches from court entry.

The third manual filing procedure which must relate to the computer processing is the filing of scofflaw cases after the record has been removed from the computer complaint file. At the time that the defendant is considered a scofflaw, a transaction is sent to the license file to add a suspension to the person's driving record. The case number in the suspension is generated from the number of the summons for which the person is a scofflaw.

Later, when that scofflaw complaint record is removed from the computer complaint file, the paper complaint must be removed from the batch and filed in a suspension file. It must be filed by the same number that was sent to the license file when the person became a scofflaw. As with the records that are six months old and not scofflaws, as described above, a computer listing will be prepared to inform the file clerks which complaints must be saved in the scofflaw suspension file.

VI. Audit Controls

Two main audit controls have been built into this system, namely a daily cash report of all money collected and a monthly report of all complaints added to the system.

- A. It is felt by the Administrative Adjudication Task Force that the \$15 bail required for a plea of not guilty will be removed by legislation before the commencement of this program. Therefore, no provisions have been built into this system for the accounting of bail money.

There are four activities against complaint records which require the notation of fines imposed. These are guilty pleas, guilty dispositions, sentence adjournment and a re-schedule. Since there is no money paid at the time of an adjournment, this type of transaction will contribute nothing to the daily cash report.

Six cash reports will be generated each day, one for each of the five court locations and one for the central office. The central office cash report will include a total for each visual display operator and a grand office total. The court cash reports will include a total by transaction for each visual display unit, a total by transaction for the entire court, and a grand total for the court.

Each cash report prepared is printed by the computer and in addition, the court cash reports will be maintained in a separate computer file. This enables each report to be sent to the appropriate court over telephone lines and printed on a special printer attached to one of the visual display units in each court.

- B. The second audit control provided for is the counting by batch number of all complaint records entered each night.

Each night, as complaint records are added to the file, a copy of the record is stored on magnetic tape. These tapes are accumulated for a period of one month and, at the end of the month, are processed by a statistical program. This program produces a count by batch number of every batch of complaints added to the file. Also, since incorrect records are deleted from the file and re-added correctly, a count by batch number for every deleted record will be printed.

In addition, the program will give a grand total of records added, a grand total of records deleted, and will justify the two to give a net total of records added.

If the state fee for the adjudication program is to be charged by the amount of complaints handled, it is possible to base the charge upon the net total described above.

However, if the state fee is to be charged by the number of complaints disposed, it is possible to base the fee on the net total of records added for the first six months of the program. Thereafter, the net total would have to be adjusted by the amount of 6 month old scofflaws purged from the file each day and by the amount of scofflaws which are answered after they have been removed from the computer file.

It should be noted that a copy of this accumulation of each record added to the file will also be given to New York City each month for their statistical programs.

APPENDIX I
Annotated Bibliography of Driver-Oriented
Research in the Field of Highway Safety

Annotated Bibliography

Stonex, K.A., "Law, Traffic and Engineering Technology", Highway Research Board Special Report 86: A Colloquy on Motor Vehicle Traffic Law, National Academy of Sciences - National Research Council, 1965.

The author takes the strong position that the highway safety fatality problem will not be solved by additional regulations defining proper conduct or by improved enforcement or court procedures.

"Reductions can be made only by recognizing that our highway network does not leave room enough for the occasionally unreliability of us drivers. . . The solution is to remove the obstacles, trees and rocks and sharp ditches, and opposing traffic."

Hutchinson, Cox and Maffet, "An Evaluation of the Effectiveness of Televised, Locally Oriented Driver Reeducation", Highway Research Record 292 (1969) cited in Automobile Insurance and Compensation Study, Driver Behavior and Accident Involvement; Implications for Tort Liability, Department of Transportation, October 1970.

In spite of the claim by the researchers that the program was a success since it reduced the incidence of both errors and accidents, even the reduced level reflected errors by more than 20 percent of the observed drivers. "At least at intersections, driver errors are common and resistant to change even in the presence of unusual (measures)."

Edwards and Hahn, Filmed Behaviors as a Criterion for Safe Driving, American Institutes for Research (Washington, D.C., February 1970) cited in Automobile Insurance and Compensation Study, Driver Behavior and Accident Involvement: Implications for Tort Liability. Department of Transportation, October 1970.

