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16. Abstract <p>This, the second such symposium explored ways to make traffic offense adjudication more highway safety effective. State highway safety officials from 10 primarily eastern States, as well as national experts, were in attendance at the symposium conducted November 1973 in New York City, New York. The symposium highlighted the relationship between traffic violations and highway accidents; the advisability of implementing administrative hearings to supplement or replace traffic court adjudication; the need for change in the traffic law system; improved rehabilitation techniques for problem drivers; and innovative approaches in handling problem drinker drivers.</p> <p>The University of Denver College of Law was assisted in its work by Governors' Highway Safety Representatives from all participating States, Colorado U.S. Federal District Court Judge Sherman G. Finesilver and University of Florida Professor of Law Joseph W. Little. State discussion groups focused on critical driver control problem areas and developed remedial plans of action. It was recognized that traffic law and adjudication aspects of highway safety require renewed attention. There is a great need for research and innovation. Special legislation should be enacted to allow experimentation in improved traffic case disposition methods and additional symposia conducted for wide dissemination of traffic law/adjudication/highway safety material.</p>					
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**Symposium on Effective
Highway Safety Adjudication**

Conducted by the University of Denver
College of Law in cooperation
with National Highway Traffic
Safety Administration

November 13-16, 1973
Roosevelt Hotel
New York City, New York

Participants from the District of Columbia, Florida,
Maryland, Michigan, Missouri, New York, New Jersey,
Ohio, Pennsylvania and Rhode Island.

FOREWORD

In bringing together representatives from these nine states and the District of Columbia and national leaders in the fields of transportation and traffic offense adjudication, we sought to examine with them the problems of highway safety, and to explore new ways for the legal system to respond to these problems. Planned with this purpose in mind, the entire Symposium and each section of the program were designed to further its accomplishment; and the people invited were those who we believed could put into action in their own states the goals they formulated during the conference. In order to obtain a complete and accurate picture of the problems of highway safety, individuals representing many disciplines and a variety of viewpoints were invited. Thus, in addition to state participants from the legislative, executive and judicial branches of government—the judges, court administrators, legislators, law enforcement officials, and attorneys—there were also nonlegal researchers—sociologists and psychologists—presenting their analyses of the present systems and their assessment of what experimental programs and other alternatives offer toward the most effective management of problems in highway safety.

The format of the Symposium was designed (1) to provide the latest research information and legal thought to participants which will help them in planning highway safety programs and traffic offense adjudication systems in their states, and (2) to enable participants to meet each other and engage in productive discussion. During the three days of the Symposium, the participants were afforded the opportunity of hearing researchers in the field of highway safety adjudication tell of their work and their findings, and of learning in detail about innovative programs and experimental projects in other states; and they were given time to discuss those studies and to share their own experiences with each other. In some cases, the Symposium was the first occasion in which individuals from the same state were able to work together on these problems.

In addition to free periods during which informal discussions could take place, the Symposium program also provided structured group discussion. Each day the state delegations convened in separate groups to consider prepared questions and research data. After a ninety-minute discussion, the plenary session of over 100 persons reconvened to hear some of the authors of these articles and other researchers present the results of their research. Following the formal presentations were question and answer periods, which elicited more information and participation from the delegates. And finally, reports from the group discussion sessions were presented to the plenary session.

The diversity created by alternating speeches, group discussions, and question and answer sessions in the program was augmented by a three-hour tour of the New York City Administrative Adjudication system, where participants were able to see the entire process at work, including the adjudication of cases.

As a framework and directional guide, the Symposium was organized around three themes, one for each day:

WHAT IS THE PROBLEM?

HOW HAS THE LEGAL SYSTEM RESPONDED TO THE PROBLEM AND WITH WHAT EFFECT?

WHERE TO?

Each day the presentations were directed to the day's theme, and in the state discussion groups the focus was also so directed with the help of prepared "questions," research data and articles.

In keeping with the theme of "What is the Problem" the presentations of the first day focused on a critical examination of traffic safety in this country, and the importance of such a continuing examination was stressed throughout the Symposium. It is believed that before action is taken, the problem must be identified and understood in order that a determination can be made of what should be done to manage the problem. Also, the legal system should not try to do its job without an understanding of the entire problem—including the contribution from faulty highway and vehicle construction, poor sign maintenance, etc. Therefore, nonlegal materials—studies on the various factors and conditions which create unsafe highways, on the kinds of drivers who have crashes, and on whether it is possible to predict who will have crashes—were presented. The following two days brought state representatives, telling how their states were dealing with the adjudication of traffic offenses, and researchers and safety professionals, presenting evaluations of some of the state programs, suggestions on how states could implement the goals they established during the Symposium, and challenges for future consideration and formulation of goals.

The tone of the Symposium was congenial and increasingly informal, but most of all, it was concentrated and intense, for the participants did not just observe and listen, they worked—they thought, they planned, and they shared their ideas and experiences. And they were very receptive to the ideas presented to them, even though much of it was nonlegal and some of it contradicted their "preconceived ideas."

In addition to our main purpose of providing a forum for exploration of the problems relating to traffic safety and traffic offense adjudication and for disseminating factual information, we also sought to obtain the ideas and experiences of the participants. To this purpose, we utilized the discussion sessions and, also, questionnaires.* One questionnaire was administered the first day of the Symposium and tested the participants' knowledge of highway safety; this questionnaire was again given on the last day in order to determine what changes in thinking had occurred during the Symposium.

Results of the first questionnaire suggested that the highway safety and adjudication specialists do not as a group share a common body of accurate information, indicating that before NHTSA can begin to educate the public, it must first inform the specialists. Although there were not sufficient controls in the study to allow us to form more than tentative conclusions, we did find a pronounced reversal with respect to the assertion that "There is a high correlation between previous violations and future crashes, i.e., drivers with several violations are very likely to be involved in crashes." In the postquestionnaire, the majority recognized that this is not true, a finding which was heavily stressed in the Symposium.

The second questionnaire was an evaluation by the participants of the Symposium and was administered on the final day. According to the results of this survey, 28 of 49 responding participants rated the Symposium as better than average, 15 as outstanding, and 6 as average. A large majority of those responding thought that the Symposium had been "successful" or "highly successful" in meeting its goals, and several persons commented that the Symposium had helped change their thinking about highway safety. There was an overwhelming consensus that similar regional conferences should be held elsewhere in the country.

The primary complaint of participants was that too much had been presented in too short a time, that more information had been given than could be absorbed in three days. It is thought that an extension of the Symposium by one-half more day would have been preferable to omitting any of the included material. Respondents favored the tour of the New York City Administrative Adjudication system as the "highlight" of the Symposium, but the discussion groups and panels were also highly rated and respondents indicated that more time for these activities would have been helpful. Another suggestion was that more interaction in the plenary sessions and more time for question and answer periods was needed. It was generally thought that the speakers and others on the program made an outstanding contribution to the Symposium. The participants' reaction to the various topics considered was mixed, according to individual interest and need. Some thought the research findings were of great benefit, while others said they would have preferred to hear more about alternatives to the traditional court system and the experiences of states which are trying new approaches. But, overall, it was thought that the Symposium had covered, and covered well, the issues involved in highway safety adjudication.

*See pages 39-46 for the results of both questionnaires.

GOALS AND OBJECTIVES

- I. Broaden present understanding of the highway traffic safety problem
 - A. The relative contributions of the man, vehicle and highway component—and their interactions—to the problem
 - B. The role of program evaluation and research in managing the problem
 - C. Necessity of an interdisciplinary approach in the traffic law systems
- II. Appreciate the problems and opportunities of the legal system in its response to the highway traffic safety problem
 - A. Recognize the strengths and limitations of present approaches of the legal system to the problem
 - B. Appreciate the need and opportunities for scientific program evaluation and research in selecting those alternatives that will provide the greatest payoffs in reduced deaths, injuries and property damage
- III. Increase receptivity to new ways for the legal system to respond to the highway traffic safety problem
 - A. Encourage development, testing and evaluation of alternatives to the present conventional approaches to the problem; alternatives such as administrative adjudication, revised judicial handling of traffic offenses and other innovations
 - B. Encourage implementation of rehabilitation and retraining techniques for select drivers, i.e., problem drivers, drivers with alcoholic, medical and physical limitations
- IV. Explore ways of improving driver behavior through the adjudicatory process
- V. Examine the utilization of civil penalties in the traffic offense adjudicatory process, except in serious offenses
- VI. Encourage state action in establishment of goals, priorities, and timetables in accomplishing Symposium Objectives

RATIONALE

Selected goals of the Symposium are

- to encourage the participants to reexamine the role of the courts in the adjudication of traffic offenses; and
- to consider alternative approaches to traffic offense adjudication . . .

in light of present research results concerning

1. Who gets involved in crashes and who receives traffic citations—and under what circumstances;
2. How well crash involved drivers and traffic law violators can be predicted;
3. How effectively we can deter or modify unsafe driving behavior; and
4. How much benefit we get from driver improvement expenditures, as compared with dollars spent on the highway or the vehicle

The answers to the foregoing questions are crucial to the role of the courts, since

1. If crashes and violations involved largely repeaters who were only a relatively small percentage of all drivers;
2. If these repeaters could be reasonably predicted by their past records or by other means;
3. If we had available effective countermeasures to deter or rehabilitate these drivers; and
4. If money spent on drivers yielded greater benefits than money spent on improving highways or vehicles

Then

There would be little doubt that we should adjudicate traffic offenses . . . who should be subject to the adjudicatory process . . . what we should do after they get there and what part of the total traffic safety budget should be spent on the driver component of the system.

However

1. If a very large percentage of drivers sooner or later get involved in crashes or receive citations;
2. If repeaters are a relatively small part of the total and cannot be reasonably predicted;
3. If we do not know how to effectively deter unsafe driving or rehabilitate unsafe drivers; and
4. If the most effective use of the highway safety dollar is on highway or vehicle improvement

Then

It would be time for a searching reexamination of the traditional role of the courts and to evaluate alternatives, such as administrative adjudication, revised judicial handling of traffic offenses, and utilization of civil penalties in the traffic offense adjudicatory process and other innovations.

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THE PROGRAM

Chairman: Professor Joseph W. Little

TUESDAY, NOVEMBER 13

Evening

Keynote

Honorable John T. Barnum
Under Secretary
U.S. Department of Transportation

WEDNESDAY, NOVEMBER 14

Theme for the Day

What is the Problem?

Morning

Orientation and Overview

Professor Joseph W. Little
Professor of Law
University of Florida

System Overview

Dr. George Hartman
Acting Associate Director for
Planning and Programming
NHTSA, U.S. Department of
Transportation

Report on Critique of Highway Safety, Design and Operations

Mr. Arnold Fisch
Former Director of Operations
New York State Thruway Authority

Group Discussions

Luncheon

Task Force Report

Honorable Sherman G. Finesilver
Judge, U.S. District Court
Denver, Colorado

Afternoon

Reports of Group Discussions

Research Reports

Mr. Ron Coppin
Statistical Research Officer
Division of Administration
Department of Motor Vehicles

Afternoon (continued)

Research Reports

Dr. B. J. Campbell
Highway Safety Research Center
The University of North Carolina at Chapel Hill

Perspectives on
Problem Drivers

Dr. Leon Goldstein
Former Special Assistant to Director
National Transportation Safety Board

Dr. Robert Voas
Chief of Evaluation Division
Office of Alcohol Countermeasures
NHTSA, U.S. Department of Transportation

Evening

Formulation of Proposed
State Goals

THURSDAY, NOVEMBER 15

Theme for the Day

**How has the Legal System
Responded to the Problem
and with what Effect?**

Morning

Group Discussions

Reports of Group
Discussions

Comments on the
Group's Reports and
Summaries of Recent
Research

Dr. Murray Blumenthal
Professor of Law
University of Denver
College of Law

Dr. H. L. Ross
Professor of Law
University of Denver
College of Law

Luncheon

Address: "The
Political & Economic
Barriers to Change"

Mr. Vincent Tofany
President, National Safety Council

Afternoon

Orientation to New
York Administrative
Adjudication

Honorable Donald J. Bardell
Deputy Commissioner
Department of Motor Vehicles

Mr. Robert Hogan
Director of Hearing and
Adjudication Division
Department of Motor Vehicles

Tour of New York State
Adjudication System

Evening

Address: "Legal Issues
Raised by Traffic
Adjudication Alternatives"

Dr. John H. Reese
Professor of Law
University of Denver
College of Law

Perspectives on Alternative
Ways of Adjudicating
Traffic Offenses

Honorable Richard F. LeFleavour
Supervising Judge
Traffic Court of Cook County
Chicago, Illinois

Honorable T. Patrick Corbett
Presiding Judge
Municipal Court of Seattle
Seattle, Washington

Honorable Donald Rosenberg
Traffic Commissioner
Oakland-Piedmont Municipal Court
Oakland, California

FRIDAY, NOVEMBER 16

Theme for the Day

Where To?

