

# Supreme Court of Florida

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No. 87,524

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IN RE: FLORIDA RULES OF TRAFFIC COURT

[October 17, 1996]

PER CURIAM.

The Florida Bar Traffic Court Rules Committee petitions this Court to approve its proposed amendments to the Florida Rules of Traffic Court. We have jurisdiction. Art. V, § 2(a), Fla. Const. We approve, in toto, the proposed changes and summarize below the substantive effect of these changes.

Rule 6.340 has been completely revised to conform to the common practice of attorneys practicing in the Florida traffic courts. Subdivisions (a), (b), and (c), which were entitled "Acceptance of Admission," "Appearance in Court," and "Affidavit of Defense," respectively, have been removed and replaced with new subdivisions entitled "Appearance in Court," "Posting of Bond," and "Attorney Representation." The sample "Affidavit of Defense" is removed from the 1974 Committee note, amended, and placed within subdivision (d) of the new rule. It now includes an "Admission and Waiver of Appearance."

Rule 6.445, entitled "Discovery: Infractions Only," allows a defendant who has been cited for a speeding infraction to obtain any "relevant supporting" documentation regarding the electronic or mechanical speed measuring device used by the citing officer. The documentation must be available "immediately before" the infraction hearing. A precondition to discovery of the documentation is that the citing officer has the documentation in his possession at the time of trial.

Rule 6.630(n) is changed to require defendants, within thirty days of their traffic citation, to request in writing that their case be assigned to a county judge. The request no longer needs to be contained in the defendant's notice of appearance or written plea.

Lastly, pursuant to the enactment of chapter 94-202, Laws of Florida, all references in the rules to traffic "magistrates" have been replaced with the term traffic "hearing officers."

The text of the amended portions of the rules is appended to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The committee notes are offered only for explanation and are not adopted as an official part of the rules. These amendments shall be effective January 1, 1997.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING, WELLS and ANSTEAD, JJ, concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

## APPENDIX

### RULES OF PRACTICE AND PROCEDURE FOR TRAFFIC COURTS

#### I. SCOPE, PURPOSE, AND CONSTRUCTION

##### RULE 6.010. SCOPE

(a) **Application.** These rules govern practice and procedure in any traffic case and specifically apply to practice and procedure in county courts, and, ~~if applicable, to before~~ civil traffic infraction hearing officers ~~appointed as traffic magistrates.~~

(b) **Part III.** The rules under Part III of these rules apply to all criminal traffic offenses, whether prosecuted in the name of the state or any subdivision of it.

(c) **Part IV.** The rules under Part IV of these rules apply only to traffic infractions adjudicated in a court of the state, whether by a county court judge or civil traffic infraction hearing officer ~~appointed as a traffic magistrate.~~

#### Committee Notes

**1990 Amendment.** The statutory authorization of civil traffic infraction hearing officers by chapter 89-337, Laws of Florida, necessitates reference to such hearing officers (statutorily referred to interchangeably as magistrates) in the traffic court rules. Reference in the proposed rule to traffic magistrate rather than merely magistrate is designed to distinguish the former from other magistrates, especially in relation to the applicability of the Code of Judicial Conduct (see section of code entitled "Compliance with the Code of Judicial Conduct"), thereby avoiding the possibility of conflict with authorizing statute.

**1992 Amendment.** Because traffic violations are contained in several chapters of Florida Statutes, references to chapter 318 have been deleted to eliminate latent inconsistencies.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

## II. GENERAL PROVISIONS

### RULE 6.040. DEFINITIONS

The following definitions apply:

(a) "Court" means any county court to which these rules apply and the judge thereof or any civil traffic hearing officer program and the traffic ~~magistrate~~hearing officer thereof.

(b) "Charging document" means any information, uniform traffic citation, complaint affidavit, or any other manner of charging a criminal traffic offense under law.

(c) "Judge" means any judicial officer elected or appointed by the governor authorized by law to preside over a court to which these rules apply.

(d) "Law" includes the constitutions of the United States and the State of Florida, statutes, ordinances, judicial decisions, and these rules.

(e) "Oath" includes affirmations.

(f) "Clerk" means clerk of the initiating court or trial court.

