

## PROPOSED SIMPLIFIED PROCEDURE IN THE TRAFFIC COURT

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### INTRODUCTION

SOMETIME ago, a municipal judge and an assistant fiscal of the City of Manila were charged and investigated for alleged falsification of a public document. A deputy clerk of court was also charged with usurpation of judicial functions. The charges arose out of these supposed facts: that the clerk of court arraigned a traffic violator in the absence of the presiding judge and on an information unsigned by the fiscal. The clerk prepared the decision and put down the fine, which the violator paid. Subsequently, the judge allegedly signed the decision prepared by the clerk of court, and the fiscal, the information. Needless to say the criminal action was dropped by the city fiscal for insufficiency of evidence.

The incident, in spite of the scandal and the embarrassment it brought upon the heads of the judges of the municipal court, was a blessing. It drew into sharp focus the out-moded, inefficient and cumbersome procedure followed in the Traffic Court of the City of Manila, which functions according to the rigid rules of criminal procedure.

The incident could not have arisen had House Bill No. 7413, fathered by Congressman Augusto Francisco, in 1957, been passed by Congress. The bill introduced reforms, among which were dispensing with the necessity of the accused appearing personally before the judge in pleading guilty to a traffic information, and with the signing of traffic informations by the city fiscal. It was there provided that a violator may plead guilty to the clerk, and pay his fine, as is done in almost all the traffic courts in the United States.

There is, indeed, a necessity of simplifying the disposition of traffic tickets, which number around 200,000 a year and wherein 95% of the violators plead guilty and pay fines totalling a million pesos annually. Hence, it is here proposed to discuss the inadequacies of the law, especially those of the Charter of the City of Manila,<sup>1</sup> and the necessary amendments thereto.

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<sup>1</sup> R. A. No. 409, as amended.

### PROPOSED AMENDMENTS

It is suggested that five changes be made, namely:

- (1) Institution of a new traffic ticket;
- (2) Creation of a Violations Office;
- (3) Organization of a night court;
- (4) Flexibility in the organization and functions of the different salas, especially the Traffic Court; and
- (5) Mechanization of the records of the Traffic Court.

#### 1. Institution of New Traffic Ticket

It is suggested that a new section, to be known as Section 43-A of the Charter, be inserted which shall read as follows:

Sec. 43-A. **Traffic Cases.**—In cases involving violations of laws or ordinances relating to the operation or use of motor vehicles in the City of Manila, the complaint and summons shall be in the form hereinafter described. The traffic ticket shall consist of four parts, separated by carbon paper: (1) the complaint, to be printed on white paper; (2) the police record, which shall be a copy of the complaint, and printed on green paper; (3) the officer's copy, which shall be a copy of the complaint, and printed on yellow paper; and (4) the summons, to be printed on white cardboard stock. Their reverse sides may contain the list of offenses which may be heard by the court only, a list of the offenses which may be processed and paid in the Violations Office, the notice to the violator, the appearance, plea and waiver.

The complaint and summons shall be substantially in the following form:

(See annexes attached)

1. **When Used.**—The proposed form of complaint shall be used in traffic cases, whether the complaint is made by the police or peace officer, or by the City Fiscal.

2. **Records and Reports.**—Each judge shall be responsible for all traffic tickets issued to law enforcement officers and for their proper disposition, and shall prepare or cause to be prepared such records and reports relating to such traffic tickets, in such manner as the executive judge of the municipal court shall prescribe.

3. **Improper Disposition of Traffic Ticket; Contempt of Court.**—Any person who aids in the disposition of a traffic ticket or summons in any manner other than that authorized by the court shall be proceeded against for criminal contempt in the manner provided for by the Rules of Court.

4. **Presentation in Court of Summons for a Fee; Prohibited.**—It shall be unlawful for any person, firm or corporation to undertake, for a fee, the presentation of the traffic summons and the payment of the corresponding fine in a traffic court. Any person, firm or corporation found violating any provision of this subsection shall be punished by a fine of not more than two hundred pesos, or by imprisonment of not more than six months, or both, in the discretion of the court.