Morning

Group Discussions

Reports of Group
Discussions—State Goals

Effective Implementation
of State Symposium Goals

Mr. William T. S. Bricker
Deputy Administrator
Maryland Department of Transportation

Morning (continued)

Effective Implementation
of State Symposium Goals

Mr. Tom Reel
Office of Highway Safety Planning
Lansing, Michigan

Mr. George Brandt
Highway Safety Management Specialist
NHTSA, U.S. Department of Transportation

Symposium Summary and
Challenges

Honorable Sherman G. Finesilver
Judge, U.S. District Court
Denver, Colorado

Dr. Murray Blumenthal
Professor of Law
University of Denver
College of Law

Dr. John H. Reese
Professor of Law
University of Denver
College of Law

OVERVIEW

The Symposium's first meeting was a time for delineation of our purposes. As Chairman, Joseph Little, put it, we would be "rubbing elbows and intellects in an attempt to redefine the role of adjudication in highway safety." The conference was *to move*, for there was much to be examined and discussed; and the difficulty of the task of finding new, effective ways to deal with the highway traffic safety problem was apparent—as with the common cold, said Professor Lawrence King, "everybody is afflicted and there just doesn't seem to be a cure."

In his keynote address, John W. Barnum, the Under Secretary of Transportation, stated that the job of providing highway safety belongs primarily to the states. And this Symposium, he said, was designed to assist state leaders in the development and implementation of state goals—by providing information obtained from research efforts and from the experience of states which have pioneered new programs in highway safety, and by providing a forum for the free exchange of ideas.

The adjudication of traffic offenses is central to the problems of highway safety, Mr. Barnum stated. However, he added, at present the adjudication process is ineffectual in promoting highway safety, a situation requiring prompt and definite correction. He then elaborated on what direct involvement "in the struggle for improved highway safety" should mean for the adjudication process:

- Processing of noncriminal traffic cases by judicial officers who are not full-fledged judges.
- Traffic offense adjudication used to modify negligent driver behavior.
- Severe measures to remove excessively negligent and habitual drinking drivers from the highways.
- Speedy and inexpensive trials conducted without jury.
- Implementation of driver's license sanctions and retraining and rehabilitation measures integrated with the adjudicatory process.

The first day's theme, "What is the Problem?", was introduced by Professor Joseph W. Little:

You are going to be asked to ferret out the assumptions and premises that are inherent to the *present system* and then you are going to be asked to shake those assumptions and premises until their eye teeth rattle to test whether they are embedded in a solid foundation.

Professor Little stated that the long-range goal in highway transportation should be a system of safe highways which meets traffic demands expeditiously and efficiently. In order to attain this goal, he said, there must be a match-up of the components of the highway transportation system: vehicle, roadway, driver and traffic control must be tuned to each other. Of particular concern to this meeting would be the functioning of the traffic offense adjudicatory system, Professor Little stated, pointing out that too often this component suffers from internal corruption and breakdowns.

Aimed at correcting these malfunctions were his secondary goals:

- Cut out the long delays in the adjudicatory process.
- Remove the burden of congestion from our courts.
- Remove all nonhighway system goals (e.g., revenue earning) from traffic law enforcement.

Offering a "System Overview," Dr. George Hartman cited statistics to illustrate the emphasis on mobility in this country where highway travel has become "a way of life," and to show the high rate of fatalities, injuries, and property loss due to automobile accidents. Dr. Hartman stated that the highway safety program's goal is "to achieve the greatest reduction of injury-producing accidents per unit resource expended with the least impact on mobility." Reducing accidents will require not only *safer* driving, he said, but also less driving, through use of other modes of travel than the personal automobile and possibly a reduction in the total amount of travel. "A greatly stepped-up effort must be made to improve driver attitudes and habits," he said, adding that the role traffic adjudication will play in working toward this goal is of vital concern.

In summarizing the report, "Highway Safety Design and Operations,"* Mr. Arnold Fisch considered some of the factors which are partly the cause of highway accidents. His discussion focused on three of them:

- Failure by highway engineers to revise their design standards to keep pace with the changes in transportation.
- Failure of authorities to insist on the use of known safety designs.
- General public apathy to highway safety.

Illustrating these problems, Mr. Fisch cited such factors as the failure to use safety belts, inadequate signing, too liberal licensing standards, and the lack of uniformity in motor vehicle laws. He concluded by paraphrasing from the report: "We do not lack the technology for saving lives, but the will to apply it. Professionals must be willing to go even beyond the expectations of the apathetic and unaware public."

Following Mr. Fisch's presentation, the meeting assembled in ten discussion groups by states, as it was to do in the following two days of the Symposium. In these groups, discussion focused upon the day's theme, and the questions: "By whom are traffic violations committed and under what circumstances do such violations result in crashes?" and "Is it possible to reliably identify and predict who will be involved in crashes?" Later in the day, a report on each state's conclusions was presented to the Symposium plenary session by Honorable James C. Adkins, Justice, Supreme Court of Florida, Mr. Edward Morris, Deputy Attorney General of Pennsylvania, and Mr. Coit H. Gilbert, Assistant Administrative Director, Supreme Court of Ohio.**

**Report of the Subcommittee on Investigations and Review to the Committee on Public Works, House of Representatives.*

***See Appendix B, Vol. II, page 127, for Discussion Group Reports.*

Judge Sherman Finesilver, of the U.S. District Court, Denver, Colorado, told of the formation in December 1972 of the NHTSA Task Force Committee, which was created to study the adjudication process in the traffic courts. The Task Force Report from this Committee provided the basis for Judge Finesilver's discussion of needed court reform.

According to Judge Finesilver, the Task Force Committee determined that the adjudication of traffic offenses had originally been assigned to the criminal courts in keeping with the traditional method of adjudicating other petty offenses. The traffic court system, then, had simply grown and expanded, he said, all the while perpetuating itself without anyone "ever stopping to ask if it was doing its job, if all traffic violators should be required to go to court, if the standard of proof of guilt should be beyond a reasonable doubt, or if jury trials were necessary and appropriate."

In considering the changes which should be made in this system, the Committee members looked at efforts being made in selected states. They considered whether the requirements of due process should vary depending upon the offense charged, and they examined driver improvement and retraining facilities and the training which traffic judges receive.

The Committee found that the major interests affected in the adjudication of traffic offenses are often neglected in the traffic court process—the interest of the public, which so often is inconvenienced and frequently receives less than fair treatment, and the interest of the traffic court judiciary, which is greatly overloaded, with one judge sometimes hearing 300-400 cases a day.

The Committee's recommendations were centered around the introduction into the traffic offense classification system of a new category—the *infraction*. According to Judge Finesilver, this new classification, to be reserved for the lesser offenses only, would not be punishable by imprisonment, and would require only a civil burden of proof for conviction. The adjudication system for infractions would include improved record keeping and accessibility of records to adjudicators, as well as a screening process to identify drivers who have driving problems and to direct them to driver retraining programs. "The adjudicators would be trained professionals who are interested in traffic offense adjudication and highway safety," he said.

Judge Finesilver stated that the Committee members had dealt with the problem of whether the adjudication of infractions should be handled by the courts or by an administrative agency. However, he said, they concluded that it is the simplified procedures, the improvements in record keeping and referral, and the training of adjudicators which are most important. Either kind of system could provide these improvements, he said, and it is preferable that each state select the one which best suits its needs and goals.

A summary of his research at the University of North Carolina was given by Dr. B. J. Campbell. According to Dr. Campbell, "entrenched in the highway safety lore" is the idea that "accident repeaters account for a large portion of all accidents." This idea can be an attractive one, he said, for it allows society to label this small proportion of

scapegoat drivers—"them"—as "undisciplined, aggressive, or deviant" and to restrict their driving activities, without dealing with the liability of the rest of the population—"us." However, Dr. Campbell's research with 2.5 million North Carolina drivers shows that 81 percent of the accidents in a given period involved persons who in an earlier period had no accidents. Thus, he said, since most drivers who have crashes are not identifiable by their past driving record, "in adjudicating traffic offenses we are maintaining a general surveillance of a whole driver population—an attempt to discipline a whole population by a nonrandom enforcement of the traffic laws on some sort of nonrepresentative sample of drivers." And even if a significant portion of accidents were caused by an identifiable 10 percent of drivers, Dr. Campbell questioned whether society would be willing to remove them from the road since reductions in employment, gas tax revenues and mobility would result. In closing, Dr. Campbell stressed that new ways of approaching traffic offenses and their adjudication are needed.

Mr. Ron Coppin from the California Department of Motor Vehicles presented a summary of his research with California drivers. He reported that although "traffic convictions are by far the best single predictor of crashes" neither convictions nor past accidents are very reliable indicators of who will be involved in future accidents. Thus, removing drivers with poor driving records from the road is not the ultimate solution, he said, to reducing a large proportion of total accidents. However, since traffic convictions are *the most important* discriminator of accidents, Mr. Coppin approved the policy of taking restrictive license action against drivers on the basis of their driving records, and of using the records in selecting problem drivers for driver improvement programs.

Mr. Coppin cautioned that not all driver improvement programs produce the desired results. "The traditional informal hearing, which in most cases involves some license probation, has not shown to be an effective *first contact* with the negligent driver," he said. However, one-session group education meetings, using films, can be an effective countermeasure in accident reduction. He emphasized that the goal for these programs should be clearly defined as *crash* reduction, rather than traffic violation reduction.

Mr. Coppin stated that since most accidents involve drivers who have not previously been involved in an accident or received a citation, a system of education should be developed for *all* drivers, "even those whose records have not yet reached the level of definition for deviant or problem driver." He advocated approaches that would "deal differentially with the entire spectrum of drivers, from the so-called good driver on one end, to the problem driver or habitual violator on the other end."

Perspectives on Problem Drivers was the topic addressed by Dr. Leon Goldstein and Dr. Robert Voas. Dr. Leon Goldstein discussed the characteristics common to many problem drivers, or "Negligent Operators" (Neg Ops). He said that the most outstanding and distinguishing characteristic of the Neg Ops is their youth and that 96.5% of them are male. Also, he said, Neg Ops are only a small percentage of the population; and since driver improvement programs are directed at them, the programs do not reach many people, leaving over 90% of the highway safety problem untouched.

Among Dr. Goldstein's recommendations to the meeting were the following:

- Increased preventive measures.
 - early exposure of drivers to improvement programs
 - mass communication programs to reach drivers who have not been identified by violations or accidents
 - improved initial preparation of drivers
 - improved law enforcement, traffic control, traffic engineering, and automotive design for safety
 - more comprehensive, diagnostic licensing examinations, and programs to help applicants overcome their shortcomings
- Improved methods of identifying drivers who need help early in their careers, and new kinds of treatment for negligent operators including more individualized approaches.
- Programs designed specifically to reduce accidents, rather than violations.
- Education of the public to the need for large scale support.

Dr. Robert Voas focused on the drinking-driving problem. The presence of alcohol, he said, is the "single most pervasive factor in fatal and serious crashes." Since few drivers frequently reach the high blood alcohol concentrations associated with fatal crashes, only a small portion of the total driving population is of concern, he said; and a large percentage of these drivers are young males between the ages of 20 and 25. He distinguished between "heavy social drinkers" and "problem drinkers," the latter group having to some degree lost control of their drinking. According to Dr. Voas, the enforcement-judicial system must be designed to deal with both groups—to deter the social drinker and to motivate the problem drinker into a treatment program.

It is the purpose of the Alcohol Safety Action Projects in major cities in this country to accomplish these two goals, said Dr. Voas; but the effectiveness of these programs, in operation for over two years, is still not clear. Evidence which does exist of a deterrent effect is so far inconclusive, he said, for some programs have not shown any positive change.

