

# OIG IN BRIEF

## Why the OIG Did This Report

Drunk driving is a serious public safety threat and driving while intoxicated (DWI) cases are more complex than the other traffic tickets handled at Traffic Court. The OIG decided to evaluate DWI cases as a result of findings in its 2011 review of Traffic Court; evaluators began planning the project in earnest in 2012 when news reports revealed that a local man had been arrested at least eight times for DWI in Orleans Parish but had never stood trial.

Evaluators examined controls in the process of transferring DWI cases from one agency to another and the roles of different parties in managing DWI cases. Were controls in place that ensured a case would make it all the way through the system? Were police doing everything they could to make prosecutions successful? Did city attorneys, judges, and probation officers at Traffic Court have public safety in mind when they made decisions regarding DWI cases? Was the process thorough, fair, and efficient? Can the process distinguish between high-risk and low-risk defendants? And, did entities involved in the process collect appropriate data to assess operations, spot trends, and follow best practices?

To answer these questions, the OIG examined Traffic Court's case management system data from 2007 through 2012, and reviewed Traffic Court's case files, prosecutor case files, and probation officer case files on a sample of 80 DWI cases from the first half of 2012. To test the integrity of transfers, the OIG checked records of all DWI arrests in the first quarter of 2012 to verify that all arrests were booked at the Orleans Parish Sheriff's Office and filed as cases at Traffic Court.

*A report to the City of New Orleans, New Orleans Traffic Court, and Orleans Parish Sheriff's Office, June 24, 2015.*

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## DWI Case Processing: Arrest, Prosecution, and Adjudication of DWI Misdemeanor Offenses

### What the OIG Found

***OIG found that the process of transferring DWI cases and tracking them lacked sufficient controls against errors and abuse; city attorney prosecutors resolved most cases through plea bargaining but did not record the reason for decisions to downgrade cases or have any standards guiding the use of discretion; and probation officers did not have the tools they needed to track offenders and verify that they fulfilled the terms of judgments.***

There is room for improvement in DWI case management at every step of the process. The New Orleans Police Department (NOPD) missed opportunities to collect information at traffic stops that would have allowed police to refine enforcement activities and give prosecutors stronger evidence. Disregarding professional standards, prosecutors did not screen DWI cases and relied on defense attorneys to inform them of weaknesses in their cases. Because cases were not screened, evaluators found cases that moved forward without prosecutors performing driver history research. Prosecutors routinely downgraded high blood alcohol content (BAC) readings and reduced charges to reckless operation about 20 percent of time without recording reasons for the reductions in their files. The result: second offense penalties were rarely imposed.

Transfers of potential felony DWI cases to the District Attorney's office for prosecution in Criminal District Court were poorly coordinated, meaning that the most dangerous DWI cases were most at risk of missing the time limits for prosecution. All in all, DWI case processing did not distinguish between cases in which drivers were at high or low risk of re-offending, and failed to protect public safety.

During the time of the OIG's review, Traffic Court had poor systems for tracking DWI case information; more than 14,000 cases filed before 2009 remained open. Cases dated back to the 1980s and some included drivers now deceased. Moreover, Traffic Court deleted electronic records or key electronic information when DWI cases were expunged, rendering calculation of even basic statistics such as conviction rates impossible. There was no way to verify that all DWI cases moved forward because the way that NOPD and OPSO kept records and handled expungements created no audit trail. And the vast majority of cases led to expungements.

### What the OIG Recommended

***The parties that handle DWI cases should improve information controls, verification, and accountability; city attorneys should screen cases, write standards for prosecutorial discretion, and improve training; and Traffic Court should give probation officers the tools they need to perform their jobs.***

Traffic Court has a new case management system and NOPD is moving to a system of electronic citations, which should make it easier to implement many of the recommendations in this report. *However, new electronic tools will not solve all the problems; the diligent prosecution of DWI cases in New Orleans will require a culture shift from all parties.* The OIG also recommends that NOPD should adopt contemporary practices for collecting information in DWI arrests. It also recommends that the Law Department develop standards for plea bargaining; record reasons for charge reductions and downgrades; and actively track data about case outcomes. Traffic Court, OPSO, and NOPD should work together to find ways to record expungements that preserve core data to facilitate analysis.