

**REPORT OF THE
COMMITTEE ON DISTRICT COURTS**

**Examining the Feasibility
of An Alternative Method
for Disposing of
Traffic Infractions**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 31

**COMMONWEALTH OF VIRGINIA
RICHMOND
1993**

GENERAL ASSEMBLY OF VIRGINIA - 1992 SESSION

HOUSE JOINT RESOLUTION NO. 39

Offered January 15, 1992

Requesting the Committee on District Courts to study, with the cooperation and assistance of the Virginia State Bar, the feasibility of an alternative method of disposing of traffic infraction cases via the use of "special magistrates" as hearing officers.

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Patron—Almand

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Referred to the Committee on Rules
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WHEREAS, traffic infraction cases represent a significant portion of those cases heard in the general district courts, requiring a great amount of court time; and

WHEREAS, a significant number of those cases are guilty pleas, or easily disposed of; and

WHEREAS, in many jurisdictions in the Commonwealth, traffic infraction cases are tried without an attorney for the Commonwealth; and

WHEREAS, as a general rule, trials of traffic infractions are not complex matters involving complicated issues of law and fact; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on District Courts be requested to study, with the cooperation of the Virginia State Bar, the feasibility of using special magistrates to hear traffic infraction cases.

The Committee on District Courts shall, among other things, (i) determine the extent of the district court caseload in the Commonwealth represented by traffic infraction cases, both in terms of time expended and percentage of total caseload, (ii) assess the factual and legal difficulty of the typical traffic infraction case, (iii) ascertain the costs associated with the trials of traffic infraction cases and the potential savings represented by an alternative resolution method or methods, and (iv) regarding the feasibility of an alternative method of disposing of traffic infraction cases, make recommendations which address the reduction of involvement of the general district courts and the feasibility of using "special magistrates" as hearing officers.

The Committee on District Courts shall complete its work in time to submit its recommendations to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

INTRODUCTION

Traffic cases represent the single largest category of disputes brought to the state's trial courts each year. In 1991, they comprised 51 percent of the nearly 3.2 million cases filed in the general district courts. The vast majority of traffic filings are infractions, punishable only by fines of up to \$200, in most instances. Effective traffic case processing is an important function of the judicial system, not only because of the volume involved but because for many citizens, an appearance in "traffic court" may well be their only firsthand experience with Virginia's judicial system. Thus, the way in which the courts manage and adjudicate these cases can directly impact public trust and confidence in the justice system.

During the past twenty years, both the judiciary and the legislature have sought to institute ways to (1) improve the courts' efficiency in handling traffic cases; (2) introduce traffic case processing procedures that reflect greater consideration for motorists involved in traffic cases; and (3) assure that traffic violators will continue to be punished appropriately. Most recently, the 1992 General Assembly adopted House Joint Resolution No. 39, requesting that the Committee on District Courts examine the feasibility of establishing an alternative method of disposing of traffic infraction cases. As rationale for considering such a change, the resolution cites the significant amount of court time and resources that are consumed in the handling of infractions, most of which are easily disposed and do not involve complex issues of law or fact. The resolution further requests that the Committee consider ways to reduce the involvement of the general district courts in these cases. As one alternative to court adjudication, an evaluation of the feasibility of using "special magistrates" to hear traffic infraction cases specifically was sought.

The study process began with a review of the evolution of Virginia's current methods for adjudicating traffic infraction cases. A comprehensive examination of the alternative systems utilized in other states also was completed. Information specifically was sought on the reasoning used in states where the adjudicatory responsibilities were shifted from full-time judges to "parajudicial" hearing officers, such as special magistrates. The repercussions of this shift also were discussed with officials in several states. From this research, a myriad of issues surfaced regarding the effectiveness of the various traffic adjudication systems used throughout the country. In studying these systems, two key questions emerged and are suggested as important criteria upon which any evaluation of the potential policy change in Virginia should be guided. These questions are:

- (1) Under which system of traffic infraction adjudication can citizens obtain the highest quality of service?*
- (2) Which of the systems is the most cost-effective?*

The Committee's report is presented in three sections. The first examines Virginia's current procedures for adjudicating traffic infractions. The second looks at national trends in the disposition of these cases. It provides a comparative analysis of the merits of the alternative

methods used in other states, with specific commentary on the relevance of those merits for Virginia. The third offers recommendations for consideration by the 1993 General Assembly, as requested in the resolution.

Executive Summary

In response to the increasing volume of traffic caseloads filed in limited jurisdiction courts each year, judicial systems throughout the country have instituted procedures and practices aimed at improving the efficacy of their adjudication systems for minor violations. The most consistent trend among the states has been the move towards decriminalization of these offenses. During the past twenty years, many states, including Virginia, reclassified such violations as "infractions". In others, the statutes were revised to declare such violations as purely civil in nature.

While reclassification cleared the way for the establishment of expedited case processing, decriminalization was seen as permitting a move to have these matters handled administratively by subordinate judicial officers. The use of personnel such as special magistrates was considered more economical as well. This has been and is today a primary concern for policymakers given the cutbacks in available funding for judges and clerical positions in the courts.

A few states, including California and Rhode Island, the District of Columbia, and several large urban areas, opted to locate these hearing officers within agencies of the executive branch of government. This removed non-criminal traffic case adjudication from the purview of the courts. Statutes were revised in still other jurisdictions to permit the hiring of such parajudicial officials within the judicial system. Today, such officers serve many courts on either a full or part-time basis. Another alternative, sometimes employed in conjunction with hearing officers, was the creation of centralized traffic infraction bureaus to process uncontested and default cases. Adjudication of contested infractions remains as the responsibility of the local courts.

In addition to creating the category of infractions, the 1977 *Traffic Adjudication Act* adopted by the General Assembly emphasized procedural improvements such as prepayment by mail, single court appearances in most contested cases, and authority to hold trials in absentia. The responsibility for adjudicating contested cases remained with the judiciary. This was consistent with the philosophy established earlier in the 1970's by the I'Anson Commission to have all disputes filed in courts decided by full-time, law trained judges. Numerous revisions have been made since to further expedite traffic case processing. Perhaps most significant statutorily was the statutory revision made in 1987 to transfer to the Department of Motor Vehicles the responsibility for processing uncontested overweight vehicle cases.

The analysis of traffic adjudication trends and information gathered to date on the alternative methods utilized in the other states raises numerous questions for policy makers in Virginia regarding the advisability of changing the method of adjudicating infraction cases. The research indicates that while the trend towards decriminalization of minor traffic matters continues, the movement towards administrative adjudication of traffic infractions by hearing officers outside the court system has declined. In fact, for various reasons, two of the states that initially opted for administrative adjudication of traffic infractions by the executive branch have reincorporated traffic adjudication within their state judiciaries.

