

**T**he Office of Inspector General of the City of New Orleans (OIG) evaluated Driving While Intoxicated (DWI) case management at Traffic Court in Orleans Parish from arrest through prosecution, sentencing, and case closing. The goal of this evaluation was to examine how the New Orleans Police Department, the City Attorney's Office, and Traffic Court managed DWI cases, and whether arrests, prosecutions, adjudication, and probation of DWI cases were in keeping with state laws and professional standards and best practices.

Police, prosecutors, and courts must excel at case management and collect the data necessary to target efforts in order to reduce alcohol-related crashes. However, at every step of the process, the prosecution and adjudication of DWI cases at Traffic Court illustrated basic failures of legal standards and a wide gulf between local practices for handling drunk driving cases and national best practices.

Drunk driving is a serious public safety threat. In 2011 alcohol-related crashes accounted for 42 percent of all fatal vehicle accidents in Louisiana, and the state's impaired driving fatality rate is higher than the national average. Groups such as the National Highway Traffic Safety Administration (NHTSA) and the National Institute on Alcohol Abuse and Alcoholism (NIAAA) recommend that states follow best practices in policing and adjudication to tackle the problem and protect public safety. Behavioral research suggests that these efforts should be targeted at the highest risk offenders, meaning repeat offenders and those who are extremely drunk behind the wheel.

Evaluators reviewed paper case files from Traffic Court, prosecutors, and probation officers for a random sample of 80 DWI cases from the first half of 2012 to assess record-keeping and what transpired in a case. Evaluators also analyzed electronic case management records of all DWI cases recorded in Traffic Court's system from 2007 through 2012 for a larger view of trends, and examined a spreadsheet of all open DWI cases going as far back as the system would allow. Evaluators further reviewed correspondence between the Law Department and the District Attorney's Office about potential felony case transfers from 2010 through 2013.

This report includes the following major findings.

- NOPD did not use the latest techniques to fight drunk driving and generate evidence for prosecutors.
- NOPD, OPSO, and Traffic Court did not have adequate controls over the transfer of DWI records from one agency to another, making it impossible to know if every arrest resulted in a docketed case in Traffic Court. The lack of internal controls left the process vulnerable to errors and abuse.
- Traffic Court had 14,635 open DWI cases dating as far back as the 1980s. It was impossible to tell if the cases had been adjudicated, raising the question of whether drivers were ever sanctioned for their crime.
- City attorney prosecutors had no formal screening process for DWI cases, leaving them unprepared to enforce the city's interest in cases. Police citations determined what charges would be brought in a case.
- City attorney prosecutors reached plea bargains to resolve most DWI cases without having standards for prosecutorial discretion; in those plea deals, second-offense sentences occurred in less than 2 percent of DWI cases, city attorneys downgraded high-BAC readings in 84 percent of high BAC cases and reduced charges to reckless operation occurred in one in five cases. City attorney files also lacked documentation to support the decision to plea.
- In the sample of 80 cases, 16 percent of city attorney files did not contain rap sheets, and city attorneys provided insufficient documentation to the District Attorney's Office when attempting to transfer potential felony DWI cases to Criminal Court. As a result, the rate of rejections increased from 9 percent in 2010 to 37 percent in 2012.
- Traffic Court and OPSO removed key information from their databases when handling expungements; making it impossible to analyze DWI case data.
- Defendants did not always complete probation at Traffic Court, often with no consequences.
- Probation officers did not have the work space or communications tools necessary to perform their jobs supervising offender work on DWI

sentences, and the Court did not safeguard the privacy of client records containing sensitive information.

Based on these findings, the report makes the following recommendations related to DWI case management.

- NOPD should adopt advanced techniques for fighting drunk driving and generating evidence for prosecutors to use in court. It should start a “No Refusal” program to reduce the number of people who decline breath tests, it should train some officers as certified Drug Recognition Experts to fight drug-impaired driving, and it should make DWI arrest video available to prosecutors.
- NOPD, OPSO, and Traffic Court should institute controls over the transfer of DWI records between agencies, and city attorneys should receive notification of DWI arrests from police so that they can verify that all DWI arrests become cases at Traffic Court.
- Traffic Court should develop a system to monitor when cases have been open for a long time to ensure that cases are adjudicated, reach closure, and that offenders fulfill their obligations to the Court.
- City attorneys should begin research immediately on DWI cases and make charging decisions and initiate prosecution by filing bills of information.
- The Law Department should develop written policies to guide prosecutorial discretion; city attorneys should document the reasons for and terms of plea bargains in prosecutorial files.
- The Law Department should track DWI convictions, DWI charge reductions, and downgrades of high-BAC cases.
- The Law Department should create a training manual and standard forms to help legal assistants deliver the information that the District Attorney’s Office needs to prosecute felony DWI cases; legal assistants should be formally trained and supervised; and the Law Department should track potential felony DWI cases to monitor trends and identify any problems with transfers as they arise.

- Traffic Court, NOPD, and OPSO should only omit personal identifying information in their databases so that the entire universe of data can be used for statistical analysis.
- Traffic Court should require defendants to complete the terms of probation ordered by the Court.
- Traffic Court should give probation officers private work spaces in which to confer with probationers and the training and communications tools to provide effective oversight. It should also develop a policy for managing private records and provide secure storage for documents containing sensitive information.

The apprehension and prosecution of drunk drivers and the management of DWI cases are critical public safety functions. Based on a preponderance of evidence, evaluators concluded that the community of professionals responsible for protecting the public from drunk drivers adopted a lax approach to the task: DWI cases moved through a system that did not distinguish between more serious and less serious cases or between the first-time offender and the repeat offender with a high BAC. The agencies responsible for providing this essential public service should embrace the recommendations in this report in order to improve the efficiency and effectiveness of DWI case processing and ensure the safety of the driving public.

**NOTE:** *The OIG has added interactivity to this PDF of the report. Click on shaded buttons in the right-hand margin or on highlighted text to pull up appendices or other additional information. To return to the original page in the text, click "RETURN TO TEXT" at the top of the linked page.*