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A Review of Cases Handled by  
Sommons Court before the 1980  
Decentralization

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1980

## INTRODUCTION

A study of the nature and volume of cases filed and disposed by the Universal Summons Court at 346 Broadway has become necessary because of two scheduled events; a major reduction of the caseload of Summons Court in March, 1980 due to the transfer of peddler related cases to the Environmental Control Board and the decentralization of 346 Broadway on April, 1980. As currently scheduled, the decentralization of Summons Court would entail the transfer of remaining summonsable offenses back to criminal courts in individual boroughs. Given these scheduled events, it is important to determine precisely how many and what kind of cases will be left in 346 Broadway after the transfer to the Environmental Control Board and what impact these remaining cases might have on Criminal Court when decentralization takes place.

The purposes behind the transfer of peddler-related cases to the Environmental Control Board is clear. Peddler cases constitute almost half of the summonses currently returnable at 346 Broadway. The response rate and the amount of revenue produced by such cases have been unacceptably low. Based on the Environmental Control Board's favorable experience with other summonsable offenses, it is expected that the transfer of peddler-related cases to that forum will produce a higher compliance rate, generate more revenue and provide a more appropriate setting (i.e. non-criminal) for relatively petty offenses. ECB summonses will

be easier to respond to, since they can generally be paid by mail according to a pre-established schedule of fines. In contrast to Summons Court, where those who do not respond receive one default notice and are then effectively forgotten, unpaid ECB summonses are handed over to a collection agency for enforcement; fines for unanswered summonses are escalated in stages over time.

It is at this point unclear whether the previous successes of the Environmental Control Board are more related to the kinds of cases it has dealt with in the past, than to its methods. Yet it is generally expected that the transfer of peddler-related summonses to the Environmental Control Board will have a positive impact on the disposition rates and the revenues produced by such offenses.

The purposes behind the decentralization of 346 Broadway, on the other hand, are several. In recent months, there have been a number of complaints about the inadequacy of the physical setting,\* and the low rates of enforcement at Summons Court. In addition, it is often complained that criminal court judges temporarily assigned to Summons Court find it difficult to take petty offenses seriously. It is thought that decentralization of summonsable offenses back to criminal courts in individual boroughs might increase compliance rates simply by making it easier for people to respond to summonses.

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\*Paul Dewar, Assistant Clerk of Summons Court, remarked on the incongruity of hearings Building Violations in a setting which visibly displayed a number of such violations.

It is likely, however, that transferring the caseload of 346 Broadway back to criminal court might increase the perceived disparity between violations and other criminal court cases. Nor is it clear how the addition of 270,000 summonsable offenses could be absorbed by the already overcrowded Arraignment Part of criminal court or responded to by District Attorneys, who have not in recent years been required to deal with such cases.

Decentralization to criminal court will also greatly increase the volume of low-priority, unenforceable warrants generated annually. Summons Court produced 36,000 warrants in 1979, most of which were for a failure to pay a set fine after an initial hearing or a failure to appear for a second hearing after a plea of not-guilty. Few warrants were issued for those who failed to respond initially to a summons. If summonses become returnable to the arraignment parts of Criminal Court, however it is likely that the practice of automatically issuing a warrant in the event of a failure to appear would be adopted. If compliance rates remain the same, 189,000 additional warrants will be generated annually for currently summonsable offenses.

For many of the offenses currently handled at 346 Broadway there are a variety of alternatives to decentralization and return to criminal court. A number of existing administrative tribunals other than the Environmental Control Board (The Motor Vehicle Administrative Adjudication Bureau, the Parking Violations Bureau, the Health Board Tribunal, the tribunal of the Taxi and Limousine Commission to name a few) already handle similar of-

fenses and might be expanded to include even more. The following represents an attempt to define the volume and nature of offenses at 346 Broadway after the ECB transfer in order to determine the most appropriate forum for what remains.

## I. Annual Filings

State Office of Court Administration data shows that a total of 540,540 summonses were filed in the summons part of Criminal Court at 346 Broadway in 1978. Of these 536,484 (99%) were universal summonses and 4,056 were either old (prior to 1971) universal summonses or non-universal summonses resulting from a request to appear. The number of disposed summonses (161,070) was equal to approximately 30 percent of filings.

