The Administration of Justice and Highway Safety

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Traditionally, when this country has a serious and momentous problem, there develops a fierce tide of public opinion and something gets done about it. This has always been true of our wars, depressions, and most national and regional disasters. Apathy and indifference do not well lend themselves to fierce waves of reaction. Consequently, the idea of a national traffic safety program gets more "lip service" than action. It seems that most drivers in this country regard the traffic problem philosophically as someone else's problem, if, in fact, the problem is recognized at all.

The American traffic problem has many ingredients. There are approximately 100 million good, bad and indifferent drivers operating 90 million good, bad, and indifferently designed automobiles almost 900 billion miles per year on less than 4 million miles of good, bad, and indifferently designed highways. In 1965 this combination of elements killed almost 50,000, seriously injured almost 2 million, and reduced the gross national product by nearly $9 billion. Undoubtedly most persons here at this meeting are connected either directly or indirectly with education, enforcement or engineering. You are concerned with these statistics, and, in your mind they are meaningful. They directly relate to an area of responsibility with which you are primarily concerned. You do not have to be told that last year Americans killed more Americans on American highways than Americans killed Viet Cong in Viet Nam. Even though you may be active in a safety program, there seems to be some difference of opinion as to where the emphasis belongs.

The Vehicle, Highway and Driver-Pedestrian

Breaking it down into basics, there are three elements in the traffic problem: vehicle, highway and driver-pedestrian. The current "whipping boy" in highway safety seems to be the vehicle. Recent and current congressional committee hearings are
getting the spotlight and one would hesitate to downgrade their importance. However, there may be a danger in overemphasizing the vehicle fault to an extent that we may neglect important areas of the total program. Certainly automobiles may be engineered to reduce the effects of accidents. However, if all the recommended safety engineering improvements were adopted by the auto industry, and safety factors were engineered into automobiles until all vehicles became as safe as the safest vehicle, the estimates of some traffic safety experts indicate an over-all maximum reduction in the number of accidents by only 5 to 10 percent.

Any reduction in accidents by improving the safety of the highway must be accomplished through engineering. Once again, there is a limit to what engineering can do. If all the latest engineering techniques were applied to make each highway as safe as the safest highway, the current estimates of a number of traffic safety experts indicate an over-all maximum reduction in accidents of only 5 to 10 percent. These figures are quoted not to downgrade the importance of highway and vehicle engineering. For example, if highway engineering reached its potential and did reduce accidents by 10 percent, based upon 1965 figures, highway engineering could be responsible in the prevention of approximately 1,250,000 automobile accidents, 170,000 injuries, and perhaps as many as 5,000 human lives. This is certainly not an insignificant potential for highway engineering.

While recognizing the need for improvement in both the vehicle and the road, there are even greater opportunities for numerically greater reductions in accidents through improvement of driver and pedestrian performance. It is our belief that a minimum of 80 percent of the problem is the performance of drivers and the habits of pedestrians.

It is in the latter respect that the traffic court can make its contribution. The traffic court should be used as a classroom, and adequate corrective penalties should be assessed to achieve voluntary observance of traffic laws.

The big problem is in securing public support for the upgrading of the traffic courts to the extent that they are qualified to perform these functions.

*From JP’s to Traffic Courts*

Historically, most of the existing state judicial systems were designed prior to the invention of the automobile. The courts before which traffic cases ultimately came were neither qualified nor designed to handle the specific and particular problems encountered. In most
states, the justice of the peace became the automatic recipient of this new brand of violation. Originally the JP developed in the English law and in the early American countryside to settle neighborhood disputes and all other small civil matters such as “why John doesn’t pay his grocery bill,” and the like. Transportation was slow in the horse and buggy days, and as a result each community had its JP. In those days he did serve a necessary function. The automobile, the vehicle which brought us the problem of traffic safety, also changed our attitude concerning distance. However, it failed to change the traditional concepts of the judiciary in most of the states, until these minor courts charged with this great new responsibility became what might be termed the “disaster areas” of the judicial branch of government.

