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# TRIAL OF TRAFFIC CASES IN HAWAII

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Report No. 1, 1970

**LEGISLATIVE REFERENCE BUREAU**

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## FOREWORD

This report on traffic courts and the trial of traffic cases in Hawaii has been prepared in response to Senate Resolution No. 102 of the 1968 Budget Session which directed the Legislative Reference Bureau to study the feasibility of municipal traffic courts at the county level in the State.

The completion of this report would not have been possible without the assistance, advice, and cooperation of personnel of the Judiciary of the Hawaii state government and the Police Department of the City and County of Honolulu who gave so generously of their time in the preparation of this report.

We are especially appreciative of the services of Professor Richard J. Richardson of the University of North Carolina, Chapel Hill, who authored this study on behalf of the Bureau.

Henry N. Kitamura  
Director

January, 1970

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# Chapter I

## INTRODUCTION

Traffic deaths are a familiar but appalling by-product of America's urban society. It is commonplace knowledge that more Americans have been killed by automobiles (1,700,000) from 1900 to 1969 than the total killed in every war from 1750 to 1969 (1,115,000). By 1972, this number will have reached two million. In 1968, 55,300 individuals lost their lives in accidents and 4,400,000 were injured. Thus, the present national traffic injury rate is almost eight persons every minute or about 10,000 per day. By any standard one wishes to impose, automobile accidents are major killers in the United States. On any and every normal Saturday in this country, we lose 230 people on our highways, a figure that makes both illness and war seem small by comparison.<sup>1</sup>

The expanding and mobile urban population in the United States is directly related to the soaring incidence of traffic violations, accidents, and deaths. Thus, the State of Hawaii, which is experiencing rapid population growth, urbanism and automobile use, must face the grim prospects of an increase in the rate of carnage on its highways. In the City and County of Honolulu, traffic deaths have more than tripled between 1954 and 1968 - from 31 to 109. In this period, traffic fatality for each 100,000 persons in the county has moved from 9.1 percent to 17.2 percent and for each 10,000 registered motor vehicles from 2.4 percent to 3.8 percent. If one adds to the 109 deaths in the county in 1968, the 8,349 persons injured and the \$4,595,499.00 in major accident damages, the magnitude of the traffic problem in the county can be more fully seen. Clearly, Hawaii is joining the rest of the nation in an unbroken upward spiral in traffic violations, accidents, damages and deaths.<sup>2</sup>

While the causes of traffic accidents are becoming well-known, the solutions to the problems are multiple and complex. Unfortunately there is no easy, single corrective formula which can be applied within the State to reduce traffic accidents and deaths. Although safety efforts have reduced the rate of accidents in proportion to the amount of miles traveled in the United States, it is clear that greater individual and collective effort is needed in order to reduce the number of traffic deaths.

Serious efforts to control traffic accidents in the United States were inaugurated in 1924 with the National Conference on Street and Highway Safety. The Uniform Vehicle Code was established in 1926, and within the next decade a number of groups and individuals had

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become involved in traffic safety promotion. Among the most notable of these were the National Safety Council, the Automobile Safety Foundation, the Committee on Traffic Courts of the American Bar Association and the Traffic Institute of Northwestern University. Individuals who have provided distinguished leadership in traffic safety include the Honorable Arthur T. Vanderbilt of the Supreme Court of New Jersey, George Warren and his pioneering studies of the nation's traffic courts and James P. Economos of the ABA.

From the outset, these traffic experts have agreed that the problem of traffic accidents can never be corrected without vigorous enforcement of traffic regulations and education of the public in traffic safety. In both enforcement and education, the role of the traffic court is of critical importance. Thus, Mr. Economos has observed that "the traffic court is the keystone to the community traffic accident prevention program."<sup>3</sup> For this reason, much attention has been focused on the organization, functioning and procedures of traffic courts.

In George Warren's seminal work Traffic Courts<sup>4</sup> and in every major study since then, traffic courts in the United States have received widespread criticism. The observation has been made by one expert that "the weakest link in the chain of traffic safety is our traffic courts."<sup>5</sup> Former U.S. Supreme Court Justice Charles E. Wittaker has observed that these courts "are so poorly housed, staffed and equipped, the proceedings so lacking in dignity and their judgments so perfunctory that they actually create disrespect, if not contempt, for all laws and all courts."<sup>6</sup> In this judgment the American Bar Association has generally concurred. In its publications it has noted that throughout America, we have communities where:

1. Judges have little knowledge of traffic laws, far less knowledge of traffic engineering and education.
2. Courtrooms are a disgrace in terms of order and dignity, and even simple cleanliness.
3. Court practices and procedures fail completely to encourage observation of traffic laws.<sup>7</sup>

These conditions have resulted in courts in which:

## INTRODUCTION

The man accused of a traffic violation will too often face a mere fine-collection agency. He will probably have to wait hours in a crowded noisy courtroom, only to appear finally before a bored impatient judge who is more interested in disposing of his case than in safeguarding his legal rights.<sup>3</sup>

To correct these widespread inadequacies in traffic courts, the American Bar Association began a major effort in 1942. Under its Standing Committee on Traffic Courts, the Traffic Court Program of the ABA has provided conferences, consultations and publications for traffic court improvement. It has been instrumental in developing nationwide standards for traffic courts and has stimulated citizen efforts throughout the country.<sup>9</sup> These programs, together with the National Highway Safety Act of 1966, have been instrumental in achieving many of the improvements in traffic courts in recent years.

The concern of the State of Hawaii for traffic safety is reflected in the many activities and programs it has undertaken in the past decade. It has been attentive to the recommendations of the ABA and the National Highway Safety Act. The State's concern is also shown in Senate Resolution 102 of the Budget Session of 1968.<sup>10</sup>

This Resolution notes the increase in vehicular traffic in the State and the increasing problems in traffic enforcement and regulation. It calls attention to the importance of traffic courts to the State's traffic safety program. It then requests the Legislative Reference Bureau to study "the feasibility of establishing municipal traffic courts for the various counties and especially for the City and County of Honolulu."

The following report is in response to Senate Resolution 102. Its purpose is limited. It seeks to explore the organizational structure of courts which try traffic cases in Hawaii and make recommendations relative to the creation of municipal traffic courts. Our objective has not been to explore all of the features of traffic litigation, violations or procedures. In arriving at our recommendations, we have discussed some features of court procedures in order to assess the efficiency and effectiveness of the present system of organization, but the study does not seek to be a complete analysis of traffic litigation in the State.

Chapter II of the report discusses the national standards for traffic courts, with special attention to the recommendations on court organization. It includes an analysis of court organization for traffic cases in some other cities and states and gives special attention to the proposed plans recommended by the ABA.

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Chapter III outlines the present court organization in the State of Hawaii and the jurisdiction of each of its divisions. It also includes an evaluation of the present court structure.

Chapter IV discusses the procedures and caseloads in the District Courts that handle traffic violations in the State and the impact of the Highway Safety Act.

The final chapter summarizes the conclusions of the study and makes recommendations for the improvement of traffic trials in the State.



## Chapter II

# MODEL RECOMMENDATIONS FOR TRAFFIC COURT PROCEDURES AND ORGANIZATION

Recommendations for the improvement of traffic courts have been directed primarily toward court procedures and organization. The programs and recommendations of the American Bar Association have been based on the National Standards for Improving the Administration of Justice in Traffic Courts. These National Standards are actually a collection of a number of recommendations made by several studies of traffic courts. Fifty-seven recommendations were offered by George Warren in his book, Traffic Courts. These were approved by the National Conference of Judicial Councils, the American Bar Association, and the President's Committee for Traffic Safety. In addition, sixteen resolutions were adopted in 1951 by the Conference of Chief Justices of State Supreme Courts. Finally, additional standards were offered by the Public Officials Traffic Safety Conference in 1957 and by the President's Committee for Traffic Safety in 1961.<sup>1</sup> Although all of these sets of recommendations are not in complete agreement, it is possible to summarize their major proposals for reform in procedure and organization.

### Traffic Court Procedure

Traffic court procedures have been the concern of most of the recommendations. Although our primary concern is with court organization, it is important to summarize the major procedural recommendations. These are:

1. That traffic statutes be founded upon the "Uniform Vehicle Code" and the "Model Traffic Ordinances."
2. That the Uniform Traffic Ticket and Complaint be used on a statewide basis and meet standard specifications.
3. That a uniform bail schedule be established throughout the State and that the schedule of fines charged at violations bureaus not be alterable.
4. That both prosecution and defense counsel be assigned to traffic courts.

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5. That uniform rules of practice and procedure be applicable in all courts trying traffic cases.
6. That such rules provide for personal appearance by all persons charged with moving traffic offenses.
7. That after a plea of guilty or a finding of guilty, the judge have available to him the prior record of convictions of the driver so that an appropriate penalty may be imposed.
8. That punishment of traffic violators include effective methods other than fines such as driver's training programs.

In addition to these general areas, there are some two dozen other administrative and procedural recommendations contained in the National Standards.<sup>2</sup> These have been discussed in full by safety and traffic court experts and materials are available on the reasons for the recommendations and how they should be implemented.<sup>3</sup>

### Traffic Court Organization

Many of the changes in procedure recommended for traffic courts depend upon a satisfactory court organization. Much attention has been given to the organization of courts and the National Standards have offered model proposals for organizational structure.<sup>4</sup> Among these recommendations are:

1. That all trial courts of first instance hearing traffic cases be fully integrated into the judicial system of the state and, if necessary, a reorganization of the statewide system of courts be undertaken to achieve this objective.
2. That trial courts of first instance having traffic and other jurisdiction should arrange, so far as feasible, separate sessions for the handling of traffic cases and dispose of them at a different time than other criminal business.
3. That an administrator of state courts be appointed by the highest judicial authority in the State for the purpose of supervising and administering all traffic courts in the State.

## MODEL RECOMMENDATIONS FOR TRAFFIC COURT PROCEDURES

4. That the jurisdiction of traffic courts be increased in order to consolidate the trial of all traffic cases in one court for both State and local offenses.
5. That a "court of record" status be given to all courts trying traffic cases.
6. That traffic judges be highly qualified, specially trained, full-time, non-political officials.
7. That the fee system, whereby the judge receives a percentage of the fines he levies, be abolished.
8. That the ideal traffic court organization would be on a state basis with various district courts, and with circuits operating from each district.
9. That special courts for traffic cases are necessary when the number of cases reach 7,500 per year with a violations bureau in operation, and 15,000 when there is no bureau.
10. Physical courtroom conditions should be improved as to facilities, arrangements, cleanliness, and appearance.

Recommendation No. 9 - special courts for traffic cases - was one of the 57 proposed by George Warren in 1940. It has not, as such, been included in other sets of specific recommendations.

It is important to understand Warren's argument for the creation of traffic courts within a state system, since he was the primary advocate of such a plan.

