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DENVER'S NEW MUNICIPAL COURT UNIFORM SUMMONS AND COMPLAINT AND CALENDAR COURT DIVISION

BY GERALD E. McAULIFFE

Hon. Gerald E. McAuliffe has served as Presiding Municipal Judge in the Denver court system since 1952. He received his LL. B. degree from Westminster College of Law in 1930 and was admitted to practice in Colorado the same year. From 1931 through 1934 he was Assistant City Attorney. While serving in the Colorado Legislature he was Chairman of the Criminal Affairs Committee and of the Judiciary Committee. From June 1938 to early 1940 he was Assistant Attorney General of Colorado, and from 1942 through 1951 he served with the Anti-Trust Division of the United States Department of Justice. Since 1952 he has been reappointed annually as Presiding Municipal Judge. The judge is a member of the Colorado, Denver and American Bar Associations, a member of the Traffic Court Committee



of the Colorado Bar Association, a member of the Committee on Traffic Courts of the Section on Judicial Administration of the American Bar Association, a member of the Mayor's Traffic Coordinating Committee in Denver, and a member of the Governor's "Colorado Citizen's Traffic Safety Committee."

The Denver Uniform Traffic Summons and Complaint was instituted in Denver on January 1, 1957. This action placed the City of Denver and the Denver Municipal Court in compliance with recommendations previously made by the American Bar Association, the National Safety Council and the President's White House Safety Conference. Simultaneously, a Calendar Division of the Denver Municipal Court was created and established to function in conjunction with the new system.

August 31, 1957, marked the end of the first eight-full-month's operation under the new program. From its very beginning, there has been a close and constant observation maintained of the actual workings of the Uniform Summons and Complaint — Calendar Court Division and certain revisions have been accomplished as dictated by circumstances. One major revision was found necessary with respect to the initial formula for determining unit values regarding the several hazardous conditions listed on the face of the summons and this correction was accomplished effective January 16, 1957, and publicized at that time. The underlying reason for that particular change was that it became apparent in our early experiences that the original formula was resulting in unreasonable penal-

ties in some instances, especially with respect to the offenses of "illegal turns." That fault was adequately corrected by the revision of January 16.

In explaining the essential parts of the new program, this matter will be discussed hereinafter in two separate parts: A. The Denver Uniform Summons and Complaint, and B. The Calendar Court Division, Denver Municipal Court.

A. THE DENVER UNIFORM SUMMONS AND COMPLAINT

The combined Summons—Complaint is pre-numbered and consists of four parts:

- 1) The face of the original is a legal complaint and on its reverse side is contained a space for the docket entries usually required in traffic court cases. This is the copy that is filed and used in court;
- 2) The second part is an exact copy of the face of the complaint; while on its reverse side are spaces for the report of conviction, if any, and other pertinent information for transmittal to the State Motor Vehicle Department. This is the State's copy;
- 3) The third copy is the police record with the reverse side providing space for the entry of dispositions for use in maintaining statistics by the Police Department. This is the Police Department's copy;
- 4) The fourth is the alleged violator's copy and is identical with the other three except it is headed "summons"; while on the reverse side thereof is contained information for the benefit of the person charged, or his attorney, showing exactly which offenses require mandatory court appearances and those in which he may, in certain cases if he desires to plead guilty and waive trial, appear in the clerk's office for payment of fixed penalties or, in some cases, have the citation excused as a warning in advance of the return time specified on the face of the summons.

The outstanding feature of the new uniform Summons and Complaint is the selection and designation therein of the five specific offenses which contribute heavily as the cause of accidents in Denver—i.e.:

- a) Speeding
- b) Illegal left turn
- c) Illegal right turn
- d) Disobeyed traffic signal when light turned red
- e) Disobeyed stop sign.

Actually setting forth those five charges without supplying additional information would only serve to perpetuate the omission of the information lacking in the traffic ticket form previously in use here in Denver. Consequently, each of these five charges is further analyzed by separating them into three degrees of seriousness. The first column in the rectangular box on the left of the Summons-Complaint corresponds to what most persons refer to as a "technical violation." It would, therefore, constitute the least degree of seriousness. Logically, we would then ascertain what act or driving maneuver was the most serious and this is represented by the column on

the extreme right of the same box. Anything beyond this degree of violation is in aggravation of the most serious circumstance according to the standards of the average motorist. To complete the analysis, a "middle" serious column is provided to cover situations in this in-between stage. By employing words descriptive of these different degrees which are readily understandable by police officers, prosecutors, lawyers, judges, driver licensing authorities, driver training instructors and motorists, as well as to representatives of the press, radio, television and other communications media, an awareness of some of the problems incidental to traffic law enforcement is created. Thus, it could be said that the first column represents "serious"; the next column "more serious"; and the third column "most serious." The exact offenses with the three degrees of seriousness are actually listed in the Denver Uniform Summons and Complaint as follows:

- Speeding 5 m.p.h. 6-10 m.p.h. Over 10 m.p.h.
 (over limit) 507.2 507.2 507.2
 (..... m.p.h. in..... m.p.h. zone)
- Illegal Left Turn No signal 509.7-1 Cut corner 509.1-2 Wrong lane
 Two-way street 509.1-2
 One-way street 509.1-3
- Illegal Right Turn No signal 509.7-1 Into wrong lane 509.1-1 From wrong lane 509.1-1
- Disobeyed Traffic Signal (When light turned red) Past middle intersection 505.5-3 (1) Middle of intersection 505.5-3 (1) Not reached intersection 505.5-3 (1)
- Disobeyed Stop Sign Wrong place 512.5 Walk speed 512.5 Faster 512.5

As can be seen by the above, the fifteen descriptions of illegal and unsafe maneuvers set forth therein, and in and of themselves informative, can and, it is hoped, will become a medium of continuing education to the motorist in violation. Many times a technical violation such as one in the first column which would not be

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serious in and of itself or standing alone will become so only by reason of existing conditions which add to or increase the hazard of the objectionable driving maneuver. Experience proves that the three most important conditions present in accident summaries are: (1) visibility or darkness, (2) slippery pavement, and (3) other traffic present.

At least three separate circumstances under each of these conditions are dangerous and should be considered in order to determine the seriousness of the offense and to assist in arriving at an appropriate and realistic penalty. Consequently, the conditions listed in the second large rectangular box on the right side of the Uniform Summons and Complaint are designed to appear to the alleged violator as representative words meaning "danger" or "hazard." The conditions in that box emphasize the premise that traffic laws are designed to prevent accidents on the streets and highways, thus reducing the number of such accidents with their usually resultant crippling injuries and deaths plus property damage. Any near miss is a threat to public safety and amounts to a serious condition which not only the motorist but the police and courts should consider in arriving at a proper evaluation of the offense and the resulting penalty. If the thing that the traffic laws are designed to prevent, i.e., an accident, actually occurs, however, then that fact means the matter has become far more serious and this, too is an important feature which should be taken into consideration. Appropriate space for accident information has, therefore, been provided. Descriptive words as to the area through which the streets or highways traverse and boxes for the officer to designate the type of highway complete the blank spaces for insertion of the exact factual conditions present at the time of the alleged violation. Thus, the exact conditions which increase the seriousness of the violation are listed in the Denver Uniform Summons and Complaint as follows:

Conditions that increased
Seriousness of Violation

SLIPPERY PAVEMENT	<input type="checkbox"/> Rain	CAUSED	IN ACCIDENT
	<input type="checkbox"/> Snow	PERSON	<input type="checkbox"/> Ped.
	<input type="checkbox"/> Ice	TO DODGE	<input type="checkbox"/> Vehicle
VISIBILITY	<input type="checkbox"/> Night	<input type="checkbox"/> Pedestrian	<input type="checkbox"/> Intersection
	<input type="checkbox"/> Fog	<input type="checkbox"/> Driver	<input type="checkbox"/> Right angle
	<input type="checkbox"/> Rain	JUST MISSED	<input type="checkbox"/> Head on
	<input type="checkbox"/> Snow	ACCIDENT	<input type="checkbox"/> Sideswipe
OTHER TRAFFIC PRESENT	<input type="checkbox"/> Cross	<input type="checkbox"/>	<input type="checkbox"/> Rear end
	<input type="checkbox"/> Oncoming		<input type="checkbox"/> Ran-off roadway
	<input type="checkbox"/> Pedes- trian		<input type="checkbox"/> Hit fixed object
	<input type="checkbox"/> Same direction		

AREA: Business Industrial School Residential
 Rural

HIGHWAY TYPE: 2-lane 3-lane 4-lane
 4-lane divided One-way street

From the above, it should be evident that every element required to prove any of the five selected offenses appears on the face

of the summons and complaint. The police officer has no excuse for failing to note them before handing the accused motorist his copy of the summons. The alleged violator, in turn, has an opportunity to know the exact nature of the charge against him and conditions claimed to have existed at that time and place. He has been thus given what amounts to a detailed "Bill of Particulars"! He, therefore, has an early opportunity to prepare his defense because he knows precisely what he must answer. Consequently, since the motorist knows the exact charge placed against him, he is better informed and thus in a better position and more able to intelligently make a decision as to whether he should enter a plea of guilty or not guilty to the charge.

