

Ticket-Fixing: Public Safety and Corruption
Academic Year 2010
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I. Introduction

A. "In Praise of Traffic Tickets" Tom Vanderbilt, Slate.com (8/29/09)

Traffic Tickets have a "Broad Social Usefulness."

1. "It is a net for catching bigger fish."
2. "They help keep people –drivers and those outside of the car – alive."
3. They are convenient and necessary.

B. However there is a Downside to such Utility.

"[T]he general and longstanding reluctance in the United States to consider traffic violations to be 'real crime'."

Real crimes result in arrest, not the issuance of paper.

Real crimes do not generate revenue.

C. Traffic Offenses have been Described as "Folk Crimes."

They are acts of "everyday deviance" H. Laurence Ross, "Traffic Law Violation: A Folk Crime" *Social Problems*, Vol. 8, No. 3 (Winter, 1960-1961), pp. 231-241.

"Why are you busting people for dangerous driving when you could be going after murders? Stop wasting the tax payers limited resources."

D. However, not enforcing "smaller" quality of life issues encourages larger transgressions. Kelling and Wilson, "Broken Windows," The Atlantic (March 1982).

II. What is "Ticket-fixing"?

A colloquialism used to describe a specific form of corruption involving citations where a public servant engages in conduct intended to secure a benefit for oneself or another; a betrayal of public trust.

III. The Law Should Apply to Everyone Equally

“Nothing destroys confidence in traffic enforcement faster than ticket-fixing. There was a time when politicians counted ticket-fixing as part of the spoils of winning an election. To be a ‘somebody’ at city hall a politician had to be able to take care of tickets for personal or political friends. This corruption of the judicial process was not only demoralizing to police personnel but it also turned out to be bad politics. Inevitably those ‘insiders’ who got their tickets fixed bragged about it to show how much influence they had. As the word got around, the public set up such a howl of protest against these crooked practices that most states succeeded in driving such practices out of existence or greatly minimizing them.”

“The Character of W. Cleon Skousen” *Original Intent*, New Hampshire Center for Constitutional Studies (Vol. 6 March/April 2006) page 6.

IV. Why Care?

- A. Public Safety
- B. Public Opinion
- C. Public Integrity

V. Ticket-fixing has Multiple Dimensions:

- A. **Moral** –We don’t need written rules to know the difference between right and wrong. Right is right. Wrong is wrong.
- B. **Professional** – The difference between a “profession” and a “trade” is the existence of standards of conduct and internal regulation by ones professional peers.

Canon 2A – A judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary

Canon 2B – A judge shall not allow any relationship to influence judicial conduct or judgment.

Canon 3B(2) - A judge should be faithful to the law and shall maintain professional competency in it. A judge shall not be sway by partisan interests, public clamor, or fear of criticism.

Canon 3B(5) – A judge shall perform judicial duties without bias or prejudice.

Canon 3C – A judge shall require staff, court officials and other subject to the judge’s discretion to and control to observe the standards of fidelity and diligence that apply to a the judge and to refrain from manifesting bias or prejudice

Canon 3D – Judges have a ethical obligation to take appropriate action when they know of misconduct by other judges. Judges have a similar ethical obligation to take appropriate action when they know of attorney misconduct.

Legal – Violators can be prosecuted under both state and federal law.

VI. Texas Law

Depending on the specific facts, circumstances and conduct involved, ticket-fixing may be prosecuted as one or more Penal Code offenses, defined in Title 8, Offenses against Public Administration. Consider the following categories and specific offenses:

A. Bribery and Corrupt Influence

Section 36.01 – Bribery

Section 36.03 – Improper Influence

Section 36.05 – Tampering with Witness

Section 36.06 - Obstruction or Retaliation

Section 36.08 – Gift to Public Servant by Person Subject to His Jurisdiction

Section 36.09 – Offering Gift to Public Servant

B. Perjury and Other Falsification

Section 37.02 – Perjury

Section 37.03 – Aggravated Perjury

Section 37.08 – False Report to Peace Officer or Law Enforcement Employee

Section 37.09 – Tampering with or Fabricating Physical Evidence

Section 37.10 – Tampering with Governmental Record

C. Obstructing Governmental Operation

Section 38.15 – Interference with Public Duties

D. Abuse of Office

Section 39.02 – Abuse of Official Capacity

Section 39.03 – Official Oppression

Section 39.04 – Violation of Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody

Section 39.06 – Misuse of Official Information

VII. Federal Law

Ticket-fixing may also be prosecuted as one or more federal offenses, including:

- A. Racketeer Influenced and Corrupt Organizations Act (18 USC §§1961-1968)
- B. The Hobbs Act (18 USC § 1951)

VIII. Not Everything is “Ticket-fixing”

Is there criminal intent?

Is there an alternative and legitimate explanation?

IX. When does Ticket-fixing Occur?

Anytime between when a citation is manufactured and the time the citation is destroyed per rules regulating record retention.

