



PENNSYLVANIANS
FOR MODERN COURTS
PMCAction

**Testimony before the House Judiciary Committee on Senate Bills 333 and 334
Concerning Philadelphia Traffic Court**

**Presented by Lynn A. Marks, PMC & PMCAction Executive Director and
Suzanne R. Almeida, PMC & PMCAction Program Director**

(S.B. 333, P.N. 311 and S.B. 334, P.N. 413)

**Philadelphia
March 22, 2013**

I. Introduction

My name is Lynn A. Marks and I am the Executive Director of Pennsylvanians for Modern Courts (PMC)¹ and PMCAction². PMC and PMCAction are nonpartisan, nonprofit court reform organizations that work to ensure that all Pennsylvanians can come to our courts with confidence that they will be heard by qualified, fair and impartial judges. I am joined by our Program Director Suzanne Almeida.

Thank you for inviting us to provide testimony on Senate Bills 333 and 334. We would also like to thank Senator Dominic Pileggi and Judge Gary Glazer for their leadership on these issues.

As you know, the federal indictments of nine current and former Philadelphia Traffic Court judges on charges related to fixing tickets and favoritism has cast a dark cloud over Philadelphia's judicial system. As of March 13th, three former judges have pled guilty and are currently awaiting sentencing. We believe that these guilty pleas are only the first step on the long road to restoring Philadelphians' confidence in our courts. Senate Bills 333 and 334 are another crucial step in the process.

Although Philadelphia Traffic Court is part of the "minor judiciary" the impact that it has on everyday Philadelphians is anything but. In fact, so called "People's Courts", such as

¹ Pennsylvanians for Modern Courts is a statewide nonprofit, nonpartisan organization founded to improve and strengthen the justice system in Pennsylvania by reforming the judicial selection process; improving the jury system, court administration and court financing; increasing fairness in the courts; and assisting citizens in navigating the courts and the justice system, whether as litigants, jurors, or witnesses. <http://www.pmconline.org>.

² PMCAction is an affiliated nonprofit that lobbies for court reform initiatives. For more information, please visit <http://www.pmcaction.org> and our blog at <http://JudgesOnMerit.org>.

Philadelphia Traffic Court, Municipal Court and Magisterial District Courts are the avenues through which most Pennsylvanians come in contact with the judicial system. Accordingly, these institutions have a proportionally greater responsibility to function with the highest standards of ethical behavior. It is clear that Philadelphia Traffic Court has failed in this regard.

We must take affirmative steps to restore public confidence in our courts, particularly the long-embattled traffic court system. Although no system will be perfect, we believe that Senate Bills 333 and 334 will help move the healing process forward.

A transition away from a stand-alone traffic court is not without precedent in Pennsylvania. As you know, Pittsburgh transferred the adjudication of moving violations from an independent traffic court similar to what currently exists in Philadelphia, to their magisterial district court. Although the resulting structure is different than the proposal before you, we can look to Pittsburgh for lessons on how best to accomplish this transition.

II. Advantages

There are several advantages to the restructuring proposals set forth in the legislation before you.

First, the use of hearing officers rather than constitutionally elected judges to hear moving violations allows for greater oversight of the process and the adjudicators. As you know, when a judge is sworn in, that seat on the bench is constitutionally protected. The judge may only be reprimanded, sanctioned and/or removed in specific circumstances and only after undergoing a lengthy review process.

This is not the case for court employees. Court employees may be fired or disciplined at any time. Giving the President Judge of Municipal Court supervisory powers over the moving violations hearing officers will allow that judge to closely monitor the hearing officers' behavior and take immediate and appropriate action if problems arise.

Further, it allows the court to develop clear and precise rules and regulations regarding the adjudication of moving violations, and to discipline hearing officers that do not adhere to the requirements. Although under the current system, the court has the power to create its own internal operating guidelines, judges cannot be disciplined for violating those guidelines unless their behavior also runs afoul of the Code of Judicial Conduct or Minor Judiciary Code of Conduct.

Second, changing the structure of Traffic Court will help assure the public that real action is being taken to clean up the system.

Under the leadership of Judge Gary Glazer, a number of internal reforms have been implemented, including increased ethics training of court employees, technological improvements that improve record keeping, and increased public outreach. However, despite the effectiveness of these reforms, the public has little to no awareness of these efforts.

There is often an attitude statewide, but especially in Philadelphia, that corruption is inevitable and that elected officials and reform groups like Pennsylvanians for Modern Courts "talk the talk" but fail to implement solutions. While not the only factor, the lack of visible reforms has certainly played a role in creating this perception of impotence.

Restructuring Traffic Court in a way that increases accountability of those individuals tasked with adjudicating moving violations will be a visible reform that can help increase public confidence in our courts.

