

# THE FATE OF TRAFFIC TICKETS AND REPORTS

9 of previous work on "penal tracks" (Aubusson De Cavarlay, 1987).

The considerable extension of car-driving has called for control in the form of industrial, trade and traffic policies, but also of criminal justice policies, all originally aimed at fluidifying traffic. Two decades <sup>1</sup> ago, the rising number of accidents led the government to take action for road safety. Investigation of technical solutions such as the improvement of the highway system and of vehicles was followed by interest in changing the behavior of drivers. One of the main short-term means of control in this sphere remains judicial and governmental action <sup>2</sup>. The issue, then, is the proper functioning of the repressive system, although there is no proof that the expectations as to the modification of drivers' behavior may be met by the controlled application of government norms.

The present research centered around the functioning of the control system was conducted by the CESDIP at the request of the ministry of Transportation and the ministry of Justice, one of the objectives being the study of the application of the 1985 law <sup>3</sup>. It dealt with the first four classes of *contraventions* <sup>4</sup>, never before investigated <sup>5</sup>. This quantitative research uses the methodological contributions

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1 - The Interministerial Committee on highway safety was created in 1972, and the Direction of safety and highway traffic in the ministry of transportation in 1981.

2 - The present highway code dates back to 1958 and has been subjected to repeated modification, including by the 30 December 1985 law. Originally (decree dated March 10, 1899) the administration was empowered to withdraw driving licenses, which are administrative permits : then, in 1927, to suspend them. The judicial authority was given the same power in 1958, and the July 11, 1975 law grants it theoretical preeminence. The adoption of the penalty point system on the driving license changes neither the laws themselves nor their enforcement, but is superimposed on the existing measures.

3 - This law refers a number of minor offence cases to police court instead of to correctional court and extends the use of flat-rate fines and *ordonnances pénales*. It was adopted following the commissioned study on mass litigations : (Robert, Foncelle, 1983).

4 - In the French legal system, the least serious of three categories of offenses. This category includes five classes of growing seriousness and are judged by *tribunaux de police*, police courts here. Here, these violations mainly pertain to : parking ; lack of individual protection such as failure to wear headgear or seat belts; defective vehicle, ranging from treadworn tires to head and tail lights ; non-possession of various papers including driver's license, vehicle registration and insurance ; road signs : one-way lanes, crossing lanes, red and yellow traffic lights, stop signals, etc... ; speed limits.

5 - The INRETS ( *Institut national de recherche sur les transports et leur sécurité* ) was commissioned to conduct a similar study of the 5th class of *contraventions* and of more serious offences. Some of these cases had already been the object of a previous investigation : Guilbot, 1990.

It is concerned with the analysis of how minor traffic offences are handled, from the moment they enter the judicial system : the process begins with booking by the police or the gendarmerie, and ends with the enforcement of sanctions. A cohort of cases was followed up all along their travels through the criminal justice and administrative control system. Each step in the process was subjected to detailed analysis as well.

Our findings illustrate the gap between the ideal functioning of the control system, the way it is actually implemented by local authorities, and the results for the period studied.

## How the control system functions

When a law enforcement officer is witness to a violation, he/she writes out a "fine-stamp ticket" or a "report". The December 30, 1985 law sets the class for each violation. The September 19, 1986 official instruction by which it is implemented <sup>6</sup> prescribes different procedures of booking and prosecution depending on the nature of the violation. The type of booking chosen partially induces the subsequent procedure.

The "fine-stamp ticket" involves a flat-rate fine which, once paid, avoids any judicial process. If the fine is not paid, the booked offence is referred to the public prosecutor's office (PP), where an augmented flat-rate fine (AFF) is inflicted. Submission to the public prosecutor may result in dismissal, maintaining of the fine or a summons to the police court.

Reports must be sent to the public prosecutor's office, which decides how the case will be prosecuted. There are two possibilities :

- First, an *ordonnance pénale*, or *OP*, which is a rapid, simplified form of judgement, with no debate and a fine as the only sanction. An offender who disagrees with this decision may chose to appear before a police court.

