

U.S. DEPARTMENT OF COMMERCE
National Technical Information Service

PB-254 733

Administrative Adjudication of Traffic Offenses in California. Volume I

CA State Dept. of Motor Vehicles

Prepared For
CA State Office of Traffic Safety

April 1976

45617

NCJRS

MAR 10 1978

ACQUISITIONS

4. Title and Subtitle The Administrative Adjudication of Traffic Offenses in California. Vol. I		5. Report Date April 1976	
7. Author(s) Thomas J. Novi		6.	
9. Performing Organization Name and Address California Department of Motor Vehicles Office of Program Evaluation Post Office Box 1828 Sacramento, CA 95809		8. Performing Organization Rept. No.	
		10. Project/Task/Work Unit No.	
		11. Contract/Grant No.	
12. Sponsoring Organization Name and Address California Office of Traffic Safety (Partial Sponsor) Post Office Box 865 Sacramento, CA 95804		13. Type of Report & Period Covered Feasibility Report	
		14.	
15. Supplementary Notes Prepared pursuant to California Senate Concurrent Resolution 40 (Alquist) in cooperation with the Administrative Adjudication Advisory Committee.			
16. Abstracts The primary study objectives are to evaluate the feasibility of administrative adjudication of traffic offenses reducing the backlog of court cases caused by the increased volume of traffic citations being issued, and to improve traffic safety in California. The objectives will be met by the implementation of more efficient procedures to adjudicate minor traffic cases, and through more effective identification and control of poor drivers. This report analyzes the feasibility of adjudicating traffic infractions administratively in the California Department of Motor Vehicles, rather than in the courts. It explores the costs and benefits associated with administrative adjudication in terms of such areas as traffic safety, the courts, economic impact, legal considerations and public opinion. It concludes that administrative adjudication is both legally feasible as well as economically attractive. In addition, enhanced traffic safety and more effective court resource allocation would likely result. Also, the public reaction was highly favorable.			
17. Key Words and Document Analysis. 17a. Descriptors Traffic Safety; Administrative Law; Accident Prevention; Motor Vehicle Accidents; Government; Legislation; Statutes; Traffic Accidents.			
17b. Identifiers/Open-Ended Terms Traffic Enforcement, Post Licensing Driver Control, Traffic Safety/Driver Control, Systems Analysis, Systems Modeling, Drivers Licensing, Driver Improvement, Negligent Drivers, Deviant Drivers, Traffic Court Adjudication, Traffic Safety Legislation, Traffic Safety Administration, Government Jurisprudence.			
17c. COSATI Field/Group		PRICES SUBJECT TO CHANGE	
18. Availability Statement Release unlimited		19. Security Class (This Report) UNCLASSIFIED	
		20. Security Class (This Page) UNCLASSIFIED	

ADMINISTRATIVE ADJUDICATION OF
TRAFFIC OFFENSES IN CALIFORNIA

A Feasibility Study

Report of the Task Force on Administrative Adjudication
of Traffic Offenses in California, pursuant to Senate
Concurrent Resolution 40 (Alquist), Resolution Chapter
86 of the 1975 session of the California State Legislature.

This report was prepared under the policy guidance of the
Administrative Adjudication Advisory Committee.

April 1976

ia

ADMINISTRATIVE ADJUDICATION ADVISORY COMMITTEE MEMBERS

HERMAN SILLAS, (Chairperson)
Director, Department of
Motor Vehicles

HONORABLE WILLIAM F. BROWN, JR.
Judge, Santa Clara
Municipal Court

ROY L. CHIESA
Court Clerk
Walnut Creek-Danville
Municipal Court District

JAMES M. FALES, JR.
City Manager
Redwood City

JAMES P. GREENE
Attorney, Los Angeles
County Municipal Court
Planning and Research

DAVID LIZAKAGA
Administrator, East Los
Angeles Community Union

WILLIAM McVITTIE
Assemblyman, District 65
Los Angeles-San
Bernardino Counties

DON G. PRICE
Attorney, Automobile Club
of Southern California

DONALD D. ROSENBERG
Court Commissioner
Oakland-Piedmont
Municipal Court District

ADMINISTRATIVE ADJUDICATION TASK FORCE

THOMAS J. NOVI, Task Force Director

R. ALEX JACINTO, Task Force Legal Analyst

MARILYN A. SCHAFF, Task Force Analyst

WILLIAM V. EPPERSON, Task Force Analyst

LOU HAGEMAN, Task Force Analyst

ADMINISTRATIVE ADJUDICATION TASK FORCE CONSULTANTS

ANTHONY K. MASON, Ph.D., P.E.
Consultant for Economic Impact Analysis
Mason-Towne, Inc.
San Diego, California

GLENN A. FAIT, Director
Institute For Admin. Justice
McGeorge School of Law
University of the Pacific
Sacramento, California

TASK FORCE CLERICAL STAFF

CATHERINE BRAY

MICHELE MASUDA

PAULA SILER

PREFACE

This study addresses the feasibility of adjudicating minor traffic infractions administratively rather than in the judicial system. It analyzes such issues as economic impact, constitutionality and public opinion. It also explores the potential effect on the judicial and traffic safety systems. The study concludes that administrative adjudication has the potential of increasing the effectiveness and efficiency of traffic infraction processing and adjudication.

This report provides the student of public administration with a rare opportunity; a chance to explore the implications of major system change as it relates to increased efficiency and effectiveness. For the decision maker the study also provides a rare opportunity to consider in a crisis free environment a major change in the way a public function is conducted; a change that has the potential for both greater economies as well as increased system effectiveness.

But more importantly, administrative adjudication provides for the public a simplified, less complex, more rational and convenient way to resolve traffic infractions. As such, the analyses, conclusions and recommendations should be given careful consideration.

FOREWORD

This volume is the second of a three volume study that analyzes the feasibility of adjudicating traffic infractions administratively in California. It provides an analysis of the economic, legal and public opinion implications of administrative adjudication of traffic infractions. It also explores the potential effect on the traffic safety and judicial systems. The final volume of this study, containing appendix material, provides in-depth detail for the reader who is interested in specific areas.

ACKNOWLEDGMENTS

The Project Director and Task Force would like to acknowledge and thank the many individuals and agencies who contributed to the entire feasibility study, and in particular those who evaluated and prepared a critique of the draft of this final report. Without this assistance, the scope and quality of this report would have been diminished.

Special recognition is given to Mr. Herman Sillas, Administrative Adjudication Advisory Committee Chairperson, for his committed involvement throughout this project, as well as to the entire Administrative Adjudication Advisory Committee for providing guidelines and suggestions to the study. Grateful acknowledgment is also made to our other consultants; Dr. Anthony K. Mason, for his work on the economic impact study; Glenn A. Fait and Jay Simmons, McGeorge School of Law for their analysis of the legal implications (Appendix D); Ray Peck, Senior Research Analyst at the Department of Motor Vehicles for his assistance in the development of the sanction model; Hugo Becker, Arthur Young & Co., for his review of the economic impact study; and Ron Coppin, Chief of Research and Planning for the Department of Motor Vehicles for his unswerving support.

The Project Director is also indebted to the following judges and court clerks who provided suggestions; Traffic Referee William Tredinnick, Sacramento Municipal Court; Bart Turpin, Assistant Clerk, Sacramento Municipal Court; Judge Wayne Wylie, Auburn Justice Court; Judge Howard G. Gibson, Roseville Justice Court; Judge George Yonehiro, Colfax Justice Court; Judge Dickran Tevrizian, Los Angeles Municipal Court; Clerk Miles Brown, Los Angeles Municipal Court; Paul Dato, Chief Clerk, San Diego Municipal Court; Judge Rudy Ruiz, East Los Angeles Municipal Court; Judge Philip Schaefer, Ontario Municipal Court; Commissioner Manual Sanz, East Los Angeles Municipal Court. Appreciation is also extended to members of the law enforcement community who assisted in the study, including Inspector Ernest

E. Elmore initially, and more recently, Supervising Inspector B. B. Killingsworth, Commander, California Highway Patrol Planning and Analysis Division, as well as Harold R. Jones, Deputy Commander, California Highway Patrol Planning and Analysis Division. Also worthy of special thanks are those state and federal officials who were so courteous and helpful in the task force study of other systems: George D. Brandt and Robert Stone of the Office of Driver and Pedestrian Programs, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.; Robert J. Hogan, Director, Hearing and Adjudication Division of the Department of Motor Vehicles in Albany, New York; Donald Phillips, American Automobile Association Representative of New York, New York; Don Morehead, SAFE Project Director, Seattle, Washington; Douglas Arnold, SAFE Project Manager, Seattle, Washington; Presiding Judge T. Patrick Corbett of the Municipal Court of Seattle, Washington; Charles Moretti, Technical Program Manager, Administrative Adjudication, Providence, Rhode Island; Victor Andreozzi, Assistant Director of Transportation, Administrative Adjudication Division, Providence, Rhode Island.

Gratitude is also extended to members of the Department of Motor Vehicles and other state departments who provided specific help in various specialized areas: Elmer Brown, Chief, Division of Drivers Licenses; Stanley Hayashi, Electronic Data Processing systems analyst; Marjorie Shire, Fiscal Management Accounting Officer, Robert Keitel, Management Analyst; Richard E. Lehmann, Staff Counsel; Robert R. Rauschert, Chief, Legal Section; Jensen Kuan, Statistical Methods Analyst; Anthony R. DeMaio, Research Analyst; Miguel Squyer, Facilities Coordinator; Tim Mitchell, Government Program Analyst; and also to staff of the Judicial Council particularly Steve Birdelbough and Jon Smock. The guidance and support of the Legislative Analyst's Office is also recognized, specifically the involvement of Wayne Keithley initially and Steve Schnaidt more recently; Willard Shank, Professor of Administrative Law, and Samuel J. Cord, California State Controllers Office, Chief of the Accounting Division.

And finally, the study would not have been possible without the dedicated and excellent assistance provided by Mrs. Cathy Bray, Mrs. Michele Masuda and Mrs. Paula Siler in the coordination of various support activities relating to the development and production of this study.

TABLE OF CONTENTS

SUMMARY

Foreword.....	i
Executive Summary.....	1
Summary of Study Approach, Findings and Recommendations.....	5

VOLUME I

Preface.....	i
Foreword.....	ii
Acknowledgments.....	iii

Chapter I

Introduction to the Administrative Adjudication Feasibility Study

I. Introduction.....	1
A. Background.....	2
B. Definition of Feasibility.....	3
C. Study Procedure.....	4
II. Administrative Adjudication Feasibility Study - Integrated Systems Approach.....	6
A. Elements in the Traffic Offense Adjudication System.....	7
B. Operational and Organizational Approaches to Traffic Offense Adjudication.....	7
III. Problems With the Existing System.....	10
A. Traffic Safety Effectiveness.....	11
B. Impact on the Judicial System.....	15
C. Inadequate Court Administration.....	17
D. Summary.....	23

Chapter II

Administrative Adjudication - A National Perspective

I. Introduction.....	24
II. New York Experience.....	24
A. Background.....	24
B. Impact of Change.....	25
C. Unresolved Problems.....	27

III.	Rhode Island Pilot Project.....	28
A.	Background.....	28
B.	Project Goal.....	28
C.	Project Objectives.....	28
D.	Case Processing and Adjudication.....	29
E.	Evaluation Plan.....	30
IV.	Federal Perspective.....	30
A.	U. S. Department of Transportation - National Highway Traffic Safety Administration (NHTSA).....	30
B.	U. S. Department of Justice - Law Enforcement Assistance Administration (LEAA).....	31
C.	Ad Hoc Task Force on Adjudication - National Highway Safety Advisory Committee.....	32
Chapter III		
California Model of Administrative Adjudication of Traffic Infractions		
I.	Introduction.....	35
II.	The Notice to Appear.....	35
A.	Violations.....	38
B.	The Legal Rights of the Individual.....	39
C.	The Answer Options.....	39
D.	The Time, Date, and Place of Appearance.....	40
E.	The Violation Monetary Sanction.....	40
F.	Apprisement of Consequences of Failure to Appear.....	41
G.	Hearing Place Option.....	41
H.	Foreign Language.....	42
III.	The Hearing.....	42
A.	General Description.....	42
B.	Types of Hearings.....	43
C.	Administrative Adjudication in Justice Courts....	44
D.	Administrative Adjudication for Juveniles.....	44
E.	Confrontation Hearing.....	45
F.	Summary Hearing.....	46
G.	The Advisement Process.....	48
H.	Failure to Appear or Comply (FTA or FTC).....	48

IV. Record Review.....	48
V. Sanctions.....	49
A. Driver Improvement Sanction Model.....	49
B. Graduated Sanction Feature.....	52
C. Masking First Citation.....	52
D. Contingency Contracting.....	53
VI. Appeals.....	53
Chapter IV	
Administration, Organization, and Operation of Administrative Adjudication	
I. Introduction.....	55
II. Program Administration and Organization.....	56
A. Administration Considerations.....	56
B. Organization Considerations.....	61
III. Operation of Administrative Adjudication.....	74
A. Operational Description.....	75
B. Facilities.....	83
C. Management Information and Program Evaluation.....	87
D. Revenue Distribution and Projection.....	91
E. Implementation Plan.....	104
Chapter V	
Analysis of Economic Impact of Administrative Adjudication	
I. Introduction.....	109
II. Principal Conclusions.....	110
III. Discussion of Impacts.....	113
A. Savings Due to the Ability to Defer the Creation of New Municipal Court Judicial Positions.....	113
B. Savings Due to Reduced Workload for Non-Judicial Personnel in the Municipal Courts.....	118
C. Implications For The Justice Courts.....	123
D. Savings To Law Enforcement Agencies Due To Fewer Court Appearances.....	123
E. Savings Due To Reduced Prosecutor Workload.....	124
F. Savings To State and Local Government From Reduced Driver Improvement Program Costs	125

G. Factors Tending To Increase the Revenues From Sustaining Infraction Violations.....	126
H. Impacts On The Defendant.....	130
I. Effect of Eliminating Warrants on Revenues.....	132
J. The Costs of Operating the Administrative Adjudication System.....	133
IV. Summary.....	134
Chapter VI	
Analysis of Legal Considerations	
I. Introduction.....	138
II. Analysis.....	138
A. Decriminalization of Traffic Infractions.....	139
B. Sanction Authority.....	139
C. Judicial Review.....	142
D. Procedural Due Process.....	144
III. Conclusion.....	148
Chapter VII	
Analysis of Public Attitude, Toward Administrative Adjudication	
I. Introduction.....	149
II. Background.....	149
A. Automobile Club of Southern California Membership Survey.....	149
B. California Lower Court Study.....	150
C. Decriminalization of Moving Traffic Violations Study.....	150
D. SR-160 Study of Traffic Enforcement/ Driver Control System.....	150
E. Attitude Toward Administrative Adjudication in New York.....	150
III. Methodology.....	152
A. Public Attitude Survey.....	152
B. Court Clerks and Judges Surveys.....	154
IV. Public Attitude Survey Findings.....	154
A. Introduction to Survey Findings.....	154
B. Attitude Differences Based on Population Density...	155
C. Public Attitude Toward Administrative Adjudication.	156

D. Related Questions.....	162
V. Results of Judges and Court Clerks Survey.....	181
A. Results of Judges Survey.....	181
B. Results of Court Clerks Survey.....	185
Chapter VIII	
Conclusions and Recommendations	
I. Introduction.....	188
II. Conclusions.....	188
A. Economic Impact.....	188
B. Legal Considerations.....	188
C. Public Acceptance.....	188
D. Enhancement of the Judicial System.....	188
E. Traffic Safety Enhancement.....	189
III. Recommendations.....	189
Bibliography.....	190
VOLUME II	
Appendix	
Appendix A	
Final Report of the Ad Hoc Task Force on Adjudication of the National Highway Safety Advisory Committee, June 1973.....	A-1
Appendix B	
Federal Standards on Traffic Offense Adjudication	
1. National Advisory Commission on Criminal Justice and Goals: Courts.....	B-1
2. Highway Safety Program Standard No. N-7 — Traffic Courts and Adjudication System.....	B-2
Appendix C	
Memo on Proposed Revision in the Manner of Classifying and Handling Certain Minor Traffic Violations in California, Edwin S. Moore - May, 1967.....	C-1
Appendix D	
Legal Analysis	
1. Analysis of California Constitutional Issues.....	D-1
2. Summary Analysis of Federal Constitutional Issues.....	D-112

Appendix E	
Disposition of Fines and Forfeitures - Penal Code 1463.....	E-1
Appendix F	
Summary of Driver Improvement Program Effectiveness Studies, May 1976.....	F-1
Appendix G	
Evaluation of the Weighted Caseload Technique and Trial Court Costs, Department of Finance, April 1975	G-1
Appendix H	
Opinion Survey Instruments.....	H-1
Appendix I	
Model Enabling Legislation for Administrative Adjudication of Traffic Infractions.....	I-1
Appendix J	
Administrative Adjudication Program Cost Details and Projections.....	J-1
Appendix K	
1. Senate Resolution No. 160 (Dolwig) 1968.....	K-1
2. Senate Concurrent Resolution No. 40 (Alquist) 1975..	K-2

CHAPTER I

INTRODUCTION TO THE ADMINISTRATIVE ADJUDICATION FEASIBILITY STUDY

I. INTRODUCTION

Over the last thirty years, increased motor vehicle travel has resulted in a steadily increasing number of traffic accidents. In an effort to deal more effectively with this danger to society, the public has evidenced strong support for the enactment and enforcement of traffic laws designed to reduce driver caused accidents. As a result, California courts now process over four million moving citations annually. This increased volume of citations has, however, in many cases resulted in court backlogs. In an effort to reduce these backlogs, procedures to speed up the adjudication of traffic cases have been adopted.

As this study documents, the vast majority of the violators never appear before a judge; instead, however, they forfeit bail through the mail. Research indicates that those who do appear do not benefit in terms of improved driving records. There is little sanction orientation toward negligent operators who are much more likely to be involved in accidents. In addition, coordination between the courts and the Department of Motor Vehicles on convictions is slow and unreliable, further impairing the ability of the existing system to effectively identify and control motorists with poor driving records.

While the judicial adjudication burden has grown heavier, the ability of the courts to deal expeditiously and effectively with criminal matters has deteriorated. Delays, continuances and plea bargaining have become commonplace.

Administrative adjudication has been proposed as a solution to these problems. This report analyzes the feasibility of adjudicating traffic infractions administratively in the California Department of Motor Vehicles, rather than in the courts. It explores the costs and

benefits associated with administrative adjudication of traffic infractions in terms of such areas as traffic safety, the courts, economic impact, legal considerations and public opinion.

A. Background

In 1968, the California Legislature recognized that major problems exist in California's driver related traffic safety system when, as a result of Senate Resolution 160 (Dolwig), it requested that an in-depth study of the traffic enforcement/driver control system be conducted.¹ Among other things, Senate Resolution 160, (Appendix K), requested that the study consider the need for improvement or changes in the relationships between the agencies concerned with safety on the highways. The study, entitled, "An Optimum System for Traffic Enforcement/Driver Control," identified the critical need for a coordinated approach to traffic safety in terms of solving many of the system problems then existing. Specifically, it recommended that consideration be given to the administrative adjudication of traffic offenses as a way to deal with numerous system deficiencies.²

Following from the Senate Resolution 160 study recommendation, coupled with a personal investigation of New York's experience with administrative adjudication, both the Legislative Analyst and the Director of the Department of Motor Vehicles agreed that further study was warranted. Legislative concurrence was received in August, 1975, when Senate Concurrent Resolution 40 (Alquist) was chaptered.³

¹ GTE Sylvania, Inc. and California Department of Motor Vehicles, An Optimum System for Traffic Enforcement/Driver Control, Vols. I-IV.

² Ibid., Vol. I, pp. VII-4-6.

³ Alquist, Senate Concurrent Resolution 40, 1975 Resolution Chapter 86, relative to the administrative adjudication of traffic offenses.

Senate Concurrent Resolution 40 (Appendix K) requested that the Department of Motor Vehicles, with the cooperation of the Judicial Council and in consultation with the League of California Cities and the County Supervisors Association of California, study the feasibility of implementing a system of administrative adjudication of minor traffic offenses (infractions) in California. The Resolution also requested that the Legislature, the Chairman of the Judicial Council, the League of California Cities, and the County Supervisors Association of California appoint an Administrative Adjudication Advisory Committee to study specified aspects of administrative adjudication, to review the Department's progress in conducting the feasibility study, and to submit its comments and recommendations on feasibility to the Governor and Legislature by April 1, 1976. The Director of the Department of Motor Vehicles was designated to chair the Advisory Committee.

B. Definition of Feasibility

The Resolution specified that the goal of the study was to analyze the feasibility of administrative adjudication of traffic infractions by the Department of Motor Vehicles as a way to both relieve the growing burden of traffic offenses on California's criminal courts, and improve traffic safety through more effective identification and control of drivers with poor records. The Resolution asked that certain specific issues be evaluated, such as cost, revenues, and population density.

Following from the Resolution guidelines, the following definition of feasibility was developed:

To be feasible, administrative adjudication should:

1. Improve Traffic Safety Effectiveness

This would take the form of improving driver control efforts through the maintenance of better driving records, coupled with the use of the driver record in applying uniform monetary

sanctions and driver improvement treatments designed to modify driving behavior and thus reduce recidivism and traffic accidents.

2. Enhance the Judicial System

Courts should be better able to focus their resources on more complex civil and criminal matters.

3. Have a Favorable Economic Impact

The system should be self-supporting, and return increased net revenue to local government.

4. Have No Constitutional Impairments

An individual cited under administrative adjudication should be able to deal with the infraction in a manner that guarantees full due process, as well as consistency and uniformity in the adjudication and sanctioning process; and be otherwise constitutional.

5. Be Acceptable to the Public

The public should be willing to have traffic infractions adjudicated and sanctions applied in an administrative setting.

C. Study Procedure

To conduct the study, a five member Administrative Adjudication Task Force was appointed by the Director of the Department of Motor Vehicles. The Task Force consisted of the head of the Department's Planning Section (appointed as the Project Director), two Department analysts, an analyst from the California Highway Patrol and an attorney from the private sector. Concurrent with the Task Force appointment, the Administrative Adjudication Advisory Committee was appointed.

The Task Force Project Director and the staff attorney accompanied two members of the Advisory Committee on a trip to Albany and Manhattan, New York; Providence, Rhode Island; Washington, D.C. and Seattle, Washington to study the practical aspects of administrative adjudication. In Washington, D.C., implications of

administrative adjudication were discussed with representatives of the Department of Transportation, National Highway Traffic Safety Administration, and the Department of Justice, Law Enforcement Assistance Administration. The findings from this journey resulted in the incorporation of many effective elements of the systems surveyed into the California Model of Administrative Adjudication.

The decision was made to utilize the services of a professional industrial engineering consultant for the study of the economic implications.⁴ The legal implications, while well researched in terms of the United States Constitution,⁵ required an in-depth analysis in terms of the California Constitution. It was decided that the most effective way to deal with this issue was to utilize the expertise and resources of legal researchers and analysts in this field. As a result, the Department of Motor Vehicles contracted with legal experts in administrative law to conduct an in-depth analysis of the California Model of Administrative Adjudication.⁶

Available studies on judicial and administrative traffic infraction adjudication were reviewed. In order to supplement this secondary research, visits were made to various courts and police agencies throughout California. In addition, the views of local court and law enforcement authorities were received both in writing and telephonically. The attitudes of the public were also solicited, as were the views of various organizations having an interest in traffic infraction adjudication. Comments and suggestions received were considered and, in the main, were incorporated into the development of the California Model of Administrative Adjudication.

⁴The economic impact analysis was supported by an Office of Traffic Safety - NHTSA 402 Fund grant.

⁵Young and Company, Effective Highway Safety Traffic Offense Adjudication, Vol. II.

⁶The legal analysis was supported by an Office of Traffic Safety - NHTSA 402 Fund grant.

Guidance from the Advisory Committee was obtained through the arrangement of joint and individual meetings between members of the Committee and the Task Force. Between meetings, Advisory Committee members were kept informed of progress through mailed copies of drafts of project material. The Advisory Committee reviewed a final rough draft of this study prior to developing its independent report to the Governor and Legislature as specified in Senate Concurrent Resolution 40.

II. ADMINISTRATIVE ADJUDICATION FEASIBILITY STUDY - INTEGRATED SYSTEMS APPROACH

Inherent in this study is the concept of making traffic infraction adjudication more efficient and cost-effective in terms of the driver related traffic safety system. It is generally agreed in both private industry and governmental agency operations that a systems approach is the most effective way to evaluate an issue that has multiple interrelated components. This is certainly the case with a driver related traffic safety system. This system, as it currently exists, involves the Department of Motor Vehicles (driver licensing, improvement, and control), police agencies (traffic law enforcement), and the courts (traffic infraction adjudication).

Driver related traffic safety system goals were clearly described in a recent National Highway Traffic Safety Administration study:

(The system design should) be structured so as to constitute a comprehensive package in which both adjudication of responsibility and appropriate driver safety counter-measures action may be taken. The traditional perception of adjudication and rehabilitation as separate components should be discarded.

In addition, the system should be designed with the convenience of the motorist in mind. The motorist should be well informed from the outset and throughout the process, and should have an opportunity to plead and pay a fine by mail unless there is indication of need for special attention.

Of course any system should be cost-effective. . . Cost-effectiveness should be studied carefully as part of a total evaluation of the system.

The system should be designed to account for the scofflaws who refuse to cooperate. . .

Finally, the system should be designed to include a feedback loop and there should be requirements for goal setting, planning, coordination, analysis, and evaluation of the system.⁷

The systems approach described above was utilized in the development and analysis of the California Model of Administrative Adjudication.

A. Elements in the Traffic Offense Adjudication System (Figure I-1)

Traffic offense adjudication systems involve seven separate elements. (1) LAW ENFORCEMENT begins the process by apprehending the motorist and issuing a citation. (2) IDENTIFICATION AND CASE PREPARATION follow, providing the transition from enforcement to adjudication through the use of clerical processing. The motorist is notified of his/her rights and responsibilities, a plea is entered, and if necessary, a formal trial or hearing is conducted resulting in a judgment during the (3) DECISION-MAKING phase.

The next step is (4) SANCTIONING, which sets the penalty for violating the traffic laws. (5) COMPLIANCE involves actions such as the collection of fines and enforcement of other sanctions which assure the authority of the adjudicatory agency.

The (6) REVIEW phase gives the motorist an opportunity to appeal adverse decisions. Finally, actions taken against a motorist are brought to the attention of the Department of Motor Vehicles during the driver (7) POST-LICENSING CONTROL phase.

B. Operational and Organizational Approaches to Traffic Offense Adjudication (Figure I-2)

In California, the adjudication process occurs within the criminal court framework. Such an approach is generally classified as JUDICIAL

⁷ American Bar Association Fund for Public Education on Behalf of Center for Administrative Justice, Report to Congress on Administrative Adjudication, reproduced in the 1975 Report on Administrative Adjudication of Traffic Infractions. (NHTSA), pp. 77-78.

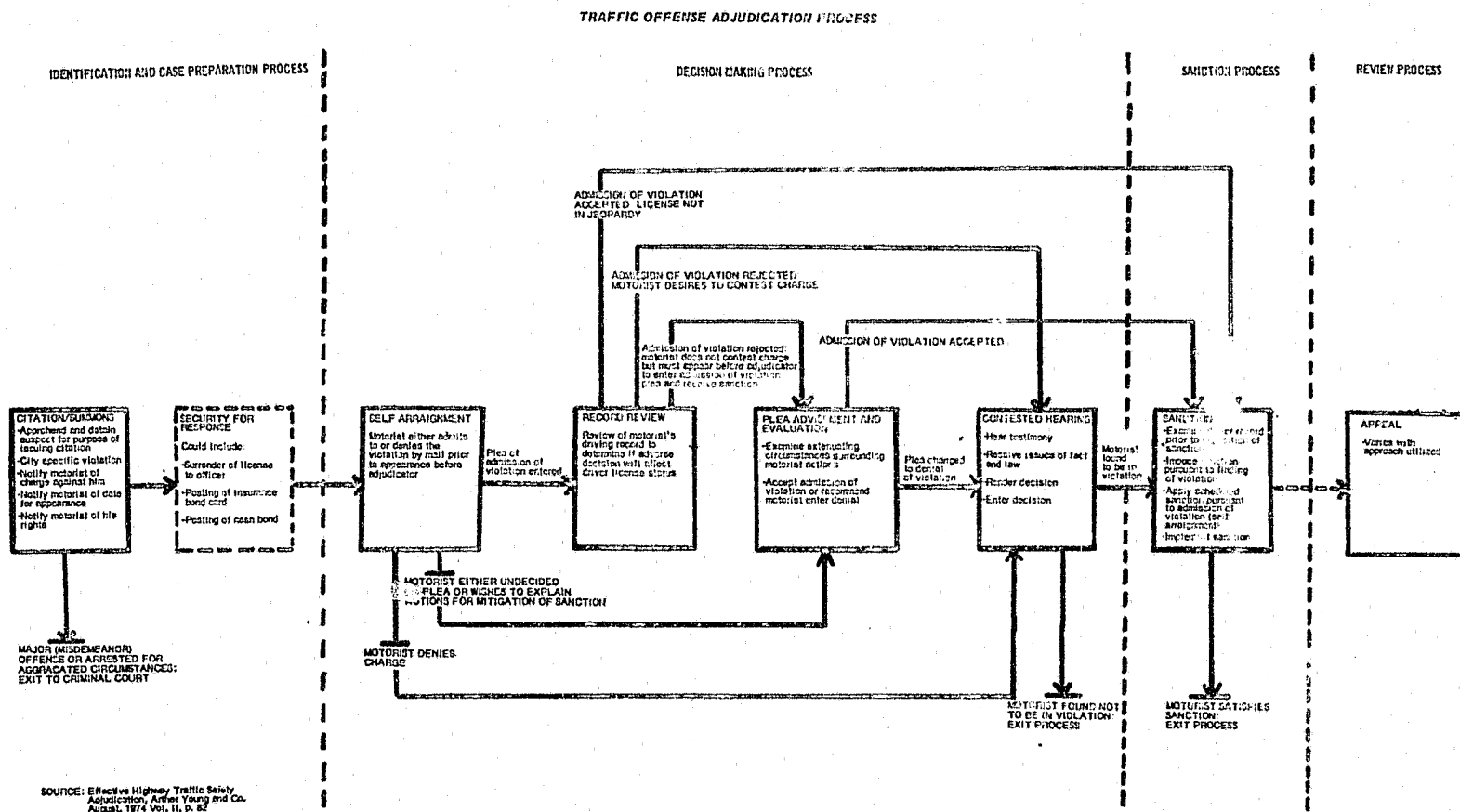
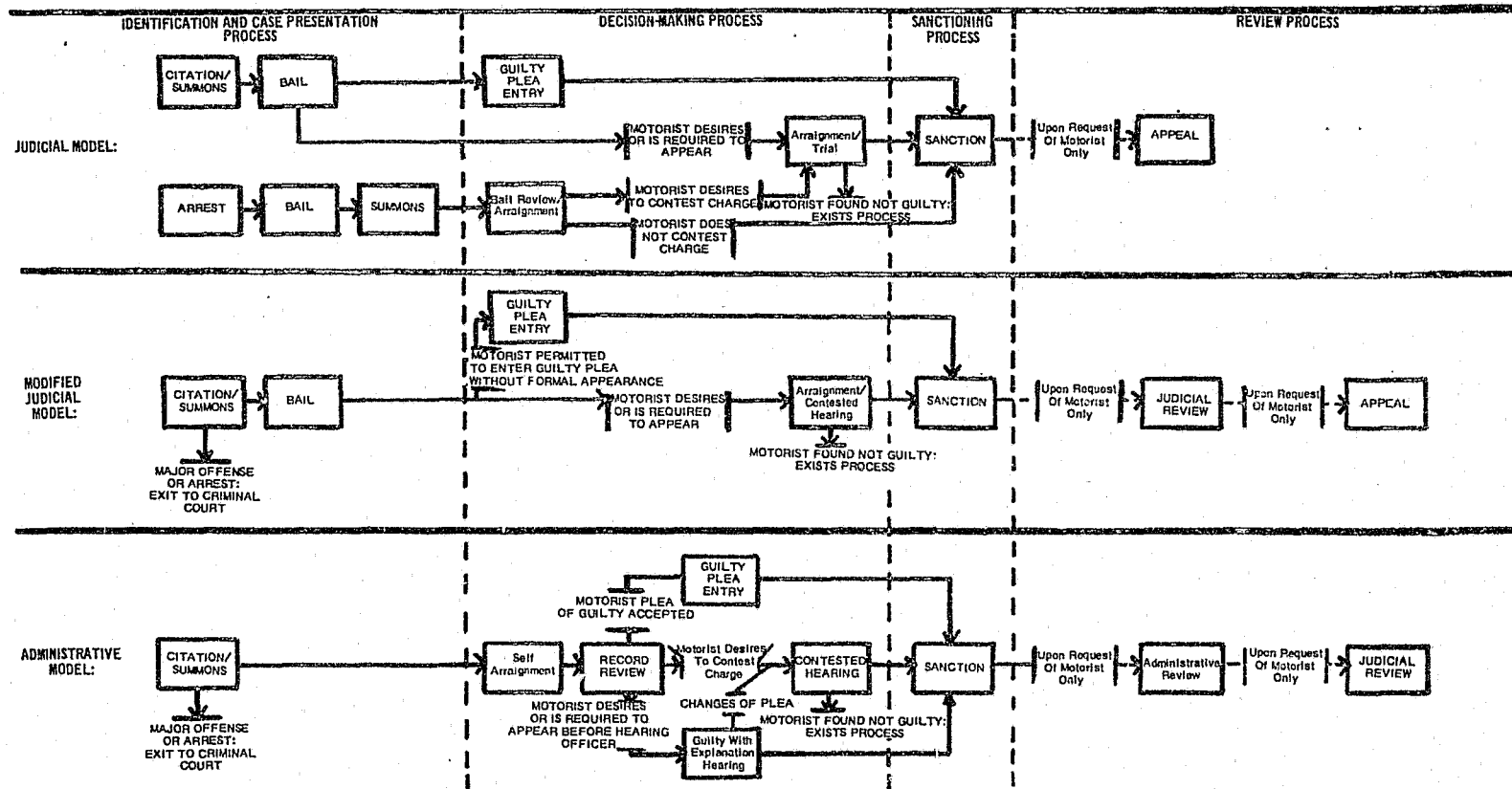


Figure I-1

TRAFFIC OFFENSE ADJUDICATION PROCESS MODELS



SOURCE: Effective Highway Traffic Safety Adjudication, Arthur Young and Co. August, 1974 Vol. II, p. 72A

Figure I-2

ADJUDICATION. A MODIFIED JUDICIAL ADJUDICATION approach is also used in a number of California courts. It also functions within the criminal court system, but delegates certain decision making and sanctioning responsibilities to para-judicial officers such as traffic commissioners or referees.

An ADMINISTRATIVE ADJUDICATION approach vests responsibility for all parts of the process, exclusive of law enforcement, in an administrative agency, such as the Department of Motor Vehicles. This approach has been used in major urban areas in New York State since 1970, and since July, 1975 in virtually the entire State of Rhode Island.

III. PROBLEMS WITH THE EXISTING SYSTEM

Senate Concurrent Resolution 40 noted that over 75% of the nonparking filings in California municipal courts are traffic violations, and that the steadily increasing burden of handling these violations has made the prompt and judicious handling of criminal and civil cases increasingly difficult. The Resolution also noted that no persuasive evidence exists that the criminal court process significantly deters traffic violators and that these problems continue despite the institution of numerous improvements in the California judicial system since 1950.⁸

Most of the judicial system changes have been directed toward improved efficiency in the lower court system; i.e. reduction of the number of courts, the summary trial project, development of a uniform traffic citation, the statutory reclassification of many traffic violations from misdemeanors to infractions and the experimental use of traffic commissioners by several municipal courts. However, the changes have done little to eliminate major problems in areas related to traffic safety, criminal court congestion, court administration and public convenience.