(g) "Open court" means in a courtroom as provided or judge's or traffic ~~magistrate's~~hearing officer's chambers of suitable judicial decorum.

(h) "Prosecutor" means any attorney who represents a state, county, city, town, or village in the prosecution of a defendant for the violation of a statute or ordinance.

(I) "Criminal traffic offense" means a violation that may subject a defendant upon conviction to incarceration, within the jurisdiction of a court to which these rules apply.

(j) "Warrant" includes *capias*.

(k) "Infraction" means a noncriminal traffic violation that is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.

(l) "Official" means any state judge or traffic ~~magistrate~~hearing officer authorized by law to preside over a

court or at a hearing adjudicating traffic infractions.

(m) "Department" means the Department of Highway Safety and Motor Vehicles, defined in section 20.24, Florida Statutes, or the appropriate division thereof.

(n) "Officer" means any enforcement officer charged with and acting under authority to arrest or cite persons suspected or known to be violating the statutes or ordinances regulating the operation of equipment or vehicles or the regulation of traffic.

(o) "Infraction requiring a mandatory hearing" refers to an infraction listed in section 318.19, Florida Statutes, which requires an appearance before a designated official at the time and location of the scheduled hearing.

(p) "Traffic ~~magistrate~~hearing officer" means an official appointed under the civil traffic infraction hearing officer ~~system~~program who shall have the power to adjudicate civil traffic infractions subject to certain exceptions.

#### Committee Notes

**1990 Amendment.** In order to accommodate both the court and hearing officer program as alternative sources for the adjudication of civil infractions, the definition of court has been expanded. The term judge has been redefined to limit its reference to only county court judges and the reference to official has been expanded to include the traffic magistrate. In addition, a separate definition for traffic magistrate has been added.

**1992 Amendment.** Defines charging document and more precisely defines criminal traffic offense.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

## **RULE 6.080. IMPROPER DISPOSITION OF TRAFFIC TICKET**

Any person who solicits or aids in the disposition of a traffic complaint or summons in any manner other than that authorized by the court or ~~shall~~who willfully violates any provision of these rules shall be proceeded against for criminal contempt (in the manner provided in these rules). However, a traffic ~~magistrate~~hearing officer shall not have the power to hold any person in contempt of court, but shall be permitted to file a verified motion for order of contempt before any state trial court judge of the same county in which the alleged contempt occurred. Such matter shall be handled as an indirect contempt of court pursuant to the provisions of Florida Rule of Criminal Procedure 3.840.

### **Committee Notes**

**1990 Amendment.** This rule expands the statutory mandate of Chapter 89-337, section 3(1) which deprives magistrates of the power of contempt with respect to defendants only. The rule extends the prohibition of a magistrate's direct contempt powers to cover any person. The Committee expressed concern that if the contempt prohibition were limited to only the defendant, it might be assumed that such powers existed with respect to others such as attorneys, court personnel and witnesses. This rule also incorporates reference to the provisions of Florida Rule of Criminal Procedure ~~3.480~~3.840 by specifying that magistrates may initiate indirect contempt proceedings by filing a verified motion for order of contempt pursuant to the Rule of Criminal Procedure.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

## **RULE 6.130. CASE CONSOLIDATION**

When a defendant is cited for the commission of both a criminal and a civil traffic violation, or both a civil traffic infraction requiring a mandatory hearing and a civil traffic infraction not requiring a hearing, the cases may be heard simultaneously if they arose out of the same set of facts.

However, in no case shall a traffic ~~magistrate hearing officer~~ hear a criminal traffic case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

Under any of these circumstances the civil traffic infraction shall be treated as continued for the purpose of reporting to the department. Prior to the date of the scheduled hearing or trial, a defendant may dispose of any nonmandatory civil traffic infraction in the manner provided by these rules and section 318.14, Florida Statutes.

### **Committee Notes**

**1990 Amendment.** The rule on case consolidation ~~is proposed to be~~ was amended to include language from chapter 89-337, Laws of Florida, which prohibits traffic magistrates from hearing civil infractions arising out of same facts as criminal traffic offenses.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."



