



Office of Inspector General

City of New Orleans

Administrative Investigation: Traffic Court

Report 12-0020

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The City of New Orleans Office of Inspector General (OIG) has received numerous complaints alleging that Traffic Court Judges have emergency blue lights in their City vehicles.

Introduction

The OIG

- Reviewed records from the Judicial Expense Fund (JEF); and
- Spoke to the four Traffic Court Judges and the Clerk of Traffic Court.

Three of the Judges, Robert E. Jones III, Herbert A. Cade, and Mark J. Shea, and the Clerk of Court, Noel Casanova, were cooperative and provided information relating to the use and operation of their take-home City vehicles. Judge Sholes “respectfully declined” to answer any questions relating to his take-home City vehicle. Judge Ronald J. Sholes advised that he does not believe the vehicle “belongs” to the City of New Orleans. He stated that it was his belief that the Supreme Court for the State of Louisiana was the only entity with oversight authority over his take-home vehicle.

The five take-home vehicles were purchased between 2007 and 2011 with money from the Judicial Expense Fund totaling \$152,556. All five vehicles are titled to the City of New Orleans, all have City Asset numbers assigned, all have City gas cards assigned, and are all self-insured by the City of New Orleans.

The Judges and the Clerk were asked why they had take-home vehicles. Judge Cade stated, “historical”; Judge Jones stated, “historical, it was always that way”; Judge Shea stated, “it’s always been that way” he also said he believed it was “part of the benefits package.” Clerk Casanova stated, “it came with the job” he also added, “Can I do my job without the take-home car? Absolutely.”

Blue Lights

Law

State law provides that “All persons other than law enforcement officers on official duty are prohibited from equipping, operating, or using motor vehicles with blue colored electric lights thereon.” La. R.S. 32:318(F)(2).

Local law provides that “It shall be a violation for any vehicle, except authorized vehicles of the department of police, to display a blinking blue light, visible from the front of the vehicle, while such vehicle is in operation.” New Orleans City Code Sec. 154-1253(c).

Judge Cade

Judge Cade said that he has never used blue lights and he did not believe his City vehicle had blue lights. He advised that he was aware that only law enforcement or fire officials could legally possess and/or operate blue lights.

Judge Jones

Judge Jones advised that he does have a blue light, which he keeps in the trunk of his City vehicle. He said he was aware that only law enforcement or fire officials could legally possess and use blue lights. Judge Jones said that he keeps the blue light for the First City Court Constables to use. He said that approximately once a year the Constables will make arrests and he allows them to use his City vehicle for this purpose. He advised that he has only used the blue lights on two occasions that he can remember: once he transported a high school softball player to the hospital; the other occasion was when the Crescent City Connection “froze over” and law enforcement told him to cross carefully with his blue lights on. The Judge advised that he has neither received any tactical emergency vehicle operation training, nor any type of training related to operating a vehicle with blue lights activated.

Judge Shea

Judge Shea advised that he does have blue lights installed in his City take-home vehicle. He originally had blue lights in his old take-home vehicle and his staff arranged for the Orleans Parish Sheriff’s Office to remove those lights and install them in his new vehicle. Judge Shea stated that he was aware that only law enforcement or fire officials could legally possess and/or operate blue lights. He said that a New Orleans Police Department (NOPD) Officer is assigned to all four Sections of Traffic Court. The Judge advised that the NOPD Officer would occasionally drive him for Court-related business and the Officer might use the blue lights. He said that he has only used the blue lights on one occasion. He witnessed a traffic accident directly in front of him on I-10 and he pulled behind the wreck and activated his blue lights to warn other motorists. Judge Shea advised that he has neither received any tactical emergency vehicle operation training, nor any type of training related to operating a vehicle with blue lights activated.

Judge Sholes

A photograph taken on June 20, 2012, of Judge Sholes’ City take-home vehicle while it was parked at Traffic Court clearly shows an emergency blue light mounted on the dashboard.