In closing, Dr. Voas expressed an opinion voiced by several of the Symposium's speakers:

One of the major impediments to this evaluation is the unwillingness of both court personnel and treatment personnel to permit the establishment of untreated control groups and to provide for random assignment to the various treatment alternatives. Without this type of experimental control, it is impossible to rigorously evaluate the effectiveness of these programs.

The Symposium's second day began with a brief review of the previous day's work, and then discussion groups were formed to consider the day's theme, "How has the Legal System Responded to the Problem and with what Effect?" Immediately after these sessions, a summary of the discussion was offered by Honorable Joseph W. Walsh, Rhode Island State Senator, Mr. Harold J. Harris, Deputy, District Court Administrator, Lansing, Michigan, and Mr. Mark D. Mittleman, Assistant Attorney General of Missouri.

These reports were followed by responses to them and summaries of recent research by Dr. Murray Blumenthal and Dr. H. L. Ross, both professors of law at the University of Denver.

Beginning with a request received in 1968 from Judge Bill Burnett, Presiding Judge of the Denver County Courts, Dr. Murray Blumenthal explained how he had come to Denver, met with Judge Burnett, and agreed to undertake a study of the various ways of dealing with minor violators and first-time DUI offenders. They had been particularly interested, he said, in finding out whether or not there is "any special safety benefit in having minor traffic violators appear before a judge of the traffic court." Dr. Blumenthal told of setting up the study with the aid of Department of Transportation funds and the cooperation of the Denver Police Department and, at first, the county court judges. He explained that a schedule system was used, which allowed the police to give out different kinds of citations or warnings at different periods of time.

The results, which were based on the subsequent driving records of the violators studied, showed that a court appearance had "no clear advantage" over the system allowing direct payment to the Violations Bureau or even simpler alternatives—the mail fine and the warning.

Dr. Blumenthal then related his experience with a second study concerning the most effective way to handle those charged with driving under the influence for the first time. The County Court judges agreed to follow a fixed schedule, he said, whereby all drivers charged with DUI during a certain period would be fined, and during other periods, they would receive conventional probation or rehabilitative sanctions. The judges, however, did not follow through with their agreement, and the researchers were unsuccessful in persuading them to follow the agreed schedule. And so, related Dr. Blumenthal, the focus of the study was shifted. The judges themselves were made its subjects.

Under these conditions, Dr. Blumenthal stated, the researchers found no difference in the effects of fines, conventional probation or rehabilitative probation. However; Dr. Blumenthal emphasized that he was not prepared to say that there was no difference in these penalties, only that he had found none.

With regard to the study of the judges, Dr. Blumenthal related that results showed that they were more likely to deviate from the agreed schedule when the defendant was represented by an attorney. Also, he said, results indicated that the judge's use of discretion had no apparent effect on subsequent records of violators; there was no difference between those receiving the scheduled penalty and those treated differently at the judge's discretion.

In conclusion, Dr. Blumenthal told how he had shown the results of his study to attorneys. He had told them of evidence that the legal system seemed not to have any positive effect on driving habits and that defendants charged with DUI who were successful in having charges against them reduced had poorer subsequent records than either defendants found "guilty" or "not guilty." The attorneys, he said, were not surprised; they told him they knew it all the time. This, he said, made him wonder "if

one of the major effects of what appeared to be an irrelevant, ineffective and unjust traffic sanction system was the corrosion of judges', district attorneys' and lawyers' confidence and belief in the system."

For a look at an effective application of the legal system to traffic safety problems of drinking and driving, Dr. H. L. Ross related the experience of the British Road Safety Act of 1967. Dr. Ross explained the Act's provisions, which include a mandatory one-year suspension of the driver's license for a violation and the specification of a particular blood alcohol concentration to define a crime. According to Dr. Ross, statistically significant changes occurred soon after the law took effect, changes which he attributed to the effect of the Act itself along with the extensive publicity experienced. A complex analysis suggests that the direct result of the Act was to cause "people to separate the occasions of drinking and driving, while continuing both activities in the same amounts;" and as a result, a reduction in fatalities and collisions, as well as violations, was experienced.

Dr. Ross noted some of the difficulties which the new law encountered with the police and the courts. He suggested that due to a reluctance by the police to apply the Act, there was probably little change in the number of drinking drivers who were stopped after the Act took effect; however, more drivers who were stopped were charged with DUI because of the new procedure providing for a blood alcohol test which was determinative of the commission of a crime. Yet, although there were more convictions for drinking and driving and the mandatory sentence of license removal was applied nearly universally, the courts allowed people to escape conviction on technical grounds, and "the Act nearly fell victim to a loop-hole crisis." Dr. Ross attributed this crisis to the fact that the courts disliked the severe penalty, the inherent limitations on judicial discretion, and the invasion of the accused's body by blood tests. The crisis was averted, though, he said, by appellate decisions overruling trial court acquittals as the effectiveness of the legislation in reducing traffic casualties became obvious.

By 1971, the effect of the Road Safety Act had begun to diminish—fatalities were increasing and the blood tests were showing more illegal alcohol levels. Dr. Ross attributed this reversal to the fact that, although the penalty for a violation was severe, the chances of actually being apprehended were still low, for the number of apprehensions had increased only "modestly" after the law's enactment. The average driver, said Dr. Ross, had decided that drinking and driving was still a "pretty good gamble." As a means of again reversing this trend, Dr. Ross suggested that enforcement measures be strengthened. In addition to actually apprehending more violators, he said, the expectation of being apprehended would increase among drivers and, thus, a decrease in drinking and driving would very likely result.

Then, turning to the experience in the United States, Dr. Ross pointed out that laws similar to the Road Safety Act already exist here. "What we lack is convincing proof of our intention to enforce them," he concluded.

Vincent L. Tofany, President of the National Safety Council, addressed the plenary session on the topic of Political and Economic Barriers to Change in Highway Safety and Accident Prevention.

Tracing the history of the highway safety programs since the passage in 1966 of the Highway Safety Act, President Tofany attributed the lack of the full implementation of the policies set forth in the Act to "a series of budgetary decisions made by succeeding Congresses and administrations since 1966." "The budgetary decisions are political decisions," he said, "but the dollars not budgeted represent an economic starving of the Highway Safety Program." Further, he said, the states did not adequately fund highway safety programs because they expected to receive federal assistance. In fact, he said, everyone—federal government, state government, and the general public—has waited for others to act, while at the same time, the number of fatalities on the highways has continued to increase. According to President Tofany, individuals involved in policy making in state government and those representing the public interest must base their plans on the assumption that the states will have to fund their own highway safety programs; and a continuing effort should be made "to make Congress and the administration aware of the responsibility of the Federal Government to live up to its promises and meet the responsibilities that it has accepted."

In addition to the economic and political barriers to change, President Tofany identified four other obstacles, which characterize the public's attitude to highway safety: inertia, apathy, resistance, and ignorance. Because of inertia and apathy, he said, there is insufficient public support for highway safety proposals and programs. Resistance by the public to safety measures and their adoption also exists, he said, citing the failure by many motorists to use safety belts as an example of this resistance. Ignorance of how best to combat the highway accident rate and promote safer driving is also a barrier to progress and makes it more difficult to obtain favorable economic and political action, said President Tofany.

He emphasized that in working toward specific limited goals in the field of highway safety, it is important that the ultimate goal of saving lives not be ignored. In fragmenting the safety effort, he said, some individual programs may become competitive and mutually exclusive, instead of working together to make driving safer for the American public. Those involved in the highway safety effort should watch for and avoid such fragmentation, which can only weaken the effort toward the ultimate goal, President Tofany concluded.

A look at the traditional criminal adjudication approach to traffic offenses and the alternatives to it was presented by Dr. John H. Reese of the University of Denver College of Law. According to Dr. Reese, the difficulties with the traditional system have given rise to various alternative proposals, which include decriminalizing some traffic offenses, improving the present court system, or improving components of the traffic system other than driver performance. Several states have developed innovative programs, which are raising legal issues, he said, and suggested a structure for analysis of these issues based on "four major legal-policy themes."

I. The Nature and Classification of Traffic Offenses. While advocates of the *criminal* classification claim it has a deterrent effect and propose that changes consist of improving the present system, those who favor a *civil* classification contend that "the massive volume of traffic offense convictions shared widely by a large segment of the driving

society serves to destroy any deterrent value of the criminal sanctions." Furthermore, say proponents of decriminalization, criminal traffic offenses impose unnecessary constraints on traffic court procedures, and thus, the present system perpetuates inefficiency, causing case backlogs, graft, bribes, and disparity in sentencing. Greater efficiency could be achieved, they say, by decriminalizing to permit a lower standard of proof, eliminate the right to a jury trial and to appointed counsel, and simplify arraignment and bail problems.

II. The Forum for Traffic Offense Adjudication. Dr. Reese stated that the criminal courts will probably continue to be used for traffic offense adjudication as long as the most serious offenses are classified as crimes, but for other offenses, there are two major alternative forums: (1) special traffic courts where traffic offenses are classified as civil violations, and (2) an administrative agency, which can be combined with the driver licensing activity. Dr. Reese countered arguments against using an administrative agency, saying that adequate controls are provided by legislative regulation of the agency and the broad judicial review power of the courts over agency decisions. Further, he said, an agency proceeding can provide the protections demanded by due process of law. Agency hearing procedures have already been upheld in some states, and the "long history of court decisions approving delegation in highway safety indicates that most states would permit administrative adjudication."

III. The Procedures to be Followed in Traffic Offense Adjudication. Alternatives to the traditional criminal procedure with its many safeguards include the simplified civil procedure and the administrative hearing before a traffic referee or a commissioner in a quasi-judicial setting where the rules of evidence are relaxed, the burden of proof is usually less, and the protections are very similar to those in a civil trial to a judge. The hearing officer in an administrative procedure, according to Dr. Reese, can be as good as a traffic judge and has the advantage of being able to consider the individual's driving record, as well as other facts of the case, in making his determination of penalty.

IV. The Imposed Penalties for Traffic Offenses. Dr. Reese stated that in the criminal courts, a judge can impose the civil penalties of driver's license suspension and compulsory participation in driver training programs, as well as the traditional criminal penalties of fines and imprisonment. Under a civil classification, he said, there may arise a problem with imposing a fine, a traditional criminal penalty; but thus far the courts have allowed it. He also raised the question of whether fines should be mandatory and fixed or flexible at the court's discretion.

In conclusion, Dr. Reese emphasized the "interdisciplinary nature of legal policy decisions." All the knowledge we have should be brought to bear on these problems, he said; and legal considerations are only part of what should be taken into account in determining what sort of traffic offense adjudication system we should have.

Offering a description and analysis of the experience in their own states with alternative ways of adjudicating traffic offenses were Honorable Richard L. LeFevour, Honorable T. Patrick Corbett, and Honorable Donald Rosenberg.

Judge Richard F. LeFevour described Chicago's approach to traffic offenses, which is the traditional court system. In Chicago, the traffic court is divided into two sections, one for handling minor violations and the other for handling major violations (drunk driving, driving with a revoked driving license, and reckless driving). The entire traffic court system is computerized, said Judge LeFevour, and is very efficient, handling a case in a few minutes with approximately 3000 dispositions per day. The Chicago system also maintains a driver improvement school, which drivers can attend either voluntarily or by court order, which is primarily given to the "habitual violator." And for those committing minor violations, the court provides a film, which presents the seven major errors made by drivers.

Judge LeFevour stated that in Chicago there is no plea bargaining of driving-under-the-influence charges, and he said he believed this approach should be used in other jurisdictions. He also recommended using the news media, as is done in Chicago, to "let the people of the community know what we are doing in our courts."

Stating that adjudication "is properly the job of the judiciary and not of an administrative agency," Judge T. Patrick Corbett explained Seattle's magistrate system. According to Judge Corbett, a specially-trained attorney working in an office, rather than a courtroom, "informally addresses the question of how the ticket can be disposed of." Judge Corbett described the interview between the magistrate and the defendant as a "rap session," in which the defendant can "address himself to the governmental agency, receive a fair hearing on his position, and have a response immediately addressed to his position." The magistrate system, said Judge Corbett, has the additional advantage of allowing defendants to express themselves without "fear that the audience will ridicule them," for there is no audience to the proceeding except that which the defendant requests.

