

The Office of Inspector General for the City of New Orleans (OIG) conducted an evaluation of the funding structure of the New Orleans Traffic Court (Court). The purpose of the evaluation was to determine the full cost of the Court during the years 2008 to 2012 and to determine how the City of New Orleans (City), State of Louisiana (State), and Court allocated resources to achieve the goals and objectives of the Court.

Funding the Court had become a contentious issue during budget hearings from 2008 through 2012. During this period the Court increasingly relied on fees assessed on defendants in the Court for its funding, a matter that had become a point of contention and concern.

On the one hand, members of the New Orleans City Council expressed concern that the Court was too expensive, had too many employees, and was wasting public dollars. In response, City funding of the Court almost disappeared during this period. On the other hand, Traffic Court judges expressed concern that their responsibility to raise funds for Court operations through fees assessed on convictions created a structural conflict of interest: judges had an inherent incentive to find defendants guilty in order to raise revenue and fund the Court. The judges stated that the funding structure violated a defendant's right to due process and an impartial judge.

The Court's funding structure evolved in the 40 years since it was established in the state statutes in 1974. When it was established, the Court relied on general fund appropriations from the City Council, which had both the responsibility and the authority to appropriate a budget for the Court. However in a series of amendments, the Louisiana State Legislature removed the City Council's authority to budget for the Court, empowered the judges to set their own budget, established a Judicial Expense Fund, and authorized the Court to fund the Court by charging a conviction fee to defendants.

The financial effect of these changes was a shift in the primary source of the Court's funding: in 1984 the City general fund provided 82 percent of the total of City and Court funding, 4.5 times the amount of funding the Court provided through self-generated funds. By 2012 the Court was funded almost entirely by the JEF, and the City's appropriation had dipped to 7 percent of the Court's

funding. The funding structure that emerged suggests three main questions regarding Court financing:

- 1) Could the Council play its legislative role in balancing the financial needs of City agencies and departments without the authority to provide budgetary oversight of the Court by approving its budget?
- 2) Could Traffic Court judges maintain impartiality when the Court was responsible for funding itself through a fee assessed on convictions?
- 3) To what extent did the City support Court operations as mandated by state law?

This evaluation includes six findings and recommendations:

- State law requires the City Council to fund the Traffic Court and also grants the Court the ability to raise its own funds; in doing so, it undermines the Council's authority to provide the oversight necessary to ensure the responsible stewardship of public funds. The City and the Court should seek amendments to state statutes that return budgetary oversight of the Traffic Court to the New Orleans City Council.
- The Traffic Court did not collect data necessary for and/or report performance measures that could document its efficiency, demonstrate accountability, and ensure the effective use of public resources. The Court should track case time to disposition, age of active pending caseload, and its collection rate.
- The Court's reliance on its Judicial Expense Fund created a conflict of interest that undermined judicial independence. The City should adequately fund core Court operations from a general fund appropriation and the Court should reduce its reliance on the JEF.
- The Court used deficit spending to fund payroll expenses contrary to the Louisiana Local Government Budget Act. Until state statutes are amended as suggested above, the Court should withhold City fine money and use the funds to pay the outstanding balance due to the City for payroll invoices when self-generated funds do not cover expenses.
- The City did not update its cost allocation plan between 2010 and 2014. The City should adopt an accurate cost allocation plan each year.
- City staff overrode budgetary controls to use funds the City Council allocated to Traffic Court to pay for expenses in the Coroner's Office. Executive staff in the budget and finance offices should comply with the

City Charter and only disburse operating funds appropriated by the City Council.

Tensions between legislative bodies and courts over funding are inherent in the effort to balance powers among the three branches of government established in the Constitution. The State Legislature responded to the tension between the New Orleans Traffic Court and City Council by removing the City Council's budgetary authority and giving judges executive control over a JEF. In doing so, legislators' actions undermined the local framework already in place for resolving the inherent tension transparently and in a fiscally responsible manner, resulting in a Court for which there was no fiscal oversight.

The recommendations in this report are intended to help answer questions about the appropriateness of Court spending, remove doubts about the possible influence of financial concerns on judicial decisions, and make Court expenses more transparent.