

STUDY OF CENTRALIZED PROCESS FOR ADMINISTERING NONCRIMINAL TRAFFIC VIOLATIONS - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4042 (attached as an appendix) directs a study of the feasibility and desirability of a centralized process for administering noncriminal traffic violations. The resolution includes information on the traffic citation process. Noncriminal traffic citations are processed in the 53 counties of this state before the traffic violation information is transmitted to the Department of Transportation. According to the resolution, current methods of processing result in redundancies in data entry, delays in transmitting the traffic violation information to the Department of Transportation, and substantial investments of time by county and city employees.

CRIMINAL VERSUS NONCRIMINAL

This memorandum focuses on state noncriminal traffic offenses. There are state criminal traffic offenses, e.g., driving while under the influence, for which the procedure differs from noncriminal offenses. For a state criminal traffic offense, the offender may request an immediate hearing, is formally arrested, or is required to sign a promise to appear. There are city criminal traffic offenses and city noncriminal traffic offenses. City criminal traffic offenses are handled much in the same manner as state criminal traffic offenses. City noncriminal traffic offenses are handled much in the same way as state noncriminal traffic offenses, except an offender must sign a promise to appear.

THE CONTEXT OF A NONCRIMINAL TRAFFIC OFFENSE

Under North Dakota Century Code (NDCC) Section 39-07-07, if a person is halted for a traffic offense, the halting officer may take the person's name and address, take the license number of the person's motor vehicle, and if for a state noncriminal traffic violation, notify the person of the right to request a hearing when posting bond by mail. A person may not be taken into custody for a violation of a noncriminal traffic offense. The officer is required to provide the motorist an envelope for use in mailing the bond.

The first option for the person halted for a noncriminal traffic offense is to not attend a hearing. Under NDCC Section 39-06.1-02, a person cited with a noncriminal offense may pay the statutory fee or post bond. If the person pays the fee, the violation is admitted. If the person posts bond for a traffic violation under state law, the bond must be submitted within 14 days

of the date of the citation, and the person shall indicate whether a hearing is requested. If the person does not request a hearing within 14 days of the date of the citation, the bond is forfeited and the person admits the violation. If the person requests a hearing, the person may forfeit the bond by not appearing at the time designated. Within 10 days after a forfeiture of bond or payment of the statutory fee, the violation must be certified to the Department of Transportation.

The second option is for the person to attend a hearing. The person has two options at the hearing. The first option is to admit the offense and then explain the person's actions. The hearing official may waive, reduce, or suspend the statutory fee or bond under this option. However, the person will be assessed the points for the offense. The second option is for the person not to admit the offense and request a hearing on the issue of the commission of the violation charged under NDCC Section 39-06.1-03. At the time of the request for the hearing, the person charged must deposit an appearance bond equal to the statutory fee for the violation. If the official finds that the person has committed the traffic violation, the official notifies the Department of Transportation.

The person may appeal from the administrative hearing to the district court for a new trial. If the person is found to have committed the violation, the clerk of court reports that fact to the Department of Transportation. Under NDCC Section 39-06.1-04, a person who fails to choose one of the previous methods of addressing a traffic citation is deemed to have admitted to the commission of the violation.

PREVIOUS STUDIES AND REPORTS Supreme Court Services Administration Committee

The movement for creating a centralized process for noncriminal traffic citations began in 1994 with the Judicial Services Subcommittee of the Court Services Administration Committee, a committee of the North Dakota Supreme Court. The problem the subcommittee addressed was that individuals issued a noncriminal traffic citation were given a hearing date on the uniform traffic citation. When the judge arrived at the hearing, it was common for the individual cited to not appear. To relieve the burden from judges, the subcommittee considered a suggestion for a centralized process for noncriminal traffic citation matters. The subcommittee discussed centralizing the citation and hearing process. The subcommittee considered

two hearing formats if a hearing was requested. The first alternative was to make use of the Department of Transportation's hearing officers for contested citations with an administrative appeal to district court. The second alternative was for the matter to be referred back to the court in the county in which the citation was issued. The subcommittee reviewed testimony on the negative impacts of the centralized hearing suggestion. The subcommittee was told about increased duties to the department's hearing officers and the burden on law enforcement to travel to Bismarck for hearings.

The subcommittee drafted a bill and sent it to the Court Services Administration Committee for consideration. The idea suggested by the draft legislation was that a single set of envelopes would be provided to the sheriffs and Highway Patrol officers which would direct the person cited to submit the bond to a central office in Bismarck. The envelopes would also permit the individual to indicate whether a hearing is requested. The committee determined that the matter should be returned to the court in the county in which the citation was issued if a person requests a hearing.

