
Proposed Solutions for Improving the Experience of Returning Citizens with the Philadelphia Traffic Division

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This report was prepared by Aaron Bindman, M. Zane Johnson, and Dennie Zastrow, students from Justice Lab, a clinic at the Sheller Center for Social Justice at Temple University Beasley School of Law. The report's analysis and findings are based both on statutory and case law research, interviews with various stakeholders, and consultation with our professor, Colleen Shanahan, our client, Philadelphia Lawyers for Social Equity, and our fellow clinic participants.

JUSTICE LAB at the SELLER CENTER FOR SOCIAL JUSTICE TEMPLE UNIVERSITY BEASLEY SCHOOL OF LAW

Justice Lab is a clinic at the Sheller Center for Social Justice at Temple University Beasley School of Law. Justice Lab represents client organizations (including community groups, nonprofit organizations, and governmental agencies) in a range of systemic advocacy matters. Students develop and advance policy campaigns, design and pilot legal services and access to justice programs, draft legislation and provide legislative advocacy tools, and act as problem solvers and strategic planners. Through this social justice advocacy, Justice Lab students develop expertise in finding creative solutions to and reflect on the complex social and political aspects of legal problems and develop strengths in interviewing, research and information gathering, policy, legislative, and strategic analysis, written and oral advocacy, collaboration, project planning and management, professional ethics, negotiation, and media advocacy skills.

The Sheller Center for Social Justice at Temple University Beasley School of Law, created in 2013 by a generous gift from Stephen and Sandy Sheller, is a hub for social justice inquiry and advocacy. The Center's faculty, staff, and affiliated faculty work with law students, the Law School's other legal clinics and experiential programs, others at the University, community organizations, and external partners to seek justice for disadvantaged populations in Philadelphia and across Pennsylvania.

PHILADELPHIA LAWYERS FOR SOCIAL EQUITY

Philadelphia Lawyers for Social Equity (PLSE) is a 501(c)(3) non-profit legal aid organization. PLSE's mission is to work toward just outcomes for low-income individuals who have had contact with the Pennsylvania criminal justice system. Through individual representation, strategic litigation, community education, research, and legislative advocacy, PLSE advocates for a more equitable social environment for those with criminal records, including expanding access to employment and social services.

PLSE was founded in 2010 by four Philadelphia-based civil rights lawyers who wanted to create an alternative legal service model that brings legal services directly into the communities most affected by criminal history record information and other social justice inequities. PLSE received tax exempt status in 2012.

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ACRONYMS AND ABBREVIATIONS

JCETP: Jersey City Employment and Training Program

PA. CONS. STAT.: Pennsylvania Consolidated Statute

PennDOT: Pennsylvania Department of Transportation

PLSE: Philadelphia Lawyers for Social Equity

PPS: Philadelphia Prison System

STAR: Supervision to Aid Reentry

Traffic Division: Traffic Division of the Philadelphia Municipal Court

INTRODUCTION

This report examines the issues returning citizens and Philadelphians in general confront when they interact with the Philadelphia Traffic Division of the Municipal Court. This project began when advocates and stakeholders who help returning citizens readapt to life immediately after incarceration noticed that nearly every person they worked with had a traffic-related issue that made a visit to the Traffic Division necessary.

For many years, returning citizens and their advocates were able to resolve outstanding fines and license suspensions in Traffic Court by filing *nunc pro tunc* petitions to file out of time appeals. These outstanding traffic issues were a common concern because incarceration prevented the individuals from learning about, pursuing, or resolving the issue for an extended period of time. In practice, *nunc pro tunc* petitions were almost always granted, and returning citizens were then afforded the opportunity to contest guilty verdicts and resolve the fines and bench warrants that prevented them from getting a driver's license from PennDOT.

After the corruption scandal that resulted in the elimination of the Traffic Court and the creation of the Traffic Division, *nunc pro tunc* petitions ceased to be a viable solution. Judges, wary of any hint of corruption, began following Pennsylvania's strict precedent regarding *nunc pro tuncs* and determined that binding judicial authority prevented them from granting these petitions when the extenuating circumstance was incarceration. As a result, *nunc pro tuncs* are no longer an available tool for returning citizens to resolve traffic citations, get a driver's license, and reintegrate into society. Thus, returning citizens – and all Philadelphians – need alternative solutions to move forward.

This report identifies five key solutions that would improve the Traffic Division experience for returning citizens. It also summarizes miscellaneous solutions that are more costly or less feasible than the five key recommendations. Each key recommendation includes a brief narrative describing the problem, an explanation of the proposed solution, the costs and benefits of implementing the solution, and a list of next steps. The solutions are:

- Traffic Division judges should exercise the discretion that statutory law already gives them to convert fines to time served or community service when a person cannot afford to pay a fine.
- Advocates and stakeholders should pursue a general education campaign to help returning citizens better navigate the current Traffic Division procedures.
- Traffic Division, PennDOT, and the prison system should create a more efficient process to allow individuals who are currently incarcerated to update their address.
- Traffic Division should stop finding individuals guilty in absentia (like nearly every other county in Pennsylvania regarding traffic-related matters).
- PennDOT and the Traffic Division should simplify their materials, and especially include understandable information about the availability of payment plans for traffic fines.

ALTERNATIVE SENTENCING

Problem

A significant challenge for returning citizens, and all Philadelphians, is that the Traffic Division of the Philadelphia Municipal Court does not, in practice, offer alternatives to paying a fine when an individual is found guilty of a traffic violation. This means that when an individual is found guilty of a traffic violation, they will be assessed the statutory fine, with no variation, regardless of the violator's circumstances. However, Pennsylvania law allows for alternative sentencing, particularly when the violator is either unable to pay a fine or the fine causes an undue burden. Most courts in Pennsylvania use this discretion when sentencing traffic violators. These jurisdictions see this discretion as an opportunity to ease the financial and other burdens faced by returning citizens, and so focus on offering alternative sentences to returning citizens.

CURRENT PHILADELPHIA PRACTICE

When someone is cited for violating a traffic law in Philadelphia, they are almost always given a citation at the scene of the incident. This citation will include the date of the hearing, when they can argue the citation's merits and also the monetary penalty associated with the specific violation.

When a person attends a hearing and is found guilty, they are asked by the hearing officer to pay the full amount listed for the specific violation. If the violator states and shows that they are unable to pay in full, the hearing officer may assess whether a payment plan is appropriate, as allowed by Pennsylvania law.¹ When a person does not attend their scheduled hearing date, they are found guilty in absentia. If they do not appeal this ruling, then they are expected to pay the fine associated with their violation within ten days. If the individual cannot afford to pay the full amount, they must come to Traffic Division in person to set up a payment plan. Once they appear, there is a payment plan determination hearing.

At a payment plan determination hearing, a hearing officer assesses an individual's ability to pay, based on factors including the individual's employment. To start a payment plan, the officer will require a down payment that day (usually between \$50 and \$100), followed by monthly payments (usually between \$10 and \$50).² While hearing officers will not specifically ask the individual whether they have been recently incarcerated, if they indicate that they have been, the officer may provide different treatment. While observing these hearings at Traffic Division, we saw a woman say she had been recently released and was currently unemployed. The hearing officer asked for proof of recent incarceration, such as release papers or prison identification. This woman had proof and so the officer did not require any down payment and gave her a payment plan of \$0 per month. This example demonstrates that Traffic Division is capable and willing to consider the different circumstances of each person they encounter.