⁸ Alquist, loc. cit.

The following sections discuss specific problems that have been identified with judicial adjudication of traffic infractions and specific improvements that could occur with a system of administrative adjudication. These potential system improvements are detailed in succeeding chapters.

A. Traffic Safety Effectiveness

There has been little empirical evidence of traffic court effectiveness, in either California or nationally, as it relates to traffic safety. In fact, there is evidence that the courts are not effective in this respect. A recent 3-year experimental research study in Colorado of the Denver County Court's traffic law adjudication and sanctioning processes, established that mandatory court appearance had no more beneficial effect on an offender's subsequent driving record than mail or in person bail forfeiture.⁹

Numerous studies of California courts have identified a number of specific problem areas that relate to traffic safety. Upon analysis, the problems all relate to the fact that each court functions autonomously. As a result, many utilize unique approaches to processing, adjudication and sanctioning that are not only unrelated, but are often counterproductive to traffic safety.

1. Lack of Uniformity or Relevance in Judicial Adjudication and Sanctioning Approach

Under the traditional criminal process, traffic offenses are typically decided by either a judge, traffic commissioner, or referee. A lack of uniformity among judges in terms of deciding guilt or innocence as measured by conviction rates, and wide variations in the application of sanctions, results in the judicial approach being inconsistent, ineffective, and

⁹ Geomet, Inc., Two Experimental Studies of Traffic Law, Vol. I pp. 57-60, Vol. 2, pp. 38-42, cited in the 1975 Report on Administrative Adjudication of Traffic Infractions. (NHTSA), pp. 17-18.

not well received in terms of traffic safety. The thrust of the traffic safety effort is to promote public safety by modifying and/or controlling dangerous behavior. If the behavior modification/driver control effort is to be effective, the adjudication procedure should impose relevant traffic safety oriented sanctions in a consistent manner.

This weakness in the existing process has been identified by researchers who noted that:

Sanctions against the driver's license should not be imposed in traffic courts. They should be imposed in accordance with department of motor vehicles policies and should be used solely as driver safety countermeasures. Allowing judges to make these decisions permits the criteria of decision to vary among courts and individual judges. By promulgation of rules and regulations, the department of motor vehicles should be able to implement a license action system in which standardized criteria are applied uniformly to similar situations.¹⁰

2. Inaccuracy of Driver Records

The key element of the Department of Motor Vehicles driver control program is the driver record. Without an accurate record, it is likely that drivers with poor driving records will go undetected. Toward that end, the Department of Motor Vehicles is dependent upon the courts for conviction abstracts which are used to update driver records. However, the reluctance of judges to impose and forward guilty decisions,¹¹ coupled with administrative delays in certain courts, continues to affect the currentness and completeness of driver records. This often results in convictions being delayed or not being placed on the record. The likelihood that appropriate and effective corrective measures will be taken against chronic violators is correspondingly reduced.

¹⁰ Reese, Power, Policy, People, A study of Driver Licensing Administration, pp. 183-200, as reproduced in 1975 Report on Administrative Adjudication of Traffic Infractions, p. 76.

¹¹ Sylvania, Inc., op. cit., Vol. I, p. VIII-5.

3. Infrequent Use of Prior Records in Sanctioning

In order to assist the judge in selecting an appropriate sanction and to identify motorists who should be considered for possible driver improvement action, the prior driving record of the guilty motorist should be available after the adjudication decision. The importance of this review should not be underestimated. Where adjudication is coordinated with driver record review and driver improvement, cost-effective behavior modification treatments can begin immediately.

In California, sentences rarely reflect the driver's prior statewide driving record except in a small number of counties where computerized data banks have been established. Even in those counties, generally only violation convictions within the county are utilized, rather than the more accurate statewide record.¹² This results in a perceived injustice to local residents and as a result some counties have given up the use of local prior records in sentencing.

4. Reluctance to Suspend Licenses

A phenomenon that has been noted in traffic courts throughout the country, as well as in California, is the reluctance of judges to suspend driver's licenses. This problem was documented by researchers in the Senate Resolution 160 study when they noted that:

The courts are reluctant to impose a suspension and may prevent the Department of Motor Vehicles from doing so in certain cases.¹³

This creates a wide variation in license suspension criteria and application which in turn reduces uniform application of the driver control system.

¹²Ibid., p. VIII-8.

¹³Ibid., p. VI-17 and VIII-3.

5. Administrative Adjudication As An Alternative

A system of administrative adjudication administered by the Department of Motor Vehicles could result in the following enhancements to the driver safety system.

a. Improved Adjudication Process

The adjudication process would include an analysis and discussion of the traffic safety implications of the violation. This is designed to improve the relationship between violation and adjudication as it relates to traffic safety.

b. Improved Sanctioning System

Sanctions relevant to traffic safety would be uniformly applied by trained hearing officers. The prior driving record would be used in deciding upon behavior modification sanctions. The sanctions would include fines, warning letters, group education meetings, as well as more severe sanctions (including license suspension) when warranted. Sanction guides would be used by hearing officers to insure their consistent and uniform application. On-going effectiveness research would be utilized to determine the most effective sequence or combination of treatments in relation to treatment cost.

c. Improved Driver Records

Driver records would be updated immediately upon a sustained accusation through the use of on-line computer input devices. This would eliminate update delays that serve to reduce the effectiveness of the driver control program.

d. Uniform Procedures

Under administrative adjudication, uniformity and consistency of adjudication and sanctioning would be emphasized. Statewide rules and regulations would result in guidelines

being established for both the adjudication and sanctioning processes. Hearing officer decisions would be audited by field supervisors as well as headquarters program management. Unreasonable decisions would likely be appealed. This would result in an Administrative Adjudication Board reviewing decisions and providing policy direction to program management staff to resolve any inconsistencies or inequities that might develop.

As a result of this review process, cited motorists would be dealt with in a fair and consistent manner. This would eliminate the current inequities that occur when different courts utilize varying adjudication and sanction approaches and procedures. The ability of a cited motorist to seek a lenient judge, to plea bargain, or to otherwise manipulate the system would, for all practical purposes, be eliminated.

B. Impact on the Judicial System

Over the years, traffic infractions have resulted in heavy court workload, sanctions of diminished value being used, with the public's view of the courts being diminished. Historically, as personal transportation began to take the form of the motor vehicle, ever increasing numbers of people were killed or injured in motor vehicle crashes. As a result, legislatures classified motor vehicle offenses as crimes in an effort to deter their occurrence. This was based on the recognition that:

Criminal law is generally applicable to personal acts that are considered socially deviant behavior. These are acts which endanger the life, health or property of the community or of its individual members. Criminal law is usually characterized by the use of sanctions which are punitive in nature. . . . The philosophy behind the establishment of these sanctions is basically retribution. It is also thought that a high probability of apprehension

(following commission of crime) and punishment will act as a deterrent to crime.¹⁴

The "criminal act" viewpoint has, however, resulted in several developments that have impeded court effectiveness.

1. High Volume of Offenses

As the volume of motor vehicle travel has increased, the numbers of traffic offenses and convictions have increased at a somewhat similar rate. The result is an extremely high highway crime rate.

2. Sanctions of Diminished Value

In the mind of the public, because traffic offenses are so commonplace, and are handled in a cursory manner, little if any stigma is attached to conviction of a minor traffic violation. There is evidence that the sanctions imposed by criminal law may be of greatly diminished value in deterring future violations.

3. Public Concern

There is evidence that because minor traffic offenses are commonplace and because no social stigma is attached, the driving public has, in effect, rejected the classification of minor traffic violations as crimes.¹⁵

4. Administrative Adjudication As An Alternative

Administrative adjudication would probably result in a number of significant benefits to courts in terms of their increased ability to deal effectively with complex criminal and civil matters.

a. Reduced Court Congestion

Court congestion would be reduced. A substantial number of judicial positions would become available to deal with criminal and civil matters.

¹⁴Young and Co., A Report of the Status and Potential Implications of Decriminalization of Moving Traffic Violations, p. 3.

¹⁵American Bar Association, op. cit., p. 51.

b. More Effective Judicial Utilization

Judges could be utilized more effectively, in terms of their background and training, since they would concentrate on complex civil and criminal matters.

c. Traffic Safety Oriented Sanctions

Sanctions designed to modify driving behavior would be emphasized.

d. Public Image Improved

The public's view of the courts as a forum in which more complex matters are adjudicated would be enhanced.

C. Inadequate Court Administration

The quality of administration in California's traffic courts varies widely. This fact is noted in the 1972 Judicial Council Report which observed:

The lower courts currently do not have sufficient numbers of meaningful court administrative positions and trained personnel with either a managerial or analytical orientation to insure that workloads are effectively administered and work processing is efficient. This condition exists for a number of reasons, including (the fact that) most judges have not been trained or are not particularly interested in management or operations analysis. Some court clerks, even in large multi-judge court operations, have not been selected on the basis of these skills or have not received adequate training in these areas since their appointment. Most clerks in smaller courts have not had adequate exposure to administrative methods or supervisory training.

Many judicial districts, both municipal and justice courts, are too small to justify sufficiently compensated and, therefore, skilled administrative or analytical personnel.¹⁶

While various reasons have been put forth for this condition, in a 1974 article in "Government Executive" Edward B. McConnell, Director, National Center for State Courts, and former New Jersey Court Administrator, pointed out that "generally speaking, over

¹⁶Booz, Allen, and Hamilton, Inc., California Lower Court Study as published in the 1972 Judicial Council Annual Report, pp. A-25-26.

the years, courts have not been mismanaged--they have just not been managed at all." Mr. McConnell gives the following reasons:

Partly this has been due to the lack of appreciation on the part of judges and lawyers that courts need to be managed if they are to operate efficiently; partly it has been due to the almost total lack of qualified managers and the tools of modern management, such as the computer.¹⁷

The impact of mediocre court management on the effectiveness of the traffic safety system may be very significant. Poor scheduling or frequent continuances impact severely on police officer time, and may result in citations being issued only in the most dire situations.¹⁸ In addition, the effect of inefficient court administration will be to increase the operating costs of the courts and, as a result, create an unnecessarily heavy burden on the local taxpayer.

1. High Cost of the Judicial Adjudication Process

The vast majority of traffic offenses are adjudicated by either judges or parajudicial personnel (traffic referees or commissioners). This is in spite of the fact that hearings on minor traffic infractions are straight-forward and do not require the broad experience of a judge to adjudicate.¹⁹

The economics of this situation are apparent. A comparative analysis of the various approaches to traffic case adjudication found that the *JUDICIAL ADJUDICATION* approach and *MODIFIED JUDICIAL ADJUDICATION* approach were most costly, with the *ADMINISTRATIVE ADJUDICATION* approach least expensive in terms of the types and salaries of employees generally utilized. (Table I-A).

¹⁷ McConnell, "Rule of Law Sinking Beneath Expensive Judicial Processes," Government Executive, (December 1974), 38.

¹⁸ Indiana University, Improved Disposition of Traffic Cases, Summary Volume, p. 6, quoted in the 1975 Report on Administrative Adjudication of Traffic Infractions. (NHTSA)., p. 17.

¹⁹ Sylvania, Inc., op. cit., Vol. I., p. VII-i.

Table I-A

Composite Cost Models
(Dollars)

Personnel	Number	Relative salary level	Relative level of effort (in percent)	Relative cost
Judicial approach				
Presiding judge.....	1	30,000	25	\$ 7,500
Judge.....	3	30,000*	100	90,000
Court clerk.....	3	8,000	100	24,000
Bailiff.....	3	8,000	100	24,000
Stenographers.....	3	10,000	100	30,000
Cashier.....	2	6,000	100	12,000
Presiding Judge's secretary.....	1	8,000	25	2,000
Judge's secretary.....	3	7,000	100	21,000
Total estimated expenditure.....				182,500
Modified judicial approach				
Judge.....	1	30,000	25	\$ 7,500
Parajudicial.....	3	24,000*	100	72,000
Court clerk.....	1	8,000	25	2,000
Court clerk.....	3	8,000	100	24,000
Bailiff.....	1	8,000	25	2,000
Bailiff.....	3	8,000	100	24,000
Cashier.....	2	6,000	100	12,000
Judge's secretary.....	1	8,000	25	2,000
Secretary.....	1	7,000	100	7,000
Total estimated expenditure.....				152,500
Administrative approach				
Supervising officer.....	1	20,000	100	\$ 20,000
Hearing officer.....	3	19,000**	100	57,000
Hearing Room clerk.....	3	7,000	100	21,000
Information clerk.....	1	6,000	100	6,000
Cashier.....	2	6,000	100	12,000
Administrative assistant.....	1	9,000	100	9,000
Recording equipment.....				20,000
Total estimated expenditure.....				125,000

Note. - Manpower requirements based upon a jurisdiction which handles an annual caseload of 150,000 minor offenses

Source: *Effective Highway Safety Traffic Offense Adjudication*, Arthur Young & Co., 1974.

* In California a Municipal Court Judge receives a salary of approximately \$41,700 per year; A Traffic Commissioner receives approximately \$33,600.

** Under Administrative Adjudication a Hearing Officer would receive approximately \$18,200.

2. Use of Less Cost-Effective
Driver Improvement Treatment

Traffic court schools, lasting from 18-24 hours, and generally used in California for negligent operators, have been shown to be no more effective than the Department of Motor Vehicles' two hour Group Education Meetings (G.E.M.) in terms of improving driving behavior. Traffic court schools are, however, significantly more costly. This increases the cost to the errant motorist with no increase in benefits.²⁰ Drivers sent to traffic court schools by courts are also involved in various Department of Motor Vehicles driver improvement program activities which generally result in a duplication of effort and cost. Finally, evidence exists that a substantial number of motorists are diverted to traffic court schools for reasons unrelated to traffic safety.²¹

3. Large Number of Scofflaws

The judicial system in California is beset with problems of cited drivers failing to appear for hearings or to post bail. Study data indicates that approximately 11.6% of those cited fail to appear.²² This situation may be due to social nonacceptance of traffic offenses as criminal acts, and the apparent inability of the current driver control system to effectively compel appearance.

Evidence relating to the large number of these non-appearing drivers is to be found in the archives of many courts and police agencies where file upon file of unserved warrants are maintained. One reason often given for failure to serve the warrants is that it would cost more to do so than the fines

²⁰ Harano and Peck, The Effectiveness of a Uniform Traffic School Curriculum for Negligent Drivers, p. 1.

²¹ Sylvania, Inc., op. cit., Vol. I, p. VIII-5.

²² Ibid., p. VI-7, Table 9.

would merit. The overall effect of this situation may be to promote a generation of "scofflaws", i.e. individuals who have lost respect for traffic laws through the inability of the driver control system to take effective action to ensure compliance with those laws.

4. Courts Are Not People Oriented

A common complaint of motorists uncovered by researchers in the traffic law enforcement field, is that courts are not people oriented. This means, basically, that violators are treated in a mechanistic way by traffic court judges. Cited as evidence of this is the assembly line process often used, as well as the cumbersome appeal process. As the Senate Resolution 160 study pointed out:

Most drivers are capable of defending themselves in minor traffic cases, but many drivers do not contest a traffic citation, although they believe they are innocent, because the time and trouble involved is greater than the penalty.²³

5. Administrative Adjudication As An Alternative

Administrative adjudication would allow improved administration and significant cost savings in terms of both the adjudication and sanctioning processes, and related elements of the driver safety system such as law enforcement.

a. Hearing Officers

By using legally trained hearing officers in lieu of judicial personnel, salary costs would be reduced. This has been the experience in the New York system.

b. Statewide Administration

The use of a statewide administrative system would stabilize and enhance the quality and efficiency of infraction processing and adjudication through the use of well trained administrative staff.

²³ Ibid., pp. VI-9 and VI-13.

c. Efficient Case Processing

The use of computer systems to expedite processing would likely reduce the time between citation issuance and case disposition.

d. Reduced Police Involvement

By establishing pre-set police appearance schedules, police would spend less time in hearings. In New York, for example, the amount of time police are required to spend at hearings has been reduced by approximately 50 percent over the pre-administrative adjudication period.

e. Reduced Scofflaws

Scofflaws would probably be reduced: New York found that by expediting case processing along with an increased ability to detect scofflaws, the number of scofflaws (motorists who evade summonses) has been reduced from 50 percent to between 20 and 25 percent, and plea bargaining has been virtually eliminated. The precise effect in California is unclear, although an improvement is likely.

f. Eliminate Warrants

Through the use of license sanctions, arrest warrants would be eliminated in the majority of cases where they are now used, resulting in a workload reduction to both police agencies and the courts.

g. Increased Revenues

Revenues would be increased due to the use of a statewide monetary sanctions schedule.

h. Increased Public Acceptance

The public's view of administrative adjudication has been shown to be essentially positive in a number of surveys. The public's positive attitude is supported by actual experience with the system in New York since it has resulted in a number of improvements for the public:

(1) Increased Convenience

By permitting infrequent violators to plead and pay fines by mail, the adjudication process has been made more convenient. Repeat violators, however, are required to appear. In addition, informal hearings would be available throughout the state, irrespective of where the citation was issued.

(2) Simplified Procedures

Simplified hearing procedures have aided motorists in presenting their cases. They have also allowed hearings to be conducted more efficiently while still assuring due process of law.

(3) Prompt Appeal Process

By providing a prompt administrative appeal process, New York replaced a cumbersome and expensive judicial review process. The administrative appeals process has been so effective that judicial review has been sought in only about 20 of 2000 administrative appeals in the past five years.

i. Increased Proof of Service

Only 20% of suspended violators who continue to drive are convicted due to the fact that it is very difficult to prove that a license suspension notice was served. Under administrative adjudication proof of service would occur at the hearing process when the license was suspended.

D. Summary

Problems with the existing judicial system of traffic infraction adjudication have been documented in the preceding sections. In the chapters that follow, the feasibility of administrative adjudication of traffic infractions is explored as an alternative to the existing judicial adjudication system. The analysis is designed to provide information for decision makers to use in considering a major change in the way traffic infractions are adjudicated.

CHAPTER II

ADMINISTRATIVE ADJUDICATION - A NATIONAL PERSPECTIVE

I. INTRODUCTION

In this chapter, attention is given to the status of administrative adjudication nationally, in terms of the New York and Rhode Island experiences, as well as the views of organizations interested in traffic infraction adjudication. The objective of this chapter is to provide a general background to both the California Model of Administrative Adjudication which follows in Chapter III, and the detailed feasibility analysis contained in subsequent chapters of this report.

II. NEW YORK EXPERIENCE²⁴

A. Background

By 1969, the criminal court of the City of New York was handling over 800,000 cases involving moving traffic infractions and over 3,200,000 cases involving non-moving infractions. It was virtually impossible for the courts to process this volume of cases properly.

In response to this problem, New York State passed legislation transferring responsibility for adjudicating moving traffic infractions from the criminal court of New York City to the New York State Department of Motor Vehicles. On July 1, 1970, the Department's Administrative Adjudication Bureau (AAB) was assigned responsibility for handling such minor offenses as speeding, improper turning, tailgating, and improper lane changing.

Companion legislation provided for a similar transfer of cases involving parking infractions to the New York City Parking Violations Bureau.

²⁴ Halper and McDonnell, An Exemplary Project, ABT Associates, Inc. on the Administrative Adjudication Bureau of the New York State Department of Motor Vehicles.

The criminal courts retained jurisdiction over serious traffic violations, such as vehicular homicide, driving while intoxicated, reckless driving, and leaving the scene of an accident. Subsequent legislation gave the AAB responsibility for adjudicating moving traffic infractions committed in the two largest upstate cities, Buffalo and Rochester.

While the 1969 backlog of criminal court cases stimulated the development of the AAB, the legislative foundation for transferring adjudicatory responsibility was laid in 1934 when the state decriminalized most traffic offenses in the following language:

. . . (a) traffic infraction is not a crime and the punishment imposed therefore shall not be deemed for any purpose of penal or criminal punishment. . .

With that as the base, the 1970 enabling legislation declared the AAB's proceedings to be civil in nature without the possibility of a jail sentence. This eliminated the need for involving the criminal courts, and simplified the entire adjudication process.

B. Impact of Change

New York State's Administrative Adjudication Bureau relieved criminal court congestion and dramatically improved traffic case processing by creating a single adjudication system employing highly trained personnel working with computer technology. Described below are some of the specific benefits New York State gained by deciding to handle traffic matters through administrative rather than judicial adjudication.

1. Reduced Criminal Court Congestion

By creating a system focusing exclusively on traffic offenses, criminal court congestion was reduced to the extent that eighteen judges and five courtrooms in New York City and an additional two judges and two courtrooms each in Buffalo and Rochester were freed from traffic offense adjudication tasks.

2. Reduced Costs

Personnel costs were reduced both by using lower salaried hearing officers in lieu of judicial personnel and through the elimination of bailiffs.

3. Simplified Procedures

Simplified hearing procedures have aided motorists in presenting their cases and allowed hearings to be conducted more efficiently while assuring due process of law.

A prompt and simple administrative appeal process replaced the former cumbersome and expensive judicial review process. The administrative appeals process was so effective that court review has been sought in only about 20 of 2000 administrative appeals in the past five years.

By permitting motorists to plead and pay fines by mail, the adjudication process was made more convenient.

4. Uniform Adjudication Procedures

Using standard sanctions and impartial, well trained traffic offense adjudicators assured more uniform and equitable dispensation of justice.

5. Reduced Scofflaws

By expediting case processing, the number of scofflaws (motorists who evade summonses) was reduced by 25 percent, and plea bargaining was virtually eliminated.

6. Increased Revenue

By distributing the increased revenues it receives from fines, the AAB provided financial relief to participating communities. During the 1973-74 fiscal year the Board distributed \$4.2 million to participating jurisdictions from an excess of revenues over expenditures. This presented an estimated 25 percent increase in revenues over that produced by the prior court system.

7. Improved Sanctioning Information

In merging the licensing and traffic offense adjudication authorities, the sanctioning process was improved by providing immediate access to and update of driver records.

8. Improved Case Processing

Using computer systems to expedite processing reduced the time lag between citation and case disposition. Cases resulting in hearings currently take between 45 and 60 days to process, compared with pre-AAB processing times of up to a year.

9. Reduced Police Time

By establishing pre-set police hearing schedules, the amount of time police are required to spend at hearings has been reduced by about one half.

10. Public Acceptance

In public opinion surveys conducted on administrative adjudication in New York City, the public was impressed by its convenience and the police were enthusiastic about its efficiency.²⁵

C. Unresolved Problems

Two problems currently exist in the New York administrative adjudication system. First, there is little relationship between imposed sanctions and traffic safety. While fines are based in part on driving records, other behavior modification treatments are ignored at the time sanctions are imposed. The second concern is the adjudication setting. The hearing room duplicates in most respects a courtroom setting. In the judgment of the authors,

²⁵ NHTSA Report on Administrative Adjudication of Traffic Infractions, op. cit., p. 31.

this is contrary to the philosophy that traffic infractions are not crimes and should not be adjudicated in a court or court like setting.²⁶

III. RHODE ISLAND PILOT PROJECT²⁷

A. Background

Rhode Island recently embarked on an administrative adjudication pilot project which will run from July 1, 1975 to June 30, 1977. To implement the project, legislation was passed to classify the majority of traffic offenses as civil infractions and establish an Administrative Adjudication Division (AAD) within the Rhode Island Department of Transportation to administratively adjudicate these cases (except for Providence and Pawtucket, where traffic offenses are still processed by the municipal courts).

B. Project Goal

The overall goal of the Rhode Island project is to improve the processing and disposition of traffic offenses in terms of time factors, consistency of sanctions, and the relevance of sanctions to the violations and motorists' driving histories. In addition, the project is expected to facilitate violator rehabilitation and reduce scofflaws.

C. Project Objectives

Objectives of Rhode Island's administrative adjudication have been stated as follows:

- . Implementation of a reliable system permitting the infrequent violator to pay a fine by mail, or contest, or explain the circumstances at an informal hearing.

²⁶ These views resulted from Task Force conversations with New York program officials and actual operation observations.

²⁷ NHTSA Report on Administrative Adjudication of Traffic Infractions, op. cit., pp. 41-45.

- . Identification of the problem driver and requirement of appearance at a hearing to adjudicate his/her violation.
- . Provision for record review of complete driver histories at hearings (after judgment) so that appropriate sanctions, fines, and possible license suspension can be levied.
- . Facilitation of referral of problem drivers to retraining schools as an alternative or in addition to the other sanctions imposed.
- . Reduction of the elapsed time from the citation to final disposition.
- . Provision of uniform case dispositions throughout the state.

D. Case Processing and Adjudication

Rhode Island's approach to administrative adjudication is similar to the New York approach and the Model developed for California (Chapter III). An evaluation of the Rhode Island approach found it to be less formal than the New York system, with a strong emphasis on traffic safety considerations being expressed by the hearing officers observed.

Rhode Island is, however, operating under certain handicaps. Its computer system is new, and as a result problems relating to an automated information system still have to be resolved. In addition, the lack of on-line capability results in drivers not being able to come in at will to have their citations adjudicated; rather, they make appointments which then allows a hard copy of the driver record to be developed. This tends to reduce the level of public convenience.²⁸

²⁸ These views resulted from Task Force conversations with Rhode Island program officials and actual operation observations.

E. Evaluation Plan

Since the Rhode Island project has just been initiated, reliable data on its effectiveness is not available. However, evaluation of the Rhode Island's administrative adjudication project will focus on the following:

- . The extent to which the objectives of the project have been met and whether measurable traffic safety benefits have resulted.
- . Assessment of the effects of the project on other elements of the traffic safety system.
- . Measurement and assessment of efficiency of the system, initially for management information purposes, and ultimately to describe and analyze the total system.

Since the ultimate objective of administrative adjudication in Rhode Island is to improve the process of disposing of traffic infractions and reduce the likelihood of violation, evaluation of this objective will be carried out by comparing administrative adjudication with the judicial system it replaces, based on the following questions:

- . Is the accident and violation recidivism of persons adjudicated by AAD less than that of persons adjudicated by the courts?
- . Is the time from citation to disposition less in AAD cases than in comparable cases handled by the courts?
- . Has the scofflaw problem declined under AAD?
- . Are the sanctions imposed by AAD based on the circumstances of the offense and the driver history record?

IV. FEDERAL PERSPECTIVE

A. U. S. Department of Transportation - National Highway Traffic Safety Administration (NHTSA)

In 1972, the Department of Transportation proposed a revised Traffic Court Adjudication Systems Standard. Its purpose was to,

develop balanced local and statewide traffic court and adjudication systems which will promote highway safety through fair, efficient, and effective adjudication of traffic law violations; and to reduce recidivism rates through the use of appropriate punishment, training, and rehabilitation measures.²⁹

The administrative adjudication concept complies with this standard.

In addition, conversations with NHTSA officials indicated a high level of confidence in administrative adjudication as a more cost-effective alternative to the traditional judicial approach.

B. U. S. Department of Justice - Law Enforcement Assistance Administration (LEAA)

The Department of Justice has endorsed the concept and practice of administrative adjudication of traffic infractions. In fact, the New York State administrative adjudication program has been singled out as an exemplary project in terms of its:

- . Overall effectiveness in reducing crime or improving criminal justice.
- . Adaptability to other jurisdictions.
- . Objective evidence of achievement.
- . Demonstrated cost-effectiveness.

In its designation of the New York System as an exemplary project, the Director of LEAA had this to say:

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

²⁹ The complete text is available in Appendix B.

time, elimination of plea bargaining, and imposition of more uniform and appropriate sanctions.

These achievements can be traced to organizational and procedural changes involving both the courts and the Department of Motor Vehicles. (It is believed that similar) changes in traffic offense adjudication should be considered by other communities.³⁰

C. Ad Hoc Task Force on Adjudication - National Highway Safety Advisory Committee³¹

A special ad hoc task force of nine lawyer members appointed by the National Highway Safety Advisory Committee, reviewed over a three month period in 1973, (a) the present traditional judicial adjudication of traffic violations, (b) innovations in New York, Florida, Virginia, and California, (c) available written materials, and (d) similar findings of other commissions studying present United States methods of traffic adjudication. Their findings and recommendations were summarized as follows:

1. Findings

- . Traffic offense adjudication under the traditional traffic law system is reasonably adequate in the determination of guilt or lack of guilt. However, traffic case processing is beset by many problems and has proved to be less than ideal, in contributing to improvements in traffic safety.
- . Traffic offense adjudication as presently constituted has made little demonstrable contribution toward newly formed societal goals of the promotion of traffic safety and the improvement of driver behavior. It is not an adequate subsystem or traffic law system component. It has had

³⁰ Halper and McDonnell, op. cit., Foreword.

³¹ The complete text is available in Appendix A.

little measurable effect in deterring initial or subsequent traffic violation by offenders or other drivers. As such, traditional criminal court traffic case processing is inadequate and ineffective.

- . Traffic offense adjudication is a key component of the traffic law system. The promotion of traffic safety depends on adjudication's effectiveness within the system. Traditional traffic case processing does not sufficiently emphasize both selective adjudication and the goals of highway safety and driver improvement through retraining and rehabilitation.
- . All traffic offenses do not have the same degree of severity or potential severity; thus, all offenses should not command the same degree of criminal processing and sanction time and resources. Traffic case adjudication inadequately differentiates between the problem driver and the average traffic offender.

2. Recommendations by the Ad Hoc Task Force

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

- . Adjudicate a lower-risk category of traffic infractions by simplified and informal judicial, quasi-judicial or parajudicial procedures.
- . Continue to process high-risk offenses criminally.
- . Combine traffic infraction and high-risk criminal traffic offense sentencing with driver improvement and rehabilitation programs.
- . Eliminate incarceration as a traffic infraction sanction.
- . Give priority to identifying problem drivers, assigning them to treatment and monitoring the results.

- . Create an adequate electronic data processing system to serve police, law enforcement, driver licensing and traffic adjudication; especially for the purpose of identifying the problem driver.

3. Points to be Considered

In furtherance of their recommendations, the Ad Hoc Task Force suggested that the following points be considered:

- . Expansion of the traffic adjudication component of the traffic law system to include the goals of adjudication and the promotion of highway safety, giving equal weight to each.
- . Reclassifying all but the most serious traffic offenses from felonies and misdemeanors to a third level of offenses to be called "Traffic Infractions."
- . Structure a governmental traffic offense adjudication subsystem either as part of an administrative agency separate from the judiciary, or within the judiciary.
- . Adopt a more simplified, informal, and administrative type of procedure for traffic infraction adjudication and sanctioning.
- . Develop a statewide traffic case adjudication, coordination, and management subsystem which utilizes advanced record keeping storage retrieval and dissemination techniques.
- . Improve highway safety by identification of problem drivers, assignment to appropriate driver improvement programs, and monitoring the results.

The Ad Hoc Task Force concluded that adoption of their recommendations would result in a more ideal traffic law system which would advance highway safety through traffic offense adjudication. The recommended procedures were believed to offer a higher probability of reducing accidents than the traditional court system.

CHAPTER III
CALIFORNIA MODEL OF ADMINISTRATIVE
ADJUDICATION OF TRAFFIC INFRACTIONS

I. INTRODUCTION

The Model developed for this study of the administrative adjudication of traffic infractions (Figures III-1,2) would permit nonjudicial adjudication of both decriminalized Vehicle Code traffic infractions and local ordinance traffic infractions (other than parking). The effect of this change would permit adjudication of violations by administrative hearing officers rather than by judges. Under this model, a single agency, the Administrative Adjudication Board in the Department of Motor Vehicles, would administer the program. This model was developed after close review of the experiences in other states and taking into account situations and needs unique to California.

Each part of the model was developed after careful consideration of the various implications, review of published material on the subject, and consultation with knowledgeable individuals in the fields of economics, law, and law enforcement. Guidance in developing the model was also obtained from members of the Administrative Adjudication Advisory Committee. Judgements of specialists in traffic safety were also solicited in the development of a traffic safety oriented sanction model.

II. THE NOTICE TO APPEAR

The issuance of a uniform traffic infraction Notice to Appear³² by either a state or local law enforcement officer will begin the administrative adjudication³³ process. The Notice to Appear will provide the cited motorist³⁴ with explicit written instructions regarding date, time, and

³²This is similar to the currently used Notice to Appear, except for additional information appearing on the form.

³³Administrative adjudication is the process where infractions (as civil offenses) are adjudicated by an administrative officer in an informal setting rather than by a judge in a courtroom.

³⁴The term motorist as used throughout this model includes all persons subject to the provision of the Vehicle Code, e.g., pedestrians, bicyclists, etc.

