

POLICY BRIEFS

Action Guides for Legislators and Government Executives

Administrative Adjudication of Traffic Offenses

THE PROBLEM

Traffic cases clog the calendars of many urban court systems despite the absence of any evidence that court processing is an effective, efficient or equitable means of controlling minor violations. A substantial price is paid for continued reliance on the judiciary for the disposition of these cases:

- Court resources required for the adjudication of serious crime are diverted to matters of far lower priority;
- Police and court time is wasted in uncontested cases;
- Judicial efforts often duplicate those of motor vehicle regulatory authorities;
- Traffic safety suffers through excessive delays in clearing the roads of demonstrably unsafe drivers and applying disciplinary or rehabilitative measures.

CONTENTS OF THIS BRIEF

This Brief presents information on the use of administrative adjudication procedures instead of criminal court actions for settling traffic violations. In addition to reducing the strain placed on the police and judicial system, the potential benefits of this approach include more efficient case processing, more equitable sanctions on traffic violators, better control of problem drivers and the opportunity to realize substantial gains in revenues from fines.

- Sections I-III provide further information on the characteristics and benefits of an administrative adjudication approach.
- Section IV contains a brief discussion of the actions required by legislators and government executives in order to institute an effective system of administrative adjudication.
- Section V includes sample legislation and references to sources for additional information and assistance.

Based on research and program development projects of the National Institute of Law Enforcement and Criminal Justice



U.S. Department of Justice
Law Enforcement Assistance Administration
**National Institute of Law Enforcement and
Criminal Justice**
Office of Development, Testing & Dissemination

66410
01499

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Henry S. Dogin, *Administrator*

Homer F. Broome, Jr., *Deputy Administrator for Administration*

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Harry M. Bratt, *Acting Director*

Joan Mullen, *Principal Author*
Deborah A. Day, *Contributing Author*
Susan Oldham, *Government Project Monitor*

February, 1980

Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by Abt Associates Inc., under contract number J-LEAA-013-78. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

**For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402**

Stock Number 027-000-00893-3

I. INTRODUCTION

The Need for New Approaches to Traffic Offense Adjudication

In view of the pervasive backlogs and delays that plague most urban court systems, there is little wisdom in using criminal procedures to handle such routine traffic offenses as "failure to dim lights" or "failure to stop completely at a stop sign." Typically, these and other minor motor vehicle offenses have been assigned to the lower criminal courts for processing along with petty offenses. Yet the costs of applying the full weight of the court to these cases are both excessive and unnecessary.

- In 1973, over one half of the nation's 13,221 courts of limited jurisdiction estimated that more than 50 percent of their judge time was spent in handling traffic cases.¹
- Added to the judicial burden is the time lost by police and motorists in court appearances and the duplication of effort that occurs when both the court and the state's licensing authority conduct hearings, impose sanctions and maintain case records.

Too often, the end result is not only inefficient but also fails to provide a fair or effective means of driver control. Occasional violators are frustrated and inconvenienced. Habitual violators routinely and often successfully evade sanction: Inadequate information exchange between the courts and licensing authorities can be an advantage to the problem driver and a threat to highway safety.

Finally, there is ample evidence that a court hearing has no greater deterrent effect than simplified non-judicial proceedings. In 1968, a study conducted in Denver concluded that court appearance did not alter driver behavior any more than payment of a fine to an administrative agency or to the court through the mail.² A more recent study in Rhode Island found no differences in subsequent offense or accident rates between drivers who received a court trial and those who participated in administrative hearings.³

The New York State Approach

New York was the first state to develop an administrative system of traffic offense adjudication. By 1969, the Criminal Court of the City of New York was handling over 800,000 cases involving moving infractions and over 3,200,000 cases involving non-moving infractions. It was virtually impossible for the court to process this volume of cases rapidly or effectively.

Through legislative action effective in 1970, the responsibility for adjudicating the City's moving traffic infractions was transferred from the Criminal Court to the State's Department of Motor Vehicles. An Administrative Adjudication Bureau (AAB) was established within the Department to hear all cases for which no jail sentence could be imposed—offenses such as speeding, improper turns, tailgating and improper lane changes. Companion legislation transferred cases involving non-moving infractions to the Parking Violations Bureau of the City's Transportation Administration. The Criminal Court now handles only those cases classified as criminal matters such as vehicular homicide, driving while intoxicated, reckless driving and leaving the scene of an accident. The court also provides appellate review after all administrative remedies are exhausted.

Based on the early success of the system in New York City, in 1973 the AAB was expanded to the cities of Rochester and Buffalo. Shortly thereafter, LEAA's National Institute of Law Enforcement and Criminal Justice designated the program as an Exemplary Project.⁴ In 1978, the AAB continued to expand, assuming responsibility for traffic offense adjudication in part of Suffolk County, New York.

National Support for Administrative Adjudication

New York's innovative approach focused national attention on the potential for alternative systems of traffic offense adjudication.