The Committee's research found the few existing cost benefit analyses on the administrative adjudication approach to be dated and lacking in complete information. Regarding the quality of service offered citizens, the evaluations found no significant differences between the administrative approach and court adjudication in terms of fairness or in their impact on highway safety.

Initially, one major report indicated that the administrative approach might be more efficient and less costly. In more recent studies, this assessment has been challenged for overlooking a glaring problem. That is, if the salary gap between administrative agency hearing officers and judges in the court system decreases, as has happened, the major basis claimed for cost savings will be eliminated. By necessity, any state that adopts administrative adjudication has increased its total costs for determining cases, unless all the judge positions formerly required for traffic have been eliminated, or the need for such positions have been forestalled indefinitely.

Similar experiences with cost increases have occurred in jurisdictions where the statutes permit the employment of "special justices", "commissioners" or "referees" within the judicial branch to hear and dispose of these cases. For example, in Florida, a 1988 constitutional amendment permitted the establishment of a civil traffic hearing officer system for the purpose of hearing minor traffic violations in jurisdictions where infraction caseloads exceeded 15,000 hearings per year. Within two years of the establishment of this option, the fees for the appointed part-time traffic magistrates, all of whom must be attorneys, had been raised from \$20 to \$50 per hour.

Use of such parajudicial officers, located either within the judicial or executive branches, appears to be most common in densely populated urban areas. Their assistance there is even more heavily depended upon today due to funding constraints in the authorization of sufficient full-time judges. Although the ability to call upon such personnel is heralded in some states, the appropriateness of this approach in Virginia must be evaluated carefully. In addition to the fact that up-to-date, comprehensive cost-benefit analyses are unavailable, other concerns have surfaced. These include problems with the adequate supervision and accountability of the hearing officers as well as dissatisfaction reportedly expressed by citizens and the bar over the inability to have cases heard and decided by full time judges.

The Committee found that the primary benefits of centralized traffic infraction bureaus operated either within the judicial system or the executive branch are the "economies of scale" offered by this approach. However, definitive conclusions are not possible at this time both because of the lack of comprehensive data available in other states and because an in-depth cost analysis of this approach has not yet been completed in Virginia.

Recently conducted studies on traffic adjudication systems indicate that effective traffic case processing depends more on how well a system is managed than on the particular model or system used. They have found no reason why any of the innovative practices and procedures used in administrative models cannot be used equally well within the courts.

In fact, the innovation that is credited to have done more to improve both the cost effectiveness and quality of service in traffic adjudication is technology. Hand-held computers

used by police officers, automated case tracking and scheduling, optical scanning and storage of traffic citations, and use of automated teller machines for receipt of payments, among other advances, have reduced the workload for judges, to varying degrees, greatly assisted clerks' offices in the processing of infraction cases, and further increased the convenience of payment of fines and costs for citizens.

In addition, traffic case management procedures such as segmented or sequential docketing of cases have reduced the amount of waiting time both citizens and law enforcement officers spend in court disposing of traffic cases. This single change has done much to enhance the public's confidence in and image of the courts, where it is used. It also serves to better regulate the numbers of people who must be in court at any given time. Finally, statutory changes have been made in other states to permit additional types of cases to be included among prepayable offenses, including accident cases where injury and damages are minimal. These measures also are seen as having contributed to more efficient case processing.

In summary, no evidence reviewed by the Committee suggests that any one traffic adjudication method inherently is more cost-effective or more likely to improve the quality of service offered to citizens than another. Instead, further improvements would seem more likely to result by instituting some of the procedures and innovative techniques found within each of these models. Based upon this study, the Committee concludes that such techniques and practices could be employed successfully within the existing traffic adjudication system. The recommendations contained in this report reflect these findings.

I. ADJUDICATING TRAFFIC INFRACTION CASES IN VIRGINIA

Traffic Caseloads in the General District Courts

Primary jurisdiction for the adjudication of traffic violations involving adults lies in Virginia's general district courts. In 1991, traffic cases comprised 51 percent (1,633,440) of the nearly 3.2 million cases filed in these courts. (See Chart A) Since 1980, the number of traffic cases has grown from 958,000 to over 1,600,000, an increase of nearly 71 percent. (See Charts B and C)