Clerk Cassanova

Clerk of Court Cassanova advised that he did have a blue light in his City take-home vehicle. He said that he removed this blue light from the dashboard of his old City vehicle and mounted it on the dashboard of his new City vehicle. Clerk Cassanova said that he has never used the blue

light and he has never received any type of training on the proper use of the blue lights. He stated that he was unaware that it was illegal for him to possess and/or use blue lights until October 23, 2012. Clerk Cassanova said that on that date, he received a letter from Judge Jones citing the Louisiana statute regarding blue lights. He said that Judge Jones sent the letter, "after talking to you guys I guess." Clerk Cassanova provided a copy of that letter wherein Judge Jones cites Louisiana Revised Statute 32:318(F)(2), "All persons other than law enforcement officers on official duty are prohibited from equipping, operating, or using motor vehicles with blue colored electric lights thereon." Judge Jones also states, "I strongly urge you to deactivate and remove any flashing lights or sirens with which your vehicles are equipped."

A photograph taken on June 20, 2012 of Clerk Cassanova's City take-home vehicle while it was parked at Traffic Court showed that, in addition to the blue light mounted on the dashboard, a "New Orleans Police Officer on Duty" placard was also on the dashboard. Clerk Cassanova advised, "I don't use it for anything except to possibly get out of getting a parking ticket. I will get rid of it now that I got the letter from Judge Jones."

License Plate Covers

Law

State law requires that every permanent registration license plate must be, "in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible." La. R.S. 47:507(B).

Local law provides that:

No vehicle shall be driven on the streets of this City with any vehicle license plate which is mutilated, defaced, damaged, or obscured in such a manner as to make the letters and numerals thereon illegible. City Code Sec. 154-307(b).

A license plate shall be placed and positioned to be clearly visible and securely fastened. At night, the plate must be so illuminated as to be visible from a distance of 50 feet. City Code Sec. Sec. 154-307(c).

Judge Jones

A photograph taken on June 22, 2012, of Judge Jones' City take-home vehicle while it was parked at Traffic Court showed that a clear plastic cover partially obscures the numbers of the public license plate. Judge Jones advised that a Constable purchased the clear plastic cover from Walmart and installed it on the Judge's vehicle. The Judge said the Constable did it "on his own" and the Judge did not instruct him to do it. Judge Jones said he asked the Constable why he did it and the Constable told him that he had one on his car. The Judge said he did not believe it was a filter designed to defeat detection from traffic cameras. He said he thought it

was just a “plastic cover” for the license plate. Judge Jones also advised that it was not illegal in the state of Louisiana to have a plastic cover over the license plate. He said that some states have made it illegal but not Louisiana. Judge Jones also stated that after he was contacted by a news reporter regarding the plastic cover, he removed it. The Judge advised that he checked with his staff and they informed him that Traffic Court has never charged anyone with having a plastic cover on their license plate.

A review of Traffic Court records indicated that 6,443 individuals were ticketed for violating City Code Sec. 154-307 during the first nine months of 2012.

Use of Take-Home Vehicles

Policy

City of New Orleans Chief Administrative Officer Policy Memorandum No. 5(R) requires the following for all vehicles which are the property of the City of New Orleans:

- Provide Employee Take Home Vehicle Logs to departmental employees assigned take home vehicles. Collect the completed logs and keep them as a permanent record of personal and business use for a minimum of five (5) years. These are the primary written documents as required to calculate take-home vehicle use as a taxable fringe benefit.
- No non-city employee, including family members, is permitted to operate City vehicles and equipment.
- Take-home vehicles will only be assigned to full-time City employees who need to respond to on-site, City business related incidences on a 24-hour basis. This criterion will not be considered to be attained by employees simply being available on a 24-hour basis. This provision will be considered to be attained when an employee is regularly and recurrently called out during an employee’s non-traditional working hours to perform duties associated with that employee’s duties and responsibilities.
- Take-home vehicles will be used for the conduct of City business. City vehicles, as a general rule, should not be used to perform personal business. However, in some instances, take-home cars may be used to perform minor, personal errands so long as the errands are conducted to and from work, are brief in nature, and do not detract from the employee’s activities as a public servant. Any abuse of the discretion of city vehicle use is grounds for removal of take-home vehicle privileges.

According to the City’s Chief Administrative Officer, this policy was sent to the judges of Traffic Court in 2010.

Judge Cade

Judge Cade advised that he uses the vehicle primarily for commuting to and from work. He said that he also uses it for personal reasons. He advised that he was not aware of any written policy or rules governing the operation of the vehicle. He has never taken it on vacation because he did not feel it would be “right” to do so. Judge Cade said that his staff or the Constables will use the vehicle for Court business or to get gas. He stated that he owns a personal vehicle so he does not use the City vehicle exclusively.