Although annual data report no more than 4,056 non-universal or request to appear summonses in 1978, conversations with Summons Part chief clerk John Sekoutis revealed that over 36,000 requests to appear were filed in that year. It is estimated that in at least half the cases, either summonses are never served or the complainant never returns to court. Another group of cases are simply dismissed immediately at an initial hearing. Sekoutis suggested that the annual figure reported represents only Final Requests to Appear, in which the complainant returns to court and has an official complaint issued by the judge. Only these summonses are docketed. If this is indeed the case, it is likely that the Request to Appear part of Summonses Court generates a much greater workload than annual statistics would indicate.

OCA statistics include several different breakdowns of universal summons filings and disposition rates\* for 1978:

\*The "disposition rate," dispositions divided by filings, is to some degree a misnomer; some 1978 dispositions were of summonses filed in earlier years while some 1978 filings were disposed of in subsequent years. For gross annual data, these categories are assumed to offset each other.

by county, issuing agency and by the body of law to which they respond. No data are available that allow the distinguishing of misdemeanors from violations. It is also not possible to determine how many individuals have received multiple summonses.

A breakdown of summonses by county reveals that Queens and Richmond had higher than average disposition rates and the Bronx somewhat lower than average. Manhattan accounts for nearly half the summonses issued.

Table 1

Breakdown by County: 1978

	<u>Filings</u>	<u>% of Total</u>	<u>Dispositions</u>	<u>Disposition Rate</u>
New York	242,929	46%	71,786	29%
Bronx	101,447	19%	23,068	23%
Queens	52,279	10%	22,950	44%
Kings	132,357	24%	39,549	30%
Richmond	<u>7,528</u>	<u>1%</u>	<u>3,717</u>	49%
TOTAL	540,540	100%	161,070	

A breakdown of summonses by issuing agency reveals that four agencies issued the overwhelming majority of summonses in that year. Most issuing agencies had a higher disposition rate than the police department, which issued the greatest bulk

of summonses. Miscellaneous "Other agencies", (Buildings Department, Consumer Affairs, Health Department, etc.) had the highest disposition rate, although they accounted for only five percent of summonses issued.

Table 2

Breakdown by Agencies: 1978

<u>Issuing Agency</u>	<u>Filed</u>	<u>% of Total</u>	<u>Disposed</u>	<u>Disposition Rate</u>
Police Department	316,696	61%	39,884	13%
Transit Police	124,130	24%	22,966	18%
Dept. of Sanitation	49,022	9%	11,098	23%
Housing Authority	3,947	1%	878	22%
Other Agencies	<u>26,597</u>	<u>5%</u>	<u>9,007</u>	34%
TOTAL	520,392*	100%	83,933	

A breakdown of summonses by body of law, on the other hand, reveals little difference between disposition rates for the various major types of offense. Six types of violations accounted for over 97% of all cases.

\*This number does not account for late 1977 filings.



Table 3

Breakdown by Body of Law: 1978

	<u>Filed</u>	<u>% of Total</u>	<u>Disposed</u>	<u>Disposition Rate</u>
Administrative Code	204,870	38%	52,006	25%
Health Code	121,978	23%	31,630	26%
Traffic	99,278	18%	29,270	29%
Penal Law	69,668	13%	20,870	30%
Transit RR	13,635	3%	3,413	25%
Park Regs.	13,574	2.5%	4,345	29%

It is difficult to determine, from a review of annual data precisely what will remain at 346 Broadway after the transfer of cases to the Environmental Control Board. Various types of offenses cut across code types - for example, peddler violations (most of which will be transferred) exist under the administrative code, the health code and park regulations. Similarly, transit cases cut across administrative, health and transit codes. To make any determination about what will be left after the ECB transfer, data must be broken down by individual section of law.

It is clear, however, that Traffic and Motor Vehicle offenses constitute a large part (18% in 1978) of the existing caseload and will represent a major part of what remains after the transfer. A few misdemeanors (uninsured

vehicle, unregistered vehicle, unlicensed driver), returnable to 346 Broadway, carry with them a variety of companion cases which would otherwise be returnable at the Motor Vehicle Adjudication Bureau. In addition, Sharon Buder, director of planning for the state OCA reports that in November 1978 MVAB sent nearly 6,000 undisposed summonses over to 346 Broadway and instituted a 90-day transfer policy on unanswered summonses.