Although major modifications have been made in state court structures since 1940, it can still be said that traffic cases are heard in a heterogeneous and miscellaneous group of courts. These include justice of the peace courts which, in 1940, had jurisdiction over traffic offenders in thirty states, seven states in which some form of municipal courts heard cases, eight states in which county courts had jurisdiction and three in which state courts heard traffic cases.<sup>5</sup> In many of these states, concurrent jurisdiction was held by several courts. While justices of the peace have generally been displaced in the states with other judicial officials, traffic cases are still heard in a diverse grouping of tribunals in this country.

## TRIAL OF TRAFFIC CASES IN HAWAII

It was Warren's conclusion that none of these court organizational plans were suitable for the trial of traffic cases, as they were functioning at that time. He found only two cities in the United States with separate Traffic Courts - Danbury, Connecticut, and Baltimore, Maryland. Of the other courts he concluded that:

1. The very purpose of these other courts prevents a proper and effective disposition of justice in traffic cases.
2. Their design and personnel are not adaptable to the problem of law enforcement.
3. County and state courts have a geographical distribution that makes it difficult to bear or dispose of traffic infractions.

Upon the basis of this judgment, he recommended that the "ideal" organization would be a single traffic court for an entire state, with statewide authority to handle violations of both local and state laws. He suggested that this court be headed by a chief traffic judge under whom would sit a number of district traffic judges in courts throughout the State. The state would be divided into districts and judicial assignments made to individual districts.

It is important to stress that the model plan did not call for the creation of "municipal" or "county" traffic courts. Indeed, Warren's objective was to discourage their creation since he wanted the traffic court to operate as a "state" judicial system. Under his proposed traffic court system, a city would comprise a district in itself whom its volume of traffic cases reached the level equal to other judicial districts.

It was an additional recommendation of Warren's that courts which hear traffic cases at present should hear them separate and apart from other criminal violations. He concluded that when traffic violations become numerous, a special traffic court is desirable. He suggested that then traffic cases reach 7,500 per year with a violations bureau in operation and 15,000 a year where there is no bureau, that a special court should be created. In line with his other recommendations, these courts would be a part of the state court system.

The work and recommendations of George Warren were of major importance in traffic court reform. The contemporary efforts of James Economos and the American Bar Association are of equal significance.

## MODEL RECOMMENDATIONS FOR TRAFFIC COURT PROCEDURES

In his book, Traffic Court Procedure and Administration, Mr. Economos updates much of Warren's research and discusses the National Standards in clear and concise terms. He concurs with Warren that "the need for a separate traffic court is definitely indicated when the total caseload reaches 15,000."<sup>8</sup> However, he gives little attention to Warren's recommendation for a state traffic court system. Rather, he concentrates his attention upon the National Standards that trial courts of first instance should be integrated into the judicial system of the state, that traffic cases should be separated from criminal cases, and that frequent rotation of judges in traffic divisions or sessions should be discouraged. It is this emphasis that has characterized most recommendations for traffic court reform in recent years.

### **Recommendations and Recent Practices in Court Reform**

George Warren's hope for a "single traffic court for an entire state" has not been realized. Of more importance, it is no longer being actively promoted by those leaders of traffic court reform. Although it continues as one of the National Standards, it has not been accepted in the United States.

Nor has there been much success or effort in creating separate courts for traffic cases in urban areas. Separate courts have been created for traffic cases in Atlanta, Georgia; Baltimore, Maryland; Nashville, Tennessee; New Orleans, Louisiana; Oklahoma; and Philadelphia, Pennsylvania. These cities, however, are but a tiny fraction of those cities with heavy traffic caseloads. One may ask, why have the recommendations for separate traffic courts found such limited acceptance?

One reason has been the attention given by national and state for associations to the integration, coordination and unification of state judicial systems. The problem of multiple levels of courts, overlapping and concurrent jurisdiction, and uncoordinated and unsupervised disposition of justice in the states has been seen as a major priority for reform. To obtain county-wide courts of first instance on a statewide basis in which all cases are heard has been a major objective.

The move in judicial reform has been toward general courts in a unified structure. It has been away from diversity, specialization, and separatism. Thus, efforts to create separate traffic courts have been replaced, to some degree, by efforts to create county-wide courts of limited jurisdiction. The Traffic Court Program of the American

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Bar Association has sought to recommend what is both feasible and desirable in its traffic court reform. In recent years, it has focused its attention on the improvement of traffic procedures, court personnel and court organization in county-wide courts.

The ABA assisted in the creation of the Metropolitan Court of Dade County Florida. This court which serves 26 municipalities and all of the unincorporated area of the county is responsible for the trial of traffic cases, among other violations. Its operation has received high commendation from the representatives of the Traffic Court Program. In following the recommendations contained in the National Standards, it appears to have improved the quality of traffic court justice in the county.

The Traffic Court Program's most extensive study was the one for the entire State of Florida. This study lasted three years and every court trying traffic cases was inspected. The report is currently being studied with an eye to implementation.

This report is an excellent guide to the current position of the ABA on traffic court organization. The Florida study does not recommend the creation of a single traffic court for the State of Florida, with districts throughout the State. Nor does it recommend the creation of separate municipal or county courts to handle traffic cases exclusively. Instead, it recommends the creation of county-wide courts of first instance with jurisdiction over all traffic, criminal, civil and small claims matters.<sup>10</sup> It proposes that the county-wide courts be given jurisdiction over all municipal ordinances and all traffic offenses. In addition, it recommends that the jurisdiction of the county-wide court be uniform in every county throughout the State.

The recommendations made for the State of Florida by the ABA closely follow those made for the State of Arizona in 1962. Here again, the Traffic Court Program recommended the "complete integration of all courts of limited jurisdiction into the unified judicial system of the State."<sup>11</sup> The study called for county-wide trial courts of limited jurisdiction which would handle all State and municipal traffic offenses. As was the case in Florida, the ABA did not recommend the creation of separate traffic courts for municipal areas, nor the establishment of a single traffic court system for the State.

In some instances in recent years the Traffic Court Program has recommended against the creation of agencies which would take traffic cases out of the criminal courts. This was true of the proposal before the New York Legislature which would have removed the jurisdiction

## MODEL RECOMMENDATIONS FOR TRAFFIC COURT PROCEDURES

of the New York City Criminal Court over some traffic infractions and vested it in a Traffic Infractions Board.<sup>12</sup> Advocates of the proposal argue that an administrative agency is a desirable solution to the problem of traffic violations as it would remove the stigma of criminality from the traffic infraction and at the same time dispose of these infractions without burdening the regular court system. The ABA Traffic Court Program does not agree. They contend that administrative agency control over traffic infractions may violate due process of the violator and would minimize the seriousness of the offense.<sup>13</sup> They are therefore opposed to his form of reform, even though it does represent an effort to hold traffic cases separate and apart from other judicial business.

In summary, we may say that traffic court reform in both procedure and organization is now centering on courts of first instance, integrated into the state system, with jurisdiction over criminal and civil claims in addition to traffic cases.

## Chapter III

# JUDICIAL ORGANIZATION AND JURISDICTION IN HAWAII

Creation of municipal traffic courts for the counties of Hawaii could cause major changes in the present organization and jurisdiction of the judicial system in the State. Therefore, it is necessary to describe and evaluate the present structure in order to discuss the feasibility of traffic courts.<sup>1</sup>

### The Judicial System

The judicial system of the State of Hawaii is highly integrated. It consists of three major divisions - a Supreme Court, Circuit Courts and District Courts. In addition there is a Land Court and a Tax Appeal Court. For each circuit there is also a Family Court, which replaced the Juvenile Court and the Division of Domestic Relations. These Family Courts, however, are not "inferior courts", but rather divisions of the Circuit Courts.<sup>2</sup>

The basic judicial structure is established by the State Constitution which provides that:

The judicial power of the State shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law.<sup>3</sup>

The Constitution also provides that the Supreme Court shall consist of a chief justice and four associate justices. The Supreme Court justices and Circuit Court judges are appointed by the Governor with the advice and consent of the Senate. Both justices and judges serve ten-year terms with a mandatory retirement age of seventy years.<sup>4</sup>

Under statute, the District Court magistrates are appointed by the Chief Justice of the Supreme Court for four-year terms.<sup>5</sup> Supreme Court justices and circuit judges may be removed by the Governor, upon recommendation by a board of inquiry and District Court magistrates may be removed by action of the Supreme Court.<sup>6</sup>



## JUDICIAL ORGANIZATION AND JURISDICTION

### Organization and Jurisdiction

The Supreme Court has the responsibility for the general supervision of all courts of inferior jurisdiction, including the power to establish rules and regulations for all civil and criminal cases in the State. It has appellate jurisdiction to hear all questions of law (and law mixed with fact) properly brought before it on appeal from all other courts in the State. It has power to issue all writs necessary for its appellate functions.<sup>7</sup>

The Circuit Courts are courts of general jurisdiction, hearing all criminal offenses, suits for penalties and forfeitures, and civil cases (except as limited by the legislature).<sup>8</sup> In their family court divisions, the courts hear cases involving marital action, all juvenile cases by minors under eighteen years of age, adoption proceedings,<sup>9</sup> paternity proceedings, and offenses committed against minors.

There are four judicial circuits established for the Judiciary. The First Circuit, the largest in population, include 82 per cent of the State's citizenry. It covers the island of Oahu (including the City and County of Honolulu) and the district of Kalawao on the island of Molokai.<sup>10</sup>

The Second Circuit, covering 6 per cent of the population, has jurisdiction over the islands of Maui, Molokai (except Kalawao), Lanai, Kahoolawe, and Molokini.

The Third Circuit, the largest in geographic size, but including only 9 per cent of the population, consists of the entire island of Hawaii.

The Fifth Circuit with 3 per cent of the population includes the islands of Kauai and Niihau.

The Fourth Circuit, formerly on the island of Hawaii, was eliminated in 1943.

In 1968 there were fourteen circuit court judges serving the four circuits.

There are 27 District Courts in the State. They are courts of first instance and limited jurisdiction. Their jurisdiction includes:

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- civil action, with exclusive jurisdiction where damage or debt does not exceed fifty dollars and concurrent jurisdiction with Circuit Court in civil actions involving fifty to two thousand dollars.<sup>11</sup>
- traffic violations, both State and municipal.
- criminal misdemeanors where offenses are punishable by fine or by imprisonment not exceeding one year whether with or without fine.

No jury trials are provided in District Courts. If a defendant asks for jury trial upon any criminal matter within ten days after arraignment the case goes to the Circuit Court. The District Courts have no jurisdiction over offenses which require a presentment or indictment of a grand jury. District Courts are not courts of record, although, in fact, transcripts are available in some districts for appealed cases.

Appeals from district decisions are of three sorts - appeal for reducing sentence, appeals on points of law (both to Circuit and Supreme Court), or "general appeals", the latter of which require trials "de novo" in the Circuit Court.<sup>12</sup>

In 1968 there were 27 full-time and part-time magistrates serving in the District Courts. As subdivisions of the circuits, the District Courts share a common territorial jurisdiction with their respective circuits. The First Circuit District Courts consist of those for the City and County of Honolulu, employing nine magistrates, and the Districts for Rural Oahu, serviced by six magistrates.