A magistrate can hear about 60 cases (minor traffic offenses) a day, he said; 50 of these are only for the purpose of mitigation of penalty, five are dismissed and the remaining 5 are referred for trial.

Judge Corbett announced that future plans for the Seattle system included working closely with driver improvement analysis from the Department of Motor Vehicles, the analysis to aid with presentencing reports, referral to retraining programs, and the use of licensing sanctions.

Donald Rosenberg, Commissioner of the Oakland-Piedmont Municipal Court, described a pilot project currently being tried in some California courts. According to Commissioner Rosenberg, the California project has two purposes: to test "the use of legally trained subordinate judicial officers, rather than judges, to handle almost all of the traffic cases in the court other than the most serious ones," and to test "procedures for simplifying the disposition of traffic cases and minimizing the amount of time defendants and law enforcement personnel must spend in court." By using commissioners, he said, judges are freed to hear more serious matters, and the commissioners may be more effective in handling minor traffic offenses since they spend more time in the traffic offense field and may be chosen for their interest in that area of the law.

A "summary traffic trial" is also being tried in Santa Monica, said Commissioner Rosenberg; and within an hour or less from the time the defendant first comes to the traffic bail window, he may have a trial based on his testimony and the citation, or he may choose to pay the fine or set a date for a regular trial.

Citing the recent passage in California of legislation putting "almost all traffic violations other than the most serious offenses" in the infractions category (not punishable by incarceration and no right to trial by jury or to appointed counsel for indigent defendants), Commissioner Rosenberg said:

... we have found the way to "get the best of both worlds"; that is, we are developing the speedier and simpler procedures which are the goal of administrative adjudication combined with the independence, fairness and the appearance of fairness and independence that are the hallmark of judicial proceedings.

"Where To?" was the theme for the final day's meeting; and in keeping with this theme, the goals of each state, formulated during the Symposium, were presented to the plenary session.* Then William T. S. Bricker, Deputy Administrator for Maryland Department of Transportation, George Brandt, Highway Safety Management Specialist, National Highway Traffic Safety Administration, and Tom Reel, from Michigan's Office of Highway Safety Planning, offered their ideas on the effective implementation of these goals.

For William Bricker, the key to effective implementation of state goals is the "decision makers," and yet, he said, it is very difficult to bring them all together, even in their own states in order to test their "preconceived ideas" and show them alternatives to the present system. Mr. Bricker stressed the importance of convincing the decision makers of what needs to be done—what will work and what is effective implementation of state highway safety goals. He said that the states should not accept what they have now as all that can be done just because it is working alright, for "it is always possible to do more and do it a little bit better."

Stating that he questioned the constitutionality of giving judges the power to suspend and revoke driver's licenses, Mr. Bricker pointed out that other kinds of licenses are revoked only by the licensing agency itself following an administrative hearing. Driver's licenses should be handled in the same way, he concluded.

George Brandt identified the key question of the Symposium as being, "Can justice serve the higher social goals and needs of this nation in the area of public safety and welfare?" The public, he declared, wants to be served, and in a few places, there have been successful efforts "to increase efficiency in handling massive traffic cases."

Mr. Brandt emphasized the need for highway safety funds to implement state goals and said that although federal funds are available for demonstration projects (e.g., use of parajudicials to process less serious offenses, integration of the adjudication process with the licensing agency), it will also be necessary to find local and state resources.

*See Appendix B, Vol. II, page 127, for State Goals.

He stated that the recommendations in the National Highway Safety Commission's Advisory Task Force Report should be implemented in the states and that the Report and each state's goals and plans should be given coverage by the news media.

Tom Reel explained how Michigan has developed and begun implementation of its state goals before coming to the Symposium. He said that the Office of Highway Safety Planning, working in conjunction with the Center for the Administration of Justice at Wayne State University, had assisted with a conference attended by state leaders. As a result, a resolution containing Michigan's goals was developed. Future action, he stated, will include further research and study of traffic court problems in the state, exploration of alternative ways of dealing with the problems, and a "strategy" for testing the alternatives. "After reviewing our testing experiences, we hope to be able to move confidently to propose a 'comprehensive total plan' for effective traffic court adjudication," he said.

Mr. Reel urged other states, when deciding upon their own goals, to be aware of research efforts and to maintain a system for evaluating the effectiveness of their programs. In doing so, he said, an appropriate frame of reference is necessary from which to work, and he suggested that the Symposium Statement of Goals and Objectives could provide such a frame of reference to help states in fashioning their own realistic and measurable goals.

Closing the Symposium program, Judge Sherman Finesilver, Dr. Murray Blumenthal, and Dr. John Reese summarized the events of the past two and one half days and offered their challenges for the future.

Looking back over the discussion of the previous days, Judge Sherman Finesilver found a general dissatisfaction among participants with present approaches to traffic offense adjudication, coupled with "some ambivalence about which way we should go." In response to this dilemma, Judge Finesilver offered his challenges to the meeting:

- The presently constituted delegations should maintain their bodies as task forces for at least the next five to six months.
- Within a period of 30 days before the first of the year, each of the delegations should meet and discuss (a) its progress toward meeting the state goals, (b) the impact of the Symposium on the undertaking in the state, and (c) the implications, if any, of the AD HOC Task Force Report.
- In each state there should be continuing monitoring devices and evaluation of the judicial system and its effectiveness in traffic safety adjudication.
- An assessment should be made in each state of the existing facilities for rehabilitation and training, and there should be a determination of the extent to which these facilities are used.
- The news media should be utilized to publicize and promote more widely state highway safety programs.

Dr. Murray Blumenthal urged the delegates not to lose sight of their purpose or of the true problem, which is not "administrative adjudication," but "safe, efficient, comfortable, reasonable transportation that fits in with the rest of life." Unfortunately, he added, in transportation, as with other systems, "the very institution that we set up to ameliorate a problem" can become "the obstacle to the hope for amelioration of the problem"; the institution becomes concerned with internal matters like status, legality, control, and efficiency and neglects the purpose for which it was created. This obscuring of purpose has happened with the present motor vehicle transportation system, he said, and it has become, in a sense, the obstacle to providing the kind of transportation it was created to provide. Dr. Blumenthal explained that other goals can supplant the primary one, and the professionals involved in transportation—auto makers, highway engineers, law makers—do not always work together to solve highway safety problems; in fact, they sometimes work against each other.

Dr. Blumenthal stated, in the words of K. A. Stonex, General Motors Safety Engineer, that "the motor vehicle transportation system is 'precisely that which we would have built if our objective had been to kill as many people as possible.'" Consequently, he added, when we try to regulate this inherently faulty system with the law, the system's real problems are ignored and only the symptoms are treated. For example, "the judge who passes judgement upon an operator charged with speeding and causing an accident while passing does not have an opportunity to rule upon the management of the system that does not coordinate highway and vehicle design characteristics."

"It is ironic," he concluded, "that the most effective highway safety actions since World War II will probably be the 55 mph speed limit and gas rationing actions, which did not have safety in mind at all. In contrast, the safety community, the establishment devoted to safety, to the orderly, lawful movement of men, goods and vehicles, the bureaucracies, have fearfully diddled with the minor steps, afraid to point out that we can't have safety on the cheap. We have to give up something to get safety, like anything else in life."

Professor Blumenthal's challenges to the Symposium were:

1. Periodically review and restate our goals.
2. Periodically evaluate progress on the goals; preferably such evaluation would be done by an outside, objective party.
3. Avoid uniformity for its own sake; only when the system is effective, should it be made uniform.
4. Prohibit state highway departments from using sovereign immunity to escape tort liability for damages attributable to faulty crash-generating highway design construction or maintenance.
5. Establish a procedure by which the public can petition the highway agency and the courts to function in accordance with the law and established regulations, and by which appeal of such actions may be taken to the courts for injunctive relief.

6. Require that proposals for construction of new, or modification of older highways be accompanied by a safety impact statement, detailing the effect of the proposals on existing crash fatality and injury rates and totals.

Remarking that the idea of a "semi-court-referee-commissioner-hearing-officer" system seemed to appeal to many of the Symposium participants, Dr. John Reese offered some recommendations and insights on this kind of system:

- There is a possibility of confusion in the appellate courts when the same trial court is used for the more serious traffic offenses which continue to be adjudicated under criminal procedure and for the less serious cases adjudicated using the commissioner-referee system. As a result, some of the procedural constraints associated with criminal cases may be imposed on the referee, thereby diminishing the efficiency advantages of the referee system.
- Consideration should be given to the feasibility of combining the commissioner-referee system with the Department of Motor Vehicles in a single agency or, at least, of coordinating the court and the Department.
- The commissioner-referee court should be one of record in order that a *de novo* review can be avoided in case of an appeal.
- It should be recognized that if the primary motivation for decriminalizing traffic offenses is to minimize backlogging in the courts and make them more efficient, then the force for further increasing efficiency may push the adjudication process away from the referee system and toward the administrative adjudication model.
- The administrative adjudication system should not be underestimated, for "it is a legal and fair means by which to make an adjudication" and it provides for coordination in a single agency.
- Removal of some adjudication from the courts into an administrative agency is not a threat to the courts, for although some of the lesser offenses are decriminalized, the more serious offenses retain their criminal nature and the judges have more time to deal with them. Also, the agency decision is not final since appeals are allowed to a court.

CONCLUSIONS

Introduction

Beginning with the first session of the Symposium, we wanted to offer the delegates a new vantage point from which they could reconsider the basic concepts and assumptions underlying the present systems for traffic offense adjudication. As a consequence of the change of ideas which did occur,* the delegates, individually and as a group, arrived at certain conclusions—some definite conclusions and others only partially crystallized. With respect to a number of the issues, the participants—speakers, delegates, and facilitators—reached a consensus of opinion; on other topics, there was disagreement, based on differences of general attitude and orientation and on conflicting interpretations of research results. Following are the conclusions on the major topics which were considered.

Many of the delegates concurred with those speakers who found that a continuing need exists to rethink and reevaluate the adjudication system and the problems inherent in bringing about safer highways. The immediate and long-range goals should be continually examined to assure that the focus is on safety, rather than on intermediate objectives. And the assumptions behind the system and the procedures used should be critically considered, for there are many fallacies in our thinking about such matters as the deterrent effect of the present court and enforcement systems, the role education and rehabilitation should play in fostering safer driving, and the correlation between past driving records and future driving performance.

There was a feeling by many that the present approaches are not working, that we are not moving toward our primary goal of reducing the number of people being killed or injured on the highways and that the court experience seldom deters initial and subsequent violations of traffic laws. On the other hand, some state representatives defended the merits of their own state programs, saying that as they improve their ability to identify problem drivers and utilize more fully driver improvement clinics, there can be a significant effect on the crash rate to the advancement of highway safety; these participants also expressed the belief that swiftness and certainty of sanction can act as a deterrent and, so, the compelling need is to enforce existing traffic laws, as well as improve them.

There was general agreement that some changes in the court system of adjudicating traffic offenses are needed. Some participants agreed with those speakers who stated that the present system works to punish the wrong people, for every driver commits errors frequently and the highway system is responsible for many crashes; thus, the driver who is "caught" either in a violation or in a crash is in a sense the victim of the entire system. Also, there were many who believed that generally the present system does not act as an effective deterrent to violations, and, in many jurisdictions, the adjudication process is not always fair, effective or efficient.

*See Results of the Pre- and Post- Symposium Questionnaires, page 39.

In response to the identified inadequacies of traffic offense adjudication systems, there was a consensus that a need exists for innovative and reformative measures to make the existing systems more responsive to the furtherance of highway safety and the equitable and effectual adjudication of traffic offenses. There was disagreement, however, on what measures and procedures should be implemented. Probably the proposal having the most impact on the entire system is the decriminalization of at least the lesser traffic offenses. Many safety professionals and laymen now feel that there is no necessity to label all traffic offenses as criminal, without regard to the seriousness of the offense. Other recommended reform measures include improved law enforcement, more emphasis on education and driver retraining programs, and increased coordination and cooperation among all the agencies and officials involved in highway and traffic control. The importance of improving internal mechanisms to provide more effective and efficient administration and adjudication of offenses was also stressed by several delegates and speakers. However, others questioned whether there was any significant correlation between such improvements and highway safety.