Considering the bias of the sample in favor of those operators usually considered less likely to be involved in crashes, the number of driving errors is striking.

This study suggests most drivers commit errors regularly.

Blumenthal, Murray, "Dimensions of the Traffic Safety Problem", presented to the Automotive Engineering Congress, Detroit, Michigan, January 1967.

In a society which promotes industrial safety under the principle that every type of accident which may occur should be anticipated and safeguards should be provided, the notion that "if drivers were more careful, accidents wouldn't happen" is inappropriate. Society should promote highway safety by anticipating human failure and therefore providing safer vehicles and less demanding, more "forgiving" roadways.

Forbes, T.W., "The Normal Automobile Driver as a Traffic Problem", Journal of General Psychology, Vol. 29, p. 471 (1939).

Programs focusing on the accident repeater can not be expected to bring about a substantial reduction in accidents because the repeater is only a small part of the problem.

State of California, Department of Motor Vehicles, The 1964 California Driver Record Study - Part 4: The Relationship Between Concurrent Accidents and Citations, May, 1965.

There is a low correlation between citation (conviction for moving traffic violations) and accident involvement.

Insurance Institute for Highway Safety, "North Carolina Study Finds 'Repeater Theory Weak', Status Report, Vol. 6, No. 12, July 12, 1971.

The same small minority of drivers does not consistently cause the majority of serious accidents. Each year a substantially different group of drivers is involved in accidents.

Goldstein, Leon G., "Youthful Drivers as a Special Safety Problem", The Young Driver: Reckless or Unprepared? North Carolina Symposium on Highway Safety, Fall 1971.

Although a controversial finding, Dr. Goldstein concludes that while both inexperience and age per se play a part, experience is perhaps the greater determiner of accident involvement.

He finds young drivers with poor records exhibit

personality characteristics that reflect greater hostile, aggressive and impulsive tendencies. He reports that the involvement of alcohol in highway fatalities of young people may not be greatly less than in the case of older adults. Although the role of drugs in accidents involving youth has not been extensively studied, it appears that drugs have a far less involvement than does alcohol. He believes little can be done to change the conditions which make adolescence a turbulent period. In light of this, he stresses efforts to improve the crash worthiness of vehicles and the design of highways.

Campbell, B.J., Report in "Signal 99", North Carolina Governor's Highway Safety Program, Spring, 1971.

Dr. Campbell feels that all levels of traffic safety administration must modify the belief that the accident repeater is the main source of trouble on the streets and highways.

"The accident and violation repeater is a small part of the overall accident problem, and the state should (and does) have programs to deal with these people. But the great bulk of the accident problem lies with essentially 'normal' people who have accidents, and it is in this area that the bulk of our progress must come."

This would include information that would help the individual driver sharpen his skills, highway directive and warning signs and adequate markings that are easily understood, and cars designed and compatible with the human operator.

North Carolina Symposium on Highway Safety, "Aging and Highway Safety: The Elderly in a Mobile Society", Fall 1972 (unpublished).

Society should determine effective means of dealing with the aging driver. For example, licenses for the elderly which restrict their driving to specified conditions might be appropriate or periodic re-examination of driving skills might be required.

State of California, Department of Motor Vehicles, "An Abstract of the Effectiveness of a Uniform Traffic School Curriculum for Negligent Drivers", June 1971.

The study was designed to evaluate the effectiveness of a uniform traffic school curriculum developed for the traffic

violation repeater. The evaluation indicated that attendance at the school resulted in an overall 11.8 percent reduction in accidents and a 6.2 percent reduction in convictions for male drivers. In addition, the effectiveness of the traffic school was found to vary according to the type of driver treated. For females and certain male subgroups, there was no evidence that traffic school resulted in driver improvement.

Cost effectiveness figures showed that the traffic school resulted in savings of \$3,807 per 100 male drivers, which is substantially less than that achieved by a one-session group educational meeting given by the Department of Motor Vehicles. Therefore, lengthy traffic school courses should not be considered desirable alternatives to one-session group educational meetings, nor should they be implemented on a state-wide basis without further modifications to improve cost effectiveness. These modifications might include (1) shortening the length of the course, (2) modifying course content to improve those types of drivers who did not benefit from the course, and (3) focusing only on those drivers who benefitted from the course. The authors feel that a more systematic approach would be to utilize the more extensive court school programs for those drivers who continue to violate after having already received a warning letter and attended a group meeting. However, implementation of an integrated state driver improvement program will require greater coordination between DMV and the courts than has existed in the past.