CALIFORNIA ADMINISTRATIVE ADJUDICATION PROCESS

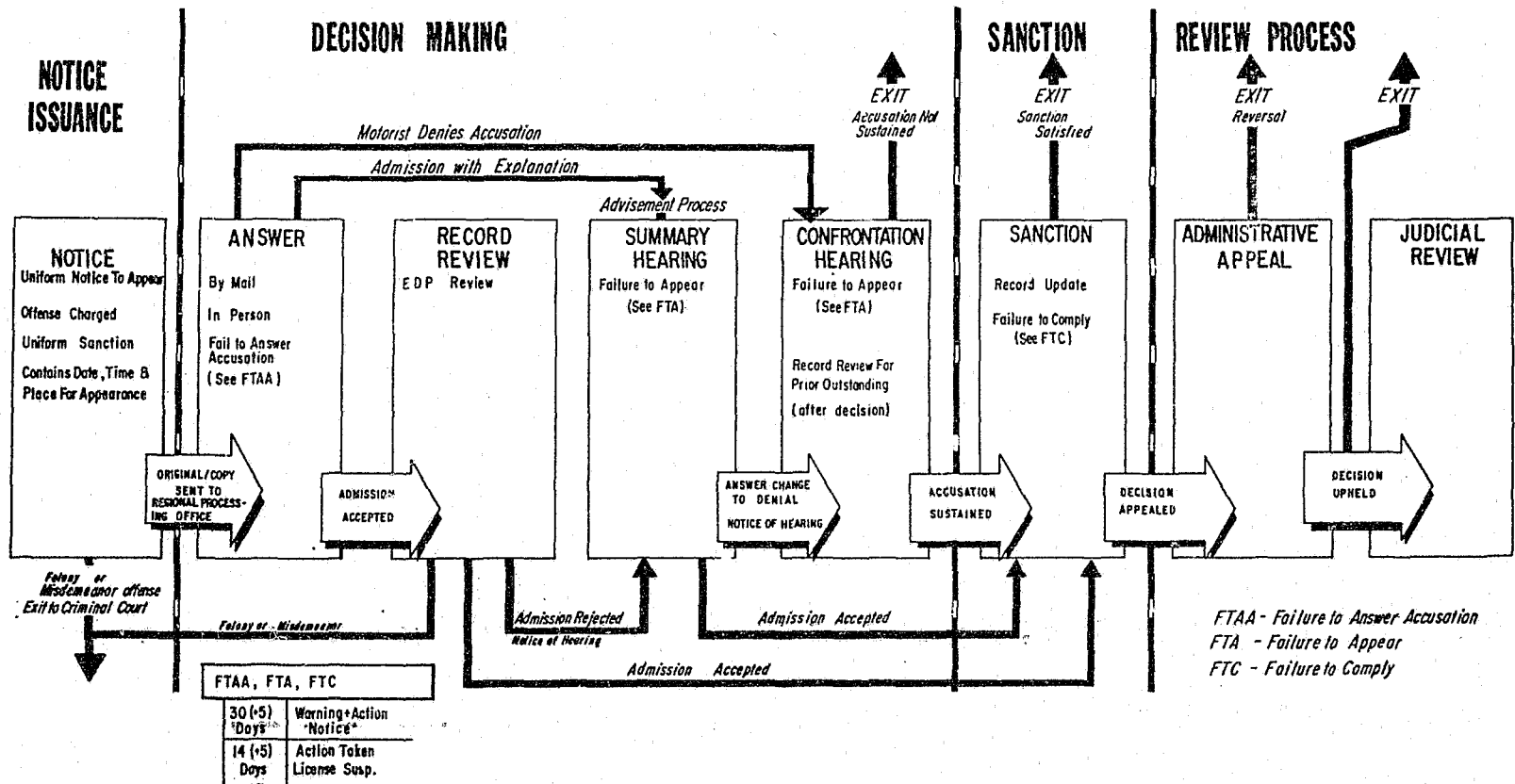
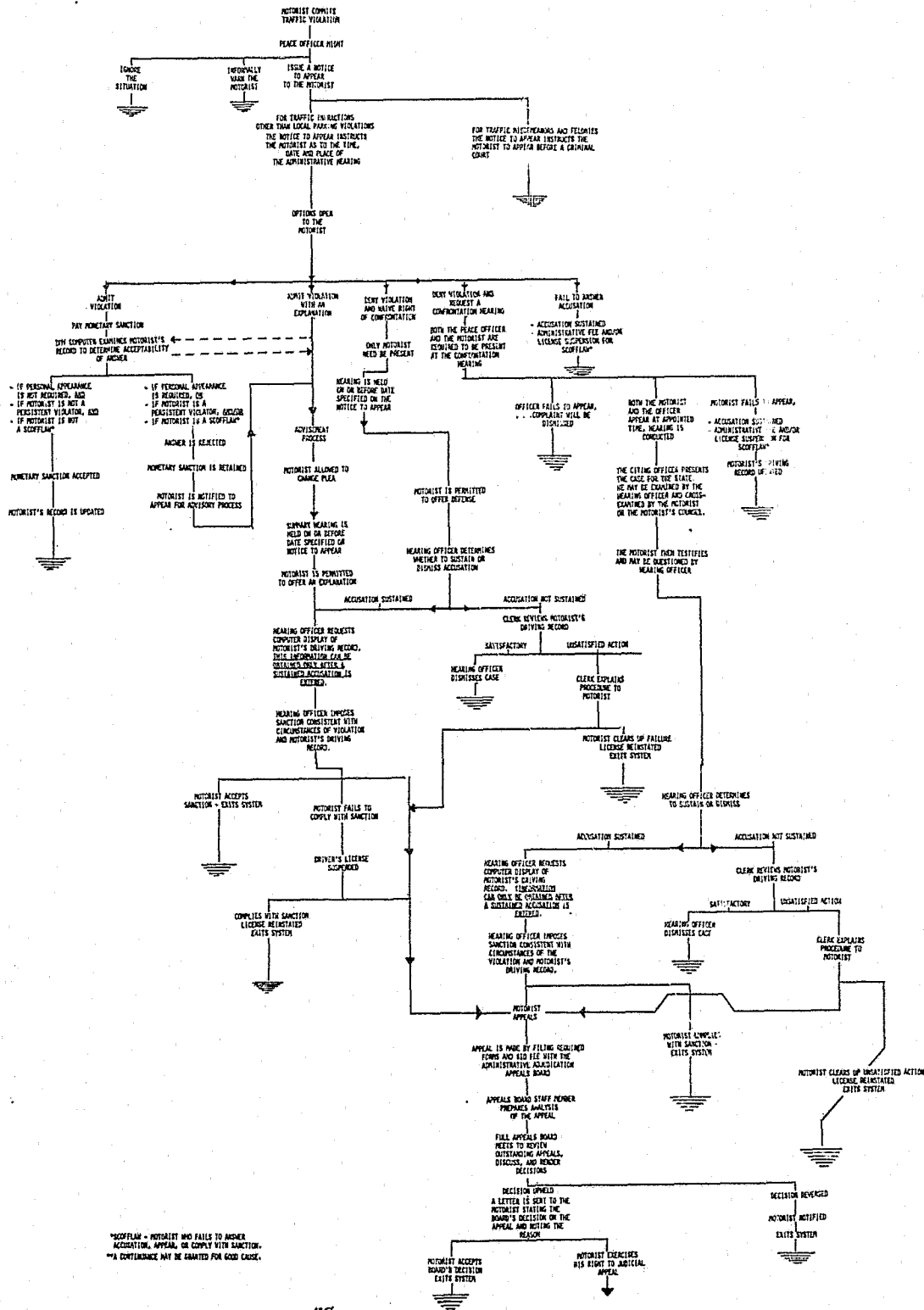


Figure III-1

THE ADMINISTRATIVE ADJUDICATION PROCESS

Figure III-2

SUMMARY OF MAJOR OPTIONS AND ACTIONS



place of appearance, how to answer, hearing options available, and the monetary sanction³⁵ due for the infraction³⁶ cited and the consequences of failure to appear. Necessary information regarding additional motorist's rights and obligations will also be shown on the Notice to Appear.

Under administrative adjudication, the Notice to Appear will have a unique feature in that the date for a confrontation hearing (where the motorist denies the accusation) will be noted by the citing officer at the time of issuance. The hearing date will generally be fourteen to thirty-five days from the date of issuance.

The citing officer will return two copies to his police agency, which in turn, will send one copy to the appropriate Administrative Adjudication Processing Center. The processing center clerk will, whenever possible, electronically transmit data from the Notice to Appear into the Department of Motor Vehicles computer file. One copy of the Notice to Appear will be retained by the officer for his record.

Information shown in the Notice to Appear will include the following:

A. Violations

In jurisdictions where the administrative adjudication system is implemented, the Administrative Adjudication Board will have jurisdiction over the adjudication of all Vehicle Code infractions, as

³⁵ A sanction is an alternative to punishment for California Vehicle Code violations. It is imposed on a motorist to discourage the repetition of the violation involved, or to correct an individual's poor driving habits. Generally, it will be in the form of a monetary assessment, but can take a variety of forms such as license suspension, driving improvement training, and individual counseling.

³⁶ Infractions are those violations of the California Vehicle Code shown as infractions in the List of Violations, following the Appendix in the official Vehicle Code and nonparking violations of local traffic ordinances adopted pursuant to provisions of the Vehicle Code.

well as appropriate local nonparking ordinance violations adopted pursuant to the Vehicle Code. Traffic offenses classified as misdemeanors or felonies will continue to be handled by the courts. When a misdemeanor or felony and an infraction arise out of the same event, only the criminal matter will be handled by the court. The infraction will be handled by an administrative adjudication hearing officer, unless it is a local parking violation.

B. The Legal Rights of the Individual

The Notice to Appear will list the following rights of the cited person:

1. Right to timely hearing.
2. Right to remain silent.
3. Right to disclosure of evidence.
4. Right to confrontation.
5. Right to cross-examination.
6. Right to oral expression.
7. Right to have counsel present.
8. Right to an impartial decision maker.
9. Right to a written decision.
10. Right to appeal.

The Notice to Appear will further explain that the administrative adjudication process allows for a knowing and intelligent waiver of rights if the individual wants to answer by denial, but does not wish to have the citing officer appear at the hearing.

C. The Answer Options

The motorist must enter an appropriate answer on the Notice to Appear form, and submit it by mail or in person within fourteen days. The answer options available are: (1) to deny the accusation, (2) to admit the accusation, or (3) to admit the accusation with an explanation. An opportunity to change the answer will be provided the motorist at several points in the process.

A failure to answer the accusation within fourteen days constitutes a waiver of the right to a confrontation hearing, unless good cause is shown for the failure to answer.

D. The Time, Date, and Place of Appearance

When a Notice to Appear is issued by a law enforcement officer, the officer must enter on the form the date the motorist can appear to contest the accusations.³⁷

The date for appearance will be predetermined by a scheduling procedure developed by administrative adjudication hearing offices³⁸ in cooperation with local traffic law enforcement agencies. Traffic law enforcement officers will be assigned a series of hearing appearance dates each quarter. The citing officer will enter the date, time, and place where the motorist is to appear to admit or deny the accusations (and waive a confrontation hearing, at any hearing office in the State.

E. The Violation Monetary Sanction

The Notice to Appear will inform the motorist of the monetary sanction due for the alleged offense. With all answers of admission by mail, the motorist *must* deposit, by check or money order, the applicable dollar amount shown on the Notice to Appear. With all answers of denial by mail, the motorist *may* deposit, by check or money order, the applicable dollar amount shown on the Notice to Appear. Where the answer is an admission, the deposited money will be applied toward the monetary sanction.

³⁷ Experience with administrative adjudication in New York indicates that only about five in one-hundred citations are contested.

³⁸ The term "administrative adjudication hearing office" or "hearing office" includes justice courts, whenever it is used in this model.

In cases where the answer is an admission with an explanation, all or part of any deposited money will be applied to the monetary sanction based on the decision of the hearing officer, with any surplus returned to the motorist.

Where the answer is a denial with a deposit, the deposited money will be returned to the motorist if the accusation is dismissed. If the accusation is upheld, the deposit may be applied toward the sanction, or returned.

If the accused motorist fails to appear for the scheduled hearing, any deposit will be forfeited and the accusation will be sustained against the motorist by operation of law. If the motorist fails to appear for the scheduled hearing where there is no deposit advanced, the accusation will be sustained against the motorist by operation of law.

F. Apprisement of Consequences of Failure to Appear

The motorist will be informed, on the Notice to Appear, that failing to appear within the time indicated on the Notice to Appear will result in assignment of "Failure to Appear" (FTA) status. The motorist will then face additional sanctions for the failure to appear. Sanctions for FTA may include administrative charges and/or license suspensions. Motorists cited for driving while their licenses are suspended will be referred to the criminal court system.

G. Hearing Place Option

In jurisdictions where administrative adjudication is implemented, the motorist may mail an answer of admission and the monetary sanction to the appropriate processing center. If the motorist desires to admit, or admit with an explanation, in a jurisdiction other than the one in which the Notice to Appear was issued, it may be done in any hearing office in the State. An answer by denial can also be made at any hearing office in the State if the motorist

appears in person and gives a knowing and intelligent waiver of the right to confront and cross-examine the citing officer and opposing witnesses. (Generally, this will mean that the citing officer will not have to appear at the hearing.)³⁹

H. Foreign Language

Provisions will be made for motorists who cannot speak or read English. The Notice to Appear will contain instructions in the major foreign languages and a number to call if the motorist cannot read English. (The citing officer will also have a multilingual pamphlet available which describes the process.) When the non-English speaking motorist phones, assistance will be provided by an individual conversant with the motorist's language, who will explain the process. A written explanation will be provided if necessary. Interpreters will be provided at hearings for motorists who cannot speak English.

III. THE HEARING⁴⁰

A. General Description

Hearing officers, other than justice court judges, will be selected by State Civil Service examination. The specific minimum qualifications will be established by the State Personnel Board. Individuals with appropriate traffic safety and legal training will be recruited and trained to be hearing officers. Additional qualities that will be required in hearing officers include maturity, experience, patience, and ability to be fair, but firm in the decision making process.

³⁹It is expected that hearing opportunities will be available at least one night a week based on public need.

⁴⁰In rural areas, justice court judges will act as hearing officers for the purpose of adjudicating traffic infractions.

Generally, hearing settings will be informal in nature, with neither uniforms nor robes worn by hearing officers. Bailiffs will not be utilized; rather, citing officers will be available if needed. The hearing room will seat between twenty and forty persons and hearings will be open to the public. Chairs will be provided for all participants in the hearings.

The burden of proof will be clear and convincing evidence.⁴¹ Complete records of the proceedings will be maintained by automatic tape recording devices and stored for a specified period. The hearing officer must orally state the decision and the reasons for the decision. This will be recorded by the recording devices, and will constitute having a written decision. These recording devices will be turned on for the entire hearing schedule. This is done in order to discourage the situation known as "plea bargaining" in the current judicial system, and also for purposes of monitoring the hearing officer. If review of the case is necessary for administrative or appeal purposes, transcripts can be readily prepared.

B. Types of Hearings

There will be two types of administrative adjudication hearings, confrontation and summary. The choice of the hearing will be determined by the extent to which the motorist desires to contest, the presentation, and the type of procedure the motorist chooses.

⁴¹ The clear and convincing standard lies somewhere between the civil standard of preponderance of the evidence and the criminal standard of beyond a reasonable doubt. The civil standard is usually defined as requiring that proof be sufficient to make it more likely than not that the alleged event occurred. The criminal standard requires that proof be sufficient to remove any reasonable doubt as to the occurrence of alleged event.

In the confrontation hearing, the citing police officer and the motorist will be present, whereas, in the summary hearing the citing police officer will not appear.

C. Administrative Adjudication in Justice Courts

In most rural areas presently served by justice courts, the administrative adjudication process will be utilized for Vehicle Code infractions. Justice court judges will become part time employees of the California Administrative Adjudication Board through contract with the individual for predetermined periods of time to permit adjudication of Vehicle Code infractions occurring in their jurisdictions. This approach blends the advantages of administrative adjudication with the existing rural judicial system.

As in the previously described process, the motorist will answer by mail or in person.

The mailed in answer will be processed at an Area Processing Center serving several justice court jurisdictions. The Area Processing Centers will input data into the Department of Motor Vehicles computer file which will determine if an answer admitting the accusation(s) should be accepted or rejected. A motorist, whose answer was rejected because of a poor driving record will be notified when to appear at a specified justice court.

Where a motorist answered in person and waived the right of confrontation and cross-examination, the judge will make a decision on the matter and then have a clerk telephone the Department of Motor Vehicles Area Processing Center for the driver's record, prior to determining the sanction.

D. Administrative Adjudication for Juveniles

The procedure for handling juveniles between the ages of sixteen and eighteen years of age would be the same as for adults, except that notice of the hearing for the juvenile will be sent to the

juvenile's parents or guardians. The juvenile's parents or guardians will have to accompany their child for a second Notice to Appear issued to the juvenile within twelve months.

Juveniles under sixteen years of age, will be referred to the appropriate juvenile authority.

E. Confrontation Hearing

When a motorist wishes to answer by denial and have the citing officer present, a confrontation hearing will be provided. The date, time, and place of the hearing, as specified on the Notice to Appear, will have been predetermined according to the officer's scheduled hearing days.

A denial answer indicates that the motorist denies the charge contained in the Notice to Appear, and requests a hearing to contest it. The motorist will indicate the denial in the appropriate box on the back of the Notice, sign it, and either mail it to the Area Processing Center shown on the Notice to Appear, or personally take it into the designated hearing office where a clerk will then schedule a hearing for the date shown on the Notice to Appear. A multiple form or tear-off form may be used; further details will be developed as part of the implementation system. In answering by mail, the motorist may deposit in the designated Area Processing Center, by check or money order, the applicable dollar amount shown on the sanction schedule, or if answering in person, may deposit the applicable dollar amount shown on the schedule.

A denial answer made by mail more than fourteen days after the date of the violation will be processed, if possible. If it is not possible to process the answer, the motorist will be deemed to have waived the right to a confrontation hearing.

In the hearing, rules of evidence will be broadly applied. This permits the motorist to personally present his case without the

need of an attorney. Reference to privileged communications or to past driving conduct will be excluded from the hearing. The confrontation hearing will, however, provide for full rights of confrontation and cross-examination by the accused motorist.

The hearing procedures will allow the citing traffic officer to testify first; the motorist or his attorney will then have the opportunity to cross-examine the traffic officer's testimony.

The motorist and his witnesses may then testify as to their respective versions of the facts. Following this, the hearing officer will have an opportunity to probe and question *both* sides. The motorist will be provided an opportunity for final argument.

1. Accusations Not Sustained

If the hearing officer determines that there is not sufficient evidence to sustain the accusation, the accusation will be dismissed. A clerk will check for any prior matters, such as "Failures to Appear," that may be pending, update the record, and the hearing officer will dismiss the case.

2. Nonappearance of Officer

If the citing traffic officer does not appear and cannot be reached, the complaint will be dismissed. A continuance will not be granted for either the motorist or traffic officer, unless good cause is shown prior to, or on, the appearance date.

F. Summary Hearing

For a summary hearing, the motorist will appear before the hearing officer without the appearance of the citing traffic officer. Generally, a summary hearing will occur in one of the following situations:

1. Denial with Waiver

This situation occurs when the motorist answers by denial and *waives the right of confrontation and cross-examination*. In order to do so, there must be a *knowing and intelligent* waiver

form signed by the motorist giving up the rights of confrontation and cross-examination of hostile witnesses (generally, this will mean that the citing traffic officer will not have to appear).

In addition to the waiver, the motorist will be asked to agree that the information on the Notice to Appear is the same as what the citing officer would testify to in person.

Where the traffic officer is not required to be present, the hearing officer must decide the case from the testimony of the motorist and favorable witnesses on one side, and from the information contained in the Notice to Appear on the other side.

2. Admission with an Explanation

If a motorist answers by admitting with an explanation, a personal appearance must be made on or prior to the appearance date noted on the Notice to Appear (The citing traffic officer will not appear). In this case, the motorist admits to the accusation, but is allowed the opportunity to offer an explanation. After the motorist offers an explanation, the hearing officer will obtain the motorist's driving record. After review of the record, the hearing officer will announce an appropriate sanction.

3. Admission with Computer Rejection

When a motorist answers by admission, either by mail or in person, that answer will indicate that the motorist admits the truth of the alleged violation indicated on the Notice to Appear. After the answer is entered into the central computer by the Area Processing Center, the driver's record will be reviewed by the computer to determine its status. The admission will be accepted only when the motorist's driving record is good. After acceptance, the motorist's driving record will be updated and the case closed. If the motorist has an unsatisfactory

driving record, a personal appearance will be required and notice of the required appearance will be mailed to the motorist. Whenever possible the appearance date will be the same as that shown on the Notice to Appear. The motorist personally appearing to answer may go through an advisement process before going to a hearing.

G. The Advisement Process

This safeguards the motorist whose driving record is so poor, (as determined by computer review), that the motorist's driver's license is close to being revoked or suspended. Advisement will be given prior to appearance of the motorist before the hearing officer. It will fully inform the motorist of the possible consequences of an answer of admission before the hearing takes place. An opportunity to change the answer from one of admission to one of denial will be afforded at this point.

H. Failure to Appear or Comply (FTA or FTC)

Sanctions available when the motorist either fails to appear on the designated date, or fails to comply with an imposed sanction, include driver's license suspension and/or an administrative charge. A driver's license will be suspended only after notice is mailed to a motorist indicating that if the delinquency is not corrected within a specified period of time, suspension will take place, and the license will not be renewed until all pending matters are cleared by the time of renewal.

IV. RECORD REVIEW

After the hearing decision has been made, the hearing officer must enter that decision into the computer file. Only at that point will the hearing officer be able to review the motorist's prior driving record. For accusations that are sustained, a sanction will be determined from a uniform sanction schedule that takes the motorist's driving record into consideration. Record review will also take place for accusations that are dismissed, to insure that no outstanding "Failures to Appear" exist.

Notice of appeal rights will be given to motorists immediately after the accusation has been sustained by the hearing officer, and the sanction has been announced.

V. SANCTIONS

Under administrative adjudication the sanction and treatment sequence for traffic offense adjudication will vary according to the severity of offense and/or cumulative number of violations the motorist has incurred in a specified period of time. The intermediate objective of the sanction is to discourage repetition of violations and encourage better driving practices. The end objective is reduced traffic accidents.

Since scientific knowledge of what constitutes an optimally effective traffic violator sanction system is limited, the attributes of the following sanction model must be considered tentative. Nevertheless, rational judgement coupled with trends in empirical research, result in certain characteristics of a "model" driver improvement sanction program emerging. (Appendix F)

A. Driver Improvement Sanction Model

The driver improvement sanction model that follows is sequential, proceeding from inexpensive treatments for the minimal violator to more expensive and detailed treatment for the advanced violator. In addition to the rational and "common sense" attractiveness of a sequentially graduated approach, the following advantages deserve mention: (1) the model results in a large number of drivers being treated, thereby maximizing the net potential impact of driver improvement on accidents, (2) the per unit cost of treatment tends to be proportional to the severity of the driver's record, (3) since most drivers do not recidivate to advanced records, even when untreated, the use of minimal treatments at lower point counts results in a more attractive cost and benefit relationship, (4) there is no persuasive evidence that expensive treatments are more effective than less expensive treatments, and

(5) the model combines sanctions presently used by the courts with those used by the Department of Motor Vehicles agencies.

A driver improvement treatment is triggered by the accumulation of points on the driver's record. A point is defined as any moving traffic violation or accident. Figure III-3 illustrates the progressive stages of recidivism relative to each treatment point.

Table III-A further details the sanction model which was developed for administrative adjudication. Based on the driver's prior record, this model includes the recommended sanction amount, the bounds of discretion and the driver improvement treatment envisioned for use by the hearing officer. It is important to recognize that the fine and treatment components are not "either/or" alternatives. In other words, violators will be subject to both the fine and treatment component indicated at each level of the model.

Table III-A

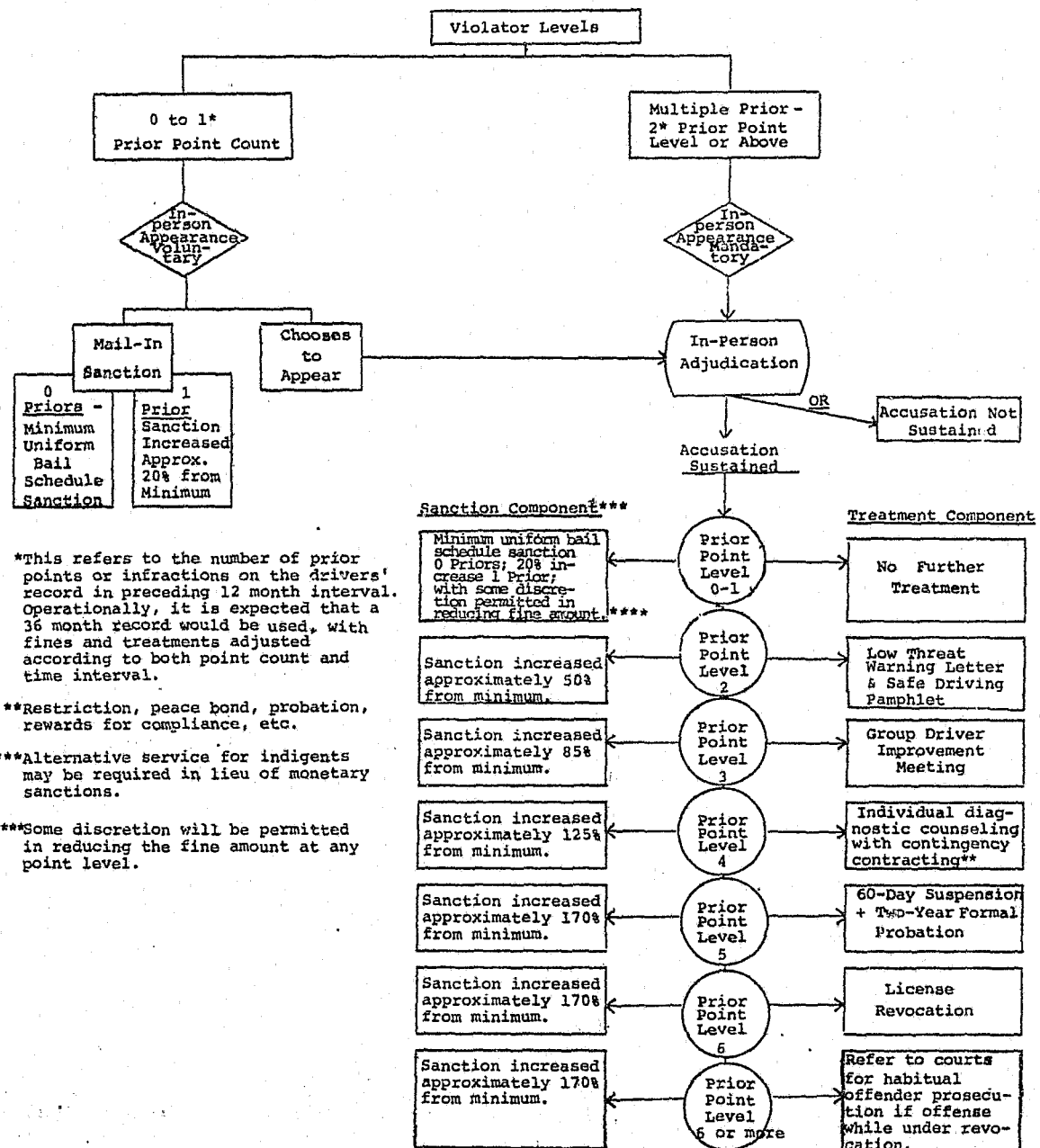
Monetary Sanction and Treatment Schedule

Driver Record Point Count	Fines (Average) ⁴²				Treatment			
	Prior 12 Months	Speed- ing	Other	W/L* Educa- tion	Contingency Contracting	Suspen- sion	Revo- cation	Appear- ance
0	20	15	No	No	No	No	No	No
1	24	18	No	No	No	No	No	No
2	30	22.50	Yes	No	No	No	No	Yes
3	37	27.75	No	Yes	No	No	No	Yes
4	45	33.75	No	No	Yes	No	No	Yes
5	54	40.50	No	No	No	Yes	No	Yes
6+	54	40.50	No	No	No	No	Yes	Yes

* Warning Letter

⁴²Time payment schedules will be established for those individuals that indicate a need for a reasonable amount of time to pay.

Figure III-3

SIMPLIFIED SCHEMATIC OF A MODEL TRAFFIC INFRACTION SANCTION
SYSTEM FOR ADMINISTRATIVE ADJUDICATION

B. Graduated Sanction Feature

The sanction amount is advanced by a set percentage for drivers with prior records of two or more points. This percentage increase was adopted as the result of successful experience in Fresno County where this graduation technique was adopted.⁴³ The amounts themselves are based on the average guidelines provided in the Judicial Council Uniform Bail Schedule.⁴⁴ Most of the treatments imposed are similar to those currently being employed at the Department of Motor Vehicles as part of its Post Licensing Control Program.

C. Masking First Citation

A feature of the model that warrants discussion is the masking of the first offense in a 36 month period. This will result in insurance companies not having access to the record of the first point on the driver record. The purpose of this feature is to motivate the vehicle operator to drive safely in terms of avoiding additional citations or accidents. Evidence from a recent research study indicates that a positive incentive offered to drivers with a slightly deteriorating record may result in significant improvements in driving performance (when compared to a comparable group of drivers that did not get the incentive).⁴⁵

While it may be expected that certain insurance companies will object to losing this data, the fact of the matter is that the current

⁴³ Young and Co., A System to Administer and Control the Processing of Nonparking Traffic Citations and Direct Filings, Fresno County.

⁴⁴ California Rules of Court, "Traffic and Boating Bail Schedules," Title II, Div. IV, Rule 850.

⁴⁵ Harano and Hubert, "An Evaluation of California's 'Good Driver' Incentive Program".

system is already resulting in some of the data being lost. Judges regularly suspend action, or dismiss the citation if the violator attends court traffic school. Under administrative adjudication, the driver record will not be subject to this type of nonuniform action and, as a result, should provide improved driver record information to insurance companies for rate setting purposes.

D. Contingency Contracting

Under this approach, a "written contract" is negotiated between the Driver Improvement Analyst and the deviant driver. The contract sets forth the specific behavioral requirements expected of the driver, the State's obligations in helping the driver maintain his license, and the rewards the State will provide if the driver fulfills his contract. Rewards could consist of such things as a gradual lessening of driving restrictions, removal of prior points, and return of money if a bond is posted (For an excellent presentation of the ethical, procedural and legal issues involved in contingency contracting, see Goldiamond, 1974.)⁴⁶

VI. APPEALS

If a motorist is not satisfied with the decision of the hearing officer or with the sanction, the first step available will be an appeal to a five person appeals board. The appeals board will be made up of the five members of the Administrative Adjudication Board sitting as an administrative appellate body. They will be appointed by the Governor, subject to confirmation by the State Senate, with overlapping five year terms.

Appeals will be initiated by mailing an appeals form, on which the motorist will describe the basis for the appeal. The form and a \$10

⁴⁶ Goldiamond, "Toward a Constructional Approach to Social Problems: Ethical and Constitutional Issues Raised by Applied Behavior Analysis", Behaviorism Journal, Vol. II, 1974, pp. 1-84.

fee must be sent to the Administrative Adjudication Board headquarters in Sacramento within thirty days of the decision. A transcript of the hearing will not be necessary if the appeal is only on the nature or amount of the sanction. The decision of the appeals board on the sanction will be final. If the issue on appeal is one of law or fact, a fee will be charged for the actual cost of transcribing the recorded hearing. A \$20 deposit will be necessary prior to preparation of a transcript. The balance, if any, will be due before the appeal is processed. Any excess monies will be refunded.

When the transcript is prepared, a copy will be sent to the motorist, who is allowed fourteen days to formulate comments for submission to the appeals board. The appeals board executive officer will then make an initial analysis and recommendation to the appeals board members. Three votes are necessary for final appeals board action on any appeal.

All license suspensions, revocations, or sanctions will be stayed pending the determination of an appeal. During this period, a temporary license will be issued to the appellant. Notice of the outcome of the appeal, along with the reasons for the decision, will be mailed to the motorist. If the decision of the hearing officer is upheld, the motorist will have exhausted all administrative remedies. The motorist may then elect to proceed to superior court for judicial review. The notice of decision will also inform the motorist of the right to judicial review, which must be filed within a predetermined time in the appropriate superior court.

CHAPTER IV
ADMINISTRATION, ORGANIZATION, AND
OPERATION OF ADMINISTRATIVE ADJUDICATION

I. INTRODUCTION

A key element in the analysis of feasibility is the broad issue of administration, organization, and operation of the Administrative Adjudication System. SCR-40 alluded to these considerations when, for example, it directed that the ". . . feasibility study for implementing administrative adjudication of traffic cases" include, "both urban areas having populations greater than 250,000 and areas having populations less than 250,000" as well as an analysis of combining administrative adjudication with the Department of Motor Vehicles facilities.

These and other management considerations resulted in an investigation and evaluation of various approaches to administrative adjudication that could be utilized. New York's experience was examined in terms of staffing patterns and functions that would have to be performed. The functions to be performed were then examined in terms of organization and administrative approaches utilized in California State Government. Operation plans were derived from established criteria that all California State Departments utilize, including facility, classification, and salary standards, as well as New York's operating experiences.

Approaches were also developed to deal with public information and multilingual needs. In addition, attention was given to areas such as management information and program evaluation, as well as revenue distribution and projection considerations.

It should be noted that the objective of the feasibility study was to determine in a general sense whether there were any major impediments to implementing a program of administrative adjudication, and what the likely impact of administrative adjudication would be. As a result,

the issues of administration, organization, and operation were analyzed and resolved from the broad perspective of system feasibility. All of these areas would be detailed in consultation with such control and service agencies as General Services, Personnel Board, Finance, and the Controller's Office during the implementation study phase. The outline of an implementation plan concludes this chapter.

II. PROGRAM ADMINISTRATION AND ORGANIZATION

The initial issue to be resolved was that of administration, i.e., how could the concept of administrative adjudication be successfully translated to reality given all the potential obstructions that were identified in areas of program cost, conflict of interest questions, and others. Once the administrative considerations were identified and resolved, the organizational characteristics were developed. Analysis of the organizational implications focused on organizational structure, responsibilities, staffing patterns, personnel and related areas.

A. Administration Considerations

In analyzing the administration considerations attention was given to the major administrative issues, including (1) Program Cost, (2) Potential Conflict of Interest, (3) Driver Improvement Program Relationship, (4) Urban/Rural Implementation and (5) Processing of Local Parking Infractions.

These issues may be summarized as follows:

1. Program Cost

Attention was given to keeping program costs to a minimum, consistent with the requirement that the program have sufficient resources to operate effectively. This contributed to the decision to place administrative adjudication within the organizational structure of the Department of Motor Vehicles in order to utilize electronic data processing, personnel, budget and other program support resources. This eliminated the need to replicate these services in a new bureaucracy.

2. Potential Conflict of Interest

Concern developed in terms of the administrative appeal process as it relates to the Department of Motor Vehicles both (a) licensing drivers and also (b) adjudicating offenses and hearing appeals when the decisions could affect the driver's license. The separation of powers concept argued strongly for separation of these functions.

As a result, it was decided that the optimum approach would be an independent, appointed Administrative Adjudication Board that would both promulgate rules and regulations and hear appeals. In addition, to preserve independence of judgment, the administrative adjudication program would be administered by the Board.

3. Driver Improvement Program Relationship

The relationship between administrative adjudication and the Department of Motor Vehicles-Post Licensing Control Program is direct insofar as the Negligent Operator Element is concerned. It may be worth noting that the Negligent Operator Element is a major part of the Post Licensing Control Program. This Element focuses on the problem of the repeat violator, while other elements of the Post Licensing Control Program are directed toward such conditions as physical or mental problems and drinking drivers.

Under administrative adjudication, repeat violators would receive monetary sanctions as well as driver improvement treatments. The treatments would parallel, with certain enhancements, the existing Negligent Operator approach, i.e., a sequential treatment of warning letters, group education meetings, and individual diagnostic hearings.

Given the direct relationship between adjudication and the driver improvement treatments to be used, it is felt that responsibility for the Negligent Operator Element should be transferred to the administrative adjudication program. This would facilitate program efficiency and effectiveness through the use of traffic safety trained hearing officers to conduct either group meetings or individual counseling sessions. The potential savings that would result cannot be calculated at this time; however, a recent cost estimate of \$2,121,390 for the counseling sessions alone indicates that increased efficiencies could result in substantial savings. In addition, this organizational arrangement would greatly aid the effectiveness evaluation of both existing combinations of treatments as well as future treatments that are developed and evaluated.

4. Implementation in Rural and Urban Areas

In establishing a program of administrative adjudication throughout California, it became apparent that program costs in rural areas could be much higher than in urban areas, due to low citation volumes and widespread geography. However, the potential advantages, in terms of statewide consistency in adjudication and sanctioning approaches, argued strongly for the development of an efficient statewide system.

It was determined that the most efficient approach on a statewide basis would be an amalgamation of the present justice courts serving the rural counties, with the Department of Motor Vehicles staffed administrative adjudication hearing offices serving the urban counties. This field structure would be linked to the Department of Motor Vehicles' Sacramento Headquarters and its computer system by means of on-line video devices in the hearing offices and Area Processing Centers (located in each of nine geographical Areas.)

As an initial task in this analysis, a working definition of urban/rural was developed along county lines. An urban county was defined as one with a total population of at least 250,000 and a population per square mile of at least 250. A rural county is, of course, any county which fails to meet the "urban" criteria.

The nine California counties that meet the urban county definition include:

	<u>Population</u> ⁴⁷	<u>Population</u> <u>per sq.mi.</u>
. Los Angeles	7,041,980	1,726
. Orange	1,645,300	2,095
. San Diego	1,502,600	348
. Santa Clara	1,160,800	885
. Alameda	1,120,800	1,370
. San Francisco	715,674	7,016
. Sacramento	690,900	693
. Contra Costa	594,800	738
. San Mateo	557,361	1,008

Under this approach, administrative adjudication would be totally conducted by the Department of Motor Vehicles within the nine urban counties. In the rural counties, adjudication of traffic infractions would be the joint responsibility of administrative adjudication hearing officers and the justice courts. The administrative adjudication hearing offices would be established in rural county population centers currently handled by municipal courts; the remainder of the rural county would be serviced by existing justice courts, following the rules, regulations, and guidelines of the Admin-

⁴⁷ Estimated population as of June 30, 1974 from Division of Accounting, State Controllers Office. Population per square mile is computed on total area within county boundaries.

istrative Adjudication Board. This would be accomplished by contracting with rural counties for that part of the cost related to the justice court judges' involvement with traffic infraction adjudication. The justice courts would, however, not process the citations; the Administrative Adjudication Area Processing Centers would perform the citation processing function for all counties.

If a justice court judge failed to follow the rules and regulations of the administrative adjudication Board, the adjudication function would be performed by "circuit riding" hearing officers, which would increase program costs to be assessed against revenues generated.