- In 1972, a Task Force was formed within the National Highway Traffic Safety Administration (NHTSA) to study the adjudication of motor vehicle offenses. The Task Force concluded that criminal classification of minor traffic cases was inappropriate, ineffective, and excessively stringent in view of the penalties actually imposed by the courts in these cases.⁵
- In 1973, LEAA's National Advisory Commission on Criminal Justice Standards and Goals recommended that all minor traffic cases be made infractions subject to administrative disposition.⁶
- Support for administrative adjudication has also come from the law enforcement community. In 1970, the International Association of Chiefs of Police resolved to endorse the concept as an alternative to mandatory court appearance for all moving hazardous violations.⁷
- Additional federal support for new methods of traffic offense adjudication was provided by the Highway Safety Act of 1973 which recommended administrative adjudication and mandated research in this area. In response NHTSA funded a demonstration program called "Special Adjudication for Enforcement" (SAFE) to develop and evaluate administrative adjudication in selected jurisdictions. Under the SAFE program, in 1975 Rhode Island's Department of Transportation implemented the first statewide administrative system based on the New York model.

Following a brief review of the key features and benefits of administrative adjudication, Section IV discusses the status of all states in the movement to improve traffic case processing.

II. KEY FEATURES OF AN IMPROVED SYSTEM OF TRAFFIC OFFENSE ADJUDICATION

Several techniques, many of which were pioneered in New York, have shown considerable promise as methods for strengthening traffic offense adjudication in other states.

Non-Judicial Hearing Personnel. The use of trained hearing officers in lieu of judicial personnel is a key element in any strategy to reduce the costs and workload of the courts. New York's hearing officers are lawyers trained in traffic law and highway safety and their salaries are between one half and two thirds those of judges.

Informal Hearing Procedures. Replacing cumbersome criminal procedures with informal, one-on-one hearing techniques is another feature that reduces the burden on the motorist and the court. Cases heard by New York's AAB are treated as civil infractions, the proceedings are relatively informal and strict rules of evidence do not apply. Lawyers are not required although the motorist may retain counsel if desired. The rights of the motorist are protected by requiring that the violation be proven by clear and convincing evidence.

Appeals Procedures. Access to judicial review is an important constitutional safeguard for the motorist who participates in a non-judicial hearing. To satisfy this requirement yet minimize the burden on the judiciary, a two-level appeals process is available under the AAB: The motorist may appeal to a higher level administrative body with ultimate access to judicial review. Nearly all cases are resolved in the administrative forum.

Centralized Data Processing. Access to an up-dated driving record of any person who receives a citation is essential to permit the rapid identification of problem drivers. In New York, since the agency responsible for adjudication is also the licensing authority, central records are maintained and are immediately available at the time of adjudication.

Improved Pay-By-Mail Procedures. A pay-by-mail system is crucial to combat the enormous workload created when all violators must make a personal appearance solely to pay *de facto* fines. Although this feature is available in many jurisdictions, there is often no procedure to distinguish infrequent violators from problem drivers. In New York, immediate access to the violator's driving record allows the AAB to reject a mailed plea and require a personal appearance where warranted.

Driver Improvement Strategies. Effective diagnosis of problem drivers and the application of appropriate driver training and improvement programs are important components of any system concerned with driver rehabilitation. Judicial proceedings must necessarily focus on the adjudication of guilt or innocence—a process seldom conducive to the resolution of problems which may have precipitated the complaint. The merger of adjudication and licensing functions in an administrative system can facilitate the development of more problem-specific driver improvement measures.

Figure 1 illustrates the major steps of a model procedure for non-judicial traffic case processing. Developed by NHTSA as part of a study of alternative methods for handling traffic cases, the model may provide a useful reference for jurisdictions considering the need for improved adjudication procedures.⁷

FIGURE 1
Traffic Offense Adjudication Process Model

IDENTIFICATION AND CASE PREPARATION PROCESS

DECISION-MAKING PROCESS

SANCTION PROCESS

REVIEW PROCESS

CITATION/SUMMONS

- APPREHEND AND DETAIN SUSPECT FOR PURPOSE OF ISSUING CITATION
- CITE SPECIFIC VIOLATION
- NOTIFY MOTORIST OF CHARGE AGAINST HIM
- NOTIFY MOTORIST OF DATE FOR APPEARANCE
- NOTIFY MOTORIST OF HIS RIGHTS

MAJOR (MISDEMEANOR) OFFENSE OR ARRESTED FOR AGGRAVATED CIRCUMSTANCES:
EXIT TO CRIMINAL COURT

SECURITY FOR RESPONSE

COULD INCLUDE

- SURRENDER OF LICENSE TO OFFICER
- POSTING OF INSURANCE BOND CARD
- POSTING OF CASH BOND

SELF-ARRANGEMENT

- MOTORIST EITHER ADMITS TO, OR DENIES, THE VIOLATION BY MAIL PRIOR TO APPEARANCE BEFORE ADJUDICATOR

MOTORIST EITHER UNDECIDED ON PLEA OR WISHES TO EXPLAIN ACTIONS FOR MITIGATION OF SANCTION

MOTORIST DENIES CHARGE

RECORD REVIEW

REVIEW OF MOTORIST'S DRIVING RECORD TO DETERMINE IF ADVERSE DECISION WILL AFFECT DRIVER LICENSE STATUS

ADMISSION OF VIOLATION ACCEPTED: LICENSE NOT IN JEOPARDY

ADMISSION OF VIOLATION REJECTED: MOTORIST DESIRES TO CONTEST CHARGE

ADMISSION OF VIOLATION REJECTED: MOTORIST DOES NOT CONTEST CHARGE BUT MUST APPEAR BEFORE ADJUDICATOR TO ENTER ADMISSION OF VIOLATION PLEA AND RECEIVE SANCTION