The committee received information from the Department of Transportation that the department was unwilling to support the proposal for the submission of citations to a central office unless adequate funding was available for additional staff and facilities. Although the committee members generally concluded that the proposal had merit and would provide a more rational method of processing noncriminal traffic citations, the committee tabled the proposal because of the opposition by the Department of Transportation.

However, the committee in discussion realized that the bill draft addressed two issues--the scheduling of judges around appearance dates set on a citation and the redundancy of several different entities typing in the same information on citations. Only the latter was opposed by the department because of lack of funding. The committee drafted a bill to address the problem of scheduling hearings for which the person to which a citation was issued does not appear. This proposal was introduced at the request of the Supreme Court during the 1995 legislative session. Senate Bill No. 2116 was enacted and created a procedure for the noncriminal disposition of state traffic violations by providing a new section on the uniform complaint and summons, which explains that the person issued the citation has 14 days to request a hearing by signing the appropriate section of the citation and returning it with the bond noted on the citation. If the appropriate section is not signed, the bond is deemed forfeited and the violation is admitted without the need to schedule a hearing.

North Dakota Criminal Justice Sharing Plan

One new development from 1994 is that on March 1, 2001, a report entitled *North Dakota Criminal Justice Information Sharing Plan* was released to the public. The plan was a result of members of the justice community coordinating efforts relating to information sharing.

One of the short-term objectives of the plan is to reduce delays in the processing of traffic citations. The plan states:

The current manual process creates situations where courts receive the payment for the citation prior to receipt of the citation. The courts are unable to answer questions from citizens about a particular citation until the citation is received at their location, often several days after the citation was written.

Because citations are processed in the county where issued, state patrol and other law enforcement officers must be cognizant of county boundaries and file paperwork to the correct location. Citizens can be confused about whom to contact with questions about citations. Because over 95 percent of offenders pay the citation without contesting it, they expect the transaction to be fast and easy.

As a result of this project, better customer service will be provided to citizens by more efficient processing of traffic citations. As an additional benefit, criminal justice agencies will spend less time on bureaucratic paper work and more time maintaining legal protections and safety.

The plan addresses the project description for reducing delays in the reporting of traffic citation information. The plan lists three phases in the implementation of the improved citation system. The plan states:

The first phase involves collecting citation information at the point of origin, the officer's car, or as soon thereafter as possible. Once collected electronically, the information can be shared with other agencies without reentering it. The Highway Patrol office will develop and implement a system for entering citations into mobile data terminals in their cars. For officers without mobile data terminals in their cars, information will be entered in the Highway Patrol office. Once entered, the citation information is shared with the Department of Transportation (DOT) for processing against driver's license data. . . .

The second phase of this project is to explore the possibility of implementing the citation system on a statewide basis for

local law enforcement agencies. The Highway Patrol accounts for five to 10 percent of all citations written in the state. The system is designed around the citation information required of all jurisdictions by North Dakota Century Code 29-05-31. A study will be completed to determine the extent of interest among local law enforcement agencies, identify alternatives along with associated costs, and determine feasibility.

The third phase is to evaluate the processing of citations from the standpoint of the courts and [the Department of Transportation] to streamline the process. Currently the courts manually enter the citation disposition information from each of the 29 counties on [the Unified Court Information System] into the system and process payment receipts. For the other counties, the information is not entered. Hearings are scheduled if requested. This happens for less than five percent of citations. Dispositions of the citations are sent electronically to [the Department of Transportation] to match against the driving record of the offender. Options will be explored to electronically transmit the citations from local law enforcement so the courts do not have to reenter the citations. A pilot project using Highway Patrol information will be considered to demonstrate feasibility.

In addition, a central processing location for citations will be explored. This would allow better customer service by eliminating the need to determine the county where the citation was processed and possibly allowing online payment of the citation. Since over 95 percent of the citations are paid without further involvement, information could be passed on to [the Department of Transportation] in a more timely manner. For citations requiring a hearing, information would be transmitted to the courts for further processing. A feasibility analysis will be completed to identify legislative changes necessary, as well as staffing and funding issues. . . .

The plan states that Phase 1 of this project began in June 2000 and should be completed by June 2001, and the second and third phases may be done concurrently.

The plan discussed the promotion by the office of the court administrator of the use of a common system to manage information. The unified court information system is used in 29 counties and four municipalities. Electronic interfaces from the unified court information

system exist for citation reports to the Department of Transportation.

Report on Administrative Traffic Citation Processing

On December 22, 1999, the office of state court administrator released a report entitled *Report on Administrative Traffic Case Citation Processing*. The report was a study of the amount of time court personnel spent processing administrative traffic case convictions. The report provides some background on the problem. The report states:

Historically, clerks of district court have been responsible for the processing and management of administrative traffic cases issued on our state's roads and highways. In 1998 over 56,886 administrative traffic case convictions were processed by clerks of district court. While only 1-3% of these cases involve motorists who request a hearing, all of the citations must be processed and fines receipted prior to sending the disposition information to the Department of Transportation Driver's License Division for entry on the driver's record. While these categories of cases require very little judicial attention, they require substantial clerical time for the data entry and processing of the cases.