- The second and more complicated solution, a direct summons, is a notification to appear before a police court. Some offenders request this : this is called voluntary appearance. Sanctions usually involve fines and suspension of the driving license, and often a combination of the two. This decision may be appealed if the violation is at least in the fourth class.

Further on in the process, the ministry of Finances hardly pays any attention to what judicial procedure was applied. Only *OPs* benefit from a time limit : when paid within 40 days they are said to be "settled out of court" and are not subjected to any collection procedure by the public revenue department. Lack of payment leads to referral to the court clerk's office which delivers an excerpt of the *OP*. The latter, along with augmented flat-rate fines and sentences equivalent to writs of execution, are subject to the same collection procedure.

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6 - CRIM 86-19 F1/19.09.86, *Bulletin Officiel du Ministère de la Justice*, n° 23, pp 149-230.

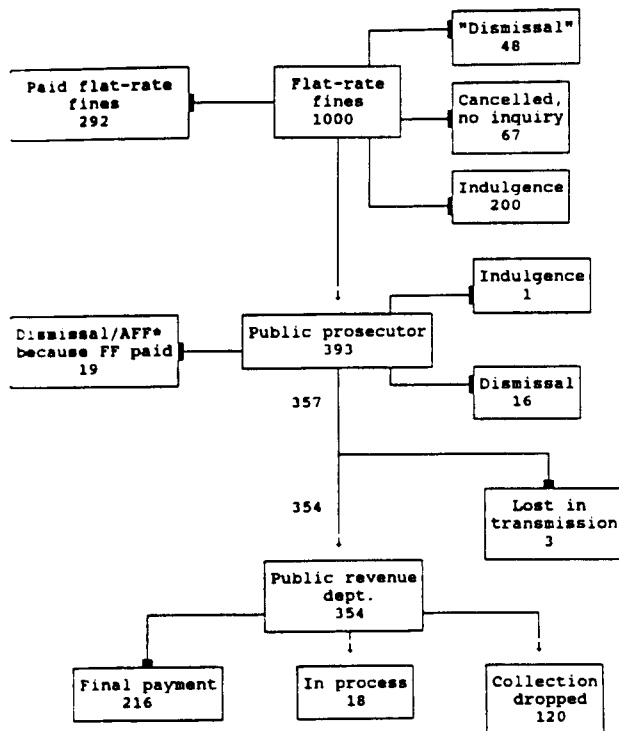
## Findings

The field researched was a police court within an Appeals Court jurisdiction in northern France, since this region is a major thoroughfare. One police station and three gendarmerie brigades were selected, so as to identify differences in practices between the agencies at the entrance point to the system, as well as those connected with their rural or urban location. Their activity was recorded during the last semester of 1988, using the police docket for the police and the reports register for the gendarmerie. All violations in the first four classes of *contraventions* to the highway code were included, and each case only involved a single violation, with very few exceptions.

Two synoptic charts summarize some of the findings, broken down for the two types of bookings. The exits shown here correspond to the actual facts, : some were not at all provided for theoretically. By extension, "dismissal" by the collection agencies means that the vehicle's equipment was brought up to standard. Three types of exits have no well-defined legal status :

- "cancellation", corresponding to erroneous fine-stamp ticket-writing ;
- "no information", status undetermined ;
- "indulgence" <sup>7</sup> is the dropping of charges de facto, since decided upstream of the public prosecutor's office. This practice is studied, using all data collected during the research project, so as to reach a preliminary definition.

Chart 1 - Treatment of F.F. and A.F.F.



\* Dismissal of augmented flat-rate fine because the flat-rate fine had already been paid.

Legend :

▬ : end of procedure.    † : movement.

10 Follow-up of suspension of drivers' licenses through judicial and administrative decisions was found to be too complex to be dealt with here. Only fining and its enforcement are discussed, then. In fact, it is the most common sanction for violations in the first four classes of *contraventions*.

