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INTEGRATED AND UNIFORM TRAFFIC COURTS

JAMES P. ECONOMOS*

The vital importance of highway safety has in recent years been brought before the public eye by the publication of statistics on highway accidents, injuries, and death; but its control through a properly organized traffic court system as a preventive factor in highway accidents is a facet that has been given little attention. The purpose of this article is to stimulate interest in the integration of traffic courts into the judiciary system and in a uniform system of traffic courts and traffic procedure, both of which will facilitate the administration of justice.

THE NEED FOR INTEGRATION AND UNIFORM TRAFFIC COURT PROCEDURE

“Judicial orphans” aptly describes most of the nation’s courts with jurisdiction over traffic offenses. These courts are expected to perform as efficiently as other segments of the judiciary, yet they are seldom admitted within the judicial family circle. Improvements legislatively bestowed on courts of general jurisdiction are withheld or unduly delayed as to courts with limited jurisdiction. Executive interference, all too frequent in local traffic courts, is seldom experienced in other courts.

There is a prevailing public attitude that no professional ability is required of a traffic court judge. Furthermore, many believe that it is not essential that the traffic court judge have the aid of qualified court personnel or regularly available prosecutors. Oftentimes an unwanted portion of the city or county building or police quarters serves as a courtroom. In many instances no quarters are furnished, and the funds provided are grossly inadequate. The reason for this apathy and the inadequate provisions is the failure of the public and government officials, both legislative and judicial, to recognize the important function in local government and public safety that a properly organized traffic court system would serve.

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There are a number of evils that result from the lack of uniform traffic procedures. For example, one of the causes of dissatisfaction with traffic courts is dissimilarity in procedure within the same state or within a particular district. Another is the seeming disparity among the size of fines and the severity of other penalties imposed by different judges for apparently similar traffic offenses. Some courts place emphasis on one type of traffic offense, while others minimize that offense and select another violation for emphasis. Some judges treat each case with particularity; some do so only when time or mood permits; and others treat all cases with apparent indifference.

These conditions continue to exist in many states even when opportunities are afforded the judges to meet in judicial conferences devoted to the specialized work of these courts. Those who attend and participate in the exchange of views have stated that they are richly rewarded. But, just as sinners are rarely found listening to sermons, judges in need of improving their judicial procedures rarely attend conferences designed to foster a more efficient judicial administration.

Unfortunately, many judges genuinely interested in improving the traffic court system find road blocks in their paths. In many instances municipal authorities are slow to effect the changes requested by the courts. On the other hand, some judges prefer not to interfere with their own status quo. Some have created an impenetrable wall to persuasion from associate judges and others interested in improvement by building a mental barrier to the idea of change. A few exhibit temperamental unfitness to cope with the traffic docket or even to sit in judgment over traffic violators. Judicial independence over purely procedural matters has been carried to extremes that threaten the American concept of justice in this area of judicial administration.

It is remarkable that public dissatisfaction has not been even greater in view of the number of traffic judges who do not possess the training or background necessary to the proper performance of their duties. Perhaps this indifference may be attributed to a failure to recognize that a lack of qualifications results not only in inferior performance by the particular judge but is also an important contributing factor in bringing about a greater number of traffic accidents.

With the growth of the country's population and the development of extensive suburban areas, many new courts have been created. Some of the judges in suburban areas have tended to follow the procedures set by the judges who sat in the courts that existed when the city was only a small community. In some cases the old procedures have

been readily adapted to the changed environment, but more often the attempt has failed, as would an effort to fit a square block into a round hole.

Before the recent growth of suburban areas, accelerated by World War II and the Korean conflict, the phenomenon of inferior traffic court procedures existed; but the problem had not grown to a magnitude sufficient to attract any great degree of public concern. In view of the appalling rise in the number of traffic accidents and fatalities in recent years, however, it is essential that immediate steps be taken to codify traffic court procedure and integrate traffic court judges with the judiciary. If these goals are reached, the present laxity in the enforcement of traffic laws, a factor that bears a direct relation to the sharp increase in traffic accidents, will be greatly reduced.