Each of these broad issues was found to contain multiple considerations, which compelled some very specific conclusions and recommendations from the Symposium participants. Following are the expressed opinions of delegates, speakers, and others in attendance concerning specific questions considered during their three days together.*

Question I

By whom are traffic violations committed and under what circumstances do such violations result in crashes?

The general consensus was that all drivers commit violations, though not all receive citations. The majority of participants felt that with the exceptions of fatal crashes and crashes involving drinking drivers, crashes are usually caused by a combination of violation, vehicle defect, faulty road design, and other adverse environmental conditions. There was agreement that an imbalance exists between the technology of the motor vehicle transportation system and the demands made upon the driver's capabilities and, since human failure is unavoidable, all elements of the system should be improved.

Question II

Is it possible to reliably identify and predict who will be involved in crashes?

With regard to this question, there was some division among participants. The safety professionals generally maintained that it is not feasible to use past driving records to predict who will be involved in crashes. Most cited violations are by the majority of the population. Repeaters are responsible for only a small part of collisions and violations, and the individual violator is not much more likely to be involved in a crash than is a nonviolator. One exception to this general principle is the drinking driver, whose future involvement in crashes is much more predictable than other violators'.

*See Appendix C, Vol. II, page 143, for the complete series of questions, assumptions, and actions considered by the discussion groups.

Some delegates thought, however, that with improved record keeping, no "fixing" of tickets, and better enforcement, it would be possible to identify a significant percentage of potential crash involved drivers. They thought that some repeaters are not identifiable due to unreliable record keeping and unjustifiable dismissals of charges.

Question III

How has the legal system responded to the problem and with what effect?

Although it was clear to all participants that the legal system has many drawbacks, there was disagreement concerning its current effectiveness, with some feeling that the system has demonstrated little if any ability to deter or rehabilitate offenders and prevent crashes. Others believed that the system can help in correcting driver skills, but does not favorably influence attitudes, and so the overall effect for highway safety is limited.

Some participants stated that the traditional court system is not responsive to the goal of safer driving, but others found that the very existence of the system, and its built-in sanctions, is in itself a safety feature, acting as a control and a deterrent to unsafe driving. However, researchers pointed out that a conviction of lesser traffic offenses has no social stigma; it is to a degree a socially acceptable crime and to that extent the deterrent effect of the court system is diluted. Some of the delegates thought that any deterrent effect which does exist is effective against only the nonviolator and does not help to prevent recidivism of convicted offenders.

Recommended Changes in Traffic Offense Adjudication

Recognizing that traffic court reform is urgently needed, not only in order to place increased emphasis on fostering safety, but also to provide a more efficient and a fairer adjudication system, the delegates discussed at length the changes they would like to see made in the traffic courts. The changes they recommended ranged from a complete revision in the court system to more specific and limited improvements which they believed are needed.

Probably the foremost alternative to the present system is the decriminalization of at least some traffic offenses, although most states have not yet taken this step and some indicate that they prefer to retain the criminal classification, and work for reform within that framework. Those who favored a decriminalization approach said that it could provide a more efficient and effective process, while at the same time retaining the fair procedures that are part of the traditional criminal process, but without the criminal stigma attached to it. Thus, instead of constituting a crime, a violation of a traffic law would be an abuse of the privilege to drive on the public highways.

A variety of different methods of decriminalizing were proposed. Administrative adjudication with agency handling of traffic cases, instead of by the courts, is used in large cities in New York State, and several state delegations expressed a desire to implement such a system in their states. It is felt by the proponents of administrative adjudication that this approach to handling the traffic court system is a practical one, which alleviates many of the shortcomings of the present traffic court system. The

efficient manner in which the system operates, providing prompt, fair hearings, and freeing courts to handle more serious crimes, is considered a distinct and unique benefit. Also, remedial driver improvement can readily be implemented in such a system; and it has the ability to be financially self-sustaining.

Many participants preferred that violations be adjudicated in the court system, but by a specially trained adjudicator, a "magistrate" or a "commissioner," in a quasi-judicial setting. And most participants favored a decriminalizing of only the less serious traffic offenses, calling them "infractions."

With either method, administrative adjudication or a quasi-judicial arrangement, the criminal courts will be relieved of many cases, leaving the judges to handle the more serious traffic offenses. Furthermore, decriminalizing would facilitate coordination of the sentencing procedure with the licensing procedure, as well as make more readily available the optional sanctions of rehabilitation and retraining.

In addition to the complete revision of the adjudication process through decriminalization, there were a number of other court reform actions suggested, including the following:

- Increased efficiency and promptness in the disposition of traffic offenses.
- A greater number of judges, who are trained for and have a special interest in traffic offense adjudication and accident prevention.
- Unification of effort through effective coordination and cooperation among all agencies and legislative and judicial bodies involved with the traffic system including driver licensing, legislation, adjudication, enforcement, and license revocation.
- Greater accessibility of driver records to the adjudicating official; more effective conviction reporting to the licensing agency; increased accuracy and completeness of records.
- Uniform traffic citation; uniform application of the law.
- Revision of state and municipal traffic codes.
- Increased interstate cooperation and exchange of driver records.
- Improved enforcement of traffic laws.

Some participants stated that records are often unreliable as guides in sentencing due to fixing of tickets, inadequate enforcement and incomplete, inaccurate records.

It is important, participants agreed, that the police be supported by the courts, but the present system fosters an excessive amount of plea bargaining and fixing of tickets; and many drivers with suspended licenses continue to drive. Research has shown that defendants with attorneys tend to receive lighter sentences, even though their driving records may be poorer; and the use of deferred prosecutions and prosecutions without verdict were for many delegates an additional dilutant to the effectiveness of the enforcement of traffic laws.

Several of the delegates favored a mandatory court appearance for the repeater charged with a serious violation, but others questioned whether a court appearance has any beneficial effect, due to the inefficiency and the sometimes summary manner in which traffic courts are conducted. Most participants favored mandatory penalties for those convicted of drinking while driving, stating that strong sanctions, effectively imposed, can be a deterrent to DUI offenses. However, it was believed by some delegates that judicial flexibility has certain advantages, and researchers offered evidence that a mandatory court appearance has no demonstrably different effect on subsequent driving records than does a fine mailed to the court.

Although some studies show that criminal penalties and safety crackdowns are ineffective, most participants relied upon other evidence that strong enforcement of the law through swiftness and certainty of sanction equals deterrence.

- Availability of educational sanctions, such as driver retraining programs, as an option for the adjudicating officer to use in sentencing.

Innovative Implementation of Educational Programs

Repeatedly, the speakers and state delegates declared the need for better driver training and other educational programs. They emphasized that at present the majority of traffic courts do not maintain any form of retraining facility and traffic court judges do not have the option of compelling participation in such a program as a sentencing alternative for the offender. There were a few participants who saw educational programs as mixed blessings; they stated that the results of retraining schools have not always been favorable, that some programs have been shown to have adverse effects on subsequent driving performance, and that some programs are too politically oriented. Some participants thought that driver retraining could improve driving performance, but others were uncertain that a measurable benefit was actually derived. Others were of the opinion that the training can improve driving skills, but is usually unsuccessful in improving driver attitudes about the importance of careful, safe driving.

All were agreed, however, that despite the failures of past efforts to educate the driver population, new programs, carefully designed and using the most up-to-date research findings on modification of driving habits, are critically needed if states are to be able to achieve measurable results in their efforts to improve driving performance. It was also recommended that an expanded view be taken of who the recipients of driver training efforts should be and that a variety of educational programs be provided:

- Pre-licensing programs.

In many states it is too easy to obtain a driver's license, and the earlier in his driving experience that a driver is exposed to a good driving program, the greater the chances that it will be of value.

- Relicensing programs; training for the entire driver population.

It was urged by some participants that educational efforts should focus here; most crashes are caused by nonrepeaters and so efforts should be made to reach these drivers before they are involved in a violation or a crash. Some delegates suggested that the program should include work on driver attitudes, as well as psychological and medical testing.

- Retraining and rehabilitative programs, which are specifically designed to reduce crashes, and not just violations, and which emphasize attitudinal change, as well as improved driving skills.

Research studies revealed that one of the most cost-effective programs is a one-session group educational meeting, which has been shown to be successful in reducing collision rates for men and women.

- Drinking-driver programs, which are urgently needed as an alternative sanction for use by the adjudicator.

Although the Alcohol Safety Action Projects have been in operation a relatively short time, there are some indications that they do have at least a modest impact on the drinking-driver problem. The large role which alcohol plays in fatal crashes makes it imperative that efforts be made to reduce the number of drinking drivers on the road; and in addition to improved enforcement of DUI traffic laws, educational programs can be instrumental in this regard.

- Mass public education, using the news media and other modes of communication, to make known the difficulties we face in working for safer highway transportation, to combat public apathy by developing a greater appreciation of the importance and significance of the task to everyone, and to publicize the need for resources and public support.

Other Recommendations for Action

Although the overall record of city and state traffic programs has not been encouraging, there are some areas where progress has been shown, where new approaches have achieved promising results. But even when it is shown that the right efforts can bring results, there are some who question whether the results are worth the cost to achieve them. It was suggested that perhaps that best adjudication system in the world will not save many more lives, and that the money could be better spent on other elements of the system, particularly since repeaters are a relatively small part of the total number of offenders and cannot be predicted. As an alternative, some participants advocated directing resources toward improved highways and vehicles—cars which are designed for safety and are compatible with the human operator, adequate highway signs that are easily understood, and roads engineered with a forgiving quality in their design. In contrast to this view, however, there is other evidence that progress in engineering has resulted in a reduction in highway and vehicle causes of crashes which has made “driver error” the major cause of crashes in this country, and that in order to have any significant effect, our attention must be on the driver.

It was also recommended by Symposium delegates and speakers that the states begin to take more responsibility in providing funding for highway safety programs, and that state groups continue to work toward the goals developed while attending the Symposium. The need for continued self-evaluation provisions to enable state groups to assess their own progress was also emphasized.

There was virtually a consensus that more research, using better controls and testing methods, is needed in order to answer the questions which remain and to reconcile some of the conflicting information about highway safety, traffic systems, and traffic offense

adjudication. And, finally, it was thought that those involved in state safety programming need to have the results of research studies, such as the NHTSA Task Force Report, made available to them, and that each state should be apprised of the efforts being made in other states to foster highway safety.

**THE SYMPOSIUM HISTORY
AND
THE UNIVERSITY OF DENVER
COLLEGE OF LAW**

Although the Symposium was held in New York City and the majority of states represented were Eastern states, the bulk of the planning and preparation took place at the University of Denver College of Law. The College of Law faculty possesses a high level of expertise in the fields of highway safety and the effective adjudication of traffic offenses; and for the past sixteen years the law school and its faculty have been actively engaged in the development of meaningful research in several facets of safety and accident prevention.

The College of Law has hosted symposia on the training of judges and court administrators (in conjunction with Northwestern Traffic Institute and the American Bar Association); and, in November 1972, the Prototype Highway Safety and Traffic Offense Adjudication Training Program, which was the model for the 1973 Symposium, was held in Denver.

In addition, pioneering programs dealing with Legal Rights and Licensing of Deaf Drivers, Driving and the Physically Impaired, and The Senior Driver and the License to Drive were conducted at the Law School. These programs were the first of their kind in the country and prompted national interest and action in the fields of driver licensing, incurability, and development of training and retraining facilities.

The research now in progress and recently completed is among the most far reaching in the entire field of highway safety and accident prevention. Research projects include "The Effect of Court Appearance on Traffic Violations," highlighted at the Symposium by Professors Murray Blumenthal and H. L. Ross, and "The Drinking Driver," An Interdisciplinary Approach to the Legal Management of a Social Problem (Contract No. DOT-HS-126-2-352 July 1, 1973). Other research involves administrative law and licensing of drivers.

Faculty members cooperating in this phase of the project on effective adjudication include Associate Dean John C. Hanley, Professors Murray Blumenthal, John Reese, H. L. Ross (full-time faculty) and Federal Judge Sherman G. Finesilver (part-time faculty). Annette Finesilver served as assistant to the Project Director in this project, as she had done for the Prototype Symposium held in Denver.