Proposed 1979 legislation to reduce "uninsured vehicle" charges to infractions returnable to MVAB, maintaining existing penalty schedules, would have greatly reduced the caseload at 346 Broadway. "Uninsured Vehicle" cases constituted the largest single traffic offense in 1978 (51,131; 52% of Traffic Summonses), and probably carried a great number of companion violations into Summons Court. According to Sekoutis, the city actively opposed this legislation and it did not pass.

## II. Remaining Summonses: After the ECB Transfer

Statistics on May 1979 criminal court summons filings and dispositions provided by the Office of Court Administration, which break down the various codes by section of law, provide the best existing data base from which to project the volume of cases that will remain. Yet there are several problems in defining exactly what will be transferred.

The Environmental Control Board has developed a list of statutes for which it is responsible, to be used in coding violations by computer. In addition Corporation Counsel has provided a list of most statutes (excepting, in particular, the City's Administrative Code) that are returnable to 346 Broadway. These lists can be matched against the May 1979 sample to estimate what volume of filings, dispositions, and fines paid will remain in Summons Court. Unfortunately, there are disparities between the two.

The ECB list does not include provisions for specific transit cases (1051.5, Dumping; 1051.9a Peddling in transit facility), traffic cases (147, peddling in restricted area; 200, peddling on parkway; 1219, dropping sharp objects; and 1220, littering on highway) or Parks Department Regulation cases ( 4, littering; 16, peddling in park; 21, unleashed dog) -- all parts of its new jurisdiction according to the Corporation Counsel memo. Although ECB may simply not have coded transit cases yet (there do seem to be provisions for

them on the title page), it does not appear to be prepared for Traffic and Parks Department Cases. Assistant Deputy Director of Operations Carol Whelan, in a memo of 10/30/79, indicates that Parks Department cases are in fact disputed territory: "With respect to peddling I would expect that for ECB to hear Parks peddling cases further legislation, rule or regulation is required."

In addition, some statutes designated by Corporation Counsel as no longer properly returnable to Summons Court are definitely not returnable to the Environmental Control Board either (i.e. Traffic Regulation, 44(a), hitchhiking; ABC Law, Section 64B unlicensed bottle club.) It is not clear where these cases belong.

The following review of what is expected to remain in Summons Court after the ECB transfer is based on the Corporation Counsel list. It is important to recognize that the few disputed violations discussed above amount to less than three percent of what is scheduled to leave Summons Court and only one percent of the existing caseload in that court.

In May, 1979 a total of 63,990 summonses were filed at 346 Broadway. All but two percent of offenses are concentrated in six major categories. The distribution of these offenses is not significantly different from the annual distribution of offenses for 1978.

### III. Warrants

In 1979, Summons Court generated over 36,000 warrants (seven percent of total filings). According to Sekotis, warrants are generated in three separate parts of Summons Court. Most warrants are generated by universal summonses in cases where defendants show up once and subsequently fail either to pay their fine or to appear on the date scheduled for their hearing. Warrants are generally not issued for those who do not respond to the initial summons. I .

In the "Agency Part" of Summons Court however, warrants can be generated by noshows. The ASPCA is notorious for generating warrants in such cases. The "request to appear" part of Summons Court is also capable of generating warrants, although a review of October 1979 Summons Court warrants indicates that this does not happen.

There were a total of 3,358 warrants based on summonses entered into the Police Department's Warrant Division in October, 1978. There were several difficulties in coding warrant charge information and determining which warrants would be eliminated by the ECB transfer. Officers used different methods for coding charge information, some entering body of law and statute number, others entering only statute number, and still others giving a simple verbal description (i.e. "peddler", "building", "alcoholic beverage"). Since some of these categories can be found under more than one body of law, it was at times difficult to determine what section of law was involved. In addition, in several cases charge designations simply were unreadable. The following review

of the distribution of warrants excludes 66 illegible cases and represents, in some instances, a "best guess" as to charge designation.