Chart A

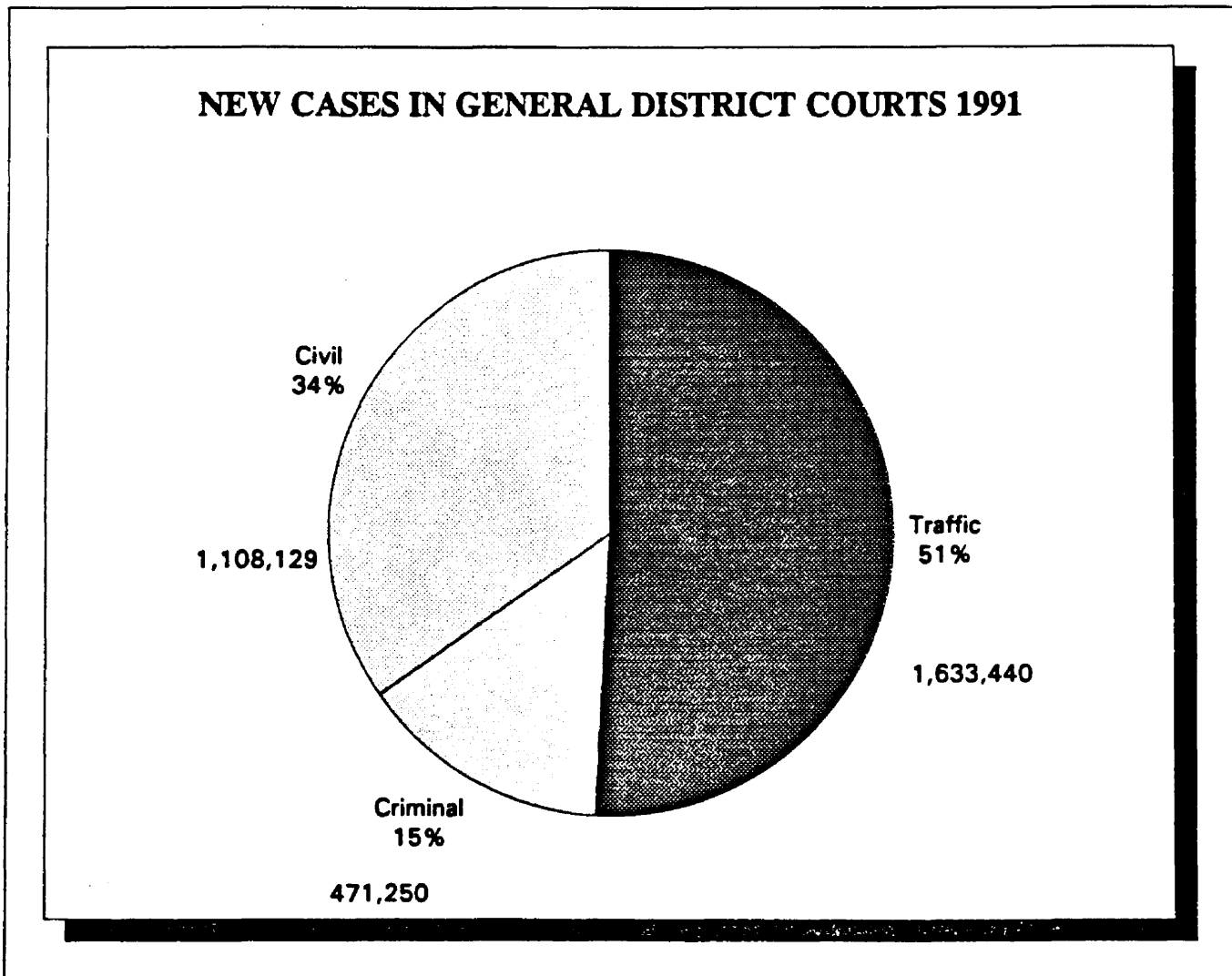


Chart B

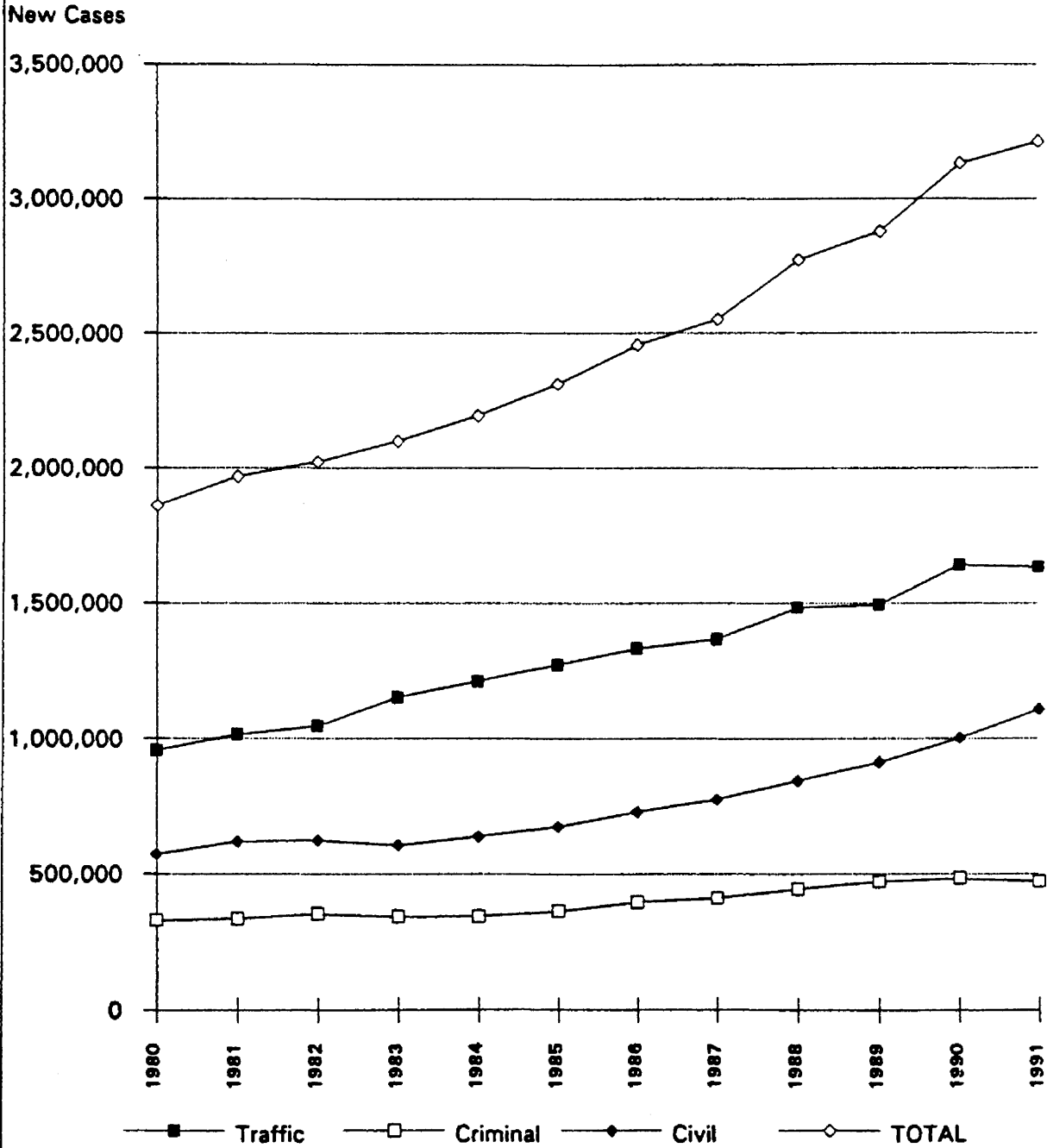
TRAFFIC CASES IN THE GENERAL DISTRICT COURTS									
Year	New Traffic Cases				Traffic	Other GD New Cases			GD GRAND
	Infractions	Misdemeanors	Felonies	Traf Cap/SC		Criminal	Civil	Total	TOTAL
1980					967,743	329,302	673,015	902,317	1,860,060
1981					1,014,304	334,881	620,736	955,617	1,969,921
1982					1,048,786	361,041	623,900	974,941	2,021,727
1983					1,152,689	341,119	606,988	947,107	2,099,806
1984					1,211,069	342,697	639,426	982,123	2,193,182
1985	1,054,070	203,833	1,867	13,133	1,272,903	362,228	675,080	1,037,308	2,310,211
1986	1,090,181	221,836	1,729	17,266	1,331,012	394,813	731,061	1,125,874	2,456,886
1987	1,096,443	244,596	2,013	22,770	1,365,822	410,756	776,616	1,186,372	2,552,194
1988	1,192,717	259,586	2,113	27,911	1,482,327	445,670	844,279	1,289,949	2,772,276
1989	1,191,992	265,035	2,281	34,082	1,493,390	471,522	913,696	1,385,218	2,878,608
1990	1,323,094	280,969	2,448	36,622	1,643,133	484,138	1,003,531	1,487,669	3,130,802
1991	1,322,132	275,708	2,557	33,043	1,633,440	471,260	1,108,129	1,579,379	3,212,819
1992 Forecast	1,294,465	267,443	2,737	33,079	1,597,724	464,845	1,123,439	1,588,284	3,186,008
1991 Figures									
% of Traffic	80.94%	16.88%	0.16%	2.02%	100.00%				
% of GD	41.15%	8.58%	0.08%	1.03%	50.84%	14.67%	34.49%	49.16%	100.00%
% Increases									
1980-91					70.55%	43.11%	93.39%	75.04%	72.73%

Much of this increase is attributable to the continuing trends of multiple-worker, multiple-vehicle families, increased commuting across jurisdictions, and continued reliance upon the automobile as the major means of transportation in the state. Resulting concerns over public safety and the enforcement of traffic laws to promote that safety have led to ever-increasing numbers of filings in general district courts.