Traffic Court Improvement Through National Standards

It was not until the late 30’s, long after the traffic court problem presented itself, that any positive program for court improvement was developed. This seems to be typical of the way we do things. At about that time, under the leadership of the late Justice Arthur T. Vanderbilt of the New Jersey Supreme Court, studies and programs commenced which since have developed into the National Standards for the Improvement of the Administration of Justice in Traffic Courts.

Justice Vanderbilt recognized the relationship between traffic law violations and accidents. He recognized that disobedience and disrespect for the traffic laws were one and the same. Therefore, if the problem was disrespect, then the solution lay within some method of creating respect. The inescapable conclusion is that the courts, having the opportunity, must therefore assume a major role in reeducating the public in traffic safety. We are convinced that the respect for traffic laws is ultimately predicated upon the effectiveness of the nation’s traffic courts.

Judges and prosecutors, individually and collectively, create the impressions which determine so conclusively the citizen’s attitude toward traffic law enforcement, the judiciary, and in no small degree, toward government itself. If the citizen’s impressions are unfavorable, disrespect for traffic laws may generate a chain reaction that will destroy the effectiveness of any and all traffic safety activities, including the finest efforts of both the vehicle and highway engineers.

The Standing of Indiana’s Traffic Courts

The statistics quoted at the beginning of this paper are evidence enough that the traffic courts are not doing the job. Does this mean that the traffic courts have failed? Does this mean that the court treat-
ment idea is not the answer to this aspect of the traffic problem? Not at all! Both the public and the legislatures of the several states have failed the traffic courts. We have failed to equip the traffic courts to do the job which we expect of them. For example, let's see how the State of Indiana stands with regard to the Action Program of the President's Committee for Traffic Safety, which is part of the National Standards. Of the 14 recommendations, Indiana can say that it has made progress in only two. These recommendations are:

1. *The National Standards for Improving the Administration of Justice in Traffic Courts* be applied by every state and municipality.

2. All traffic courts be integral units of the judicial system of each state and, wherever necessary, a constitutional or legislative reorganization of courts for that purpose be undertaken. (Indiana has done nothing concrete in this regard.)

3. The judges of traffic courts be selected on a nonpartisan basis under a method which should ensure high judicial qualifications, and that the judges serve full time, with adequate security as to tenure.

4. The highest judicial authority in each state appoint an administrator of state courts with duties specifically including supervision and administration of all courts trying traffic cases in that state. The *Model Act for a State Court Administrator* should be used as a guide.

5. Each state adopt, preferably through its highest judicial authority, uniform rules governing procedure in traffic cases. These should apply to all courts trying traffic cases. (The Indiana Supreme Court has not acted on this recommendation.)

6. The Model Uniform Traffic Ticket and Complaint be adopted on a state-wide basis, and one copy serving as a report of conviction or disposition. All enforcement agencies within the state should be required to use the model form. (On this recommendation perhaps Indiana has made more progress than any of the others. It is the current complaint form which is being used by the Indiana State Highway Patrol, and by several of the larger cities, including Indianapolis.)

7. The salaries paid to traffic court judges and prosecutors be equal to those of trial courts of general jurisdiction. (This isn't occurring in Indiana.)

8. The fee system for compensating judges and justices of the peace be eliminated, and in its place a salary system be pro-
vided. (This is the second point of the action program in which Indiana has made real progress. At the present time it appears that there are few remaining fee justice courts within Indiana.)

9. All judges, whether lawyer or layman, be subject to the *Canons of Judicial Ethics* and that adequate provisions be made for disciplinary action against judges where justified; and that the removal and retirement provisions of trial courts of general jurisdiction be made applicable to traffic courts. (Here again, Indiana has taken no action.)

10. Courts of Record status be provided for all traffic courts.

11. It be mandatory for all traffic court judges and prosecutors to attend annual judicial conferences, and that adequate provision be made for the payment by local, county and state governments of all expenses incurred in connection therewith. (While we see many of the better Indiana judges at state and regional conferences, nevertheless, the judges who are most in need of continuing legal education are the ones who do not attend these functions, largely because there is no particular incentive under the present system.)