Table 7

Warrants Generated by Summons Court: October 1979

<u>Body of Law</u>	<u>Number of Warrants</u>	<u>% of Total Warrants</u>
Administrative Code	1412	43%
Health Code	211	6%
Traffic	694	21%
Penal Code	328	10%
Transit	45	1%
Parks	63	2%
ASPCA	402	12%
State Tax Law	28	1%
Labor Law	26	1%
Miscellaneous	<u>93</u>	<u>3%</u>
TOTAL	3302	100%

A review of October, 1979 warrants generated by summons court reveals that agency generated warrants, particularly for dog license violations, were issued disproportionately to agency-related filings (12% of warrants issued compared to less than 1% of summonses filed, a finding explained by

the way warrants are generated by the "Agency Part" of Summons Court). Health Code violations on the other hand, generated disproportionately few warrants (6% of warrants issued; 23% of filings) -- a finding not totally explained by the way warrants are generated in the non-agency part of summons Court, since other bodies of law, subject to the same procedures, do not seem to have been similarly affected. Although violations of nearly all Health Code sections that generated warrants will be transferred to the Environmental Control Board, such cases appear to be a disproportionately small part of the warrant load.

In fact, transferrable cases in general were under-represented in the sample of warrants. For example, although 65% of Administrative Code summonses in the May 1979 sample were transferrable to ECB, only 11% of October 1979 Administrative Code warrants represented transferrable summonses. Although all Parks Department warrants, were transferrable they represented only 2% of warrants issued. No traffic or transit cases generated transferrable warrants. In total, whereas at least 45% of all May summonses were transferrable to ECB, only 20% of all October warrants were related to transferrable summonses.

Table 8

Warrants Affected by the ECB Transfer

<u>Body of Law</u>	<u>Amount Transferrable</u>	<u>% of Total Warrants</u>
Administrative Code	348	11%
Health Code	215	7%
Parks Dept. Regs.	63	2%

Administrative Code summonses that generated warrants in October 1979 appear to have been distributed differently than Administrative Code summonses filed in May 1979. For example, 409 Administrative Code warrants (12% of all AC warrants) were clearly Taxi and Limousine cases; such cases were only 6% of Administrative Code summonses. Other major blocks of Administrative Code warrants were for building violations (C26; D26; "Buildings") and "no tax stamp on commercial vehicles and limousines".

Apparently those cases that are to be moved to the ~~Environmental~~ Control Board are less likely to generate warrants than are other kinds of summonses. The transfer will have little impact on the number of warrants generated by Summons Court if the method of generating warrants remains the same. If, as suggested by Sharon Buder, the decentralization of Summons Court entails the issuing of warrants for all no shows, the number of warrants generated by such offenses could increase five fold.



#### IV. Dispositions and Revenues

Although the Office of Court Administration has provided a precise listing of both filings and dispositions for May, 1979, there are several difficulties involved in drawing conclusions about disposition rates from such data. First,

summonses disposed in May are often likely to have been issued before May. The two samples represent different groups of summonses. Second, disposition data supplied by the Summons Court only account for the charge as disposed and not the charge as filed. Charges are often knocked down in court either to a lesser charge in the same code or to another code entirely. For example, a summons issued for a transit violation might be disposed as Disorderly Conduct, a penal law violation. There is often no relation between filed charge and disposed charge.

The May, 1979 disposition data is useful, however, as a means of determining which sections of law generate the most revenue at summons court and how the revenue-generating function of the court will be affected by the transfer to ECB. It is also useful, in a way that data on filings are not, as a rough indication of which offenses involve most actual court time.

According to the Office of Court Administration sample, there were a total of 17,829 cases disposed in Summons Court in May, 1979, of which 7,039 cases (39%) would be transferrable to ECB. May dispositions yielded a total revenue of \$186,451

of which \$54,810 (29%) would be returnable to ECB when the change takes effect. Approximately 70% of all dispositions and all revenues would remain at 346 Broadway, a much higher percent than the remaining proportion of total filings. It appears that the ECB transfer will have less of an impact on cases that actually take up time in Summons Court than filings data would indicate.

May dispositions and revenues are affected by the ECB transfer in three major areas, Administrative Code, Health Code and Parks Department Regulations. There is only slight impact on Transit and Traffic dispositions and revenues. It is interesting that in each affected body of law the disposed cases that will remain produce a disproportionate amount of the revenue yielded by that body of law.