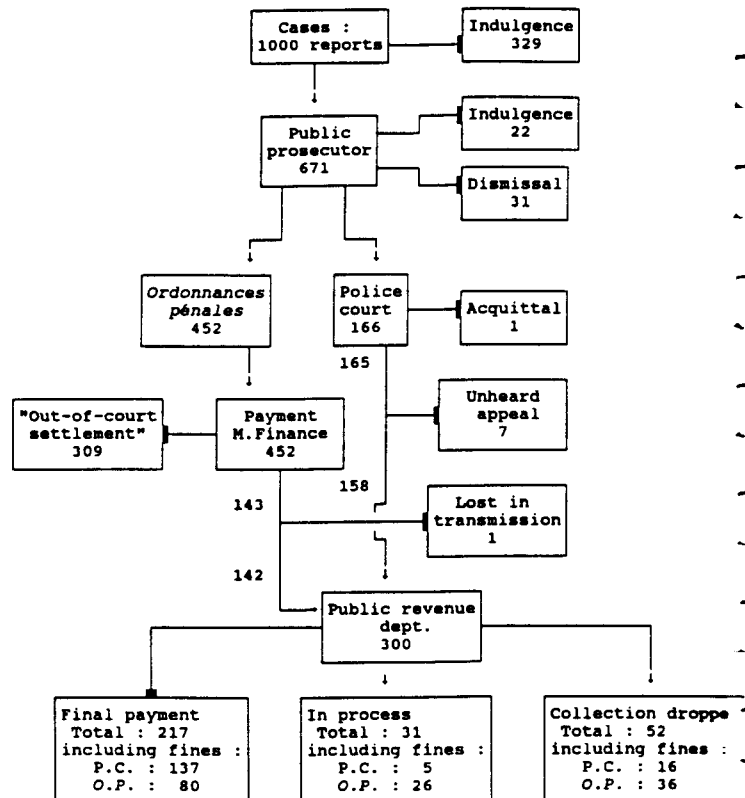
### 1. Flat-rate fines

Chart 1 shows the treatment of an estimated population of 1000 flat-rate fines, reconstructed on the basis of the observation of two different groups. The first included 1,860 flat-rate fine tickets delivered by the police and the gendarmerie ; the second is a representative sample, compiled at the public prosecutor's office, of 543 augmented flat-rate fines.

Examination of treatment of 1,000 flat-rate fines, in all of its phases taken as a whole, showed that nearly half (N=455) left the system with no payment. The main exit is an early one : the agencies drop treatment of nearly one third of the material collected (N=315), essentially through *indulgence*. The rest of the fines (N=120) were not paid because the ministry of Finances did not pursue collection. Dismissal by the public prosecutor was exceptional (N=16).

Over half of the fines (N=527) were paid sooner or later, usually in the form of a flat-rate fine (N=311), the others (N=216) in augmented form. Only 18 cases were still unsettled more than 2 years after the facts, with settlement imminent.

Chart 2 - Treatment of reports



Légende :

▬ : end of procedure.    † : movement.    P.C. : police court.

7 - The term *indulgence* is used by practitioners, and by certain offenders as well, and is even encountered in print, in some in-house documents of law enforcement agencies.

## 2. Reports

The treatment of reports was calculated on an observed population (N=1,287) reduced to 1,000 to simplify reading of the results on chart 2.

443 of all offenders did not pay any fine. The main reason for this is *indulgence* (N=351), mostly by booking agencies (N=329) and very secondarily by the public prosecutor (N=22). The latter exceptionally consents to dismissal (N=31). The ministry of Finances rarely drops its claim to court fines (N=52).

Over half of fines are paid (N=526). Most of those pending will be paid (N=31).

The public prosecutor resorts to an *OP* in more than two out of three cases, for which 86% of fines are paid, usually by "settlement out of court" and therefore not handled by the ministry of Finances. 87% of fines decided by the police court are paid. If settlements pending are included, over 90% of fines consecutive to prosecution are found to be paid, irrespective of the type of judgement.

## 3. Comparison of findings

These two charts are in fact quite similar. At the end of the process, more than half of booked cases result in payment of a fine, and slightly less than half leave the system. Most of the latter are the outcome of early *indulgence*, and very few exit later in the treatment process. The ministry of Finances does not often drop its claim, but more frequently for augmented flat-rate fines than for police court fines.