#### IV. TRAFFIC INFRACTIONS

##### RULE 6.340. ~~RULE ON ADMISSION THAT TRAFFIC INFRACTION WAS COMMITTED; AFFIDAVIT OF DEFENSE~~

~~(a) Acceptance of Admission. If any defendant admits that a traffic infraction was committed, the official shall set the civil penalty and enter judgment accordingly and for this purpose may hear evidence on the nature of the case. After the hearing the official has the discretion to refuse to accept the admission.~~

~~(b) Appearance in Court. No admission shall be received by the court other than by appearance of the defendant or the defendant's attorney in open court or as provided in these rules or by statute. The acceptance by a court of a signed admission or waiver of trial contrary to the provisions of these rules or statutory law is forbidden.~~

##### ~~(c) Affidavit of Defense.~~

~~(1) Any defendant charged with the commission of a traffic infraction who is not a resident of or domiciled in the county where the alleged infraction took place may file a written statement setting forth facts justifying the filing of an affidavit of defense or file an affidavit of defense directly if practicable upon posting a reasonable bond set by the official.~~

~~(2) Any defendant charged with the commission of a traffic infraction who is a resident of or domiciled in the county where the alleged infraction took place, if unable to appear because of an extended illness or extended absence from the county, may file a written statement setting forth facts justifying the filing of an affidavit of defense or file an affidavit of defense directly if practicable upon posting a reasonable bond set by the official.~~

~~(3) If a written statement of facts is filed and, in the opinion of the official, it affirmatively appears from these facts that the interests of justice will best be served by allowing the defendant to file an affidavit of defense, the affidavit, upon the posting of a reasonable cash appearance bond set by the official, may be filed with the clerk of the court or the traffic violations bureau.~~

~~(4) An affidavit shall be sworn to before a notary public, deputy clerk, or clerk. Upon acceptance of an affidavit~~

~~by an official it shall be accepted as an appearance. An affidavit shall be accepted when a mandatory hearing is required to either deny or admit the commission of the infraction or as an appearance denying the commission of the infraction when no mandatory hearing is required. The affidavit shall be considered in evidence by the official presiding at the time when the case is scheduled for hearing and the case may be adjudicated on evidence offered in support of the complaint and the affidavit.~~

**AFFIDAVIT OF DEFENSE OR ADMISSION AND WAIVER OF APPEARANCE**

(a) Appearance in Court. Any defendant charged with an infraction may, in lieu of a personal appearance at trial, file an affidavit of defense or an admission that the infraction was committed as provided in this rule.

(b) Posting of Bond. The trial court may require a bond to be posted before the court will accept an affidavit in lieu of appearance at trial. The defendant shall be given reasonable notice if required to post a bond.

(c) Attorney Representation. If a defendant is represented by an attorney in an infraction case, said attorney may represent the defendant in the absence of the defendant at a hearing or trial without the defendant being required to file an affidavit of defense. The attorney shall file a written notice of appearance. The attorney may enter any plea, proceed to trial, present evidence other than the defendant's statements, and examine and cross examine witnesses without the defendant being required to file an affidavit of defense. Nonetheless, a defendant represented by an attorney may file an affidavit of defense. If a represented defendant files such an affidavit, the affidavit must be signed and properly notarized, subjecting the affiant to perjury prosecution for false statements.

(d) Sample Affidavit of Defense or Admission and Waiver of Appearance.

STATE OF FLORIDA,	*	IN THE COUNTY COURT,
Plaintiff,	*	_____ COUNTY, FLORIDA
	*	
vs.	*	CASE NO. _____
	*	
_____	*	CITATION NO. _____
	*	

Defendant.

\*  
\*  
\*

DRIVER'S LICENSE NO.

AFFIDAVIT OF DEFENSE OR  
ADMISSION AND WAIVER OF APPEARANCE

Before me personally appeared \_\_\_\_\_, who  
after first being placed under oath, swears or affirms as  
follows:

1. My name, address, and telephone number are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

2. I am the defendant in the above-referenced case and am  
charged with the following violation(s): (List the charges  
as you understand them to be.)

\_\_\_\_\_  
\_\_\_\_\_

[Note: This is not an admission that you violated any law.]