There are three statutory classifications of traffic offenses: felonies, misdemeanors, and infractions. The vast majority of the courts' traffic filings are infractions, defined as violations of public order that are neither misdemeanors or felonies. Last year, 81 percent of the traffic caseloads statewide were comprised of such relatively minor violations as "failure to yield" and

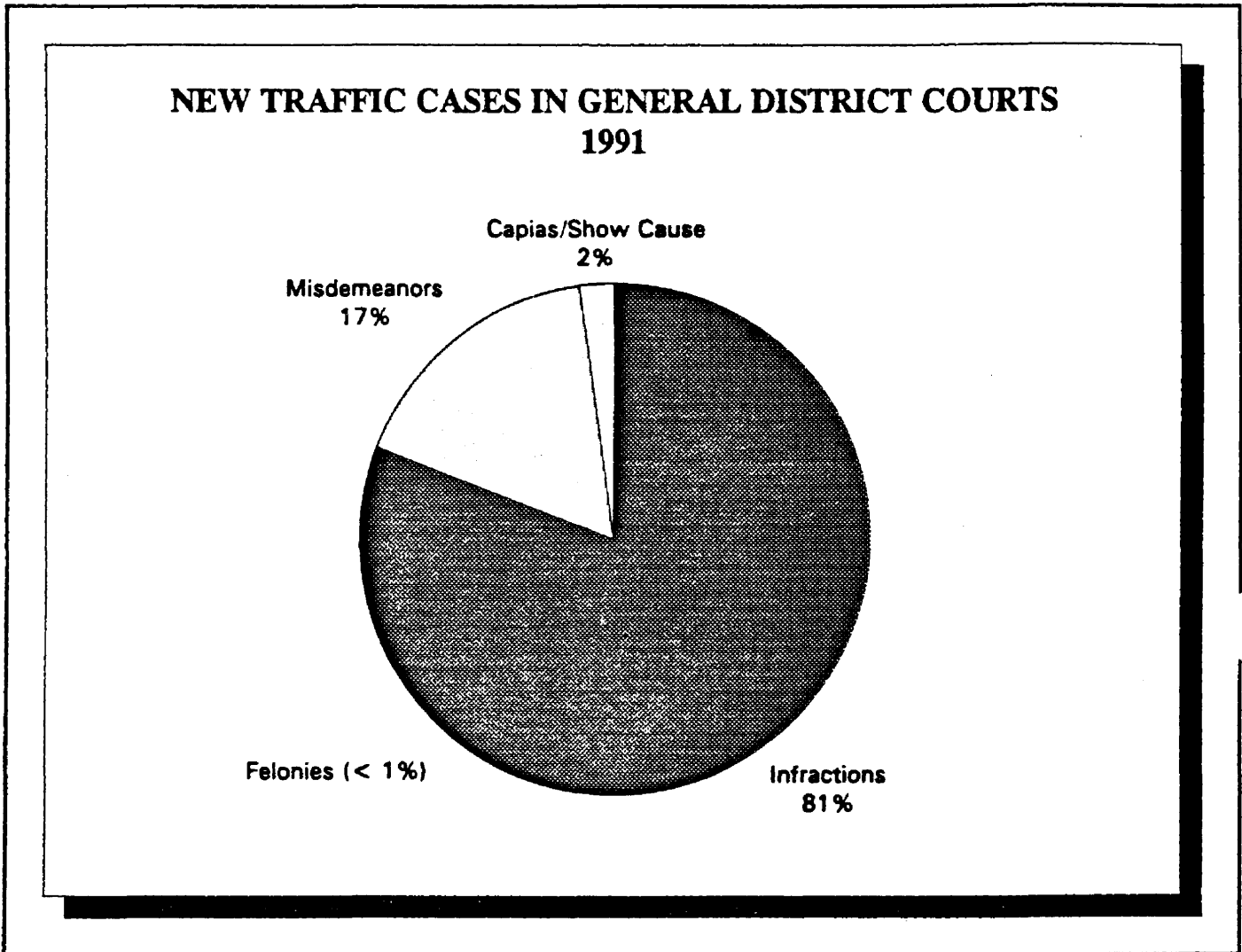
Chart C

GROWTH IN GENERAL DISTRICT COURT NEW CASES 1980-1991



"speeding". Infractions are punishable only by fines of less than \$200.

Chart D



Despite their burgeoning numbers, a significant number of traffic infractions do not result in court hearings. Information gleaned from a sample of data collected through the courts' automated information system indicate that in 1991, approximately 43 percent of these cases were "prepaid" or the defendant "waived" the right to a court hearing and thus no trial was conducted. In another 28 percent of the infraction cases, the defendant failed to appear and was tried in his absence. Thus, 70 percent of infractions are disposed without full court hearings. The average age of an infraction from the offense date to case disposition is 64 days.