The District Courts of Maui County employ four magistrates, the District Courts of Hawaii County use five, and Kauai County courts utilize three magistrates. All magistrates are law graduates, but not all serve in a full-time capacity. In some districts, magistrates combine their judicial responsibilities with private practice.

The Tax Appeal Court hears and determines appeals by taxpayers under jurisdiction throughout the State.<sup>13</sup> The chief justice designates two circuit judges of the First Circuit to sit on the Tax Appeal Court.<sup>14</sup>

The Land Court administers the Torrens system of land registration throughout the State.<sup>15</sup>

## JUDICIAL ORGANIZATION AND JURISDICTION

In addition to the formal judicial structure, provision is made in the Constitution for an Administrative Director of Courts, an officer responsible for the administrative and fiscal management of all courts in Hawaii.<sup>16</sup> The office functions under the supervision of the chief justice, administrative head of the courts. The chief clerk of the Supreme Court serves as ex-officio clerk of all courts, with individual clerks designated for circuits and districts. The chief justice presents a unified budget to the legislature and makes recommendations for changes and modifications affecting the judiciary.

The general court structure discussed above is pictured in the accompanying chart.

### Evaluation

The organization of the Hawaii judicial system has received favorable comment from both inside and outside the State.

Recently, the judges themselves observed that:

. . .the overall structure of the Judiciary Branch in Hawaii is sound and generally effective in responding to the needs of the people of Hawaii.<sup>17</sup>

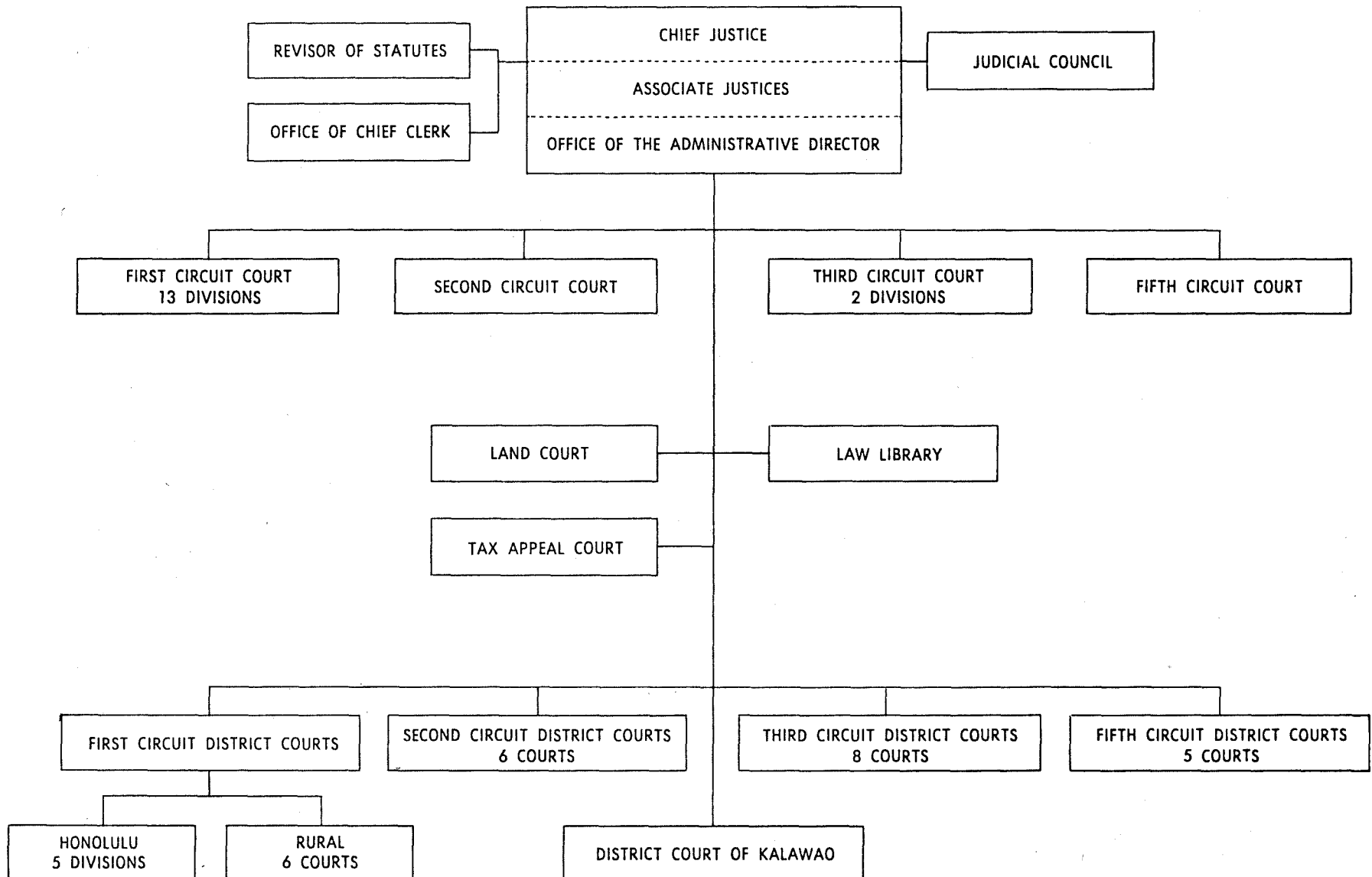
The Citizens' Conference on the Administration of Justice held in 1967 concluded that:

The organization of the judicial system in Hawaii is basically sound. Desirable existing features include centralization of administration, budgetary and statistical control in the Chief Justice, the creation of the office of Administrative Director appointed by and acting under the Chief Justice, the granting of broad rule making powers to the Supreme Court and the establishment of the Judicial Council to serve in an advisory capacity. These features together provide for an integrated system that permits judicial business to be conducted expeditiously, effectively and justly.<sup>18</sup>

Although the Citizens' Conference made a number of suggestions for the improvement of judicial operations, only two areas touched upon organizational structure. The first involved the selection and tenure of judges, and the second involved the concurrent jurisdiction of the Circuit and District Courts. Thus, they concluded that:

# STATE OF HAWAII

## THE JUDICIARY



Source: Reprinted from 1968 Report of the Judiciary.

## JUDICIAL ORGANIZATION AND JURISDICTION

No change in the relationship between the Supreme Court and Circuit Courts appears necessary. There is an overlap of functions between the Circuit and District Courts, however, and corrective action is clearly indicated in this area.<sup>19</sup>

The Public Administration Service in its study for the Alaska Constitutional Convention commended the Hawaiian Court structure and recommended the adoption of a similar system for Alaska.<sup>20</sup>

In 1968, S.U.A., Inc. completed a major study of space use and projected space needs for the Judiciary. In arriving at its conclusions on needs, it observed that:

The organizational efficiency and unity of the Hawaiian Court system precludes any recommendation for change in the organizational structure of the courts proper. The State is to be commended for its departure from the traditional organization structure of the past eras, which utilized layers of state, county and municipal courts, of concurrent and overlapping jurisdiction. As has been proven, this type of court system tends to add to the difficulty of efficient administration and creates problems of delay in the prompt administration of justice.<sup>21</sup>

The National Council on Crime and Delinquency, in a recent study of the District Courts of Hawaii, made seven recommendations for change.<sup>22</sup> In no instance did their recommendations suggest change or modification of the present court organization. Rather, their recommendations concern record keeping, a bureau of criminal statistics, and modifications of procedure. In addition, the 1968 statewide planning study for the District Courts made no recommendation for organizational change.<sup>23</sup>

Act 97, Session Laws of Hawaii 1965, which integrated the District Courts into the state judicial system and transferred all court employees and administrative functions from the counties to the State resulted in a total integration of judicial services for Hawaii. This integration, as we have seen, has received frequent commendations in studies of the Hawaiian judicial system.

As a result of our own investigation, we can only join in these commendations. Our findings suggest that the organizational structure is not only "basically sound", but impressive. This is not to say that there are no problems in administration, record keeping, or procedure. It is to say that these problems can probably best be solved within the present integrated judicial structure.

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Hawaii is not unique among the states in having problem areas in its judiciary. It is more unique in having the organizational and administrative structure by which these problems can be solved.

## Chapter IV

### TRAFFIC VIOLATIONS PROCEDURES AND CASELOADS IN HAWAII

The unified judicial system of Hawaii has had a profound effect on the character of traffic violations procedures within the State. The most obvious consequence is that traffic cases are no longer heard in "local" courts, but are disposed of in a systematic fashion by the state court system. Thus, many of the problems in traffic litigation found in other states have been avoided in Hawaii. State District Courts are the courts of first instance in Hawaii. They are, therefore, the only forums through which traffic violations flow. Both municipal and state violations are handled by District Court magistrates, in cooperation with local and state enforcement agencies. While enforcement of traffic regulations is, in the main, a local responsibility, both traffic litigation and the revenue reserved from it are in the hands of the State.

A second consequence of the unified system on traffic regulation is seen in the statewide efforts to achieve uniformity of procedure, record keeping and administration in traffic litigation. The efforts of the State to comply with the National Highway Safety Act have been made much easier because of the organizational and administrative structure of the courts.

#### Traffic Violations Procedures

All traffic violations enter the judicial system through citation by local and state law enforcement officials. In 1967-68, the traffic citation format was redesigned to comply with standards established by the National Highway Safety Act. The new citation system was first tried for the City and County of Honolulu. It is currently being slightly modified again and will be put into operation throughout the entire State in the near future.

The new uniform citation requires all persons accused of serious moving violations to appear in court and specifies the session and date the violator is to appear. If the person fails to appear at the time specified, the ticket automatically becomes a complaint and summons, eliminating the need for special forms. Instructions are provided on the form for the defendant to request a time change in his appearance. In Honolulu District Courts, both night sessions and Saturday sessions are provided for violators. The uniform traffic complaint and summons, when fully operative, will meet the recommendations noted in Chapter II and the requirements of the Safety Act.

## TRIAL OF TRAFFIC CASES IN HAWAII

The Traffic Violations Bureau, attached to the District Court, is the means by which most traffic violations are disposed in Hawaii. By plea of guilty and bail forfeitures, defendants may waive right of trial in all categories of minor traffic offenses and non-moving violations. The bail schedule is uniform, and is established by the Court for the State. Under uniform accounting procedures established in 1968, the revenues collected by the violations bureaus are turned over to the State. For those defendants who choose or are required to make a court appearance, arraignment and trial in the District Court are the first steps.

Traffic violations are tried in separate sessions of the District Court. These sessions are posted with the name of defendants and time of trial. Separate sessions are also provided for traffic arraignments, civil and criminal trials. In single judge District Courts there is obviously no problem with who will hear what kinds of cases. In multi-judge courts, however, there is the problem of rotation of judges. In Hawaii, judicial rotation is a problem only for the first circuit.