In its safety projects the Law School has supportive aid from other university departments including sociology, psychology, statistics, engineering, computer center and Denver Research Institute. There has also been a working arrangement with the nationally known Institute for Court Management founded at the University of Denver.

Governor's Safety Representatives also provided much needed assistance in the Symposium planning stages, and their participation throughout the three days of the Symposium contributed a high degree of professionalism.

In planning this Symposium on Effective Highway Safety Adjudication, of great benefit was the experience gained from hosting the prototype Highway Safety and Traffic Offense Adjudication Training Program one year previous in Denver, Colorado. It was felt by those involved in the 1972 Symposium that, over all, the Symposium goals had been met. Concrete evidence of success was found in events which followed the Symposium. There were letters, first of all, telling of efforts by those state groups which had been brought together in Denver to consider the highway safety picture in their individual states. And the product of those efforts was sometimes even more gratifying.

In Colorado, for example, the Colorado Division of Highway Safety embarked on a pilot study of various traffic court adjudication techniques for use in the Denver City and County Courts, using funds authorized by the 1966 Highway Safety Act. The study, which is designed to develop methods for greater efficiency in adjudication while fostering safe driving, was a direct result of the 1972 Symposium.

Other effects of the Symposium could be seen in Oregon, which adopted the Schwab Plan* providing for decriminalization of traffic offenses and establishment of an ad hoc Task Force to educate legislators and other key officials about the latest thinking in the area of highway safety. This led to the creation at the close of the 1973 legislative session of a Committee on Judiciary, which was assigned the task of making a thorough and objective study of Oregon's motor vehicle and traffic laws. The Committee's Proposed Revision of the Oregon Vehicle Code has been submitted to the Oregon Legislature. Under this revision the Oregon Vehicle Code would conform more to the Uniform Vehicle Code, provide for reclassification of all but the most serious traffic offenses as "traffic infractions," and eliminate most of the criminal procedures from the handling of traffic offenses, while still processing these cases in the court system.

**Herbert M. Schwab, Chief Judge of the Oregon Court of Appeals, and consulting committee chairman of the Committee on Judiciary.*

THE ORGANIZATIONAL PROCESS

The Pre-Symposium

Three weeks prior to the Symposium, a Pre-symposium was held in Baltimore, Maryland. The participants included the University of Denver faculty members who were involved in the planning of the Symposium, the Governor's Highway Safety Representative and the discussion leader from each participating state, and a representative from the National Highway Traffic Safety Administration. At this Pre-symposium, a mini-program, in keeping with the planned Symposium program, was presented. The representatives from each state explained their state's efforts in the field of highway safety and traffic offense adjudication; and discussion groups using materials prepared for the Symposium discussion groups were held. A critique session followed, and in response to the participants' comments and suggestions, changes were made in the planned program.

The Participants

In selecting the states which were to participate in the Symposium, we looked for a group of states that would share some common problems and goals in the traffic safety field. The nine participating states, Florida, Maryland, Michigan, Missouri, New York, New Jersey, Ohio, Pennsylvania, and Rhode Island, and the District of Columbia had all evidenced an interest in traffic offense adjudication reform, and all have metropolitan centers with surrounding areas that service a large volume of traffic.

The state delegates were selected from the following categories:

- (1) State High Court Chief Justice or Associate Justice;
- (2) State Court Administrator or major metropolitan court administrator;
- (3) Traffic Court Judge;
- (4) A key Judicial Committee legislator;
- (5) A principal local governing body official;
- (6) A State or local Bar Association official;
- (7) A principal State driver licensing official;
- (8) The Governor's Highway Safety Representative; and
- (9) A law enforcement official, Attorney General or State Prosecutor.

A few additional safety professionals were also invited as observers. Thus, the Symposium participants comprised a diverse and, yet, a cohesive gathering, for although many different disciplines were represented, all those attending shared an involvement in the furtherance of highway safety.

The planning and preparation for the Symposium—selection of speakers, program substance and development of resource materials—were largely carried out by the University of Denver College of Law faculty. Cooperating with the College of Law were officials from the National Highway Traffic Safety Administration; in particular, Mr. George Brandt, Highway Safety Management Specialist, played a major role in the planning stages and served as the Contract Technical Manager for the project.

Speakers selected to participate in the Symposium were nationally recognized experts in adjudication, law enforcement, licensing and highway safety. Of special and unique benefit to the Symposium was our Chairman/Master of Ceremonies, Professor Joseph W. Little of the University of Florida College of Law. He was not only the key figure during the Symposium proceedings, setting the tone for the Symposium each morning and then summarizing events as the day progressed, he was also a great help in the planning stages of the Symposium program.

New York City was selected as the site for the Symposium. Although New York proved to be more expensive than other cities, it is believed that the advantages gained more than compensated for the additional expense. By holding the Symposium in New York, we were able to give the delegates a first-hand view of New York's Administrative Adjudication System in operation. The tour was one of the most popular features of the entire program, and in some cases, the primary motivation for a participant's decision to attend.

The Format

The Symposium program contained a good variety in both form and substance. As the format shifted from speeches and panels to discussion groups and question and answer sessions, the subjects under consideration ranged from research findings to the operation of New York's Administrative Adjudication System and alternatives developed in other states for dealing with traffic offense adjudication.

The three-day Symposium was organized around three themes. In keeping with the first day's theme, "What Is the Problem?", the program featured reports of research studies which were designed to determine what kind of drivers commit traffic violations and cause crashes, whether it is possible to identify these drivers, and the role of the vehicle and environment in collisions. The second day's theme, "How Has the Legal System Responded to the Problem and with What Effect?", also led to research studies on the effectiveness of the legal system in dealing with various aspects of the highway traffic safety problem. In addition, state representatives reported on their state and city efforts to develop new ways for the legal system to deal with the problem. "Where To?" was the theme for the final day, during which the states' Symposium Goals were presented to the plenary session.

Each day the discussion groups were given questions related to the day's theme. Also provided as discussion topics were statements of commonly believed assumptions about the kind of drivers who commit violations and are involved in crashes and the effectiveness of the present traffic court system in deterring violations. After some discussion of the questions, the groups were given research data related to the day's topic. Following further consideration of the questions, the group's conclusions were recorded to be presented at the Symposium plenary session. Later in the day, the same subject would be treated by a safety professional and participants given the opportunity to ask questions.

The tour of the New York Administrative Adjudication system was prefaced by an Orientation to the New York Administrative Adjudication by Deputy Commissioner

Donald J. Bardell and Mr. Robert Hogan, both of the New York Department of Motor Vehicles. Then, participants were bussed in three groups, each going to one of the New York City boroughs to observe an Administrative Adjudication Bureau at work. They were able to see the entire process, from the adjudication of traffic violations to the computer network. Response to this tour was overwhelmingly favorable. For some participants, it was the "highlight" of the entire Symposium.

Another popular feature of the program was the question and answer sessions. Whenever time allowed, participants were given the opportunity to question the speakers during plenary sessions. Some of the best exchanges of opinion and information occurred during these informal discussion periods.

In planning this Symposium program, we began by trying to make our assumptions and our logic clear to ourselves. "What are the ideas that we want to have examined?" we asked. "What are we working for and how can we attain most fully our objectives?" As our planning progressed, we constantly worked to achieve a logical coherence in the program with the Symposium Rationale.

Of course, the planning stages were not altogether smooth or harmonious. There were disagreements among the planners; generally these differences reflected the variety of background and orientation of those who worked together to produce a Symposium which would be of benefit to all associated with it. There was disagreement about how much research information should be utilized. The researchers wished to spend a majority of the time on the research studies, while it was difficult to convince administrators of the need for presenting a great deal of research information; the latter questioned whether legal professionals would be very receptive to such academic presentations. The result was a compromise, and the program represented a mixture of these two points of view.

Other differences concerned the mechanics and format of the Symposium. While some planners favored setting the stage with background information, statistics, and research results, others preferred to begin by discussing what is currently happening in traffic offense adjudication. In this case, it was decided that some preparatory material would be necessary, but that the program would not be overly structured and a degree of informality allowing for consideration of pressing questions at any point would be encouraged.

There was some disagreement concerning the ratio of state group work to plenary session time; and it was decided that the discussion groups were extremely important and should be allotted a substantial percentage of available time. According to the opinion survey taken of the delegates, this was a wise decision, for many felt that the discussion groups were a very valuable part of the Symposium; in fact, some of them stated that they were the best part of the entire program.

Also considered was the question of how to organize the discussion groups, whether according to state delegations or otherwise. It was decided that the states would be kept as a unit which would begin working together at the Symposium and, hopefully, would continue to work in their own state.

The Utilization of Research

A large segment of the Symposium program was dependent upon our providing participants with the most up-to-date research findings available. Research materials were distributed to participants during the Symposium, state group leaders utilized research data to facilitate discussion, and some individual speakers based much of their presentations on research data.

Research studies relied upon included the following:

Blumenthal, M., "Dimensions of the Traffic Safety Problem," presented to the Automotive Engineering Congress, Detroit, Michigan, January, 1967.

Blumenthal, M. and Ross, H.L., Two Experimental Studies of Traffic Law DOT-HS-249-2-437. Volume I. The Effect of Legal Sanctions on DUI Offenders.

Blumenthal, M. and Ross, H.L., Two Experimental Studies of Traffic Law DOT-HS-249-2-437. Volume II. The Effect of Court Appearance on Traffic Violators.

Boek, "Automobile Accidents and Driver Behavior," *Traffic Safety Research Review* (December 1958), cited in Automobile Insurance and Compensation Study, *Driver Behavior and Accident Involvement: Implications for Tort Liability*, Department of Transportation, October, 1970.

Brandt, George, "Improved Highway Safety through Improved Adjudication Procedures," 56 *Judicature* 358 (1973).

Campbell, B.J., Report in "Signal 99," North Carolina Governor's Highway Safety Problem, Spring 1971.

Edwards and Hahn, *Filmed Behaviors As a Criterion For Safe Driving*, American Institutes for Research (Washington, D.C., February 1970) cited in Automobile Insurance and Compensation Study, *Driver Behavior and Accident Involvement: Implications for Tort Liability*, Department of Transportation, October 1970.

Finkelstein, R. and McGuire, J.P., An Optimum System for Traffic Enforcement/Driver Control. Final Report, Volume I. October 1971. GTE Sylvania, Inc. with the support of the California Dept. of Motor Vehicles and the NHTSA.

Forbes, T.W., "The Normal Automobile Driver As a Traffic Problem," *Journal of General Psychology*, Vol. 29, p. 471 (1939).

"Highway Safety, Design and Operations," July 1973. (Committee print, 93rd Congress, 1st Session).

Human Factors in Highway Traffic Safety Research, Forbes, T.W., Editor, Wiley, New York, 1972.

Hutchinson, Cox and Maffet, "An Evaluation of the Effectiveness of Televised, Locally Oriented Driver Re-education," *Highway Research Record* 292 (1969), cited in Automobile Insurance and Compensation Study, *Driver Behavior and Accident Involvement: Implications for Tort Liability*, Department of Transportation, October 1970.

Peck, McBride and Coppin, *Accident Analysis and Prevention*, Vol. 2, No. 4, p. 243, 1971.

Ross, H.L., Law, Science, and Accidents: The British Road Safety Act of 1967. *The Journal of Legal Studies*, Volume II(I), January 1973.

State of California, Department of Motor Vehicles, "An Abstract of Modifying Negligent Behavior: Evaluation of Selected Driver Improvement Techniques," March 1971.

State of California, Department of Motor Vehicles, "An Abstract of the Effectiveness of a Uniform Traffic School Curriculum for Negligent Drivers," June 1971.

State of California, Department of Motor Vehicles, *The 1964 California Driver Record Study—Part 4: The Relationship Between Concurrent Accidents and Citations*, May 1965.

Stonex, K.A., "Law, Traffic and Engineering Technology," *Highway Research Board Special Report 86: A Colloquy on Motor Vehicle and Traffic Law*, National Academy of Sciences—National Research Council, 1965.

The Post-Symposium

Eleven months following the New York Symposium, a Post-Symposium meeting was held in Washington, D.C. The purposes of this meeting were to evaluate the results of the Symposium which could be seen within each individual participating state, and to consider what might be done in the future to encourage continued attention to the traffic offense adjudication field and continued efforts toward improving the safety of the states' and the nation's highways.