PLEA ADVISEMENT AND EVALUATION

- EXAMINE EXTENUATING CIRCUMSTANCES SURROUNDING MOTORIST ACTIONS
- ACCEPT ADMISSION OF VIOLATION OR RECOMMEND MOTORIST ENTER DENIAL

PLEA CHANGED TO DENIAL OF VIOLATION

CONTESTED HEARING

- HEAR TESTIMONY
- RESOLVE ISSUES OF FACT AND LAW
- RENDER DECISION
- ENTER DECISION

MOTORIST FOUND NOT TO BE IN VIOLATION: EXIT PROCESS

MOTORIST FOUND TO BE IN VIOLATION

SANCTION

- EXAMINE DRIVER RECORD PRIOR TO IMPOSITION OF SANCTION
- IMPOSE SANCTION PURSUANT TO FINDING OF VIOLATION
- APPLY SCHEDULED SANCTION PURSUANT TO ADMISSION OF VIOLATION (SELF-ARRANGEMENT)
- IMPLEMENT SANCTION

MOTORIST SATISFIES SANCTION: EXIT PROCESS

APPEAL

- VARIES WITH APPROACH UTILIZED

III. BENEFITS OF ADMINISTRATIVE ADJUDICATION

Figure 2 (on the following page) lists the range of goals associated with a change from judicial to administrative adjudication of lesser traffic offenses. Summarized briefly below are some of the benefits realized to date in jurisdictions where administrative procedures have been implemented.

Reduced Costs/Increased Revenues

In an era of increasing constraints on state and municipal spending, administrative adjudication procedures offer a persuasive opportunity to reduce the costs of driver control operations and to increase revenues from fines.

- A 1978 study sponsored by NHTSA compared fines and costs per case in an AAB city to those in a city using the traditional judicial approach. Although there was considerable variation in caseload size, processing costs per case were substantially lower in the AAB city (\$8.46/case vs. \$12.91/case) and revenues from fines were more than double those of the traditional system (\$16.98 vs. \$6.12/case).⁸
- A legislatively commissioned study in California estimated that an administrative adjudication system could result in \$19 million in actual dollar savings (largely through the deferred creation of new municipal court departments) while producing roughly \$2 to \$3 million dollars in additional revenue (through reductions in the number of scofflaws and the detection of multiple offenders).⁹

Reduced Strain on Criminal Justice Resources

Added to the financial benefit is the opportunity to reduce criminal court congestion and the amount of time spent by police and judges in traffic proceedings.

- After the development of the AAB in New York, 18 judges and 5 courtrooms in New York City and an additional 2 judges and 2 courtrooms each in Buffalo and Rochester were freed from traffic offense adjudication. The amount of time police are required to spend at hearings has been reduced by approximately 50 percent.⁴
- In Rhode Island, the removal of most cases from the courts' jurisdiction reduced the backlog of cases by 17 percent. Simplified procedures and the resolution of many cases at the first hearing have resulted in substantial savings in police time.¹⁰

Citizen Satisfaction

The convenience of a pay-by-mail procedure and a simplified, more personalized hearing process also provide a means to enhance citizen satisfaction and respect for the state's driver control system.

- A major NHTSA study of alternative methods of handling traffic cases reported "the considered opinion of the project team that the 'people oriented' processing system employed in administrative adjudication is more conducive to promoting a positive attitude towards traffic law and its attendant adjudicatory process."¹¹
- The final report from Rhode Island's Administrative Adjudication Division noted that fully 93 percent of motorists leaving hearing sites were satisfied with the way their cases were handled.¹⁰

Improved Case Process and Outcome

More controlled case scheduling procedures can reduce case processing time resulting in greater efficiency, better police follow-through and more informed hearings.

- In New York, a case that results in a hearing normally takes 20 to 25 days to process compared to pre-AAB delays of up to a year or more. The police are more responsive to their traffic duties and hearings no longer rely on police or motorist recall of events that happened many months earlier.

Finally, the merger of adjudication and licensing control functions provides access to and update of driver records, the ability to apply more appropriate sanctions and to avoid the inefficiency and perceived inequities of dual hearings.

The net effect is a process better equipped to respond to the need for improved highway safety.

Figure 2: A Summary of the Objectives of Administrative Adjudication of Minor Traffic Offenses

<p>For Local Government</p> <ul style="list-style-type: none">• Reduced costs of minor traffic offense adjudication• Increased revenues from fines• Improved police productivity• Deferred creation of new judicial or support positions• Use of existing judicial resources for more professionally rewarding work• Reduced court backlogs <p>For the Involved Citizen</p> <ul style="list-style-type: none">• Greater convenience; reduced time and expense• Enhanced respect for the adjudication process <p>For the Public-At-Large</p> <ul style="list-style-type: none">• Improved driver licensing and control operations• Improved procedures for the detection and treatment of problem drivers.