Table 9

Dispositions and Revenues: the ECB Transfer

<u>Body of Law</u>	<u>Total Disposition Volume</u>	<u>% Remaining</u>	<u>Total Revenue</u>	<u>% Remai</u>
Administrative Code	5420	53%	\$62,277	78
Health Code	4377	2%	\$41,952	4
Park Dept. Regs.	232	20%	\$ 1,195	34

Among the total volume of remaining cases, there is often considerable disparity between the percent of the total volume of dispositions for a given code and the percent of total revenue

generated by that code. For example, if the May sample is representative Traffic cases will generate 36% of all dispositions after the ECB transfer, but will yield only 22% of remaining revenue. In contrast, Administrative Code cases will yield a disproportionate amount of revenue compared to their percentage of total volume disposed.

Table 10

Dispositions and Revenues: Proportions of Remaining Volume

<u>Body of Law</u>	<u>% of Total Volume of Dispositions remaining</u>	<u>% of Total Revenue Remaining</u>
All Traffic	36.4%	22%
Administrative Code	26.7%	37%
Penal Law	27.7%	31.1%
Health Code	.7%	1.3%
Park Dept. Regs.	.4%	.3%
Transit	1.2%	.9%
ABC Law	.3%	.2%
Marine and Aviation	.1%	.1%
Ports and Terminals	.3%	.8%
General Business Law	2.6%	.6%
Dcg Licensing Law	2.1%	.4%
Labor Law	.1%	.9%
State Tax Law	.9%	3.6%
Zoning Resolution	.2	.5%
TBTA	Less than .1%	.2%

There are several reasons for the disparity between volume of dispositions and percent of revenue. Some sections of law have much higher fine schedules than others. For example, based on the May data an average disposition after the transfer would yield \$8.35, yet State Tax Law cases would generate an average of \$47.45 per disposition. On the other hand, Dog Licensing Law violations would produce only \$2.50 per disposition. In addition, some bodies of law may generate proportionately less revenue than others because dismissal rates are higher. For example, 25% of all traffic cases disposed in May were dismissals, compared to only 5% of all health cases.

This factor, however, does not help explain the contrast between revenues produced by Traffic cases compared to those produced by Administrative Code sections. Thirty percent of all Administrative Code cases scheduled to remain were dismissed in May. The high revenue yield of remaining Administrative Code cases can be explained by a few specific sections of law that produce relatively high returns per disposition: C26, Buildings Code Violations; 488-1.0, fail to comply with order from Fire Department; C19, Fire Prevention Code; 692f-1.0, Building material and equipment; B32 Unlicensed businesses. These few sections yielded over \$26,000 in May (54% of projected remaining revenues). Other sections of the Administrative Code that produced a great deal of revenue (for example, various Taxi and Limousine offenses (2306(b), (c) and (d); 2331: \$15,705, 32% of remaining revenue), did so because of the high volume of dispositions rather than a high average fine.

Most remaining sections of law that produce large amounts of revenue are concentrated within the Motor Vehicle, Traffic and Penal Codes. Again, a few specific sections account for the majority of revenue. Among all Traffic violations seven specific sections of law account for over 80% of revenue: unlicensed operator, unregistered vehicle, improper plates, uninsured vehicle, equipment (often related to gypsy cab violations), unregistered vehicle and driving while license suspended. Among Penal Code violations, disorderly conduct alone produces 75% of all revenues. (A large number of cases originally filed under other codes are often disposed as disorderly conduct, making the disposition rate of this offense appear extraordinarily high.) Other major revenue producing Penal Law sections are: 140.05, trespass; 221.05, marijuana; 240.23, harrasment; and 240.35, loitering.

In general, data on dispositions and revenues provide a much clearer picture of the business that will actually remain in Summons Court after the ECB transfer than data on filings alone. Transit and Health Code violations diminish in importance when considered from the perspective of dispositions and revenues. The General Business Law (2.6% in May) and Dog Licensing law (2.1%), on the other hand, constitute a significantly greater proportion of dispositions than they do of filings (.2% and .6% respectively). The State Tax Law becomes a substantial contributor of revenue (3.6%), although only a minor producer (.5%) of filings.

