

July 18, 2008
OPINION NO. 08-0010

Louis Dale Marcantel
Chief of Police
Village of Turkey Creek
P. O. Box 98
Turkey Creek, Louisiana 70585

60 – LAW OFFICERS – AUTHORITY AND JURISDICTION
70 - MOTOR VEHICLES – CONTROL AND REGULATION

La. R.S. 32:393(C)(1)(a) and (b)
La. R.S. 32:853(A)(1)(a)
La. R.S. 32:398.2

The chief administrative officer of each traffic enforcement agency is required to maintain and file a record of the disposition of each traffic citation issued. The court or district attorney must send an abstract of the report to the Department of Public Safety and Corrections.

Dear Chief Marcantel:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask:

- 1) Who is responsible for filing traffic tickets with the Department of Public Safety?
- 2) At what point does your responsibility end concerning traffic tickets?

With regard to your first question, LSA-R.S.32:393(C)(1)(a) and (b) provide the answer. These provisions are as follows:

§ 393. Persons charged with traffic violations; time for disposition, licenses, reports, and records to be sent to Department of Public Safety and Corrections, fee charged; record of unpaid traffic fines and parking fines

C. (1)(a) Every court in this state shall keep a full report of every case in which a person is charged with violation of any provision of this Chapter or any regulation of the department or the commissioner adopted pursuant thereto, or any law of this state or of any municipal or parish governing authority lawfully established for regulating the operation of motor vehicles on highways.

(b) If such person is convicted and sentenced thereupon, and such conviction is a final disposition as defined in R.S. 32:853(A)(1)(a), or his bail is forfeited as a result of a final judgment of forfeiture, or other final disposition be made, an abstract of the report, all parking

convictions only excepted, shall be sent by the court or district attorney, as the case may be, to the commissioner not later than thirty days after the date of such person's conviction and sentencing thereupon, forfeiture of his bail and final judgment of forfeiture, or the final disposition of this case. This report shall not be a court record. (Emphasis added).

This statute requires the court or the district attorney to forward an abstract of the report of all convictions and sentences and all other final dispositions to the Department of Public Safety and Corrections. A final disposition is defined in LSA-R.S. 32:853(A)(1)(a) as follows:

§ 853. Commissioner to furnish operating records; other information; fees; withdrawal of forms or information

A. (1)(a) The commissioner shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of this Chapter. The operating record of an individual driver shall only include those offenses where an individual has pled guilty and been sentenced thereupon, forfeited bond resulting in a final judgment of forfeiture, or been found guilty in a final disposition by a court of competent jurisdiction of violating a law in the operation of a motor vehicle, or civil actions in which an individual has been adjudged at fault, and any accident in which the driving privileges of the person are suspended for failure to provide liability security or proof of financial security. "Final disposition" shall be defined in this Section as a final conviction, not capable of appeal of review, and not subject to dismissal. (Emphasis added).

Your second question is answered by LSA-R.S. 32:398.2. This statute is reproduced below:

§ 398.2. Disposition of traffic citations; unlawful acts; records

A. Each traffic enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town shall deposit the original citation or a copy of such traffic citation with a court having jurisdiction over the alleged offense or with the appropriate traffic violations bureau. However, a citation for a traffic violation of R.S. 32:80(A) [overtaking and passing school buses] shall be deposited

only with a court and not with a traffic violations bureau. (Brackets added).

B. Upon deposit of the original citation or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with the traffic violations bureau as set forth herein, the original citation or copy of such traffic citation shall be disposed of only by trial in the court of proper jurisdiction or any other official action by a judge of the court, including forfeiture of the bail, or by the deposit of sufficient bail with the traffic violations bureau or payment of a fine to said bureau by the person to whom such traffic citation has been issued. However, a citation or its copy alleging a violation of R.S. 32:80(A) shall be disposed of only by trial or acceptance of a plea in open court.

C. It shall be unlawful for any traffic enforcement officer or any other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the citation in a manner other than as required herein.

D. The chief administrative officer of each traffic enforcement agency in the state shall require all traffic officers under his supervision to return to him a copy of every traffic citation which was issued by the officer for the violation of a traffic law or ordinance, and in addition shall require the return of all copies of every traffic citation which has been spoiled or upon which an entry has been made without having issued the citation to the alleged violator.

E. The chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his supervision a record of the disposition of the charge by the court or its traffic violations bureau in which the original or a copy of the traffic citation was deposited.

F. Nothing shall be construed as prohibiting or interfering with the authority of a district attorney or other prosecuting attorney to dismiss a traffic citation or charge by entry of a nolle prosequi.

This statute describes your duties and subsection E requires that the chief administrative officer, who in your case is the chief of police, maintain a record of the disposition of each traffic citation issued by you or your officers. Once your record is compiled, the court or the district attorney has the information needed for the report to be sent to the Department of Public Safety and Corrections which is required by LSA-R.S. 32:393(C)(1)(a). At this point, your responsibility for traffic tickets should end.

We trust your questions have been answered. However, if you should need anything further do not hesitate to contact this office.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: _____
Frances J. Pitman
Assistant Attorney General

JDC:FJP:sc

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