A review of the Equipment Management Division’s Automated Fuel Survey records showed that Judge Cade’s City vehicle is driven approximately 5,300 miles a year over and above the commuting distance between his residence and the Court building.¹

Judge Jones

Judge Jones advised that he uses the vehicle for commuting to and from work. Judge Jones said that he was not aware of any written policies regarding the operation of the City vehicle. Judge Jones stated that he does not use another car; his girlfriend has his personally owned vehicle. He therefore uses the City vehicle for all his personal and business needs. Judge Jones stated that he has never taken the City vehicle on vacation but he routinely uses it to attend softball games and pick his daughter up from school. He stated that his girlfriend lives with him and she “occasionally” will use the City vehicle.

On September 25, 2012, the OIG reviewed the Equipment Management Division’s Automated Fuel Survey records, which reflected that Judge Jones’ City vehicle is driven approximately 6,500 miles a year over and above the commuting distance between his residence and the Court building.

Judge Shea

Judge Shea advised that he uses the vehicle for commuting to and from work. He said he also uses it for personal reasons. He said he does allow the NOPD Officer who is assigned to Traffic Court to use the vehicle. Judge Shea was unaware of any written policy or rules governing the operation of the vehicle. He said that “common sense” tells him that he cannot take it on vacation or let family members drive it. Judge Shea said that he owns a personal vehicle so that he does not use the City vehicle exclusively.

A review of the Equipment Management Division’s Automated Fuel Survey records showed that Judge Shea’s City vehicle is driven approximately 12,300 miles a year over and above the commuting distance between his residence and the Court building.

¹ The round-trip distance from residence to the court house was converted to annual commuting mileage and compared to the average actual annual usage.

Clerk Cassanova

Clerk of Court Cassanova advised that he uses the vehicle for commuting to and from work. He said that he has also used it “once or twice” to commute to his other home in Waveland, Mississippi. Clerk Cassanova stated that he has never allowed anyone to drive his City vehicle except other Traffic Court employees. He said that he has never taken the City vehicle on vacation. He was unaware of any rules, policies, or manuals concerning the operation of the City vehicle. Clerk Cassanova stated he was aware that driving the City take-home vehicle to “Texas or California” would be wrong. He said that he owns a personal vehicle.

A review of the Equipment Management Division’s Automated Fuel Survey records showed that Clerk Cassanova’s City vehicle was driven approximately 6,300 miles a year over and above the commuting distance between his residence and the Court building.

Damage to Vehicles

Policy

City of New Orleans Chief Administrative Office Policy Memorandum No. 5(R) states:

All incidents and/or accidents, regardless of severity, that result in property damage, injury to employees or others, or damages to City vehicles must be reported to the City’s Third Party Administrator within 24 hours.

In 2007, the City of New Orleans Law Department issued a letter which stated: “Reports of all accidents should be made within one business day to the Law Department of the City of New Orleans.” The letter states, in bold, “A COPY OF THIS LETTER MUST BE KEPT WITH THE DESCRIBED VEHICLE AT ALL TIMES.”

Judge Cade

Judge Cade said that he has not had any accidents or sustained any damage to his City vehicle.

Judge Jones

Judge Jones stated that he “hit the yellow pole” parking his City vehicle at Traffic Court. He did not notify the City Attorney’s Office. He instructed his staff to get estimates and have the car repaired by the lowest bidder. He advised that the repairs were paid for out of the Judicial Expense Fund (JEF). Judge Jones also stated that the car has sustained other damages but he could not remember any details. He said that a tree may have fallen on it during a hurricane but he “wasn’t sure.” He always instructed his staff to have it repaired “the cheapest way.” He believes that the repairs were always paid for with JEF money.

JEF records indicated the following repairs to Judge Jones' City take-home vehicle:

- September 18, 2008. A private body shop in New Orleans performed the following service on Judge Jones' City vehicle: "repaired damages from Hurricane Gustav, front bumper and components, front panels, radiator support, hood components, windshield glass, roof components, \$3,719.68."
- May 2, 2012. A private body shop in New Orleans performed the following service on Judge Jones' City vehicle: "repair dent on left fender and left rear door, repair dent on right rear door, repair dent on trunk, sand and paint entire car - \$1,500."
- August 12, 2012. A private body shop in New Orleans performed the following service on Judge Jones' City vehicle: "repair suspension pump and rear air bags, \$1,276.67."

