

Denver Law Review

Volume 31 | Issue 2

Article 3

June 2021

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Recommended Citation

Robert B. Keating, Lawyers Work towards Traffic Court Improvement in Colorado, 31 Dicta 61 (1954).

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LAWYERS WORK TOWARDS TRAFFIC COURT IMPROVEMENT IN COLORADO

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The United States since the adoption by the American Bar Association in 1942 of the 57 recommendations for improving traffic courts, based on the Warren Report,¹ has been witnessing a great "reform" movement relative to the administration of justice through the traffic court system. Throughout the country the public and the lawyers have been demanding improvements in court procedure and general operation of the courts. The increase in the use of the automobile and the number of people behind the wheels of the vehicles has necessarily given rise to increased activity in the traffic court field. The American Bar Association, state and local bar associations have been devoting considerable time in working with the National Safety Council, the Automotive Safety Foundation and local safety organizations interested in highway safety and traffic court administration. The lawyers through their associations have helped to pinpoint the deficiencies existing in our traffic court system.

Colorado has been recognized as one of the forerunners in traffic court improvement and highway safety. The traffic court committee of the Colorado Bar Association can take pride in its work during the past few years.

In 1944 Colorado held one of the earlier state-wide traffic conferences, followed by sectional meetings in each judicial district in the state except Denver. The Colorado Bar Association was one of several sponsors of these conferences. In 1951 Governor Dan Thornton, with the assured assistance and cooperation of the American Bar Association, Colorado Bar Association and the University of Colorado School of Law and other organizations interested in improving highway traffic safety and traffic courts, called for a state highway safety conference to be held in our state and to be known as the Governor's Highway Safety Conference. A conference of this sort was held in 1951 and as a result of this conference twenty-five recommendations relative to traffic court improvement were made. In submitting these recommendations it was felt that the inauguration of any one or series of them would help to modernize the administration of justice through our traffic courts. It was recognized that in Colorado we have various types of traffic courts, namely the justice of peace, police magistrates', and municipal traffic courts and that many of the suggestions were not amenable

¹ George Warren on "Traffic Courts" published by National Conference of Judicial Councils in 1942.

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to use under each system. The recommendations of the 1951 conference were as follows:

1. That corrective punishment should be designed to deter individual violators and impress the need for voluntary observance.

2. That flexible standards within minimum and maximum limits as opposed to set penalties are recommended.

3. That juvenile violators should be tried by traffic courts except where a behavior problem is involved. (The issuance of a driver's license to a juvenile carries with it the same responsibilities as the issuance of a driver's license to any other person.)

4. Driver licenses should be suspended or revoked on recommendation of the court as an additional penalty.

5. That trial judges be permitted to require the surrender of driver licenses not only in cases where a mandatory revocation is required but also in all other cases where in the opinion of the trial judge it shall serve the public interest to deprive said person of his driving privileges and to submit said driver's license to the Department of Revenue, and the Department of Revenue hold a hearing as in all other cases of driver license suspension and revocation and said suspension shall commence upon final conviction.

6. That the courts should use accident records and statistical data for the education of violators; and where feasible use traffic schools. Corrective penalties by the court should be made to fit the individual as well as be adequate for the violation.

7. That traffic cases should be tried separately from other court business.

8. That physical courtroom conditions should be improved in order to obtain dignity and impressiveness in the surroundings.

9. That court costs should be included as a part of the total judgment assessed against the violator and that written receipts should be delivered upon payment.

10. That a law school in the state in cooperation with the American Bar Association and the Traffic Institute of Northwestern University conduct a traffic court conference for judges and prosecutors in the immediate future.

11. That all Justices of the Peace be required to attend a conference at the call of the governor at least once in each year and that the expenses for participation therein be defrayed by the individual counties.

12. That traffic court violation bureaus be organized wherever necessary for the purpose of handling parking and standing violations only.

13. That the Penalty Assessment System operated in the State of Colorado is unique in the United States and that it should be continued; steps, however, should be taken to provide increased penalties for repeaters.

14. That all violators of traffic laws be required to appear in open court at a stated time and place to answer the violation upon written, formal charges.

15. That failure to appear to an original summons or citation by the court or official shall be a separate violation requiring the assessment of additional penalty.

16. That in addition thereto that if said failure to appear in answer to an original summons or citation by the court or official shall be for more than 30 days that then it shall call for immediate suspension of the driving privileges by the State Motor Vehicle Division and that said suspension shall remain in full force and effect until the violator has appeared in response to the original summons or citation and that all traffic citations be required to contain information of this additional penalty.

17. That standards of dignity in the conduct of traffic courts should be raised.

18. That each traffic charge should be tried separately.

19. That prior to receiving and entering the plea of violators that the judge or other court official should read the complaint to the violator and the judge should state instruction as to the nature of the plea of guilty and plea of not guilty and the penalties that may be assessed under the violation charged and also that the defendant be instructed as to all his legal rights.