Abt Associates Inc., Alcohol-Highway Traffic Safety for Law Enforcement Officials, a workshop manual prepared for the National Highway Traffic Safety Administration.

There is a need to remove alcoholic and problem drinkers from the road.

Klein, David and Julian A. Walker, Causation, Culpability and Deterrence in Highway Crashes, Department of Transportation, Automobile Insurance and Compensation Study, July 1970.

The authors find "no acceptable research" which credits driver education with a significant role in the reduction of violations or accidents.

APPENDIX J
National Advisory Commission on Criminal Justice
Standards and Goals: Courts, Standard 8.2

Standard 8.2

Administrative Disposition of Certain Matters Now Treated as Criminal Offenses

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.

Procedures for disposition of such cases should include the following:

1. Violators should be permitted to enter pleas by mail, except where the violator is a repeat violator or where the infraction allegedly has resulted in a traffic accident.
2. No jury trial should be available.
3. A hearing, if desired by the alleged infractor, should be held before a law-trained referee. The alleged infractor should be entitled to be present, to be represented by counsel, and to present evidence and arguments in his own behalf. The government should be required to prove the commission of the infraction by clear and convincing evidence. Rules of evidence should not be applied strictly.

Appeal should be permitted to an appellate division of the administrative agency. The determination of the administrative agency should be subject to judicial review only for abuse of discretion.

Consideration should be given, in light of experience with traffic matters, to similar treatment of certain nontraffic matters such as public drunkenness.

APPENDIX K
Final Report of the Ad Hoc Task Force
on Adjudication of the National Highway
Safety Advisory Committee

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

June 1973

INTRODUCTION

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

EXECUTIVE SUMMARY OF TASK FORCE FINDINGS AND RECOMMENDATIONS

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

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

Findings

- Traffic offense adjudication under the traditional traffic law system is reasonably adequate in the determination of guilt or

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

lack of guilt. However, traffic case processing is beset by many problems and has proved to be less than ideal, in contributing to improvements in traffic safety.

- Traffic offense adjudication as presently constituted has made little demonstrable contribution toward newly formed societal goals of the promotion of traffic safety and the improvement of driver behavior. It is not an adequate subsystem or traffic law system component. It has had little measurable effect in deterring initial or subsequent traffic violation by offenders or other drivers. In this, traditional criminal court traffic case processing is inadequate and ineffective.
- Traffic offense adjudication is a key component of the traffic law system. The promotion of traffic safety depends on adjudication's effectiveness within the system. Traditional traffic case processing does not sufficiently emphasize both selective adjudication and the goals of highway safety and driver improvement through retraining and rehabilitation.
- All traffic offenses do not have the same degree of severity or potential severity; thus, all offenses should not command the same degree of criminal processing and sanction time and resources. Traffic case adjudication inadequately differentiates between the problem driver and the average traffic offender.

Recommendations

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

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

adjudication; especially for the purpose of identifying the problem driver.

REPORT BACKGROUND

General

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

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

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

Constitutional Due Process

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

present system function more slowly and at greater cost, at a time when traffic caseloads were escalating.

Increasing Traffic Offense Caseloads

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

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

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

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

The Judges

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

Lack of Highway Safety Effectiveness

There is no evidence which demonstrates that the traditional criminal court processing of traffic is highway safety cost effective. However, there is evidence that the offender's appearance in court does not have any positive deterrent effect on subsequent poor driver behavior. Court appearance is more often regarded by the public as an embarrassment, economic nuisance, and inconvenience. While certain individuals can be categorized by State licensing authorities as problem drivers, insufficient screening, adjudication and sanction selection time is applied to them. Nationally, traffic offense processing fails to differentiate between the problem driver and the infrequent traffic offender. To be highway safety cost effective, traffic adjudication should expend greater resources on identifying the problem driver. Timely access to complete and accurate driver record information is essential to this effort.