Based on our conversations and observations, the Traffic Division interacts with returning citizens in specific ways. A person being released from a Philadelphia County prison who have a traffic-related warrant and owe over \$5,000 in fines will be brought by the prison system to Traffic Division before

¹ 75 PA. CONS. STAT. § 6504(a) (2016).

² This information is an approximation based on conversations with individuals and observations of these hearings at Traffic Division.

their release. Traffic Division holds payment plan determination hearings specifically for these individuals. A hearing officer requires a smaller down payment (usually around \$25) and smaller monthly payment plans (usually around \$10 per month).³ In deciding these amounts, the hearing officer inquires as to the individual's plans for housing and employment. Second, individuals released from Philadelphia County prisons with traffic-related warrants who owe less than \$5,000 receive a subpoena upon release to appear at Traffic Division within five days. If they do not appear, the warrant will remain and their driving privileges will continue to be suspended.

Lastly, when a violator has already enrolled in a payment plan, but then defaults on a payment, the Pennsylvania Department of Transportation will automatically suspend that person's driver's license and Traffic Division will automatically issue an arrest warrant. In order to remove the suspension and lift the warrant this person must, among other requirements, return to Traffic Division and reenroll in a payment plan. Additional fees associated with the warrant will be added to the total amount in traffic fines owed each time a warrant is lifted, as will a \$70 driver's license restoration fee that must be paid immediately.

BURDEN OF TRAFFIC FINES ON RETURNING CITIZENS

Traffic-related fines can cause a burden on returning citizens' ability to successfully reenter society. In the current system, a returning citizen must pay a monthly installment for months or years to maintain driving privileges. If this person misses a single payment, a warrant will be issued and their driver's license will be suspended. Even if the individual enrolls in a new payment plan, their total amount in fines increases.

Returning citizens often have limited financial means, few people supporting them, and a lack of employment opportunities. The current system increases the likelihood that a returning citizen will have a suspended driver's license until they are able to obtain a consistent source of income, such as steady employment. It is common for employers to require applicants to have an active driver's license, even for employment that involves no driving. Additionally, in Philadelphia, many opportunities for employment are located outside of the city in places that can only be accessed by a car. Traffic fines can therefore be a considerable burden on returning citizens' abilities to succeed and trap the individual in a vicious cycle of not having a driver's license due to no job to pay the fines, and not being able to get a job because of not having a driver's license.

POLITICAL CHALLENGES FOR DISCRETION IN TRAFFIC DIVISION

We recognize that there are historical and political challenges to using alternative sentencing in Philadelphia's Traffic Division. In our conversations with administrators at Traffic Division and the leadership of the District Attorney's Pretrial Unit, we heard that both entities have made a conscious effort to handle all traffic matters as state law prescribes. The District Attorney's Office is particularly uncomfortable with providing the issuing authorities at Traffic Division additional discretion because of the history of corruption at the now-disbanded Philadelphia Traffic Court. Prior to 2013, judges and court staff would "fix tickets," or give breaks to friends, family, the politically connected, and business associates. It is this sort of judicial corruption that Traffic Division and the District Attorney's Office is

³ These amounts are based on observations of these hearings at Traffic Division.

trying to avoid at all costs. Neither party would likely consider any solution that was not allowed by Pennsylvania statute.

However, as described below, alternative sentencing is allowed by statute and is based on established standards that constrain discretion. For example, a person must be able to show that they are either unable to afford to pay their fines or their fines cause them some undue burden, such as a difficulty reintegrating after incarceration. This established law is an opportunity for Traffic Division to be an integral part of supporting returning citizens in Philadelphia.

Solution

The Philadelphia Traffic Division should use alternative sentences to payment of fines for returning citizens. Specifically, we believe that fines should be converted to time served while incarcerated, no matter the reason of imprisonment. Other alternatives we believe should be considered include converting fines to community service hours and reducing or eliminating fines owed on the condition that a certain amount be donated by the returning citizen to a charity. Pennsylvania law plainly allows Traffic Division to use alternative sentencing. In fact, county courts across Pennsylvania and throughout New Jersey are using different models of converting traffic fines to time served for returning citizens.

PENNSYLVANIA LAW

Pennsylvania Consolidated Statutes allow for courts to use alternative sentencing in several different ways. This chart summarizes each statute that provides a method of alternative sentencing. Appendix A offers the full text of each selected section and also provides additional comments.

Pennsylvania Statute	Brief Summary of Statute	How the Statute Can be Used for Returning Citizens
42 PA. CONS. STAT. § 9726(c), (d)	The court shall not sentence someone to pay a fine unless they are or will be able to pay that fine. The individual's financial resources and burden that payment will impose are to be considered when sentencing payment of a fine.	Allows Traffic Division to be more lenient on people who cannot afford to pay a fine or a fine would burden them. An alternative sentence would be more beneficial to these people.
42 PA. CONS. STAT. § 9758(c)	In the event of nonpayment of a fine, the court may use an alternative sentence.	Allows Traffic Division to use any form of alternative sentencing when people are unable to pay their fines.
42 PA. CONS. STAT. § 9730(b)	If someone defaults or is about to default on an already existing payment plan, the court must have a payment plan rehearing. At the rehearing the court may choose to sentence this person to community service.	Allows Traffic Division to sentence people who have shown their inability to pay fines to community service.
75 PA. CONS. STAT. § 6504(b)	Any person who does not comply with a payment plan order for a vehicle offense may be imprisoned up to one day for every \$40 owed in unpaid fines.	Allows Traffic Division to use an alternative sentence of time served by converting fines to imprisonment, and then finding that the individual has already served the time.

ALTERNATIVE SENTENCING IN PENNSYLVANIA AND OTHER JURISDICTIONS

Every court throughout Pennsylvania that we contacted, outside of Philadelphia's Traffic Division, uses time served for returning citizens who owe traffic fines.

Pennsylvania Jurisdiction	Allow for Time Served	Additional Comments
City of Philadelphia	No	Does not offer any form of alternative sentencing.
City of Pittsburgh	Yes	Uses time served on a scattered basis.
Allegheny County	Yes	Will implement time served when determining ability to pay fines. Will also allow people currently incarcerated to request by letter a conversion.
Montgomery County	Yes	Explained that they want to see returning citizens get their lives back on track and that time served is imperative in helping do that.
Chester County	Yes	Will grant time served for anyone currently incarcerated who requests it. County jail has a request form.
Delaware County	Yes	One judge requires the request to be made in person. Another judge allows the request at a hearing, by letter, or by video conference from jail.
Bucks County	Yes	Often prison counselors will request the conversion on behalf of inmates.