Following along on the foregoing line of reasoning, the first column in the left rectangle, since it relates to the least serious offenses, has consequently been assigned a unit value of one single unit for each offense checked; the second column, *i.e.*, the more serious column has been assigned a value of two units for each offense checked; while the third, *i.e.*, the most serious has been assigned a value of three units for each offense checked. With respect to the conditions which increase the seriousness of the violation, as set forth in the right hand rectangle, a unit value of one, two and three respectively has been assigned to each grouping in the three columns. Each unit has been assigned a monetary value of \$4.00. The first offender, receiving a summons indicating two units or less, will be excused as a warning provided he appears at the clerk's office at any time prior to the return time specified in the summons and there signs a plea of guilty and waiver of trial. Payments of fixed fines for six units or less may be paid in the clerk's office by following that same identical procedure. Certain offenses described on the back of the motorist's copy require mandatory court appearances as do also those in which the units total up to seven or more. Separate and apart from the five offenses listed in the summons and complaint, there has been provided a space at the bottom for the officer to designate other alleged violations as warranted by the facts. So the recipient will be fully informed of the charge, if made in this manner, on the reverse side of the violator's copy of the summons will be found a complete description by section numbers and word definitions of specific traffic offenses over and above the five set forth in the body of the complaint. In addition to the five presently

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listed in the Denver Uniform Summons and Complaint, a sixth traffic offense which is listed in the American Bar Association model form is being considered and probably will be added in the very near future. This sixth offense is "Improper Passing and Lane Usage."

The Denver Uniform Traffic Summons and Complaint has many important advantages over the previous arbitrary and non-realistic ticket procedure used in Denver, chiefly among which it:

- a) Permits calendar and trial judges to arrive at more uniform penalizations in court upon plea of guilty or finding of guilty after trial and will, in all cases, relate the penalty, if any, more closely to the actual offense committed;
- b) Minimizes and probably reduces a possibility that the fines for hazardous violations will be allowed to become delinquent as frequently happened under the former unsatisfactory ticket procedure;
- c) Permits uniform interpretation of city traffic laws by all police officers;
- d) Permits uniformity of instructions to all police officers and administrative personnel within the Police Department.
- e) Permits prosecutors to secure more consistent and uniform case preparation;
- f) Acquaints the alleged violator and/or his attorney with the exact nature of the violation charged; and
- g) Acquaints the motoring public with the particular unsafe maneuvers which are causing the accidents in Denver with attendant injury, death and property damage.

B. THE CALENDAR COURT DIVISION—DENVER MUNICIPAL COURT

1) Certain offenses require mandatory appearance in the newly created Calendar Court Division. They are:

- a) Leaving the scene of an accident;
- b) Operation of a motor vehicle while under the influence of intoxicating liquor, narcotic or drug;
- c) Operation of a motor vehicle without a valid operator's license or while license is under denial, cancellation, suspension or revocation;
- d) Reckless driving;
- e) Any offense resulting in personal injury or property damage (accident);
- f) Taking the right-of-way from emergency vehicle;
- g) Third moving offense within a twelve-months' period;
- h) Speeding in excess of twenty miles an hour over the speed limit; and
- i) Seven or more units.

2) If any person who is charged with traffic violations, other than those listed in No. 1 above, wishes to plead guilty and waive trial, he or she may bring the summons, at any time prior to the court appearance time noted on the face of the summons, to the Clerk of the Traffic Court, Room 201, West Side Court Building, at West Colfax and Kalamath Streets, anytime between 8:00 A.M. and 5:00 P.M. daily, Monday through Friday.

3) When a person appears at the Clerk's Office, pursuant to paragraph No. 2 above, the records will be checked and a determination made as to whether the alleged offense is in the warning category or, if not, then whether payment of a fine is acceptable in the Clerk's Office or whether the matter is such as requires a mandatory court appearance.

If in the "excuse or warning" category, or if payment of fine is acceptable in the Clerk's Office pursuant to the procedure listed in No. 3 above, the matter may be disposed of immediately if the motorist: (a) Turns in his summons to the Clerk after signing thereon the plea of guilty and waiver of trial, and (b) Pays the total fine established by the court for the offense charged (unless the matter adds up to a "warning" only).

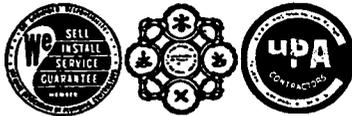
If the matter is more serious than the "warning" category or if payment of a fine in the Clerk's Office is not acceptable, then and in that event the recipient of the summons will be required to appear in the Calendar Division at the date and time specified in the original summons.