Retraining and Rehabilitation

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

Traffic Adjudication Communication, Coordination and Integration

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

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

REPORT RECOMMENDATIONS AND ELEMENTS

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

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

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

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

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

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

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

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

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

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

CONTINUED

2 OF 3

REPORT RECOMMENDATIONS AND ELEMENTS

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

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

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

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

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

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

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

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

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

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

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

Right of jury trial shall not be afforded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

goal through a more cost effective adjudication subsystem may require a higher level of public funding.

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

APPENDIX L

**Highway Safety Program Standard No. N-7
Traffic Courts and Adjudication Systems**

Part 247 -- HIGHWAY SAFETY PROGRAM STANDARD NO. N-7--TRAFFIC
COURTS AND ADJUDICATION SYSTEMS

Section

- 247.1 scope.
- 247.2 Purpose.
- 247.3 Definitions.
- 247.4 Requirements.
- 247.5 Evaluation.

Authority: The provisions of this Part 247 issued under section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.51 and 501.8.

§ 247.1 Scope.

This standard establishes performance requirements for traffic courts and adjudication systems in a State highway safety program. It covers the adjudication activities of the State agency for highway safety, the driver licensing authority, and the State judiciary.

§ 247.2 Purpose.

This standard is designed to develop balanced local and statewide traffic court and adjudication systems which will promote highway safety through fair, efficient and effective adjudication of traffic law violations; and to reduce recidivism rates through the use of appropriate punishment, training and rehabilitation measures.

§ 247.3 Definitions.

"Adjudication agency" means a tribunal, other than a court, authorized to make judgments and apply appropriate sanctions and rehabilitative measures in traffic offense cases.

"Hazardous traffic law violation" means a traffic offense that--

- (a) Contributes to a crash; or
- (b) Is punishable as a felony; or
- (c) Contains at least one of the following factual

elements:

- (1) Operation of a motor vehicle while under the influence of alcohol or another drug;
- (2) Reckless driving;

(3) Leaving the scene of a crash; or

(4) Driving while driver's license is suspended or revoked.

"Traffic court" means a judicial tribunal with the authority to adjudicate traffic cases.

§ 247.4 Requirements.

Each State, in cooperation with the political subdivisions, shall establish a system for the adjudication of violations of highway traffic laws that meets the following requirements:

(a) The traffic offense adjudication activities of the State agency for highway safety, the driver licensing authority and the State judiciary shall be coordinated with the primary coordination responsibilities residing in one of these three agencies.

(b) The traffic case management system shall include:

(1) Use of a statewide uniform traffic citation.

(2) Retrieval of driver records from the traffic records system established in Standard No. N-1 in cases involving all traffic law violations.

(3) Preparation of a presentence investigation report in cases involving hazardous traffic law violations, which shall include an inquiry into driving habits, previous driving history, and social psychological, medical and economic background to assist an adjudicator in determining the appropriate sanction for a convicted offender.

(4) A record reporting system for entering case disposition reports into the traffic records system with 10 days after conviction or forfeiture of bail in a traffic violation case:

(5) Use of adjudication agencies, or other noncriminal procedures, for processing traffic cases such as parking and equipment violation, where warranted by caseload or rehabilitation and re-training considerations.

(c) Adjudication and administrative personnel, including referees and hearing officers, employed in the traffic court and adjudication systems shall be properly qualified and trained. There shall be a full-time judge or quasi-judicial hearing officer empowered to make dispositions in all traffic courts and adjudication agencies for each mandatory appearance caseload of 22,500 per year or a major fraction thereof.

(d) Uniform rules shall be established for--

(1) The impounding of suspended or revoked driver's licenses; and

(2) Staying the execution of punishment and license suspensions or revocations to permit a convicted offender to

participate in a driver rehabilitation program.

(e) Persons charged with hazardous traffic law violations shall be required to appear personally before a traffic court or adjudication agency. The deposit of a driver license certificate shall be permitted in lieu of bail or other security to insure an accused traffic offender's appearance before a traffic court or adjudication agency.

(f) Traffic courts and adjudication agencies shall be financially independent of any system of fees, fines, court costs, or other revenue (such as posting or forfeiture of bail or other collateral) resulting from processing violations of motor vehicle or traffic laws.