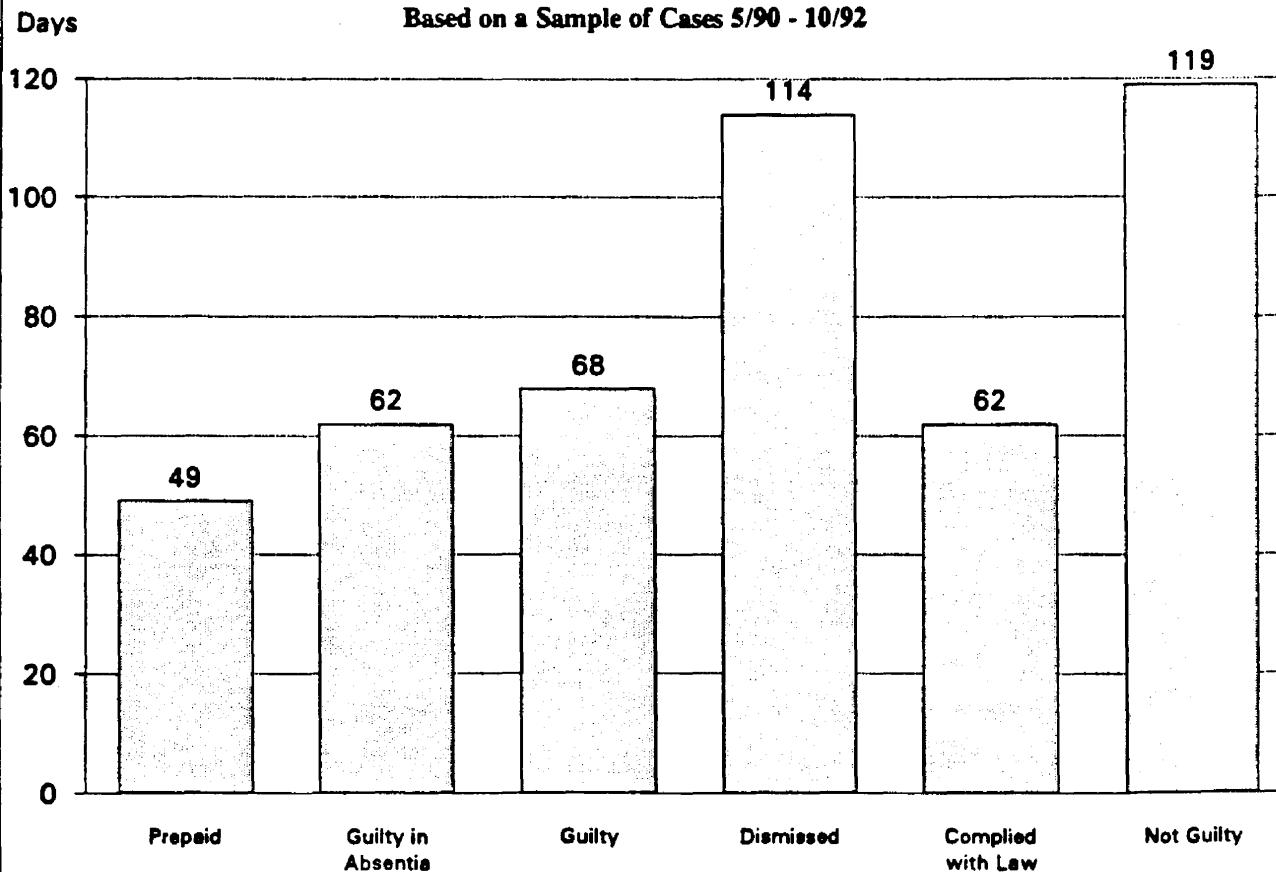
Chart E

DISPOSITION OF TRAFFIC INFRACTIONS
With Average Age in Days from Offense Date to Conclusion
Based on a Sample of Traffic Cases from 05/90 - 10/92

Method of Disposition	DAYS				Total	Percent	Avg Age at Disposition (Days)
	0-30	31-60	61-90	Over 90			
Prepaid	559,301	348,127	57,625	25,236	990,289	42.8%	49
Guilty in Absentia	192,058	324,031	86,401	36,730	639,220	27.6%	62
Guilty	115,648	185,837	56,123	35,827	393,435	17.0%	68
Dismissed	32,605	51,507	21,610	54,232	159,954	6.9%	114
Complied with Law	12,282	21,259	5,121	1,431	40,093	1.7%	62
Not Guilty	16,603	30,938	14,366	27,174	89,081	3.9%	119
Totals	928,497	961,699	241,246	180,630	2,312,072	100.0%	64
Percent	40.2%	41.6%	10.4%	7.8%	100.0%		

AVERAGE AGE OF CONCLUDED TRAFFIC CASES

Based on a Sample of Cases 5/90 - 10/92



Secondly, since traffic offenses are creatures of statute, not common law crimes, they might just as well have been originally characterized as civil in nature. Their genesis as statutory crimes, coupled with the large volume of cases involved, led to a blurring of the line between civil and criminal procedure in the adjudication of traffic offenses.

Third, was the well-documented and long-held public perception that most traffic violations are not criminal acts. Most traffic law violators considered that treating them the same as petty criminals was not appropriate. Added to this public perception was the existence of a real question as to whether the traditional use of criminal procedures and penal sanctions promoted driver improvement and increased highway safety.

By 1980, twelve states, including Virginia, had moved towards decriminalization by reclassifying minor traffic offenses as infractions (or offenses of less-than-misdemeanor status). In addition, seven others and the District of Columbia had specifically decriminalized such offenses declaring them as purely civil in nature. Full decriminalization was seen as representing a clear statement of legislative intent to consider an infraction a violation, not a crime. While reclassification cleared the way toward the development of improved traffic case processing in the courts, full decriminalization was seen as permitting administrative handling for traffic infractions, either by the courts or by agencies of the executive branch.

Resource Scarcity

The second and inter-related trend causing states to re-evaluate judicial system handling of traffic infraction cases was resource scarcity. Proponents of alternative adjudication models also supported decriminalized minor traffic offense adjudication because of the reduction in costs and increased efficiency that they felt could be achieved by moving towards the adoption of civil rather than criminal case processing procedures. This became increasingly important as pervasive backlogs and case delays began to develop in several urban jurisdictions.

As these problems came to the fore, the federal government became involved in the search for solutions. In 1980, the Department of Justice's Law Enforcement Assistance Administration (LEAA) published a policy brief on *Administrative Adjudication of Traffic Offenses*. In setting forth the problems associated with traditional court adjudication of traffic matters, the brief concluded that traffic cases "clog the calendars of many urban court systems despite any evidence that court processing is an effective, efficient or equitable means of controlling minor violations". Further, it said that a substantial price was paid for continued reliance on the judiciary for the disposition of these cases because: (1) court resources required for the adjudication of serious crimes are diverted to matters of far lower priority; (2) significant court time is absorbed in handling uncontested cases; and (3) clerical efforts also often duplicate those of motor vehicle regulatory authorities.

In order to reduce the costs and workloads of the courts in their handling of traffic infraction cases, the report concluded that the following features of a adjudication system are essential:

"Non-judicial Hearing Personnel - Replacing judges with lesser judicial officers is central to any effort to reduce the costs associated with the disposition of contested cases. Assigning

"decriminalized" hearings to non-judicial hearing officers frees judicial resources for the adjudication of serious crimes, according to this report.

Informal Hearing Procedures - Replacing cumbersome criminal procedures that often require multiple appearances at formal court hearings with single-appearance civil procedures and informal, one-to one hearing techniques reduces the burden on the motorist and the court.