In addition, New Jersey courts have recently been very open to using time served to reduce fines owed by returning citizens. An advocacy organization called Jersey City Employment and Training Program uses a NJ statute similar to a Pennsylvania one to ask courts to convert traffic fines to time served.⁴ JCETP has been successful in almost every county court in New Jersey when they have asked for the court to convert every \$20 of fines owed to a day already served in prison. Another organization, Volunteer Lawyers for Justice: Reentry Legal Services, uses the NJ statute regarding default on payment plans.⁵ This statute and directive give judges the discretion to reduce or suspend payment, order time served or community service, or impose any other alternative sentence in lieu of payment.

While we have not had the resources for a comprehensive survey, our brief research reveals other jurisdictions that use different types of alternative sentencing, particularly for vulnerable populations. Pinellas County, Florida, which includes the cities of St. Petersburg and Clearwater, allows for community

⁴ N.J. REV. STAT. §§ 39:5-36, 2C:46-2 (2015). Like title 75, section 6504(b) of the Pennsylvania Consolidated Statutes, sections 39:5-36 and 2C:46-2 allow a court to imprison an individual who defaults on paying their traffic fines.

⁵ N.J. REV. STAT. § 2B:12-23.1 (2015); New Jersey's Administrative Office of the Courts Directive #02-10 (2010) (providing an explanation of how to use section 2B:12-23.1).

service in lieu of fines (\$7 per hour of service), usually for the homeless or almost homeless.⁶ San Diego, California gives a \$50 credit for every day an individual has spent in custody. The city also may order community service instead (\$50 for each day of service).⁷

BENEFITS AND COSTS TO ALTERNATIVE SENTENCING

Implementing alternative sentencing has a number of potential benefits. The main benefit is a significant reduction in the debt burden on returning citizens. This allows returning citizens to concentrate their resources on successful reentry, including gaining skills that improve their chances of employment. Not having to pay fines also means that there is no possibility of defaulting, which means their driver's license will not be suspended. This also significantly increases the chances of finding employment.

Alternative sentencing also has significant efficiency benefits for Traffic Division. Traffic penalties will be resolved more quickly, and individuals will not have to keep coming back and using Traffic Division resources. In addition, fewer warrants will be issued, which means that Traffic Division and the Philadelphia Sheriff's Office will spend fewer resources on managing these warrants. Traffic Division will also spend less on the administrative costs involved with handling payment plans and defaults. Since alternative sentencing is allowed by Pennsylvania statute and other county courts in Pennsylvania have used some form of it, it will be a relatively easy strategy to implement.

Traffic Division sees more Philadelphians than any other court in the city. Providing some sort of leniency to one of the most vulnerable populations may shift the way Traffic Division is currently perceived by the community. Further, judges will be able to tailor a sentence to the actual circumstances of the defendant in front of them. This increases the fairness to the defendants themselves and the perceptions of fairness in the community. Finally, if judges choose to use community service or donation to charities as alternative sentences, then the community will benefit.

Alternative sentencing may also involve some potential costs. At a minimum, Traffic Division will be required to change the way they currently do things. This will take some time and additional training. It may be that implementing alternative sentencing will create administrative challenges that take time to resolve. In addition, Traffic Division and PennDOT will lose revenue in fine and fee collection. However, this amount will be offset by the reduction in administrative resources being used.

There are also political complications. Traffic Division and the District Attorney's Office are justifiably worried about judicial discretion and the effect that discretion has had on the court in the past. It is important to remember that discretion—created by statute through the democratic process—and corruption—created by individual judges for their own benefit—are two different things. Alternative sentences in Traffic Division would be within the scope of existing state law and practice in other jurisdictions. It may also be that some people view low-income individuals as already receiving too many “handouts.” This sort of stigma may attach if Traffic Division is perceived as giving returning citizens special treatment in traffic-related issues.

⁶ Luis A. Almodovar & Stacy Shor McNally, *Are You Worried About Going to Jail? The Public Defender's Office Homeless Outreach Program*, 36 STETSON L. REV. 183 (2006).

⁷ Steve Binder, *Homeless Court Program*, 51 NO. 2 JUDGES' J. 29 (2012).

Next Steps

1. Stakeholders should read this report to understand the legal authority for and opportunities presented by alternative sentencing for returning citizens in Traffic Division.
2. If there is an advantage to more comprehensive research, perform a survey of Pennsylvania's sixty-seven counties to collect information about alternative sentencing (this report draws on only five counties, all of which use time served sentencing for traffic fines). A survey of additional national jurisdictions may also be helpful.
3. Collect and tell the stories of returning citizens who have suffered from insurmountable traffic fines or driver's license suspensions due to nonpayment. Use the survey provided in Appendix C to gather stories from returning citizens to help with other advocacy. Use these stories as evidence of the real barriers traffic fines create.
4. Convene conversations with stakeholders about implementing alternative sentencing in Traffic Division to use the range of experiences with returning citizens and traffic fines to create change.
5. Identify a judge or other ally in Traffic Division to be an advocate for alternative sentencing, and a possible "pilot program" for implementing this approach.

PUBLIC EDUCATION

Problem

One of the issues preventing returning citizens from overcoming traffic fines and driver's license suspensions is a lack of general knowledge about how to deal with these issues. While looking into the effect that traffic issues are having on returning citizens, we encountered a number of people with ongoing traffic issues who had no idea how to overcome them. For example, we spoke with one man whose license has been suspended since the 1980s (nearly three decades). He wanted to get his license back, but he did not know what he needed to do to make that happen. In the meantime, his inability to obtain a driver's license has made it difficult for him to obtain employment and overcome intermittent homelessness. Another man we met had been found guilty of traffic violations that occurred while he was incarcerated. The guilty dispositions resulted in his license being suspended even though the violations resulted from someone else using his license plate while he was incarcerated. He wanted to avoid the suspension, but he did not know of any legal remedies that existed for someone in his situation.

These stories illustrate that when people do not know how to deal with their traffic issues they often go unresolved. There are several key components to this problem. First, there is no easily accessible information for the public about how to resolve fines and license suspensions. This is, in part, because the available information is largely targeted towards lawyers and advocates and is difficult for the general public to understand. Second, individuals do not know where to go for information or assistance. This is compounded by the fact that there are no advocacy organizations that provide free legal services for traffic issues. While some individuals have been able to get assistance through other programs, such as the STAR federal reentry program, the average returning citizen does not have access to these resources. Nor are there comprehensive public education campaigns or materials about resolving traffic issues.

As illustrated above, a lack of knowledge about handling traffic issues can have serious consequences. In order to effectively address the burden that traffic fines and license suspensions have on returning citizens, we recommend a comprehensive public education effort.

Solution

The simple solution to the general lack of knowledge and information is public education. Presently, there are no organizations performing outreach to inform the public on how to deal with traffic-related issues, despite the clear need for such information. We believe PLSE can integrate this type of information into its existing efforts and provide a model for other organizations to educate returning citizens and the general public about traffic fines and suspensions that impede their future.

DELIVERY OF INFORMATION

PLSE could integrate education about traffic issues into its existing expungement clinics. This could include informational handouts or packets, presentations, or informal advice. One benefit of this approach is that it fits in with PLSE's current services and therefore would not require significant additional time or resources to implement. Additionally, it would be targeted specifically towards returning citizens—PLSE's primary population of concern. One drawback of this approach may be that the people who attend

these clinics are primarily interested in obtaining expungements and not dealing with traffic issues. Consequently, this may only be a small scale way to increase public information about traffic issues.