Ultimately, however, the great majority of cases from the perspective of filings, dispositions and revenue, are concentrated in three major areas: Traffic Regulations, Administrative Code and Penal Law. Any attempt to redistribute the workload of 346 Broadway to other forums must focus primarily on these three bodies of law.

## V. Policy Options

In a paper written for the Permanent Citizens Advisory Committee to the Metropolitan Transportation Authority, Judith Spektor\* strongly recommends that Transit related summons cases, entailing sections within several bodies of law, be transferred to the Environmental Control Board. She argues that minor offenses are taken seriously only outside the criminal justice system and that, for those who fail to appear, civil remedies are more effective and less costly than criminal sanctions. She speaks in favor of the establishment of mail-in summonses with escalating fine schedules and the employment of collection agencies for those who do not pay their fine. Her report focuses on Transit related summonses only and does not address the surrounding issue of how best to reduce the volume of summonses returnable to the Arraignment Part of Criminal Court when decentralization takes effect.

Spektor's arguments are equally applicable to the concept of a central Administrative Tribunal, currently under consideration by the Mayor's Coordinator for Criminal Justice, the Mayor's Office of Operations and the Office of Court Administration. Such a tribunal would involve either an expansion of the Environmental Control Board or the establishment

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\*Spektor, Judith, Adjudicating Minor Transit Crime: Proposals for Reform. New York. Permanent Citizens Advisory Committee to the Metropolitan Transportation Authority. October, 1979.

of a new tribunal unaffiliated with any summons-issuing agency. A new tribunal would be modelled on the Parking Violations Bureau, and be in many ways analogous to the Environmental Control Board, employing escalating fine schedules and collection agencies for enforcement.

Yet, as Spektor points out, the success of administrative tribunals depends largely on manageable volume and specialized staff. It is likely that both the Environmental Control Board and a new central tribunal would be overwhelmed by the volume of cases diverted from 346 Broadway.

Summons Court is currently responsible for a great many sections of law which are either never enforced or never violated. The General Business Law alone contains a hundred statutes on the Corporation Council list, covering in part junk dealers, ticket agents, employment agencies, motor vehicle manufacturers, refrigerator sales, bicycle sales and the sale of second-hand hats. Only three sections of the General Business Law, however, appear in the May 1979 lists of filings and dispositions, 99% of which are for a single section of law, Ticket Scalping, alone. A new umbrella administrative tribunal would need to be prepared to handle all sections of law, even those least likely to be enforced. Such an undertaking would entail massive bureaucratic procedures, involving the establishment of fixed fine schedules for hundreds of offenses, and training specialized hearing officers to cover several, often obscure, unrelated sections of law.

It is possible, however, that the caseload that remains at 346 Broadway after the ECB transfer can be greatly reduced by a variety of measures directed at those sections of law that



involve the greatest number of summonses. A great deal of the business at 346 Broadway could be handled by several existing administrative tribunals without thrusting the burden of all summonses on any single one.

Motor Vehicle offenses account for nearly 40% of the summonses that would be filed and disposed after the ECB transfer according to the May, 1979 samples of filings and dispositions. Over half of all Traffic filings (6851, 52%) and almost 40% of all Traffic dispositions (1480, 38%) are for a single offense: uninsured vehicle. It is likely that this offense carries a number of related offenses, normally returnable to the MVAB, into Summons Court as companion cases. Proposed 1979 legislation to transfer "uninsured vehicle" cases back to the MVAB, maintaining the same fine schedules as at criminal court, could reduce the volume of Motor Vehicle and Traffic filings by at least a half if the May sample is representative.

Such legislation would not eliminate all traffic violations from criminal court. The May sample contains a substantial number of filings for "unlicensed operator", "unregistered vehicle", and "driving while license suspended", all of which would require separate State legislation to be returned to MVAB. It is likely that much of New York State has neither the need or the desire for these sections of law to be removed from criminal jurisdiction. Although an ultimate policy goal should be to have all traffic offenses returnable to MVAB, at present only legislation regarding "uninsured vehicles" is contemplated. It is strongly recommended that New York City support such legislation in the

future.

Administrative Code cases as a whole are the next largest group of remaining nontransferrable filings according to May 1979 data. Although a great variety of offenses are included within the Administrative Code, non-transferrable issuances at 346 Broadway appear to be concentrated among a handful of sections.