Centralized Data Processing - Immediate access to an updated driving record of any person who receives a citation is essential to permit the rapid identification of problem drivers, enhance the collection of assessed penalties, and eliminate duplication of effort by the court and motor vehicle regulation authorities.

Improved Pay-By-Mail Procedures - An efficient pay-by-mail system is crucial in handling the enormous workload created by the volume of infraction cases."

Federal funding supported the development of and experimentation with these procedures in states such as Rhode Island, Washington (for the jurisdictions surrounding Seattle) and California. Interestingly, the experiments reaped mixed results. Improvements in the administrative "paper" processing of infractions, such as those listed above, were heralded widely.

However, for varying reasons, other findings including those on the use of non-judicial personnel are more equivocal. In addition, there is little available data on the cost-effectiveness of these approaches. For example, the California experiment with traffic infraction case processing by a five-member independent state agency called the Traffic Adjudication Board was not implemented following the pilot project. Although the system was credited with major improvements in convenience for litigants, it was not deemed a success in the eyes of law enforcement, who never adjusted to the use of non-judicial hearing officers. According to those interviewed, law enforcement departments were disturbed, among other things, by the rates of dismissal of traffic infractions by the Board. In addition, cost benefits of this approach were unclear, with no solid evidence of savings on a statewide basis. Equally notable in recent action among the states was Rhode Island's move in 1991 to abandon administrative adjudication by the executive branch and restore traditional judicial adjudication.

By the late 1980's, there appears to have been a decline in the movement towards use of non-judicial personnel for traffic infraction adjudication. This may be due, in part to the fact that by the start of the 1990's, many densely populated urban areas had moved towards implementation of some type of non-judicial hearing officer capability. Even in states where statutes permitted hearing officers on a local option basis, the programs generally were not seen as cost effective for rural areas of the state.

One of the exceptions to the reversal of the trend occurred in Florida, where legislative action was taken in 1991 to allow "special magistrates" (lawyers appointed in much the same way as Virginia's special justices) to hear certain traffic infractions during heavily traveled vacation seasons, and in other circumstances where there are high volumes of such cases.

Detailed descriptions of the alternative approaches utilized in various states can be found later in this report. In addition, an analysis of the advantages and disadvantages of each also is included in order to shed additional insight into the policy choices available for the Commonwealth.

Quality of Service

Also implicit in the action taken by states is the desire to improve the quality of service provided to citizens in disposing of traffic infraction cases. For many citizens, an appearance in traffic court will be their only direct experience with Virginia's judicial system. It is an experience that can create respect or disrespect for the entire justice system. The level of public confidence in the courts' handling of traffic cases appears to be dependent on the system's ability to meet the following needs:

- **Access to Justice** - Because contesting a traffic ticket represents many citizens' only experience with the courts, the ability to have one's "day in court" and to have a decision rendered by a full-time, law trained judge is a basic expectation for many people.
- **Courtesy, Fairness, and Respect** - According to a 1992 study conducted by the National Center for State Courts, satisfaction with the way the judge "treated" them and with the helpfulness of the clerk's office staff were the strongest correlates of traffic litigant satisfaction with court procedures and the final judgment.

The study found that crowded courtrooms are likely to have a negative effect on the perception of the quality of justice among litigants in urban traffic courts. Evidence in the study suggests that crowded dockets produce very short hearings and long lines at the payment counters, which may produce fewer litigants who are satisfied with their treatment by the judge and clerk's office staff. This situation also leads to the perception that the district courts are reduced to offering taxpayers "assembly line" justice.

Crowded dockets and courtrooms are everyday realities in traffic courts in Virginia. According to litigants and judges and court personnel alike, citizens also are frustrated by the fact that while the contested traffic hearings are brief, the waiting time in court for defendants, witnesses, attorneys, and law enforcement officers on any given hearing date can extend several hours. As a result, "traffic court" in some jurisdictions has, at times, been seen as inefficient, wasteful of resources, and chaotic in appearance. In short, the methods of disposing of traffic infractions in some cases is not serving to enhance the public's image of the courts.

- **Convenience** - Among the reasons cited in a few states for moving away from traditional court adjudication and towards hearing officers in traffic infraction cases is increased convenience and flexibility in the hours of operation the latter permits. The establishment of "night courts" staffed by "special magistrates" who hear contested cases was made recently a few jurisdictions in Florida. Also utilized under some pilot programs were procedures to (1) eliminate venue problems by allowing motorists to take care of their citations at any location; and, (2) accommodate motorists by having them

appear on a walk-in, first-come/first-serve basis.

Given these concerns, attention clearly must be focused not only on the question of who adjudicates traffic cases but also on the daily management of traffic hearings.

Alternative Adjudication Models

While every state approaches the disposition of their minor traffic cases differently, each is fundamentally a variation of one of three basis approaches: traditional judicial adjudication; the modified judicial approach, and the administrative adjudication approach.

Traditional Judicial Adjudication

The responsibility for adjudication of traffic offenses is vested in the judicial branch of government and the decision-making is performed only by duly constituted members of the judiciary.

Modified Judicial Approach

Jurisdiction over the adjudication of traffic offenses is maintained within the court system but the involvement of judges is limited through the use of one of two options. Under the first option, the decision-making and sanctioning process is delegated to parajudicial officers (special magistrates, referees, or hearing officers) who are employed by the judicial system and who serve on a full or part-time basis.

Under the second option, a centralized traffic bureau operates within the judicial branch to process all infraction citations issued by law enforcement agencies within the state. If a citizen wishes to contest a traffic ticket, the citation, once processed by the bureau is transmitted back to the court in the jurisdiction where it was issued, for docketing on the hearing calendar.

Administrative Adjudication Approach

This alternative offers the same two options as the modified judicial approach. The only difference is that the functions are carried out under the supervision of an administrative agency of the executive branch, usually the state's motor vehicle licensing authority.

Survey of Selected States

Complete information on the methods of disposing of infractions used in each state and, within each state, by various jurisdictions, is not readily available. Thus, the Committee surveyed half the states regarding their traffic adjudication systems. The survey included six of the most populous states in the country: Illinois, Michigan, Ohio, Pennsylvania, New Jersey, and New York; three New England states known to have alternative adjudication systems: Connecticut, Massachusetts, and Rhode Island; eight western states on which updated information was available: Arizona, California, Colorado, New Mexico, Montana, Idaho, Washington, Oregon and Utah; six Mid-atlantic/Southern states: North Carolina, South Carolina,

Maryland, Tennessee; West Virginia and the District of Columbia. Of the 25 states and Washington, D.C., 12 have instituted some type of alternative adjudication (please see table).