5. **Warrant; Notice to Director of Motor Vehicles.**—The court shall issue a warrant for the arrest of any defendant who has failed to appear or to answer a traffic ticket or summons duly served upon him and upon which a complaint has been filed. If the warrant has not been executed within thirty days after issuance, the court shall promptly report the name of the defendant, the license number of the motor vehicle involved in the offense, the date and nature of the traffic offense charged and all other pertinent facts to the Chief of the Motor Vehicles Office.

6. **Traffic Violations Clerk; (a) Appointment and Functions.**—The court, whenever it determines that the efficient disposition of its business and the convenience of persons charged so require, may constitute the clerk or deputy clerk of the court as traffic violations clerk. It shall be the function of such clerk to accept appearances, waiver of trial, plea of guilty and payment of fines and costs in traffic cases, subject to the limitations herein after prescribed. The said clerk shall serve under the direction and control of the court.

The foregoing provisions have been suggested by an observation of the special laws governing traffic courts in the leading cities<sup>2</sup> of the United States. These cities have been quite successful in disposing of their traffic cases both in the day and night courts. Each city court adopted a different system, but they all have one feature in common: the traffic ticket, from the time of its issuance to the police, until its final disposition, is mainly handled by the court. The only instance when the court is kept out of touch with the traffic ticket is when the police makes the actual apprehension of the violator. But after the issuance of the ticket to the violator, the court can follow up with certainty the fortunes of that particular ticket.

The follow-up of the ticket is made possible because the court prepares the ticket itself, prescribes its form, issues it to the law-enforcement agencies, requires an accounting of it from the officer to whom it is issued, keeps record of it and adjudicates the case, and finally makes the necessary report to the Motor Vehicles Office. When the court issues the ticket, it has the means of knowing and checking how the ticket was issued.

As may be seen from the recommendation, the traffic ticket consists of four parts separated by carbon paper.<sup>3</sup> (1) the complaint; (2) the police record, which is a copy of the complaint; (3) the officer's copy; and (4) the summons.

The form is prescribed in the law itself, and is made in such a way that the apprehending officer can accomplish it more easily and within a shorter time than with the old *Traffic Violation Receipt*.

The complaint is sent to the court after verification. To minimize waste

<sup>2</sup> New York, Chicago, Detroit, San Francisco, Los Angeles and all the cities in the State of New Jersey.

<sup>3</sup> See Netherton, *Fair Trial in Traffic Court*, 41 MINN. L. REV. 577, 588-9 (1957).

of time in the preparation of the complaint,<sup>4</sup> it may be verified in the police department or in the proposed violations office. The complaints are sent to the court daily for immediate docketing. They are checked with those tickets which have been sent to the police department so that the court can determine how many have not been used.

The court's disposition is entered at the back of the complaint. Its convenient and uniform size will make for easy filing and location of the same.

There is also an attempt in the provisions recommended to eliminate ticket fixing. The penalties provided are stiff enough to discourage any person from attempting to fix a ticket.

## 2. *Creation of a Violations Office*

The proposed violations office is a standard adjunct of the traffic courts in the leading cities<sup>5</sup> of the United States. The court may constitute the clerk or deputy clerk of court as violations clerk, or the judge may assume the duties of the violations clerk himself. By order of the Secretary of Justice, the office may be open from eight o'clock in the morning to twelve o'clock midnight.<sup>6</sup>

The functions of the violations clerk are to accept appearances, waiver of trial, plea of guilty and payment of fines and costs. But traffic offenses and their penalties are designated by the judge. However, the latter may not include within the jurisdiction of the violations clerk the following offenses: any serious offense or accident resulting in damage to property or personal injury;<sup>7</sup> operation of a motor vehicle while under the influence of intoxicating liquor, narcotic, or any habit-forming drug, or permitting another person who is under such influence to operate a motor vehicle owned by the defendant or in his custody or control; or leaving the scene of the accident.