Over 50% of the filings and dispositions that would remain after the ECB transfer are specifically related to Taxi and Limousine Offenses (2306(b), (c) and (d); 2301-2331). The Taxi and Limousine Tribunal has expressed interest in assuming responsibility for these cases.\* Such a move would greatly reduce the number of cases returnable to criminal court.

Another quarter of May 1979 non-transferrable Administrative Code filings, also related to vehicles, K-46, "No tax stamp on commercial vehicle or limousine," accounted for 1,986 (25%) of May filings, and 10% of May dispositions. The payment of this tax is indicated by a sticker on commercial vehicles and the Director of Finance is authorized to enforce provisions for the payment of the tax. It may be possible to transfer jurisdiction over violators of this section to a combination of the Parking Violations Bureau and the Taxi and Limousine Commission.

The third largest single group of remaining Administrative Code offenses (C-26, Building Code Violations: 3% of May filings, 10% of May dispositions) is theoretically transferrable

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\*The policy implications of such a move need to be explored. Most of these offenses relate to Gypsy Cabs. It is likely that the Taxi and Limousine Commission would strengthen enforcement of licensing requirements for Gypsy cabs. This may have a major impact on transportation in some areas of the City served primarily by such vehicles.

to the Environmental Control Board. Civil penalties are already in place for this offense. Unfortunately, current legislation clearly states that this section can be enforced only in civil court "or any other court of record." Administrative tribunals do not constitute a court of record. It would require only slight legislative change for this section to be transferred to ECB.

The remaining offenses that constitute a major portion of non-transferrable Administrative Code cases are varied but few:

--692h-10.0 Sidewalk obstructions:

3% of May filings; 8% of May dispositions.

--435-15.1 Drinking Alcoholic beverages in public streets.

3% of May filings; no May dispositions.

--488-1.0; C19; Fail to comply with order from Fire Department; Fire prevention code.

2% of May filings; 4% of May dispositions

--692f-1.0 Building material and equipment.

2% of May filings; 2% of May dispositions.

--B32. Unlicensed businesses.

1% of May filings; 5% of May dispositions.

No single clear policy option exists for these offenses or for the remaining 589 (7%) miscellaneous Administrative Code cases filed. For the remaining cases, parts of the Administrative Code volume can be transferred to other, existing tribunals; new agency tribunals can be set up in, for example, the Fire and Buildings Departments; or, a citywide agency tribunal can be set up, with authority over several regulations,

as well as the agency regulations covered by the Administrative Code. The remaining violations can either be kept at Criminal Court or folded into ECB.

Penal Law violations, the third largest group of non-transferrable summonses processed at 346 Broadway fall almost entirely under five sections;

Table 11

Penal Law: Distribution of Major Offenses

<u>Section of Law</u>	<u>% of Filings</u>	<u>% of Dispositions</u>
140.05 Trespass	53%	29%
221.05 Marijuana	14%	8%
240.20 Disorderly Conduct	19%	54%
240.25 Harassment	5%	4%
240.35 Loitering	8%	4%
TOTAL	99%	99%

There are over 160 sections of Penal Law on the Corporation Counsel list designated as returnable to 346 Broadway, ranging from violations to Class A misdemeanors. Only a few of these offenses are represented by May 1979 filings and dispositions. Clearly, for some sections of penal law (165.25, jostling; 221.40, criminal sale of marijuana; 205.30, resisting arrest) either Desk Appearance Tickets are issued or arrests are made. The decision to issue a summons rather than resort to DAT or

arrest is largely at the discretion of the issuing officer. Although police officers have the authority to issue summonses broadly, in practice, for many sections of Penal Law, they do not. There is no clear distinction between summonsable sections of Penal Law and other sections beyond existing practice. It is clearly not possible to divert summonsable Penal Law offenses to a civil forum.

Yet options exist for dealing with *these cases without* unduly increasing the pressure on the Arraignment Part of Criminal Court. If fine schedules were clearly defined for these offenses, a "plea and pay by mail" system could be established. In addition, the Vera Institute of Justice is beginning work with the Police Department on developing a "Declined Prosecution Desk Appearance Ticket." Although the details have not yet been worked out, in concept the DPDAT is similar to an ACD (Adjournment in Contemplation of Dismissal), the major difference being that DPDAT does not require a court appearance if there is no re-arrest within six months. Such procedure, if developed, could readily be applied to summonsable Penal Law offenses.