In the Honolulu District Court, the Administrative Magistrate of the Court is charged with the responsibility of establishing the rotation schedules for the magistrates, after meeting with the judges collectively. Several time schedules have been employed, with varying degrees of success. The simple fact is that most magistrates do not like to sit in traffic cases and thus seek rotation schedules that permit them to move frequently to criminal and civil cases. Not only in traffic violations arraignments, but in traffic trials as well, the caseload is heavy, frequently tedious, and often intellectually unstimulating. Yet since the bulk of the District Court's docket deals with traffic, frequent participation in traffic cases is necessary. In addition, it is desirable that judges sit long enough to become fully familiar with traffic regulations. Frequent rotation should also be discouraged in order that application of fines, use of suspended sentences, and other means can be more uniform within a district. The present practice in the Honolulu District Courts is for magistrates to sit two months in traffic arraignment, two in traffic trial, and one month each in civil and criminal cases. A three-month schedule has been tried, but magistrates requested a change. While the current schedule is far more stable than weekly rotation, it is doubtful that the expertise and uniformity sought for trial of traffic cases can be achieved under a two-month rotation scheme. In multi-member District Courts, such as Honolulu, divisions with permanent or semi-permanent traffic judges should be given careful consideration.



## TRAFFIC VIOLATIONS PROCEDURES AND CASELOADS

The District Courts trying traffic cases operate under rules of procedure that meet the basic requirements established by the model traffic plans. These rules, however, are not yet uniform throughout the State. Each circuit is currently operating under its own manual. The manuals are currently being brought together in an effort to produce a uniform manual of procedure during 1970. Whether uniform procedures in traffic cases will be utilized in fact in each of the District Courts is another question. Once procedures have been developed, it will be necessary to establish some form of supervision in the Administrative Director's Office in order to insure uniformity of application.

Present procedures, although not uniform, do provide for presence of counsel, cross-examination, presence of prosecution and enforcement officials, and information as to rights.

The Chief Justice and magistrates of the District Courts have recommended that jury trials be provided for the District Courts, that the courts become courts of record, and that trials de novo be eliminated in appeals to the Circuit Courts.<sup>1</sup> At present, only the courts of Maui and Kauai do not have court reporters. Should such recommendations be accepted, it should relieve the congestion in the Circuit Courts, by eliminating the possibility of de novo traffic trials on appeal.

In 1967, a Public Defender for indigents was created for the Island of Hawaii. He has since concentrated his efforts on the defense of indigents in misdemeanor and traffic cases. By Act 223 of the 1969 session, the Legislature established the right of counsel for indigents in any offense punishable by imprisonment for more than sixty days. This legislation has not been fully implemented yet. In transition to the Public Defender system, the Legal Aid Society in the First Circuit provides some services, but is not available in the other circuits. Court-appointed counsel is used here. The sixty-day cutoff imprisonment period has effectively eliminated most potential use of the Public Defender system by traffic violators, although the Legal Aid Society has assisted ten or so a month in the First Circuit District Courts to date. It is hoped that once the system becomes operative, traffic violators indigents may be included within it.

The District Courts of Hawaii have given some attention to uniformity of sentencing in traffic cases. This problem, which has long been a topic of national concern, has existed in the State, especially

## TRIAL OF TRAFFIC CASES IN HAWAII

in multi-member District Courts. While it has shown itself in the variation in guilty-not guilty verdicts among magistrates, it has been more noticeable in the application of fines and the use of suspended sentences. Although no empirical evidence exists to form a conclusion, one is inclined to accept the position that differences in sentencing behavior is less of a problem now than in the period prior to court integration in 1965. For example, the Administrative Magistrate of the Honolulu District Court has raised the problem on several occasions with his colleagues. However, there has been little effort toward uniformity of sentencing for the court system as a whole. This area is worthy of additional systematic study and merits the continued attention of the magistrates and the Administrative Director. Attention should especially be directed toward formulating guidelines for sentencing in traffic violations in order to insure that great differences do not exist between the Honolulu and other District Courts.

Beginning in 1968, a Driver Improvement Analyst program was established for the Honolulu District Court. This program permits magistrates to refer traffic violators to the analyst for training and recommendation. The program appears to have strong support among the magistrates. No analyst program exists for the other District Courts, nor are statewide driver improvement schools available. One can hope that the Honolulu program can be expanded to the other counties.

Facilities for the trial of traffic cases range from good to totally inadequate. There is no question that the Honolulu District Court needs more adequate space, as do other districts. As a result of a major study by S.U.A., Inc. in 1968, the Judiciary has offered a wide range for capital improvement projects for the immediate and near future.<sup>2</sup> Implementation of the S.U.A. proposals should greatly improve facilities for traffic trials. The rate of population growth and attendant traffic problems call for immediate facilities improvement in the other island districts. There is certainly an awareness in the judiciary that facilities for traffic trials must be improved. The extensive study, based on projected population growth, confirms the need.

If present facilities are a problem, no less a problem is that of uniform and systematic record keeping in the Hawaii judiciary. In 1965, Hawaii began a statewide traffic record keeping system. The Traffic Violations Bureau of the Honolulu District Court was designated

## TRAFFIC VIOLATIONS PROCEDURES AND CASELOADS

as the central office for the entire judiciary and charged with obtaining uniform information on traffic trials and violations from the neighbor island courts. Although some progress has been made in the last four years, the State is still far from an efficient traffic records system. This has made administration of justice difficult and systematic study of traffic violations patterns next to impossible. The major problem appears to be the critical need for advanced data processing equipment in the District Courts and a centralized computer system which can utilize traffic records for the driver point system, processing for bail forfeiture and license suspension notices. The 1970 legislature will receive a proposal for increasing the machine capabilities for the District Courts. Without additional machine assistance, it appears that efficient record keeping for the courts will continue to be a distant aspiration.

### **The Highway Safety Acts**

The Federal Highway Safety Act of 1966 and the Hawaii Highway Safety Act of 1967 have had major impact on traffic violations programs within the State.<sup>3</sup> Many of the improvements made or now underway have been stimulated by these Acts. Both have sought to provide for a comprehensive, statewide, uniform highway safety program and to coordinate all highway safety activities and programs. Major responsibility has been given to the State Highway Safety Coordinator and the Hawaii Highway Safety Council.<sup>4</sup>

Certain sections of the federal act are of special application to the traffic violations procedure within the State. Section 307 requires that:

All convictions for moving traffic violations shall be reported to the State traffic records system.

In addition, the Act "recommends" that the State:

--require moving hazardous traffic violators to appear in court.

--traffic courts be financially independent of any fee system, fines, or costs resulting from processing violations of motor vehicle laws.

## TRIAL OF TRAFFIC CASES IN HAWAII

- procedures, assignment of judges, staff and quarters insure reasonable availability of court services.
- uniform accounting system.
- uniform rules governing court procedures in traffic cases.
- current manuals and guides for administration, court procedures, and accounting.

In 1969, the State Highway Safety Coordinator and Highway Safety Council reported a high degree of compliance with the required and recommended standards. Their report observes:

The State of Hawaii has a single, autonomous court system under the Judiciary Branch of State Government. It is headed by the Chief Justice of the State Supreme Court. The Traffic Courts of Hawaii have long espoused the recommendations of the American Bar Association Traffic Court Program and thus, conform with the standard.<sup>5</sup>

Our investigation, as we have observed, has shown that the State is moving toward conformity with the standards in every instance. Uniform rules and manuals of procedure are currently being developed. Uniform traffic records, Standard Number 310, have still not been achieved, but are in the process of development. In the near future, the State should be in a position to meet and exceed the safety standards established for traffic violations trials by national and state legislation.

### **Traffic Violations Caseloads**

Population, urbanism, and traffic have been concentrated in one area in the State of Hawaii - the City and County of Honolulu. This is still the case, with 82 percent of the population in the First Judicial Circuit. In areas experiencing rapid population growth, however, there has been a sharp increase in traffic and violations. This is true of the District Courts of Wailuku and Lahaina on Maui.

Because the State is experiencing dramatic population growth, the traffic violations picture for the future is not promising. One study has projected an increase of judicial personnel from 344 in 1967 to 1,127 in 1995 to handle the increase in the judicial docket, primarily at the District Court level.<sup>6</sup>

## TRAFFIC VIOLATIONS PROCEDURES AND CASELOADS

This growth is reflected in Table I which shows the number of cases filed in the District Courts of Hawaii from 1962 to 1969. In this seven-year period, total cases filed in the Honolulu District Court has almost doubled, from 151,893 to 282,297. The same tendency can be noted in the District Courts of Maui, experiencing a growth of 3,925 to 7,104. Since the civil docket has remained relatively stable during this time, the expansion has clearly been in the criminal and traffic calendars.

Unfortunately, the State reports the District Court caseloads with the criminal and traffic cases combined. This has led one research group to conclude that it is impossible to obtain separate criminal and traffic case data.<sup>7</sup> They therefore conducted their research on the District Courts with an estimate that ten percent of the docket was composed of criminal cases, either misdemeanors or felonies.

This estimate process is not necessary, as traffic case figures can be obtained for the courts from the Traffic Violations Bureau of the District Court of Honolulu. The data are such, however, that for comparative purposes they are difficult to use. In 1967, the Judiciary began to report its figures on a fiscal, rather than a calendar year. Traffic data are still recorded on calendar years. In addition, much of the information available for traffic cases is with cases processed and terminated, as opposed to cases filed. With these limitations, however, one can find out the number of traffic cases processed in the District Courts of Hawaii for recent periods. These figures are shown for the individual districts in Table II and the totals are collected in Table III.

The information contained in Tables II and III confirm that the traffic violations of the State are still heavily concentrated in the city of Honolulu. In 1968, 87 percent of all traffic cases disposed of by the District Courts of Hawaii came from the District Court of Honolulu. The limited amount of traffic litigation in other circuits of the State suggest that there is probably no need for municipal traffic courts in Maui, Hawaii or Kauai.

Although the caseload of the Honolulu District Court appears awesome, it should be recognized that only a small percentage of traffic cases disposed go through the process of adjudication. For example, of the 262,801 cases disposed in Honolulu in 1968, 237,788 were resolved by bail forfeiture. Of this number, 198,309 were parking violations. These cases which are handled by the Violations Bureau do not consume the time of court nor magistrates and can be handled rapidly. Thus, while traffic violations are substantial in Honolulu,

Table I  
CASES FILED BY DISTRICT COURTS, STATE OF HAWAII

		City & County of Honolulu	Rural Honolulu	Maui	Hawaii	Kauai
<u>Fiscal ending</u>						
<u>June 30, 1969</u>						
	Criminal & Traffic	274,852	25,110	6,017	10,527	1,649
	Civil	<u>7,445</u>	<u>4,309</u>	<u>1,087</u>	<u>1,868</u>	<u>681</u>
	Total	282,297	29,479	7,104	12,395	2,330
<u>Fiscal ending</u>						
<u>June 30, 1968</u>						
	Criminal & Traffic	268,631	28,931	3,955	8,914	1,684
	Civil	<u>9,934</u>	<u>5,592</u>	<u>1,761</u>	<u>1,731</u>	<u>705</u>
	Total	278,565	34,523	5,716	10,645	2,389
<u>Calendar 1966</u>						
	Criminal & Traffic	225,450	37,377	2,729	8,614	1,741
	Civil	<u>10,149</u>	<u>5,223</u>	<u>1,774</u>	<u>1,736</u>	<u>626</u>
	Total	235,599	42,600	4,503	10,350	2,367
<u>Calendar 1965</u>						
	Criminal & Traffic	222,419	34,286	2,879	11,537	1,206
	Civil	<u>10,166</u>	<u>4,912</u>	<u>1,430</u>	<u>1,454</u>	<u>769</u>
	Total	232,585	39,198	4,309	12,991	1,975
<u>Calendar 1964</u>	Total	225,973	38,471	3,753	10,867	1,584
<u>Calendar 1963</u>	Total	223,798	36,382	4,036	9,341	1,287
<u>Calendar 1962</u>	Total	151,893	28,381	3,925	9,806	1,185

Source: Annual Reports of Judiciary Department.