The reason for delegating to the violations clerk the power to accept fines is that approximately ninety-five percent of all traffic violations filed in court are slight in nature, and the violators are ready and willing to pay the corresponding fines. As it is now, even those who renounce trial are still prosecuted and tried. This procedure unnecessarily wastes time. And how about those who prefer to be tried? Oftentimes, we see the traffic judge doing two things at a time — accepting the plea of guilty of one violator and hearing the evidence of another. Naturally, this makes

<sup>4</sup> Under the Charter of the City of Manila, the complaint may be prepared by the Fiscal's Office or by the Police Department. §§ 34 & 38, R. A. No. 409, as amended.

<sup>5</sup> *Supra* note 2.

<sup>6</sup> See 3. **Organization of a Night Court**, *infra* of this paper.

<sup>7</sup> R. A. No. 587 § 67(d) in connection with arts. 365, 265 & 266 REV. PENAL CODE.

for short temper of the judge. Thus not a few judges shy away from the traffic court.

The creation of a violations office will eliminate these inconveniences.<sup>8</sup> Furthermore, only one judge, instead of three, can attend to the traffic court, and thus release the other two for more important assignments.

### 3. Organization of a Night Court

A new provision is hereby recommended to be known as Section 41-A, which shall read as follows:

Sec. 41-A. (2) **Night Sessions.**—The municipal court shall hold at least one night session everyday including Sundays and legal holidays which shall be open at eight o'clock in the evening and shall not close earlier than twelve o'clock midnight. All persons who are arrested after the day courts are closed, or at an hour too late to be brought to a day court, for violation of any law or ordinance falling within the jurisdiction of the municipal court, shall be brought to the said night court, which shall hear, try and determine the same.

The night court is already an established institution in Manila,<sup>9</sup> and the advantages thereof are too well-known to be repeated here. When it was first inaugurated in January of 1956, there were two separate salas holding night sessions. One for traffic cases only, the other for non-traffic cases. It was considered then that the former could not legally try non-traffic cases. As we have it now, there is only one night court and it hears both traffic and non-traffic cases. Sooner a question will arise as to the competency of said court to try non-traffic cases. The amendment therefore proposes to do away with all possible legal doubts and to give said court a well-defined existence.

### 4. Flexibility in Organization and Functions

It is also proposed that Section 39 of the Charter be amended to read as follows:

Sec. 39. **The Municipal Court.**—There shall be a municipal court for the City of Manila, for which eight judges shall be appointed. An executive judge shall be chosen from among them, in such manner and at such times as the Secretary of Justice may determine. The Secretary of Justice shall determine the number of branches or salas of the municipal court which shall be held in the city; designate the judges who shall sit thereat, rotating their assignments from time to time as he may deem best in the interest of justice; prescribe the hours of their attendance; and provide rules for the distribution of the cases pertaining to the municipal court.

<sup>8</sup> See Economos, *Integrated and Uniform Traffic Courts*, 8 U FLA. L. REV. 265, 274 (1955).

<sup>9</sup> The Night Court was established by §§ 39 & 41, R. A. No. 409, as amended.

The amendment seeks to eliminate the provisions regarding the designation of three judges to hold sessions for traffic cases exclusively. In lieu thereof is the proposal which gives broad powers to the Secretary of Justice to organize the different branches of the municipal court as he may deem best in the interest of justice and the speedy disposition of the court's business. Under the amendment, the Secretary of Justice may shift the judges from one branch to another, or may assign them to specified hours of work which might be more conducive to the requirements of a speedy administration of justice.<sup>10</sup> He may organize a new branch or part of the court to deal partly or exclusively with the sudden influx of cases within the competency of the municipal court. He may suppress a certain branch or part of the court whenever it appears that the necessity thereof no longer exists. In this manner, a certain degree of flexibility and mobility is made possible to meet the demands of new and unexpected occurrences.