5. Processing of Local Parking Infractions

While the Resolution did not require that local parking infractions be included in administrative adjudication, they were in fact considered. After analysis it was concluded that local parking infractions probably should not be included in a statewide system of administrative adjudication in terms of processing; they could conceivably be adjudicated administratively with only minor impact on the system proposed. The reason for this conclusion was based on the following factors:

- . The relationship of a local parking infraction to traffic safety is very tenuous; the objective of local parking ordinances are generally related to needs such as revenue generation and commercial requirements (room for patrons).
- . There is no need for bringing a parking infraction recidivist into a traffic safety hearing (as would be done for repeat violators of moving infractions).
- . Local parking infractions and penalties tend to focus on local parking control needs; they do not appear amenable to the application of statewide sanction guides.

- . Local agencies appear to be handling the processing of parking citations efficiently, since the heaviest volume tends to occur in urban areas that generally are highly automated.
- . The effect of local parking infractions on the Department of Motor Vehicles' electronic data processing system would be overwhelming in terms of increased capability that would be required.
- . There is very little current impact on judges since the volume of local parking infractions that are adjudicated is less than one percent of the total.
- . The problem of parking scofflaws should be resolved beginning in January, 1978. At that time, vehicle registrations will not be renewed until all outstanding parking citations are satisfied.

In conclusion, no compelling reason could be found to process local parking infractions on statewide basis. Adjudication of parking infractions could, however, be done by administrative adjudication hearing officers if desired.

B. Organization Considerations

An Administrative Adjudication Board, consisting of five members appointed on a part-time basis by the Governor with the concurrence of the Senate, would be established within the Department of Motor Vehicles. The administrative adjudication program would be administered by the Administrative Adjudication Board.

The responsibilities of the Board would be to adopt program rules and regulations, hear appeals from unsatisfied traffic violators, establish a schedule of sanctions including both monetary and others, and through an Executive Officer, appoint sufficient staff to administer the program.

1. Program Management (Figure IV-1)

Actual program operation would be administered by an executive officer.

The executive officer would have responsibility for:

- . Recommending changes in rules and regulations and the adoption of new rules.
- . Overseeing the observance of rules and regulations adopted by the Board.
- . Keeping the Board informed of all matters that might affect its activities and objectives.
- . Maintaining liaison with the Legislature on all matters concerning Board responsibilities
- . Coordinating the activities of the assistant executive officers and reviewing their activities in the light of Board objectives.
- . Identifying and informing the Board of all future needs and requirements for meeting Board goals.
- . Reviewing reports and recommendations of administrative adjudication personnel and making recommendations to the Board.
- . Preparing meeting schedules and agendas and insuring that meetings are properly conducted.

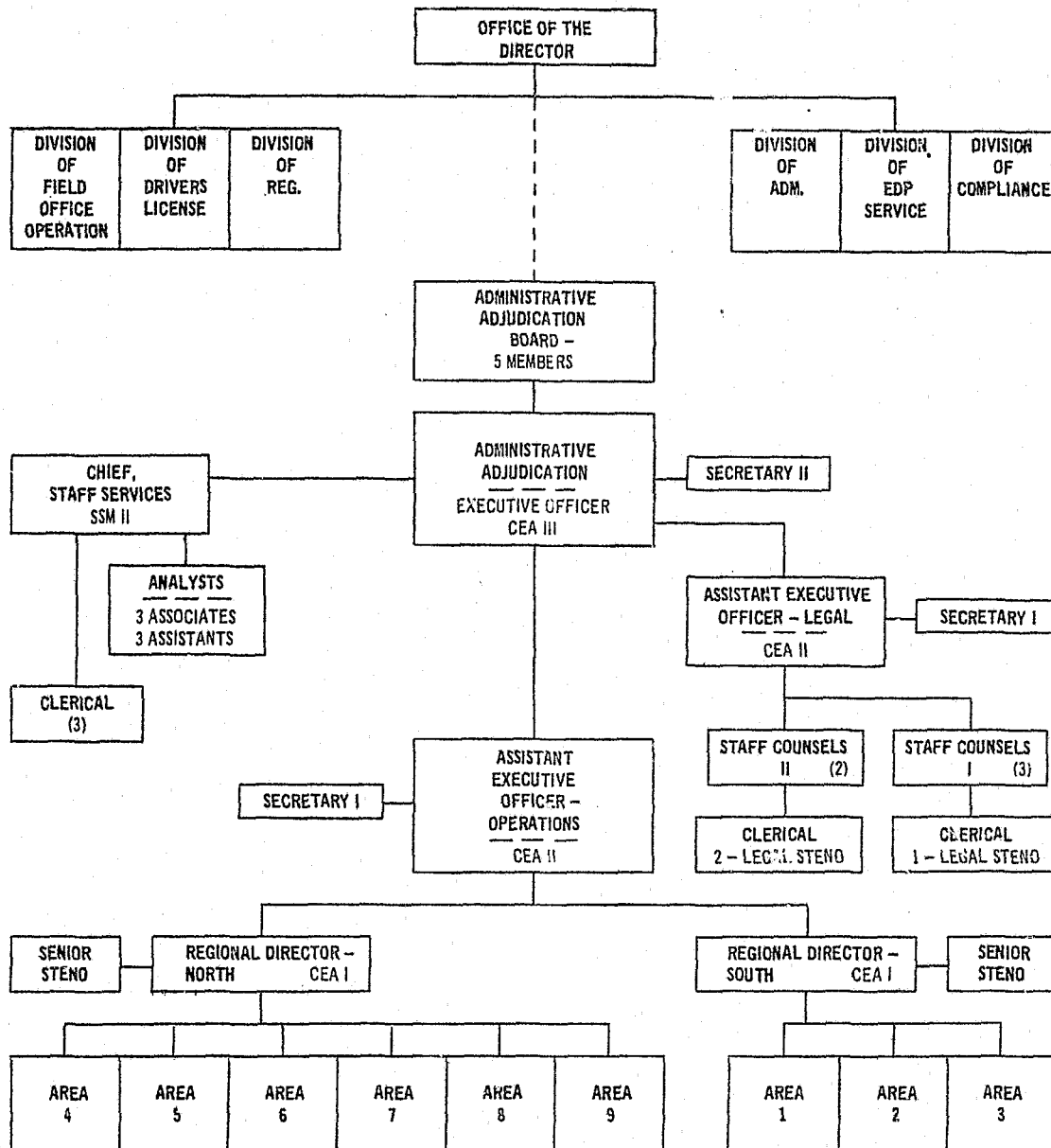
The Board's executive officer would in turn have assistant executive officers in charge of legal matters and operations.

A staff services section would report directly to the executive officer.

The assistant executive officer-legal would have responsibility for:

- . Legal advice to the Board.
- . Drafting rules and regulations for administrative adjudication.

Figure IV-1



See Figure IV-3
SHOWING
DETAILS OF
AREA ORGANIZATION STRUCTURE

- . Reviewing appeals for legal implications.
- . Maintaining liaison with the Attorney General's Office on general law matters.
- . Preparing and analyzing legislative proposals.

The assistant executive officer-operations would have responsibility for:

- . Administering day to day operations of administrative adjudication.
- . Reviewing and recommending improvements in operations to the executive officer.
- . Directing the implementation of approved plans and policies.
- . Developing and recommending to the executive officer long range plans for the ongoing maintenance operation of the program.

The primary tasks of the staff services section would include:

- . Developing and maintaining an ongoing effectiveness and efficiency evaluation.
- . Performing cost and benefit analyses.
- . Providing personnel, budget, facilities, and computer coordination.
- . Developing and maintaining an informative management information system.
- . Performing requested surveys.

2. Regional Operation

The field operations of the adjudication program would be divided into Regions on a geographical basis with one Regional Director responsible for the activities in the

northern portion of the State and one Regional Director responsible for the field operations in the southern part of the State. The dividing line between northern and southern field operations takes into account factors such as workload and geography. (Figure IV-2)

Southern Region field operations would be divided into three Areas with a senior hearing officer having responsibility for all activities within each of these Areas. Northern Region field operations would be organized into six Areas with each Area managed by a staff or senior hearing officer.⁴⁸ At the operational level, each hearing office would generally be manned by two hearing officers and a clerical staff consisting of an office manager, two hearing room clerks, one information clerk, and one cashier clerk.⁴⁹ (Figure IV-3)

3. Area Headquarters

In each of the nine Area Headquarters, there would be a staff of clerical and data processing personnel with responsibility for processing traffic citations received from all law enforcement agencies within the Area. This would include checking, accounting, resolving errors, and processing the data into the Department of Motor Vehicles' central computer.

4. Staff Selection and Training

a. Selection

Administrative Adjudication Board staff would be appointed subject to civil service selection requirements established

⁴⁸ The management level will be based on a variety of considerations including citation volume, staffing, geographical dispersion, et. al.

⁴⁹ This model is likely to vary based on volume of citations in the hearing office jurisdictions.

Figure IV-2

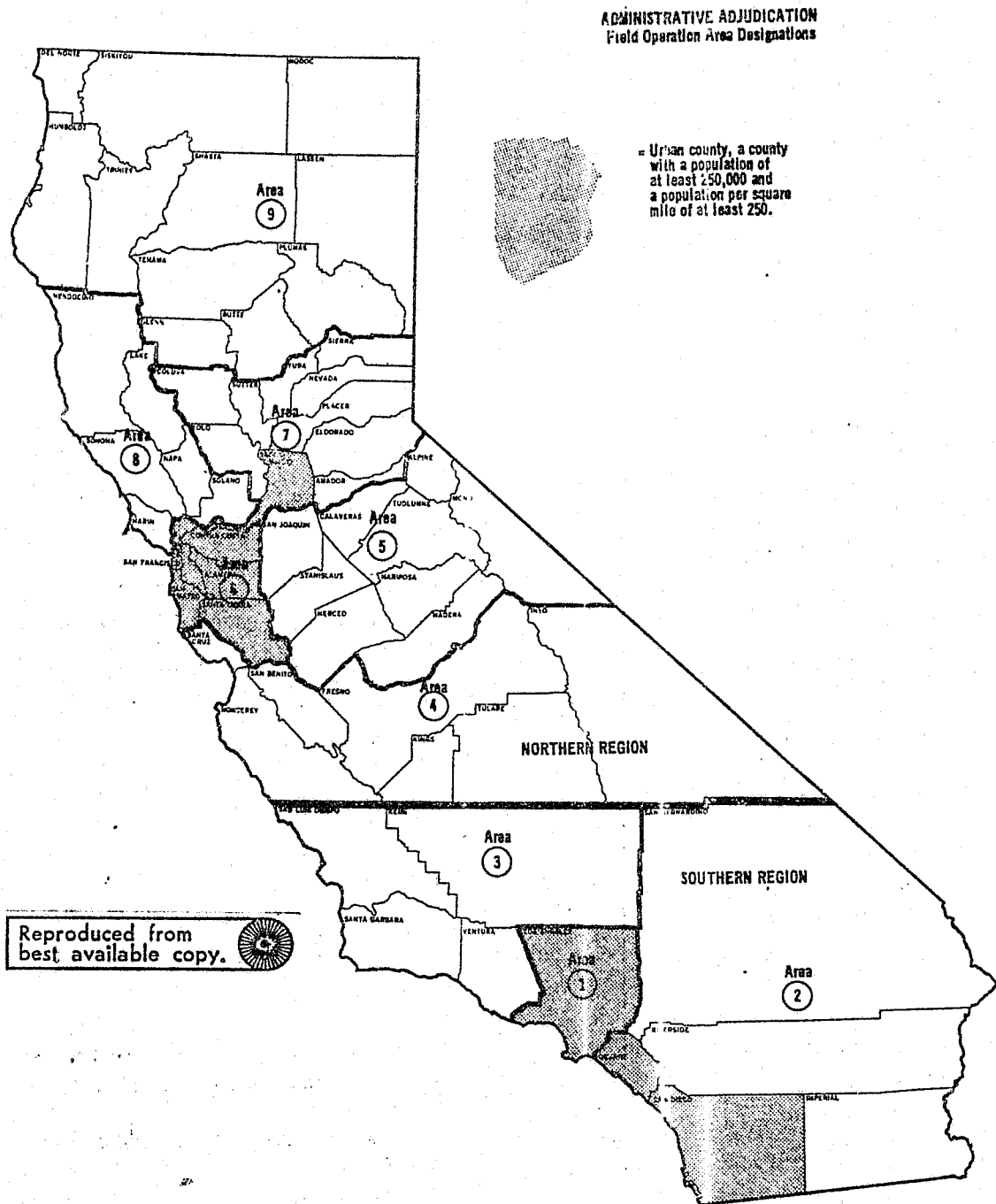
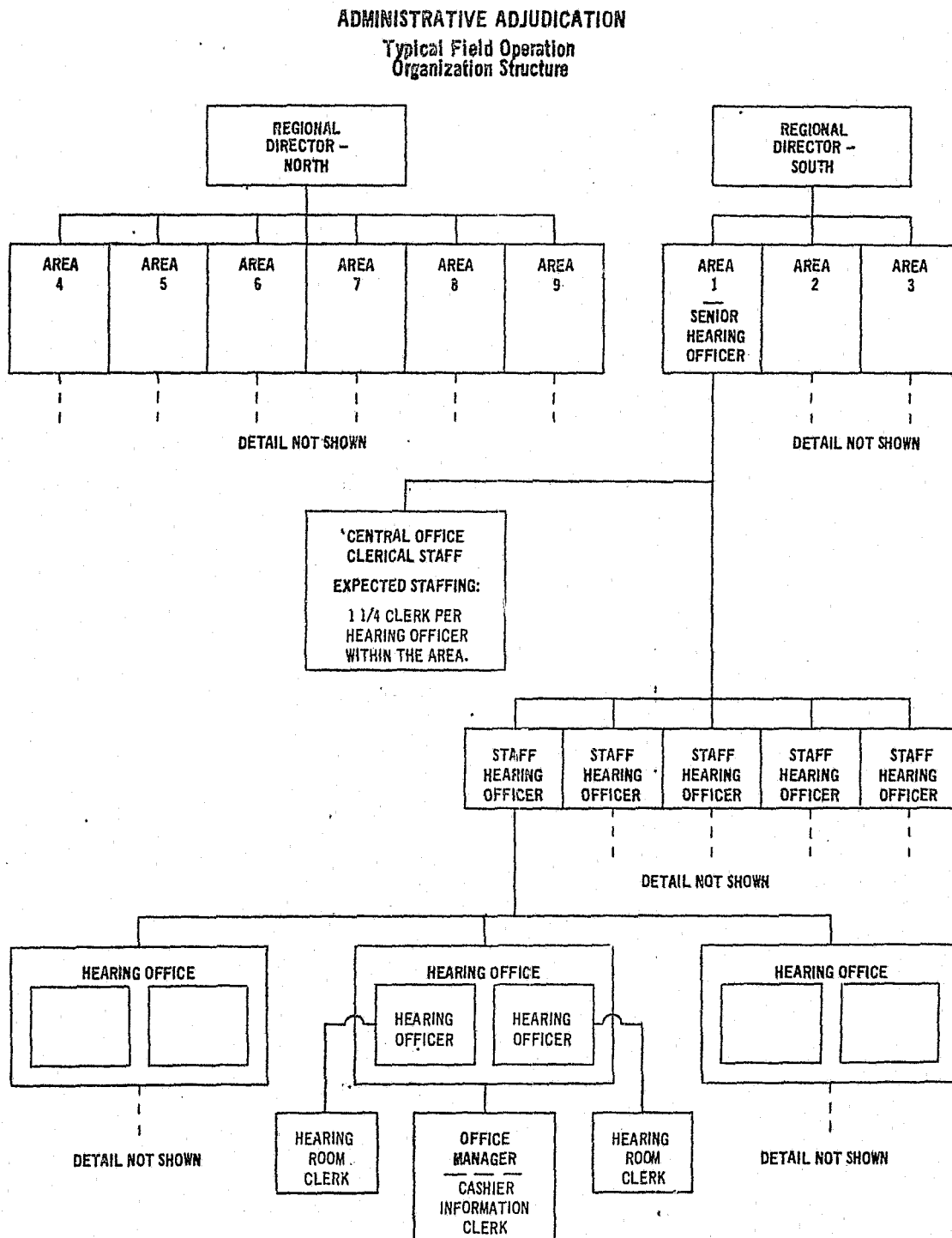


Figure IV-3



by the State Personnel Board. Specific requirements for hearing officers would include both traffic safety and legal training or background.

It is expected that both attorneys and qualified driver improvement analysts would constitute the recruitment pool for positions. Personal characteristics for hearing officers would include relevant experience, patience, flexibility, and the ability to be fair but firm in the decision making process.

b. Training

Training requirements would depend on the state of development of the hearing officer. Ongoing education in traffic safety would be provided to both trainees and journeyman hearing officers. Seminars in legal ramifications would be given periodically. Hearing officers would also spend specified amounts of time out in the local community to insure that a clear understanding of local traffic safety considerations was maintained.

Other training subjects would include:

- . Organization and operation of the administrative adjudication system.
- . Reasons and authority for sanctions.
- . Intergovernmental relations.

5. Staffing Pattern Estimates (Tables IV-A,B,C)

Staff requirements were developed through an analysis of the New York experience and the expected volume of workload

activity in California.⁵⁰ Differences in organizational approach did not affect the estimates, e.g., New York utilizes a centralized citation processing system although the California Model of Administrative Adjudication proposes that citations be processed in decentralized Area Processing Centers.

Experience in New York indicates that initial implementation will likely result in certain inefficiencies until consistent and reliable workload volumes are established. As a result, the proposed staffing patterns can only be considered tentative until actual verification occurs.

6. Salary Estimates

Salary estimates were based on an analysis of the level and type of duties and responsibilities staff members would have, coupled with established State Personnel Board classification and salary standards. The one area requiring further analysis is the salary for the hearing officers. However, given the combination of legal training and traffic safety requirements of these positions, the recommended monthly range of \$1,377 to \$1,674 seems appropriate. It gives consideration to both the Legal Counsel (\$1,482 to \$1,635) and Driver Improvement Analyst III (\$1,218 to \$1,482) and Driver Improvement Associate Analyst level (\$1,377 to \$1,674.)

7. Non-English Language Needs

The recently enacted Dymally-Alatorre Act calls for all state departments,

to employ a sufficient number of qualified bilingual persons in public contact positions . . . to ensure provision of information and services to non-English speaking persons.

⁵⁰ Volume and staffing estimates for various elements in the California Model of Administrative Adjudication were based on a variety of data, but focused heavily on actual volume audits conducted as part of the Sylvania Study, Vol. II, p. D-86.

ADMINISTRATIVE ADJUDICATION
STAFFING AND SALARY SUMMARY
ADMINISTRATIVE ADJUDICATION BOARD

	Compensation* Per Day	Expected Compensation Per Month	Annual Compensation
Five (5) Members Appointed by the Governor with the Approval of the State Senate	\$100 each or \$500 per month	\$2,500	\$30,000
Plus - Estimated Per Diem	\$40 each or \$200 per month	1,000	12,000
Plus - Estimated Travel Cost @ \$50 Per Person per Trip		250	3,000
Estimated Cost of Administrative Adjudication Board			<u>\$45,000</u>

*Compensation based on estimate of five days per month;
one day preparation time and four days in session.

ADMINISTRATIVE ADJUDICATION
STAFFING AND SALARY SUMMARY
HEADQUARTERS

	Executive Clerical			Annual Salary* Executive and Professional		Annual Salary* Clerical	
				Each	Total	Each	Total
Executive Officer - CEA III	1	1	Secretary II	\$27,612	\$27,612	\$12,648	\$12,648
Assistant Executive Officer - <u>Legal</u> - CEA II	1	1	Secretary I	25,644	25,644	11,460	11,460
Staff Counsel II	2	2	Legal Steno	26,292	52,584	9,036	18,072
I	3	1	Legal Steno	23,844	71,532	9,036	9,036
Chief, Staff Services - SSM II	1	1	Stenographer Range B	22,152	22,152	8,604	8,604
Staff Analysts (3 Assoc.)	3	2	Clerk Typist II	18,228	54,684	8,400	16,800
(3 Asst.)	3		Range B	14,988	44,964		
Assistant Executive Officer - Operations - CEA II	1	1	Secretary I	25,644	25,644	11,460	11,460
Regional Directors - CEA I							
North	1	1	Sr. Steno	23,268	23,268	9,960	9,960
South	1	1	Sr. Steno	23,268	23,268	9,960	9,960
	17	11			\$371,352		\$108,000
Total Annual Headquarters Direct Salary Cost					108,000		
Headquarters Wage Cost	\$	479,352			\$479,352		
20.37% Staff Benefits		97,644					
30.18% Overhead		173,964					
Administrative Adjudication Board Expenses		45,000					
Sub-TOTAL	\$	795,960					
Field Operations Wage Cost		8,420,583					
TOTAL Wage Cost	\$	9,216,543					

*Estimated on the basis of the third step within each salary range.

Table IV-B

CONTINUED

1 OF 3

**ADMINISTRATIVE ADJUDICATION
STAFFING AND SALARY SUMMARY
FIELD OPERATIONS**

	Estimated Volume of Traffic Infractions	Senior Hearing Officer	Staff Hearing Officer	Hearing Officer	Hearing Room Clerk	Informa- tion Clerk	Cashier	Office Manager	Central Office Clerical Staff	TOTAL PERSONNEL	Number of Offices	Number of Justice Courts
Area 1	1,241,000	1	5	30	32	15	15	15	60	173	15	0
2	818,550	1	5	19	19	10	11	9	50	124	10	30
3	210,800	1	2	4	5	3	3		12	30	3	19
4	188,700		1	4	4	2	3	1	11	26	2	34
5	129,200		1	3	2.5	1	1.5	1	10	20	1	28
6	631,550	1	7	16	17	9	9	9	35	103	8	0
7	173,400		1	5	4	1	2	2	13	28	2	31
8	119,850		1	4	4	3	3	1	5	21	3	21
9	68,850		1	3	2		1		6	13	1	33
	3,581,900	4	24	88	89.5	44	48.5	38	202	538	45	
Monthly Salary*		\$ 1,846	\$ 1,674	\$ 1,519	\$ 734	\$ 666	\$ 666	\$ 933	\$ 605			
Annual Salary		22,152	20,088	18,228	8,808	7,992	7,992	11,196	7,260			
Total Annual Wage		\$ 88,608	\$482,112	\$1,604,064	\$788,316	\$351,648	\$387,612	\$425,448	\$1,466,520			

Total Field Operation
Annual Wage Cost

\$5,594,328

Plus

Staff Benefit 20.37%

1,139,565

Overhead 30.15%

1,686,690

\$8,420,583

*Estimated on the basis
of the third step within
each pay scale.

DMV EQUIVALENT

Senior Hearing Officer	=	Staff Services Manager II
Staff Hearing Officer	=	Staff Services Manager I
Hearing Officer	=	Associate Analyst (DIA III & Legal Counsel)
Hearing Room Clerk	=	Clerk Typist, Range C
Information Clerk	=	Clerk II
Cashier	=	Cashier Clerk II
Office Manager	=	Supervising Clerk I
Central Office Clerical	=	Clerk Typist I

In order to implement multilingual staffing, the Department of Motor Vehicles conducted a statewide survey to determine varying language needs. A multilingual staffing formula would be utilized in the hearing offices to insure adequate service is provided to non-English speaking persons. The formula would be based on office size and percentage of the client population which is non-English speaking.

8. Public Information Program

Implementation of administrative adjudication would require a coordinated public information program with the following objectives:

- . To eliminate any possibility of confusion of the intent and purpose of administrative adjudication.
- . To enhance public convenience through explaining the procedures involved and the rationale of the methods used.
- . To eliminate any possible anxiety by quelling misinformation and speculation.
- . To gain the confidence and respect of the motoring public by explaining the features of the system.

These objectives could best be attained through news releases, television panel appearances, speeches by program staff, and distribution of informational pamphlets.

Specific steps that might be taken include:

- . Financial savings news article:
State and local government will save 'X' dollars when the Department of Motor Vehicles' Administrative Adjudication System is introduced.
- . News article on impact of crime handling:
Courts and District Attorneys are expected to devote an increasing percentage of time

to criminal matters more expeditiously handled when freed of traffic matters by the Department of Motor Vehicles' Administrative Adjudication process.

- . General news article covering all or most aspects of administrative adjudication for release to:
 - Legal journals
 - County Bar Association newsletters
 - Law school publications
 - Legal newspapers
- . News stories on specific aspects of administrative adjudication:
 - The hearing procedure
 - Recruitment of hearing officers
 - Appeal rights
 - Sanctions
 - Juveniles
- . Simple one-fold leaflets touching briefly on such matters as citations, sanctions, the hearing procedure and appeals process, with distribution at:
 - DMV hearing rooms
 - Traffic courts
 - Law schools
 - Driving schools
 - Automobile clubs
 - Points of citation issuance

III. OPERATION OF ADMINISTRATIVE ADJUDICATION

The analysis of significant operational considerations has been organized into four major sections, (A) Operational Description, (B) Facilities, (C) Management Information and Program Evaluation, and (D) Revenue Distribution and Projection. In addition, the final two sections of this chapter describe implementation considerations as well as an overall projection of program costs over a twenty-one year planning horizon.

A. Operational Description

The operation of administrative adjudication would rely heavily on the ability of a sophisticated information processing system to efficiently, expeditiously and effectively transmit and store information. The following narrative describes the operation of administrative adjudication in general, with specific attention given to the information processing considerations.

1. Notice to Appear Process

Law enforcement agencies would forward copies of Notices to Appear to their designated Area Processing Centers. The Centers would be equipped with remote data entry terminals and would be responsible for entering the Notice to Appear data for addition to the motorist's driving record.

The remote terminals would be connected through a telecommunications network to the Department of Motor Vehicles master driver record data base files in Sacramento and would provide for direct on-line access and update of the motorist's driving record.

Notice to Appear information would be entered directly from the Notice to Appear forms by Area Processing Center data entry operators. Notices to Appear received without a California driver's license number, or with an incorrect license number, would be verified by a name search through the Department of Motor Vehicles' Automated Name Index (ANI) File to determine the citee's license number. If no previous record exists, an unlicensed driver's number would be computer assigned.

Once a number was determined or assigned, the Notice to Appear data would be entered through the Center terminal on-line to the master Driver Record file. The EDP Accusation Up-date

Program would provide for adding Notice to Appear data to the related driver record, or in the case of a person with no prior record, a new base record would be established.

If it would be necessary to establish a new base record (no prior California record) the EDP program would also create a new Automated Name Index record to be added to the ANI File.

This ANI record would be recorded on magnetic tape and processed by existing DMV programs to add the name index record to the ANI File. This would provide for future reference to the base record.

Each accusation added to the Driver Record file would also cause other processes to occur. For each accusation entered, a Suspense File record would be automatically generated. This suspense transaction would cause a suspense record to be generated that would cause a "Notice of Failure to Answer the Accusation" letter to be mailed to the motorist if an answer was not entered within 14 calendar days from the Notice to Appear date. Entry of an answer (see "Answer Process") within the required time would automatically delete the suspense record so that the notice would not be sent. This suspense file system would be integrated with and become part of the existing DMV Suspense File System.

Statistical records for producing management reports on the number of accusations made, issuing agency, type of violations, sanctions, etc. would also be recorded on magnetic tape for processing by other downstream programs.

Audit and master log records would also be captured on magnetic tape as part of the DMV's system control process (i.e. back-up records, security, etc.)

2. Answer Process

Accused persons could file answers by two methods. They could answer by mailing a portion of the Notice to Appear with their answer entered on the form, together with any uniform sanction payment, to the Area Processing Center. They could also answer in person at any administrative adjudication hearing office.

The answer processing would be different for the two methods of answering as described below:

a. Mail-In Answers

Mail-in answers would be processed by the Area Processing Centers through their remote terminals and would provide for direct on-line update of the motorists's driving record. The type of answer and the number of prior sustained accusations on the motorist's record would determine what action is taken.

If the violator admits to the charge, computer programs would interrogate the motorist's prior driving record and by a predetermined criteria would determine if the admission answer was acceptable. If the accused had an acceptable driving record, the answer would be accepted and the driving record updated with the accusation being converted to a history record of conviction. If the motorist had an unsatisfactory record (based on a specified number of prior violations), the admission answer would not be accepted and a notice would be automatically printed and sent to the accused indicating that he must appear at an administrative adjudication hearing office to adjudicate the alleged offense. The sanction amount paid would be recorded as security for appearance.

If the violator admitted with an explanation, computer programs would record the answer and any monetary sanction amount paid onto the motorist's record. Additionally, the program would check the record for prior violations. If because of numerous prior offense convictions on his record, the motorist was determined to be an unsatisfactory driver, a notice would be printed and sent to the motorist indicating that he must appear at an administrative adjudication hearing office to adjudicate the alleged violation(s). If the motorist was determined to be a satisfactory driver, based on his prior record, the answer would be accepted with no further action taken until the motorist appeared to offer an explanation.

Failure to appear on the assigned appearance date would result in the accusation and the admission with explanation answer being converted to a record of conviction, and if the accused was an unsatisfactory driver, action might be taken against the driving privilege for failure to appear.

Entry of an admission with explanation answer would also cause the program to automatically generate an appearance list record that the accused would appear on the pre-assigned appearance date, which would be written on the Notice to Appear form. These records would be written to magnetic tape and would be accumulated and processed by other programs to provide the administrative adjudication hearing offices with a list of accused persons who might appear on an assigned date. This list would be used as a tool to help determine anticipated workloads.

If the violator denied the charge, computer programs would enter on the motorist's record the denial answer and any monetary sanction amount deposited. Each entry of a denial

answer would cause the program to automatically generate an appearance list record. These records would be written to magnetic tape and would be accumulated and processed by other programs to provide administrative adjudication hearing offices and law enforcement agencies with a schedule of persons who would appear to contest the accusations. The citing officers would then be able to plan their schedules to accomodate their required appearances at confrontation hearings.

b. Answer by Personal Appearance

Answers and sanction payments made by personal appearance at any of the administrative adjudication hearing offices would be processed by a cashier clerk who would be equipped with a remote terminal device. The cashier would enter both answer and sanction data on the terminal. Computer programs would interrogate the motorist's driving record, and processing would proceed as follows:

On drivers with good driving records, an admission answer would be accepted and the accusation would be converted to a history record of conviction. On drivers with poor records, the answer would be rejected with an appropriate message returned on the terminal to the clerk. The accused would be advised of the possible consequences of an admission and would be given the opportunity to change the answer. The accused would then be referred to an administrative adjudication hearing officer for action appropriate to the violation and prior record.

If the violator admitted to the charge with an explanation, the cashier clerk would interrogate the motorist's record to determine if an unsatisfactory prior record condition is present. If the record indicated the possibility of

license suspension, the accused would be advised of the possible consequences of an admission and would be given the opportunity to change the answer. The accused, (including drivers with both satisfactory and unsatisfactory records) would then be referred to an administrative adjudication hearing officer for hearing the explanation and confirmation of the sanction to be imposed.

If the motorist denied the accusation, the cashier clerk would enter the denial answer, and any deposit made, into the computer system through the remote terminal. The computer program would record the denial, and the amount of any monetary sanction deposited, onto the motorist's driver record.

As with the mail-in denial answer process previously described, the program would generate denial appearance lists for purposes of providing appearance schedules for the administrative adjudication hearing offices and law enforcement agencies.

In both the mail-in and personal appearance processes, the entry of the motorist's plea would automatically remove the suspense file record that would cause the "Notice of Failure to Answer" letter to be sent, as described in the Notice to Appear Process.

Statistical records of the types of answers received, sanction amounts paid, and other data required by management would also be written to magnetic tape for processing by downstream programs, to produce management reports and records to control and distribute the monies back to the issuing jurisdictions.

Audit and master log records would also be captured on magnetic tape as part of the Department of Motor Vehicles system control process.

3. Post Hearing Process

Each administrative adjudication hearing office would be equipped with a remote terminal device that would provide direct access to, and on-line updating of, the motorist's record. Following the determination that an accusation was sustained, the hearing officer would use the terminal to access the motorist's driving record to determine the prior driving history. This would be used by the hearing officer to determine the appropriate sanction to be applied. After the sanction determination was made, the case disposition data would then be entered through the terminal to update the motorist's record to reflect the sustained accusation.

If the accusation was not sustained or the accusation was dismissed, that information would be entered and the citation would be removed from the person's driving record. In such cases, no indication of the accusation would be retained on the driver record.

The driver improvement sanction would be based on the driving record and the case disposition data and any action taken against the driving privilege would be entered to update the motorist's driving record.

As with the other processes, the automated programs would generate suspense file record update transactions, statistical records, audit records, and master log records as a by-product of the post-hearing process.

Failure to appear on an assigned appearance date would be treated as an upholding of the accusation and the appropriate entry would be made on the driver's record; license suspension would also occur.

4. Safety Counseling

Immediately following a decision sustaining an accusation, the hearing officer would discuss any shortcoming in the driver's performance and explain the possible traffic safety consequences. This discussion would be entirely safety oriented and would be in addition to any other sanction imposed.

5. Appeal Process

Sustained accusations, in which the motorist was not satisfied with the decision of the hearing officer or with the sanction imposed, would be appealed to the appointed Administrative Adjudication Board. Convicted motorists would be advised of their right to file an appeal and be provided with information and forms necessary to file the appeal.

Appeals would be sent directly to Sacramento Headquarters. Upon receipt of an appeal request, a computer printout of the motorist's driving record would be requested from the automated driver's license file and any actions taken against the driving privilege would be stayed, pending determination of the appeal.

Electronic data processing would use the existing record request, record update, and suspense file programs, modified to accommodate new action codes, to process any appeals and to process the results of the appeals.

The final remedy available to the motorist, following administrative appeal, would be judicial review by a court.

Judicial appeals would be handled similarly to the current method of handling court appeals from the Department of Motor Vehicles actions (i.e., staying the Department of Motor Vehicles actions until judicial review is complete.)

B. Facilities

A factor central to the analysis of operational considerations relates to the need for adequate facilities. As a result, facility criteria were based on the California Model of Administrative Adjudication as well as the actual New York experience with administrative adjudication. The estimate for a typical proposed facility design fully incorporates existing State of California design standards and reflects the facility needs for administrative adjudication.

It should be noted that actual implementation of administrative adjudication would, as new Department of Motor Vehicles facilities are developed (or space in existing facilities is made available), result in administrative adjudication of traffic infractions taking place at Department of Motor Vehicles field offices. This approach is consistent with the general policy that supports centralized one-stop service at the Department of Motor Vehicles field offices. The need for one-stop service is related to the fact that (1) driver license renewal would be held up until all moving infractions are fully satisfied, and (2) vehicle registration would be delayed⁵¹ until outstanding local parking citations are satisfied.⁵²

⁵¹ Under CALIFORNIA VEHICLE CODE § 4760, Operative January 1, 1978, the Department of Motor Vehicles shall refuse renewal of vehicle registrations when unsatisfied parking offenses exist against the vehicle.

⁵² Under the model for administrative adjudication, local parking infraction adjudication is not included. This point recognizes that administrative adjudication may be assigned responsibility for adjudicating contested parking citations; it also assumes that local agencies will continue to process local parking citations.

1. Assumptions,

The design requirements for administrative adjudication facilities are based on the assumptions listed below.