MULTI-STATE SURVEY OF ADJUDICATION METHODOLOGY

STATE	CLASSIFICATION OF LESSER OFFENSES	METHOD OF ADJUDICATION
Arizona	Civil Traffic Infraction	Modified Judicial
California	Non-Criminal Infraction	Modified Judicial
Colorado	Civil Infraction	Traditional, with some jurisdictions using Modified Judicial
Connecticut	Non-Criminal Infraction	Modified Judicial (centralized processing within the judicial branch; magistrates moves)
District of Columbia	Non-Criminal Infraction	Administrative
Florida	Civil Traffic Infraction	Modified Judicial (hearing officers in some localities)
Idaho	Civil Infraction	Traditional Judicial
Illinois	Misdemeanor	Administrative
Maryland	Misdemeanor	Traditional Judicial
Massachusetts	Civil	Traditional Judicial (with centralized processing unit handling uncontested cases and administrative processing)
Michigan	Civil Infraction	Modified Judicial
Montana	Misdemeanor	Traditional Judicial
New Jersey	Criminal Infraction	Traditional Judicial
New Mexico	Misdemeanor	Traditional Judicial
New York ¹	Non-Criminal Infraction	Administrative
North Carolina	Misdemeanor	Traditional Judicial
Ohio	Misdemeanor	Traditional Judicial
Oregon	Non-Criminal Infraction	Modified Judicial
Pennsylvania	Misdemeanor	Traditional Judicial

¹New York utilizes the administrative model in its major urban areas—New York City, Buffalo, Rochester, and parts of Suffolk County. The traditional judicial model is used throughout the remainder of the state.

Rhode Island	Non-Criminal Infraction	Administrative 1975-1991 (was returned to Traditional Judicial approach last year)
South Carolina	Misdemeanor	Traditional Judicial
Tennessee	Misdemeanor	Traditional Sessions
Utah	Misdemeanor	Traditional Judicial
Washington	Infraction	Traditional Judicial ²
West Virginia	Misdemeanor	Traditional Judicial

Evaluation of the Three Models

The charts on the following pages offer a description of the perceived advantages and disadvantages of each approach, as determined by a review of the available valuative information and interviews with selected officials in various states.

²Pure-judicial offices were used in densely populated areas.

MODIFIED JUDICIAL APPROACH

Option A: Use of Hearing Officers Who Are Employees of the Judicial Branch

ADVANTAGES

- Advocates of this method say use of these officers has reduced or forestalled the need creating additional judgeships.
- Is seen as advantageous in areas where there are significant fluctuations in the volume of traffic cases.
- Use of this method limits the discretion of the hearing officers in the sanctioning process thereby insuring greater uniformity in the outcome of cases.
- Frees the time of full-time judges, allowing them to concentrate on more complex cases involving considerable discretion in decision-making.

DISADVANTAGES

- Enforcement sanctions (such as loss of operator's licenses) are severe enough, according to officials in several states, that their legislatures felt that only licensed attorneys should serve in the capacity of "special magistrates", referees, commissioners or hearing officers.
- To secure qualified attorneys for these positions, their salaries have been set at 50-75 percent of those paid to full-time judges. The higher the salary paid to parajudicial officers, the lower the cost-benefit overall, unless judicial positions are entirely eliminated.
- Other issues that have arisen in state judiciaries where hearing officers dispose of infraction cases are:
 - lack of adequate supervision and accountability of hearing officers, in terms of their productivity and demeanor.
 - concerns over the wearing of robes by "special magistrates".
 - insistence by hearing officers on being referred to as "judges".
 - insistence by hearing officers on being incorporated into the judicial pension plan.
- Even in some highly populated areas, the contested infraction caseloads have not been sufficient to keep officers busy. Thus, the cost-effectiveness of this approach has been questioned. In some areas, authority has been expanded to hear misdemeanors and preliminary hearings in traffic felonies.
- May result in additional duties and pressures for clerks' offices by having to serve both judges and hearing officers.

MODIFIED JUDICIAL APPROACH

Option B: Use of a Centralized Traffic Infraction Bureau Within the Judiciary for the Processing of Uncontested Cases

ADVANTAGES

- Provides for maximizing resources through the use of "economies of scale".
- Frees time judges currently spend in hearings and paperwork involved in "failure to appear" cases.
- Reduces or relieves local courts of administrative responsibilities including:
 - processing and transferring large amounts of paperwork and/or data to DMV;
 - data entry and notice generation in uncontested and cases involving failures to appear;
 - records-keeping;
- Permits reallocation of resources in clerks' offices so that they could expedite processing of civil and criminal matters and more serious traffic offenses.
- By processing all infractions in one location, the bureau could better handle geographic and seasonal fluctuations in the number of infractions issued by law enforcement agencies.
- Centralization also can lead to the adoption of uniform policies for processing infraction complaints and technologies that enhance the convenience of prepayment of fines.
- Enhances the ability to institute uniform accounting procedures.

DISADVANTAGES

- Since the volume and actual work involved in processing cases is not reduced through this method, costs may be similar to the present system, except for savings due to "economies of scale".
- Little data is available from other states on the initial start-up costs for personnel and equipment and useful cost-benefit analyses are difficult to obtain.
- Could require considerable expansion of computer operations within administrative office of the courts.
- Expedites but does not eliminate the eventual transfer of data to DMV.
- Requires increased cooperation and effective data interchange between local courts and

centralized traffic infraction processing unit.

- Could be viewed as a reduction in services offered by local courts. Ability to pay in person to clerk's office is viewed as important for citizens who do not have checking accounts and prefer to pay in cash.
- In addition, person who receives citations could no longer directly ask questions of and receive assistance from court personnel regarding the disposition of their infraction cases.

ADMINISTRATIVE ADJUDICATION APPROACH

Option A: Administrative Adjudication of Traffic Infraction Cases by Hearing Officers Within the Executive Branch (DMV)

ADVANTAGES

- Use of trained parajudicial officers in lieu of judges reduces the workload of courts, can reduce or forestall the need for funding additional judicial positions.
- Provides additional time for existing judges to concentrate on cases that involve more complex issues and a greater degree of discretion in decision-making.
- Removal of traffic infractions would permit an immediate decrease in the workload in all clerks' offices and a reallocation of resources to expedite the processing of civil and criminal matters, and more serious motor vehicle matters.
- Could enhance the productivity and morale of court personnel by reducing what is considered to be repetitive tasks associated with infraction case processing.
- Would eliminate the transfer of information between the courts and DMV.
- By merging the licensing authority with the traffic offense adjudication authority, advocates of this method say the sanctioning process has been improved by providing for immediate access to and updating of driver records.
- Offers the opportunity to reduce court congestion and the amount of waiting time in court for the public.
- Improved scheduling reduces overtime expenditures for law enforcement officers by reducing the amount of time they have to be in court.
- Proponents claim that collection of fines has been increased.
- Simplified hearing procedures have aided motorists in presenting their cases and allowing hearings to be conducted more efficiently while still assuring due process of law.