PLSE could also hold clinics specifically focused on traffic issues. This approach would ensure that everyone who attends is there to receive assistance with traffic issues. These clinics could be good opportunities for PLSE to collaborate with other organizations, providing greater resources and manpower, and possibly have a greater impact in raising overall awareness. One drawback of this approach is that it may require significant time and resources to implement. Another potential drawback is that people may not be concerned enough about their traffic-related issues to take the time to attend a clinic focused solely on those issues.

Our recommendation is that PLSE first try providing traffic-related information at its expungement clinics because this approach can be implemented with fewer resources and time. Additionally, this approach can be used to gauge the community's interest in a clinic specifically addressing traffic-related issues. After talking with people at expungement clinics about traffic issues, PLSE can decide whether it would be helpful to conduct traffic-related clinics, and the most effective ways to do so.

WHAT INFORMATION DO PEOPLE NEED?

There is an enormous amount of information that could be given to people about resolving traffic issues. Appendix B contains three one-page informational handouts that can be used in conjunction with one another to inform the public of important information regarding traffic-related issues. These handouts include information on:

- Steps to restore a driver's license
- Appeals and *nunc pro tunc* petitions
- Payment plans
- How to handle traffic issues while incarcerated

We think that the handouts described above cover the most important areas because they provide a guide to handling basic traffic matters. Additional information that PLSE may want to consider providing includes:

- Where people can go for affordable assistance with traffic-related issues
- Causes for suspension of driving privileges
- Probationary Licenses and Occupational Limited Licenses

Next Steps

1. Integrate information on traffic issues into PLSE expungement clinics using the materials in Appendix B.
2. Gauge community response regarding the helpfulness of traffic information and modify or create additional materials as needed.

3. Potentially start clinics, in partnership with other organizations, exclusively focused on traffic issues.

STREAMLINE THE PROCESS FOR UPDATING ADDRESSES

Problem

If an individual does not have a current address on file with PennDOT and Traffic Division, they are likely to miss notices, court dates, appeal deadlines, payments, and suspension requirements. It is difficult for incarcerated individuals to update their addresses because there is not a streamlined process to do so with PennDOT and Traffic Division. Consequently, incarcerated individuals may lose their opportunity to defend against the violation, have extra fees added to their fines, exit prison with an arrest warrant or suspended license, or even be forced to serve extended term suspensions.

Pennsylvania case law does not recognize failure to receive notice due to incarceration as a permissible basis for courts to grant *nunc pro tunc* petitions. The reasoning of these cases is that it is the individual's responsibility to notify the proper government agencies of their situation so that they can receive necessary notices while incarcerated.⁸

The processes for updating an address with PennDOT and Traffic Division from prison are complicated. PennDOT typically only processes changes of address in relation to its “products” (e.g., driver's licenses, driver's permits, etc.). Thus, there is no PennDOT form or process for simply updating an address for correspondence purposes. If an incarcerated individual wants to update an address from prison, he must call PennDOT and hope that a staff member will informally update an address. This situation poses difficulties for incarcerated individuals because they do not have easy access to telecommunication and it is often difficult to reach someone at PennDOT.

Generally, there are two ways to update an address with Traffic Division. The first is to send a letter to the court advising it of the change, and the second is to go to the courthouse and complete a change of address form. While these processes are much simpler than the process offered by PennDOT, they are still problematic for those who are incarcerated. Many people are unaware of these processes and there is no information source in prisons. The process could be made easier by simply providing Traffic Division change of address forms to people in prison.

If people are going to be expected to stay on top of their traffic issues while incarcerated and forced to suffer substantial consequences when they do not, a streamlined process should be created to allow them to update their addresses with PennDOT and Traffic Division while incarcerated.

STAKEHOLDER INTERESTS

Though creating a streamlined process seems straightforward, it involves a number of stakeholders including PennDOT, Traffic Division, Pennsylvania Prison System (PPS), and advocates including PLSE.

One interest shared by these stakeholders is an interest in the quick resolution of traffic matters. Presumably, both PennDOT and Traffic Division want people to handle their traffic-related issues in a

⁸ See *Redenbach v. Dept. of Transportation*, 817 A.2d 1230, 1235 (Pa. Commw. Ct. 2003); *Ascenzi v. Dept. of Transportation*, No. 2244 C.D. 2008, 2009 Pa. Commw. Unpub. LEXIS 296 (Dec. 16, 2009) (movant was in jail and failed to notify Department of his new address).

timely manner because it allows them to devote time and resources elsewhere. Creating a process that makes correspondence between them and people in prison easier helps speed up the resolution of traffic-related issues, potentially easing the administrative burden on these government actors. Prison officials also have an interest in the quick resolution of traffic matters for returning citizens because it could help reduce recidivism. Returning citizens can remove potential barriers to reentry by dealing with their traffic issues while incarcerated, which could result in a higher rate of successful reentry.

All of these stakeholders also have an interest in protecting their public image to varying degrees. PennDOT and Traffic Division are publicly funded government actors with a duty to serve the public in various capacities. As government actors, they have a certain level of accountability to the public. Similarly, prisons—whether publicly or privately operated—provide a public service and also take public funds, which creates a certain level of public accountability. Due to their accountability to the public, each of these institutions is susceptible to public opinion. Most people would not approve of the current system that puts the onus on those who are incarcerated to change their address while making it so difficult to do so. Consequently, there is pressure for these stakeholders to work towards a more equitable solution to this problem. Otherwise they risk being viewed as unconcerned, unfair, and inflexible.

One area in which stakeholder interests could potentially diverge is the time and resources required to create new processes for updating an address from prison. There is a real risk that these stakeholders will not view this issue as one worth spending the necessary time and resources to fix. Therefore, it is important to highlight any potential benefits for these stakeholders when presenting the problem and potential solutions in order to persuade them that this is a worthwhile endeavor. This potential divergence in interests also suggests that the division of labor to implement this solution will also be a key factor. In other words, the more work PLSE and other advocates can take on in creating a new process, the easier it will be to persuade other stakeholders to collaborate in this endeavor because it requires less work from them.

Solution

The solution we recommend is that PennDOT and Traffic Division provide change of address forms to prisons for prison counselors and administrators to disseminate to those who need them. We think this is the best solution because it makes it simple for those who are incarcerated to update their address with PennDOT and Traffic Division, and it is not time or resource intensive.

Since Traffic Division already has a form that they allow people to fill out to update their address, implementing this solution would be as simple as distributing this form to inmates and instructing them on how to complete and return it.

PennDOT does not currently have a form allowing people to update their address for the purpose of correspondence. PennDOT requires people to update their address by filling out applicable forms based on the “product” that they have (e.g. driver's license, commercial driver's license, learner's permit). Therefore, in order to implement this solution PennDOT would have to create a new form that allows people to change the address that PennDOT sends correspondence to. While this does not seem to

require an extraordinary amount of work, it is not clear how open PennDOT will be to creating such a form.