See Chart: Life Span of a Citation

X. Who are the Instigators?

A. External Actor(s) – Members of the public and public servants or officials who are not internal actors

B. Internal Actor(s)

1. Law Enforcement (peace officers and code enforcement)

In the field

Back at headquarters

Pre-filing

After filing with the Court

2. Court Clerks and Court Administrators

Pre-filing

Pre-Adjudication

Post Adjudication

3. Prosecutors

Post filing

4. Judges

Post-filing

XI. What breeds Ticket-fixing?

- A. Culture of Community Indifference**
- B. Lack of Enforcement**

XII. How can ticket-fixing be prevented?

- A. Awareness/Education**
- B. Action – planning and Internal controls**
- C. Accountability - policy of impartial enforcement and prosecution**

“One of the first things a new chief should establish with his mayor and city council is that every ticket must be cleared through court. If tickets are written in triplicate and officers are made to account for every ticket issued (appropriately explaining any which are canceled) it is possible to prevent the revival of the ticket-fixing bugaboo.” The Character of W. Cleon Skousen, *Original Intent*, New Hampshire Center for Constitutional Studies (Vol. 6 March/April 2006) page 6.

Recap: Ticket-fixing is:

Unethical – Dishonorable; immoral

Unprofessional - Not conforming to the standards of a profession

Illegal – Prohibited by law.

Preventable – Awareness, Education, Prevention

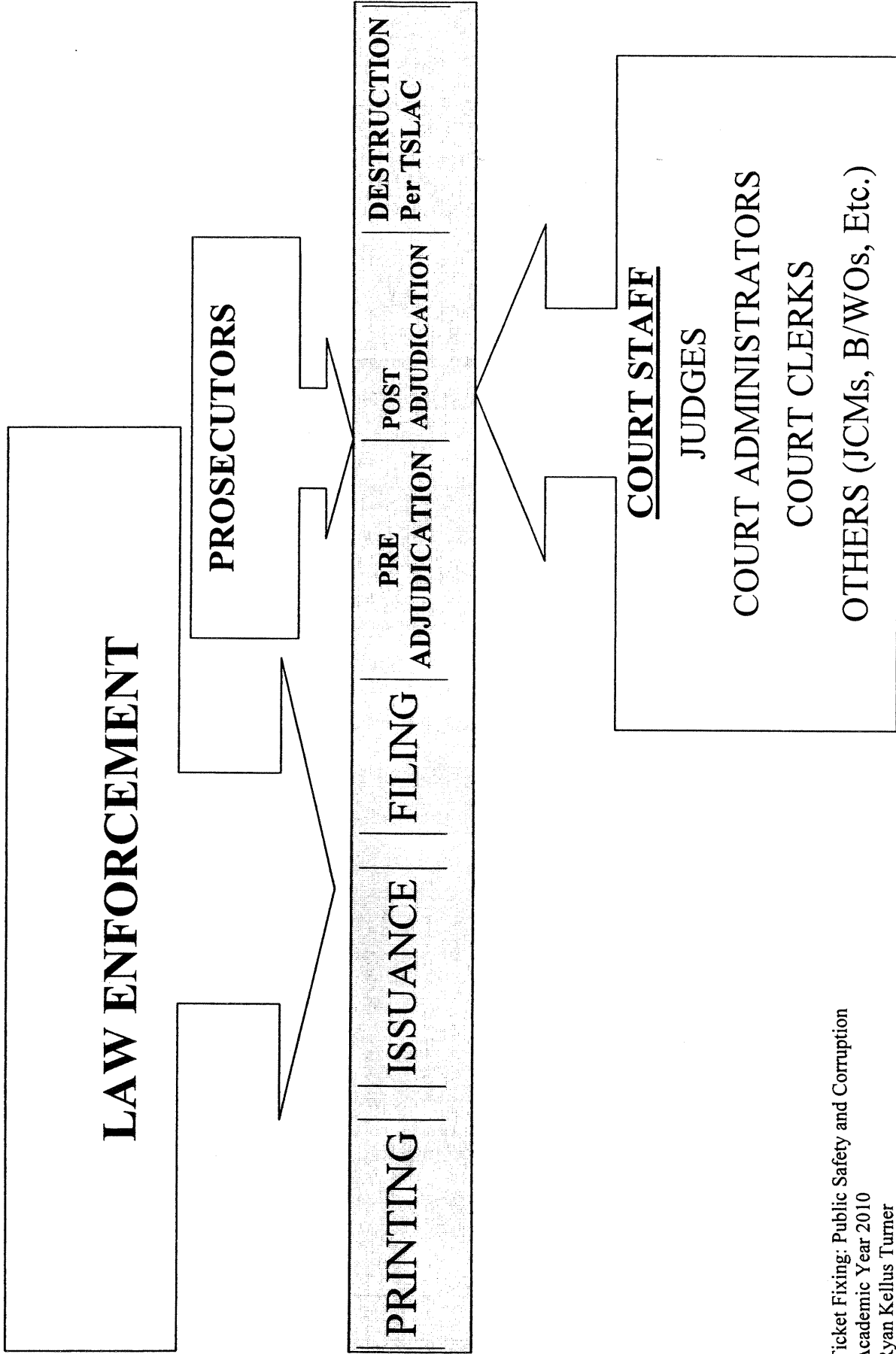
Costly – In terms of public perception

In terms of revenue

In terms of public safety

In terms of human lives

Life Span of a Citation



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