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A question I am frequently asked is whether the new hearing examiners would be required to be attorneys. The job qualifications for these positions are governed by Civil Service standards which, I understand, do not require hearing examiners to be lawyers. However, I believe that attorneys are preferable for these positions. The hearings will involve evidentiary rules, legal findings and the entry of judgments, all of which must be performed in a manner that will assure public confidence in the system. For these reasons, if I am given the choice between two applicants equal in other respects but only one is an attorney, I would select the attorney.

I would like now to discuss how citizens would contest their traffic tickets under the new system. When a person receives a ticket, he would be given three options which will be explained clearly on the face of the ticket: He may admit the infraction and pay the fine; admit the infraction with an explanation; or he may deny the infraction.

The admit with explanation plea is a new feature that permits a citizen to concede the violation but explain why it was unavoidable or not his fault. The advantages of this plea are that it gives the citizen a chance to have his penalty mitigated and relieves the government from the burden of producing the police witness at the hearing.

A citizen who decides to deny a violation or admit it with an explanation will be required to attend a hearing. In a parking case or

a moving case where the plea is admit with explanation, a citizen may have a hearing merely by showing up at the Adjudication Office. He may also schedule a hearing if he chooses. In a case requiring police testimony, such as a moving infraction which is denied, the citizen would have to schedule a hearing by notifying the Adjudication Office by mail or in person. We plan also to allow scheduling by telephone unless it proves too difficult to administer.

On the day of the hearing, citizens would be heard at their appointed time or, in the case of walk-ins, in their order of arrival. Waiting time would seldom be more than thirty minutes.

When his turn comes, the motorist would be sworn in and asked to enter a plea for the record. If the plea is admit with explanation, the hearing examiner would listen to the driver's explanation, along with any witnesses, review his prior record if a moving infraction is involved, and impose an appropriate sanction. If the deny plea is used and it is a moving case, the hearing examiner would also take the sworn testimony of the police officer. The hearing examiner would be free to question the motorist and any witnesses including the police officer. After listening to the testimony and reviewing any other evidence presented, the hearing examiner would enter his decision on a computer terminal which would then call up the driver's record, and based on the traffic safety record the hearing examiner would then impose an appropriate

penalty. The possible penalties would be:

1. A fine up to the present collateral amount for the violation, plus any penalties that had accrued;
2. traffic school;
3. license suspension or revocation where the driver has excessive points.

The computer would be programmed so that the hearing examiner would not have access to the driver's record until he enters his decision in the case. This is to insure that the driver's prior record does not prejudice the decision.

If a driver is dissatisfied with the decision in a deny case, he may file an appeal. Appeals would be heard by a three member panel: one member would be an employee of the Department of Transportation, the second an employee of the District of Columbia who is not an employee of the Department of Transportation, and the third member an attorney drawn from a list submitted by the District of Columbia Bar. Appeals would be on the record, but oral argument by the driver or his attorney would be permitted.

One issue that should be discussed is the matter of police appearances on parking tickets. Under our proposal, the police officer or civilian ticket writer would not be required to testify in every contested parking case. I feel that this feature is critical to this proposal.

As a practical matter, the testimony of the ticket writer seldom has any value in a parking case. The relevant information concerning the violation is written on the ticket and the ticket writer's testimony adds little to substantiate this information. In most cases, the ticket writer, who has written scores of tickets in the meantime, does not remember the details of the infraction. This would be especially true with our civilian ticket writers who are assigned full time to parking enforcement and would be writing a hundred tickets a day.

There are certain parking cases in which the ticket writer should be required to appear because his testimony would serve a valuable purpose. For example, the motorist may allege that the ticket writer issued the citation to satisfy a personal grudge or that a double-parked car caused him to park overtime. In these and other similar circumstances, the facts surrounding the infraction may be drawn out best by allowing the motorist or his counsel to cross examine the ticket writer. Under our proposal, the hearing examiner, after listening to such allegations, could delay the proceedings and require the ticket writer to appear.

My perspective on this issue is that in decriminalizing these offenses and eliminating jail, heavy fines and arrest as sanctions, the need to provide for the appearance of a ticketing officer as a matter of right at every hearing is mitigated. The officer should be called when

his presence can be constructive in the determination of the facts, but not routinely. Otherwise, the potential remains for destroying the efficiency of the system for no good purpose.

On behalf of the members of the panel, I would like to thank the Committees for the opportunity to testify on this bill this morning. We will be pleased to answer any questions.

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