All of the aforementioned services were paid for with monies from the JEF.

Judge Shea

Judge Shea stated that he has not had any accidents or sustained any damage to his City vehicle.

Judge Sholes

A review of Traffic Court records showed the following concerning Judge Sholes' City take-home vehicle:

- October 16, 2009. Don Bohn Ford invoiced the City of New Orleans for service in the amount of \$2,631.05. The invoice reflects a charge of \$1,867.11 for "charges and repairs" rendered by the Don Bohn Ford Collision Center. The remaining balance of \$763.94 appears to be for parts and labor related to a 30,000 mile recommended maintenance program.
- May 29, 2012. Don Bohn Ford provided the following estimate: "Vehicle presented with multiple issues. Tires and wheels have massive amounts of sidewall and curb damage. Replace front bumper cover, replace grille, replace upper right wheel open molding, repair rear bumper, \$2,318.63." Don Bohn Ford completed the repairs on June 1, 2012.
- July 25, 2012. A photograph of Judge Sholes' City take-home vehicle clearly showed damage to the passenger side rear quarter panel. The City Attorney's office advised that Judge Sholes never reported damages to his vehicle.

All of the aforementioned services were paid with monies from the JEF.

Clerk Cassanova

Clerk Cassanova advised that he was in an accident with his old City take-home vehicle wherein it was "totaled." He stated that he has not had any accidents or sustained any damage to his current City vehicle. He advised he reported the accident to the Traffic Court Deputy Administrator who reported it to the City Attorney's Office.

Upgrade to Take-Home Vehicles

The OIG reviewed documents relating to the purchase of Judge Sholes' take-home vehicle, a 2008 Ford Expedition, Eddie Bauer Edition. A copy of the Window Sticker for the 2008 Eddie Bauer Expedition contained a hand written note in the lower left hand corner:

“Sale Price \$38,455 Lic & Title \$171, Warranty \$2,750, total \$41,376.”

Hand written directly underneath was the following:

“The Judge is paying the difference between the XLT and the Eddie Bauer.”

A file document dated September 14, 2007, stated in part:

“2008 Eddie Bauer – Judge Ronald J. Sholes, NOTC \$36,719.50, 4,657.00 difference XLT and Eddie Bauer, Check No. _____ [left blank on document] Judge Sholes.”

Based on this review, it appears that Judge Sholes agreed to pay the \$4,657 difference between the Eddie Bauer Expedition and the XLT Expedition. However, there was no documentation in the file indicating payment by Judge Sholes of the \$4,657. As Judge Sholes declined to answer questions regarding his take-home vehicle, the OIG is unable to determine if this amount was paid to the Court.

Emergency Response

The Judges and the Clerk were asked if they ever responded to an emergency. Judges Cade, Jones, and Shea all advised that they have never responded to an emergency. They also said that there was never an emergency in Traffic Court. Judge Cade advised that he has had to come into Traffic Court for a meeting during his off hours; however, this was “unusual.” Judge Jones advised that as the Administrative Judge he is called on to come into Traffic Court during his off hours, approximately once every six weeks or so. Judge Shea advised that, “infrequently” he would have to come into Traffic Court during his off hours for a meeting. Clerk Cassanova advised that he has never responded to an emergency. He also advised that he has been asked to come to the Traffic Court building after hours “a couple of times a year, and at night, on occasion.”

Conclusions

Based on the above facts and statements, the inquiry shows that:

1. Traffic Court Judges Jones, Shea, and Sholes, and Clerk of Court Cassanova did have blue lights in their City take-home vehicles, an apparent violation of applicable state and local laws.
2. Judge Jones had a clear plastic cover that partially obscured the public license plate, an apparent violation of applicable state and local laws.
3. Traffic Court did not have a written policy or procedures on the use and operation of City take-home vehicles. As operators of vehicles owned by the City of New Orleans, Traffic Court should have followed CAO Policy Memorandum No. 5(R).
4. Judge Jones and Judge Sholes failed to report accidents and/or damages to their City take-home vehicles.
5. Traffic Court Judges Cade, Jones, Shea, and Sholes, and Clerk of Court Cassanova used their City take-home vehicles for substantial personal use.
6. Traffic Court files indicated that Judge Sholes agreed to pay for the Eddie Bauer upgrade to his City take-home vehicle, but did not indicate that he actually did so.