The California Traffic Adjudication Board is embarking on a major study of the costs and benefits of a pilot administrative system in selected counties in the state. The preliminary plans for that study offer a useful guide for continuing assessments of the strengths and limitations of administrative adjudication procedures.¹²

IV. AGENDA FOR ACTION

Few significant improvements in processing traffic cases can be implemented without active direction from state executives, legislators and members of the judiciary.

- In New York, the directions for change came from the State's Department of Motor Vehicles supported by a private automobile club. The results of a feasibility study conducted by the DMV were persuasive to a legislature confronted with substantial court congestion in many jurisdictions in the state.
- In 1975, the California legislature commissioned an independent feasibility study at the request of several organizations including the Department of Motor Vehicles, the Judicial Council and the Highway Patrol. The support of the Governor was key to the subsequent development of enabling legislation for an administrative system.
- The impetus in Massachusetts was an independent commission established by the Governor to examine new approaches to traffic offense adjudication as part of a larger study of statewide court reform. The legislature has been responsive to many of the recommendations of this Commission.

Supported by a legislative or broad executive mandate, a study of present court practices and the feasibility and benefits of alternative approaches is clearly a useful step in any jurisdiction considering new procedures for handling traffic cases.

Selecting the Alternative

The key decision to be addressed by the initial feasibility study is the selection of approach. Administrative Adjudication is one of two alternative systems for handling traffic cases. The second approach is a "Modified Judicial System" where jurisdiction over adjudication is maintained by the court but judges are supported by parajudicials authorized to hear minor violations. The primary distinction between the modified judicial and administrative approach lies in the designation of authority for adjudication. While the courts retain supervisory authority in the modified system, an administrative system may call for supervision by the state's motor vehicle regulatory agency (as in New York) or an independent board (such as the Traffic Adjudication Board in California).

Since both systems permit "non-judge" handling of traffic infractions, the elements of an improved system are equally available to the modified judicial approach—provided that access to driver records is assured. Thus, the choice of supervising agency will depend largely on the goals and political constraints of particular jurisdictions.

The merger of licensing and adjudication functions is one of the strong points of an administrative system. While the issue of separation of powers may be raised, the authors of California's feasibility study addressed this point and concluded that any potential problems in this area could be resolved through properly drafted legislation.⁹

Proponents of modified judicial approaches stress the benefits of immediate access to a court trial for motorists who wish to contest a citation. Yet, because the judicial forum is available, the types of cases handled by the parajudicial examiner may be limited. Problems in gaining access to driver records may also continue unless action is taken to provide an improved system of information exchange.

In Massachusetts, for instance, concern for the capabilities of the motor vehicle agency and the desire to upgrade the role of judicial support personnel, were largely responsible for the selection of a modified judicial approach. No provisions were developed, however, to link the two agencies with a system for accessing and updating driver records. The major change, then, has been the expansion of the duties of the clerk of courts, now called clerk-magistrate. Although the system has yet to be fully tested, the types of cases handled by the clerk-magistrate may prove to be limited as the new procedure provides the motorist with the option of a court trial or a non-judicial proceeding. It remains to be seen whether such a system can yield the same cost benefits as those which provide access to judicial review only after the initial hearing or preliminary appeal.

In short, the administrative model may be preferable in jurisdictions where the primary goal is to alleviate the burden on the judiciary and the costs of judicial case processing. And, it is clearly preferable if the modified system cannot incorporate provisions for access to driver records.

To assist planners and legislators in setting objectives and determining the benefits of alternative approaches, the NHTSA has prepared detailed guidelines for conducting the initial feasibility study.¹³ This document and related publications are referenced in Section V.

Developing Consensus and Support

Following the completion of the feasibility study, a conference or meeting of state leaders is a procedure recommended and described in further detail in a NHTSA handbook of implementation procedures.⁷ The support, endorsement and active participation of judicial, political and administrative leaders is obviously crucial to the successful implementation of any alternative system for handling traffic cases. To the extent that the concerns of conference participants are raised and addressed in the planning process, a base of support can be organized for subsequent legislative hearings and the issues to be debated in those hearings can be anticipated.

The experience in California highlights the importance of broad participation in early planning activities. There, the legislature encountered considerable opposition to the proposed change to an administrative system. Both judicial and private legal interest groups raised objections regarding the status and qualifications of hearing officers and the rights of the violator in an administrative hearing. In compromise, the legislature authorized a system that will allow the motorist to request that the Traffic Adjudication Board transfer the citation to the court. In 1980, this system will be implemented on a pilot basis in three counties. Program planners are optimistic that the results of the pilot study will provide sufficient support to justify conversion to a pure administrative system.