Of course, restructuring the court cannot be solely a public relations move. The reforms must actually be implemented, or this will be seen as simply placing a band-aid over a gaping wound. Public confidence in the courts is critical and we must ensure that the promise of reform becomes a reality.

Finally, removing elected judges from deciding moving violations will help remove the specter of “votes for ticket dismissals” and favoritism from the courtroom. During the 2011 campaign for Traffic Court, one candidate was recorded telling a group of potential voters that they would “need him in Traffic Court.” He was subsequently elected and currently is under indictment for charges related to fixing tickets. Although there is no evidence that he followed through on his implied promise to these potential voters, a system of judicial elections lends itself to similar scenarios.

III. Remaining Questions

Although we are speaking today in support of the legislation, there are a number of questions that should be addressed before the changes are implemented. It is our understanding that a number of these questions are currently the subject of discussions. Generally, they fall into two categories: logistics and procedures under the new regime.

A. Logistics:

- What are the financial implications of this restructuring?
- What will happen with the assets/liabilities of Traffic Court? (building, computer systems, etc.)
- How will this affect current Traffic Court employees? Are there collective bargaining implications? There are currently 115 employees of the First Judicial District who are assigned to Traffic Court. The interests of these 115 individuals must be protected as we move forward. Of course, any employees who are found to have participated in ticket fixing should be appropriately disciplined, up to and including dismissal. In order for this reform to have any lasting impact, the newly created traffic division of Municipal Court must be staffed with good, honest, hardworking employees.
- What role will the current Philadelphia Traffic Court judges have in the restructured system? What role will newly elected Philadelphia Traffic Court judges have?

B. Procedures

- Record keeping: How will future moving violations records be kept? Will the new system be compatible with the system in place? Will additional training be required for staff and hearing officers?

- What is the appellate process? The bill is silent on this point. In the Constitution, appeals from courts not of record and administrative agencies are funneled into the Court of Common Pleas. However, because the bill creates 'traffic division' of Municipal Court, and Municipal Court is a court of record, the appellate process is unclear.
- Under what rules of evidence, etc. will Traffic Division be operated?
- What, if any, qualifications and/or training must hearing officers have? We believe as part of the restructuring/rebranding process, all hearing officers would ideally be lawyers in order to clean up the image of Traffic Court and emphasize the seriousness of the proceedings. For example, in New York City, moving violations are adjudicated by administrative law judges who must be attorneys admitted to practice in New York for three years. As part of our research, we looked into any instances of ticket-fixing or corruption. It appears that while the police officers responsible for testifying on traffic tickets have been involved in numerous instances of corruption, there was no indication that the administrative law judges were involved in any way.

Of course, there is no guarantee that lawyers will behave any better than non-lawyers. We also believe that competent lay hearing officers would be perfectly capable of carrying out the responsibilities of adjudicating traffic tickets. However, all litigants must have the ability to appeal the decision of the hearing officer to a judge.

Most importantly, all hearing officers must undergo thorough and intensive training on both the substantive traffic code and ethical issues. Without knowledgeable and ethical hearing officers, we will soon face another crisis of confidence.

IV. Going Forward

We cannot make the mistake of believing that simply because Philadelphia Traffic Court undergoes a complete structural change that our work is done. The biggest problem in Philadelphia Traffic Court is the culture of favoritism that surrounds the everyday workings of the court coupled with the culture of entitlement that is prevalent among "connected" Philadelphians. Unfortunately, this cannot be fully addressed through structural changes. More must be done.

- All hearing officers and court staff should be required to partake in rigorous and continual ethics training. Ideally, these trainings would serve a dual purpose of reminding court staff and hearing officers of their ethical obligations as well as providing a forum for open and honest discussion of any ethical pitfalls.
- All hearing officers and court staff should be subject to regular employee evaluations. This will allow for the early identification of problems and allow the court to maintain strict control over the adjudication process.
- The First Judicial District, in conjunction with state court officials and local and statewide policy makers, should undertake a public education campaign about the value of courts and the proper role of judges.

- A complaints process should be set up within the traffic division to handle any customer issues. Since the hearing officers are not judges, the Judicial Conduct Board would not be the appropriate venue for complaints. However, an appeals process for the underlying moving violation is not sufficient since it would not necessarily address instances of hearing officer misconduct.
- Hearing officers who are lawyers should not be allowed to maintain a private law practice while they are employed in traffic division. Furthermore they should be required to abide by the same ethical code as judges in the minor judiciary.

V. Conclusion

Unfortunately, there is no silver bullet for achieving lasting and meaningful reform of Philadelphia Traffic Court. Although Senate Bills 333 and 334 are a crucial step in the process, our city's work is far from over. We are optimistic that by engaging in an ongoing discussion among the public, community leaders, legislators, and judges about issues facing our judiciary, our courts can be improved. Our community deserves this.

Thank you again for the opportunity to speak with you today.