20. That court room procedure should be uniform throughout the state and that the attorney general be asked to prepare and publish a manual for that purpose; that said manual be delivered at state expense to each traffic court judge now in office and to all newly elected and appointed judges hereinafter appointed and elected and duly qualified.

21. That there is need for legislation prohibiting fixing or attempts to fix traffic charges or secure reduction therein and that adequate penalties be provided for the violation thereof.

22. That the defendant's previous traffic record be brought by the prosecuting official to the attention of the traffic judge after the determination of guilt and before judgment or sentence.

23. That all courts report all moving traffic violation convictions to the State Motor Vehicle Division.

24. That the appointment, nomination and election of traffic court judges should be based on merit and fitness. That all political parties be earnestly requested to use more care, where required, in nominating qualified persons for judicial positions. That adequate salary be provided for all judicial officers so that qualified persons may be willing to serve.

25. That qualified judges are needed to handle traffic cases, and all traffic courts, rural and urban, should be supervised on a state-wide basis by the chief justice of the highest appellate court of the state.

One further recommendation was that a state-wide traffic court conference be held dealing solely with traffic courts. The 1951 conference was not limited to traffic courts but included matters dealing with enforcement, education, engineering and motor

vehicle administration, as well as ordinances and court administration.

In March of 1952 a Governor's Traffic Court Conference was held in Denver, Colorado, and was the largest meeting of the kind ever to be conducted in any state with the exception of the state of New Jersey. Working with the Colorado Highway Safety Council and the University of Colorado School of Law were the American Bar Association, Colorado Bar Association, Northwestern University Traffic Institute, the State Association of County Commissioners, the Colorado Municipal League, the State Association of Sheriffs and Peace Officers, and the State Association of Justices of the Peace, Police Magistrates and Constables and the seven state departments represented on the State Highway Safety Council.

The activities of the state traffic court conference included a demonstration of a model procedure for traffic courts. From a prepared script, representatives of the participating associations dramatized the correct procedure, following as nearly as possible the twenty-five recommendations submitted by the 1951 conference. It was during this conference that the Colorado State Model Traffic Ordinance was discussed with those in attendance, resulting to date in the adoption of the model ordinance by 56 cities in Colorado. The conference discussed the question of the proper penalty to be assessed in various violations taking into consideration the views of judges, enforcement officers, prosecutors, defense attorneys and members of the lay public.

It was recognized that all judges, law enforcement officers, attorneys and members of the citizenry interested in traffic court improvement could not travel to Denver to attend the conference, so it was recommended that sectional conferences be planned, organized and conducted by representatives of the participating organizations and agencies in various parts of our state.

The sectional traffic court conferences were held in Sterling, Colorado, on July 8, 1952, and on eleven subsequent days in other cities of the state geographically situated so that anyone could participate in a traffic court conference without having to travel any great distance. Each sectional conference followed a well defined program. Panel discussions were held on current traffic court problems in the particular area and on what was being done to correct similar problems throughout the state, cooperation between the motor vehicle department and local authorities, and the success of the use of the Model Traffic Ordinance. In all of these discussions the experiences and opinions of members of the bar were considered and used in formulating plans for changes and improvements.

As a result of many judges attending the conferences the Colorado Association of Justices of the Peace, Magistrates and Constables called a conference of its own to analyze the problems facing them, taking into consideration all of the problems, deficiencies and recommendations brought out in the section conferences

and the governor's conference. The practicability and feasibility of carrying out the recommendations of all the conferences was discussed in light of the various forms of traffic courts used in Colorado. Each judge was able after the meeting to return to his own county, precinct or city and see if many of the glaring problems could be remedied, with the thought of reporting at the next meeting after a certain "trial" period.

It was determined that a Governor's Highway Safety Conference would be held every two years, thus giving ample opportunity to try out the recommended changes and giving sufficient time to re-examine the problems in the particular locale. It was also felt that in between the conferences the various associations should begin to formulate definite plans and study groups in preparation for the next conference.

The Governor's Highway Safety Conference for 1953 was held in June in Denver and approximately 800 people registered including lawyers from various parts of the state. Many recommendations were made by the various sections and those dealing directly with traffic courts were as follows:

1. It is recommended that the Model Traffic Ordinance for Colorado Municipalities be adopted by the city council or board of each town, city or municipality in the state of Colorado.

2. It is recommended that the Colorado Bar Association and the Colorado Associations of Justices of the Peace, Magistrates and Constables cooperate in the preparation of a guide leading to a more uniform system in traffic fines and penalties.

3. It is recommended that the Colorado State Legislature revise and amend the state statutes relating to the justice of the peace court costs.