California is not unique in encountering questions about the constitutionality of administrative adjudication. Guidance in this area can be found in both New York and British Columbia case law where the Supreme Courts have upheld the validity of administrative procedures. In interpreting these cases, legal analysts have noted that the key element supporting the constitutionality of administrative adjudication is the elimination of imprisonment as a penalty option.¹⁴

A paper issued by California's Traffic Adjudication Board highlights the range of concerns likely to be expressed by groups and organizations directly affected by a change from judicial to administrative adjudication.¹²

- **Judges and Court Personnel.** Judges, court administrators and Chief Clerks may be concerned about the impact of change on their employment security. Rural courts may also be less inclined to support administrative adjudication due to the frequent absence of significant court backlogs, the part-time status of many rural judges, and the closer relationship of the rural judge to the local community.
- **Attorneys.** The use of legally trained non-attorney hearing officers may generate opposition among legal groups due to the increased competition for hearing officer slots at salary levels substantially lower than comparable judicial positions. The New York project has also noted that members of the bar may resist the removal of minor traffic cases from the judicial setting since lawyers are not required in administrative adjudication proceedings.
- **Commercial Drivers.** Commercial drivers and representatives such as the Teamster's Union may be concerned that non-elected hearing officers would be less sympathetic than elected judges in adjudicating infractions and applying sanctions. And, to the extent that organized labor or other groups have developed special programs to which judges may refer cited drivers in lieu of conviction, a system which promises consistent application of sanctions is not likely to be favorably received.
- **Law Enforcement.** Law enforcement groups may fear a potential reduction of the peace officer's legal authority as well as a change in the public's image of law enforcement. Reduced overtime benefits may also be a source of concern.

While it is important to recognize and prepare for these views, it is also important to recall that these same groups have produced many advocates of administrative adjudication. For every judge concerned about the impact of change on court staff positions, another may welcome the change, viewing the adjudication of minor traffic cases as a costly, burdensome, unrewarding task. Similarly, for every police officer concerned about the image and authority of the Department, another may look forward to the prospect of reduced traffic court duty.

Revising or Amending Existing Statutes Governing Traffic Adjudication

In addition to recommending the appropriate system for the jurisdiction, the initial feasibility study should suggest the specific revisions in criminal law or procedure that are required to implement the recommended approach. Following the conference, the task that remains is the development and enactment of the specific legislative package.

—Decriminalization

A crucial legislative requirement is lowering the classification or decriminalizing those violations to be processed under the revised method. This requires reclassification of minor offenses from misdemeanors to infractions or traffic safety violations, elimination of imprisonment as a penalty option, careful consideration of the matter of burden of proof, and the definition of violations as civil or non-criminal matters. Some states may also require that the precise amount of any fines to be imposed be fixed by the legislature and not left to the discretion of the administrative agency.

–Designation of Adjudication Authority and Procedures

Reclassification or decriminalization will have little effect on the central problems of processing traffic cases unless the legislation also authorizes the development of alternative methods of adjudication. In 1934, New York State was the first American jurisdiction to reclassify minor traffic offenses as infractions. However, it was not until 1970 that the legislature authorized the AAB. In the intervening years, the judiciary continued to handle infractions even though these cases were no longer considered crimes.

The enabling legislation for New York's AAB is appended to this Brief to provide an indication of the specific elements of the adjudication process considered by the New York legislature.

–The Status of the States

Figure 3 outlines the status of all states in decriminalizing minor offenses and developing adjudication alternatives. Drawn from a 1978 NHTSA study¹⁵ (updated to include those more recent initiatives known to the National Institute), the summary reveals a substantial need for legislative action.

- Twenty-five states continue to classify minor offenses as misdemeanors with imprisonment as a penalty option. In these states, traffic cases are subject to the full panoply of criminal court procedures—including court appearances, the standard of proof of guilt beyond a reasonable doubt and the availability of trial by jury.
- Six additional states also continue to use the misdemeanor classification but have deleted imprisonment as a penalty option for less serious offenses. This releases these states from the obligation to provide a trial by jury or court-appointed counsel in those cases, but still requires the application of traditional criminal procedures.
- Twelve states have moved in the direction of decriminalization by reclassifying minor traffic offenses as infractions (or offenses of less-than-misdemeanor status). Although “infractions” in these states may still be considered minor criminal matters, no confinement is authorized, and in some cases, criminal procedures have been modified such that the violation is no longer treated as a crime.
- Seven states and the District of Columbia have specifically decriminalized infractions, declaring them as civil or not criminal matters and ensuring that no criminal record will result from a hearing on an infraction. Full decriminalization represents a clear statement of legislative intent to consider an infraction a violation, not a crime. While reclassification clears the way toward the development of modified judicial approaches, decriminalization permits fully non-criminal or administrative proceedings for traffic infractions.

Figure 3 also shows that changes in the classification of minor offenses provide no guarantee that action has been taken to develop alternate methods of handling traffic offenses.

- The traditional *judicial approach* is still used in the majority of states. All 31 states retaining a crime classification fall in this category as well as fourteen states which have reclassified or decriminalized lesser offenses but have not developed adjudication alternatives. In each of these states, decision-making and sanctioning functions can only be performed by duly constituted members of the judiciary with all the attendant costs of criminal procedure.
- In another two states, the City of Seattle and selected courts in other states, the courts have maintained jurisdiction but have adopted *modified judicial approaches* for adjudicating traffic cases. In these states, parajudicial officers called traffic referees, commissioners or magistrates are authorized to hear minor violations.
- Finally, two states and the District of Columbia have followed New York's *administrative approach* where all decision-making, sanctioning and preliminary appeals functions are or will be the responsibility of administrative hearing officers supervised by the state's motor vehicle regulatory agency or an independent Traffic Adjudication Board.