12. Each state staff all courts fully with adequate judicial, prosecution, clerical, and administrative personnel. (I don't know of a single court in the State of Indiana which is as adequatelystaffed as the standard suggests.)

13. All offenders charged with moving hazardous traffic violations be required to appear in court and answer the charge in person. (There are a very few courts in Indiana trying to meet this requirement.)

14. All state, county and local governments eliminate budgetary practices calling for an estimate of anticipated revenues from the handling of traffic cases. The actual revenue derived from traffic fines and forfeitures for the prior fiscal year should take the place of such estimates. (This is a common fault of Indiana Municipal Courts.)

Indiana is not singled out for its lack of progress in traffic court improvement. On the contrary, Indiana is a typical state. Not any one section of the country has a monopoly on bad traffic courts.

There are a number of excellent traffic courts about the country. Generally, they stand out like an oasis in a desert. It is through these courts that the *National Standards for the Improvement of the Administration of Justice in Traffic Courts* can and does change the traffic safety climate of a community.
Can't, Don't or Won't Violators

It is a rare occurrence, but nonetheless a true one, that a community like Warren, Ohio, can point with pride to its traffic court. The general community acceptance of a judge and his program really does make a difference. Judge James Ravella of the Warren, Ohio, Municipal Court believes that all persons having committed moving hazardous violations should appear in person in open court in answer to the violation. The judge believes that the penalty should be designed for the individual violator, depending upon his attitude, ability, and economic status. He applies the "can't", "don't" or "won't" label to each person appearing before him, only after having thoroughly evaluated the defendant from his conduct and testimony.

All violators more or less fall into three categories. They are the "can'ts," those persons who because of mental or physical disability cannot properly operate motor vehicles; the "don'ts," those persons who do not know the rules of the road, traffic laws, or the capabilities of their vehicles; and the "won'ts," those persons who know the rules of the road and are capable of being good drivers, but fail to respect traffic laws. Generally, the "won't" is the most serious problem driver.

The "can'ts" generally need to be referred to the driver licensing authority for reevaluation. The "don'ts" generally can profit by attendance at a court-supervised driver improvement school. A "don't" needs more in the way of education and rehabilitation, and is more susceptible to corrective measures. The "won't" generally needs the more severe treatment. Many of the repeaters, or habitual traffic violators, fall into this category, and it sometimes takes jail sentences to make lasting impressions.

Only when defendants are required to attend court can a court have the opportunity to effectively influence the violator. In such event, it is absolutely necessary that the court be operated in a dignified manner as a "court of justice." Too many present-day traffic courts offer an "ordeal" instead of an "educational experience."

Violate for a Price

One of the real contributing factors to nation-wide disrespect and lack of regard of traffic laws is the policy of so many courts of making it so easy to pay fines. Some of the courts even encourage payment of fines by mail. It has become so convenient to violate the traffic laws that the public has developed a "violate for a price" attitude. Some drivers, especially salesmen, consider a certain quota of traffic tickets one of the "costs of doing business." This is true especially in those states where the point system is not operative.
Cash Register in the Courtroom

Another bad and prevalent indictment of our traffic courts is the number of which are more concerned with the revenue aspects of their traffic caseload than in the proper administration of justice. I have actually seen a number of facilities where cash registers were located in the courtrooms.

Conclusion

We of the American Bar Association Traffic Court Program are the only group in the United States who devote ourselves exclusively to the upgrading of traffic courts. We are few in number, and the pace is slow. We are aware that it is easier to redesign a vehicle, or redesign a road than it is to change the faulty pattern of public thinking relative to traffic safety. However, wherever we are successful in substantially improving the traffic court system of a state or an individual traffic court of a municipality, and thereafter we see a change in the safety climate of a community through accident statistics being revised downward, then it all seems worthwhile. We then know that traffic courts, walking hand-in-hand with enforcement, educational efforts, and engineering, do actually save human lives. What could be more rewarding?