Similar proportions of the fines resulting from the two types of court procedure are paid : 86 and 87 %. Direct comparison with the percentages of flat-rate fines and augmented flat-rate fines actually paid is not feasible, since opportunities for payment do not occur at the same time. A denominator which is equivalent, in terms of definition, to the police court fines must be found : it is the number of flat-rate fines actually handled by the system (N=668, following subtraction of indulgences and dismissals). The payment rate for flat-rate fines treated, augmented or not, is then found to be 79 %. This shows that while the type of court procedure - prosecution by a police court or *OP* - does not seem to affect payment, the flat-rate fine procedure is slightly less productive.

## Some additional information

One utility of the data collected here is that it affords a more accurate description of the main exits from the control system and of those portions of the population involved, as well as of the time spans involved in the handling of cases.

### 1. *Indulgence*

Analysis of the practice of *indulgence* points to a preliminary definition. *Indulgence* is practiced by the agencies at the entering point in the criminal justice system and by the

11 *préfecture*<sup>8</sup>. It is commonplace and only partially depends on the nature of the offences. It serves both as payment in kind and as a tool for bargaining. Beneficiaries of this measure include oversized proportions of women, individuals over age 35, middle management and employees. The retired, because of their age, as well as professional drivers, especially businesspeople, are also customary beneficiaries. Channels of access and those who profit from them come into perspective as well : people in close contact with police officers in charge of traffic violations, the police intelligence network and, to a lesser extent, the *préfecture* and local government networks. People with institutional contacts with the upper echelons of the police occasionally enjoy this advantage.

## 2. Collection of fines

Outside of periods of amnesty, payment of fines seems to be the rule. The Ministry of Finances drops its claim when the offender cannot be located, or more rarely when the latter is insolvent. The smaller the fine, the earlier this occurs, since the use of costly procedures for locating offenders is not justified then. This explains why this type of outcome is more frequent for first class augmented flat-rate fines, which are generally below the cut-off figure.

Claims to payment are only dropped for those categories of individuals most affected by the economic crisis - the insolvent and transients, who are often one and the same. One mobile group composed of itinerants labelled "homeless" in the broadest sense of the term is an exception, however, in that they are not necessarily impecunious. These people succeed in avoiding treatment of their case by a strategy involving systematic demanding a stay on the *OP*, thanks to which they are never located within the time limit. The public prosecutor anticipates this and docket their stay, but attempts to counter this strategy by systematically demanding a hearing when homelessness is probable. These people represent over nine out of ten cases of dismissal of reports.

## 3. Duration of processing

From booking of the offence to payment of the fine, processing takes a varying amount of time, depending on how rapidly voluntary payment occurs and the proportion of cases of coerced payment. Processing of augmented flat-rate fines takes from 5 to 14 months, and processing of *OP* lasts 7 to 17 months, with an average of 9 months, whereas police court fines take 9 to 20 months, with an average of 10 months. As a rule, transmission and notification occupy much of the judicial time, whereas processing itself (decisions and writing of documents) is quite rapid.

## Conclusion

What light do these findings shed on the productivity of this branch ? The control system is still too slow, often for organizational or synchronization reasons, but it does not seem to be in as bad a state as is usually claimed.

8 - Office of the *Préfet* who, as representative of the Government in each *département* (basic administrative district), is the head of the local branches of all Government's administrations.

Its main feature is the large number of instances of avoidance of any procedure through *indulgence* ; this advantage accrues only to categories of individuals with access to certain channels. This raises several questions. What is the extent of the autonomy of the various agencies in charge of controlling these cases ? To what extent are police forces allowed decision-making authority over a sphere which they do in fact control ?

This practice probably also illustrates the determination of the police to obtain a greater voice in the definition of certain repressive policies. This demand is particularly understandable in the sphere of traffic offences, for which there is no real consensus, while instructions, issued in rapid succession, may be contradictory and sometimes difficult to apply.

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