Implementing the Legislative Mandate

Implementing the procedures authorized by a legislature reintroduces a variety of planning issues. Manpower requirements, facility needs, training procedures, and the need to introduce or modify existing computer-based systems for maintaining driver records, are among the issues to be considered during the start-up phase. Detailed information on the operations of the New York system is contained in a manual published by LEAA's National Institute.⁴ Other sources of information and guidance are provided in Section V.

FIGURE 3

State	Classification of Lesser Traffic Offenses*	Method of Adjudication
Alabama	Misdemeanor	Traditional judicial
Alaska	Infraction, no jail penalty	Traditional judicial
Arizona	Misdemeanor	Traditional judicial
Arkansas	Misdemeanor	Traditional judicial
California	Infraction, no jail penalty	In 1980, the Traffic Adjudication Board will test an administrative approach in a 3-county pilot project. However, the motorist will have the option to request traditional judicial processing. (In the past, modified systems have operated at the discretion of selected judges.)
Colorado	Misdemeanor, no jail penalty	Traditional judicial
Connecticut	Infraction, no jail penalty	Traditional judicial
Delaware	Misdemeanor	Traditional judicial
District of Columbia	Infraction, no jail penalty, non-criminal proceeding	As of February, 1979, administrative adjudication will be the responsibility of the Department of Transportation.
Florida	Infraction, no jail penalty, non-criminal proceeding	Traditional judicial; a modified judicial system is under consideration.
Georgia	Misdemeanor	Traditional judicial
Hawaii	Misdemeanor	Traditional judicial
Idaho	Misdemeanor	Traditional judicial
Illinois	Misdemeanor	Traditional judicial
Indiana	Misdemeanor	Traditional judicial
Iowa	Misdemeanor	Traditional judicial
Kansas	Misdemeanor	Traditional judicial
Kentucky	Misdemeanor, no jail penalty	Traditional judicial
Louisiana	Misdemeanor	Traditional judicial
Maine	Infraction, no jail penalty, non-criminal proceeding	Traditional judicial
Maryland	Misdemeanor, no jail penalty	Traditional judicial
Massachusetts	Infraction, no jail penalty	Modified judicial: A motorist may choose to pay by mail, have a non-criminal hearing before a clerk-magistrate or go through the traditional judicial process.
Michigan	Infraction and no jail penalty as of May 1, 1979	Traditional judicial, but modified judicial system used in Detroit Records Court, Traffic and Ordinance Division: Motorist may appeal any referee-imposed sentence and obtain trial de novo. Statewide modified judicial system is under consideration.

*"Infraction" is used as a generic term to indicate offenses given less-than-misdemeanor status. In most states, infractions exclude reckless driving, driving while under the influence and homicid by vehicle. The term generally includes such lesser offenses as violations of the basic speed rule, stopping, standing or parking where prohibited, stop sign violations etc. For a comparative analysis of selected offenses across all states, see reference #15.

FIGURE 3 (continued)

State	Classification of Lesser Traffic Offenses*	Method of Adjudication
Minnesota	Infraction, no jail penalty	Traditional judicial
Mississippi	Misdemeanor	Traditional judicial
Missouri	Misdemeanor	Traditional judicial
Montana	Misdemeanor	Traditional judicial
Nebraska	Infraction, no jail penalty, non-criminal proceeding	Traditional judicial
Nevada	Misdemeanor	Traditional judicial
New Hampshire	Infraction, no jail penalty, non-criminal proceeding	Traditional judicial
New Jersey	Misdemeanor	Traditional judicial
New Mexico	Misdemeanor	Traditional judicial
New York	Infraction, no jail penalty, non-criminal proceeding	Since 1970, an administrative adjudication system has operated under the Department of Motor Vehicles serving New York City, Rochester, Buffalo and Suffolk County. Further expansion may occur in 1979.
North Carolina	Misdemeanor	Traditional judicial; the state legislature has authorized a feasibility study of administrative adjudication.
North Dakota	Infraction, no jail penalty	Modified judicial
Ohio	Infraction, no jail penalty	Traditional judicial
Oklahoma	Misdemeanor	Traditional judicial
Oregon	Infraction, no jail penalty	Traditional judicial
Pennsylvania	Infraction, no jail penalty	Traditional judicial
Rhode Island	Infraction, no jail penalty, non-criminal proceeding	Since 1975, a statewide system of administrative adjudication has operated under the Department of Transportation.
South Carolina	Misdemeanor	Traditional judicial
South Dakota	Infraction, no jail penalty, non-criminal proceeding	Traditional judicial
Tennessee	Misdemeanor	Traditional judicial
Texas	Misdemeanor, no jail penalty	Traditional judicial
Utah	Misdemeanor	Traditional judicial
Vermont	Infraction, no jail penalty	Traditional judicial
Virginia	Infraction, no jail penalty	Traditional judicial; Fairfax County is considering a modified judicial system.
Washington	Misdemeanor (infraction in City of Seattle only), no jail penalty	Modified judicial in some courts in King County (Seattle).
West Virginia	Misdemeanor	Traditional judicial
Wisconsin	Misdemeanor, no jail penalty	Traditional judicial
Wyoming	Misdemeanor	Traditional judicial

*"Infraction" is used as a generic term to indicate offenses given less-than-misdemeanor status. In most states, infractions exclude reckless driving, driving while under the influence and homicide by vehicle. The term generally includes such lesser offenses as violations of the basic speed rule, stopping, standing or parking where prohibited, stop sign violations etc. For a comparative analysis of selected offenses across all states, see reference #15.

V. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

Provided in the Appendix are the sections of New York State's Vehicle and Traffic Law decriminalizing minor traffic violations and authorizing the Administrative Adjudication Bureau. Statutes authorizing administrative adjudication in other states are cited below:

- California—Cal. Veh. Code sec. 40650 (Supp. 1979).
- Rhode Island—R.I. General Laws sec. 31-431(1) (Supp. 1978).

The following written reports, referenced in the text of this Brief, are available from the sources noted in each citation:

- (1) **National Survey of Court Organization**, U.S. Department of Justice, LEAA, National Criminal Justice Information and Statistical Service, October 1973. (Available through the National Criminal Justice Reference Service (NCJRS) Box 6000, Rockville, Maryland 20850.)
- (2) **Report on Symposium on Effective Highway Safety Adjudication, Volume 1**, U.S. Department of Transportation, National Highway Traffic Safety Administration, December 1975. (Available through the National Technical Information Service (NTIS) 5285 Port Royal Rd., Springfield, VA 22151.)
- (3) **Report on Administrative Adjudication of Traffic Infractions, Annual Reports—July 1975, July 1976, July 1977**. U.S. Department of Transportation, National Highway Traffic Safety Administration. (Available from NHTSA, 400 7th St., S.W., Washington, D.C. 20590.)
- (4) **An Exemplary Project: Administrative Adjudication Bureau of the New York State Department of Motor Vehicles**, U.S. Department of Justice, LEAA, National Institute of Law Enforcement and Criminal Justice, 1975. (Available from NCJRS.)
- (5) **A Report on the Status and Potential Implications of Decriminalization of Moving Traffic Violations**, U.S. Department of Transportation, National Highway Traffic Safety Administration, May 1973. (Available from NHTSA.)
- (6) **Courts**, National Advisory Commission on Standards and Goals, 1973. (Available through NCJRS.) Standard 8.2, "Administrative Disposition of Certain Matters Now Treated as Criminal Offenses" (p.168) advocates non-judicial handling for non-serious traffic violation cases. For an opposing view see "Standards for Traffic Justice," American Bar Association Committee on the Traffic Court Program, 1975. (Available from ABA, 1155 E. 60th Street, Chicago, Illinois 60637.)
- (7) **New Trends in Advanced Traffic Adjudication Techniques**, U.S. Department of Transportation, National Highway Traffic Safety Administration, February 1976. (Available from NHTSA.)
- (8) **Decriminalization: Administrative Adjudication**, U.S. Department of Transportation, National Highway Traffic Safety Administration, 1978. (Unpublished report for NHTSA by PRC Systems Sciences Co.)
- (9) **Administrative Adjudication of Traffic Offenses in California: Summary, Vol. I and Vol. II**, California State Department of Motor Vehicles, April 1976. (Available through NTIS.)

- (10) **Technical Summary: Special Adjudication for Enforcement (SAFE) Demonstration Project Annual Report**, Administrative Adjudication Division, Rhode Island Department of Transportation, December 1976. (Available from the AAO, 345 Harris Avenue, Providence, Rhode Island 02909.)
- (11) **Effective Highway Safety Traffic Offense Adjudication**, U.S. Department of Transportation, National Highway Safety Traffic Administration, June 1974. (Available from NHTSA.)
- (12) **Request for Proposals to Evaluate the Traffic Safety and Cost/Benefit Impacts of the Administrative Adjudication of Traffic Safety Violations**, the California Traffic Adjudication Board, August 1979. (Available from the TAB, 2716 "V" Street, Sacramento, Calif. 95818.)
- (13) **Analyzing the Feasibility of the Administrative Adjudication of Traffic Offenses**, U.S. Department of Transportation, National Highway Traffic Safety Administration, scheduled for publication in March 1979. (Available from NHTSA.)
- (14) "Administrative Adjudication of Traffic Violations Confronts the Doctrine of Separation of Powers" by Robert Force in **Effective Highway Safety Traffic Offense Adjudication**, U.S. Department of Transportation, National Highway Traffic Safety Administration, June 1974. (Available from NHTSA.)
- (15) "Penalties for Traffic Offenses," **Traffic Laws Commentary**, Vol. 7, No. 4, September 1978, U.S. Department of Transportation, National Highway Traffic Safety Administration. (Available from NHTSA.)
- (16) **Final Report of the Ad Hoc Task Force on Adjudication**, U.S. Department of Transportation, National Highway Safety Advisory Committee, June 1973. (Available from NTIS.)