These very simple solutions are pragmatic ones. In an ideal world, incarcerated individuals could use a single paper form (or, even better, have access to a single online form) to update their address with PennDOT and Traffic Division.

Next Steps

1. Begin conversations with representatives of Traffic Division, PennDOT, and PPS about making change of address forms available in prison.
2. Work with PennDOT to create a paper form to change an address, unrelated to a “product” such as renewing a driver’s license.

STOP FINDING THE INCARCERATED GUILTY IN ABSENTIA

Problem

The Traffic Division, in accordance with Pennsylvania Rule of Criminal Procedure 455, will find a defendant guilty in absentia if he or she does not appear for a traffic citation. In practice, this means that if anyone is unavailable for any reason, they will be found guilty, regardless of how weak or strong the citation against them may be.

This practice has proven to be particularly problematic with those who are incarcerated at the time of trial. There are two common scenarios. First, the person to whom a citation has been issued becomes incarcerated for some unrelated reason and is unable to attend his or her hearing. Second, the person who received the citation gave the issuing officer the name of someone who is currently incarcerated in an attempt to avoid the consequences of dealing with the citation. Either way, the person whose name is on the citation is unable to attend the hearing due to incarceration.

According to the Traffic Division Deputy Court Administrator, the court does not attempt to determine whether or not a defendant is incarcerated when they do not appear for trial. Additionally, while Traffic Division has previously attempted to allow incarcerated individuals to appear at trial via video conference to deal with outstanding warrants, they found the system too expensive and burdensome and decided to have it discontinued approximately one year ago. In addition, because Pennsylvania law does not find incarceration as a valid reason for a *nunc pro tunc* petition, there is no way for incarcerated individuals to appeal these guilty verdicts.⁹

Solution

We propose that the Philadelphia Traffic Division end the practice of finding traffic offenders guilty in absentia. As a secondary recommendation, we propose that Traffic Division at least develop a system to allow defendants who are unable to attend a trial due to incarceration the opportunity to appear in Traffic Division in person or by video conference.

This solution has a number of potential benefits for both defendants and Traffic Division. Eliminating the practice of finding people guilty in absentia will provide more opportunities for people to defend themselves when they want to contest a traffic citation. This would also minimize the need to use *nunc pro tunc* petitions to reopen cases. This has traditionally been the avenue chosen by people who were previously found guilty in absentia but still wish to contest a citation. The *nunc pro tunc* process is burdensome, as it requires both the judge and the District Attorney's Office to review the petition before potentially reopening a case. If the petition is granted, both the defendant and the District Attorney's Office still have the additional burden of going to trial. This solution eliminates the extra step of filing a *nunc pro tunc* petition and allows a defendant to contest the citation directly.

Traffic-related matters have a three-year statute of limitations in Pennsylvania. This solution would allow Traffic Division to easily dispose of cases that have languished for years by simply citing the statute of

⁹ See Redenbach and Ascenzi, *supra* note 8.

limitations. This mechanism will prevent the court from struggling to hear cases where evidence has grown stale because of the passage of time and will clear out cluttered dockets.

Generally, this solution would lead to a greater feeling of fairness from defendants. People miss their trials in Traffic Division for many reasons (e.g., they are incarcerated at the time of trial, they never got notice the trial was happening, they cannot afford to take time off from work to go to the courthouse). This solution will prevent the court from finding people guilty who, because of extenuating circumstances, simply could not make it to Traffic Division in time to litigate their citations.

As with any proposed solution, putting an end to this practice also has costs. Cases would necessarily remain open for a longer period of time, which could lead to a higher administrative burden on Traffic Division. However, Traffic Division could address this challenge as other Pennsylvania jurisdictions do, by removing traffic citations from the docket after the statute of limitations has passed.

If Traffic Division discontinues the practice of finding people guilty in absentia, it is likely the number of fines assessed will drop, which will subsequently lead to a drop in revenue for the court, though the overall advantages for the City may be worth these costs. This solution is unlikely to be immediately attractive to Traffic Division and the District Attorney's Office because it requires effort to implement and is a significant change.

Next Steps

1. Attempt to collect data from the Traffic Division, Prison System, PennDOT or other government agencies, either informally or through a Right to Know request, to obtain data about how many incarcerated individuals have been found guilty in absentia or have attempted to appeal such verdicts.
2. If there is an advantage to more comprehensive research, perform a survey of Pennsylvania's 67 counties to collect information about how they handle cases without using guilty in absentia findings. A survey of additional national jurisdictions may also be helpful.
3. Convene stakeholders to discuss an advocacy campaign to convince Traffic Division to stop finding individuals guilty in absentia for traffic citations.

IMPROVE TRAFFIC DIVISION AND PENNDOT DOCUMENTS

Problem

Most people who violate a traffic law will primarily interact with the Traffic Division of the Philadelphia Court of Common Pleas and Pennsylvania Department of Transportation through notices and letters each institution sends. However, the notices sent are often difficult to understand or lack information that returning citizens, particularly those who are low-income, would find helpful. Though this problem applies to the general public, it is particularly important for returning citizens. Specifically, Traffic Division and PennDOT should include more information about the availability of payment plans in their notices. Providing this additional information would mean that more people would take advantage of payment plan determination hearings and fewer driver's license suspensions would occur.

TWO VITAL DOCUMENTS: TRAFFIC VIOLATION CITATION AND DRIVER'S LICENSE RESTORATION REQUIREMENTS LETTER

There are two notices that a large number of returning citizens encounter and each lacks vital information about payment plan opportunities. The first document is the traffic violation citation, which is given, on behalf of Traffic Division, to a violator at the scene of the violation. The second document is PennDOT's driver's license restoration requirements letter, sent to someone whose driver's license has been suspended.

When someone is cited for violating a traffic law in Philadelphia, they are almost always given a citation at the scene of the incident. This citation will include the date of the hearing at Traffic Division when they can argue the citation's merits and also the penalty associated with the specific violation, as designated under Title 75 of the Pennsylvania Consolidated Statutes. A majority of penalties consist of a monetary fine. Most people do not dispute a citation. The citation itself directs these people, who assume guilt, to pay the fine owed in full within ten days. The citation does not offer an alternative to paying in full, such as appearing at Traffic Division and enrolling in a payment plan. The citation also does not inform the violator of the consequences of not paying in full, such as an indefinite driver's license suspension.

Someone who pleads or is found guilty of their traffic violation and does not pay their fine when it is due has defaulted. When a default on a payment occurs, PennDOT will suspend that person's driver's license and Traffic Division will issue an arrest warrant. PennDOT informs someone of their suspension by sending them a driver's license restoration requirements letter. This letter explains the steps that must be taken in order to remove the suspension. These steps include paying a \$70 restoration fee and proving automobile insurance. The letter will also list every traffic citation recorded and the amount of fines owed for each one. After each citation the following is written: "Contact the court to satisfy the citation." There is no indication that someone would be able to enroll in a payment plan if they are unable to pay the amount listed. This letter also fails to inform the violator that a payment plan would suffice in removing the indefinite suspension.