Table II

TRAFFIC CASES PROCESSED  
BY HAWAII DISTRICT COURTS  
1966-1968

## TRAFFIC CASES PROCESSED BY HONOLULU DISTRICT COURTS

Court	Year	Pending	Filed	Disposed
Honolulu	1966	393	237,791	235,622
	1967	2,562	258,681	256,773
	1968	4,470	262,570	262,801

## TRAFFIC CASES PROCESSED BY RURAL OAHU DISTRICT COURTS

Court	Year	Pending	Filed	Disposed
Ewa District	1966	146	14,667	14,490
	1967	323	13,862	13,531
	1968	654	8,459	8,365
Waianae District	1966	--	--	--
	1967	105	3,002	2,918
	1968	189	2,367	2,447
Wahiawa District	1966	129	3,975	3,951
	1967	153	4,104	4,113
	1968	144	2,644	2,640
Waialua District	1966	43	920	907
	1967	56	931	925
	1968	62	796	796
Koolaupoko	1966	229	11,364	11,358
	1967	235	10,890	10,841
	1968	284	8,172	8,145
Koolauloa	1966	27	1,071	1,070
	1967	28	1,141	1,117
	1968	53	899	910

Table II (continued)

## TRAFFIC CASES PROCESSED BY COUNTY OF MAUI DISTRICT COURTS

Court	Year	Pending	Filed	Disposed
Wailuku District	1966	2	1,146	1,142
	1967	6	1,686	1,690
	1968	2	2,257	2,250
Lahaina District	1966	2	509	507
	1967	4	1,185	1,189
	1968	0	1,764	1,753
Makawao District	1966	0	169	167
	1967	2	196	197
	1968	1	220	216
Hana District	1966	0	26	26
	1967	0	13	13
	1968	0	11	11
Molokai District	1966	0	435	434
	1967	1	358	358
	1968	1	460	460
Lanai District	1966	0	158	158
	1967	0	121	121
	1968	0	157	157

TRAFFIC CASES PROCESSED BY  
COUNTY OF HAWAII DISTRICT COURTS

Court	Year	Pending	Filed	Disposed
Kau	1966		x	116
	1967		x	54
	1968	1	x	96
Kona	1966	3	x	833
	1967	8	x	1,161
	1968	2	x	1,966



Table II (continued)

Court	Year	Pending	Filed	Disposed
Hamakua, North & South Kohala	1966			808
	1967	1	x	433
	1968	7	x	445
South Hilo, North Hilo Puna	1966	4	x	6,424
	1967	6	x	4,678
	1968	9	x	6,840

TRAFFIC CASES PROCESSED BY  
COUNTY OF KAUAI DISTRICT COURTS

Court	Year	Pending	Filed	Disposed
Lihue & Other Districts	1966		x	1,639
	1967		x	1,513
	1968	9	x	1,438

Source: Data provided by District Courts to  
Traffic Violations Bureau of Honolulu  
District Court.

Table III

TOTAL TRAFFIC CASES DISPOSED  
1966-1968

Court	1966	1967	1968
Honolulu	235,622	256,773	262,801
Rural Oahu	31,776	33,445	23,303
Maui	2,437	3,568	4,847
Hawaii	8,181	6,326	9,347
Kauai	1,639	1,513	1,438
TOTALS	279,652	301,625	301,736

Source: Information supplied by Traffic Violations  
Bureau of Honolulu District Court.

## TRAFFIC VIOLATIONS PROCEDURES AND CASELOADS

court-processed violations are a small percentage of the total figure.

The total Judiciary Department budget for fiscal 1967-68 was \$5,618,134.00. Of this amount, \$1,206,088.00 was allocated for the twenty-seven District Courts.<sup>8</sup> Table IV shows the income derived from the District Courts from bail forfeitures, fines, fees and costs. It is clear that District Court revenues alone account for a substantial portion of the total budget for the State Judiciary.

Although it is not possible for us to ascertain the absolute number of traffic cases heard by each judge in the District Courts, our observations of a number of trials suggest that adequate time is allowed for full hearings. Arraignments tend to be crowded and unimpressive in the District Courts, but traffic case trials meet most of the recommendations of the American Bar Association. Thus, there is no indication that the present organizational structure for traffic trials in Hawaii is resulting in either congested backlogs of cases or overloaded dockets in the District Courts. In terms of both procedure and organizational format, it would be difficult to make a convincing case that traffic violations justice would be better served by the creation of municipal traffic courts.

Table IV  
FORFEITURES, FINES, FEES AND COSTS RECEIVED  
DISTRICT COURTS, 1968

DISTRICT COURT	FORFEITURES		FINES	FEES	COSTS Civil	TOTAL
	Bail	Bond				
Honolulu	917,929	8,339	377,994	54,725	35,902	1,394,889
TOTALS	\$ 917,929	\$ 8,339	\$377,994	\$54,725	\$35,902	\$1,394,889
Ewa	54,914	703	49,008	21	4,590	109,236
Waianae	16,900	160	18,998	3	4,787	40,848
Wahiawa	22,165	558	18,260	54	2,448	43,485
Waialua	4,805	250	5,632	3	1,063	11,753
Koolaupoko	54,263	551	27,703	9	8,084	90,610
Koolauloa	6,566	25	3,706	--	1,461	11,758
TOTALS	\$ 159,613	\$ 2,247	\$123,307	\$ 90	\$22,433	\$ 307,690
Wailuku	14,557	--	3,522	77	2,651	20,807
Lahaina	8,451	--	861	--	907	10,219
Makawao	510	--	940	5	1,022	2,477
Hana	2	--	35	--	145	182
Molokai	1,267	--	325	--	727	2,319
Lanai	992	--	280	--	210	1,482
TOTALS	\$ 25,779	--	\$ 5,963	\$ 82	\$ 5,662	\$ 37,486
Hilo	8,338	--	6,592	4,938	2,671	22,539
Hamakua	1,320	--	3,055	3	1,264	5,642
Kona	3,688	--	3,497	94	992	8,271
Kau	359	--	160	--	360	879
TOTALS	\$ 13,705	--	\$ 13,304	\$ 5,035	\$ 5,287	\$ 37,331
Lihue	2,473	--	3,506	105	555	6,639
Koloa	183	--	1,025	3	404	1,615
Hanalei	70	--	165	--	96	331
Waimea	270	--	1,714	12	495	2,491
Kawaihau	353	--	1,325	21	536	2,235
TOTALS	\$ 3,349	--	\$ 7,735	\$ 141	\$ 2,086	\$ 13,311
GRAND TOTALS	\$1,120,375	\$10,586	\$528,303	\$60,073	\$71,370	\$1,790,707

Source: Annual Report of the Judiciary Department, 1967-68.

## Chapter V

### CONCLUSIONS AND RECOMMENDATIONS

The objective of this report has been to provide guidance to the Legislature of Hawaii in answering one question. That is, the feasibility of establishing municipal traffic courts for the various counties of Hawaii and especially for the City and County of Honolulu. Our intent has not been to explore all of the features of traffic regulations, violations, or traffic safety within the State. Although our objective has been limited, we will offer recommendations that touch upon, but are not central to, the question of separate municipal traffic courts.

We have looked at model proposals for traffic courts, the practices in some other states, and the present organization in Hawaii. It is possible now to summarize our conclusions and to offer recommendations.

There is much to be said for the creation of separate traffic courts within a State. Among the strongest arguments are:

1. The 1938 National Standards for Improving the Administration of Justice in Traffic Courts as approved by the Judicial Councils and the American Bar Association recommend that special courts for traffic cases be established when the number of cases reach 7,500 per year with a violations bureau in operation, and 15,000 cases per year when there is no bureau. Additionally, it is recommended that such court organization be on a statewide basis.
2. The creation of such courts will enhance the regulation and enforcement of traffic violations by focusing special attention on them through specialized courts.
3. Such courts will reduce the congestion and delay in the courts of limited jurisdiction caused by the increasing flood of traffic violations.
4. Since the clientele served by traffic courts is fundamentally different from that of other courts, traffic cases should not be mixed with criminal and misdemeanor cases within the same court system.
5. Special traffic courts will provide for a uniformity of regulation, the services of judges trained and expert in

## TRIAL OF TRAFFIC CASES IN HAWAII

the field of traffic violation, and adequate time for the supervision and education of violators by the court.

Because of these and other reasons, some metropolitan areas have established traffic courts separate and apart from other judicial organization. These cities include Atlanta, Georgia; Baltimore, Maryland; Nashville, Tennessee; New Orleans, Louisiana; Oklahoma City, Oklahoma; and Philadelphia, Pennsylvania. In addition, the administrative agency court program now being considered by New York City would amount to separate traffic courts.

Although the arguments raised for the creation of separate traffic courts are strong, compelling arguments can be made against the creation of separate courts.

1. Such moves toward separation and specialization for traffic courts may be in direct opposition to the integrated state court system, long commended by bar associations and sought as an objective of almost every judicial reform in the last decade.
2. Because they are disintegrating, traffic courts develop into "second-class courts", poorly supervised, staffed by less qualified judicial personnel, with inadequate facilities, carrying unreasonable case loads, isolated from the rest of the judicial system.
3. The enormous expense required to provide adequate facilities for traffic courts in the counties would prevent correction of the already woefully inadequate physical facilities for the judicial system in the State.
4. Since traffic courts would not be required for all counties, it could create an organizational patchwork, with some courts of limited jurisdiction having jurisdiction over traffic offenses, others not. Such organization would be subject to constant review, reorganization and modification.

Because of these objections, the most recent statewide court reorganization plans seem to have not included the creation of separate traffic courts. This is true of the North Carolina plan presently in operation. It is true of the 1956 plan recommended for Arizona by the ABA. Most importantly, it is the feature of the most extensive

## CONCLUSIONS AND RECOMMENDATIONS

revision plan ever prepared for a State by the American Bar Association, for the State of Florida. This plan presently being considered for implementation calls for the creation of county-wide courts of limited jurisdiction over all traffic, criminal, civil and small claims matters. No provision is made for the creation of traffic courts for any of the counties of Florida. The National Highway Safety Act does not require separate traffic courts.

Hawaii is fortunate to have its present integrated court organization. Many states are seeking to reform their judicial structures to bring them up to the Hawaii standards. In addition, the State has enacted enlightened programs in the areas of traffic safety and traffic violations in compliance with the National Highway Safety Act.