The following individuals who are experienced in planning and implementing improved systems of traffic offense adjudication may be contacted for information and advice:

- **H.V. Hawley, Division Chief**
Division of Driver Licensing and Adjudication
National Highway Traffic Safety Administration
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590
(202)426-9692
- **Also from NHTSA:**
George Brandt, Robert Stone
- **Mr. Sidney Berke, Director**
Hearing and Adjudication Division
Department of Motor Vehicles
Empire State Plaza
Albany, New York 12228
(518)474-0875
- **Mr. Thomas Novi, Executive Director**
California Traffic Adjudication Board
2716 "V" Street
P.O. Box 1828
Sacramento, California 95809
(916)445-6031
- **Mr. Charles Moretti, Director**
Rhode Island Department of Transportation
Administrative Adjudication Division
345 Harris Avenue
Providence, Rhode Island 02909
(401)277-2251

Finally, on-site training opportunities are available through the HOST Program of LEAA's National Institute of Law Enforcement and Criminal Justice. Under the HOST Program—which provides a means to transfer information on advanced criminal justice programs—officials from jurisdictions developing administrative adjudication alternatives may be selected to visit the New York AAB in Albany. Per diem and travel expenses are provided through a grant from the National Institute. For further details, contact:

- **Mr. Jack Herzig**
HOST Program Director
Public Technology, Inc.
1140 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202)452-7700

APPENDIX

- **Section 155 of the New York State
Vehicle and Traffic Law
(Statute decriminalizing minor traffic offenses)**
- **Article 2A of the Vehicle and Traffic
Law of New York State
(Enabling legislation for the AAB)**

**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 violations 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. Except in those portions of Suffolk county for which a district court has been established, 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 those portions of Suffolk county for which a district court has been established, and in cities having a population in excess of two hundred seventy-five thousand, the criminal courts of such cities and portions of Suffolk county in which a district court has been established 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 or portions of Suffolk county in which a district court has been established, 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.

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

ADJUDICATION OF TRAFFIC INFRACTIONS

- Section 225. Jurisdiction; transfer of cases; hearing officers; regulations.
226. Summons; answer.
227. Hearings; determinations.
228. Administrative review.

§ 225. **Jurisdiction; transfer of cases; hearing officers; regulations.** 1. Notwithstanding any inconsistent provision of law, all violations of this chapter or of a local law, ordinance, order, rule or regulation relating to traffic, except parking, standing, stopping or pedestrian offenses, which occur within a city having a population of two hundred seventy-five thousand or more, or within that portion of Suffolk county for which a district court has been established, 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 nonappearance 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 transfer of cases involving other than traffic infractions 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. Notice of transfer of cases which cannot be disposed of because of the nonappearance of the motorist shall be mailed to the motorist at the address appearing on such complaint not less than fifteen days before his scheduled appearance in such court. Such mailing shall constitute due notice of such transfer. Thereafter, such case shall be treated in the same manner as if the complaint had initially been filed with such court.

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

§ 226. **Summons; answer.** 1. Summons. The commissioner shall be authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in subdivision one of section two hundred twenty-five of this chapter, and to establish procedures for proper administrative controls over the disposition thereof. Such summons may be the same as the uniform summons provided for in section two hundred seven of

this chapter. The chief executive officer of each local police force which is required to use the summons and complaint provided for herein shall prepare or cause to be prepared such records and reports as may be prescribed by the commissioner.

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

(b) Answer by mail—admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the 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 for any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter.

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

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

§ 227. Hearings; determinations. 1. Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the commissioner.

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

2. After due consideration of the evidence and arguments offered in a contested case, the hearing officer shall determine whether the charges have been established. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, either in a contested case or in an uncontested case where there is an appearance before a hearing officer, or if an answer admitting the charge otherwise has been received, an appropriate order shall be entered into 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 purposes 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 therefore 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 and forfeited security collected pursuant to the provisions of this article 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 ***reasonably* be required by the comptroller, such penalties and forfeited security shall be paid ***quarterly* to the **appropriate jurisdiction* in which the violation occurred ***in accordance with the provisions of section ninety-nine-a of the state finance law*, except that the sum of four dollars for each violation occurring in such **jurisdiction* for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. ***The amount of the first three quarterly distributions to the cities of Rochester and Buffalo in any given fiscal year shall not exceed seventy percent of the amount which will be otherwise payable.* 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 and forfeited security collected pursuant to this article.

5. Unless a hearing officer shall determine that a substantial traffic safety hazard would result therefrom, he shall, pursuant to the regulations of the commissioner, delay for a period of thirty days the effective date of any suspension or revocation of a drivers license or vehicle registration imposed after a hearing pursuant to this article, unless such suspension was imposed because of the failure to pay a monetary penalty. Provided, however, the commissioner's regulations may provide for the immediate surrender of any item to be suspended or revoked and the issuance of appropriate temporary documentation to be used during such thirty day period.

§ 228. **Administrative review.** 1. Appeals board. The commissioner shall appoint three or more appeals officers, to serve at his pleasure, and shall select a chairman for each appeals board from the members so appointed. Appeals officers who are not full time employees of the department shall be selected from names sub-

* Ch. 227 of the Laws of 1977, eff. June 7, 1977.

** Ch. 932 of the Laws of 1977, eff. Sept. 10, 1977.

mitted 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 appeals 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 hearing. In such event, the decision of the appeals board may be based solely on the appeal papers and the records of the department, and such decision shall not be subject to judicial review.

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

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

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

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

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

7. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be accepted unless the required fee has been paid. Such fees shall be paid by the appeals board to the department of audit and control to the credit of the justice court fund. After such audit as shall be required by the comptroller, such fees shall be credited to the general fund of the state.

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.



END