It is likely that when someone sees the amounts owed on both the traffic violation citation and the driver's license restoration letter, they will assume that those amounts must be paid in full and that there is no other alternative, such as a payment plan. This is especially harmful because a person will take no action

until they have the financial resources to pay the full amount. This means that their driver's license will be suspended or remain suspended for that entire period.

BURDEN ON RETURNING CITIZENS

This failure to notify violators of the option of a payment plan can be particularly harmful to returning citizens. Returning citizens often leave incarceration with little financial means, few people supporting them, and a lack of employment opportunities. Each of these factors make it more difficult for them to pay the entire amount owed in traffic fines. If they do not know that a payment plan option exists, then it is likely that their driver's license will be suspended. Unfortunately, it is very common for employers to require applicants to have an active driver's license, even for employment that involves no driving. Additionally, in Philadelphia, many opportunities for employment are located outside of the city in places that can only be accessed by a car. Being enrolled in a payment plan means that a driver's license suspension will not occur or an existing one will be revoked. Therefore, it is imperative that both Traffic Division and PennDOT make people who are unable to pay the full amount of their fines aware of the option to enroll in a payment plan.

Solution

We suggest that Traffic Division and PennDOT include a brief statement in the traffic violation citation and driver's license restoration requirements letter that the violator may visit the Traffic Division to request a payment plan. The statement will make clear that this option is available only for someone who cannot afford the full amount of the fine owed or the fine would be a burden on that person. It is also important that the traffic citation make it clear what happens if someone does not pay the owed amount. We suggest the following language for each of these documents:

Traffic Division's Traffic Violation Citation Notice:

If you do not pay the fines and costs indicated on the citation within the required time period, your driving privileges WILL BE SUSPENDED. If you are unable to afford the total amount of fines and costs owed or this amount would cause you an undue burden, you should visit or contact the court and request a hearing to determine whether a payment plan is appropriate.

PennDOT's Driver's License Restoration Requirements Letter:

If you are unable to afford the total amount of fines and costs owed or this amount would cause you an undue burden, you should visit or contact the court and request a hearing to determine whether a payment plan is appropriate. If you are approved for a payment plan, your driver's license may be restored before you have completed payment.

There are clear benefits to implementing this solution. Returning citizens, and all violators, will better understand their options related to owed traffic fines. This empowers them to make the best decision for themselves and for their circumstances and is a fairer process. This is also an easy solution to implement, as it requires only a small revision to forms. In addition, both Traffic Division and PennDOT would likely have reduced administrative costs since they would spend fewer resources on sending notices about defaults, issuing warrants, and suspending and restoring driving privileges.

There would be some costs, including the costs of changing the traffic violation citation notice at Traffic Division and the driver's license restoration requirements letter at PennDOT. However, like all administrative forms, there will inevitably be some revision in the future and this change could be incorporated into an already planned revision to reduce costs. It may be that this solution requires Traffic Division to conduct more payment plan hearings, but that cost is likely to be offset by the increase in revenue from fine collections.

Next Steps

1. Share this report with both Traffic Division and PennDOT so that they are aware of the issue and that they better understand why it would be beneficial to make this addition to their forms.
2. Identify a contact at PennDOT who would be able to assist with modifying the driver's license restoration requirements letter.
3. Identify and memorialize the stories of returning citizens who were unaware of the availability of a payment plan and therefore faced insurmountable traffic fines or driver's license suspensions due to nonpayment. Use these stories as evidence of the real barriers the absence of this language may cause.

MISCELLANEOUS SOLUTIONS

In addition to the five key solutions recommended above, there are a number of options that we identified and discussed, but did not recommend because of outstanding questions about ease of implementation or effectiveness.

Change *nunc pro tunc* standards. A solution to the challenges faced by returning citizens with outstanding fines and suspensions is to change Pennsylvania law to include incarceration as an extenuating circumstance that would allow a judge to grant a *nunc pro tunc* petition. This could be achieved either through litigation challenging the authority of the case which holds incarceration should not be considered or with state legislation that explicitly adds incarceration as a circumstance which allows for a *nunc pro tunc* appeal.

Increase Accessibility of Traffic Division. Traffic Division should be more flexible when it comes to the needs of Philadelphians. This could be achieved through longer hours or additional payment options, among other changes. For example, Traffic Division should allow people to mail in their payments via check or money order. Currently, if someone does not have a credit card, they cannot set up automatic payment for their payment plan. Subsequently, they need to physically travel to Traffic Division to make their monthly or weekly payment. As described above, missing just one payment results in an automatic license suspension, so the consequences of not making a payment if someone cannot make it to Traffic Division are severe.

Waive payment during incarceration. In the current system, people on a payment plan have to actually notify Traffic Division that they are about to be incarcerated and will be unable to make payments. If they do not notify Traffic Division, their license will be automatically suspended after missing one payment. As an alternative solution, if someone is incarcerated, the requirement to make payments on a Traffic Division payment plan should be automatically waived for the duration of their incarceration.

Increase interagency collaboration. Government agencies and offices should be more collaborative and share data more freely. This would make it easier for Traffic Division to get the most up-to-date address for defendants and would also help the court determine whether or not a defendant was incarcerated at the time of their hearing.

APPENDIX A - DETAILED SUMMARY OF STATUTES REGARDING ALTERNATIVE SENTENCING

Pennsylvania Statute	Comments
<p>42 PA. CONS. STAT. § 9726 – Fine.</p> <p>(c) Exception. The court shall not sentence a defendant to pay a fine unless it appears of record that:</p> <ul style="list-style-type: none"> (1) the defendant is or will be able to pay the fine; and (2) the fine will not prevent the defendant from making restitution or reparation to the victim of the crime. <p>(d) Financial resources. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.</p>	<ul style="list-style-type: none"> ▪ § 9726 should be the first step for determining whether payment of a fine is the correct sentence for a particular individual. This statute suggests that courts look beyond fines for individuals who would have difficulty paying them. Specifically, for returning citizens, courts may use this statute to determine whether the fine imposes a burden on reentry (subsection (d)). If an undue burden is likely, then the court would know that an alternative sentence would be beneficial for this individual. ▪ The wording of this statute suggests that it can only be used at the initial sentencing period. This may mean that it would only help returning citizens who are assessed a new traffic citation after being released. If this is true, then this statute would likely not be of use for old fines.
<p>42 PA. CONS. STAT. § 9758 – Fine.</p> <p>(a) General rule. In imposing a fine the court shall at the time of sentencing specify the amount of the fine up to the amount authorized by law and shall provide when it is to be paid, and in the absence of statutory direction provide whether it is to be paid to the county or to the Commonwealth.</p> <p>(c) Alternative sentence. The sentence of the court may include an alternative sentence in the event of nonpayment.</p>	<ul style="list-style-type: none"> ▪ Subsection (c) provides direct support for alternative sentencing when there is nonpayment of a fine. This subsection does not specify what nonpayment means or when it would be assessed. This means that when an individual proves that they cannot afford a fine or shows the burden the fine would cause at any point of the fine's existence (e.g., first sentencing or even after multiple defaults on payment plans), the court may consider offering an alternative sentence in its place. ▪ Subsection (c) provides no specific alternative sentence. Therefore, it is assumed the subsection allows for any alternative, including time served. ▪ There is little evidence of this statute having been previously used. The only relevant case found is <i>In re Davis</i>, 954 A.2d 118 (Pa. Ct. Jud. Discipline 2008). This case involves the sanctioning of a judge who ordered community service to individuals with vehicle code offenses in at least eighteen separate cases. The community service program was not authorized by the County Court Administrator. However, this judge did not hold hearings to assess whether these defendants could pay the fines. The judge also knowingly permitted his constable to establish plans that let defendants pay the staff of the court directly. Court funds went into staffs' bank accounts, and some of that money was spent. This was a major issue in deciding the case.