3. Check **only one** as your plea:

I hereby plead **NOT GUILTY** and file this affidavit of  
defense as my sworn statement herein. I understand that  
when I plead not guilty, I do not have to supply any further  
statement. I understand that by my filing this affidavit,  
the hearing officer or judge will have to make a decision as  
to whether I committed the alleged violation by the sworn  
testimony of the witnesses, other evidence, and my  
statement. I understand that I am waiving my personal  
appearance at the final hearing of this matter.

I hereby plead **GUILTY** and file this affidavit as an  
explanation of what happened and as a statement that the  
hearing officer or judge can consider before pronouncing a  
sentence. I understand that I am not required to make any  
statement. I understand that the hearing officer or judge  
will determine the appropriate sentence and decide whether  
to adjudicate me guilty.

I hereby plead **NO CONTEST** and file this affidavit as  
an explanation of what happened and as a statement that the

hearing officer or judge can consider before pronouncing a sentence. By pleading no contest, I understand that I am not admitting or denying that the infraction was committed but do not contest the charges, and I understand that I may be sentenced and found guilty even though I entered a plea of no contest. I understand that I am not required to make any statement. I understand that the hearing officer or judge will determine any appropriate sentence and decide whether to adjudicate me guilty.

4. Defendant's Statement: (additional papers, documents, photos, etc. can be attached but should be mentioned herein).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that any material misrepresentation could cause me to be prosecuted for a separate criminal law violation.

/s/ \_\_\_\_\_  
Affiant/Defendant

Sworn to (or affirmed) and subscribed before me, the undersigned authority, on \_\_\_\_\_.

Personally known \_\_\_\_\_  
Produced identification \_\_\_\_\_ Type of ID produced \_\_\_\_\_

/s/ \_\_\_\_\_  
Notary Public, Deputy Clerk, or other authority  
NAME: \_\_\_\_\_  
Commission No. \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

NOTE: It is your responsibility to make sure this affidavit is in the court file before the hearing date.

If Affiant/Defendant is under the age of 18, a parent or guardian must sign this affidavit: \_\_\_\_\_  
Parent or Guardian

#### Committee Notes

~~1974 Amendment.~~ The following is a recommended form to be

used as an affidavit of defense. Information as to who may file such an affidavit and any other pertinent information may be provided on the back of the form.

~~\_\_\_\_\_~~ AFFIDAVIT OF DEFENSE

~~\_\_\_\_\_~~ (Name of Alleged Offender)

~~\_\_\_\_\_~~ (Number of Complaint)

~~\_\_\_\_\_~~ IN THE COUNTY COURT,

~~\_\_\_\_\_~~ IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA

Before me, personally appeared \_\_\_\_\_ (name of alleged offender), who having been duly sworn, deposes and says:

1) My name is \_\_\_\_\_, I reside permanently at \_\_\_\_\_,

\_\_\_\_\_ and I received the above numbered complaint charging me with (description of violation) \_\_\_\_\_

on \_\_\_\_\_ at \_\_\_\_\_ AM PM.

2) At the time of the alleged violation, I was driving a (type of motor vehicle) \_\_\_\_\_ in a (direction) \_\_\_\_\_ on (street) \_\_\_\_\_ in \_\_\_\_\_ County, Florida.

3) I am leaving \_\_\_\_\_ County on (date) \_\_\_\_\_ and my hearing date is (date) \_\_\_\_\_ at Court Location (location) \_\_\_\_\_ at (time) \_\_\_\_\_.

4) I am DENYING/ADMITTING (strike one) the commission of the infraction because: (Explain your defense in your own words, being as brief as possible, but omitting no material facts that will help the official arrive at a judgment in your case):

~~(PRINT OR TYPE)~~  
~~(IF MORE SPACE IS NEEDED FOR~~  
~~EXPLANATION — USE REVERSE SIDE)~~

\_\_\_\_\_  
~~Signature of Affiant (Defendant)~~

\_\_\_\_\_  
~~Sworn to and subscribed before me, this \_\_\_\_\_ day of~~  
~~\_\_\_\_\_, 19\_\_\_\_\_.~~