The report divided the time used in processing the administrative traffic case convictions into four different phases. The report states:

In visiting with veteran personnel from the various counties, the processing of administrative traffic cases was divided into major work groupings of the initial data entry to enter the citation into an automated information system, assigning a case number, and filing the citation. The second step is the receipting function when monies are received from the motorists and the citation disposition completed and sent to the Department of Transportation and the citation filed. The third function relates to sending out notices of non-compliance for motorists who do not respond to traffic citations. The fourth phase relates to those few cases, 1 to 3%, that are most time consuming when motorists request an administrative hearing.

It was estimated 70 to 80 percent of all motorists pay the administrative fee, based on the original citation. If payment is not received within 14 days, a notice is sent to the motorist indicating the motorist has 10 days to pay. If payment is not made in that time period, the Department of Transportation is notified and the process is initiated to suspend the motorist's

driver's license. Approximately 20 to 30 percent of all offenders do not pay the administrative fee and must be sent a notice of noncompliance.

The report states:

If the motorist does not respond to the non-compliance notice, a second notice is sent to the Department of Transportation requesting the driver's license be suspended. The Department of Transportation forwards this to other compact states if the motorist is out of state. If they are in-state, [the Department of Transportation] sends a letter indicating the motorist has 20 days to pay or their license will be suspended. Based on this second notice, about 80% of the remaining offending motorists do send in payment to the clerk's office. The regular receipting process . . . is completed and the completed citation is sent to the Department of Transportation. If the motorist does not respond, three copies of the noncompliance notice are paper-clipped to the citation and it is filed until such time as the citation is paid. The case is closed on the information system at the point the Department of Transportation is notified of the non-compliance.

If the motorist requests a hearing, the motorist is required to return the citation with the amount of the ticket as the amount of bond for the hearing. A notice of the hearing is mailed to the motorist and to the state's attorney's office. Following the hearing, the clerk takes the appropriate action dismissing or assessing the fine. In summary, the report states it is difficult to project the workload for clerks' processing administrative traffic citations due to the wide variation in estimated times reported by the clerks in the study. However, a substantial amount of time is devoted to the processing of administrative traffic citations by clerks statewide.

According to the legislative history on the resolution that is the basis for this study, it requires approximately seven to eight positions to process these cases.

FUNDING

The state receives the funds for traffic citations either through the general fund or state school fund. Under NDCC Section 29-27-02.1, statutory fees, fines, forfeitures, and pecuniary penalties are paid to the state school fund. Bail bond or bail is credited to the

state general fund. If the traffic offense charge is one of the noncriminal offenses for which a statutory fee is paid, that statutory fee is deposited in the state school fund. If a bond is posted and forfeited, then it is a forfeiture which is also deposited with the state school fund.

For a criminal traffic offense, the fine paid for the offense is deposited in the state school fund. If as part of that criminal offense a bail bond is posted and is declared forfeited by a court, that bail bond amount is payable to the state general fund. Before 1995 the forfeited bond (that now goes to the state general fund) was deposited in the general fund of the county whose officers originally instituted the action.

As a general rule, a noncriminal traffic offense committed within city limits is a violation of a city ordinance, and the fee for the violation goes to the city. However, cities report the violation for demerit point purposes to the Department of Transportation.

Before April 1, 2001, all clerks of court were operated and funded by each county. At present 11 county clerks of court are operated and funded by the state--Cass, Grand Forks, Ramsey, Walsh, Ward, Williams, Burleigh, Morton, Richland, Stutsman, and Stark. Four county clerks of court are operated and funded by the county--Oliver, Sheridan, Sioux, and Billings. The remaining 38 county clerks of court are operated by the county and are funded in part by the state on a contract basis for the amount of "state" work done by the office.

According to the Supreme Court administrator's office, traffic citations use 7.04 full-time equivalent clerk employees statewide--4.48 of those clerks are in the 11 state-operated and state-funded counties, .07 of those clerks were in the county-operated and funded counties, and 2.49 clerks are in the 38 county-operated and state-funded counties.

SUGGESTED STUDY APPROACH

Because the subject matter of this study has been reviewed in detail by other groups, the committee may make a decision as to whether the benefits of a centralized traffic system outweigh the cost. The committee may want to receive testimony from the Department of Transportation, Supreme Court administrator's office, the clerks of court, the North Dakota League of Cities, and the North Dakota Association of Counties to review the costs and benefits.

ATTACH:1