

NEW YORK TIMES - July 31, 2011

Now, Traffic Ticket May Hurt Officer Who Writes It as Much as Driver Who Gets It

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For New York City drivers, traffic court has long been a place of drudgery and frustration. It entails long waits in drab quarters for a brief, often unsatisfying face-off with the police officer who issued a ticket many months earlier.

Now, the police officers there are also miserable.

The Police Department, as part of its response to an embarrassing ticket-fixing scandal in which as many as 40 officers may face criminal charges, is focusing on traffic courts.

Investigators are scrutinizing officers' performance in these courts, which have historically been freewheeling, imperfect arenas where the stakes are relatively low. This focus is occurring because, in some instances, tickets were supposedly fixed when officers who wrote them were persuaded to skip scheduled appearances, or to sabotage cases by professing forgetfulness when asked to describe the traffic stop.

In recent weeks, investigators from the department's Internal Affairs Bureau have been roaming the halls and "breathing down these officers' necks," one traffic court lawyer said. Internal Affairs has opened files on at least 60 officers so far, based on their performance in traffic court, a person briefed on those investigations said. Like others interviewed for this article, he insisted on anonymity because the investigations were continuing.

Officers are now worried that the slightest clerical error or memory lapse in testimony about a driver's running a red light months, or even years, earlier can raise suspicions and set off an investigation, according to patrol officers and union officials who were interviewed.

Officers have said that one result could be officers' writing fewer tickets, which would undermine the Police Department's push to squeeze as much productivity as possible — often in the form of tickets — from the rank and file.

"They are setting this up in a way that there is not going to be a cop out there who wants to write a summons — it is too personally risky," one law-enforcement analyst said. "To warn and admonish, or arrest, is better."

Indeed, Police Department statistics show that the number of summonses has decreased.

Summonses for moving violations written this year by police officers in the Bronx — the center of the scandal, and where morale among officers is especially low — has declined to 75,437 through July 17, compared with 85,132 through the same period a year ago, an 11 percent drop, according to numbers provided by the department. The citywide total of summonses was 512,286 this year, compared with 557,015 last year, an 8 percent drop.

Officers say there are plenty of reasons unrelated to ticket fixing that could lead to a poor performance before a traffic court judge. The tickets are often from

long ago, and the circumstances of most traffic stops are less than memorable for the officer. At times, the cases might be several years old, as when the driver was imprisoned before the ticket could be adjudicated and wants his license reinstated after he is released.

"I said, 'Your Honor, this is five years and three ranks ago,'" one former officer said, recounting his experience before an administrative law judge over a summons issued an especially long time before. He told the judge he did not remember the details of the traffic stop.

"It's insane," the former officer said later, reflecting on the driver's long delay. "Where have you been the last 1,000 days?"

In testifying about traffic stops, officers often rely on notes they have written in their memo books or on the backs of tickets. But those notes might be incomplete, perhaps out of laziness or because a more pressing radio call pulled an officer away from recording information about the traffic stop.

As part of the department's initiative to prevent ticket fixing, steps have been put in place to track how frequently officers forget the specifics of cases. On July 5, the Traffic Violations Bureau reinstated the use of codes to track the various outcomes of cases, and the reasons tickets are dismissed — a move that one administrative law judge said appeared to be intended to help the Police Department evaluate its officers.

There is a special code for when an officer "has no recollection of the case," according to the instructions, and another code for when an officer omits pertinent information when testifying about a traffic offense.

But police officers, union officials and others are worried that the department, by punishing officers it blames for losses in court, may tempt some police witnesses to speak beyond the limits of their recollection, or even to fabricate testimony.

"Is I.A.B. inadvertently creating an atmosphere of perjury," Edward M. Mullins, the president of the Sergeants Benevolent Association, said of the Internal Affairs Bureau, "where an officer can't remember but, because of fear of disciplinary action, creates that memory?"

One police officer in Manhattan said it was bad policy to discipline officers based on the outcome of traffic court cases. He said he feared that the department's new effort would result in many honest officers' being hurt.

"Where does it say in the Patrol Guide that I have to get a conviction?" the officer said. "I'm not going to lie."

When an officer testifies about the specifics of traffic stops, he said, "sometimes you make a mistake and sometimes you don't recall."

The administrative law judge, who insisted on anonymity because of the delicacy of the subject, said the new push "punishes the cop who is honest enough to say, 'I have an error on my notes,' or 'I have no notes,' or some such, and gives the officer every incentive to make stuff up, because any cop with any experience is a better liar than virtually any motorist."

Asked about the numbers showing a decrease in ticket writing, Paul J. Browne, the department's chief spokesman, said the totals fluctuate based on what officers observe on the streets.

“And I’d be cautious about attempting to discern a reason beyond that,” he said. “For example, long before I.A.B.’s investigation, citywide, moving violations were down 6 percent citywide in 2008 compared to 2007, and down 5 percent for the same period in the Bronx. The year before, in 2007, movers citywide were up 2 percent compared to 2006, and up 5 percent in the Bronx. As I said, they fluctuate.”

Officers wishing to protect themselves — and express their dissatisfaction — might not have to give up ticket writing altogether. But they might employ an old tactic to ensure that they make no clerical errors: slowing down the process.

“If I do the summons,” the law-enforcement analyst said, “it is going to take me an hour to write the summons.”