\_\_\_\_\_  
~~Deputy Clerk, County Court or Notary Public~~

~~NOTE: This Affidavit will be presented to the presiding official together with the complaint against you, on the date noted on your copy of the complaint or as soon thereafter as possible. You will be advised by mail of the result, and will, at that time, receive from the court a check covering the balance of your bond, after deduction of penalty, if any is imposed. The judges of this court reserve the right to compel personal appearance as may be determined by the gravity or seriousness of the offense charged.~~

~~**1988 Amendment.** In order to provide for uniform application of the affidavit of defense procedure throughout the state, the proposed amendment would require the clerk to accept such affidavits (under the appropriate circumstances) rather than placing the question of acceptance within the discretion of the clerk.~~

~~**1996 Amendment.** The committee completely revised this rule to conform to the common practice of attorneys practicing in the traffic courts of Florida.~~

**RULE 6.445.      DISCOVERY: INFRACTIONS ONLY**

If any relevant supporting documentation regarding the electronic or mechanical speed measuring device used by the citing officer is in said officer's possession at the time of trial, the defendant or defendant's attorney shall be entitled to review said documentation immediately before that trial.

**RULE 6.630. CIVIL TRAFFIC INFRACTION HEARING OFFICER PROGRAM;  
TRAFFIC MAGISTRATES HEARING OFFICERS ~~(TRANSITION  
RULE)~~**

~~Effective October 1, 1989, pursuant to the authority of article V, section 1, Florida Constitution, and chapter 89-337, Laws of Florida, a civil traffic infractions hearing officer program is authorized. Pursuant to the authority of chapter 89-337, Laws of Florida, sections 318.30-318.38, Florida Statutes, and article V, section 2, Florida Constitution, this court adopts the following rules and procedure for the pilot Civil Traffic Infraction Hearing Officer Program designed to test the feasibility of establishing a statewide program:~~

(a) **Eligibility of County.** Pursuant to section 318.30, Florida Statutes, ~~a~~Any county in which the civil traffic infraction caseload for the immediately preceding calendar year was in excess of 15,000 hearings shall be eligible to participate in the ~~pilot~~ Civil Traffic Infraction Hearing Officer Program.

(b) **Participation.** Any county electing to participate in the program shall be subject to the supervision of ~~this~~the Florida Supreme Court and shall assist in the feasibility study. The decision on whether to participate shall be made by the chief judge.

(c) **Appointment of Magistrates Traffic Hearing Officers.** The appointment of such hearing officers, ~~to be designated "traffic magistrates,"~~ shall be made by the chief judge, after consultation with the county judges in the county affected, and shall be approved by the chief justice. Once approval has been granted by the chief justice, the traffic magistrates hearing officers shall serve at the will of the chief judge.

(d) **Jurisdiction.** Traffic magistrates hearing officers shall have the power to accept pleas from defendants, hear and rule upon motions, decide whether a defendant has committed an infraction, and adjudicate or withhold adjudication in the same manner as a county court judge. However, a traffic magistrate hearing officer shall not:

(1) have the power to hold any person in contempt of court, but shall be permitted to file a verified motion for order of contempt with an appropriate state trial court judge pursuant to Florida Rule of Criminal Procedure 3.840;

(2) hear a case involving an accident resulting in injury or death; or



(3) hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

(e) **Appeals.** Appeals from decisions of a traffic ~~magistrate~~hearing officer shall be to circuit court pursuant to the relevant provisions of the Florida Rules of Appellate Procedure in the same manner as appeals from the county court, except that traffic ~~magistrates~~hearing officers shall not have the power to certify questions to district courts of appeal. The appellant shall be responsible for producing the record for such appeal.

(f) **Membership in The Florida Bar.** A traffic ~~magistrate~~hearing officer shall be a member in good standing of The Florida Bar.

(g) **Training.** Traffic ~~magistrates~~hearing officers shall be required to complete training approved by the supreme court.

(h) **Hours.** Traffic ~~magistrates~~hearing officers may serve either full time or part time at the discretion of the chief judge.

(i) **Code of Judicial Conduct.** All traffic ~~magistrates~~hearing officers shall be subject to the Code of Judicial Conduct in the same manner as part-time judges, except that they shall be exempt from Canon 6B and C and the first portion of provision A(2) of the compliance section of the code, which prohibits a part-time judge from practicing in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves. Whether full-time or part-time, traffic ~~magistrates~~hearing officers shall be prohibited from representing clients or practicing before any official in any county court traffic matter or from representing any client appealing any county court traffic decision.