RECOGNITION OF THE PROBLEM

Fifteen years ago the American Bar Association made available a plan that would enable traffic judges to improve the administration of justice within their courts.¹ Although considerable progress has been achieved since that time, it has not met the expectations of the drafting committee. One encouraging factor is the support for the American Bar Association standards for improving traffic courts received from such sources as the National Conference of Judicial Councils, National Safety Council, International Association of Chiefs of Police, and the President's Committee for Traffic Safety.² Their actions manifest recognition of the fact that such an improvement would not only improve the administration of justice but would also be a key to securing greater respect for traffic laws and their enforcement.

The need for an expanded American Bar Association Traffic Court Program has been augmented by support through grants from the Automotive Safety Foundation, Association of Casualty and Surety Companies, Allstate Safety Foundation, Farmers Insurance Group Safety Foundation, Liberty Mutual Casualty Company, Bureau of Public Roads, and Illinois Agricultural Association. The intense interest of these organizations in highway safety has also stimulated the layman's interest in court administration and procedure. Through

¹65 A.B.A. REP. 337 (1940).

²For local organizations that have aided throughout the country see Economos, *The National Program of State Traffic Court Conferences*, 28 J. AM. JUD. SOC'Y 56, 58 (1944).

the efforts of these organizations the public is becoming increasingly aware of the tragic results arising from lax traffic law enforcement.

Traffic court judges have been encouraged to follow the American Bar Association standards through traffic court conferences held at law schools throughout the country.³ Court studies and surveys have stimulated other improvements in individual courts.⁴ In 1948 the American Bar Association began making awards to cities achieving notable progress in traffic court procedures.⁵ Since that time more than seventy cities have qualified for awards.

Despite all of this activity, there are too many barren areas in this vitally important arm of judicial administration. All that has been accomplished is the creation of a few isolated judicial oases within each state. Far too many of the judges who have espoused the program have found that their fellow judges have no desire to follow their admirable lead and have encountered a disturbing lack of judicial kinship.

LEGISLATIVE AND JUDICIAL ROLES IN INTEGRATION

At least as far as inferior and inefficient traffic court procedures are a factor in the over-all problem of reducing traffic deaths and injuries, integration and uniform procedures provide a feasible solution. The motivating forces should come from two sources — the legislature and all members of the judiciary.

The Legislative Role

Unless the rule-making power is deemed to be an exclusively judicial function, the primary impetus in establishing a uniform traffic court system within a state should come from the legislature. Practically speaking, one reason is that the legislature dictates the disbursements from the state treasury. There are a vast number of other modes, however, by which legislative control may be exercised.

The most important legislative power over the courts is rooted in the very existence of the courts. The legislature is vested with authority to create and abolish courts other than those specifically provided for

³E.g., Florida Traffic Court Conference, Gainesville, Fla. (Mar. 1955).

⁴These studies have been made in Atlanta, Ga.; Bay City, Mich.; Hartford, Conn.; Los Angeles, Cal.; New Orleans, La.; Saginaw, Mich.; St. Paul, Minn.; Shreveport, La.; and in the states of Arizona, Indiana, and North Dakota.

⁵73 A.B.A. REP. 365 (1948).

by the constitution of the state. A coordinate power inherent in the authority to create courts is the power to consolidate or integrate the court system. This will be discussed in more detail later. Since the legislature has the power to establish courts, it also has the power to make provisions, generally or specifically, for court facilities.

The legislatures are vested with the power to prescribe the type, limit, and extent of jurisdiction of the various established courts. The legislature may designate the type of controversy, both civil and criminal, that shall fall within the jurisdiction of a particular court. Since the legislature has the power to create a court, it follows that it must also possess authority to prescribe territorial limits and situs.

Courts could not operate without personnel. The authority to designate the method of selection of personnel, including judges, clerks, and prosecutors, is vested in the legislature unless otherwise provided by the constitution. The selection may be by election, nomination by committee, or appointment by an executive officer or one acting in an executive capacity.