- . The size of the facility would be in accordance with the number of citations (volume) issued for a certain area (county or subdivision of a major metropolitan area) where a certain percentage of moving violations would be paid by mail and in person. The rest would be adjudicated either formally or informally. Less than one percent of all hearings, whether formal or informal, are expected to be appealed in writing to the Administrative Adjudication Board in Sacramento. Consequently, appeals would have very little impact on facilities.
- . A *summary hearing* would take seven minutes or eight per hour for six plus hours, approximately 50 per day. The hearing would consist of hearing officer, clerk and defendant only. A *confrontation hearing* would take 15 minutes or four per hour for six plus hours, about 25 per day. It would consist of hearing officer, clerk, traffic officer and defendant, and could also include counsel and witnesses (as may the summary hearing.)
- . A history of violator response shows 65% of all moving violations result in fines being paid. 10% fail to appear and 25% appear in person for adjudication. From experience in California and New York, it is assumed 23.5% would request an informal hearing and 1.5% would request a formal hearing.
- . It is also assumed that facilities to house the administrative adjudication process in an urban county the size of Sacramento or San Mateo would contain the following:
 - Hearing rooms (all types of hearings)
 - Public and law enforcement waiting rooms
 - Public reception areas

- Restrooms
 - Law enforcement coordination desk
 - Cashiers
 - Clerical area
 - Hearing Officer - office space
 - Mailroom - supply
 - Program and facility manager's office space
 - Employee lounge and lunchroom
- . In rural counties, justice courts would continue to adjudicate traffic infractions subject to Administrative Adjudication Board rules, regulations and control. In those counties, Area Processing Centers would be established to input citation data, monitor justice court activities, and on a small volume basis, adjudicate traffic infractions.
 - . Nine Area Processing Centers would be needed. Area Processing Centers would contain all the rooms of an administrative adjudication hearing office as well as space to process citations, since infractions would also be adjudicated in these Centers.
 - . The cashiers would have key input terminals to update driver records of monetary sanctions. All terminals in the hearing office would have a three to seven second computer access capability. Each hearing room would contain a terminal.
 - . Summary hearings could be held at any administrative adjudication hearing office in the State at the driver's pleasure. Confrontation hearings would be held in the area where the alleged violation occurred.

2. Design Specifications for a Typical Facility Based on 100,000 Moving Violations

Considering both public convenience and economy of operation, it appears that small hearing offices widely disbursed, with two hearing rooms to an office would be the best approach. Facilities were determined by assuming a need based upon one for each 100 000 citations. In analyzing the volume of filings of citations for fiscal year 1973-74 by county and metropolitan area, the need for 45 hearing offices and nine Area Processing Centers becomes apparent. For rural counties, a telephone connection with the justice court would suffice. In 1973-74 fiscal year, Sacramento and San Mateo Counties had 106,630 and 101,737 moving violations respectively. Using San Mateo County as a model would result in 23,908 informal hearings per year generated from moving citations and 1,600 formal hearings from moving citations.

Total informal: $23,908/264 = 91/\text{day}$

Total formal: $1,600/264 = 6/\text{day}$

Based on the number of hearings per day, listed above, the following numbers of hearing rooms and supporting facilities will be needed in each administrative adjudication hearing office.

Informal/formal 50/day - 2 rooms	800 sq. ft.
Public waiting room	400 sq. ft.
Reception area	120 sq. ft.
Police waiting room and Coordination desk	200 sq. ft.
Cashier	130 sq. ft.
Clerical area - 4 positions x 55 sq. ft.	220 sq. ft.
Hearing Officer - office space 2 at 110 sq. ft.	220 sq. ft.

Number of hearing rooms and supporting facilities (Cont'd)

Employee lounge and lunchroom 8 people	240 sq. ft.
Supervisor	<u>150 sq. ft.</u>
	2,480 sq. ft.
	(including hearing rooms)
x 1.20 for halls, mechanical restrooms = 2,976 sq. ft. approximately 3,000 sq. ft. at \$80/sq. ft. = building	\$238,000
site	75,000
site improvements and utilities	<u>25,000</u>
TOTAL	\$338,000

C. Management Information and Program Evaluation

1. Management Information

Administrative adjudication offers as one of its primary benefits the ability to efficiently and expeditiously collect, manage and report traffic citation processing, adjudication and sanction data. This represents a major improvement in the area of driver control since there is no current state-wide mechanism by which uniform traffic offense adjudication information can be developed. Data which is maintained for the current judicial system is generally collected on a jurisdictional basis, only the most general of which is made available to the Judicial Council for reporting to the Legislature. This makes it particularly difficult to develop adequate data on which to base sound fiscal and management decisions.

Management information systems are generally defined as data retrieval and storage mechanisms (manual or automated) which

provide necessary information to decision makers to allow effective planning, execution and control of the functions for which they are responsible. The administrative adjudication information system would contain subcomponents which would compile and produce statistical data for use by program management, the legislature, and other public and private agencies. At a minimum, the implication is that a coordinated set of data (not different forms of the same data) would be available to administrators who are responsible for operations.

In 1973, Fresno County filed its final report on a system to administer and control the processing of nonparking traffic citations and direct filings. As a result of this new system, statistical reports of filings, dispositions, driver histories and financial matters, are prepared automatically for management. The Fresno report concluded that:

Based upon the experience gained operating the (new) system, and with the level of sophistication in the court, a need exists to provide additional management data. *WE, THEREFORE, RECOMMEND THAT THE (CURRENT) SYSTEM BE ENHANCED TO INCREASE THE LEVEL OF MANAGEMENT REPORTING.* The types of additional statistics required to assist in the management of the court should include but not be limited to:

- Revenue receipts from warranted filings
- Analysis of disposition by driver history
- Driver history summary statistics
- Revenue and filing trend analysis.⁵³

2. Program Evaluation

Several major benefits accrue as a result of a coordinated information system. They may be summarized as follows:

- . Avoidance of much of the cost associated with one time projects to develop specific information, thereby eliminating or reducing duplication of effort.

⁵³Young and Co., A System to Administer and Control the Processing of Nonparking Traffic Citations and Direct Filings, Fresno County, Final Report, p. 39.

- . Program costs and program evaluation parameters could be maintained on a coordinated ongoing basis, thereby reducing the cost of gathering and reporting information on an "off line" hand tally basis.
- . Managers could inspect the cost and benefit implications of their decisions. Currently it is difficult for managers to assess the results of their decisions. Information systems provide a tremendous aid in this respect.

Based on the California Model developed, administrative adjudication of traffic infractions would be the responsibility of the Department of Motor Vehicles. One of the major benefits which would result from such a move would be that the adjudication program could be subject to on-going effectiveness evaluation. The Post Licensing Control program evaluation system currently being tested by the Department of Motor Vehicles is an integral part of a Department-wide information and evaluation system designed to provide management with monthly information regarding whether Departmental traffic safety countermeasures, programs and operations are meeting their stated objectives.⁵⁴

3. Information Needed for Administrative Adjudication Management Information and Evaluation Systems

As was stated earlier, it is important that managers have adequate information upon which to base their decisions. Following are the identified minimum sets of information which should be collected for managerial policy and evaluation consideration.⁵⁵

⁵⁴ For a detailed description of the Post Licensing Control Evaluation effort, see the progress report to the Legislature, "California Department of Motor Vehicles", Post Licensing Control Reporting and Evaluation System, December 1975.

⁵⁵ These data sets meet the minimum standards recommended by the National Advisory Commission on Criminal Justice Standards and Goals and the U. S. Department of Transportation - NHTSA. (See Appendix B)

a. Minimum Management Information Data

- . Total notices to appear
- . Answers of admission (mail)
- . Answers of admission (in person)
- . Number of noncontested hearings (admission with explanation and required appearances)
- . Disposition of contested hearings (accusation sustained, not sustained, dismissals, sentence reductions and suspensions, etc.)
- . Number of appeals filed
- . Number of discretionary actions (by type)
- . Number of mandatory actions (by type)
- . Number of failures to answer, appear or comply
- . Amount of revenue by driver history
- . Amount of revenue by violation type
- . Cost of system processes by process component

b. Minimum Data for Program Evaluation (Post Treatment)

- . Number of accidents resulting in injury
- . Number of accidents resulting in fatality
- . Number of accidents, total CHP and other
- . Number of failures to answer, appear or comply
- . Departmental action taken
 - Sanction amounts
 - Contingency contract conditions
 - Probation data
 - Results of Driver Improvement Interaction
 - Suspensions
 - Revocations

D. Revenue Distribution and Projection

The generation of revenue is a secondary objective which traffic offense adjudication systems satisfy as a direct result of monetary sanctions applied to violators. One of the mandates of SCR-40 is that administrative adjudication be self-supporting from monetary sanctions after initial start-up costs, and that it provide increased net revenues to cities and counties. Therefore, the two revenue related objectives to be considered in assessing feasibility include both the generation of sufficient revenues to cover the operating costs of the administrative adjudication program, and generation of additional revenue which generally serves to supplement local governmental budgets.

1. Revenue Distribution Considerations

The current disposition of fines and forfeitures by cities and counties is defined by Sections 42200 and 42201 of the California Vehicle Code. Section 42201.5 of the Code, makes this same disposition applicable to infractions.

a. Cities' Use of Revenues

The use of revenues by cities is detailed in Section 42200 of the Vehicle Code which states that monies received by a city under Section 1463 of the Penal Code be paid into the city treasury and deposited in a special fund called the Traffic Safety Fund. This Fund is used exclusively for the purchase and maintenance of traffic control devices, equipment and supplies for traffic law enforcement and traffic accident prevention and for the maintenance, improvement, or construction of public streets, bridges, and culverts within a city. The monies from this fund may not be used to pay the salaries of traffic or other police officers. It may, however, be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city.

b. Counties' Use of Revenues

The disposition of revenues by counties detailed in Section 42201 of the Vehicle Code states that monies received by a county under Section 1463 of the Penal Code be paid into the county treasury and deposited in the road fund of the county. However, the board of supervisors of the county may, by resolution, provide that not more than 50 percent of the funds be transferred into the general fund of the county. Road fund monies may be used to contract with the California Highway Patrol to provide for crossing guards for school pupils. The county reimburses the State for salaries, wages and any necessary retirement and general administrative costs of the crossing guards.

2. Money Distribution Formula

Section 1463 of the Penal Code utilizes varying formulas for dividing monies among the counties and cities depending on the location of the alleged offense and whether the officer who made the arrest or issued the citation was employed by the State, or by a county or city. Specific percentages are enumerated by city and county in Section 1463 of the Penal Code. (Appendix E)

Research into the development of the formula indicates that it was based primarily on political considerations:

The distribution formula prescribed by Penal Code Section 1463, as originally enacted in 1953, was a compromise between 1) the desires of counties to be reimbursed to the maximum extent possible for the court operating costs taken over from the cities when the 1950 lower court reorganization became fully effective; and 2) the demands of cities for retention of the status quo (particularly as to arrests made,

or citations issued, by city police officers and members of the California Highway Patrol, for offenses occurring within city limits).⁵⁶

Penal Code Section 1463.5 allows distribution to be determined and made on the basis of probability sampling under a procedure prescribed by each county auditor and approved by the county board of supervisors and the majority of the cities within the county.

3. Penalty Assessment Fund

In addition to the fine or forfeiture, there is provision in Section 42050 of the Vehicle Code to levy a penalty assessment. Basically, this results in a \$5 penalty assessment for each \$20 of fine, or fraction thereof. When multiple offenses are involved, the penalty assessment is based upon the total fine for all offenses. When a fine is suspended, in whole or in part, the penalty assessment is reduced in proportion to the suspension.

There is no penalty assessment on fines for parking, registration or pedestrian and bicyclist offenses.

After determination by the court of the penalty assessment amount due under Vehicle Code Section 42050, the court clerk transmits the amount to the county treasury. The county treasurer transmits the money to the State Treasury. Upon order of the State Controller, under Vehicle Code Section 42052, seventy-five percent of each penalty assessment is deposited in the Driver Training Penalty Assessment Fund and twenty-five percent of each penalty assessment is deposited in the Peace Officers' Training Fund.

The Peace Officers' Training Fund was created by Section 13520 of the Penal Code. The monies in this fund are allocated

⁵⁶Booz, Allen, and Hamilton, Inc., California Lower Court Study, p. 39.

annually to any city, county, city and county, or district which desires state aid for the training of police personnel and makes application for such aid.

The appropriation from the Driver Training Penalty Assessment Fund is established by Section 17305 of the Education Code. Annually, monies in the fund are appropriated to the General Fund in the State Treasury and from the General Fund to the Department of Education. The sum is that which is necessary to establish and maintain a unit for driver instruction within the Department of Education. The sum may not exceed the monies credited to the Driver Training Penalty Assessment Fund in the State Treasury during the preceding fiscal year.

4. DMV Collection and Distribution of Monetary Sanctions and Forfeitures

For the Department of Motor Vehicles to undertake a system of administrative adjudication of traffic infractions, it must be prepared to collect and distribute the fines (monetary sanctions), forfeitures and penalties now collected by the courts.

In determining the best approach the Department could utilize, several alternative approaches were considered before the proposed approach was decided upon:

a. Special Fund Approach

A special Administrative Adjudication Fund could be established for deposit of all monies collected under the system. The Department would take its budgeted administrative or program costs from the fund and then distribute the remainder to cities and counties. Although the program would be self-supporting, this approach implies that the Department would control the revenue generated to support the program, thus raising a conflict of interest issue.

b. General Fund Approach

This approach would have the program fully funded from the General Fund. All monies collected would be distributed annually back to the cities and counties through legislative appropriation. This approach satisfies the conflict of interest issue but would not result in administrative adjudication being self-supporting, and would probably not be acceptable to local government.

c. New York Approach

All monies collected under the New York Administrative Adjudication Program are credited to a special fund. The money is distributed back to the cities after the program deducts \$4.00 for each violation occurring in a city. In this way, New York's program is self-supporting. New York also has a provision that allows additional sums to be withheld if the administrative costs should exceed \$4.00 per violation. In practice, this approach varies little from the Special Fund Approach discussed above.

d. Proposed California Approach

After analyzing the above alternatives, a procedure was developed that blends the best of the considered approaches. In the proposed procedure, the Department of Motor Vehicles would collect monetary sanctions at specified administrative adjudication hearing office locations. The monies would be deposited in local banks, and identified separately from the Department of Motor Vehicles collections on daily cash worksheets. These worksheets would be forwarded to Sacramento each day, and once a week the total accumulated collections would be placed in a trust account. The Department would determine its cost per item to administer the program. Each month the Department would file a claim with the State Controller to disburse to the cities and

counties their proportionate share of the collections less their share of the budgeted administrative costs (number of items times cost per item). The Department would request the State Controller's office to transfer the total withheld amounts from the trust account to the General Fund. The administrative adjudication program would be totally financed from the General Fund.

The Department, through the administrative adjudication hearing office locations, would also collect the penalties enumerated in Vehicle Code Section 42050, and Welfare and Institution Code Section 564. These penalties would be deposited in another trust account.⁵⁷ On order of the State Controller, appropriations would be made to the Driver Training Assessment Fund and to the Peace Officers' Training Fund.

Since SCR-40 specifies that the system for administrative adjudication be self-supporting through collection of fines from traffic violators, funds to support the program would be appropriated from the General Fund to the Department of Motor Vehicles. This sum is not expected to exceed the amount recovered from the cities and counties as administrative costs. If, however, program costs were greater than funds generated, the General Fund would make up the difference.⁵⁸

⁵⁷ CALIFORNIA VEHICLE CODE § 42050 should be revised to provide for payment of administrative costs, to collect penalties, and to provide for payment of refunds to the public when fines are suspended or deposits are returned when an accusation is dismissed.

⁵⁸ This would likely only occur if the Legislature eliminated monetary sanctions as a traffic safety countermeasure.

The advantages of this approach are:

- . The traffic violator would pay for the system.
- . The program budget is a product of legislative and administrative review, which eliminates concerns that program interest would bias the hearing officers in the imposition of monetary sanctions.
- . The General Fund would be responsible if program costs are greater than revenue generated. Thus, there is no incentive on the part of program managers to increase revenues to meet program costs.
- . The program would be self-supporting from the General Fund assuming that revenues exceed budgeted costs (all estimates indicate this is a reasonable assumption).

5. Revenue Projection Considerations

More revenues should be generated by the administrative adjudication system than by the current system for two reasons. First, the monetary sanctions for recidivists are based upon a graduated fee schedule. This means the statewide driving history would be taken into account before assigning a monetary sanction. Therefore, the monetary sanction would increase according to the number of citations a motorist had received within a given time period. (See Chapter III) Second, it is expected that the proposed administrative adjudication system would eliminate "plea bargaining" which has a tendency to artificially reduce the amount of fine assessed. This usually takes the form of assignment to traffic court school in lieu of all or part of the fine (although the violator typically has to pay to attend the school).

a. Estimated Current System Revenue by Violation Type

Revenue associated with the various violation types must be estimated in order to assess whether or not the additional

revenues generated by the administrative adjudication system would be sufficient by itself to cover the cost of the system. Revenue associated with traffic infractions must be given specific attention since it is this category which would be assumed under administrative adjudication.

Table IV-D presents (1) an estimate of the distribution of revenues and (2) average fine amounts related to the various violation types which comprise the Vehicle Code fines portion of the revenue received by California cities and counties.

b. Methodology

The figures contained in Table IV-D were arrived at using the following procedures:

The total number of filings were derived from the 1975 Judicial Council Annual Report. The Annual Report describes traffic volumes in terms of "Selected Major"⁵⁹ and "Other"⁶⁰ violations. The category, "Other" contains both non-selected misdemeanors as well as infraction violations. Misdemeanor violations were removed from the "Other" category by assuming that approximately 80% of the violations written were infraction violations.⁶¹

⁵⁹ Definition of "Selected Major" violations are as follows:

- . 14601 - Driving with suspended or revoked license.
- . 20002 - Failure to stop at the scene of an accident.
- . 23102 - Driving while intoxicated.
- . 23103 - 23104 - Reckless driving.
- . 23106 - Driving under influence of drug causing injury.

⁶⁰ All non-parking traffic violations excluding Selected Majors.

⁶¹ California Highway Patrol Arrest Figures, 1974.

Average Current System Fines (1970-1973)

Category	Number of Filings*	Adjusted Average Fines	Conviction as % of Filings	Number of Convictions	Total Fine Levied (Millions)	% of Revenue
Misdemeanors	637,500	\$84.97	70%	446,250	\$37.9	26.6%
Infractions	3,621,500	\$23.65	80%	2,890,000	\$68.3	47.9%
Selected Major	320,000	\$187.21	61%	195,000	\$36.5	25.6%
					\$142.7	100.0%

*From 1975 Judicial Council Report Tables XXXIV and XLIV.

Average fines levied were calculated through DMV driver file records. A sample of approximately 3,400 abstracts revealed that the average fine levied for selected majors was \$187.21 and that the average fine levied for all misdemeanors was \$116.21. The average fine for infractions was \$23.65. Since the misdemeanor fines in part were comprised of selected majors, an algebraic adjustment was made in order to remove the major violation fines from the misdemeanor category.⁶² Mean fines for other misdemeanors were set at \$84.97. These figures include penalty assessments.⁶³

To arrive at the conviction figure to be used in the revenue estimates, the total number of filings was reduced by the conviction ratio associated with the violation category. The conviction ratios were derived from figures in the 1971 SR-160 report.⁶⁴

$$\begin{aligned}
 &^{62} x = \text{Minor misdemeanor fine} \\
 &y = \text{Serious misdemeanor fine} = \$187.00 \\
 &\text{Number of Minor misdemeanor convictions} = 446,250 \\
 &\text{Number of Serious misdemeanor convictions} = 195,000 \\
 &x + y = \$116.00 \\
 &x (446,250) + y (195,000) = 116 (641,250) \\
 &x (446,250) + y (195,000) = 74,385,000 \\
 &x (446,250) + 187 (195,000) = 74,385,000 \\
 &x (446,250) = -36,465,000 + 74,385,000 \\
 &x (446,250) = 37,920,000 \\
 &x = 37,920,000 \div 446,250 \\
 &x = 84.97
 \end{aligned}$$

$$^{63} \text{Penalty Assessment} = \$5 \text{ for each } \$20 \text{ or any portion thereof.}$$

⁶⁴ Sylvania, Inc., op. cit., Vol. II, pp. D85-86. Figure D-20-3 used for infractions. Figure D-20-2 was used for "Selected Major". The misdemeanor conviction ratio was not derivable from Sylvania data and was assumed to be approximately midway between the infraction and major violation figures.

c. Current System Revenue

Table IV-D presents the results of the search of the DMV files. The average fine figures represent fines reported by the courts to the Department of Motor Vehicles. These fine amounts represent total fines levied and must be adjusted for dismissals, reductions, plea bargaining and penalty assessments. Since it is not known to what extent these figures are reduced due to dismissals, etc., the DMV file can only be used to estimate the proportions of revenue in each violation category. The results of this file search indicated 26.6% of the revenue is associated with misdemeanors (excluding selected majors). 47.9% of the revenue is associated with infractions and 25.6% of the revenue is collected from fines for selected major violations. These percentages assume that violations are reduced or dismissed at the same rate across all violation categories.

In 1973-74, the revenue returned to the cities and counties of the state was \$98.5 million. This suggests that from \$47 to \$50 million is collected from Vehicle Code infraction fines.

d. Estimated Administrative Adjudication System Revenue

The uniform sanction schedule presented in Table IV-E was developed in order to project revenues which would be collected under administrative adjudication. The average basic fine amounts for the various violations were derived from the 1973 Uniform Bail Schedule and weighted for the volumes associated with each Vehicle Code category. The sanction amounts in the adjudication schedule therefore reflect the amounts adopted by the Judicial Council in 1973. This average amount was then increased for the multiple

offender having one or more prior violations in a 12 month period. Based on this sequential treatment approach and the 1973 Uniform Bail Schedule, the revenue associated with the various point levels and violation categories would be approximately \$53.953 million.

This revenue, however, is not entirely due to the fine adjustments based on prior records. The \$53.9 million revenue figure was generated using the Uniform Bail Schedule as a base. The yearly revenues are based upon the prevailing mixture of sentencing policy and inflation and are highly subject to fluctuation. Setting these revenue figures to proportions reveals that the revenue strictly associated with the incremental increase due to administrative adjudication is approximately 9.6% of the total infraction volume revenue.⁶⁵ Using 1974-75 figures the infraction revenue would be estimated to be approximately 50% of 98.5 million or \$49.25 million and the increase in revenue strictly due to recidivist detection would be approximately \$4.7 million. However, this 9.6% figure is directly tied to the percentage incremental increases shown in Table IV-E.

These percentages can of course be modified to reflect prevailing policy. However, the percentages shown in the table are aligned with incremental systems currently operational in some California jurisdictions. It should be noted that this 9.6% percentage increase should be

⁶⁵ 20%	x 19.73%	= 3.946%
50%	5.07%	= 2.530
85%	1.72%	= 1.462
125%	.93%	= 1.160
170%	.31%	= .527
		<u>9.625%</u>

Revenue Using 1973 Uniform Bail Schedule Base
and Point Count Incremental Increase

Prior 12 Month Point Count	% Increase Over Base Fine	% of Total Violators at Point Count	Non-Speeding (60%)		Speeding (40%)	
			Fine	Revenue	Fine	Revenue
0	0	72.24	\$15.00	\$8,841,500	\$20.00	16,748,000
1	20%	19.73	18.00	6,158,160	24.00	5,473,920
2	50%	5.07	22.50	1,977,750	30.00	1,758,000
3	85%	1.72	27.75	827,500	37.00	735,560
4	125%	.93	33.75	542,700	45.00	482,400
5+	170%	.31	40.50	216,270	54.00	192,240
Totals		100.00%		\$28,563,880		\$25,390,040

Total \$53,953,920

Table IV-E

viewed as an upper bound on the increase in revenue that would be realized under a fully operational administrative adjudication system. Some California jurisdictions already adjust their fine amounts according to county and statewide driver histories.

Los Angeles has a county wide prior record system and increases the fine amount by \$5 for each prior. If Los Angeles County adjudicates approximately 40% of the state's citation volume, then the increase in revenue which could be realizable under administrative adjudication would be approximately 40% lower than the 9.6% or about 5.8% increase in revenue. In 1974-75 dollars, this realizable increase would be approximately \$2.8 million.

E. Implementation Plan

As a result of this feasibility study, the Legislature and the Administration will be in a position to decide whether they wish to proceed with administrative adjudication. If the decision is to proceed, the following sections describe a realistic implementation plan that takes into account factors such as electronic data processing capabilities, et. al. (See Appendix J for the program cost implications over a 21 year planning horizon.)

It appears that the most workable implementation approach is a multiphase plan which would allow the decision making and transfer of responsibility to proceed in an orderly, systematic fashion. An overview of the recommended implementation plan is as follows:

. Phase I	Implementation Study	18 Months
. Phase II	Pilot Study	24 Months
. Phase III	Statewide Phase In	24 Months
. Phase IV	Ongoing Operation	15 Year Planning Horizon

1. Phase I - Implementation Study

It is estimated that the Implementation Study portion of the plan, would take approximately 18 months. This time would be used to develop the detailed step by step plans necessary to get the pilot effort under way. The Implementation Study would break into no fewer than four basic areas; (a) Information System, (b) Operations, (c) Facilities, and (d) Personnel. These four areas are discussed as follows:

a. Information System

The primary tasks associated with the information system are (1) development of the programs needed to process information into and from the Department of Motor Vehicles data base, (2) development and writing of procedures manuals to be used in the information system, (3) the actual design of the system network which will process the information from the administrative adjudication hearing offices and Area Processing Centers to the Department of Motor Vehicles Headquarters and (4) the acquisition and installation of hardware to be used in processing the information.

In addition to these considerations, there are a number of data support activities which will require attention. The forms for compiling data to be input into the system must be given careful consideration in order to make the processing from the Area Processing Centers as expeditious as possible. It is advisable when designing the forms to format the data so as to make it computer compatible.

Data costs associated with conducting the implementation study generally fall into two categories, (1) programming and systems design and, (2) procedures preparation. Esti-

mates of data costs are included in the overall \$832,000 Implementation Study cost estimate. (Appendix J)

b. Operations

Tasks associated with the operations segment of the Implementation Study phase involve the development of procedures for the organization which will be responsible for administration of the system. It is anticipated that an Administrative Adjudication Implementation Study Project Manager would be responsible for the development of this area (as well as the total Implementation Study effort.) This effort would include the following: (1) procedures manuals development, (2) forms development and preparation, (3) training, and (4) coordination with affected organizations.

c. Facilities

The primary function of this area during implementation will be the location and acquisition of facilities needed to run the pilot effort and eventually the statewide adjudication system. Facilities can be viewed from two perspectives. The first is with regard to location and acquisition for the initial statewide implementation, and the second deals with impact on the Department's long term capital outlay program.

The Implementation Study cost estimates assume that no new facilities would be constructed for the initial implementation and that future facility needs would be combined as part of the office replacement plan in the Department's capital outlay program. In the acquisition of facilities for the Pilot Study, it is assumed that leased facilities would be utilized in order to defer capital outlay expenses associated with the building of new facilities. In the

acquisition of the lease facilities, attention would be given to the future growth rates of citation volumes since the size of the facility would be influenced by the volume of citations issued.

The cost of facilities and its impact on the Department of Motor Vehicles' future capital outlay program are factored in the program cost analysis over a 21 year planning horizon. (Appendix J)

d. Personnel

Based on the experience of similar implementation study efforts done at the Department of Motor Vehicles, it is anticipated that for the most part current job classifications would be employed; the bulk of the effort regarding personnel administration would be in the development of position specifications and a new classification series for hearing officers and management staff. As a result of removing the infraction adjudication function from many local jurisdictions, it is expected that judicial support personnel may be displaced. An analysis of the problems associated with staff displacement found that current mechanisms exist whereby displaced persons can be brought into State Civil Service under what is known as the "grandfather" concept. Due to the availability of this mechanism, it is expected that the program transfer could be handled equitably.

In addition to resources currently existing within the Department of Motor Vehicles, it is expected that considerable personnel would be needed in order to accomplish the detailed implementation work required for the successful startup of administrative adjudication. The cost of the Implementation Study would be approximately \$832,000.

2. Phase II - Pilot Study

In order to test and debug the new adjudication system, it is anticipated that approximately a two year Pilot Study would be needed. The Pilot Area chosen should be one which represents a mixture of both rural and urban characteristics which would ultimately be experienced if the administrative adjudication system is made operational statewide. The most appropriate Area to test administrative adjudication appears to be Area 7. This Area includes Sacramento County, which is urban, as well as, Yolo, Colusa, Sutter, Yuba, Nevada, Sierra, El Dorado and Placer Counties which are rural. The cost of the Pilot Study would be approximately \$1,785,000 annually.

3. Phase III and IV - Statewide Phase In and Ongoing Operation

While the fiscal estimates for Phase III and IV have been developed, (Appendix J) the details would be developed as part of Phases I and II. It should be noted that statewide phase in and ongoing operation is predicated on the electronic data processing support system being upgraded as described in the computer replacement report⁶⁶ presented to the Legislature April 1, 1976.

⁶⁶ California Department of Motor Vehicles, Report for Replacement of Its Interim Computer System, April, 1976.

ANALYSIS OF ECONOMIC IMPACT
OF ADMINISTRATIVE ADJUDICATION

I. INTRODUCTION

The purpose of this chapter is to summarize the economic implications of the proposed administrative adjudication system. Toward that end, a number of research reports and data sources were used. These included experiences in the State of New York, as well as other jurisdictions with experimental traffic adjudication systems. In addition, several working papers on economic impacts were prepared during the study and over 100 copies of these papers were circulated to governmental and special interest group representatives throughout the State for comment and review. Many of the comments received were incorporated into this study.

The goal of the economic analysis was to provide sufficiently accurate information on probable economic impacts of administrative adjudication to allow a judgment by the legislature on its likely economic feasibility and desirability. It is believed that this goal has been attained. However, a precise understanding of all economic impacts of administrative adjudication for the State of California can only be achieved by the operation of a pilot program in one or more California jurisdictions. Some of these impacts should be more fully examined before making a final commitment to a statewide administrative adjudication system.

Except where noted, the estimated costs and benefits presented below are expressed in 1976 dollars, and are based on the following implementation plan:

Phase I: An 18-month period for detailed system design (July 1976 - December 1977).

Phase II: A two-year pilot program involving jurisdictions representing approximately 5% of total statewide citation volume for purposes of refining system design and validating the estimated costs, the savings, and the effectiveness of the system (January 1978 - December 1979).

Phase III: An initial two-year implementation period during which full statewide operation would be achieved (January 1980 - December 1981).

Phase IV: Full statewide operation of the system (beginning January 1982).

II. PRINCIPAL CONCLUSIONS

By deferred creation of new municipal court departments, through reduced workload for nonjudicial personnel in the municipal courts, and through the reduction of other functions currently performed by local and state government, the proposed administrative adjudication system has the potential for allowing actual dollar savings of about \$19 million during its first full year of statewide operation in 1982. In addition, the equivalent of approximately \$4 million per year may be realized in increased service levels, rather than dollar savings, during the first few years of statewide system operation.

By reduction of scofflaws and increased probability of detection of multiple offenders, somewhere in the neighborhood of \$2 to \$3 million in additional revenue may be generated.

The net cost of operating the system through the Department of Motor Vehicles is estimated to be \$11.8 million in the first full year of operation, after approximately \$4.4 million in the initial start-up costs. Twelve million dollars per year is approximately 24%⁶⁷ of current revenue generated from infractions, or approximately \$3.5⁶⁸ per infraction conviction.

⁶⁷ It is estimated that infraction revenue to local government is currently approximately \$50 million per year. See Chapter IV for a discussion of the basis for this estimate. \$11.8 million in operating costs is approximately 24% of the \$50 million per year in revenues.

⁶⁸ Based on a projected 4.2 million infraction violations in 1982, and a 80% conviction rate or 3.36 million sustained infraction accusations. $\$11.8 \text{ million} \div 3.36 \text{ million infractions} = \3.5 per infraction. Future infraction violations were projected by DMV on the basis of future estimates of numbers of operator's licenses, and population by means of a special study. No future workload estimates were provided by the Judicial Council. The 80% conviction rate was based on SR-160 Sylvania Study results completed in 1970.

ESTIMATED NET SYSTEM BENEFITS
DURING FIRST FULL YEAR OF
OPERATION IN 1982

Realizable savings to local and state governmental entities.	\$19.1 million
Increased revenues.	<u>2.5 million</u>
	\$21.6 million*
Minus cost of operating system through DMV.	<u>11.8 million</u>
Net benefits to governmental entities.	\$ 9.8 million

*Of this amount, approximately \$19.5 million would be realized by local government.

Thus, from an overall system standpoint, administrative adjudication would appear to be economically attractive to state and local governments, since likely overall system savings exceed likely costs.⁶⁹

If, however, the operation of the system is financed by deducting a fixed 24% of the revenues collected in local jurisdictions and returning the remainder to local government, some counties and cities may be adversely affected. The reason for this is that while realizable dollar savings plus increased revenue to local government should exceed operating costs from the standpoint of the state as a whole, some counties and cities may not be able to realize sufficient savings to overcome a 24% infracture revenue loss.

⁶⁹ A discussion of the rate of return on the program is based on various assumptions as to ranges of savings and various planning horizons. With a 9.45% discount rate, and a 20-year planning horizon from start of system design, the program shows a positive net present worth or positive benefit cost ratio taking into account all estimated design, pilot program, and operating costs and savings. 9.45% is the current discount rate for analysis of state programs, and a positive net present worth at this rate indicates the program is economically more attractive than the no-program option. The actual rate of return on the project, based on estimated costs and savings presented in this chapter, is substantially higher than 9.45% and is dependent on the length of the planning horizon.

Moreover, the "average fine" varies from county to county and, if the administrative adjudication system uses a fixed statewide monetary sanction schedule, revenue collected by the proposed system would exceed current levels in some counties, and be less in others.

Accordingly, it is likely that at least a few cities and counties would be adversely affected by an administrative adjudication system which applied a uniform statewide sanction schedule, and was financed by a fixed percentage reduction in revenues collected.

It is possible to conceive of a revenue distribution system which would audit local governmental savings and variances in sanction revenues to ensure that no county incurred a net loss. It is clear, however, that any such system would be extremely complex and probably not practical to implement over any extended period of time.

It was not possible to estimate on a county by county basis the likelihood of a net adverse impact if a flat 24%--or \$3.51 per citation--was deducted from revenues, and it is possible that adverse impacts would be minimal and limited to only a few counties. Other options for financing the system, which would overcome this problem, would include the following:

- Apply an additional assessment of approximately \$3.51 per sustained accusation, or use \$11.8 million in other funds to pay for the administrative adjudication system with all other revenues returned to the counties in which the offense occurred. This would ensure that no county would suffer a loss due to its inability to realize savings. It would not ensure that gross revenues would be maintained at current levels for those counties which presently collect substantially higher fines than would be collected under the administrative adjudication system.
- Raise the average monetary sanction to a point that ensures no county would be adversely affected.

- Some combination of an added assessment, use of outside funds, or increases in average monetary sanction amounts.

III. DISCUSSION OF IMPACTS

Each of the following categories of impacts are discussed below:

- . Savings Due to the Ability to Defer the Creation of New Municipal Court Judicial Positions.
 - . Savings Due to Reduced Workload for Nonjudicial Personnel in the Municipal Courts.
 - . Implications for the Justice Courts.
 - . Savings to Law Enforcement Agencies Due to Fewer Court Appearances.
 - . Savings Due to Reduced Prosecutor Workload.
 - . Savings to State and Local Government from Reduced Driver Improvement Program costs.
 - . Factors Tending to Increase the Revenues Collected from Sustaining Infraction Accusations.
 - . Impacts on the Defendant.
 - . Effect of Eliminating Warrants on Revenues.
 - . The Costs of Operating the Administrative Adjudication System.
- A. Savings Due to the Ability to Defer the Creation of New Municipal Court Judicial Positions

It is estimated that approximately 8% of municipal court judge time is spent in processing infractions. Accordingly, administrative adjudication provides the potential for an 8% decrease in municipal court judge workload.⁷⁰

⁷⁰ The caseload standards used in this calculation were those in use by the Judicial Council in 1973-74 with relative workload as reported in the 1975 Judicial Council Report. These showed a workload of 3,795,000 minutes in the category of "other traffic" or approximately 15% of a total workload of 25,230,000 minutes. However, the 15% figure must be adjusted to reflect the fact that jury trials are no longer used with infractions, that the labor standards used included an allowance for non-case related time, and that the "other traffic" category of filings includes some misdemeanors which would remain in the courts. In order to adjust for "jury trials" the

It is unlikely, however, that an actual reduction in number of judicial positions could be realized except in several of the larger courts. A more realistic assumption is that the reduction in traffic infraction workload would permit the creation of new municipal courtrooms to be deferred until such time as the increasing non-infraction workload had absorbed the workload reduction due to administrative adjudication. In other words, at the time administrative adjudication is introduced, there would be no further new municipal courtrooms created until the infraction workload, removed by administrative adjudication, had been replaced by increasing non-infraction workload. The number of judges would remain constant until the non-infraction workload was equivalent to the number of judges available.