Even using such measures to reduce the volume of Traffic, Administrative Code and Penal Law cases, a great deal still remains to be accounted for:

Health Code violations (1,402; 4% of non-transferrable May filings) could be made returnable to either the Health Tribunal or the Environmental Control Board.

Transit (2,358, 7% of non-transferrable May filings) are not clearly returnable to any existing tribunal, although they could be made returnable to a new central administrative tribunal or a further expanded Environmental Control Board. If kept in criminal court, pay-by-mail schedules could be established for such offenses. DPDAT's would also be applicable.

Parks violations (317, 1% of non-transferrable May filings) could be made returnable to a new central administrative tribunal or to an expanded Environmental Control Board.

Dog Licensing Law (429, 1% of non-transferrable May filings) is presently enforced by the ASPCA, who generate disproportionate number of warrants for summonses based on flimsy identification. Animal nuisance cases, unleashed dogs and the canine waste law are scheduled to be under the jurisdiction of the ECB. Dog Licensing cases could be handled there as well.

General Business Law Cases (138, less than 1% of transferrable May filings) are issued largely for a single section, Ticket Scalping. This provision could be made returnable to a new central administrative tribunal. If left in criminal court, a pay by mail system could be established or a DPDAT employed. Nearly 93% of disposed cases for these offenses were given an unconditional discharge. Infrequently enforced sections of the General Business Law could remain in criminal court since the volume of such offenses is insignificant.

State Tax Law Cases (371, 1% of non-transferrable May filings) produce a significant amount of revenue for the number of cases disposed. These cases probably should remain in criminal court.

Several bodies of law remain to be considered, although the volume of such offenses is small (226, less than 1% of non-transferrable May cases): Agriculture and Market Law, Alcoholic Beverage Control Law, Marine and Aviation: Rules and Regulations, Labor Law, Navigation Law, Triborough Bridge and Tunnel Authority, Port Authority Regulations, Election Law, Public Health Law and Zoning Regulations. All such cases could be transferred to a new central administrative tribunal or an expanded Environmental Control Board. Unfortunately, the low volume miscellany of Summons Court entails a lot of preparation in terms of establishing and coding fine schedules for whoever becomes responsible for it.

Even given the options discussed above, a great many summonses would remain for which no existing appropriate forum is immediately apparent: half of all Traffic cases, a quarter of all Administrative Code cases, all remaining Transit and Parks Violations, General Business Law offenses and violations under several miscellaneous codes. It is specifically for these instances that a new central Administrative Tribunal remains under consideration, a Tribunal responsible for several bodies of law, but unaffiliated with any single issuing agency.

A review of options for diverting various forms of Universal Summons out of Criminal Court, however, completely ignores the issue of what is to be done with the Request to Appear Part of Summons Court. It is not yet clear who will assume responsibility for this part of the court when decentralization of 346 Broadway takes effect. It must be recognized, however that the volume of individuals who come to this part of the court for a Request to Appear summons is much greater than the annual listing of Request to Appear Complaints would indicate.

In recent months, however, a number of Request to Appear cases have been sent by Summons Court judges to the Institute for Mediation and Conflict Resolution, currently administered by the Victim Services Agency in several boroughs. If this forum could be expanded into other boroughs, it might prove to be the appropriate setting for Request to Appear cases. If it were required that complainants go through an initial process of mediation before a Final Complaint could be issued

the number of request to appear cases that finally reached Criminal Court would be greatly reduced.

There is no simple, single solution to the problem of what to do with summonses that remain at 346 Broadway after the transfer to the Environmental Control Board. Any new agency assuming responsibility for everything that remained would be overwhelmed by the volume of cases. So, indeed, would the Arraignment Part of Criminal Courts in individual boroughs. Yet it seems feasible that a sizable portion of the remaining caseload -- in fact, nearly 60% could be diverted to appropriate existing forums. Efforts to create a new central administrative tribunal or to expand existing ones would then be focused on a much smaller volume of cases than originally contemplated.