Given the commendable features of the present organization, it appears that the traffic violations program for the State can best be handled within the flexible organizational structure of the District Courts. The attention to improved facilities, record keeping, and administration should be focused here, rather than on diffused traffic courts.

On the basis of current traffic caseloads, no counties in the State warrant the creation of traffic courts with the possible exception of the City and County of Honolulu. In all other counties, traffic cases can be handled in the District Courts in sessions specifically designated as traffic sessions.

In the case of Honolulu District Court, the number of criminal and traffic cases terminated in 1968 suggest the need for a more sharply distinguished handling of the traffic docket in the County. However, here again, the flexibility of the District Court lends itself to such an operation. It is probably desirable that all traffic cases be heard within a separate division of the Honolulu District Court and that the present divisional structure be utilized to create full-time traffic case divisions. Such a plan would maintain the present state-wide integrated court structure and at the same time develop specialization sought by the separate traffic court proposal.

Upon the basis of these conclusions, the following recommendations are offered for the trial of traffic violations in the State of Hawaii. To a substantial degree, these recommendations have been influenced by those prepared for other States by the Committee on Traffic Courts of the American Bar Association.

## TRIAL OF TRAFFIC CASES IN HAWAII

### Recommendations

1. That in court reorganization, the Legislature of Hawaii seek to maintain the present complete integration of all courts of limited jurisdiction in the unified judicial system for the State of Hawaii.
2. That toward this end, the creation of separate municipal traffic courts for the counties of Hawaii is not recommended.
3. That, rather, all state and municipal traffic offenses, except negligent homicide and manslaughter, be within the jurisdiction of the District Courts.
4. That such jurisdiction continue to be uniform in every district throughout the State.
5. That all juvenile traffic offenders be tried in the trial courts of limited jurisdiction, except those juveniles who are below the age for the issuance of unrestricted drivers license, who should remain under juvenile authorities.
6. That insofar as possible, traffic cases should be tried separate and apart from other cases in District Courts in traffic sessions, the number of sessions to be determined by the caseloads of each Court.
7. That in the District Court of Honolulu, consideration should be given to the trial of traffic cases in separate divisions of the court.
8. That in cooperation with enforcement and prosecution officials, magistrates in each District Court establish schedules of such sessions for traffic cases, posted in an appropriate public place in each court.
9. That insofar as possible, frequent rotation of judges hearing traffic cases should be discouraged in District Courts sitting in Divisions, and one judge should be assigned traffic cases permanently or for long periods of time.
10. That the Uniform Traffic Complaint and Citation as required by the National Highway Safety Act and the American Bar Association, and adopted by Hawaii be made immediately



## CONCLUSIONS AND RECOMMENDATIONS

operative for all courts trying traffic cases and all enforcement agencies filing traffic charges.

11. That a continuing statewide training program be required for all new judicial, prosecution, clerical and administrative personnel and enforcement officers on use of the Uniform Citation System and Uniform Rules of Procedure.
12. That such exceptions to mandatory court appearances for moving violations be made only in clearly and uniformly applied categories, throughout the State.
13. That toward this end, the definition of "non-resident" be uniformly applied and rules developed for any special handling of mandatory appearances for this group of violators.
14. That all non-mandatory court traffic cases continue to be processed through traffic violations bureaus for the disposition of non-hazardous moving traffic violations, parking, standing, and other non-moving violations, upon the signing of a written appearance, plea of guilty, waiver of trial, advising of rights, and payment of predetermined fine schedule.
15. That all persons mandatorily required to come to court receive an immediate trial on the date and session designated, that the officer issuing citations be present, and that to insure this, each judge confer with enforcement agencies for the purpose of establishing mutually desirable court sessions.
16. That the Uniform Rules of Procedure be promulgated for use of courts trying traffic cases and include, formal ceremonies for opening and closing court, advising defendant of his rights and charge, following rules of evidence, and the cross-examination of witnesses, and that rules be systematically inspected by the Administrative Director for each court in order to insure common usage.
17. That all traffic cases in appeal be on record and traffic case appeals de novo not be permitted.

## TRIAL OF TRAFFIC CASES IN HAWAII

18. That the primary purpose of judges trying traffic cases is to correct and educate traffic violators, and court schedules be arranged so as to permit judges an adequate amount of time to determine corrective action required.
19. That to this end, guidelines be established for traffic court judges' caseloads, in order to assure adequate attention for the various categories of traffic litigation.
20. That the Driver Improvement Analyst Program in the Honolulu District Court be extended throughout the State.
21. That judges be authorized to send defendants to driver improvement school and that the legislature establish such schools on a statewide basis.
22. That careful attention be given to the extent and quality of defense provided for indigents in traffic cases.
23. That to this end, the concept of Public Defender as established for the Island of Hawaii (1967) District Courts in traffic cases be considered as a possible model for all indigent traffic cases in the State.
24. That the services of prosecution be available for each session of the courts trying traffic cases and that adequate administrative and clerical personnel be made available for traffic litigation.
25. That the Supreme Court promulgate minimum standards for uniform court facilities in each court trying traffic cases and assume responsibility to enforce adherence to such standards.
26. That to this end, priority be placed upon providing adequate facilities for the District Court of Honolulu, established upon a well-defined plan of projected future facility needs for traffic litigation.
27. That the research activity of the Administrative Office of the Courts be substantially increased, with special attention to long-range planning for facility and personnel needs in geographic areas destined for expanded traffic litigation, especially Maui and Hawaii.

## CONCLUSIONS AND RECOMMENDATIONS

28. That in order to improve the completeness and utility of the Statewide Traffic Records System, special attention should be given to centralized data processing in the District Courts for maintaining more efficient court records.
29. That the interface of traffic violation, driver education, and health impairments of each licensed driver be available for District Courts and that funds necessary to collect such information be made available to the Traffic Records System.

## FOOTNOTES

### Chapter I

1. Figures provided by National Safety Council.
2. Honolulu (City and County), Police Department, Statistical Report of Honolulu Police Department 1968 (Honolulu: 1969), pp. 49-50.
3. James P. Economos, Traffic Court Procedure and Administration (Chicago: American Bar Association, 1961), p. 6.
4. George Warren, Traffic Courts (Boston: Little Brown, 1942).
5. Sidney J. Williams, "The Traffic Problem and Principles of Control Through Engineering, Education, and Enforcement," in Judge and Prosecutor in Traffic Court (Chicago: American Bar Association, 1951), p. 12.
6. Charles E. Wittaker as quoted by James P. Economos and Andre Fontaine, "The Traffic Court Jam," National Civic Review, L11 (December, 1963), p. 586. For full quotation, see Wittaker, "Lawyers, Laymen and Traffic Courts," 49 American Bar Association Journal (1963), pp. 333-335.
7. "Better Traffic Courts: Key to Safety" (Chicago: American Bar Association, 1963), pp. 5-6.
8. Economos and Fontaine, "The Traffic Court Jam," op. cit., p. 586.
9. For a summary of its services, see "The Traffic Court Program of the American Bar Association" (Chicago: American Bar Association, 1967).
10. For the full Resolution, see Appendix A.
10. "A Study of Florida Courts Trying Traffic Cases" (Chicago: American Bar Association Traffic Court Program, 1964), pp. 73-74.
11. "Arizona Traffic Court Study" (Chicago: American Bar Association, 1962), p. 2.
12. For a discussion of these bills and a defense of the administrative agency as a means of traffic reform, see "Traffic Court Reform," IV Columbia Journal of Law and Social Problems (July, 1968), pp. 255-266.
13. Ibid., p. 261.

### Chapter III

1. This chapter is primarily based on Wayne K. Minami, The Judiciary, Hawaii Constitutional Convention Studies (Honolulu: Legislative Reference Bureau, University of Hawaii, 1968), pp. 4-13.
2. Rev. Laws of Hawaii, sec. 333-3 (Supp. 1965).
3. Hawaii Const., Art. V, sec. 1.
4. Hawaii Const. Art. V, secs. 2, 3.
5. Rev. Laws of Hawaii, sec. 216-1 (Supp. 1965).
6. Hawaii Const., Art. V, sec. 4. Also Rev. Laws of Hawaii, sec. 216-2 (Supp. 1965).
7. Rev. Laws of Hawaii, secs. 214-3, 214-4 (1955).
8. Rev. Laws of Hawaii, sec. 215-17 (Supp. 1965).
9. Ibid.
10. Population estimates are as of January 1, 1968.
11. Hawaii Rev. Stat., secs. 604-6, 604-7.
12. Hawaii Rev. Stat., sec. 641-1-11-12.
13. Rev. Laws of Hawaii, ch. 116 (1955).
14. Session Laws of Hawaii 1967, Act 231.
15. Rev. Laws of Hawaii, ch. 342 (1955).
16. Hawaii Const., Art. V, sec. 5.
17. Statement of the Chief Justice to Senate-House Interim Committee, p. i, 1969 in response to Senate Concurrent Resolution No. 78, Fifth Legislature, 1969.
18. "Citizens' Conference on the Administration of Justice: A Consensus Statement," January, 1967.
19. Ibid.
20. Public Administration Service, "The Judicial Department," Constitutional Studies, prepared for the Alaska Statehood Committee for the Alaska Constitutional Convention, Vol. 2, Part VII (Juneau, Alaska: 1955), pp. 15-23.

### Chapter II

1. See Appendices B, C, D, and E, for full text of recommendations. Recommendations are reprinted from "The Traffic Court Program of the American Bar Association" (Chicago: American Bar Association, 1967), pp. 18-28.
2. See Appendix B, p. 43.
3. The best discussion is found in James Economos, Traffic Court Procedure and Administration (Chicago: American Bar Association, 1961).
4. See Appendix B, p. 43.
5. George Warren, op. cit., p. 21.
6. Warren, op. cit., p. 25.
7. For a full discussion of the proposed traffic court system see Warren, op. cit., pp. 236-238.
8. James Economos, Traffic Court Procedure and Administration, op. cit., p. 55.
9. See James Economos and Andre Fontaine, "The Traffic Court Jam," National Civic Review, L11 (December, 1963), pp. 586-590.

21. SUA, Incorporated, "The Judiciary: Analysis of Space" (Beverly Hills, 1968), p. 15.
22. National Council on Crime and Delinquency, "The District Courts of Hawaii, (NCCD Research Center, January, 1969).
23. "Statewide Planning for Judiciary District Court Facilities," prepared by Muroda and Tanaka, Inc., (Honolulu: February, 1968).

#### Chapter IV

1. See House Bill 787 introduced in the 1969 Session for position of the Judiciary on reorganization.
2. SUA, Incorporated, "The Judiciary: Analysis of Space Use" (Beverly Hills, 1968). Also "Annual Report of the Judiciary Department of the State of Hawaii 1967-1968," p. 30.
3. The Hawaii Safety Act is Act 214, Session Laws of Hawaii, 1967.
4. Hawaii Rev. Stat., sec. 284-4.
5. "The Highway Safety Program of the State of Hawaii 1969," prepared by the State Highway Safety Coordinator and the Hawaii State Highway Safety Council, p. 26.
6. SUA, Inc., "The Judiciary: Analysis of Space Use" (Beverly Hills, 1968), p. 16.
7. National Council on Crime and Delinquency, "The District Courts of Hawaii" (NCCD Research Center, January, 1969), p. 9.
8. See Annual Report of Judiciary Department 1967-69, p. 32.