The general implications of this assumption are that (1) there would be judge time available at the beginning of the administrative adjudication program, which could be devoted to improving the service levels of the courts, and that (2) there would be savings to local government over the entire life of the administrative adjudication program resulting from deferred creation of municipal court departments. Dollar savings will be relatively low at the beginning and increase over the life of the program, for all courts.

weighted caseload standards developed by Arthur Young and Company for the Judicial Council in 1974 (reported in Judicial Weighted Caseload Project Report, May 1974) were used. While these standards have not been officially adopted by the Judicial Council, it was assumed that they provided the most accurate current estimate of the relative work content of judicial activities. Using a composite weighted caseload value of 1.23 minutes per "other traffic" filing; a contribution to this value of .17 minutes in Los Angeles and .10 minutes in the rest of the state; and a weighting of 41% of filings for Los Angeles yielded a weighted adjustment to the caseload value of .123 minutes. This indicates a downward adjustment of approximately 10% to account for jury trials. Based on a study of CHP arrest records, it was estimated that approximately 80% of "other traffic" filings were in the infraction category. To adjust for non-case related time, it was assumed that approximately 30% of the judicial time included in the time standards would be unaffected by the removal of traffic infractions. Making these adjustments in the original 15% reduces the estimated workload impact to approximately 8%. It should be noted that there will be

It is important to recognize that both the temporary additional time available, due to reduced workload at the beginning of the program, and any dollar savings from deferred creation of departments would vary from court to court. The actual savings that could be realized in a particular judicial district would be dependent on factors such as current staffing in relation to workload and growth of non-infraction workload.

While an estimate of the impact on each of the 77 municipal court districts in the State of California was not possible within the scope of preparing this report, and under any circumstances would be a complex and expensive task, it is still possible to assess the overall likely savings that would accrue to the State as a whole.

The workload impact of removing infractions from the courts was estimated by using the weighted caseload standards used by the Judicial Council in 1973, after adjustments for the fact that jury trials on infractions have been eliminated since the standards were set, and to account for the assumption that judicial time for administration and other non-case related activities would be unaffected by removal of traffic infraction workload. The net result of these calculations was that removing infractions would reduce judicial workload by approximately 8%. In 1975, there were approximately 438 municipal court judicial positions in the State and 8% would represent 35 equivalent judicial positions throughout the State.

significant differences between courts and that there was no detailed study of the impact of removal of infraction workload on non-case related time of municipal court judges. In estimating cost savings, the 8% workload impact of administrative adjudication was used to estimate the number of equivalent judicial positions, statewide, that would be affected at the current time. Infraction filings were forecast by a special DMV study to increase at approximately 1% per year, and it was assumed that workload would increase at the same rate. Accordingly, a 1% per year increase in number of judicial positions was assumed. No other long-term forecasts of either infraction or non-infraction judicial workload or numbers of filings were available from the Judicial Council or other sources at the time of preparation of this report.

Using independent projections of population increase and number of operator licenses, and the past correlation between these indicators and number of citations, it was estimated that numbers of citations for infractions would increase at the rate of approximately 1% per year, and it was assumed that the infraction workload would increase at about the same rate.

While there are no long-term forecasts of overall municipal court workload, there has been a more than 60% growth in numbers of judges over the last 10 years. This growth rate has been slowing, however, and for purposes of estimating savings it was believed that a 4% long-term growth in non-infraction workload would be more representative.

Using the above assumptions along with a 1973 estimate of a \$102,491⁷¹ annual cost for operating a municipal courtroom, we obtain estimated savings as follows:⁷²

⁷¹ Andersen and Associates, Report to the Judicial Council on Guidelines for Determining the Impact of Legislation on the Courts, 1975.

⁷² The calculations leading to estimated savings are somewhat lengthy but may be briefly outlined as follows: Using actual 1973-74 positions, it is estimated that on January 1, 1974, there were approximately 424 equivalent judicial positions and that 8% or 34 of these equivalent positions were devoted to infractions. Also starting on January 1, 1974, it is assumed that the long-term growth rate in infraction workload is 1% per year (not compounded) and for the remainder of the workload, the growth rate is 4% per year (not compounded). It is assumed that there will be no savings during the pilot program and that savings will commence on January 1, 1980, when the statewide implementation would begin. The combined infraction and non-infraction growth rate assumptions lead to an overall growth rate of 3.75% which predicts 519.6 total judicial positions at the time implementation begins in 1980. Starting in 1980, it will take approximately 2.3 years (until April, 1982) for the workload reduction due to infractions to be absorbed by increasing non-infraction workload in the courts. During this 2.3 year period, the number of judicial positions is assumed to be held constant at 519.6. At the end of the 2.3 year period, judicial positions will grow at the rate of 4% per year throughout the planning horizon of the program. During this 2.3 year period there will be savings in actual judicial positions

- . The reduction in workload by removing infractions would be absorbed by increasing non-infraction workload in slightly over two years.
- . Likely statewide savings due to deferred creation of municipal courtrooms would be approximately \$4.1 million during 1982, the first full year of operation, and would average approximately \$4.5 million per year during the first 15 years of full program operation. (Savings during the first two years of system implementation would be approximately \$0.9 million and \$2.7 million, respectively.)

equivalent to the difference between 519.6 positions and the number which would have been required to meet the combined infraction and non-infraction workload. Also during this 2.3 year period, the workload requirements will be less than 519.6 positions because implementation of the administrative adjudication program will be reducing the workload in the courts faster than the growth in non-infraction workload. This will result in judge time being made available for improving service levels but only during the 2.3 year period (freed judge time will increase slowly until December, 1981, and then rapidly diminish until it is all absorbed in March, 1982). To convert judicial time to dollars, we have increased the 1973-74 estimate of \$102,491 per judicial position year by 10% to account for inflation and to express it in 1976 dollars. (The actual rate of inflation in the courts during this period is unknown.) Thus, in estimated 1976 dollars, the annual courtroom cost would be \$112,740 per year. While not complex, the year-by-year estimates of savings are lengthy and the following is a sample calculation for the first year of implementation, 1980:

The combined infraction and non-infraction workload is given by the function $f(t) = 424 + 15.94t$ where t is in years with $t = 0$ at January 1, 1974. Savings in position-years during 1980 are given by the expression

$$\int_6^7 f(t) - F(6) dt.$$

where $f(6)$ is the estimated number of judges at the time of initiating statewide implementation at the beginning of 1980, i.e. $f(6) = 519.6$. Then

$$\int_6^7 (424 + 15.94t - 519.6) dt = 8.01 \text{ position years.}$$

At \$112,740 per position-year, the savings during 1980 would be $\$112,740 \times 8.01 = \$903,047$ or approximately \$900,000.

- . If judicial staffing levels are held constant during the first 2 years of implementation, approximately 5.8 judge-years of time would be made available for improving the level of service in the courts, statewide. The economic equivalent of this improved level of service would be approximately \$650,000.

B. Savings Due to Reduced Workload for Nonjudicial Pers. in the Municipal Courts

It is estimated that approximately 30% of the nonjudicial workload in the municipal courts is for processing infractions.⁷³

Expressions for subsequent years and costs are as follows:

$$1981: \int_7^8 f(t) - f(6) dt = 23.95 @ \$112,740 = \$2.7 \text{ million}$$

$$1982: \int_{8.3}^{8.3} f(t) - F(6) dt + \int_{8.3}^9 (34 + .34t) dt = 36.01 @ \$112,740 = \$4.1 \text{ million}$$

$$1983: \int_9^{10} (34 + .34t) t dt = 37.23 @ \$112,740 = \$4.2 \text{ million}$$

During 1996, the fifteenth year of full statewide operation, we obtain

$$22 \int_{23}^{23} (34 + .34t) dt = 44.65 @ \$112,740 = \$5.0 \text{ million}$$

The expression $(34 + .34t)$ is simply the non-infraction workload over the planning horizon and the reader interested in calculating savings under the above assumptions between any two points in time after $t = 8.3$ need only integrate this function over the desired interval. It should be noted that after the infraction workload has been absorbed, the projected savings are only sensitive to the rate of growth in non-infraction workload. (A 2%, rather than 1%, growth rate would generate approximately 15% more savings over a fifteen-year planning horizon). Calculations similar to the above lead to an estimate of 5.78 position-years of freed judge time during the period starting in 1980 and ending 2.3 years later. The economic equivalent of this time at \$112,740 per year is approximately \$650,000.

⁷³ Data used in making this estimate were obtained from the Report to the Judicial Council on Guidelines for Determining the Impact of Legislation on the Courts (Andersen and Associates, 1975), the 1975 Judicial Council Report, and the Non-judicial Staffing Study (a report to the Judicial Council by Young and Company, 1974). The weighted case-load standard for the "other traffic" category for non-judicial personnel in the Municipal Courts is 31.1 minutes per filing. During the 1973-74 reporting year, there were approximately 3.54 million

While a 30% reduction in nonjudicial workload would allow reduction in personnel in many courts, particularly the larger ones, there are some courts where actual dollar savings would be difficult to achieve. This would be due to the way tasks are assigned to personnel, as well as the specific methods of performing the work. For example, removing a percentage of the cashiers' workload in a municipal court does not allow the elimination of a position, unless there are a sufficient number of cashiers to fully absorb the remaining workload. Determining the long-term impact of a 30% decrease in infraction workload on either realizable dollar savings or increases in service levels is a complex problem in any given court, and the results would vary significantly from court to court.

In general, it is believed that the larger courts would be able to more easily realize dollar savings than the smaller courts because of more clear-cut division of labor. For all courts, however, it may be assumed that decreased infraction workload would result in either increased service levels, or that actual dollar savings could be realized.

The impact on a particular municipal court would be dependent on work methods, growth in non-infraction workload, division of

"other traffic" filings which is equivalent to 31.1×3.59 million = 111.6 million minutes. Also during this period it was estimated by the above sources that there were 3219 nonjudicial personnel in the municipal courts at an average case workload value of 92,425 minutes per person or 298 million minutes. Thus, 111.6 million minutes is equivalent to approximately 38% of total workload. The 38% must be corrected to account for the percentage of reported "other traffic" filings which are misdemeanors and would not be removed from the courts. Based on CHP records, it was estimated that approximately 80% of the total filings were infractions and 80% of 38% equals approximately 30%.

labor, and other factors. In order to assess the overall impact of administrative adjudication on the nonjudicial personnel in the courts, a set of assumptions similar to those used for judicial personnel were used.

The growth in infraction workload was estimated at 1% by means of a special Department of Motor Vehicles projection, and the growth in non-infraction workload assumed to be 4%.⁷⁴ The current number of nonjudicial personnel was estimated from a 1973 Judicial Council study of nonjudicial staffing in the courts. (For a detailed analysis of this point see Footnote 73).

In order to provide an estimate of realizable dollar savings from eliminating infraction workload, it was assumed that actual personnel reductions would achieve only 50% of the workload reduction implied by removing infractions from the courts. In addition, it was assumed that these reductions would occur by means of attrition during the first two years of implementation of the administrative adjudication program and that there would be no further reduction in personnel thereafter.

This is equivalent to assuming an approximate 11% total decrease in personnel over the two-year period following initiation of the system, to be achieved by a net attrition rate of approximately 6% per year.⁷⁵ At the end of the second year, personnel would remain constant until the end of the seventh year of the program when increasing non-infraction workload would necessitate an increase in nonjudicial personnel.

⁷⁴The growth in nonjudicial positions was assumed to be approximately equal to the growth in judicial positions. There are no long-term projections for growth in nonjudicial personnel. The growth rate in Los Angeles was estimated at approximately 4% since 1967.

⁷⁵Using January 1, 1974, as a point of departure, a 4% growth rate for non-infraction workload, and 1% growth rate for infraction workload, numbers of personnel were projected as follows: On January 1,

In other words, nonjudicial personnel reductions of approximately 11% would be made over a two-year period by attrition in response to a 30% decrease in nonjudicial personnel workload. After that, there would be neither decrease nor increase in personnel until the decreased infraction workload had been absorbed by increasing other workloads.

A 1973-74 estimate of \$18,272 per-year cost for nonjudicial personnel, along with an estimate of 3219 nonjudicial personnel in the municipal courts and the above assumptions, lead to the following estimated savings:⁷⁶

1974, it was assumed there were 3219 nonjudicial personnel of which 424 were courtroom clerks. Since the cost estimates for deferred judicial positions included courtroom clerks, the 3219 total personnel were reduced by 424 to estimate 2795 non-courtroom clerk positions on January 1, 1974. Assuming 30% of the workload was for infractions, (see Footnote 73), it was estimated that at that time 838 equivalent positions were devoted to infractions and the remaining 1957 positions were devoted to other activities. The 838 positions and the 1957 positions were projected to January 1, 1980, on the basis of the respective 1% and 4% growth rates, to obtain 888 infraction related positions, 2426 non-infraction related positions, or a total of 3314 positions at the time of initial implementation of the program. During the two-year period (1980 - 1982), statewide operation of the program would be achieved. Taking into account growth in non-infraction workload during this period, the number of non-infraction related positions on January 1, 1982, would be approximately 2583. On the other hand, if no reduction in staff had taken place during this period, then the number of personnel would have been 3314 on January 1, 1982. The difference between these personnel levels is 731 positions and, assuming that 50% were actually realized, is equivalent to a reduction of 365 positions or 11% of the 3314 non-courtroom personnel. Over a two-year period, this is equivalent to attrition rate of approximately 6% per year.

⁷⁶ While straight forward, the calculations leading to savings are lengthy. The approach is similar to that outlined for deferred judicial positions described in Footnote 72. The Report to the Judicial Council on Guidelines for Determining the Impact of Legislation on the Courts (Andersen and Associates, 1975) provides an estimate of \$18,272 per non-judicial position year in the municipal courts. This estimate was adjusted to take into account the fact that courtroom clerks were considered under deferred judicial positions and for inflation. The

- During the first full year of operation (1982), approximately \$10.8 million would be saved. This would increase to approximately \$16.3 million per year by the fifth year. (Savings during the first two years of system implementation will be approximately \$2.5 and \$7.5 million respectively.)
- Savings would continue to increase, averaging approximately \$18.4 million over the period from the eighth year after implementation to the fifteenth year of the program.
- During the first seven years after program implementation, an average of the equivalent of \$3.3 million per year in nonjudicial personnel time would be freed for service-level improvement.

effect of adjusting for courtroom clerks is to slightly reduce the cost-per-year figure. Using a \$12,354 average wage cost for the courtroom clerk and a \$10,242 average cost for all nonjudicial personnel along with the estimates of total personnel described in Footnote 75, indicates an approximate 3% reduction in the \$18,272 figure down to \$17,724 per year. The \$18,272 estimate was for the 1974-75 period, and adding 5% for inflation to \$17,724 gives an estimated cost per non-courtroom nonjudicial position of \$18,610 per year in 1976 dollars. A sample calculation for estimated savings during the first year is as follows:

The combined infraction and non-infraction workload in positions is given by the function $f(t) = 2795 + 86.68t$ where $t = 0$ is January 1, 1974. The actual number of positions is given by $g(t) = 4410 - 182.5t$.

Savings in position years during the first year of implementation, 1980, is given by the expression $g(t)dt = 134.67$ position years.

At \$18,610 per position year, this is equivalent to $\$18,610 \times 134.67 = \2.5 million.

The form of the mathematical expression changes for subsequent years and the results are as follows:

1981: 404 position years @ \$18,610 = \$ 7.5 million
 1982: 581 position years @ \$18,610 = 10.8 million
 1983: 668 position years @ \$18,610 = 12.4 million

C. Implications For The Justice Courts

Under the proposed administrative adjudication system, the justice court judges would serve as hearing officers. While different procedures would be used in adjudicating offenses under administrative adjudication, it is believed that the cost impact on the 214 justice courts would be minimal.

If, as a result of detailed system design and the operation of the pilot program, it is determined that significant impacts were involved, the counties could be reimbursed for any additional expenses. The current cost of operating the justice court system in the State is on the order of \$10 million per year. Accordingly, a 10% increase in labor, services, and supplies would represent an approximate \$1 million increase in system operating cost.

At this time, however, no significant changes in justice court system costs are anticipated.

D. Savings To Law Enforcement Agencies
Due To Fewer Court Appearances

The principal impact on the police that would result from administrative adjudication would be a reduction in overtime and regular time salary costs associated with appearance in court. Moreover, regular time savings may only be realizable in terms of increased productivity, such as increased percentage of patrol time.

1984:	755 position years @ \$18,610 =	\$ 14.1 million
1985:	841 position years @ \$18,610 =	15.7 million
1986:	877 position years @ \$18,610 =	16.3 million
1987:	951 position years @ \$18,610 =	17.7 million
1996:	1027 position years @ \$18,610 =	19.1 million

Using the above assumptions, the infraction workload will have not been absorbed by increasing non-infraction workload until 1986. During this period the equivalent of 1281 position years will have been freed for other work which, at \$18,610 per position year, has an economic equivalent of \$23.8 million or approximately \$3.3 million per year.

In order to get an idea of the magnitude of savings possible, an estimate of the impact on overtime and regular costs for the California Highway Patrol was made and, based on the percentage of citations written by the California Highway Patrol, projected to the State as a whole. For the 1975-76 fiscal year, the California Highway Patrol estimates that approximately \$600,000 will be spent for regular court appearances and \$240,000 for overtime appearances on infraction citations. It is not known what percentage reduction in appearances would occur in California as a result of the proposed administrative adjudication, but it is probably reasonable to expect at least a 50% reduction based on the fact that the appearance of the officer is solely at the option of the defendant. There is insufficient comparable experience with other systems in the nation to do much more than speculate on this issue, but it may be noted that a 50% reduction in police appearances occurred in New York under administrative adjudication.

Assuming a 50% reduction, regular time "savings" would be approximately \$300,000 and overtime savings approximately \$120,000 per year. Projecting this to the State as a whole, on the basis that the California Highway Patrol issues approximately 55% of the infraction citations, suggests statewide savings of approximately \$220,000 in overtime and \$550,000 in regular time.

While overtime savings could be realized in dollars, the regular time savings would be realized in improved service levels.

E. Savings Due To Reduced Prosecutor Workload

Savings from reduced prosecutor workload would occur because the prosecutor would no longer appear in contested infraction

cases. Assuming that 55,000 contested cases⁷⁷ will be removed from the courts and that the prosecutor would have appeared in approximately 50% of these,⁷⁸ it is possible to estimate reduction of approximately 28,000 prosecutor appearances. Assuming that prosecutor time is approximately equal to judicial time on contested, non-serious traffic offenses, viz, 20 minutes per case, we would estimate a reduction of approximately 560,000 minutes or 9300 man-hours per year.

Informal inquiries in several jurisdictions indicates that while there is considerable variance between jurisdictions, it is unlikely that statewide prosecutor workload savings on infraction offenses would exceed 10 man-years or \$300,000 per year.

While the removal of infraction offenses from the courts would have some impact on prosecutor workload as well as supporting clerical workload in the prosecutor's office, it is unlikely that any dollar savings would result. The savings would appear as increased service levels in other prosecutor work areas.

F. Savings To State and Local Government From
Reduced Driver Improvement Program Costs

One of the impacts of the proposed administrative adjudication system is that it would reduce the number of defendants referred to driver improvement programs. Currently, the judiciary refers first offenders as well as multiple offenders to driver improvement schools. The proposed administrative adjudication system would only refer persons with three prior offenses to driver improvement schools. (See Chapter III).

⁷⁷ Based on 1973-1974 Judicial Council records after adjustments for misdemeanor filings.

⁷⁸ No statewide statistics exist on frequency of prosecutor appearance. 50% appears to be a reasonable estimate based on informal inquiries in several jurisdictions.

Current driver improvement programs are conducted by either adult education, community college or private driver education schools. Adult education and community college programs are supported by tax dollars.

In order to estimate savings associated with reduced driver school attendance in the adult education and community college programs, it was estimated that approximately 150 adult schools and 75 community colleges throughout the State conduct driver improvement classes and that in excess of 100 persons per month attend each of these schools.⁷⁹ Estimates provided by the Department of Education indicate that the average cost of these classes is approximately \$15.00 per student.⁸⁰ This amount is paid in part by the State, and in part by the local school district. At 270,000 students per year, the saving would amount to approximately \$4 million per year.⁸¹

It is not known to what extent Safety Council or private organizations would be affected by reduced referral to driver school. However, the impact of the reduction may be significant.

G. Factors Tending To Increase the Revenues From Sustaining Infraction Violations

The implementation of the proposed administrative adjudication system could be expected to increase revenues for several reasons:

⁷⁹ A sample of schools was drawn from the Driver Improvement School directory prepared by Judge Betsy F. Rahn in 1974. The directory indicates Adult schools 59%, Community Colleges 19%, and other schools 21%. The average of students per adult school is 145 per month per school. The number of students in Community Colleges is assumed to be somewhat less. An average of 100 students per month for all programs is believed to be a conservative estimate of average attendance.

⁸⁰ Average class length = 12 hours. $\$1.26 \times 12 = \15.12 per student cost, where \$1.26 is average hourly reimbursement.

⁸¹ $225 \times 100 = 22,500$ students per month $\times 12 = 270,000$ referrals per year @ \$15 per referral = \$4,050,000.

- . Reduction in scofflaws.
- . Increased detection of multiple offenders coupled with a sanction schedule which increases monetary sanctions as the number of recent offenses increases.
- . Fewer referrals to driver improvement schools.

The actual impact of an administrative adjudication system on all the items listed cannot be accurately projected until a pilot program is conducted. It is believed, however, that some increased revenues would result from the proposed administrative adjudication system and each of the above items are briefly discussed below:

1. Increased Revenue from Reduction in Scofflaws

It is estimated that there are presently on the order of 420,000 citations issued per year where the defendant fails to appear.⁸² The operation of the administrative adjudication system in New York showed a 25% decrease in scofflaws. While it is extremely unlikely that a reduction of this magnitude would be achieved in California, some lesser reduction may result because the defendant would be clearly informed that license suspension would result from failure to appear.

If a 10% reduction in scofflaws resulted from the administrative adjudication system, additional revenue of approximately \$735,000 per year would result;⁸³ a 20% reduction would yield \$1.47 million; and so forth. Because of the tentative nature of scofflaw reduction, additional revenue from scofflaw reduction was not included in the estimate of system benefits.

⁸² SR-160 (Sylvania) estimate of 11.6% scofflaws and 3,612,500 filings in 1973-1974.

⁸³ Based on an average fine of \$17.50 under the proposed sanction schedule.

2. Increased Revenue From Increased Monetary Sanctions
For Multiple Offenders

The proposed sanction schedule* (Chapter III) increases the monetary sanction according to the point count in the prior 12-month period. Table V-A below shows the percent increase over the base fine amount in terms of the point count at time of sentencing, ... the estimated percent of violators that would be affected.

Table V-A

Percent Monetary Sanction Increase
by Prior 12-Month Point Count

Prior 12 Month Point Count	% Increase Over Base Fine	% of Total Violators at Point Count
0	0	72.24
1	20%	19.73
2	50%	5.07
3	85%	1.72
4	125%	.93
5+	170%	.31
Totals		100.00%

The total percent increase in revenue associated with this increasing monetary sanction schedule is 9.6%. That is, the use of the above schedule for California violators would generate approximately 9.6% more revenue than the base fine only.

Infraction revenue is currently in the neighborhood of \$50 million, and a 9.6% increase would be equivalent to \$4.8

million.⁸⁴ Since, however, at least half of the present sentences made in the courts take into account at least the local driving record of the defendant, only some fraction of the \$4.8 million would be incremental revenue associated with the statewide application of an administrative adjudication system.

It was not possible to perform a detailed study of likely increased revenues due to increased detection of multiple offenders. However, it would seem likely that perhaps on the order of \$2 to \$3 million additional annual revenues might result from administrative adjudication.

3. Increased Revenues Due to Fewer Referrals to Driver Improvement Schools

As discussed above, the proposed sanction schedule eliminates referral to driver improvement schools until after the 3rd point count on the driver's 12-month record.

In most of these cases, the fine is either reduced or eliminated in consideration of driver school attendance. An analysis of recent average fine amounts coupled with the estimates of referral to driver school on first, second, and third offenses,

⁸⁴The total amount of revenue associated with infraction violations is not known. Estimate of \$50 million is based upon the approximate distribution of fines levied and reported to the Department of Motor Vehicles. The DMV file search indicated approximately 47.9% of the fines levied were for infraction violations during 1970 to 1973. The percentage is sensitive to assumptions regarding ratio of misdemeanors to infractions, conviction rates, penalty assessment and must therefore be used as an approximation only. (See Chapter IV for further discussion of current system revenue.) The 9.6% increase in revenue is entirely dependent upon the percentage incremental increase in sanction amounts.

suggests that perhaps an additional \$1 million in revenue would be generated by the reduced referral to driver improvement organizations.⁸⁵

In summary, the potential increases in revenues from reduced scofflaws, reduced referral to driver improvement schools, and increased monetary sanctions for recidivists can only be verified by detailed field studies of current practices and, in the case of scofflaws, by a pilot program. While any estimate of the combined effect is somewhat speculative, it is believed to be reasonable to assume that increased revenues due to the above items would be at least \$2 million per year and probably less than \$5 million per year. A conservative estimate of \$2.5 million was used for calculating system benefits.

H. Impacts On The Defendant

Effects on the defendant from administrative adjudication would potentially include the following:

- . Changes In The Amount Of Money Paid For Monetary Sanctions
- . Changes In Time Spent And Fees Paid For Attending Driver Improvement Programs
- . Changes In Time And Cost Of Appearances
- 1. Changes In The Amount Of Money Paid For Monetary Sanctions

It is expected that the gross revenues generated under the proposed administrative adjudication program would exceed those presently being generated for the reasons discussed in the previous section of the chapter. These amounts would be paid by persons convicted of infractions and, as discussed above, may be on the order of \$2.5 million per year.

⁸⁵ It was estimated that there are at least 270,000 referrals to driver school per year. If the fine was eliminated in all cases, then $270,000 \times \$17.50 = \4.7 million would represent the revenue gain. However, it is not known to what extent fines are reduced. What is felt to be a conservative estimate of a 25% average fine reduction would lead to slightly over \$1 million in additional revenue collected.

2. Changes in Time Spent and Fees Paid Attending Driver Improvement Programs

As also discussed in the previous sections of this chapter, reduced referral to driver improvement schools would result from the use of the proposed sanction schedule. Accordingly, there would be a reduction in the hours spent in driver improvement schools, in the time and cost of traveling to the schools, and in fees paid. All of these items are economic benefits to defendants.

Insufficient data was available to estimate the dollar impact of these changes in sanctioning policy. However, it is likely that in the aggregate, reduced costs of driver school attendance would exceed the increased monetary sanction, thus yielding a net economic benefit to the defendant.

3. Time And Cost Of Appearing For The Adjudication Hearing

Travel time to attend the hearing would be increased to the extent that fewer locations for a hearing are provided under administrative adjudication than under existing municipal and justice court district facilities. Currently, hearings are conducted in 77 municipal courts and 214 justice courts. Under the proposed system there would be hearings conducted at nearly all of the 214 justice courts, and in approximately 45 locations in the vicinity of the municipal courts.

While some increased travel will be required for some defendants, the majority of persons appearing will experience no increased travel time, and the overall increase in travel cost or time is not believed to be significant.

Overall, the number of defendant appearances required to contest a citation should be reduced under the administrative adjudication system. Because of recent changes in trial procedures, including

the Los Angeles "instant trial," an accurate estimate of reduced appearances was difficult to formulate. In comparing administrative adjudication with the current system, it is believed that average travel time would be slightly longer, time spent waiting for the actual appearance in front of the adjudicator would be less under administrative adjudication, and the actual time appearing before the adjudicator would be slightly longer. In certain jurisdictions, this might result in a net increase in time and cost to the defendant and, in others, a net decrease. The overall net effect in terms of time or cost is not known, but it is believed that it would be, on the average, no longer or more expensive under administrative adjudication than under the current system.

I. Effect of Eliminating Warrants on Revenues

Under the proposed administrative adjudication system, local government would not collect those additional revenues resulting from fines levied on infraction violators arrested on warrants for failure to appear. An estimate of this loss in revenue was made from a sample of 1000 citations issued in Los Angeles during June and July of 1975. From this sample, it was estimated that the net loss in revenue to local government would be approximately \$550 per 1,000 infraction citations issued. Projecting this estimate to the state as a whole, the expected revenue reduction would be approximately \$2 million per year.

The net impact of this loss of revenue must be balanced against the costs of collecting this revenue.

The average incremental revenue generated in the Los Angeles sample was approximately \$25 per person arrested. It is likely that the cost of arrest, transportation, booking, and incarceration is in excess of \$25. Accordingly, the reduction in revenues should be balanced by reduced law enforcement agency costs.

J. The Costs of Operating the
Administrative Adjudication System

The costs of implementing the proposed administrative adjudication system may be divided into the several phases leading to full system operation. All costs are expressed in 1976 dollars.

- . Phase I: (Detailed System Design: 18 months beginning in July 1976).

It is estimated that detailed system design will cost approximately \$832,000.

- . Phase II: (A two-year pilot program involving jurisdictions with approximately 5% of statewide citation volumes: 24 months beginning January 1978 and ending December 1979).

Conducting the pilot program along with an evaluation of benefits and costs, and system refinement, is estimated to cost approximately \$3.57 million.

Accordingly, overall system design and evaluation, including a pilot program, is estimated to cost approximately \$4.41 million.

- . Phase III: If the results of the pilot program favor the implementation of the system on a statewide basis, the next phase would be a two-year period to achieve statewide implementation. Net cost to the Department of Motor Vehicles during this two-year period would be approximately \$14.4 million.

- . Phase IV: (Full system operation: beginning in January of 1982).

Beginning in 1982, it is estimated that the annual operating cost would be approximately \$11.8 million per year in 1976 dollars. The system will employ approximately 538 persons during its first full year of operation in approximately 45 locations, in addition to justice court operations. Operating costs are estimated as follows:

Personnel, benefits, and indirect expenses	\$9.35 million
Facilities and special expenses	1.16
Data processing and other special equipment	<u>1.07</u>
Total	\$11.58 million
Less savings in the operation of other DMV programs made possible by more efficient data handling	<u>.82</u>
	\$10.76 million
Plus 10% contingency	<u>1.07</u>
	\$11.83 million

After allowance for productivity improvements and increases in citation volume, it is estimated that annual operating costs expressed in non-inflated dollars will increase approximately 1% per year after 1982. (For details on program costs see Appendix J).

IV. SUMMARY

The exhibits below summarize the estimated monetary impact of system implementation. Table V-B summarizes estimates of dollar savings, savings realized in increased service levels, and costs to the governmental entities involved in administrative adjudication.

Table V-C shows the flow of benefits and costs during the principal phases of the program; and Figure V-1 shows the estimated annual costs and realizable dollar savings on a year-by-year basis, starting with system design in 1976 through 15 years of full program operation ending in 1996.

Synopsis of Benefits and Costs
to Governmental Entities in 1976 Dollars
at Time of Statewide Operation

<u>Category</u>	<u>Realizable \$ Savings</u>	<u>Economic Value of Increased Service Level</u>	<u>Costs</u>
Deferred Creation of Municipal Court Departments	\$4.1 million per year (\$3.6 million during Phase III)	\$650,000 during Phase III only.	
Nonjudicial personnel in Municipal Court	\$10.8 million per year during first full year of operation increasing to over \$18 million after 12 years (\$10.0 million during Phase III)	Average of \$3.3 during Phase III and first five years of Phase IV. None thereafter.	
Law Enforcement Agencies	\$220,000 per year	\$550,000 per year	
Prosecutor Workload			
Increased Revenue Due to Detection of Recidivists, Etc.	\$2.5 million per year		
Reduced reimbursement for driver training by local and state government	\$4.0 million per year		
Administrative Adjudication System Operation by DMV			\$11.8 mil. per yr. during 1st full yr. of operation; \$14.4 mil. during 2 yr start up; \$4.4 mil. in initial system design & pilot program over 3½ yrs.

Table V-B

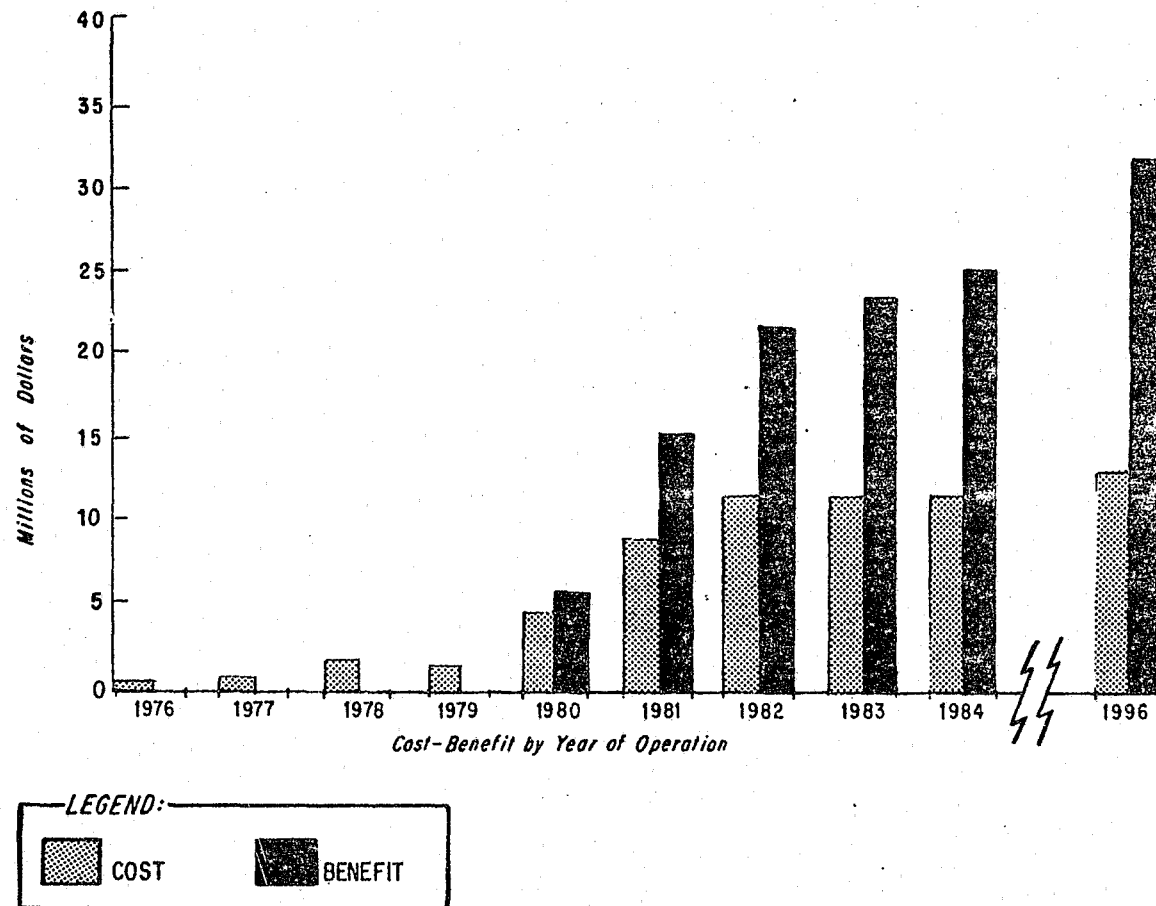
Table V-C

Benefits and Costs
During Principal Phases of Program
in 1976 Dollars

Millions of \$		
<u>Period</u>	<u>Costs</u>	<u>Realizable Benefits</u>
<u>Phase I: System Design (1976-1977)</u>	\$.83 million for an 18-month period	none
<u>Phase II: Pilot Program (1978-1979)</u>	\$ 3.57 million for two-year period	assumed negligible
<u>Phase III: System Implementation (1980-1981)</u>	\$14.40 million over a two-year period	\$20.3 million over a two-year period
<u>Phase IV: 1982 (first full year of operation)</u>	\$11.83 million per year	\$21.6 million per year*
<u>1996 (last year of 15-year planning horizon)</u>	\$13.10 million per year	\$31.6 million per year

* Approximately \$19.5 million would be realized by local government and the remainder by State entities.