In other jurisdictions,<sup>11</sup> the power to organize new branches of the court is lodged in the presiding judges of the inferior courts. The reason is that they are more familiar with their problems and are therefore in a better position to offer the right solution. Such an arrangement tends also to make the court always conscious of its responsibility, and to effect a greater degree of independence for the court from executive interference. However, the present organization of the municipal court of Manila, wherein the Executive Judge is elected annually without re-election by his colleagues, is not conducive to a sustained efficiency of the court. It would have been otherwise were the Executive Judge appointed by the President. As it is therefore the organization of the court would be better lodged in the Secretary of Justice who has the machinery and experience to do it.

### 5. Mechanization of Traffic Court Records

It is important that the records of the Traffic Court be kept with modern machines. For the safe and speedy docketing, classification, tabulation and recording of the complaints, the IBM machines in the City Treasurer's Office may be used. A validating cash register to record all the essential details of a judgment, may also be used to safeguard the funds collected. With these machines in use in the Traffic Court, it is expected that no traffic ticket can get lost or mishandled by any employee without the same being detected.

<sup>10</sup>See Economos, *supra* note 8, at 271-2; Netherton, *supra* note 3, at 587.

<sup>11</sup> *E.g.*, the City of New York and most of the leading cities of the American Union.

(Annex A)

(1-Complaint)  
TICKET No. \_\_\_\_\_

MUNICIPAL COURT  
CITY OF MANILA (Traffic)

Republic of the Philippines )  
CITY OF MANILA ) S.S.

**COMPLAINT**

The undersigned, being duly sworn, upon his oath deposes and says:  
On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ M.,  
Name: \_\_\_\_\_ (Please Print) \_\_\_\_\_  
Address: \_\_\_\_\_

Driver's License No. \_\_\_\_\_, did unlawfully operate  
Motor Vehicle Registration No. \_\_\_\_\_ Plate No. \_\_\_\_\_  
Make \_\_\_\_\_ Body Type \_\_\_\_\_  
Upon a public highway/street, namely at (location) \_\_\_\_\_  
and did then and there commit the following offense(s):

- SPEEDING: \_\_\_\_\_ km. in a \_\_\_\_\_ km. zone
- RECKLESS DRIVING
- CARELESS DRIVING
- OBSTRUCTION

**DISREGARD OF TRAFFIC SIGNAL:**

- Slow Sign
- Stop Sign
- Red Light

**IMPROPER PASSING:**

- At Intersection
- Cutting In
- Wrong Side

**PARKING:**

- Overtime
- Prohibited Area
- Double

**OTHER VIOLATIONS:** (Describe) \_\_\_\_\_

**CONDITIONS**

- Clear
- Dawn
- Light Traffic
- School zone
- Rain
- Day
- Heavy Traffic
- Residential
- Fog
- Dusk
- Personal Injury
- Business
- Night
- Property Damage
- Other
- Almost caused accident

The undersigned further states that he has just and reasonable grounds to believe, and does believe, that the person named above committed the offense(s) herein set forth, contrary to law.

\_\_\_\_\_  
(Signature of officer or other complainant; to be signed when taking oath)

\_\_\_\_\_  
(Signature and identification of officer or other complainant); to be signed when issuing ticket)

\_\_\_\_\_  
(Name and title)

COURT APPEARANCE: \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ M.

**BAIL FIXED**

**ADJOURNMENTS**

Date \_\_\_\_\_ to \_\_\_\_\_  
Amount P\_\_\_\_\_ Date \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_  
(Signature of Person Giving Bail)

\_\_\_\_\_  
(Signature of Person Giving Bail)

\_\_\_\_\_  
Judge

**TRAFFIC VIOLATIONS OFFICE**

**APPEAL**

Date \_\_\_\_\_ Date Filed \_\_\_\_\_  
Amount of Fine P\_\_\_\_\_ Amount of Bond P\_\_\_\_\_  
Costs P\_\_\_\_\_ Appellate Court \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk

\_\_\_\_\_  
Judge

**COURT ACTION**

Date \_\_\_\_\_ Plea \_\_\_\_\_

Disposition \_\_\_\_\_

Amount of Fine P\_\_\_\_\_ Costs P\_\_\_\_\_

\_\_\_\_\_  
Clerk or Judge

Testimony or Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_