## Appendix A

C  
O  
P  
Y

S.R. NO. 102

### SENATE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE FEASIBILITY OF ESTABLISHING MUNICIPAL TRAFFIC COURTS.

WHEREAS, the constant increase of vehicular traffic in the highways of the State have caused increasing problems in traffic enforcement and regulation;

WHEREAS, regulation by the traffic courts is an integral part of the traffic safety program;

WHEREAS, there seems to be a need for the establishment of municipal traffic courts in Hawaii; and

WHEREAS, a report on the feasibility of the creation of municipal traffic courts would be helpful; Now, therefore,

BE IT RESOLVED by the Senate of the Fourth Legislature of the State of Hawaii, Budget Session of 1968, that it requests the Legislative Reference Bureau to study the feasibility of establishing municipal traffic courts for the various counties and especially for the City and County of Honolulu; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau submit the report of its findings and recommendations to the Senate thirty days prior to the convening of the 1969 General Session; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be transmitted to the Legislative Reference Bureau.

## Appendix B

### NATIONAL STANDARDS FOR IMPROVING THE ADMINISTRATION OF JUSTICE IN TRAFFIC COURTS

#### 57 RECOMMENDATIONS

In 1938, the National Conference of Judicial Councils and the National Committee on Traffic Laws Enforcement authorized a study of the nation's traffic courts. Fifty-seven recommendations for improvement of these courts resulted from this study. These recommendations were approved on September 10-12, 1940 by the National Conference of Judicial Councils; and the American Bar Association House of Delegates, Section on Judicial Administration, Criminal Law Section, Junior Bar Conference. Later the Committee on Judges and Prosecutors of the Street and Highway Section of the National Safety Council (October 9, 1940); and the International Association of Chiefs of Police (April 10, 1942) also approved them. They have become a part of the Action Program of The President's Committee for Traffic Safety.

The summary of The 57 recommendations follow:

#### TRAFFIC LAWS

1. Traffic laws with inherent defects should be revised and those which are unenforceable or unnecessary should be repealed.
2. Traffic statutes should be founded upon the "Uniform Vehicle Code" and the "Model Traffic Ordinances" with only regulations purely local in nature left to local ordinance. However, an exception should be made where this would result in ousting local courts from jurisdiction to try traffic violations.

#### TRAFFIC COURTS

3. All courts should treat traffic cases apart from their other business.
4. Special courts for traffic cases are necessary when the number of cases reach 7,500 per year with a violations bureau in operation, and 15,000 cases per year when there is no bureau.
5. The ideal traffic court organization would be on a state basis with various district courts, and with circuits operating from each district.
6. Physical courtroom conditions should be improved as to facilities, arrangements, cleanliness, and appearance.
7. The taxing of court costs as a separate penalty should be eliminated, and the fine assessed in one sum. If costs are included, they should be in a reasonable amount.

#### VIOLATIONS BUREAUS

8. Violations bureaus are to be used only when the number of traffic cases make it impossible for the court to properly dispose of them.
9. The basis for all violations bureaus should be a signed plea of guilty and waiver of trial.
10. Schedules of fines charged at the violations bureau are not to be alterable.
11. The bureau should handle the least hazardous violations and should deal with moving offenses only when they respond to treatment outside the courtroom. Major traffic law violations should never be handled in a violations bureau.
12. Assuming conformity with the recommended basis for violations bureau jurisdiction, the payment of fines by mail, properly safeguarded, is recommended.
13. Fines assessed at the violations bureau should be in average amounts used by the judge for the same offenses, and should be scaled higher for repeaters.

#### TRAFFIC JUDGES

14. Traffic judges should recognize the fact that a knowledge of traffic laws, traffic policing and engineering is necessary in addition to a legal background and should aim to obtain an understanding of these factors.
15. Traffic judges should not be selected by local authority or on a localized basis where appointment or election on a wider scale is possible.
16. The selection of alternates for traffic judges should be safeguarded.
17. Where more than one magistrate is available for the traffic bench, it is recommended that one judge be assigned to that post permanently or for a long period, rather than the use of a system of rotation of judges.
18. Traffic judges should be under the supervision of a chief magistrate who should be given regulatory powers.

#### PROSECUTORS

19. It is recommended that the title "Prosecutor" be eliminated in favor of "Public Attorney" or "Public Solicitor" or a similar term.
20. "Prosecutors" should be assigned to traffic courts for aid in the disposition of cases.
21. Where the information on the ticket or complaint does not afford the prosecutor sufficient detail, the arresting officer should be required to furnish him with an additional report.
22. Prosecutors should not be used for the purpose of deciding whether a traffic violation should be brought to trial.

#### DEFENSE COUNSEL

23. Bar associations should interest themselves in ascertaining what the function of a lawyer in the traffic courts should be, and in encouraging the maintenance of that standard.

#### TRAFFIC COURT

##### PROCEDURE

24. Preliminary hearings in minor traffic cases should be eliminated.
25. Summonses and tickets should be returnable on particular days assigned to officers.
26. Where the volume of cases is large the time of appearance should be staggered according to the type of offense.
27. Complaints other than tickets are unnecessary and should not be used in traffic cases where the officer witnessed the violation.
28. Dockets should be kept by the court clerk's office and traffic cases should be kept in a separate docket.
29. Dockets should be in duplicate, the disposition to be marked on the original by the judge at the time of trial.
30. Each defendant should be treated as a single case regardless of the number of charges against him.
31. Appearances should be enforced by the service of warrants through the police department and by additional fines.
32. The traffic court judge should be made solely responsible for the granting and use of continuances.
33. Continuances should not be used for the purpose of allowing violators an opportunity to obtain the money needed for the fine. Instead, surrender of the offender's license until payment is made is recommended.

#### THE JURY

34. The use of juries in trials for summary or minor traffic offenses should be eliminated.

#### APPEALS

35. There is need for the study and revision of the appellate procedure available to persons convicted of traffic offenses.



TRAFFIC COURT ADMINISTRATION  
CONDUCT OF A TRAFFIC COURT

36. There is a general need for higher standards of decorum and courtroom procedure in traffic cases.

PUNISHING THE TRAFFIC VIOLATOR

37. Juvenile traffic violators should be treated by traffic courts except where a behavior problem is involved.
38. Rigid and set fines (as distinguished from flexible standards) for the various traffic violations are to be discouraged.
39. The utilization of effective methods other than fines and sentences for the punishment and treatment of traffic violators, should be encouraged.
40. The primary aim of the traffic court should be to impress defendants with the need for traffic law observance rather than to penalize.

THE FIX

41. Reduction of charges in traffic cases should be a judicial power and exercisable only by the judge.
42. Judges should hold police officer, prosecutor, or both, strictly accountable for deliberate attempts to weaken the case against the defendant.
43. Clerical procedure should be revised for the purpose of permitting audits, allocating responsibility and providing checks on the handling of cases before they are tried.

RECORDS

44. Traffic Judges should be furnished with the traffic record of the defendant by the police department, to be used only after deciding guilt in the present case, for the purpose of assessing the punishment.
45. Drivers' records should be state-wide for maximum effectiveness and made available through police departments to traffic courts throughout the state.
46. Traffic courts should keep daily cumulative records, broken-down by division into the common offenses, and published at least annually.

CONVICTION REPORTING

47. Bar associations and other interested groups should interest themselves, where necessary, in the problem of the failure of judges in traffic courts to report convictions as required by state law.

THE JUSTICE OF THE PEACE COURT

48. The justice of the peace system is outmoded and its plan of organization ineffective for good traffic law enforcement. It is recommended that the justice of the peace should be replaced for the trial of traffic cases by a state-wide system of regular courts with trained personnel functioning on a circuit basis from centrally located seats and under the supervision of a chief judge.

QUALIFICATIONS AND SUPERVISION

49. \*Minimum qualifications should be prescribed for candidates for the office of justice of the peace.
50. The basis governing the number and location of justices of the peace should be revised to allow the existence of a reasonable number of officers and an efficient distribution.
51. Adequate supervision should be provided, and regular inspections made of all functioning justice courts.

#### THE FEE SYSTEM AND SALARIES

52. The present fee system in use in most states as a method of remuneration for justices of the peace, should be abolished and replaced by a means of compensation not dependent in any manner upon the decision in the case.
53. Where practical, fair and adequate salaries should be given justices of the peace.

#### THE ADMINISTRATION OF JUSTICE IN THE JUSTICE COURT

54. Courtrooms should be furnished to justices in the various localities.
55. The choice or selection of a particular justice court by the arresting officer should not be permitted if the practical necessity therefor is removed.
56. The practice of taxing cost should be eliminated.
57. All justices should be furnished with, and required to keep, satisfactory dockets, financial and other records, and should be obliged to report to a county or state office at least monthly.

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\*Recommendations numbers 49 to 57 are subject to recommendation number 48.

## Appendix C

### THE CHIEF JUSTICES' RESOLUTIONS

In 1951, the Conference of Chief Justices of the State Supreme Courts reviewed the progress made in the improvement of traffic courts and found that much remained to be accomplished.

The late Chief Justice Arthur T. Vanderbilt has outlined the problem in the following manner:

"As the country became motorized it became increasingly apparent that the local criminal courts of first instance—the justice of the peace in the county and the police court in the city—were not adequately equipped to meet the situation. It is one thing for a lay judge to handle the local judicial difficulties of a sparsely settled countryside where he has known everyone in every family personally, but it is quite a different thing to administer justice locally in the same locality with a super highway running through it used by thousands unknown to him. The temptations of the fee system of paying justices of the peace and constables were bad enough before the coming of the automobile, but with its advent another racket came into existence. In the cities the police courts had sufficed in a way to dispose of the drunks and unfortunates who were caught in the talons of the law, but they create a very bad impression on the otherwise respectable citizens who are haled into court on motor vehicle offenses. What they see and hear—and sometimes smell—in these courts does not tend to create respect for law or for the judges and lawyers administering law. And people are coming to these courts by millions each year as defendants or as witnesses in traffic matters—15,400,000 as defendants in 1951—in comparison with the relatively small number who experience justice from the courts of last resort in the state house. These local tribunals collectively can do more to undermine respect for law than the appellate courts can possibly overcome, try as they will. From the judicial point of view this aspect of the work of the traffic courts is quite as significant as the necessity of curbing the constantly growing loss of life and property. Thoughtful judges and lawyers do not need to be told that our kind of government cannot exist long once respect for law is destroyed.

"It was discontent with the relatively slow pace of progress in this vital field that led the Conference of Chief Justices in 1951 to adopt unanimously sixteen resolutions concerning traffic courts. Later in the same year they were likewise approved by the Conference of Governors."