<p>42 PA. CONS. STAT. § 9730 – Payment of court costs, restitution and fines.</p> <p>(b) Procedures regarding default.</p> <p>(b)(1) If a defendant defaults in the payment of a fine, court costs or restitution after imposition of sentence, the issuing authority or a senior judge or senior magisterial district judge appointed by the president judge for the purposes of this section may conduct a hearing to determine whether the defendant is financially able to pay.</p> <p>(b)(3) If the [issuing authority] determines that the defendant is without the financial means to pay the fine or costs immediately or in a single remittance, the [issuing authority] may provide for payment in installments. In determining the appropriate installments, the [issuing authority] shall consider the defendant's financial resources, the defendant's ability to make restitution and reparations and the nature of the burden the payment will impose on the defendant. If the defendant is in default of a payment or advises the [issuing authority] that default is imminent, the [issuing authority] may schedule a rehearing on the payment schedule. At the rehearing the defendant has the burden of proving changes of financial condition such that the defendant is without the means to meet the payment schedule. The [issuing authority] may extend or accelerate the schedule, leave it unaltered or sentence the defendant to a period of community service as the [issuing authority] finds to be just and practicable under the circumstances.</p>	<ul style="list-style-type: none"> ▪ Subsection (b) provides the procedure for when an individual defaults on a payment. Traffic Division already complies with subsection (b)(1) in that at the payment plan hearings, the hearing officer will assess the individual's ability to pay. Traffic Division also complies with the first part of subsection (b)(3) in that they continually enroll individuals into a payment plan every time they are unable to pay the full amount of the fine. ▪ The second half of subsection (b)(3) deals with someone who defaults or who is about to default on a payment plan. If this person can show that they do not have the finances for their current payment plan, the court may resentence this person to community service. ▪ No other type of alternative sentencing appears to be allowed other than community service. ▪ There is little evidence of this statute having been previously used. The only somewhat relevant case found is <i>Commonwealth v. Colon</i>, 708 A.2d 1279 (1998). The Pennsylvania Supreme Court declared that the legislature was clear that only upon a default can a rehearing be conducted.
<p>75 PA. CONS. STAT. § 6504 – Inability to pay fine and costs.</p> <p>(a) Order for installment payments. Upon plea and proof that a person is unable to pay any fine and costs imposed under this title, a court may, in accordance with 42 Pa.C.S. § 9758 (relating to fine), order payment of the fine and costs in installments and shall fix the amounts, times and manner of payment.</p> <p>(b) Imprisonment for nonpayment. Any person who does not comply with an order entered under this section may be imprisoned for a number of days equal to one day for each \$40 of the unpaid balance of the fine and costs.</p>	<ul style="list-style-type: none"> ▪ This is a vehicle code statute. Subsection (a) allows for payment plans for people who are unable to pay traffic fines. ▪ Subsection (b) may be used to convert time served while incarcerated into a monetary amount that would assist in reducing fines. Pennsylvania legislature has already put a monetary value to time that has been served for traffic fines specifically. Removing \$40 per day incarcerated for an unrelated sentence from the total amount of owed fines would considerably ease barriers created by traffic fines for returning citizens. New Jersey has similar statutes to subsection (b) (N.J. REV STAT §§ 39:5-36, 2C:46-2). New Jersey courts have allowed using these statutes to convert time served.

	<ul style="list-style-type: none"> ▪ Subsection (b) allows for a court to imprison an individual who does not pay their owed fines. Traffic Division has been adamant that they do not and will not incarcerate anyone for unpaid traffic fines. ▪ Traffic Division mentioned that there have been a few instances of individuals who preferred to be imprisoned to lower or eliminate their traffic fines. However, Traffic Division would never provide this option or encourage imprisonment in any way.
<p>42 PA. CONS. STAT. § 1520 – Adjudication alternative program.</p> <p>(a) General rule. Except for cases charging offenses under Titles 75 (relating to vehicles) and 34 (relating to game), the magisterial district judge may, upon hearing the facts of a case, admit to an appropriate adjudication alternative authorized by this section persons charged with summary offenses.</p> <p>(b) Public service programs and other adjudication alternatives. A magisterial district judge may, in lieu of making a disposition, place an offender in an appropriate program in which a public service or charitable agency or organization or political subdivision agrees to assume supervisory responsibility for the offender. The program in general shall be approved by the court of common pleas having supervision over that magisterial district. This program may include work, counseling, public service, job training, education or other appropriate community service or self-improvement. The placement authorized by the magisterial district judge shall be appropriate to the offense charged and in the best interests of the community and the offender. The conditions of the program may include the imposition of costs and restitution, the imposition of a reasonable charge relating to the expense of administering the program and any other conditions agreed to by the offender.</p>	<ul style="list-style-type: none"> ▪ This statute relates to specific supervisory programs. These programs do not exist in the context of Traffic Division. Subsection (b) provides for a number of alternative sentences that a specific program may include. However, subsection (a) explicitly excludes vehicle code offenses. It is possible that this statute may be brought up for a reason why alternative sentencing is not allowed for offenses under the vehicle code (Title 75). But, it is clear that this statute does not apply to the type of alternative sentencing we are asking for. ▪ <i>In re Davis</i>, 954 A.2d 118 (Pa. Ct. Jud. Discipline 2008). The judge being disciplined in this matter used his own alternative program to sentence traffic violators to community service. The court uses this statute's ban against traffic offenses as a reason of why the judge could not implement his program.

APPENDIX B – EDUCATIONAL HANDOUTS

Handling Your Traffic Issues While Incarcerated

It is important to stay on top of traffic issues while incarcerated.

If you don't you could:

Lose out on your day in court,
Have your driver's license suspended,
Have a warrant issued for your arrest.