4. It is recommended that the state statute relating to mandatory revocations of drivers' licenses be amended to permit the director of revenue to exercise his discretion in cases of first final conviction of driving while under the influence of intoxicating liquors.

5. It is recommended that the tenure of office of the county sheriffs, justices of the peace and constables be changed to four years. It is also recommended that the salaries and working conditions of county sheriffs, justices of the peace, city police officers and constables be adjusted so as to be commensurate with those of business and industry to the end that qualified personnel may be induced to remain in law enforcement service.

6. That consideration be given to delegating to the judiciary the power of revocation and suspension of operators' and chauffeurs' licenses of persons convicted of violations of motor vehicle laws and ordinances.

The 1953 Governor's Traffic Court Conference was held in Denver on November 18 and 19. This conference was sponsored by those who sponsored the original conference in March of 1952. The conference was well attended by enforcement officers, judges, district attorneys and county attorneys. Very few lawyers, though,

participated in the conference, except those representing some law enforcement agency. One of the most interesting panel discussions was the one dealing with the topic "Interrelations between Traffic Courts and Enforcement Officers." Representatives of the Denver Police Department, Colorado Bar Association, Colorado State Patrol, justices of the peace and municipal traffic judges discussed the proper place of the law enforcement officers and their relation to the traffic judges.

There were other panel discussions dealing with the question of whether all moving violations should be tried before a judge, or whether the traffic violations method of assessing a penalty should continue to be utilized, also another panel on the "Proper Penalty to be Assessed in Traffic Court Cases." James P. Economos of the American Bar Association once again directed a demonstration of the model traffic procedure to be used in a traffic court. Two national figures in traffic safety and traffic court improvement addressed the conference on traffic law enforcement and the court's role in the education of the traffic violators. Mr. Franklin M. Kreml, Director of the Traffic Institute of Northwestern University, praised the State of Colorado for its excellent traffic law enforcement and the decrease in the number of accidents and fatalities. Mr. Economos discussed how the traffic judge can serve as an instructor for the people coming before him to answer to charges of violating the traffic laws of the city or the state.

Once again this conference passed on several recommendations as a result of the discussions and addresses presented during the two day conference. Among the more important resolutions passed were the following:

1. That a series of regional conferences patterned after the Governor's Traffic Court Conference be held during the summer of 1954 in various parts of the state.

2. That serious consideration be given by cities of Colorado in adopting the Uniform Traffic Ticket and the Model Traffic Ordinance.

3. That the statute relating to mandatory revocation of driver's license be amended to permit discretion to be exercised by the State Motor Vehicle Department after considering the recommendation of the judge in cases of first final conviction while driving under the influence of intoxicating liquors.

4. That traffic violators' schools be established by municipal and justice courts wherever possible.

5. That local school boards and their superintendents make traffic safety education courses compulsory in all secondary schools throughout the State of Colorado.

6. That a guide be prepared to assist judges and magistrates to more uniformly assess traffic fines and penalties.

7. That the Traffic Court Conference favored legislation by the General Assembly limiting the jury in the county court appeals from municipal courts to passing only on the question of guilt

or innocence, reserving to the trial judge the imposition of the penalty in the event of conviction.

8. That the fee system of paying justices of the peace be abolished, and that a salary be substituted therefor in an amount commensurate with the duties and responsibilities of the office and comparable to the earnings of those in business and industry who bear like responsibilities.

9. That the tenure of office of justices of the peace be four years.

10. That the state legislature revise and amend the statutes relating to justice of the peace fees to the end that a flat fee shall remain in all cases of like nature filed in justice courts throughout the state.

The success of the regional conferences will depend on the number of participants and the divergent groups represented. All lawyers and members of the bar association will be invited to attend and participate. Audience participation is encouraged, and portions of time at the end of each panel will be set aside for discussion and questions from the audience. The lawyers of the state can be of great service to their community and to their profession by attending these regional conferences and giving those in attendance the benefit of their experience and knowledge. Each attorney has an obligation to attend the conference and help bring about the needed changes in our traffic court system. The lawyer knows best of all what improvements must be made, particularly the lawyer who practices in and around his own community, for it is the attorney, who in trying to represent his client meets the deficiencies and laxities which detract from the successful administration of justice through the traffic courts of our state. The general public, the law enforcement agencies, the judges and the attorneys of this state cannot help but prosper from these conferences.

THE JOLLY TESTATOR WHO MAKES HIS OWN WILL

Ye lawyers who live upon litigants' fees,
 And who need a good many to live at your ease;
 Grave or gay, wise or witty, whate'er your degree,
 Plain stuff or State's Counsel, take counsel of me:
 When a festive occasion your spirit unbends,
 You should never forget the profession's best friends;
 So we'll send round the wine, and a light bumper fill
 To the jolly testator who makes his own will.

—Lord Neaves (c. 1865)