Unless the rule-making power is deemed to be exclusively a judicial power, the legislature has at least concurrent if not exclusive power to establish rules of procedure by which the various courts of the state shall operate. This is a vitally important function, because the established courts may operate only as effectively and efficiently as their rules of procedure permit. Inadequate rules of procedure or a lack of uniform rules may well cripple the effectiveness of a court.

It is apparent that the legislatures are vested with a vast amount of control over the courts. The first step in providing integration of the traffic courts with the rest of the judiciary should be taken by the legislature. If a unified judiciary is to be created, it will be carried out in most states through legislative action.

Regardless of the manner in which the rule-making power must be exercised in a particular state, it is obvious that there is an urgent need in every state to follow the leadership of the Supreme Court of New Jersey in promulgating uniform rules of procedure for traffic courts.⁶

The Judicial Role

The judiciary's part in integration is twofold. If the supreme court within a particular state is deemed to possess the inherent power

⁶N.J. STAT. ANN. c. 229 (1949).

to promulgate integration rules, a proper study should be made and uniform rules for traffic court procedure formulated. If the highest court does not possess the power to promulgate such rules, the judiciary can do its part by recognizing the traffic judge as a part of the judicial system. Integration in this respect is a state of mind, a sense of belonging to the judicial family. Each judge should feel that he is a part of the judicial system and not stranded on a judicial island.

Centralized Control as a Factor in Integration. Chief Justice Arthur Vanderbilt has listed eight criteria for specific forms of centralized control of judicial administration:⁷

"First, the power to assign a judge to specialized duties such as domestic relations, juvenile offenders, small claims, and the like;⁽⁸⁾ second, to assign a judge to another court than his own to equalize work; third, to assign a judge's cases to some other judge to equalize the dockets; fourth, to prescribe the character and manner in which the judge shall keep his records; fifth, to require the judge to make periodical reports on the work of his court; sixth, to appoint the personnel of the judge's court (jury commissioners, clerks, bailiffs, and the like); seventh, to direct how the personnel of the judge's court shall do their work; and, eighth, to centralize and delegate the administrative and business management of the financial affairs of the Judicial Department."

The federal courts and the States of New Jersey, California, Maryland, Missouri, and the courts in the District of Columbia have carried out most of the above reforms.⁹ Even in these jurisdictions, however, the judges who try traffic cases are still considered to be outside the judicial family circle. The State of New Jersey, by instituting a uniform traffic procedure, has done more to bring the traffic court judges into the judicial fold than any of the other states mentioned.¹⁰

Chief Judge Orie Phillips of the United States Court of Appeals for the Tenth Circuit has stated:¹¹

⁷VANDERBILT, *MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION* 34-35 (1949).

⁸Traffic courts should be included within the centralized control of judicial administration.

⁹VANDERBILT, *MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION* 57-64 (1949).

¹⁰N.J. STAT. ANN. c. 229 (1949).

¹¹*Better Court Administration . . . A Challenge to the Bench and Bar*, 39 J. AM. JUD. SOC'Y 9 (1955).

"Efficient and competent court administration cannot be accomplished by the efforts alone of individual judges. An important basic requirement is an integrated and co-ordinated judicial system in which each judge has and feels a responsibility for the accomplishment of the judicial system as a whole."

While it is important that all judges acquire a sense of responsibility, it is in many respects even more important that the judges of the traffic courts, who annually meet more citizens than all of the other courts combined,¹² should have a sense of responsibility to each other and the judicial system of which they are a part. Just as there should be no superior and inferior grades of justice,¹³ there should be no discrimination between traffic courts and other courts.

Traffic court judges should be selected according to the same standards of training, temperament, character, integrity, and ability that are used to select members of other branches of the judicial structure. If judges of other courts were periodically assigned to traffic courts the experience and knowledge gained would lead to a greater understanding of the problems of these courts. In addition, it might afford an opportunity for constructive suggestions for improving the traffic court system. The practice in England of having the judges of the highest jurisdiction sit in Old Bailey was founded on sound principle. This simple device of transferability of judges from one court to the other would create a firmer sense of belonging to the judicial family.