DISADVANTAGES

- Program evaluators have concluded that, if the salary gap between administrative hearing officers and judges in the court system decreases, as has occurred, the major basis claimed for cost savings will be eliminated.
- Even if the salary gap decrease does not occur, the evaluators suggest that the addition of administrative adjudication without eliminating the salaries of judges and staff in courts that formerly heard traffic matters can only increase the overall cost for adjudicating all cases.

- Virginia has devoted years towards the development and funding for a system of full-time judges to hear disputes.
- Raises questions about separation of powers because the adjudication of infraction cases is handled by the executive branch.
- Initial start-up time and costs involved in the hiring and training of hearing officers and support personnel is substantial and costs for computer systems, facilities and other equipment are reported to be high.
- Reduces the paperwork/tape transfer involved in uncontested and default cases only.
- Need to appear in two different locations, the court and DMV, expanded the number of hours law enforcement spent traveling to or participating in traffic hearings, in some areas.
- Removal of traffic infractions could be viewed as a reduction in the services provided by courts to citizens.

ADMINISTRATIVE ADJUDICATION APPROACH

Option B: Centralized Administrative Processing Within the Executive Branch

ADVANTAGES

- Relieves local courts of responsibility for manually processing large amounts of paperwork in matters that require little discretion in decision-making.
- Frees court system resources to handle what are uniquely judicial functions: providing hearings for motorists who wish to challenge a traffic ticket and settling other legal issues.
- Unifies processing for uncontested cases with enforcement functions in a single agency.
- Reduces or relieves local courts of administrative responsibilities including:
 - processing and transferring large amounts of paperwork and/or data to DMV;
 - data entry and notice generation in uncontested and cases involving failures to appear;
 - records-keeping;
- Reduces time law enforcement has to be in court testifying on infraction cases, specifically in cases involving failures to appear.

DISADVANTAGES

- Initial start-up costs are unknown.
- Officials in at least one state said they underestimated the amount of time needed to fully trained and familiarize all personnel involved in the traffic adjudication bureaus of the motor vehicle licensing agency with how to dispose of these cases.
- Need to appear in two different locations, the court and DMV, expanded the number of hours law enforcement spent traveling to or participating in traffic hearings, in some areas.
- Removal of traffic infractions could be viewed as a reduction in the services provided by courts to citizens.

Commentary

Two distinct problems surfaced for the Committee in attempting to evaluate the feasibility of using an alternative traffic adjudication system in Virginia. The first was that the rationale used in other states to move to alternative approaches was perceived to be neither as relevant for nor as persuasive in Virginia. For example, the establishment of parajudicial officers in some states permitted the functional equivalent of substitute judges here. Their use is seen as having been especially advantageous in areas where lengthy case processing backlogs caused delays of up to a year in disposing of infractions. The average length of case processing time in Virginia from the offense date to disposition is 64 days.

Some states, including Florida, provide for the use of special magistrates, paid an hourly basis, only in urban areas or where they are needed to help dispose of seasonal fluctuations in heavily traveled vacation areas. Of concern to the Committee was the potential for creating a dual or "patchwork" system of adjudication that may lead to less uniformity than presently exists in infraction case processing procedures and outcomes.

The Committee was especially sensitive to the concerns that use of such hearing officers or special magistrates creates the impression of a "shadow" judiciary and/or a "second-rate" system of justice for the disposition of minor traffic cases. Problems mentioned regarding the adequate supervision and accountability of these officers are reminiscent of the factors that have led Virginia towards the development and funding of a system in which full-time, law-trained judges are responsible for adjudicating all disputes, however minor, brought to the state courts.

Also notable is the fact that while the potential benefits of administrative adjudication caused a flurry of activity and experimentation in the late 1970's and early 1980's, there has been little movement to institute such systems elsewhere. According to some researchers, this has been due, in part, to the mixed or equivocal results reported in the states that early on moved to experiment with or adopt alternative systems. Additionally, evaluating the bottom line cost-benefits of such a move has been difficult due to the fact that this type of information was not easily obtainable.

Other examples relate to the centralized traffic infraction bureau option. According to judicial system officials in Massachusetts, the move by their legislature to locate this bureau in the executive branch was made because few of the courts are automated. In Virginia, roughly 75 percent of the general district courts already are automated and approximately 80 percent of traffic infraction caseloads are processed within the clerks' offices on automated systems.

Secondly, in reviewing the specific innovations and techniques offered through use of alternative approaches, the Committee was faced with the obvious conclusion that many of these improvements could be implemented within the existing structure for disposing of traffic

infractions in Virginia. For example, administrative processing for the estimated 500,000 cases involving pre-payments potentially could be handled by the Department of Motor Vehicles, thus expediting the disposition of these matters and relieving the courts of paperwork that will eventually be transferred to the Department anyway. Expansion of automated system capabilities both to assist judges in deciding these matters and to increase the convenience of the courts to citizens already is planned and could be expanded as economically within the present structure as outside it, in the Committee's opinion.

Having extended hours to pay fines, establishing "night courts", or making improvements in procedures such as allowing pre-payment from any court in the state, regardless of where the citation was received, or at automated teller machines (ATM's) are other innovations which could be instituted within the courts. In fact, these service improvements may have a more positive impact than would changing the method of adjudication. Under any circumstances, the Committee has and will continue to support the institution of management techniques such as segmented docketing in order to improve the efficiency of court hearings and better accommodate litigants, law enforcement, Bar members and others.

In summary, the evidence reviewed by the Committee does not suggest that any one traffic adjudication method inherently is more cost-effective or more likely to improve the quality of service offered to citizens than another. Instead, further improvements would seem more likely to result by instituting some of the procedures and innovative techniques found within each of these models. Based upon this study, the Committee concludes that such techniques and practices could be employed successfully within Virginia's existing traffic adjudication system. Thus, the Committee believes that further improvements should be pursued within this framework and offers the following recommendations:

1. To further facilitate the efficient disposition of traffic matters and to expedite the enforcement of traffic safety laws, a thorough examination and cost benefit analysis should be undertaken on the advisability of transferring to the Department of Motor Vehicles the responsibility for administrative processing of uncontested traffic infractions.
2. Local courts should be encouraged to establish "segmented" docketing procedures in order to reduce the waiting time litigants, witnesses, law enforcement, lawyers, and others must spend in court disposing of traffic cases.