Comparison of Cost and Benefit by Year of Operation



I. INTRODUCTION

The successful implementation of an administrative adjudication system to replace the current judicial approach requires careful attention to law presently on the books and to the constitutional mandates of due process and separation of powers.⁸⁷ To that end, the proposed new system was researched in light of California Constitutional doctrine.

The following analysis is a summary of that research study.⁸⁸

II. ANALYSIS

The separation of powers doctrine defines the limits within which the powers currently vested in the judiciary relative to traffic offense adjudications may be transplanted to hearings conducted by the Department of Motor Vehicles, an agency of the executive branch. Two provisions of the California Constitution delineate separation of powers. Article III, Section 3 states:

The powers of state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

Article VI, Section 1 states:

The judicial power of this state is vested in the Supreme Court, courts of appeal, superior courts,

⁸⁶ This analysis was prepared by the Institute for Administrative Justice-McGeorge School of Law, University of the Pacific, under the general guidance of Dean Gordon D. Schaber. The principle authors are Glenn A. Fait, Director, Institute for Administrative Justice and Jay R. Simmons, Assistant to the Director, Institute for Administrative Justice.

⁸⁷ For a summary analysis of the Federal Constitutional issues, see Appendix D of this report.

⁸⁸ The entire text of the study is contained in Appendix D of this report.

municipal courts, and justice courts. All except justice courts are courts of record.

The central consideration, then, is whether the adjudication of traffic offenses by the Department of Motor Vehicles would constitute the exercise of a "judicial power," within the meaning of the California Constitution. The answer, in brief, is that it would not, but that there are a number of caveats that must be observed. These center on:

- A. The criminal or civil nature of the traffic offense.
- B. The nature of the sanctions that may be applied.
- C. The measure of judicial review afforded by the courts after the agency has rendered a decision, and
- D. The due process protections afforded in the administrative adjudication model.

A. Decriminalization of Traffic Infractions

While it is apparent that an agency may adjudicate some controversies denominated as civil, and impose limited sanctions based on its findings, it is equally clear that criminal actions are solely within the judicial realm.⁸⁹ Inasmuch as traffic offenses including infractions, are currently defined in the California Code as criminal,⁹⁰ they probably cannot be brought into an administrative format until decriminalized.

B. Sanction Authority

Decriminalization turns on a number of considerations in addition to the formal statutory definition. Statutory re-definition of traffic violations as civil, rather than criminal offenses, is an obvious first step. However, beyond statute, the courts may be inclined to look to the sanction meted out upon a finding of

⁸⁹CAL. CONST., Art. 1, §15.

⁹⁰CAL. VEH. CODE §40000.1, and PEN. CODE §16.

culpability. In all likelihood, the power to imprison is exclusively judicial and could not be vested constitutionally in an executive agency. Under the proposed model, sanctions would be limited to license suspension and revocation, imposition of monetary fines, mandatory educational or counseling programs and alternate service in lieu of monetary sanctions. While conceding that the power of an administrative agency to suspend or revoke professional licenses is, in a sense, judicial, the California courts have held consistently that it is not "judicial" within the meaning of the constitution.⁹¹ The authority of a hearing officer under the proposed model to sustain or dismiss the accusations for the purpose of driver's license suspension or revocation would not appear to differ materially from that of professional licensing boards. The power of agencies to impose monetary sanctions is less well settled, and there is authority in other states to the effect that an agency may not assess fines without litigating through the courts.⁹² The more modern view, however, and one supported by the commentators, is that an agency may be vested with limited discretion to impose fines on its own authority.⁹³

California cases overturning overly broad agency powers have done so where the agency was vested with the authority to enact the regulations and the penalties,⁹⁴ even though enforcement lay

⁹¹Sucknow v. Alderson, 182 Cal. 247, 250, 187 P. 985, 966 (1920) (medical license); Ex Parte Whitley, 144 Cal. 167, 179, 77 P. 879, 884 (1904) (dental license).

⁹²Tite v. State Tax Commission, 89 Utah 404, 57 P. 2d 734 (1936). But see Old Republic Life Insurance Co., v. Thacher, 12 N.Y. 2d 48, 234 N.Y.S. 2d 702, 186 N.E. 2d 554 (1962).

⁹³City of Waukegan v. Pollution Control Board, 57 Ill. 2d 170, 311 N.E. 2d 146 (1974). See also 1 K. DAVIS ADMINISTRATIVE LAW TREATISE §2.13 at 137-38 (1958 and 1970 supp.).

⁹⁴Gilbert v. Stockton Port District, 7 Cal. 2d 384, 60 P. 2d 847 (1936); Moore v. Municipal Court, 170 Cal. App. 2d 548, 339 P. 2d 196 (1959).

through the courts, or where the amount assessed against a party was largely discretionary with the agency.⁹⁵

The proposed model differs significantly in these respects in that the traffic laws would continue to be enacted by legislative bodies while the amount of monetary sanction would be strictly governed by the uniform sanction schedule, thereby restricting the discretion of the hearing officer. Suspension and revocation of licenses, as well as imposition of monetary sanctions, under the proposed model, appears permissible within the parameters of the separation of powers doctrine.

The right of an administrative agency to levy monetary sanctions would be strengthened by the express recognition that the monetary sanction is merely an alternative to suspension or revocation of the license. Since the more drastic sanction of revocation or suspension of the license is clearly within the authority of the administrative agency, the less severe alternative of a monetary sanction should certainly be permitted.

A related consideration to which the courts may look in determining if an offense has been truly decriminalized is the purpose for which the sanction is invoked. Criminal penalties are generally imposed to punish a wrongdoer⁹⁶ while civil remedies are designed to redress a past wrong or prevent a future one.⁹⁷ The goals obviously overlap, but the general principle is clear. So long as the sanctions are intended and fashioned primarily to deter the wrongdoer in order to preserve safety on the public highways, rather than to punish the individual traffic violator, no constitutional infirmity arises.

⁹⁵Jersey Maid Milk Products Co., v. Brock, 13 Cal. 2d 620, 651-52, 91 P. 2d 577, 594-95 (1939).

⁹⁶CAL. PEN. CODE §683.

⁹⁷CAL. CODE CIV. PROC. §30.

In determining whether adjudication of an offense may be taken over by an administrative agency, the courts may also look to see if the mere finding of culpability itself, whatever the sanction, is sufficiently shameful as to mar the individual's reputation or impair his professional opportunities. In such a situation, the courts might determine that the individual thereby threatened is entitled to have his case heard in a court of law. In view of the widely held opinion⁹⁸ that violation of a routine traffic law does not connote a criminal mind in the violator, this consideration would not appear to militate against transfer from the courts to an administrative setting.

Given proper legislative action and intent, then decriminalization of traffic offenses poses no problems in terms of separation of powers. Once decriminalized, the traffic offense is susceptible to adjudication by an administrative agency. The agency's decisions must always, however, be subject to judicial review.

C. Judicial Review

Review by the courts of administrative adjudication is a requirement of the separation of powers doctrine.⁹⁹ Review is had initially in the superior court by means of a request for a writ of mandamus.¹⁰⁰ Although, under the proposed model, the municipal court might appear to be the logical first step in the appellate process, being the present forum for adjudication of traffic infractions, that court is not currently vested with either statutory or constitutional mandamus.¹⁰¹

⁹⁸ See PERKINS, CRIMINAL LAW, at 792 (2nd ed. 1969).

⁹⁹Covert v. State Board of Equalization, 29 Cal. 2d 125, 132, 173 P. 2d 545, 549 (1946); LeBlanc v. Swoap, 48 Cal. App. 3d 1020, 1026-27, 122 Cal. Rptr. 408, 413-14 (1975).

¹⁰⁰Drummy v. State Board of Funeral Directors, 13 Cal. 2d. 75, 87 P. 2d 848 (1939).

¹⁰¹CAL. CODE CIV. PROC. §1085; See also CAL. CODE CIV. PROC. §89 which delineates the jurisdiction of the municipal courts; CAL. CONST. Art. VI, §10.

Section 1094.5(a) of the Code of Civil Procedure sets forth the grounds upon which the review court will issue a writ of mandamus ordering the agency to set aside its decision. The writ will issue where (1) the agency has proceeded either without jurisdiction or in excess of its jurisdiction, or (2) where the hearing was not "fair," or (3) where there has been a prejudicial abuse of discretion. Prejudicial abuse of discretion may, in turn, be established by any of three showings: (a) that the agency did not proceed in the manner required by law, (b) that the agency decision was not supported by the findings of fact, or (c) that the findings of fact were not supported by the evidence.¹⁰²

The issue most frequently litigated on appeal by parties affected adversely through an administrative ruling is the question of whether the findings of fact were supported by the evidence. The superior court's scope of review of the evidence on this question turns on the nature of the right affected by the agency decision. While there is at stake a fundamental and vested right, the reviewing court will exercise its independent judgment on the record of the administrative hearing.¹⁰³ In effect, the reviewing court will reweigh the evidence adduced at the hearing and any additional evidence permitted by the court and determine if the hearing officer's decision was supported by the weight of the evidence.¹⁰⁴ Where there is involved a right not denoted fundamental and vested, the reviewing court's scope is far more constricted. Rather than reweighing the evidence, the court need only ascertain whether there is substantial evidence in the record to support the hearing officer's finding.¹⁰⁵

¹⁰² CAL. CODE CIV. PROC. § 1094.5(b).

¹⁰³ Bixby v. Pierno, 4 Cal. 3d 130, 143-44, 93 Cal. Rptr. 234, 243-44, 481 P. 2d 242, 251-52 (1971).

¹⁰⁴ CAL. CODE CIV. PROC. § 1094.5(c).

¹⁰⁵ CAL. CODE CIV. PROC. § 1094.5(c).

Under the proposed sanctions, a motorist bringing the matter to the superior court would presumably be contesting either the suspension or revocation of his license or the imposition of a monetary sanction. Since either of these agency actions touches a fundamental and vested right, his license¹⁰⁶ or his money,¹⁰⁷ the court would probably exercise its independent judgment and completely reweigh the evidence. On further appeal to the District Court of Appeal, of course, review is limited to consideration of whether there is substantial evidence in the lower court's record to support the finding, regardless of whether the right is fundamental.

Since the model has provided for appropriate judicial review of the hearing officer's decision, and where the traffic offenses subject to adjudication by the Department of Motor Vehicles are to be decriminalized, the mandate of the separation of powers doctrine is satisfied. The conduct of the hearing itself, however, is governed by statute and, of course, by the dictates of procedural due process as well.

D. Procedural Due Process

Before the administrative adjudication process can begin, a Notice to Appear must be issued by a peace officer. The stopping of a motorist to issue the Notice is not considered an arrest,¹⁰⁸ and therefore, assuming the officer is given clear statutory authority to make such a stop, no due process problems appear.

¹⁰⁶ Escobedo v. California, 35 Cal. 2d 870, 222 P. 2d 1 (1950).

¹⁰⁷ General Motors Corp. v. Cal. Unemp. Ins. Appeals Bd., 253 Cal. App. 2d 540, 61 Cal. Rptr. 483 (1967); Sears Roebuck and Co., v. Wallis, 178 Cal. App. 2d 284, 2 Cal. Rptr. 847 (1960).

¹⁰⁸ Wilson v. Porter, 361 F.2d 412 (1966); Jones v. State of New York, 8 Misc. 2d 140, 167 N.Y.S. 2d 536 (1957).

Due process requires that the alleged violator be afforded adequate and timely notice. Notice is adequate when it (1) describes the conduct of the party charged, (2) sets forth the violation alleged, (3) delineates the possible sanctions which may attach, should the party be found in violation, and (4) apprises the party of his right to have a hearing on the matter.¹⁰⁹ The Notice to Appear will describe both the conduct and the violation with which the party is charged. Specific provision is also made for the Notice to Appear to inform the party both of his right to the hearing and of the possible sanctions that may attach to an adjudication of guilt.

Notice must also be timely, in order to afford the alleged violator an opportunity to prepare his defense. The model's provision of a hearing date some fourteen to thirty-five days from the date of the offense would appear to satisfy the requisites of timeliness.¹¹⁰

Under the proposed model, an alleged violator who wishes to admit the accusations by mail must enclose the amount of the monetary sanction with his admission. Should he wish to deny the accusation and request a hearing, a posting of the amount of the prospective sanction would be permissive but not required. A flat requirement that a denying party post bond prior to any hearing, either on the amount of the bond or on the merits of the case, would probably violate the dictates of due process which require that any taking of an individual's property by the state be preceded by an opportunity for the individual to be heard.¹¹¹

¹⁰⁹ *Cole v. Arkansas*, 333 U.S. 196 (1948); See also *Smulson v. Board of Dental Examiners*, 47 Cal. App. 2d 584, 118 P. 2d 483 (1941).

¹¹⁰ *Goldberg v. Kelly*, 397 U.S. 254 (1970) (seven days notice is sufficiently timely in the case of a welfare hearing); *McCullough v. Terzian*, 2 Cal. 3d 647, 87 Cal. Rptr. 195, 470 P. 2d 4 (1970) (three days notice is insufficient in the case of a welfare hearing).

¹¹¹ *Bell v. Burson*, 402 U.S. 535, 539-40 (1971).

Clearly, the motorist is entitled to a speedy adjudication on the merits of the case.¹¹² This requisite would probably be satisfied by the plan of the proposed model to afford hearings sometime between fourteen and thirty-five days from the issuance of the Notice to Appear.

The due process requirements for the hearing itself are reasonably straightforward. The hearing officer himself must of course be impartial. Impartiality is determined with reference to: (1) the personal attitudes of the hearing officer, and (2) his interests in the outcome. Proper screening in the initial hiring and an adequate program of training would do much towards insuring impartiality and fairness on the part of the hearing officers. There appears to be no statutory or due process requirement mandating the use of lawyers as hearing officers in DMV hearings.

The alleged violator is entitled to hear all evidence on which the hearing officer's decision would be based, and is entitled to receive it sufficiently in advance of the hearing to prepare his defense.¹¹³ While he may be represented by an attorney of his own selection,¹¹⁴ the state is not required to furnish counsel at public expense.¹¹⁵ He must also be afforded the opportunity to confront and cross-examine adverse witnesses.¹¹⁶

¹¹² Steen v. City of Los Angeles, 31 Cal. 2d 542, 190 P. 2d 937 (1948).

¹¹³ Goldberg v. Kelly, 397 U.S. 254, 270 (1970) citing Greene v. McElroy, 360 U.S. 474, 496-97 (1959).

¹¹⁴ McCollough v. Terzian, 2 Cal. 3d 647, 654, 87 Cal. Rptr. 195, 200, 470 P. 2d 4, 8 (1970) (welfare hearing).

¹¹⁵ Borrer v. Dept. of Investment, 15 Cal. App. 3d 531, 92 Cal. Rptr. 525 (1971) (disciplinary proceeding against real estate agent).

¹¹⁶ McCollough v. Terzian, 2 Cal. 3d 647, 654, 87 Cal. Rptr. 195, 200 470 P. 2d 4, 8 (1970).

The question of whether the 5th Amendment right against self-incrimination may be invoked at an administrative hearing where there is no possibility of subsequent criminal prosecution is not well settled. However, it appears that where the alleged violator stands in jeopardy of losing his license or being assessed a monetary fine, he may properly plead the privilege and refuse to testify.¹¹⁷ While the 5th Amendment privilege, then, operates at the hearing, the strict rules of evidence, including the exclusionary rules do not.

Under the proposed model, the burden of proof currently applicable in traffic adjudications, guilt beyond a reasonable doubt, would be abrogated in favor of a more relaxed standard of clear and convincing evidence. The latter formulation, however, would withstand constitutional attack only if traffic offenses are decriminalized and made civil.¹¹⁸ In the absence of decriminalization, the criminal burden of proof, guilt beyond a reasonable doubt, remains applicable.

The institution of administrative adjudication in some, but not all, geographical areas of the state could, it has been suggested, raise certain constitutional problems relative to equal protection. However, this argument was rejected by New York's highest court when faced with a case wherein administrative adjudication of traffic offenses had been limited by statute to cities numbering one million or more citizens.¹¹⁹ So long as the distinction between areas receiving administrative adjudication and those remaining subject

¹¹⁷ *Borrer v. Dept. of Investment*, 15 Cal. App. 3d 531, 542, 92 Cal. Rptr. 525, 531, (1971) citing *Spevack v. Klein*, 385 U.S. 511, 514-15 (1967).

¹¹⁸ See section dealing with separation of powers, Appendix D.

¹¹⁹ *Rosenthal v. Hartnett*, 36 N.Y. 2d 269, 367 N.Y.S. 2d 247, 326 N.E. 2d 811 (1975).

to traffic courts is based on some rational system of classification, no equal protection problem would appear to be raised.¹²⁰

III. CONCLUSION

As long as the traffic violation to be adjudicated is (A) decriminalized by definition as well as by effect, (B) the nature of the sanctions applied is within the administrative purview, (C) meaningful judicial review is afforded, and (D) the proper administrative due process safeguards are existent, it appears that the proposed transfer of the adjudication of minor traffic offenses from the judiciary to the Department of Motor Vehicles, an agency of the executive branch, would not be violative of the California Constitutional Separation of Powers provisions, and would be feasible as to the other legal issues herein discussed.

In conclusion, then, there are no constitutional impediments to the California Model for administrative adjudication of traffic infractions. Assuming proper amendments to existing statutes and new statutes clearly setting out the provisions of the model, the administrative adjudication system would fit well into the current framework of the California government. We also concluded that decriminalization and administrative adjudication of traffic infractions would result in an adjudication system more closely related to the recognized goal of traffic safety than the present system of adjudication.

¹²⁰ Katzenbach v. Morgan, 384 U.S. 641, 657 (1966).

TOWARD ADMINISTRATIVE ADJUDICATION

I. INTRODUCTION

Senate Concurrent Resolution 40 did not specifically request that public attitudes toward administrative adjudication be analyzed. It was felt, however, that the overall issue of feasibility required an examination of the public's views. As a result, three surveys were conducted to analyze attitudes relating to both the California Model of Administrative Adjudication and the current judicial traffic offense adjudication system. The surveys focused on (A) public attitudes as well as the attitudes of (B) court clerks, and (C) judges. Opinion surveys conducted as a part of other studies on administrative adjudication were also analyzed, and are included as part of the study. While the public attitude survey meets the criteria for a scientifically conducted opinion survey, the survey of court clerks and judges only reflects insights into the thoughts of those surveyed; they may not reflect the attitudes of court clerks and judges as a whole.

II. BACKGROUND

Several previous surveys have been conducted in an attempt to assess both the public's and special group's attitudes toward judicial and administrative traffic offense adjudication procedures. The results of these studies may be summarized as follows:

A. Automobile Club of Southern California Membership Survey

In 1972, the Automobile Club of Southern California conducted a survey of their members to determine their attitudes toward change in the form of traffic offense adjudication. The study found that:

- . Over 2/3 of the members surveyed supported the proposal to replace judicial adjudication with administrative adjudication in the Department of Motor Vehicles if the hearing officer had a sound legal background and the appeals process was clearly defined and easily available.¹²¹

¹²¹Dixon, Vehicle Code Survey, Automobile Club of Southern California, pp. 7-8.

- . That approximately 50% of the respondents who had been to traffic court felt that they had been hurried through the process.¹²²
- . 62% felt that the judicial process was somewhat fair or very fair.¹²³

B. California Lower Court Study

This study surveyed 180 municipal court judges on a wide range of issues. Of particular interest was the finding that over 50% of the judges rated traffic cases as the proceeding they least preferred.¹²⁴

C. Decriminalization of Moving Traffic Violations Study

Interviews with judges in municipal courts in San Francisco and Los Angeles showed that most felt that adjudication of traffic matters should remain primarily within the domain of the courts.¹²⁵

D. SR-160 Study of Traffic Enforcement/Driver Control System

An earlier study of judicial attitudes found strong support among judges for uniformity of court procedures and sentencing throughout the State. This position was particularly strong among municipal court judges (83%) and justice court judges (92%).¹²⁶

E. Attitude Toward Administrative Adjudication in New York

Of particular interest was the attitude of New Yorkers to administrative adjudication, since the program has been in operation for over five years. The United States Department of Transportation's

¹²² Ibid., p.19.

¹²³ Ibid., p.21.

¹²⁴ Booz, Allen and Hamilton, Op. Cit., p. 116.

¹²⁵ Young and Co., Decriminalization of Moving Violations, p. 100.

¹²⁶ Sylvania, Inc., Op. Cit., Vol. II., pp. G31/G32.

report on administrative adjudication of traffic infractions noted that,

In public opinion surveys conducted on administrative adjudication in New York City, the public was impressed by its convenience and the police were enthusiastic about its efficiency.¹²⁷

Another report also summarized the following facts:

- . The New York public thinks of administrative adjudication hearing officers as judges and does not distinguish them from criminal court judges.¹²⁸
- . Interviews in New York with court officials regarding administrative adjudication indicate that they are very pleased with the effect of administrative adjudication on the court system. It was stated that there was a substantial reduction in courtroom congestion and that there was more time available for the more serious criminal matters. Furthermore, the reduction of this caseload allowed time for the courts to correct the remaining deficiencies in the court system.¹²⁹
- . Police officers interviewed in New York indicated that the most noticeable change was the decrease in time required for their court appearances.¹³⁰
- . Traffic defendants interviewed at administrative adjudication hearing offices in New York praised the speedy manner in which hearings were conducted.¹³¹

¹²⁷ NHTSA Report, Op. Cit., p.31.

¹²⁸ Young and Co., Decriminalization of Moving Violations, p. 50.

¹²⁹ Ibid., pp. 50-51.

¹³⁰ Ibid., p. 52.

¹³¹ Ibid., p. 56.

III. METHODOLOGY

A. Public Attitude Survey

Questionnaires were distributed during a one week period at 20 Department of Motor Vehicles field offices across the State.

(Appendix H) The field offices were chosen as a representative sample of various population and geographical areas which were grouped into three areas. The three areas were: (Area I) field offices serving communities with populations over 250,000, Los Angeles, San Diego, San Jose, San Francisco; (Area II) field offices serving communities with populations between 100,000 and 250,000, Fresno, Pasadena, Riverside, Sacramento, Santa Ana, and Stockton; and (Area III) field offices serving communities with populations under 100,000, Auburn, Palm Springs, Quincy, Redding, Redlands, Salinas, Santa Monica, Thousand Oaks, Ukiah, and Walnut Creek.

The questionnaires were given along with the license renewal written test to every driver who applied for a license renewal at one of the selected field offices. The driver was asked to complete the questionnaire and return it with the test. There were few refusals (3.7%); however, a number of questionnaires were returned incomplete (12.4%). Questionnaires in Spanish were provided for those individuals taking the written test in Spanish.

1. Sample Verification

This survey does not represent the consensus of the total population of California as the survey period was only one week at twenty field offices. However, demographic data derived from this survey was compared to the 1970 U. S. Census data to verify the composition of the various groups. The following is a summary of this verification:

	Survey count	Survey percentage	1970 U.S. census data
Sex			
Male.....	5,317	53%	49%
Female.....	4,634	47%	51%
No answer.....	903	-	-
	<u>10,854</u>	<u>100%</u>	<u>100%</u>
Age			
18-29.....	3,933	39%	29%
30-39.....	2,033	20%	18%
40-49.....	1,557	16%	19%
50-59.....	1,434	14%	15%
60-over.....	1,043	11%	19%
No answer.....	854	-	-
	<u>10,854</u>	<u>100%</u>	<u>100%</u>
Income			
Under \$6000.....	1,559	16%	15%
\$6000-8000.....	1,048	11%	10%
\$8000-10,000.....	1,233	13%	21%
\$10,000-15,000....	2,182	23%	28%
\$15,000-25,000...	2,186	23%	21%
\$25,000-over.....	1,393	14%	5%
No answer.....	1,253	-	-
	<u>10,854</u>	<u>100%</u>	<u>100%</u>
Education			
Less than 9th grade	433	4%	19%
Some high school .	1,028	10%	22%
High school grad .	2,283	23%	31%
Some college	2,532	25%	17%
2 year degree	1,153	12%	6%
4 year degree	1,182	12%	5%
Graduate work	1,342	14%	-
No answer	901	-	-
	<u>10,854</u>	<u>100%</u>	<u>100%</u>

2. Verification Analysis

These summary tables indicate that the male-female ratio appears satisfactory. The age ratio is wider in the Task Force survey because our sample begins with age 18. There are also fewer drivers in the 60 and over age bracket. The survey data shows a higher percentage of people in the higher income brackets than indicated in the Census. Most of this, however, is the result of inflated incomes during the last five years.¹³² The survey data also indicates a higher percentage of college educated and college graduates and a lower percentage of less than

¹³² Department of Finance, California Statistical Abstract, this source indicates that personal income for California increased 55% since 1970.

high school graduate respondents when compared to the Census data. This result shows an increase in the level of education in California since 1970. Overall, the sampling is adequate for the conclusions in this report.

B. Court Clerks and Judges Surveys

A small sample of court clerks were surveyed by representatives of the Judicial Council at a conference near Monterey. The sample included 116 court clerks representing 21 counties. A sample of judges were also surveyed at a different conference near Monterey by representatives of the Judicial Council. This sample consisted of 103 judges representing 31 counties.

Neither the court clerks nor the judges survey can be considered scientifically adequate. As previously indicated, they do not represent a random representation from each jurisdiction. Furthermore, the surveys were not administered in a totally unprejudiced manner, as there was discussion of the contents prior to the answering of the respective survey questions. With this in mind, the results are presented to indicate the general trend of opinions and court procedures in the jurisdictions represented.

IV. PUBLIC ATTITUDE SURVEY FINDINGS

A. Introduction to Survey Findings¹³³

The first issue examined in the survey analysis was that of population/area opinion differences. A computer program was created to tally the responses by area distribution. In all population/areas the question of whether less serious traffic tickets should be taken out of the courts and handled by the Department of Motor Vehicles showed a favorable response, ranging from 71% to 77%.

The public's attitude toward administrative adjudication was analyzed by respondent characteristics (age, income, sex, education,

¹³³ The survey instruments employed in the study are shown in Appendix H.

driver record, et.al.) using a chi-square test. The results indicated a more favorable response on the part of motorists who (1) who have a good driving record, (2) are in the "20 to 59" age group, (3) have completed at least a high school education, (4) are female, (5) are in a higher income bracket, and (6) are classified as an "average" driver in terms of miles driven.

Other related questions in the survey found that 86% of 10,534 people surveyed believe that a legally trained Department of Motor Vehicles hearing officer would be as fair as a judge. 74% of 10,440 prefer a traffic safety hearing officer who is legally trained rather than a lawyer. 46% of the respondents who had appeared in traffic court believed that they were hurried; however, 74% felt that the penalty was fair. Among those surveyed, 20% stated they paid the fine but they were not guilty and did not have time to fight the ticket. If a respondent was pleading not guilty to a traffic ticket, 71% would prefer the police officer to be present at the hearing. If the police officer was not present, 72% believe that the officer should submit a statement in addition to the traffic ticket. 62% of the respondents believe that people with bad driving records should pay higher fines. Over 80% of the respondents indicated that juveniles should be treated in the same manner as adults for moving violations. 67% of the motorists surveyed believe that hearings and fines for moving violations should be the same for everyone in all areas of the State. Finally, of the respondents who were familiar with court procedures, 42% believe that over the years the procedures have remained the same with 33% feeling that procedures have gotten worse.

B. Attitude Differences Based on Population Density

The initial question focused on the response difference by geographical locations, since SCR-40 requested that areas having populations greater than 250,000 and areas having populations less than 250,000 be analyzed for differences. Thus, the public's

attitude toward administrative adjudication was analyzed by area and respondent characteristics.

In using a chi-square test, there is a significant difference by area (see Table VII-A); however, the practical significance is negligible because of the large sample size. Any difference of more than 1% is significant, but the attitude of respondents in each area is approximately the same.

Question:

Do you feel less serious traffic tickets should be taken out of the courts and handled by:

Table VII-A

Areas	I	II	III
N = 2880	4083	2987	
Department of Motor Vehicles Hearing Officer	70.94	75.43	76.67
Another Agency	3.23	2.28	1.91
Or leave as is	9.55	9.67	8.84
Improve the current court system	11.22	8.62	8.84
No response	5.07	3.99	3.75

($\chi^2 = 40.54$, d.f. = 8, $P < .01$)

Answers to questions were not different based on population density. Administrative adjudication, while favorably received in all areas, just appears more favorable in some areas than others. However, the difference in attitude is not enough to analyze each respondent characteristic by area.

C. Public Attitude Toward Administrative Adjudication

Although all the responses to the question of, how should less serious traffic tickets be handled?, favored the Department of

Motor Vehicles hearing officer, the responses did vary with the respondent characteristics. The following discussion refers to combined areas and focuses on respondent characteristics.

1. Driver history as a factor

Table VII-B

Have you ever appeared at a Department of Motor Vehicles hearing?

	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
Yes	711	64.42	4.50	13.92	15.75	1.41
No	9533	77.28	2.38	9.54	9.48	1.32

$$(\chi^2 = 65.30, \text{d.f.} = 4, P < .01)$$

Table VII-C

Approximately how many moving traffic citations have you had in California within the last 5 years?

	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
None	6082	73.99	2.06	9.57	9.40	4.98
1-2	3545	75.46	2.74	8.80	9.17	3.84
3-4	685	70.36	3.36	11.53	9.34	5.40
5 or more	176	61.93	3.98	11.36	18.18	4.55

$$(\chi^2 = 42.14, \text{d.f.} = 12, P < .01)$$

CONTINUED

2 OF 3

Conclusion:

The question of how less serious traffic tickets should be handled, versus the respondents driving record, shows a less favorable response towards the Department of Motor Vehicles as the driver's record moves toward likely contact with the Department. (Tables VII-B and VII-C)

2. Age as a factor

Table VII-D

How should less serious traffic tickets be handled?

Age	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
Under 20	968	69.52	2.58	14.36	10.74	2.79
20-29	2965	76.66	2.46	8.97	9.58	2.33
30-39	2033	75.95	2.80	8.41	9.84	3.00
40-49	1557	75.14	2.18	9.51	9.18	3.98
50-59	1434	75.17	2.58	7.25	9.14	5.86
60 & Over	1043	69.32	1.82	9.97	7.67	11.22

($\chi^2 = 222.59$, d.f. = 20, $P < .01$)

Conclusion:

The respondent characteristic of age versus the same question indicates that those respondents in the "under 20" age group, and the "60 and over" age group, favor the Department of Motor Vehicles by slightly less than 70% while those in the other age group favored the Department by more than 75%. (Table VII-D)

3. Education as a factor

Table VII-E

How should less serious traffic tickets be handled?

Education	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
Less than 9th Grade	433	53.35	2.54	17.78	12.24	14.09
Some high school	1028	63.33	2.53	16.83	10.12	7.20
High school grad	2283	71.62	2.01	10.99	10.07	5.30
Some college	2532	78.04	2.05	7.66	9.24	3.00
2 year degree	1153	76.58	2.86	7.89	10.23	2.43
4 year degree	1182	81.56	2.88	5.67	7.78	2.12
Graduate work	1342	80.10	3.06	6.04	8.12	2.68

$$(x^2 = 392.02, \text{d.f.} = 24, P < .01)$$

Conclusion:

Education characteristics compared to the same question indicate that the more education a respondent has completed, the more likely he would favor administrative adjudication at the Department of Motor Vehicles. Interestingly, the percentages reach a high peak at "some college" and decline again with a "2 year degree" and then go up again. (Table VII-E)

4. Sex as a factor

Table VII-F

How should less serious traffic tickets be handled?

Sex	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
Male	5317	72.58	3.18	9.42	10.51	4.31
Female	4634	77.04	1.64	9.15	8.14	4.04

$$(x^2 = 45.92, \text{d.f.} = 4, P < .01)$$

Conclusion:

In comparing the male-female responses, the results indicate that the female respondent is more in favor of the Department of Motor Vehicles adjudicating traffic offenses than the male respondent. (Table VII-F) The survey sample indicated, however, that the male respondent generally has a poorer driving record than the female respondent and would therefore more likely be in contact with the Department of Motor Vehicles. (Table VII-G)

Table VII-G

Number of moving traffic citations within last 5 years:

Sex	N	None	1-2	3-4	5 or more	No Response
Male	5317	46.89	39.61	9.72	2.71	1.07
Female	4634	69.49	26.91	2.61	.41	.58

5. Income as a factor

Another respondent characteristic of annual family income was compared to the question:

Table VII-H

How should less serious traffic tickets be handled?

Annual Family Income	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
0-\$6000	1559	69.28	2.76	11.48	10.46	6.03
\$6000-8000	1048	70.71	.86	12.02	8.97	5.44
\$8000-10,000	1233	74.86	2.19	8.68	10.14	4.14
\$10,000-15,000	2182	75.57	2.52	9.07	9.03	3.80
\$15,000-25,000	2186	78.13	2.33	7.32	9.38	2.84
\$25,000 or over	1393	79.54	2.15	7.11	9.05	2.15

$$(\chi^2 = 96.97, \text{d.f.} = 20, P < .01)$$

Conclusion:

The results show that the higher the income bracket, the more favorable a respondent is towards the Department of Motor Vehicles. (Table VII-H)

6. Miles driven as a factor

This question was compared with the annual number of miles that a respondent reported driving.

Table VII-I

"How should less serious traffic tickets be handled?"

Annual Miles Driven	N	DMV Hearing Officer	Another Agency	Leave As Is	Improve Current Court System	No Response
Less than 2500	1686	69.04	2.25	13.17	9.96	5.58
2500-7500	2368	74.54	2.15	10.30	8.23	4.77
7501-12,500	2612	77.83	2.60	6.85	8.69	4.02
12,501-17,500	1582	76.61	2.65	7.59	10.62	2.53
17,501-22,500	712	75.98	2.39	8.71	10.11	2.81
over 22,500	795	73.46	3.02	9.06	11.45	3.02

$$(x^2 = 104.89, d.f. = 20, P < .01)$$

Conclusion:

These results indicate that the average driver, which statistics indicate is one who drives approximately 12,000 miles per year, would be more favorable towards the Department of Motor Vehicles adjudicating minor traffic offenses. (Table VII-I)

Summary:

A summary analysis of this question indicates a respondent least likely to favor administrative adjudication would: (a) have a poor driving record, (b) be in the "under 20" or "60 and over" age group, (c) have less than a 9th grade education or some high school, (d) be a male, (e) be in a lower income bracket, and (f) drive less than 2500 miles per year. Respondents in the other categories showed a higher preference for administrative adjudication.

D. Related Questions

The remainder of the survey questions are presented to show the pattern of responses. Certain responses are cross-tabulated to show relevant responses which differed as a function of a respondent characteristic. Those responses which did not yield a significantly different response pattern are not shown.

The questions and results are shown below:

Driver Questionnaire Response Data 134

Number of field offices distributing questionnaires.....	20
Number of questionnaires sent to field offices.....	23,100
Number of questionnaires returned not distributed.....	12,246
Number of questionnaires returned incomplete..	1,421
Number of questionnaires returned completed...	9,433
Total Sample Used.....	10,854

. Questionnaire Results

1. Have you heard or read anything about this new program prior to this survey?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10,821	8.44%	91.48%	.08%

(N = Total Responses)

2. Do you feel a legally trained Department of Motor Vehicles hearing officer would be as fair as a judge?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10,534	85.55%	9.09%	5.35%

¹³⁴ The survey responses from the field offices were keypunched and computer processed to obtain summary statistics. (Not all percentages will add up to 100% due to the computer rounding.) Variance in N's are caused by (1) persons not responding to both cross-tabulated questions and (2) expected errors from key-punching and computer input.