It is strongly recommended that state legislatures consider the feasibility of attaining this desirable objective of integration and interchangeability of judges, particularly on the trial court level. Congested calendars in metropolitan areas might be cleared more quickly if judicial manpower presently available in courts with less crowded dockets were assigned cases from the overcrowded ones. In states in which the governor appoints judges to the bench, the system would provide an opportunity to evaluate the qualifications of judges sitting in the trial courts of limited jurisdiction. This information could be used in determining promotions to higher courts.

If the transferability of traffic court judges were found to be feasible,

¹²Approximately 20,000,000 traffic violations were reported in 1954 by 1,016 cities filing reports in the Annual Inventory of Traffic Courts conducted by the A.B.A. Traffic Court Program.

¹³See Frost, *The Traffic Court Improvement Program*, 33 J. AM. JUD. Soc'y 166, 167 (1950).

great value would be derived from the practice. The judges with crowded dockets would have an opportunity to devote more individual attention to each case. They would have time to explain the grounds for their decisions and would be afforded an opportunity to apply corrective penalization. Even though the existence of the power of transferability of judicial manpower would not always result in its exercise, the mere presence of that power would eliminate some of the isolation presently existing both among the traffic judges themselves and between traffic judges and the other members of the judiciary.

The full benefit of legislative action to secure integration and unification must be implemented by supervisory authority vested in the chief justice of the supreme court or some other central authority. This requires the establishment of a state administrative officer of the courts. This office has been established in Colorado, Connecticut, Idaho, Iowa, Louisiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, and Virginia. Puerto Rico has also established an administrative director of courts. In spite of this progressive step, most of these jurisdictions have not put the trial courts of limited jurisdiction, such as traffic courts, under the administrator. In one instance the legislative authority specifically excludes the exercise of the powers of this office with respect to courts of lesser jurisdiction. In other states the only contact with traffic courts is found in the requirement that they submit statistics. The argument against the inclusion of inferior courts within the group is that the courts comprising the broad base of the judiciary in any state are so numerous that it would require large expenditures of public funds to operate the administrative office. The cost should not be a stumbling block to a reform that would greatly enhance the potentialities of this office. Through this office disintegration would be eliminated and greater uniformity would be obtained because of uniform requirements pertaining to dockets, case records, periodic reports, and assistance in supervising the work of personnel assigned to the courts. There would also be a welcome elimination of the necessity for individual attention to many routine details of a nonjudicial nature, such as budgeting, purchasing, appropriations, and other business housekeeping duties. Judges would be free to devote their efforts to matters judicial in nature. To complete the cycle, however, it is necessary that the chief justice of the supreme court or an appropriate judicial agency, through exercise of the inherent power existing in courts to regulate procedure, create an efficient and uniform pro-

cedure in all of the courts in the state. Because of the tremendous volume of cases, this is particularly important in courts with traffic jurisdiction.

There is no apparent reason why courts should wait for statutory authorization to exercise the rule-making power unless there is an express constitutional prohibition or restriction against such an exercise.

Many constitutions provide for some form of supervision over inferior courts. This authority, coupled with the rule-making power, should be sufficient authorization for the promulgation of uniform rules of procedure for traffic courts. In most states reluctance on the part of the supreme court to exercise these powers has led to the need for a legislative declaration of the existence of the inherent power in the court, particularly with respect to rules governing procedure over other courts.

SUGGESTED RULES OF TRAFFIC PROCEDURE

It is not within the scope of this article to cover in detail the content of traffic court rules,¹⁴ but a few of the major areas which should be encompassed by the rules will be suggested.