If a summons adds up to a mandatory court appearance before the calendar judge, the recipient or his attorney will ordinarily, upon request, in open court, except as hereinafter expressly mentioned, be given one week's continuance in the arraignment date.

A reasonable opportunity will be given defendants and/or their attorneys to examine any and all reports and records pertaining to the case (excepting records of arrest and prior traffic violation records) at the time of arraignment and prior to being required

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to enter a plea to the charges, *i.e.*, the original complaint, visual sobriety and accident reports, blood alcohol analysis certificate and so forth.

The Calendar Division convenes twice daily at 8:30 A.M. and 1:30 P.M. Each session is opened with an informative and educational explanation by the calendar judge, setting forth the procedure which will be followed plus specific information regarding the basic and fundamental rights of the defendant.

Then follows a statement by the calendar judge explaining the exact procedure and order of business. By way of conclusion, the Calendar Division judge explains the purpose and intent of traffic law enforcement, setting forth pertinent statistics—*i.e.*: (a) 40,000 persons killed in traffic accidents in the United States last year; (b) 16,000 accidents occurred in Denver during 1956, which represented an increase of approximately 2,000 accidents over the preceding year of 1955; (c) 3,000 persons injured in those 16,000 accidents; (d) thirty-eight persons killed in traffic accidents in this city last year of which nineteen were pedestrians.

No witnesses will appear or testify and no trials will be conducted during sessions of the Calendar Court Division. However, the recipient of a summons entering a plea of guilty in said Calendar Division, or his attorney, may make an oral statement in mitigation, if desired. If the plea is guilty before the calendar judge, the matter will be disposed of at that same session of court upon examination and consideration of all supporting documentary material that may be relevant to each individual case, *i.e.*, complaint, accident report, and other matter.

If the plea before the calendar judge is not guilty, the matter cannot be disposed of at that same session of court, but will ordinarily (unless exceptional circumstances exist) be set over to some future date for trial, allowing both the city and the defendant reasonable time to procure witnesses and prepare for trial.

If an attorney is retained in advance of the original arraignment date, and so desires, he or she may arrange postponement of the arraignment itself, not to exceed one week's duration, by contacting *personally* the Calendar Division clerk. Requests for continuance in the arraignment, exceeding one week, must be presented to the Calendar Division judge.

If an attorney is retained in advance of the arraignment date and is desirous of entering a plea of not guilty and asking for trial upon the merits, he or she may enter a not guilty plea to the charge and obtain, in advance, a date for trial by *personally* contacting the calendar clerk. In cases where such procedure does not result in the assignment of a date acceptable to all parties concerned, the matter will be referred to the Calendar Division judge who will, after consultation with defendant and/or his attorney, city attorney, court liaison officer and calendar clerk, select an appropriate trial date. Trial settings of cases under pleas of not guilty will be scheduled at staggered times instead of setting all such cases at the same time as was accepted practice under the former system. This is designed to save time, in court, of attorneys, police officers, witnesses and others interested in particular cases and experiences thus far indicate pleasing results in that direction.

Each attorney having matters for arraignment and/or trial setting is requested to enter his appearance with the Calendar Division clerk as soon as possible in order that he or she may be contacted thereafter, should any development occur requiring consultation in a particular case. This should be done by setting forth the name of the attorney, in print, on the original complaint in the appropriate box provided for that purpose.

Requests for postponement in the trial date as originally set by the calendar clerk will be granted only upon a showing of good and sufficient cause and, excepting cases of real emergency, must be made at least 48 hours prior to the date and time set for trial in order to permit the re-notification of witnesses. Any request for postponement made less than 48 hours prior to the trial date must be referred to the office of the City Attorney, Traffic Division, at the West Side Court Building, for recommendation.

Regardless of whether the plea in the Calendar Division is "guilty" or "not guilty," if the defendant disagrees with the judgment of the Municipal Court, he or she may appeal to the Denver Superior Court. This has been the consistent and accepted practice in Denver for many years past.

In conclusion, may I say those of us in City Government who have primary responsibility in the premises believe this new program constitutes a distinct improvement over the old arbitrary system in providing as it does, an equitable and fair system of traffic law enforcement and Municipal Court procedures. It is, we feel, fair to the alleged violator, fair to the Police Department, as the enforcing agency, and fair to members of this community.

However, it does constitute a revolutionary change so far as Denver is concerned and it is extremely important, therefore, that particular groups and individuals affected, including specifically members of the Bar as well as citizens generally, understand the basic points involved in order that the program can be intelligently evaluated and thus justified, accepted and supported by the community.

The writer, therefore, extends an invitation to the readers of DICTA to forward any and all suggestions which might serve to clarify or improve this new procedure—which suggestions, if received, will be more than welcome and be given prompt attention.

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