§ 247.5 Evaluation.

The traffic courts and adjudication systems program shall be evaluated by the agency having primary responsibility for coordinating the State's adjudication activities. The evaluation shall be submitted to the State agency for highway safety for use in developing the Annual Work Program and updating the Comprehensive Plan pursuant to Standard No. N-1.

(a) Statistical analyses shall be prepared for evaluation purposes, making maximum use of case disposition and caseload information reported to the State traffic record system, and emphasizing particularly the following types of data:

(1) Types and frequency of offenses;

(2) Case disposition, including the percentage of convictions, delays in court appearance, nolle prosequi pleas, reductions in charges and rehabilitation referrals; and

(3) Recidivism rates, especially as they relate to particular case dispositions.

(b) The evaluating agency shall review the program to determine the extent of compliance with the specific program requirements established in § 247.4

TRAFFIC COURTS AND ADJUDICATION SYSTEMS

The proposed new Standard N-7 covering traffic courts and adjudication systems is a revision of the current standard No. 7, Traffic Courts, issued on November 7, 1969. The current standard has one requirement--that all convictions for moving traffic violations be reported to the State traffic records system--and several recommendations. The proposal would delete the recommendations and expand and strengthen the requirements to encourage State development of a traffic offense adjudication system that will provide maximum highway safety benefits by contributing to a reduction of traffic offense recidivism rates.

The proposed new standard covers the State judiciary, the State agency for highway safety, and the driver licensing authority, and would require coordination of the adjudication activities of three agencies, as well as the development of statewide uniformity in certain aspects of traffic offense adjudication.

The major new feature of the standard is the requirement for development and implementation of a system applying modern case management techniques to traffic offense adjudication. In this regard the current requirement that moving violations be reported is expanded to require that the driver record and a presentence investigation be available for use in sentencing convicted offenders. In addition, reports of case dispositions are required to be made within 10 days of conviction or forfeiture of bail or other collateral. NHTSA believes that the failure of many States to meet the current reporting requirement is due largely to inadequate case management capability. Only in large metropolitan areas have modern case management techniques, including EDP, been instituted. Modern case management techniques and rapid record reporting are necessary if the courts are to meet their case disposition reporting responsibilities. To develop this capability may require some court reorganization and careful coordination with the statewide traffic records system to be developed pursuant to another standard. Traffic courts and adjudication agencies will particularly have to make maximum use of EDP capability existing in enforcement and licensing agencies.

A further requirement related to case management is that noncriminal procedures be developed for processing minor traffic violations, such as parking or equipment offenses. In many urban areas, courts are overburdened with traffic cases, to the detriment of both the traffic safety program and other judicial functions. The proposed standard would require that States establish adjudication agencies (nonjudicial tribunals) or other noncriminal methods of dealing with traffic violations where caseload considerations justify use of these methods. The details of such systems are not specified in the standard, but are left to the discretion of the States at this time.

Under the proposed standard, the current recommendations relating to court personnel and administration would be changed to a more general requirement that there be qualified and trained personnel, with the additional specific requirements that there be at least one traffic offense adjudicator for each mandatory court appearance caseload of 22,500 per year, or a major fraction of that figure. Current recommendations relating to court independence from a fee system and mandatory court appearance for

certain offenders would also be retained as requirements with the additional requirement that there be a provision permitting surrender by a defendant of his driver license certificate in lieu of bail or other collateral. The purpose of this requirement is to facilitate the fair and humane treatment of accused traffic court violators without imposing bail or requiring confinement in jail, and to encourage personal appearance by defendants.

Careful evaluation is a key to determining program effectiveness and essential for planning future program activities. For this reason, the proposed new standard would add a requirement for evaluation of the traffic courts and adjudication systems program by the unit of State government having the primary responsibility for coordinating adjudication activities. A principal measure of program effectiveness to be required in the evaluation of the program is the number of repeat traffic offense violators to be determined by the recidivism rates. These rates would be developed from statistical analyses of data reported to the State traffic records system.

EXEMPLARY PROJECT: ADMINISTRATIVE ADJUDICATION BUREAU OF THE
NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

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