2(a). A cross-tabulation of the question,

Would a DMV hearing officer be as fair as a judge?

compared to the number of traffic tickets a respondent received, showed:

<u>Number of Tickets Received</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
None	6,107	86.33%	8.30%	5.37%
5 or more	176	78.41%	15.91%	5.68%

(All cross-tabulated responses are not shown for summary purposes)

Conclusion:

As previous data in this survey showed, the more likely that a respondent may have contact with the Department of Motor Vehicles the least likely he would prefer the Department or a Department hearing officer.

3. Would you prefer a lawyer rather than a traffic safety hearing officer who was legally trained to hear your case?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10,440	20.87%	74.18%	4.95%

4. Would you still prefer a lawyer if the cost would result in higher taxes or fines?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10,094	13.28%	30.69%	1.91

The remaining 54.12% still prefer traffic safety hearing officers who are legally trained.

4(a). The question,

Would you prefer a lawyer rather than a traffic safety hearing officer who was legally trained to hear your case?

cross-tabulated with respondents income:

<u>Annual Family Income</u>	<u>N</u>	<u>Yes</u>
\$0 - \$6,000	1,555	25.33%
\$10,000-\$15,000	2,169	18.35%
\$25,000 or over	1,398	19.67%

(All cross-tabulated responses are not shown for summary purposes)

4(b). The question of,

Would you still prefer a lawyer if the cost would result in higher taxes or fines?

cross-tabulated with respondent characteristic of income:

<u>Annual Family Income</u>	<u>N</u>	<u>Yes</u>
\$0 - \$6,000	1,559	13.98%
\$10,000-\$15,000	2,182	12.01%
\$25,000 or more	1,390	11.92%

(All cross-tabulated responses are not shown for summary purposes)

Conclusion:

The results show the higher income respondent is least likely to prefer a lawyer.

5. If the Department of Motor Vehicles was handling traffic tickets and you received a citation, how would you pay your fine?

N - 10,488

By Mail - 61.30%

In Person - 33.71%

Both - .15%

No Response 4.83%

5(a). Question 5 was cross-tabulated with respondent's answer to the number of tickets received in the last five years.

<u>Number of Tickets Received</u>	<u>N</u>	<u>Mail in Fine</u>	<u>Pay Fine in Person</u>	<u>Both</u>	<u>No Response</u>
None	6,082	63.10%	32.19%	.12%	4.59%
5 or more	176	43.18%	50.00%	.00%	6.82%

(All cross-tabulated responses are not shown for summary purposes)

5(b). Question 5 was also cross-tabulated with respondent characteristic of sex.

<u>Sex</u>	<u>N</u>	<u>Mail in Fine</u>	<u>Pay Fine in Person</u>	<u>Both</u>	<u>No Response</u>
Male	5,317	57.44%	37.63%	.17%	4.76%
Female	4,634	66.70%	29.02%	.11%	4.16%

5(c). The same question was cross-tabulated with the respondent characteristic of income.

<u>Annual Family Income</u>	<u>N</u>	<u>Mail in Fine</u>	<u>Pay Fine in Person</u>	<u>Both</u>	<u>No Response</u>
\$0-\$6,000	1,559	48.81%	44.52%	.19%	6.48%
\$10,000-\$15,000	2,182	61.69%	34.01%	.23%	4.08%
\$25,000 or over	1,393	76.45%	20.60%	.07%	2.87%

(All cross-tabulated responses are not shown for summary purposes)

5(d). The respondent characteristic of education was also cross-tabulated with this question.

<u>Education</u>	<u>N</u>	<u>Mail in Fine</u>	<u>Pay Fine in Person</u>	<u>Both</u>	<u>No Response</u>
Less than 9th grade	433	39.72%	47.58%	.46%	12.24%
Some college	2,532	62.84%	33.41%	.24%	3.52%
Graduate work	1,342	75.19%	21.01%	.00%	3.80%

(All responses not shown for summary purposes)

Conclusions:

- a) The more tickets a person has, the more likely he would appear in person.
- b) Males are most likely to pay a fine in person.
- c) The higher the income, the more likely the fine would be mailed.
- d) The more education, the more likely to mail in the fine.

6. Have you ever appeared at a DMV hearing?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10,488	6.66%	89.54%	3.79%

6(a). Have you ever appeared at a DMV hearing?
compared to,

.... preferring a lawyer for a hearing
officer:

<u>Prefer Lawyer</u>	<u>N</u>	<u>Appeared at DMV Hearing</u>	<u>Have Not Appeared at DMV Hearing</u>	<u>No Response</u>
Yes	2,231	10.04%	89.15%	.81%
No	7,863	6.09%	93.51%	.39%

6(b). The question,

Have you ever appeared at a DMV hearing?

cross-tabulated with driving record:

<u>Number of Tickets Received</u>	<u>N</u>	<u>Have Appeared</u>	<u>Never Appeared</u>	<u>No Response</u>
None	6,082	3.95%*	92.26%	3.80%
1-2	3,545	7.81%	88.58%	3.61%
3-4	685	17.08%	78.25%	4.67%
5 or more	176	36.93%	59.09%	3.98%

*3.95% may represent hearings for other than driver improvement reasons.

6(c). Have you ever appeared at a DMV hearing?

Males compared to Females:

<u>Sex</u>	<u>N</u>	<u>Have Appeared</u>	<u>Have Not Appeared</u>	<u>No Response</u>
Male	5,317	9.07%	87.06%	3.87%
Female	4,634	3.58%	93.50%	2.91%

Conclusions:

a) As expected, the motorists with poor driving records are more likely to have appeared at DMV hearings.

b) Males are more likely to have appeared at a DMV hearing than females.

7. If you usually pleaded guilty, and appeared before a judge, what were the results of your appearance?

<u>Number of Tickets Received</u>	<u>N</u>	<u>Full Fine</u>	<u>Reduced Fine</u>
1-2	3,545	17.69%	18.62%
3-4	685	22.77%	29.93%
5 or more	176	28.98%	32.39%

(This table does not show all responses available on this question, therefore, percentages will not total 100%)

Conclusion:

Results of appearance compared to driving record showed that the more tickets a motorist had received, the more likely the person would receive a full fine or reduced fine rather than be sent to traffic school or have the fine suspended or dismissed.

8. When you received a citation, did you usually:

N = 10,488

Appear in court and plead guilty	9.89%
Pay a fine only (by mail or to a clerk)	40.22%
Appear in court and plead not guilty	5.36%
Other or combination	44.54%

8(a). What a respondent usually did upon receiving a citation compared to respondent's belief that appearing in court will reduce the penalty:

"Do you believe appearing in
court will reduce your penalty?"

<u>"When you received a citation, did you usually:"</u>	<u>Yes</u>	<u>No</u>
	N = 9404	
Appear in court to plead guilty?"	13.00%	8.22%
Pay a fine only (by mail or to a clerk)?"	38.56%	40.47%
Appear in court and plead not guilty?"	8.30%	3.62%
No citations	35.85%	44.12%
Other	1.23%	.63%
No response	3.05%	2.94%

Conclusion:

The respondents who believed appearing in court would reduce their penalty did, in fact, appear in court to plead guilty or not guilty.

9. If you have ever appeared in traffic court, please describe your most typical experience.

N = 3442

Very hurried	23.04%
Somewhat hurried	20.25%
About average	36.75%
Somewhat unhurried	8.75%
Very unhurried	11.21%

10. If you have ever appeared in traffic court, please describe the fairness of your penalty.

N = 3479

Very fair	43.86%
Somewhat fair	30.41%
Somewhat unfair	16.59%
Very unfair	9.14%

- 10(a). Of those who had appeared in traffic court, felt that:

Appearing in court will
reduce the penalty.

Fairness of Penalty

	<u>N</u>	<u>Very Fair</u>	<u>Somewhat Fair</u>	<u>Somewhat Unfair</u>	<u>Very Unfair</u>
Yes	1596	44.99%	33.15%	14.72%	7.14%
No	1604	41.52%	28.18%	18.83%	11.47%

Conclusion:

The majority of respondents felt that their sentence or penalty was very fair. However, the respondents who felt that appearing in court reduces the penalty had a higher percentage for "very fair" in the evaluation of the fairness of the penalty.

11. If you paid a fine, did you do so because:

<u>N</u>	<u>You were Guilty</u>	<u>Not guilty but didn't have time to fight ticket</u>	<u>No Citations</u>	<u>No Response</u>
10488	37.42%	20.25%	38.01%	4.31%

11(a). This same question cross-tabulated by respondent characteristic of sex:

<u>Sex</u>	<u>N</u>	<u>You were guilty</u>	<u>Not guilty but didn't have time to fight ticket</u>	<u>No Citations</u>	<u>No Response</u>
Male	5317	44.72%	25.90%	25.99%	3.39%
Female	4634	28.96%	13.44%	52.61%	4.98%

Conclusion:

The male respondent would be more likely to not have time to fight the ticket when he felt he was not guilty.

12. If you were pleading not guilty to a traffic citation, would you rather have the police officer:

<u>N</u>	<u>Present</u>	<u>Not Present</u>	<u>No Response</u>
10485	71.29%	18.35%	10.36%

12(a). The preference of the police officer's presence compared to the number of tickets received:

<u>Number of tickets</u>	<u>N</u>	<u>Present</u>	<u>Not Present</u>	<u>No Response</u>
None	6080	71.18%	17.43%	11.38%
1-2	3544	72.46%	18.62%	8.92%
3-4	685	66.72%	23.65%	9.63%
5 or more	176	69.32%	23.86%	6.82%

12(b). The preference of the police officer's presence compared to respondent characteristic of sex:

<u>Sex</u>	<u>N</u>	<u>Present</u>	<u>Not Present</u>	<u>No Response</u>
Male	5314	73.56%	18.74%	7.70%
Female	4634	71.99%	18.64%	9.37%

12(c). Preference of the police officer's presence compared to miles reported driven:

<u>Annual Miles Driven</u>	<u>N</u>	<u>Present</u>	<u>Not Present</u>	<u>No Response</u>
Less than 2500	1685	67.47%	21.25%	11.28%
2500-7500	2368	72.04%	17.74%	10.22%
7501-12,500	2612	73.66%	18.68%	7.66%
12,501-17,500	1581	73.62%	20.18%	6.20%
17,501-22,500	711	77.50%	17.16%	5.34%
Over 22,500	795	77.74%	15.97%	6.29%

Conclusions:

- a) The more tickets received, the less likely to prefer the officer present if pleading not guilty.
- b) The respondent characteristic of sex did not indicate a significant overall preference to all responses.

- c) The more miles a respondent reported driving, the more likely to prefer the police officer present when pleading not guilty.

13. If the police officer was not present should he:

N = 10488

Submit a statement	71.83%
Submit nothing just the ticket	13.30%
Send another officer to represent him	4.03%
Send statement with another officer	.15%
No response	10.68%

13(a). The question of the preference of the police officer's presence cross-tabulated with,

If the police officer was not present should he:

	<u>N</u>	<u>Submit a Statement</u>	<u>Submit Ticket Only</u>	<u>Send Another Officer</u>	<u>Statement and Another Officer</u>	<u>No Response</u>
Respondents who prefer police officer present.	7537	82.84%	9.49%	4.76%	.20%	2.71%
Respondents who prefer police officer <u>not</u> present.	1939	60.80%	34.35%	3.25%	.05%	1.55%

Conclusion:

Respondents preferring the police officer's presence would require (approximately 8 to 1) to have more than just the traffic ticket available compared to those respondents who prefer to have the police officer not present are approximately 2 to 1 less reluctant to have the case heard on the ticket alone.

14. Generally, do you feel appearing in court will reduce your penalty?

<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
10485	36.23%	52.76%	11.01%

- 14(a). Appearing in court will reduce your penalty.

compared to number of tickets a motorist has received:

<u>Number of Tickets Received</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
None	6081	33.09%	55.32%	11.59%
1-2	3544	39.95%	49.72%	10.33%
3-4	684	40.94%	48.83%	10.23%
5 or more	176	51.70%	40.91%	7.39%

- 14(b). Appearing in court will reduce your penalty.

compared to male - female respondents:

<u>Sex</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
Male	5314	38.63%	53.16%	8.20%
Female	4634	35.35%	54.51%	10.14%

- 14(c). Appearing in court will reduce your penalty.

compared to income:

<u>Annual Family Income</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
\$0-6000	1558	37.42%	51.35%	11.23%
\$6000-8000	1048	33.59%	55.63%	10.78%
\$8000-10,000	1232	33.85%	57.30%	8.85%
\$10000-15,000	2182	37.03%	54.55%	8.02%
\$15000-25,000	2185	39.08%	53.14%	7.78%
\$25000 or over	1393	41.13%	52.33%	6.53%

14(d). Appearing in court will reduce your penalty

compared to education:

<u>Education</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
Less than 9th grade	433	28.41%	52.42%	19.17%
Some high school	1027	30.48%	57.35%	12.17%
High School grad	2283	31.63%	57.82%	10.56%
Some college	2532	36.22%	56.28%	7.50%
2-year degree	1153	37.99%	55.16%	6.85%
4-year degree	1182	46.53%	46.11%	7.36%
Graduate work	1340	46.42%	45.37%	8.21%

Conclusions:

- a) The more tickets a respondent has received, the more likely to believe appearing in court would reduce the penalty.
- b) The respondent characteristic of sex did not indicate a significant difference in the belief that appearing in court would reduce the penalty.
- c) The higher the income bracket, the more likely the respondent will believe appearing in court reduces the penalty.
- d) The higher the education, the more likely the respondent would believe appearing in court reduces the penalty.

15. In my opinion, people with bad driving records should pay higher fines:

N=10486

<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
61.96%	12.58%	18.33%	7.13%

15(a). People with bad driving records should pay higher fines.

compared to number of tickets received:

<u>Number of Tickets Received</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
None	6081	67.11%	7.94%	17.63%	7.32%
1-2	3544	60.05%	14.76%	18.57%	6.63%
3-4	685	35.33%	35.04%	21.46%	8.18%
5 or more	176	26.14%	41.48%	25.57%	6.82%

15(b). People with bad driving records should pay higher fines.

compared to annual family income:

<u>Annual Family Income</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
0-\$6000	1558	51.28%	16.69%	25.22%	6.80%
\$6000-8000	1048	54.58%	14.31%	24.05%	7.06%
\$8000-10,000	1233	60.18%	14.03%	20.44%	5.35%
\$10000-15,000	2181	66.12%	12.43%	16.69%	4.77%
\$15000-25,000	2186	71.82%	10.52%	13.95%	3.71%
\$25000 or over	1393	71.43%	12.13%	13.42%	3.02%

15(c). People with bad driving records should pay higher fines.

compared to education:

<u>Education</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
Less than 9th grade	433	49.42%	9.01%	26.56%	15.01%
Some high school	1027	51.70%	11.20%	27.85%	9.25%
High school grad	2283	60.05%	10.95%	22.34%	6.66%
Some college	2532	62.88%	14.53%	18.88%	3.71%
2-year degree	1153	67.91%	14.14%	14.05%	3.90%
4-year degree	1181	71.72%	14.14%	11.01%	3.13%
Graduate work	1342	71.83%	13.79%	11.70%	2.68%

Conclusions:

- a) The more traffic tickets, the less likely the respondent feels that people with bad driving records should pay higher fines.
- b) The higher income respondent feels people with bad driving records should pay higher fines.
- c) The same is true for the higher education respondent.

16. Hearings and fines for moving violations should be the same for everyone in all areas of the State:

N = 10487

<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
67.24%	12.79%	12.39%	7.59%

16(a). Hearings and fines for moving violations should be the same for everyone in all areas of the State.

compared to number of tickets:

<u>Number of tickets received</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
None	6081	65.70%	12.20%	14.19%	7.91%
1-2	3545	69.93%	13.31%	9.79%	6.97%
3-4	685	65.99%	14.60%	11.09%	8.32%
5 or more	176	71.02%	15.34%	7.39%	6.25%

16(b). Hearings and fines for moving violations should be the same for everyone in all areas of the State.

compared to income:

<u>Annual Family Income</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
0-\$6000	1558	63.67%	12.07%	17.14%	7.12%
\$6000-8000	1048	63.65%	13.26%	15.46%	7.63%
\$8000-10,000	1233	69.91%	12.17%	12.57%	5.35%
\$10000-15,000	2182	70.62%	13.02%	11.27%	5.09%
\$15000-25,000	2186	72.60%	13.95%	9.19%	4.25%
\$25000 or over	1393	73.22%	13.50%	9.91%	3.37%

16(c). Hearings and fines for moving violations
should be the same for everyone in all
areas of the State.

compared to education:

<u>Education</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>	<u>No Response</u>
Less than 9th grade	433	55.66%	10.16%	17.78%	16.40%
Some high school	1027	61.15%	10.81%	18.50%	9.54%
High school grad	2283	65.27%	12.75%	15.07%	6.92%
Some college	2532	70.22%	13.43%	12.16%	4.19%
2-year degree	1153	73.11%	13.44%	9.37%	4.08%
4-year degree	1182	75.04%	13.79%	7.95%	3.21%
Graduate work	1342	74.07%	14.16%	8.57%	3.20%

Conclusions:

- a) The more tickets a respondent has received, the more likely to believe that hearings and fines should be the same for everyone.
- b) The higher income respondent is more likely to believe hearings and fines should be the same for everyone in all areas of the State.

- c) The more education a respondent has, the more likely to believe hearings and fines should be the same for everyone. Interestingly, the percentages believing the hearings and fines should be the same, takes a drop with the respondent who has reported completing graduate work.

17. Juveniles should be treated in the same manner as adults for moving violations:

N = 10486

<u>Yes</u>	<u>No</u>	<u>No Response</u>
80.91%	11.59%	7.50%

- 17(a). Juveniles should be treated in the same manner as adults for moving violations.

compared to number of tickets:

<u>Number of tickets received</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
None	6081	81.65%	10.62%	7.73%
1-2	3545	81.44%	11.54%	7.02%
3-4	685	74.16%	17.37%	8.47%
5 or more	175	70.86%	23.43%	5.71%

- 17(b). Juveniles should be treated in the same manner as adults for moving violations.

compared to age:

<u>Age</u>	<u>N</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
Under 20	968	70.45%	26.14%	3.41%
20-29	2964	82.93%	13.36%	3.71%
30-39	2033	85.88%	10.43%	3.69%
40-49	1557	84.71%	9.96%	5.33%
50-59	1434	85.50%	7.32%	7.18%
60 and over	1043	80.63%	5.94%	13.42%

Conclusions:

- a) The more tickets a respondent has received, the less likely the belief that juveniles should be treated in the same manner as adults for moving violations.
- b) The respondent in the "under 20" category showed a lower percentage belief that juveniles should be treated in the same manner as adults. Older age groups felt more strongly that juveniles should be treated as adults.

18. Do you feel over the years that the court procedures for handling traffic cases in the courts have:

N = 10486

Improved	9.84%
Stayed the same	17.01%
Gotten worse	13.19%
Not familiar with procedures	51.79%
No response	8.16%

18(a). Omitting the respondents who are not familiar with the court procedures and that did not respond to the question:

N = 4199

Improved	24.58%
Stayed the same	42.49%
Gotten worse	32.94%

18(b). Court procedures compared to number of tickets received:

Number of tickets received	N	Improved	Stayed The Same	Gotten Worse	Not Familiar with court Procedures	No Response
None	6081	8.47%	12.07%	11.03%	60.12%	8.30%
1-2	3544	10.61%	22.63%	14.64%	44.41%	7.70%
3-4	685	15.04%	28.91%	20.73%	25.99%	9.34%
5 or more	176	21.59%	28.41%	28.98%	13.07%	7.95%

18(c). Court procedures for handling traffic cases compared to income:

<u>Annual Family Income</u>	<u>N</u>	<u>Improved</u>	<u>Stayed The Same</u>	<u>Gotten Worse</u>	<u>Not Familiar with court Procedures</u>	<u>No Response</u>
0-\$6000	1558	13.29%	17.71%	12.00%	49.55%	7.45%
\$6000-8000	1048	13.26%	18.42%	10.40%	50.29%	7.63%
\$8000-10,000	10.06%	17.69%	12.50%	53.90%	5.84%
\$10000-15,000	2182	8.89%	18.06%	12.97%	54.26%	5.82%
\$15000-25,000	2186	8.33%	17.52%	16.15%	53.34%	4.67%
\$25000 or over	1393	8.40%	16.37%	16.65%	54.49%	4.09%

18(d). Court procedures for handling traffic cases compared to education:

<u>Education</u>	<u>N</u>	<u>Improved</u>	<u>Stayed The Same</u>	<u>Gotten Worse</u>	<u>Not Familiar with court Procedures</u>	<u>No Response</u>
Less than 9th grade	433	19.40%	11.09%	7.62%	45.03%	16.86%
Some high school	1027	13.83%	14.02%	8.47%	53.65%	10.03%
High school grad	2283	10.25%	15.77%	17.69%	55.80%	7.49%
Some college	2532	9.32%	18.33%	14.06%	53.71%	4.58%
2-year degree	1153	9.45%	20.12%	16.57%	49.44%	4.42%
4-year degree	1182	7.11%	18.87%	16.58%	53.05%	4.40%
Graduate work	1341	7.68%	19.31%	17.90%	51.16%	3.95%

Conclusions:

- a) The majority of respondents who are familiar with court procedures feel that over the years the procedures have stayed the same.
- b) The more tickets a respondent has received, the more likely to believe the court procedures have gotten worse.
- c) Most income brackets believe the court procedures have stayed the same; however, the "\$25,000 or over" group indicated a slightly higher belief that the court procedures had gotten worse.

- d) Respondents who completed less than the 9th grade, generally believe court procedures have improved while respondents with a higher education level, generally believe the procedures have gotten worse.

V. RESULTS OF JUDGES AND COURT CLERKS SURVEY

Results of the judges survey are presented in the following tables. Once again, the reader is cautioned that neither the judges nor the court clerks data can be viewed as representative, since the survey sample was not random or unbiased. It is believed, however, that the results provide insights into the attitudes of judges and clerks that should be included in this report.

A. Results of Judges Survey

1. Do you believe the Department of Motor Vehicles could process traffic infractions as well as courts do?

N = 103

Yes	38.83%
No	56.31%
No Response	4.85%

2. The practical problems with administrative adjudication are that it might:

N = 155 (There was more than one response to this question)

(1) Duplicate existing facilities	21.94%
(2) Abrogate the defendant's rights	37.42%
(3) Provide too much information on the driving record to insurance companies	9.68%
(4) Make people less concerned about their driving record	12.90%
(5) Other	10.32%
(6) No Response	7.74%

Some of the "other" responses were: (a) It violates the separation of powers, (b) Administrative agencies are by nature inefficient, (c) Too bureaucratic, (d) Impersonal administration of justice, (e) Public inconvenience, (f) Less respect for traffic laws.

3. Do you believe a nonattorney with the proper legal training could effectively adjudicate traffic infractions?

N = 103

Absolutely	17.48%
Probably could	45.63%
Doubtful	16.50%
Probably could not	19.42%
No Response	.97%

This question's responses differed significantly between the court clerks and judges. 78% of the court clerks believe a nonattorney could effectively adjudicate traffic infractions compared to 63% of the judges. Interestingly, the public prefers a nonattorney, (74%).

4. Do you believe the effectiveness of the courts could be improved if parking and traffic infractions were removed?

N = 103

Yes	55.34%
No	43.69%
No Response	.97%

The responses indicate the majority of judges believe the effectiveness of the courts could be improved through the removal of parking and traffic infractions.

5. What do you believe would be the effect on the quality of justice for the defendant under the new system?

N = 103

More just	1.94%
No effect	30.10%
Less just	63.11%
No response	4.85%

The response pattern on this question differed significantly between the judges and court clerks. 25% of court clerks believe that the new system would be more just, while 34% believe it would be less just.

6. Do you believe the new system has a potential of enhancing traffic safety on the highways?

N = 103

Yes	23.30%
No	68.93%
No response	7.77%

43% of the court clerks believe the new system has a potential of enhancing traffic safety on the highways.

7. What do you believe is the appropriate burden of proof for deciding minor traffic infractions in an administrative setting where there is no possibility of jail as a sanction?

N = 103

Proof beyond a reasonable doubt	46.60%
Clear and convincing evidence	33.98%
Preponderance of the evidence	18.45%
Substantial proof	.97%

8. Do you believe juveniles should be treated in the same manner as adults for moving violations?

N = 103

Yes	75.73%
No	23.30%
No Response	.97%

This question was also asked in the public attitude survey, which showed a "yes" response of 80.91%.

9. Do you believe sentences and procedures for traffic offenders should be uniform throughout the State?

N = 103

Yes	72.82%
No	27.18%

A similar question on the public attitude survey showed an overall "yes" response of 67.24%.

10. When the judges were asked about the disposition of the fine or violation when a traffic offender is sent to traffic school, 88.50% of the responses indicated that the violation and/or fine was suspended, dismissed or reduced.
11. Of the judges sampled, 80 or 77.67% indicated that statewide driving records are available to them. Only 22 or 21.36% indicated they were not available. One respondent indicated statewide records were available only for Section 23102 Vehicle Code violations.
12. 93 of the 103 judges surveyed, believe that a review of a person's driving record is important when assigning a sanction for a traffic infraction. 8.82% or 9 of the respondents did not believe it was important. (One judge did not answer this question.)

13. A breakdown of the respondent judge's court experience was as follows:

N = 103

Less than 1 year	18.45%
1 to 5 years	41.75%
6 to 10 years	20.39%
11 to 15 years	12.62%
16 to 20 years	2.91%
Over 20 years	3.88%

B. Results of Court Clerks Survey

The relevant data on the court clerk's survey is presented in the following tables:

1. Do you believe the Department of Motor Vehicles could process traffic infractions as well as courts do?

<u>N</u>	<u>Yes</u>	<u>No</u>
116	58.62%	41.38%

2. The practical problems with administrative adjudication are that it might:

compared to,

Do you believe DMV could process traffic infractions as well as courts do?

N = 116

	<u>Yes</u>	<u>No</u>
(1) duplicate existing facilities	31.25%	25.00%
(2) abrogate the defendants rights	17.19%	37.50%
(3) provide too much access information on the driving record to insurance companies	14.06%	15.00%
(4) make people less concerned about their driving records	15.63%	12.50%
(5) other	10.94%	2.50%
(6) no response	10.94%	7.50%

Some of the "other" responses were: (a) Department of Motor Vehicles is record oriented not justice oriented, (b) Change over cost, (c) "It takes away all the rights of the people", (d) Abrogates the defendant's rights unless they are noncriminal offenses, (e) Compounds fiscal problems at county level because of the loss of revenue.

3. Do you believe a nonattorney with the proper legal training could effectively adjudicate traffic infractions?

N = 116

Absolutely	33.62%
Probably could	43.97%
Doubtful	15.52%
Probably could not	6.03%
No response	.86%

The responses to this question were more favorable toward a nonattorney than the responses to the same question on the judges survey. The public also favored a nonattorney with legal training.

4. Do you believe the effectiveness of the courts could be improved if parking and traffic infractions were removed?

N = 116

Yes	75.86%
No	23.28%
No response	.86%

The court clerks believe the court's effectiveness will be improved 20.52% more than the judges specified.

5. What do you believe would be the effect on the quality of justice for the defendant under the new system?

N = 116

More just	25.00%
No effect	37.07%
Less just	34.48%
No response	3.45%

Only 1.94% of the judges believed that the new system's quality of justice would be more just, which is a difference of 23.06% compared to the court clerks. There was a difference of 28.63% of the belief that it would be less just. (Court clerks indicated 34.48% - less just and judges indicated 63.11% - less just.)

6. Do you believe the new system has a potential of enhancing traffic safety on the highways?

N = 116

Yes	43.10%
No	54.31%
No response	2.59%

7. When the court clerks were asked about the disposition of the fine or violation (when a violator is sent to traffic school), 96.75% of the 123 responses indicated that the violation and/or fine was suspended, dismissed or reduced.

8. A breakdown of the respondent court clerk's experience was as follows:

N = 116

Less than 1 year	4.31%
1 to 5 years	11.21%
6 to 10 years	21.55%
11 to 15 years	17.24%
16 to 20 years	17.24%
Over 20 years	25.86%
No response	2.59%

CHAPTER VIII

CONCLUSIONS AND RECOMMENDATIONS

I. INTRODUCTION

Under the authority of Senate Concurrent Resolution 40, the feasibility of adjudicating minor traffic infractions administratively in California was analyzed. A definition of feasibility was developed that gave attention to the following factors -- economic impact, legal considerations, public attitude, enhancement of the judicial system, and traffic safety. The study was organized around this definition of feasibility.

II. CONCLUSIONS

Analysis of the study data produced the following conclusions.

A. Economic Impact

The proposed system of administrative adjudication would be economically attractive in terms of being self-supporting and generally resulting in increased net revenues to local government. Thus, it appears that the system would be economically feasible.

B. Legal Considerations

The proposed system of administrative adjudication would meet both Federal and State Constitutional requirements. Thus, the system appears legally feasible.

C. Public Acceptance

There is evidence that the public would accept and, in fact, supports having less serious traffic offenses adjudicated, and sanctions applied, in an administrative setting. Thus, it appears likely that the public's attitude toward administrative adjudication would be favorable.

D. Enhancement of the Judicial System

Courts would have additional time to focus on more complex civil and criminal matters. Thus, the ability of the judicial system to deal more effectively with those matters should be improved.

E. Traffic Safety Enhancement

Traffic safety should be improved through the maintenance of better driver records. The timely updating of driver records, when accusations are sustained, would improve the post licensing control of negligent operators. The driver record would be used in determining sanctions designed to discourage potentially hazardous driving behavior. Also, hearing officers would counsel the violator on the traffic safety implications of the violation. Thus, the overall traffic safety system should be enhanced.

III. RECOMMENDATIONS

The overall results of the study indicate that a system of administrative adjudication in California is feasible. However, the lack of precise data in a number of areas argues strongly for a pilot study that would fully document the extent to which administrative adjudication is feasible. As a result, it is recommended that an 18 month implementation study be authorized to begin in July, 1976, and that upon completion of the implementation study a two year pilot project be conducted. It is further recommended that enabling legislation be enacted to allow both the implementation study and pilot study, with concurrent attention given to a provision that would allow the enabling legislation to become the statewide law at the end of the pilot project, if feasibility is fully established.

BIBLIOGRAPHY

Primary Sources:

American Bar Association, Report to Congress on Administrative Adjudication, Fund for Education on Behalf of Center for Administrative Justice, 1974.

Anderson and Assoc., A Report to the Judicial Council on Guidelines for Determining the Impact of Legislation on the Courts, Judicial Impact Analysis Project, Second Year Findings and Recommendations, 1975.

Annual Judicial Council Report, Administrative Office of the Courts, Sacramento, California, 1972 and 1975.

Booz, Allen, and Hamilton, Inc., California Lower Court Study, 1971.

California Department of Motor Vehicles, Status Report for Replacement of its Interim Computer System, April 1976.

Dixon, Vehicle Code Survey, Automobile Club of Southern California, 1972.

Force, "Administrative Adjudication of Traffic Violations Confronts the Doctrine of Separation of Powers," Tulane Law Review, Vol. XLIX, 84-138, 1974.

Goldiamond, "Toward a Constructional Approach to Social Problems, Ethical and Constitutional Issues Raised by Applied Behavior Analyses," Behaviorism Journal, Vol. II, (1974).

GTE Sylvania, An Optimum System for Traffic Enforcement/Driver Control, Vols. I-IV, Mountain View, California, 1971.

Halper and McDonnell, An Exemplary Project, New York State Department of Motor Vehicles Administrative Adjudication Bureau, U. S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, Office of Technology Transfer, Abt Associates, Inc., Massachusetts.

Harano and Hubert, Evaluation of California's Good Driver Incentive Program, California Department of Motor Vehicles, 1974.

Harano and Peck, Effectiveness of a Uniform Traffic School Curriculum for Negligent Drivers, California Department of Motor Vehicles, 1971.

Indiana University, Institute for Research in Public Safety, Improved Disposition of Traffic Cases, 1972.

Kadell, Post Licensing Control Reporting and Evaluation System, Progress Report, California Department of Motor Vehicles, 1975.

McConnell, "Rule of Law Sinking Beneath Expensive Judicial Processes," Government Executive, (December 1974).

Michigan Office of Highway Safety Planning, Proceedings and Working Papers of the Second Invitational Conference on Reform, 1974.

Rahn, Driver Improvement School Directory, Walnut Creek-Danville Municipal Court District, California, 1974.

Reese, Power, Policy, People, A Study of Drivers License Administration, Division of Engineering, National Research Council, Washington D.C., 1971.

Report on Administrative Adjudication of Traffic Infractions, Highway Safety Act of 1973 (Section 222), U. S. Department of Transportation, National Highway Traffic Safety Administration, Washington D.C., 1975.

Scrimgeour, "Has ASAP Failed," Traffic Safety, (February, 1975).

Young and Co., Effective Highway Safety Traffic Offense Adjudication, 1974.

Young and Co., Judicial Weighted Caseload System Project, 1974.

Young and Co., Non-Judicial Staffing Study, 1974.

Young and Co., A Report of the Status and Potential Implications of Decriminalization of Moving Traffic Violations, 1973.

Young and Co., A System to Administer and Control the Processing of Non-Parking Traffic Citations and Direct Filings, Fresno County, 1972.

BIBLIOGRAPHY

Secondary Sources:

Basner, "Some Comments on Practical Aspects in the Functioning of the Administrative Adjudication Bureau," Albany Law Review, XXXV (1971), 443-454.

Blumenthal and Ross, Two Experimental Studies in Traffic Law. Vol. II, The Effect of Court Appearance on Traffic Law Violators, University of Denver, 1973.

Brandt, "Improved Highway Safety through Improved Adjudication Procedures," Judicature, LVI (April, 1973), 358-362.

"California Traffic Law Administration," Stanford Law Review, XII (1960), 388.

Carrow, "Administrative Justice Comes of Age," American Bar Association Journal, LX (November, 1974), 1396-1399.

Joscelyn and Jones, A Systems Analysis of the Traffic Law System, Institute for Research in Public Safety, Indiana University, 1972.

Llope, "The Discretionary Power of the Referee in Motor Vehicle Hearings," Albany Law Review, XXXV (1971), 435-442.

Proceedings and Working Papers of the Second Invitational Conference on Reform and Amendment of the Traffic Law System, Center for the Administration of Justice, Wayne State University Law School, 1974.

Processing Juvenile Traffic Cases in Ventura County, National Center for State Courts, Western Region, 1975.

Report of the Commissioner's Task Force on Administrative Adjudication of Traffic Violations, New York Department of Motor Vehicles, 1969.

Report on Prototype Highway Safety and Traffic Offense Adjudication Training Program, University of Denver College of Law, 1973.

Report on Symposium on Effective Highway Safety Adjudication, University of Denver College of Law, 1975.

Special Adjudication for Enforcement (S.A.F.E.) Demonstration Project, Detailed Plan, Rhode Island Department of Transportation, 1975.

Special Adjudication for Enforcement (S.A.F.E.), Detailed Plan,
State of Washington, Department of Motor Vehicles, 1974.

Tofany, "The Administrative Adjudication of Traffic Violations in
New York City," Traffic Quarterly, (1972), 319-326.

"Traffic Court Reform," Columbia Journal of Law and Social Problems,
IV (1968), 255.

Young and Co., A Proposal to Perform a Study of Traffic Offense
Sentencing Processes and Highway Safety, 1974.

DMV SACRAMENTO - 600 copies - April 1976

END