POST-SYMPOSIUM CONFERENCE

General Statement of the Purpose of the Meeting

The University of Denver College of Law, in conjunction with the National Highway Traffic Safety Administration, conducted a Post-Symposium follow-up meeting Friday, October 4, and Saturday, October 5, 1974, at the Loews Hotel-L'enfant Plaza, in Washington, D.C. Participants at this meeting included Governor's Highway Safety Representatives and state participant Group Leaders associated with those states represented at our Adjudication Symposium in New York City in November of 1973.

During this Post-Symposium meeting we reviewed response to last November's Symposium on Effective Highway Safety Adjudication, reviewed progress since the Symposium and formulated plans for continuing follow-up. Here follow summaries of reports made by those states in attendance.

Florida: John M. Ward, Governor's Highway Safety Commission, Tallahassee, Florida
Larry Sartin, Florida State Traffic Court Director, Tallahassee, Florida

The Symposium was effective in reinforcing Florida's own ideas concerning the adjudication of traffic infractions. During its last session the Florida legislature passed the Florida Uniform Disposition of Traffic Infractions Act, which provides for decriminalization of all but five serious traffic offenses and establishes new procedures for adjudication of nonserious violations. Mandatory hearings are required for those who are involved in a collision or who exceed the speed limit by at least 25 miles per hour. Failure to cooperate with the system results in automatic license revocation. Driving while intoxicated incurs a license suspension; but a first offender may appeal to the Safety Commission for a temporary driving permit allowing limited vehicle operation until a hearing is held. It was suggested that follow-up symposia be conducted, which would present more alternatives, especially specific technical support and models.

Maryland: Mr. William T. S. Bricker, Deputy Administrator, Maryland Department of Transportation, Glen Burnie, Maryland

The November Symposium gave Maryland better insights and information on how to deal with traffic offense adjudication problems. Information received at the Symposium was particularly helpful to Maryland Hearing Officers. The state is currently operating a parallel system of both judicial and administrative procedures.

Through the abolition of a mandatory license revocation law (by changing the language of the statute from "shall revoke" to "may

revoke after a hearing”), Maryland has given its judges more freedom in pronouncing sentences for serious traffic violations. In cooperation with a number of other states, Maryland has established a license suspension plan for out-of-state drivers who fail to satisfy sanctions in Maryland.

Michigan:

No Michigan representative in attendance—NHTSA Official made report

In Michigan there will be no impetus to adopt an administrative adjudication approach until there is a backlog of cases, which is not yet a problem. However, the issue of decriminalizing certain non-hazardous traffic violations is being discussed, and consideration has been given to decriminalizing serious violations in order to facilitate the rehabilitation process. Criminal proceedings have been made less formal; however, the primary emphasis has been on efficiency and fairness of hearings.

Missouri:

Mark Mittleman, Assistant Attorney General, Jefferson City, Missouri

Various state scandals and an almost total lack of communication have impeded adjudicative progress in the state of Missouri. A plan to reorganize the magistrate courts met with a great deal of objection by the Missouri Bar Association, thus making reorganization an impossibility at the present time. The Missouri legislature regards highway safety as a “No Win” issue and does not treat it very seriously.

Some progress is being made in Missouri, though very slowly. Legislation has been proposed to require revocation of license for a conviction of driving under the influence. As part of this legislative package, there is a hardship driving privilege provision, which would be conditioned upon satisfactory participation in a rehabilitation program. Judges are reluctant, however, to give up any jurisdiction in such matters.

New Jersey:

No one in attendance. No report given.

New York:

Robert Hogan, Director of Hearing and Adjudication Division, Department of Motor Vehicles, Albany, New York

Currently two administrative adjudication systems are operating in New York State—one in New York City and another in Buffalo—and consideration is being given to instituting a similar system in Rochester. Since the November Symposium, there has been an increased effort to emphasize highway safety in New York, by giving more attention to those individuals with poor driving records, by

improving rehabilitative and evaluation techniques, and by implementing experimental studies and procedures for evaluation of all new programs.

Already hindered by case load and other problems which are inherently a part of a system that processes 650,000 traffic violations annually, New York's progress has been further impeded by dollar and personnel problems. Federal funds have been difficult to obtain because of the seeming success that New York has had with its administrative adjudication program. However, dollars are greatly needed to conduct sophisticated evaluation studies which are felt to be necessary. It is hoped that Law Enforcement Assistance Administration will lend financial support, thereby making it possible to design and implement some of these experimental programs.

Ohio: No Ohio representative in attendance. The following information is provided from a letter received from G. Albert Weese, Administrator of Transportation Safety, Ohio Department of Transportation, Columbus, Ohio.

Ohio has not changed its traffic court adjudication process in the period since the November meeting, nor are any changes planned for the near future. The lack of change reflects a feeling that Ohio's adjudication process is reasonably adequate for the present, rather than any resistance to change.

Pennsylvania: Stuart A. Liner, Deputy Attorney General, Department of Justice, Harrisburg, Pennsylvania

Pennsylvania currently utilizes three types of proceedings: criminal traffic offense proceedings, summary proceedings, and misdemeanor proceedings. The judiciary has proved to be somewhat of a barrier to the development of new programs for dealing with the adjudication of traffic offenses; the hearing office program, for example, is too weak to be an effective component of the adjudication system.

Pennsylvania is trying to strengthen its driver improvement schools and is seeking to clarify its complex point system. The state has recently implemented a program for drinking drivers, which enables a judge to impose a sentence for DWI of up to two years probation following successful completion of a rehabilitation program.

Rhode Island: The Honorable Joseph W. Walsh, State Senator
Mr. Leo McGowan, Chief Hearing Officer

In 1971, a legislative commission was appointed in Rhode Island to deal with adjudication problems. An adjudication bill was drafted,

but it died in the House of Representatives in 1972. In 1973, the same bill was funneled through yet another commission. During the last legislative session in 1974, Rhode Island enacted legislation providing for the adjudication of traffic offenses within the Department of Transportation.

It is believed that participation in the Symposium by several key legislators was a factor in obtaining passage of the bill in 1974. All but six serious offenses have been decriminalized and are being handled administratively under this new act, known as the "Administrative Appeals Act." Attempts have been made to humanize the adjudication proceeding--to handle adjudication in a "People's Court." It is hoped that these changes will have some rehabilitative payoff. Rhode Island is believed to be the first state in the Union to have a uniform traffic system.

Washington, D.C.: Joseph Murphy, Director, Department of Motor Vehicles, Washington, D.C.

Because of Watergate, Congress has been at a standstill, thereby preventing enactment of any new adjudication programs. However, "Home-rule" in the District, effective January 1, 1975, should make new adjudicative innovation possible. In Washington, D.C., serious traffic offenses have been decriminalized and these offenses are now adjudicated through the Motor Vehicle Division. However, traffic court computers, for technical reasons, have not been able to report actions to the Motor Vehicle Division; and so no record is being kept of nonserious traffic violations. In April, 1974, "the alcohol problem clinic" was established, which provides a one-to-one counseling rehabilitation program.

Judge Finesilver, in concluding remarks, indicated how important it is that all of us be informed as to new, surfacing research. There is a great need for exchange of information on a systematic basis. The group unanimously adopted a resolution set forth by Judge Finesilver calling for continued emphasis on adjudication, more meetings structured after the New York meeting, and more regional follow-up symposia.

PRE- AND POST-SYMPOSIUM QUESTIONNAIRE

Before the start of the Symposium we asked attendees to complete a brief true-false test consisting of selected highway traffic beliefs. At the close of the meeting, the same test was distributed. In this way, we hoped to get rough answers to the questions: (1) What were the initial beliefs of the traffic safety and adjudication specialists attending the meeting?; and (2) How effective was the Symposium in modifying certain of those beliefs? The answers we found are tentative because we did not have the controls necessary to collate each person's pre- and post-symposium questionnaires; nor did we have an equivalent control group; nor were our attendees, as far as we know, representative of any known population. However, the results are interesting and of potential use to the NHTSA in its information programs for public and professional groups.

The correct response to each question was "False," and every item except one ("The judge will seldom have cause to see the average driver.") showed a post-test change towards the "False" choice. It would be tempting to conclude that the Symposium was responsible for this trend, but the inability to pair pre- and post-tests rules out any firm inference in this regard.

The first set of results dealt with beliefs about the make-up of the accident and violation population, the correlation between violations and accidents, and the use of violation data in dealing with offenders. The majority believed correctly that "traffic violations are not committed by a limited number of drivers . . ."; that if the people who commit violations are taken off the road, the highway safety problem would not be greatly reduced; and "that the average driver makes frequent driving mistakes and is involved in crashes." There was almost an even split as to whether "people who commit traffic violations were driving irresponsibly," and whether "it is possible to identify/predict who will be involved in crashes by reviewing individual driver histories." The majority believed also, that the research evidence tends *not* to support the conclusion that "There is a high correlation between previous violations and future crashes, i.e., drivers with several violations are very likely to be involved in crashes"; that "the number of previous traffic violations should be a critical factor in the judge's evaluation of any case"; and that "the judge should work to identify the repeated traffic violator and take him off the road."

The second set of results dealt with beliefs about modifying driver behavior, with the respondents showing more faith in educational than legal sanction-type measures, despite the absence of or very limited and qualified evidence that supports the efficacy of either approach. The majority supported each of the following beliefs: that "the driving performance of traffic violators can be corrected through instruction in better driving skills and attitudes"; and that "educational and/or rehabilitation countermeasures are effective in reducing violations and therefore crashes." The attendees were almost evenly divided as to whether "the driving performance of violators can be corrected through the use of appropriate legal sanctions." The majority rejected the beliefs that "A court appearance helps to improve the attitude of violators," and that "all drivers charged with a moving violation should be required to appear before a judge in a traffic court."

The third group of items dealt with drinking and driving and revealed some contradictory beliefs. The majority disagreed that "mandatory penalties are effective in deterring illegal drinking and driving;" nevertheless, they agreed that "legislation should be enacted that provides for mandatory penalties for illegal drinking and driving." Finally, they disagreed with the statement that "illegal drinking and driving can be reduced through the threat of legal sanctions," seemingly unaware of the British experience, where the threat apparently worked as long as it was credible.

Thus, the majority came to the Symposium with a mixture of true, false and contradictory beliefs. In almost each case a substantial minority existed which held contrary beliefs. The results suggest that there is not a common body of accurate information known to almost all highway safety and adjudication specialists, indicating that NHTSA has before it, as a priority task, the job of informing the specialists, even before it can begin to educate the public.

We have to be very cautious in interpreting the answer to our second question, "How effective was the Symposium in modifying certain of the attendees' beliefs about highway traffic safety?" The design of our little experiment does not justify firm conclusions.

Only one pronounced reversal in beliefs was found—concerning a finding that was stressed very heavily in the Symposium. On the post-symposium test, a majority correctly rejected the assertion that "There is a high correlation between previous violations and future crashes, i.e., drivers with several violations are very likely to be involved in crashes." It was now recognized correctly that this is not true. Several other hints of changes are present in the data. First, concerning the effects of *threats* of legal sanctions—probably as a result of the presentation of the study of the British experience and, second, a clearer recognition that "It is (not) possible to identify/predict who will be involved in crashes by reviewing individual driver histories."

There was overwhelming agreement on both the pre- and post-test that "The Courts should undertake a searching reexamination of their traditional role in the adjudication of traffic offenses," which indicated approval of the basic goal and rationale of the Symposium.

In conclusion, the use of pre- and post-measures of our many safety meetings promises to be a useful exercise. It can help us focus more clearly on what we want to accomplish in the way of attitude change or information transmission. With more adequate matching of pre- and post-meeting responses of each person and the use of other controls, firmer conclusions can be drawn. We can also become more aware of the range of beliefs that are brought to our meetings and the need for education of our field's professionals if we are ever to move from the heavy reliance on mythology, folktales, half-truths and wishful thinking that presently provides the basis for much of our decision making.

THE OPINION SURVEY

On the final day of the Symposium, an Opinion Survey was completed by fifty-one of the participants. In evaluating the results of this Survey, we have found the response to be generally quite favorable. There was criticism, certainly, and from nearly all of the respondents we received suggestions of how the program might be improved. In response to the question, "how would you evaluate the overall Symposium?", 54.9% said "better than average," 29.4% said "outstanding," and 11.8% said "average," with 3.9% not answering.