Simple, flexible, uniform rules of procedure for traffic courts correspond to the rules in any contest. They serve as advance notice of what is expected of all who participate in the game. The judge corresponds to the referee or umpire. His association with the preparation of the general rules should not interfere with his interpretation of their application to specific situations. Any unforeseen harshness is compensated through escape clause provisions to avoid injustice. There is nothing in the promulgation of uniform rules of procedure that denies any judge his right of judicial discretion. There is nothing that encroaches on his duty of endeavoring to arrive at the proper conclusions after hearing all of the evidence. Uniformity of procedure in traffic courts would furnish security to citizens in that, no matter what their cause or their defense, the same rules of procedure would prevail. They would receive similar treatment at the hands of the judges in any part of the state. If an accused were found guilty, a reasonable standard of punishment—one not subject to the in-

¹⁴For a more detailed discussion of needed inclusions in a uniform traffic court system see Warren, *A Proposed Traffic Court System*, 28 J. AM. JUD. SOC'Y 25 (1944); 65 A.B.A. REP. 337 (1940).

dividual idiosyncrasies of the administering magistrate — would be imposed.¹⁵ Uniform rules should cover the entire field of procedure and should be phrased in terms sufficiently broad that they may be applied even with the presence of factors peculiarly of a local nature. Traffic court rules should be integrated into the general rules of criminal procedure of the jurisdiction if such have been promulgated.

Uniform traffic court rules of procedure should provide for hearings to be held at designated times during the day or week, to be determined by local authorities in regard to the area demand. The rules should also provide that an appropriate centrally located place of hearing be designated by the local authorities. The designation of a time and place should be left to municipal or county authorities so that adaptations could be made in conformity with existing needs and conditions. A public prosecutor or attorney should be provided as well as a clerk. The latter should have the duties of keeping court records and a trial docket and summoning witnesses.

Jurisdiction of the court should be invoked by the issuance of a traffic ticket or complaint. If the public attorney believes the information on the complaint to be insufficient, the arresting officer should be required to file a supplemental report. The magistrate should be authorized to issue a warrant for apprehension of the defendant in proper cases.

If the case goes to trial the defendant should be arraigned and, except in minor traffic violations, be granted such preliminary hearings as may be necessary. The magistrate should be vested with the power to summon witnesses and punish for contempt. The trial should be conducted in an orderly manner and the defendant given the opportunity to present his case.

In some areas the number of cases that regularly come before the court will make it impossible for the court to dispose of them in a proper fashion. Optional provisions should be made for the establishment of a violations bureau, which would set standard fines for various traffic offenses. When a defendant pleads guilty, his punishment would be prescribed by these standards. The authority of the violations bureau, however, should not extend to major traffic violations.

Punishment of traffic offenders, except in violations bureau cases, should not be based on a set standard but should be flexible within

¹⁵Canon 21, CANONS OF PROFESSIONAL ETHICS OF THE AMERICAN BAR ASSOCIATION.

defined limits, leaving discretion in the traffic magistrate. Provisions should be made for more stringent punishment of repeating violators. All punishments and fines, however, should be only complementary to the ultimate goal of the traffic court — discouragement of violations of traffic laws.

The defendant, if found guilty, should be provided with a right of appeal to a court of higher rank in the judicial chain of command.

Uniform rules of procedure should be augmented by administrative rules covering the many phases of the nonjudicial aspects of the judge's duties. These aspects include the financial operations of the court in regard to collection of fines, penalties, and forfeitures; disbursements and distributions of revenue; control over dockets and case records; preparation of periodic reports; use and maintenance of courtrooms; control over clerical personnel; and submission of reports and records to the chief justice or the state court administrator, if such an office is established. Although the implementation of extensive administrative rules in this area may not seem essential, it must be realized that a statewide judicial establishment is in a sense big business, and the keeping of proper and accurate records at all levels of the judicial hierarchy is just as important to the judicial establishment as it is to a business enterprise.

The legislatures and supreme courts should combine their efforts to secure the enactment of the needed legislation and the promulgation of uniform rules of traffic court procedure. Although additional government expenditures will be incurred if a system is set up properly, the money will be well spent if it results in a better brand of justice and a saving of many lives that would otherwise be lost. Integration and uniformity are the answers.