Have additional fees added to your fines,
Be forced to serve an extended license suspension,

Take these steps to avoid these consequences and stay on top of traffic related issues while incarcerated:

Update your address with Traffic Division and PennDOT

- Traffic Division and PennDOT will send important information regarding your traffic issues through the mail. If you do not have someone at home who can bring your mail to you, it is important to update your address with Traffic Division and PennDOT.
- **To update your address with Traffic Division** you must send a letter to the court advising it of your new mailing address. The mailing address for the court is 800 Spring Garden St., P.O. Box 56301, Philadelphia, PA 19130-6301.
- **To update your address with PennDOT** you must call PennDOT and speak with a representative. They will provide you with specific information on updating your address. It may be easier to have a family member, friend, or counselor do this on your behalf, but make sure they have your driving related information (e.g. license number)

Request a Continuance from Traffic Division

- If you have an upcoming court date that you wanted to attend you should request a continuance from Traffic Division.
- You should do this on a form from Traffic Division. (If you can't, just write a letter). All requests should: list the citation number and your driver's license number; identify the hearing date, time, and courtroom (if applicable); and state the reasons for the request. Attach any supporting documents.
- You must send your request so Traffic Division has it at least 48 hours (2 days) before the date of the hearing. Exceptions may be made in extraordinary circumstances.
- You can mail your continuance request to Philadelphia Municipal Court – Traffic Division, 800 Spring Garden St., P.O. Box 56301, Philadelphia, PA, 19130-6301.

Additional Info

If your license is currently suspended ask PennDOT (by phone or mail) for a restoration requirements letter. It is free to obtain and details what you must do to restore your license.

If you have a suspension for a specific amount of years (term suspension) you must acknowledge your suspension by sending your license to PennDOT or (if you don't have a license) sending a completed DL-16LC form to PennDOT. You will not start earning credit towards your suspension until you fulfill this obligation.

If you were on a payment plan before being incarcerated contact Traffic Division and inform them of your current situation. They may be willing to suspend your plan until you are released.

Additional Information on Traffic Matters

Helpful Advice

- **Stay on top of your traffic issues.** There are many potentially serious consequences for failing to keep up with obligations imposed by Traffic Court and PennDOT. Staying on top of your traffic issues is critical to avoiding these consequences.
- **Keep copies of all correspondence** with PennDOT and Traffic Division.
- **PennDOT offers Occupational Limited Licenses and Probationary Licenses** for those with suspended licenses who qualify. For additional information call (1-800-932-4600) or visit PennDOT's website (www.dmv.pa.gov).

Appeals and *Nunc Pro Tunc* Petitions

- **Appeals** - If you are found guilty of a traffic violation, you have 30 days to file an appeal. Appeals must be filed at Traffic Division (800 Spring Garden St.) between 8:30a.m. and 7:30pm Monday to Friday. Appeal forms can be obtained at Traffic Division or on the court's website (<http://www.courts.phila.gov/traffic/>). The fee to file an appeal is \$35. This fee can be waived for those who cannot afford it.
- **Nunc Pro Tunc Petitions** – If you fail to appeal within the 30 day window you may file a *nunc pro tunc* petition requesting that your case be reopened. *Nunc pro tunc* petitions typically are only granted when a mistake by the court or some situation completely outside of your control prevented you from filing a timely appeal. For example, a petition may be granted if you can prove you were incarcerated at the time of the violation and therefore could not have committed it, or if the court fails to provide you notice of your right to appeal. Traffic court does not grant *nunc pro tunc* petitions often. Petitions must be filed at Traffic Division (800 Spring Garden St.) between 8:30a.m. and 7:30pm Monday through Friday. Petition forms can be found at Traffic Division or on the court's website (<http://www.courts.phila.gov/traffic/>). The fee to file a *nunc pro tunc* petition is \$12.50. This fee can be waived for those who cannot afford it.

Payment Plans

- **What are they?** – Payment plans allow you to satisfy your traffic fines in affordable monthly installments. Payments can be made through direct deposit, online by credit card, or in person.
- **How do I obtain one?** – If you have outstanding fines, payment plans can be obtained by going to Philadelphia Traffic Division. A hearing officer will make a determination on what you can afford to pay based on your financial circumstances. You will be required to make a down payment towards your fine amount and informed of your monthly obligation. If you want to get on a payment plan but the court has not yet decided your case you must attend the hearing on the date listed on your citation. At your hearing you may plead guilty and inform the court that you are unable to pay the entire fine amount, and they will put you on a payment plan.
- **What if I make a late payment?** – It is very important to make all monthly payments on time. If you fail to make a payment on time additional fees may be added to your fine amount, your license may be suspended, and a warrant may be issued for your arrest. If you fall into default visit the Traffic Division and go before a hearing officer to obtain a new payment plan.
- **What if I can no longer afford to make monthly payments?** – If you can no longer afford to make your monthly payments contact Traffic Division immediately. If your circumstances have changed you may be able to receive a more affordable payment plan or have your plan suspended.

Restoring Your Driver's License

If you have a term suspension¹...

Before the suspension period begins

1. Request a restoration requirements letter
 - Your requirements letter provides information on what you must do to restore your driving privileges. You must meet these requirements in order to regain your driving privileges.
 - Restoration requirements letters are *free* and may be requested online at www.dmv.pa.gov or by phone at 1-800-932-4600
2. Acknowledge your suspension
 - You cannot earn credit towards serving your suspension until you have acknowledged it.
 - There are two ways to acknowledge a suspension. *If you have a driver's license* you can acknowledge your suspension by turning it over to PennDOT by mail. *If you do not have a driver's license* you must fill out a DL-16LC form and mail it to the address listed on the form.

After the suspension period ends

1. Pay \$70 restoration fee to PennDOT
 - Payment of this fee is required to restore driving privileges and cannot be waived.

Once your eligibility date is current and you have completed all of your requirements, PennDOT will notify you that your driving privileges have been restored and return your license.

¹ Term suspensions are suspensions for a specific period of time typically imposed for violations such as driving with a suspended license.

If you have an indefinite suspension²...

1. Go to the Traffic Division of Philadelphia Municipal Court

- You must go to the Traffic Division to pay any outstanding fines or get on a payment plan. Once you have done this, Traffic Division will notify PennDOT that you are in good standing.
- Traffic Division is located at 800 Spring Garden St., Philadelphia, PA 19123

2. Contact PennDOT to determine any other obligations you must meet

- You should contact or visit PennDOT to ensure that there are no additional obligations that you must meet before your driving privileges will be restored.
- If you have additional obligations you may want to request a restoration requirements letter to determine what they are. Restoration requirements letters are *free* and may be requested online at www.dmv.pa.gov or by phone at 1-800-932-4600

Once you have completed the necessary requirements, PennDOT will notify you that your driving privileges have been restored.

² Indefinite suspensions are suspensions imposed for an unspecified amount of time. They are usually imposed for failure to meet certain obligations related to a traffic violation conviction such as a failing to respond to a citation or pay traffic fines.

APPENDIX C – RETURNING CITIZENS SURVEY

Survey of Returning Citizens

1. Do you currently owe fines as a result of a traffic violation?

Yes No

2. Are you on a payment plan for your current fines?

Yes No

3. Are your driving privileges currently suspended due to a traffic violation or overdue fines?

Yes No When did this suspension begin? _____

4. What action have you taken to resolve your fines or restore your driving privileges?

5. Have you ever received any assistance to deal with your fine(s) or driving suspension?

Yes No

6. Has someone else ever received a traffic violation under your name?

Yes No

7. Have you ever been incarcerated?

Yes No

8. How has being incarcerated affected your fines and/or driving privileges suspension?

9. How have your fines and/or driving suspension impacted your life?

May we contact you at a later date to discuss your past and current fines and suspensions?

Yes No

Name

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