

Case Study #1:¹ A driver was arrested in January 2007 on charges of DWI and hit and run driving. He took the breath alcohol test and exceeded the legal limit, providing prosecutors evidence that he was legally intoxicated. His case was “quashed,” or dismissed.

He was arrested again in February 2012 for DWI, weaving, reckless operation, driving with a suspended license, not carrying a driver’s license, having an expired car registration, having an expired license plate, and failing to signal. This time, he refused to take the breath alcohol test on the Intoxilyzer machine.

He hired a relative of a Traffic Court judge to represent him, and in September 2012, he pleaded guilty to DWI under Article 894.†

The driver then deferred payment on his \$1,000 fine, and in late January 2013, the judge denied a fifth extension of the case and re-set for sentencing in early February. In March, the probation officer reported that the driver came to a meeting reeking of alcohol. The driver had not completed his probation and asked for an extension. According to Traffic Court’s case management system, his request was denied and his probation was terminated unsatisfactorily.

Despite the probation failure, in spring 2013 the defendant began paying \$100 a month toward his fine. In June 2013, he failed to show up to make his next payment. No arrest warrant was issued for failure to appear in court.

When an evaluator asked to see the case file again in 2014 to check on the status of the case, Traffic Court could not find it.

† Article 894 permits the expungement of a misdemeanor DWI.

Case Study #2: Matters such as issuing arrest attachments and implementing a case management system that guards against long-standing open cases were more than academic. In 2012 news stories reported that a New Orleans resident had been arrested at least eight times in Orleans Parish for DWI but had never stood trial.

The driver frequently failed to show up in court. Attachments for his arrest were issued three times, but in two instances, the arrest attachments were recalled without explanation, and he went free for years.

The case also illustrates the importance of sending a copy of police DWI arrest registers to the Law Department as a check on Traffic Court. The defendant was never arraigned on DWI charges, and prosecutors had no way of knowing that his cases existed because they were not aware of cases at Traffic Court until arraignment.

Case Study #3: OIG's random sample included a man who was arrested at 9:30 a.m. on a weekday in February 2012. He had passed out behind the wheel of his car on Orleans Avenue while the keys were still in the ignition. His record of arrest and prosecution (rap) sheet showed five previous DWI arrests in New Orleans, but only one of those cases could be found at Traffic Court.

There was no court record resulting from DWI arrests in December 1983, January 1986, March 1986, and February 1998. Records show the fifth arrest in August 1998 was the only one adjudicated; it was downgraded to reckless operation.

All five of these prior cases were too old to count toward charging the motorist as a repeat offender. However, the case begs the question: how and why was there nothing in the court record about these four arrests?

The driver pleaded guilty to first-offense DWI in January 2013.

Case Study # 4: According to the police report, one motorist in OIG's sample left a Memorial Day weekend party, backed into a car and then drove forward, hitting people who were standing outside their automobile. She then gunned the engine and hit more pedestrians on the sidewalk, sending a total of five people to the hospital.

When police arrived at the accident scene, they observed that the motorist reeked of alcohol, had bloodshot eyes, was slurring, and had trouble balancing. The driver scored 0.27 on the Intoxilyzer, more than three times the 0.08 BAC threshold for drunk driving. She told police she did "not really" feel the effects of the alcohol she had consumed at the party.

Despite the pervasive evidence of drunkenness, the city attorney offered a sentence that included neither the mandatory jail time nor the ignition interlock device that usually comes with a high BAC. The city attorney also dropped all ancillary charges, including driving on a suspended license in an unregistered car with no license plates.

The driver pleaded guilty under Article 894, the law that allows defendants to expunge their convictions. The driver served no jail time and paid a \$500 fine, less than the \$750 required of drivers with the highest BACs. Probation terms included 36 Alcoholics Anonymous meetings, a higher number than in most DWI cases, and 90 days of wearing an alcohol-monitoring bracelet to enforce a prohibition on drinking.

Eighteen days into the probation sentence, the bracelet detected alcohol, suggesting that the driver was drinking and at risk of committing a future DWI. According to the terms of the alcohol monitoring order, the driver was subject to arrest, imprisonment, or additional fines for violating probation, but the offender received no sanctions on her next court date.

Case Study #5: In one case in OIG's sample, NOPD arrested a suburban firefighter in New Orleans for DWI after the driver nearly rear-ended a police patrol car. The firefighter refused the Intoxilyzer and the field sobriety test, but police reported that his level of impairment was "extreme," the smell of alcohol was "strong," and he was swaying and slurring his speech. The firefighter was released on his own recognizance from jail.

He performed community service at another fire station, attended Alcoholics Anonymous meetings, went to a Mothers Against Drunk Driving class, took a day of a safe driving class, and the city attorney dismissed the DWI charge in favor of reckless operation. Notes in the city attorney case file implied that his job as a firefighter was meaningful to the downgrade: "complete Ref/almost rear-ended 26/fire fighter 14:99 ok 10-19-12 met with counsel."

Case Study #6: In another case in OIG's sample, a former parish prosecutor who began his career in Traffic Court was defending a college student from a prominent local family. The city attorney file listed the lawyer's name and phone number, and file notes say "student @[out-of-state university - name removed] to start pre sent/14:99 when complete/no record. Met with counsel 8-6-12." The main Traffic Court file showed that the case was downgraded to reckless operation, and the file contained no documentation that common probation requirements were performed.