#### THE 16 RESOLUTIONS

1. RESOLVED that the local courts of first instance have greater opportunities and therefore greater responsibilities than any other courts for (1) safeguarding life and limb from automobile accidents and (2) promoting respect for law on which free government necessarily depends.
2. RESOLVED that all trial courts of first instance in the state should be fully integrated into the judicial system of the state and that wherever necessary a reorganization of the statewide system of courts should be undertaken to accomplish this objective.
3. RESOLVED that uniform procedure regulating civil and criminal practice in all trial courts of first instance within a state should be promulgated by the agency charged with the responsibility for preparing rules of procedure.
4. RESOLVED that in each state where the Chief Justice or some administrative official designated by him should be authorized to supervise the work of the trial courts of first instance, he should be authorized to collect, collate, and publish judicial statistics relating to the work of such courts and to obtain efficiency, uniformity, and simplicity of procedure therein.

5. RESOLVED that suitable courtrooms are essential to the dignity and effectiveness of local courts of first instance as they are to all other courts; that each state should by statute require suitable courtrooms of every court; that it should be the duty of an administrative judge or official in each state to supervise the work of complying with such requirements.
6. RESOLVED that trial courts of first instance having traffic and other jurisdiction should arrange so far as feasible separate sessions for the handling of traffic cases and dispose of them at a different time than other criminal business.
7. RESOLVED that each state should require the attendance of all judges of trial courts of first instance and of public prosecutors assigned to such courts at an annual judicial conference of such courts for the purpose of discussing their current problems and of being instructed with respect thereto.
8. RESOLVED that the evil of traffic ticket "fixing" should be eradicated and that a nonfixable uniform traffic violations ticket similar to those used in Michigan and New Jersey should be adopted by each state and the police be required to use it.
9. RESOLVED that it is improper for either a police officer testifying in a case or the judge hearing the case to act as prosecutor in any contested case and that in all such cases it is advisable that there should be a public prosecutor to represent the state.
10. RESOLVED that because of the increasing toll of highway accidents, trial courts of first instance should require all persons charged with moving violations to appear in court in person and the traffic judges should increase the amount of individual attention given to each case of such nature for the purpose of assessing adequate corrective penalties, and that, if necessary, steps be taken to add additional judges and prosecutors to accomplish this end.
11. RESOLVED that the police appearing as witnesses in traffic cases should receive especial training for their important task.
12. RESOLVED that the judges of local courts of first instance should be members of the bar especially trained in traffic matters.
13. RESOLVED that the judges of local courts should be selected on a non-partisan basis.
14. RESOLVED that there should be a violations bureau in every traffic court under the supervision of the judge to handle non-moving traffic offenses in order that the judge may have time to deal adequately with more serious offenses.
15. RESOLVED that fines and penalties for each offense, insofar as possible, should be uniform throughout a state and should be in proportion to the grade of the offense. Consideration should, of course, be given to the number of offenses committed by a particular defendant. In flagrant cases, or for repeated offenses, a driver's license should be suspended temporarily or revoked permanently.
16. RESOLVED that the judges of local courts of first instance have especial opportunities and therefore especial responsibilities not only in traffic cases but in the exercise of their general jurisdiction to educate the citizens in their respective jurisdictions in the necessity of respect for law and with regard to the safety and welfare of others.

## Appendix D

### IMMEDIATE AND LONG RANGE NEEDS FOR TRAFFIC COURT IMPROVEMENT

#### REPORT ON ENFORCEMENTS — COURTS

On December 9 and 10, 1957, under the sponsorship of the President's Committee for Traffic Safety, the Public Officials Traffic Safety Conference met in Washington, D. C. State, county and municipal judges and prosecutors and other public officials comprising the workshop on enforcement-courts drafted a list of immediate and long-range needs for the improvement of traffic courts. This statement, approved by the conference in general assembly, was ratified in 1958 by the American Bar Association and by the Conference of Chief Justices of State Supreme Courts,

#### IMMEDIATE NEEDS

It is very difficult to make a choice between the "immediate" and "long range needs" to achieve a desirable administration of traffic court justice. The areas selected below for consideration as immediate needs include many which may require considerable time lapse before ultimate realizations. Following are the immediate needs:

1. Recognition of the independence of the judicial branch of government by the executive and legislative branches of state, county, municipal and other local governments.
2. All traffic courts should be integral units of the state court system and, wherever necessary, a reorganization of courts for that purpose be undertaken.
3. An administrator of state courts should be appointed by the highest judicial authority in the state for the purpose of supervising and administering all traffic courts in the state.
4. Immediate implementation of the needs herein described, irrespective of the cost required to firmly establish the traffic court in the judicial branch in the governmental framework.
5. Elimination of politics from any and all activities of the judicial department.
6. Abolish court costs as an item separate and apart from fines so as to eliminate apparent revenue aspects of penalties.
7. Improvement of all court facilities including courtrooms, judges' chambers, clerical facilities and other office requirements for efficient operation of a dignified and impressive traffic court.
8. Judges should be selected on a basis which shall insure high judicial qualifications and shall, where practicable, serve on a full time basis.
9. Judicial salaries and prosecutors' salaries in traffic courts should be sufficient to attract competent and qualified persons; and the fee system should be abolished.
10. There should be mandatory annual judicial conferences for all traffic court judges and prosecutors and provisions should be made for the payment of all expenses incurred in connection therewith.
11. All courts should be fully staffed with adequate judicial, clerical and administrative personnel.
12. The recently approved uniform rules of procedure for traffic cases should be made applicable in all traffic courts, preferably by the highest judicial authority in the state.
13. The uniform traffic ticket and complaint should be adopted on a statewide basis, and that one copy thereof serve as a report of conviction or disposition.

14. More offenders charged with moving traffic violations should be required to appear in court.
15. Bail schedules should be uniform among courts in the same county or over any larger judicial district.
16. Provisions should be made in bail schedules for use of drivers license in lieu of cash bail at the violator's option, the receipt issued therefor to indicate the date set for court appearance and to act as evidence of the existence of a valid driver's license.
17. Greater attention should be given to maintaining a high standard of decorum in all traffic courts.
18. The judges of all traffic courts should adopt a method of informing defendants of their rights in court and the procedure to be followed through opening remarks in court, individual instructions to defendants, or the printing and distribution of a pamphlet on this subject.
19. That legislation be enacted, wherever necessary, permitting the trial in the traffic court of all juveniles possessing a drivers license without interfering with any jurisdiction of existing juvenile traffic courts.
20. Failure to answer or appear in traffic court should be grounds for suspension of drivers license until such time as a response is made in court for such default.
21. That legislation providing for suspension of drivers license be incorporated as an additional remedy available to traffic courts for traffic violations other than non-hazardous violations.
22. That all traffic violations bureaus established under authority other than the traffic court judge's be abolished and re-established under the exclusive jurisdiction of the traffic court judge.
23. Each city and state should utilize technical assistance and guidance in their effort to improve traffic courts.

#### LONG RANGE NEEDS

1. That the highest judicial authority in every state should deliver an address, similar to the Governor's message, to each legislature in joint session on the "State of the Courts and the Administration of Justice."
2. That a similar opportunity be given to the highest judicial authority in every county and in every municipality to appear before the appropriate legislative body and present the needs of their particular courts.
3. Increasing the jurisdiction of all traffic courts, wherever necessary, so as to consolidate the trial of all traffic cases in one court for both state and local offenses.
4. The elimination of overlapping jurisdiction of traffic courts as to traffic offenses by granting a "court of record" status to all traffic courts.
5. Creation of a statewide system of traffic court schools which will be readily available to every traffic court judge within each county or other subdivision of the state.
6. Proper corrective penalization requires the ready availability of records of prior convictions, both on a local and on a statewide basis.
7. Modern business machines and methods should be utilized wherever practicable by all traffic courts, with careful consideration being given to the preservation of adequate original court records.
8. That fact finding studies be undertaken on the effectiveness of present fines and penalties as to their corrective value, the proper use of probation, court supervision, and handling of repeater violators.
9. That surveys be made as to relative costs of operation of traffic courts serving similar population and areas so that they may be readily compared.
10. Minimum and maximum penalties should be established for all traffic violations and legislation establishing mandatory rigid, fixed fines or penalties should be repealed.

11. Every session of all state, county, and municipal legislative bodies, aided by interim study commissions or committees, should consider traffic court and highway safety problems.

Many of the aforesaid can be quickly incorporated into present traffic courts through administrative acceptance. The few requiring legislative action are non-controversial in most instances. Sympathetic citizen support for these immediate needs would greatly accelerate their adoption.

# Appendix E

## PRESIDENT'S COMMITTEE FOR TRAFFIC SAFETY

### ACTION PROGRAM 1961

#### TRAFFIC COURTS SECTION

APPROVED DECEMBER 14, 1960, WASHINGTON, D.C.\*

#### RECOMMENDATIONS

It is recommended that:

1. The National Standards for Improving the Administration of Justice in Traffic Courts should be applied by every state and municipality.
2. All traffic courts should be integral units of the judicial system of each state and, wherever necessary, a constitutional or legislative reorganization of courts for that purpose be undertaken.
3. The judges of traffic courts should be selected on a non-partisan basis under a method which should ensure high judicial qualifications, and the judges should serve full time, with adequate security as to tenure.
4. The highest judicial authority in each state should appoint an administrator of state courts, with duties specifically including supervision and administration of all courts trying traffic cases in that state. The Model Act for a State Court Administrator should be used as a guide.
5. Each state should adopt, preferably through the highest judicial authority in the state, uniform rules governing procedure in traffic cases which should apply to all courts trying traffic cases.
6. The Model Uniform Traffic Ticket and Complaint should be adopted on a statewide basis, and one copy should serve as a report of conviction or disposition. All enforcement agencies within the state should be required to use the model form.
7. The salaries paid to traffic court judges and prosecutors should be equal to those of trial courts of general jurisdiction.
8. The fee system for compensating judges and justices of the peace should be eliminated and, in its place, a salary system should be provided.
9. All judges, whether lawyer or laymen, should be subject to the Canons of Judicial Ethics and adequate provisions should be made for disciplinary action against judges where justified; and the removal and retirement provisions of trial courts of general jurisdiction should be made applicable to traffic courts.
10. Courts of Record status should be provided for all traffic courts.
11. It should be mandatory for all traffic court judges and prosecutors to attend annual judicial conferences, and adequate provision should be made for the payment by local, county and state governments of all expenses incurred in connection therewith.

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\*The recommendations were approved by the ABA House of Delegates, February 20, 1961.



12. Each state should staff all courts fully with adequate judicial, prosecution, clerical, and administrative personnel.
13. All offenders charged with moving hazardous traffic violations should be required to appear in court and answer the charge in person.
14. All state, county and local governments should eliminate budgetary practices calling for an estimate of anticipated revenue from the handling of traffic cases. The actual revenue derived from traffic fines and forfeitures for the prior fiscal year should take the place of such estimates.
15. The American Bar Association should continue to assume major responsibility for the national program to improve traffic courts and accelerate its activity in this behalf.