Our most primary purpose had been to present delegates with the best and most current information available on highway safety, at the same time that we provided a forum where those who had been brought together could discuss their mutual problems and exchange ideas in a setting in which new approaches could be developed and the incentive to try them would be encouraged. Overall, the Survey results testified that, in the opinion of the delegates, the Symposium had been successful in attaining this basic goal.

One survey question asked the participants how well the Symposium had succeeded in *broadening present understanding of the highway traffic safety problem*. In response, 54% replied that it had been successful, and 24% said "highly successful," 22% either did not respond to the question or were uncertain,* but no respondent found that the Symposium had been unsuccessful.

In our efforts to attain this goal a very important role was played by the state discussion groups. And the discussion groups received a high rating by respondents: "highly effective"—45.1%; "somewhat effective"—37.3%; "average"—11.8%; "somewhat ineffective"—3.9%; no answer—1.9%. Some participants stated that the groups had been especially helpful in furthering understanding of the problems involved in improving highway safety; and one delegate commented that the groups were the "most useful part of the program."

*These percentages were obtained by averaging the participants' responses to three questions which asked to what extent the Symposium had succeeded in broadening present understanding of the three different aspects of the highway traffic safety problems:

The relative contributions of the man, vehicle and highway components—and their interactions to the problem.

The role of program evaluation and research in managing the problem.

Necessity of an interdisciplinary approach in the traffic law system.

The participants were also questioned about the Symposium's success in attaining other goals:

Appreciate the problems and opportunities of the legal system in its response to the highway traffic safety problem.*

Successful	56%
Highly successful	23%
Uncertain	18%
No answer	3%

Increase receptivity to new ways for the legal system to respond to the highway traffic safety problem.**

Successful	52%
Highly successful	26%
Uncertain	17%
Unsuccessful	3%
No answer	2%

Explore ways of improving driver behavior through the adjudicatory process.

Successful	57%
Highly successful	16%
Uncertain	25%
Unsuccessful	2%

Examine the utilization of civil penalties in the traffic offense adjudicatory process except in serious offenses.

Successful	57%
Highly successful	18%
Uncertain	19%
Unsuccessful	6%

Encourage state action in establishment of goals, priorities, and Symposium Objectives.

Successful	49%
Highly successful	18%
Uncertain	33%

*These percentages were obtained by averaging the participants' responses to two questions which together explore the Symposium's success in covering the topic of the legal system's response to the highway traffic safety problems. The areas covered by the two questions are:

Recognize the strengths and limitations of present approaches to the legal system to the problem.

Appreciate the need and opportunities for scientific program evaluation and research in selecting those alternatives that will provide the greatest payoffs in reduced deaths, injuries and property damage.

**These percentages were obtained by averaging the participants' responses to two questions which together explore the Symposium's success in increasing receptivity to new ways of dealing with highway traffic safety problems. The areas covered by these two questions are:

Encourage development, testing and evaluation of alternatives to the present conventional approaches to the problem; alternatives such as administrative adjudication, revised judicial handling of traffic offenses and other innovations.

Encourage implementation of rehabilitation and retraining techniques for selected drivers, i.e., problem drivers, drivers with alcoholic, medical and physical limitations.

One of the most significant Survey questions posed to the respondents was: *Do you recommend similar Regional Conferences elsewhere in the country—patterned after the New York meeting?* Forty-two respondents replied "yes", there was one "no" response and three "no comments," and five respondents did not answer the question. Of interest are two of the observations made in response to this question:

"It is very important for effective dissemination of studies, research, and task force reports now available that regional and state conferences be conducted."

"This [the Symposium] must be followed up. We were just beginning to determine the direction in which we should move."

Evaluation of Individual Components

The speakers were rated on a scale of 1 to 5, sometimes in conjunction with the discussion sessions which immediately followed them. Five speakers were given a rating of "excellent" (5) by a majority of the respondents, two speakers were rated as "above average" (4), and one was rated "average" (3). Both of the panel discussions were rated "above average" by a majority of respondents.

The tour of the New York Administrative Adjudication system was extremely popular. Approximately 53% of the respondents called the tour "excellent," approximately 23% said "above average," and 3.9% said "average," with 2% answering "below average" and 18% uncertain or not answering. Comments on the tour included:

"one of the highlights of the meeting"

"very informative"

"a chance to see action"

With the exception of the tour and the discussion sessions, which were universally popular, there was far from a consensus about the program. Many participants indicated which of the program segments they preferred and those which they thought should have been presented differently. Participants were frequently divided in their opinion of the value of certain aspects of the program. For example, some respondents commented that the research reports occupied too much program time, while others stated that they were excellent.

One of the comments heard most often was that the schedule had been too crowded, that too much activity had been planned for the three days of the Symposium, and that consequently, it had been impossible to absorb all the information presented. This was particularly the case at the evening sessions, some of which continued long after dinner, and participants recommended that these sessions be shortened or eliminated altogether to provide more free time. At the same time, however, many delegates commented that some program segments were not given enough time. It is thought that instead of shortening any of the presentations, one-half day more should be added to the Symposium.

As is noted above, the discussion groups were quite popular and, of course, the success of these groups was due in large part to the contributions of the participants. Several of them commented that more time was needed in the group sessions in order to state, discuss, and restate the goals.

A few respondents said that more time should have been given to panels, as well as to discussion groups. Some proposed that speeches be shortened so that more time could be directed to question and answer sessions, and a greater degree of interaction in the plenary session was recommended. It was also suggested that more time be devoted to informal discussions and to becoming acquainted with other participants.

In response to the question, "*Which part of the Symposium did you find most significant or beneficial?*", the "state discussion groups" was the most frequent response, the tour of the New York State Adjudication System ranked second, and Judge Sherman G. Finesilver's Task Force Report was the third most frequent response.

In response to the question, "*In your opinion what other topics should have been covered at the Symposium?*", several delegates said that everything had been covered; however, this question did elicit a number of suggestions for other topics, among which were the following:

The role of the lawyer in highway safety

Present court facilities and functions

Legal problems in changing to alternative systems of adjudication

Safety of autos and driving environment

How to involve the court/enforcement systems in scientific evaluation of programs and inform the court/enforcement systems of scientific findings so that they are understood

Driver licensing (right versus privilege)

Medical and psychological examinations of drivers

Interstate co-operation

Uniformity in traffic laws

Comparisons of different driver improvement systems

Motorist apathy

Reaching the normal driver and reducing his crash potential

Futuristic alternatives

Methodology for determining cost benefit effectiveness of highway safety programs

General Comments and Recommendations:

"More interstate discussions with federal officials would have been beneficial, not only to the individual states but also to the Department of Transportation people."

"More material should be distributed prior to the Symposium."

"Some nonworking meals should be included."

"Combine two or more states in group discussions."

"More emphasis should be given to solving the problems of rural areas and how to handle them in the adjudication process without duplication of court systems."

"Written reports from state discussions and copies of state goals should be distributed."

Comments on materials utilized:

"Specific studies that show the results of strong laws that are vigorously enforced, promptly prosecuted and judiciously expedited."

"More on alternatives now in action (New York, North Dakota, California, etc.)"

"More time spent on individual state problems."

"Discussion of the difference between the adjudicator's role in determining guilt and in imposing sanctions."

"Research reports were very beneficial."

"Too much time was spent on research reports."

"Change the order of presentations, placing overviews such as that given by Dr. John H. Reese closer to the beginning of the Symposium."

"My benefits and that of my group were profound. Our viewpoints were changed drastically although our aims were not. I would have liked more leeway in the group considerations and more input from some of the speakers."

"I was especially impressed with the fine organization of this Symposium, the output of those selected to report, and the input of delegates. There are no easy solutions and the data are so heterogeneous and the conditions so variegated as to localities that confusion must exist. I believe Judge Finesilver and his Committee have a broader and clearer understanding of the complexity of the problems than other groups. All should read his report."

"You might consider limiting the scope because the infusion of so much information and so many differing opinions boggles the mind. You might emphasize that which was touched upon briefly--the problem arising from 60 mph highway design, 100 mph motor cars and drivers with unpredictable reaction time."

"The time, effort and know-how of those responsible for the Symposium was in the superlative degree. To have such knowledgeable, high echelon decision makers together for the four days is almost unbelievable. The end results of the Symposium will be most effective in reducing the hazard to life, limb and property."

"It is difficult for me as an engineer to evaluate the symposium content and structure, particularly the timing of the state sessions in relation to the topics and the plenary sessions. I keep thinking in terms of the total highway safety problem, rather than just the adjudication of violations."

"I found the Symposium a source of information and contacts. I think the meetings should be longer in time or cover fewer topics. The scheduling should be looser. Finally I think the basic concept of administrative adjudication should be rethought and not stressed so much. I think that good administration, either administrative agency or court, can handle most drivers. I cannot see any direct relationship, nor was such a relationship proven at the Symposium, between good administration and crash prevention. I think it should be stressed that good administration, agency or court, allows the agency or court an opportunity to identify and deal with the repeater. Since repeaters can be identified at least they can be helped."

"I feel at times we were being led down a road of thought that was not necessarily backed up by *concrete* research. While I favor rehabilitation programs I *don't* want to see them become the escape mechanism in the system. In my opinion there should be a marriage of a rehabilitation program with tough laws—vigorously enforced and promptly prosecuted. There is no question in my mind that most cases could be handled by trained personnel other than a judge; reserve the judges for the serious offenses."

"Symposium participants should have recommended:

- (a) Follow-up and implementation of conclusions with staff furnished to newly established task force by NHTSA and University of Denver College of Law.
- (b) Establishment by NHTSA, and possibly the Federal Highway Administration, of an experimental highway upon which to research causes of motor vehicle crashes, with the goal in mind of developing, on a continuing basis, highways that by their engineering and construction would diminish the human carnage that has been part of the highway scene for so long."

"The Symposium was very well planned and the Denver School of Law should be complimented on a job well done. It would be greatly beneficial if the researches that were conducted would have been in the past 10 years and if there would be some sort of segregation made in comparison with the number of operators and registrations of the different states."

"If the proceedings are disseminated to only participants, that is a real shortcoming. Some kind of summaries disseminated much more widely would be helpful. Also, and most importantly, there should be publication in journals. I have seen much good material buried for years in proceedings of many symposia."

"The Orientation and Overview Symposium Chairman, Professor Joseph W. Little, Professor of Law, University of Florida, Gainesville, Florida, did an outstanding job in relating his remarks to what had preceded in each section of the Symposium; his summaries were excellent.

It would be of great importance, when symposiums based on the same subjects and conducted in the same manner are held in other parts of the United States, to compare findings in each area.

All in all, it was a privilege to attend and I was delighted to participate."

RECOMMENDATIONS FOR FUTURE SYMPOSIA ON A NATIONAL OR REGIONAL LEVEL

A degree of uniformity among state participants should be maintained, i.e., each symposium should involve states which share similar problems in highway safety and the adjudication of traffic offenses.

Discussion group leaders should be hand picked by symposium planners. A pre-Symposium meeting should be held to prepare discussion leaders and other facilitators for the responsibilities they will have during and after the symposium, and to familiarize them with symposium objectives.

Symposium materials should be mailed to participants in advance of the symposium.

Symposia on effective adjudication (and prospective implementation and legislation) should encourage participation by judges, bar association leaders, legislators, court administrators, municipal government leaders and law enforcement personnel.

The symposium program should be "implementation oriented," and definitive post-symposium state action should be made clear and specific. Definite challenges should be given to participants.

Driver problems in relation to the total system and the theme of highway safety should have immediate focus.

Adequate time for plenary discussion sessions and group meetings should be allowed, for these activities are of great importance in giving participants a chance to share experiences and develop goals for their own states.

The pre- and post-questionnaire mechanism is useful for obtaining a clear idea of information and misinformation held by professionals. Adequate controls should be used so that valid inferences concerning the effect of the symposium in changing values and attitudes can be made. Testing of professionals—hearing officers, police, judges, etc.—apart from the symposium may also be used to obtain independent information concerning their ideas and knowledge of highway safety.

Following the symposium, a periodic one-page newsletter summarizing relevant research could be mailed to participating decision makers in each state.

A valid procedure for evaluating the effectiveness and usefulness of the symposium to the participants should be carried out.

END