(j) **Implementation of Program.** In any county electing to establish a ~~pilot~~ program, the chief judge shall develop a plan for its implementation and shall submit the plan to the Office of the State Courts Administrator. Funds for the ~~pilot~~ program ~~are to~~shall be used for traffic hearing officer program salaries, provided that the traffic ~~magistrates~~hearing officers shall be paid no more than \$~~20~~50 per hour, and other necessary expenses, such as training, office rental, furniture, and administrative staff salaries. Any county electing to establish a ~~pilot~~traffic hearing officer program shall provide the funds necessary to operate the program.

(k) **Robes.** Traffic ~~magistrates~~hearing officers shall not wear robes.

~~(i) **Evaluation of Program.** The evaluation of the pilot project shall be conducted by the Office of the State Courts Administrator. All court-related personnel involved in the program shall assist in the feasibility study.~~

(m~~l~~) **Concurrent Jurisdiction.** A county judge may exercise concurrent jurisdiction with a traffic ~~magistrate~~hearing officer.

(m~~m~~) **Assignment to County Judge.** On written request of the defendant, ~~contained in a notice of appearance or written plea within 30 days of the issuance of the uniform traffic citation~~, the case shall be assigned to a county judge ~~regularly assigned to hear traffic matters~~.

### Committee Notes

**1990 Adoption.** The rule attempts to incorporate relevant provisions of chapter 89-337, Laws of Florida, with minor modifications.

The provision in subdivision (c) that the traffic magistrate shall serve at the will of the chief judge is implicit in chapter 89-337, and is believed to be a good policy since it makes irrelevant consideration of the necessity of any involvement by the Judicial Qualifications Commission.

(d) (1) See 1990 Committee Note concerning rule 6.080.

In relation to subdivision (e) on appeals, the subcommittee believes that the addition of the language on the certifications to district courts, while making an obvious point, would avoid any possible confusion. It was also the consensus that there would be no need to recommend amendments to the Florida Rules of Appellate Procedure since rules 9.030(b)(4)(A) and 9.030(c)(1)(A) would appear to cover the matter adequately without further amendment.

Subdivision (g) goes into less detail concerning the actual length of training (40 hours preservice/10 hours continuing) required by chapter 89-337. A special plan for such training will be provided separately, including a recommendation for the waiver of such training for recently retired county court judges.

This rule expands the statutory prohibition of chapter 89-

337, section 7, which prohibits traffic magistrates from practicing before other civil traffic magistrates and handling traffic appeals. The committee expressed concern that a limited prohibition extending only to practice before other magistrates might be read as condoning magistrate practice in traffic cases in front of county court judges. Given the contemplated relationship between county court judges and magistrates in education, training, and professional duties, such practice would give the appearance of conflict and should be prohibited.

In relation to subdivision (k), it was the opinion of the subcommittee that the wearing of robes might lead to confusion and interfere with the informal setting of the hearings.

**1990 Amendment.** Amendment of section 318.30, Florida Statutes (1990), reduced the case load requirement from 20,000 to 15,000 for purposes of allowing a county's participation in the Civil Traffic Infraction Hearing Officer Program. This amendment is necessary to conform the rule to the provisions of the amended statute.

**1995 Amendment.** Language was added to subdivision (d) to make it clear that hearing officers/magistrates can hear and rule upon motions, such as continuance motions, and otherwise handle normal motion practice in infraction cases.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

Subsection (a) reflects the legislative intent of section 318.30, Florida Statutes (1994). No longer is a minimum number of cases required before a county can establish a traffic infraction hearing officer program.

Changes to subsection (m) are intended to make uniform the procedure for assignment to a county judge for hearing.

Original Proceeding - Florida Rules of Traffic Court

John F. Harkness, Jr., Executive Director, The Florida Bar,  
Tallahassee, Florida; and Honorable Thomas H. Bateman III, Leon  
County Judge, Chair, Florida Traffic Court Rules Committee,  
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Interested Party