

Office of Inspector General

City of New Orleans

Follow-up Report: Assessment of New Orleans' System of City Courts

and

Performance Review of New Orleans Traffic Court

**E. R. Quatrevaux
Inspector General**

Final Report

September 19, 2013

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



ED QUATREVAUX
INSPECTOR GENERAL

September 19, 2013

Re: Follow-up Report: Assessment of New Orleans' System of City Courts and Performance
Review of New Orleans Traffic Court

I certify that the inspector general personnel assigned to this project are free of personal or other external impairments to independence.

A handwritten signature in blue ink, appearing to read 'E.R. Quatrevaux', is positioned above the printed name.

E.R. Quatrevaux
Inspector General

Follow-up Report: Assessment of New Orleans’ System of City Courts and Performance Review of New Orleans Traffic Court

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) conducted a follow-up to its 2011 Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court. The review encompassed City and Court policies, finances, and practices for the 2012 calendar year.

Louisiana law allows for the existence of city courts and parish courts that exercise limited jurisdiction over civil disputes below a set dollar amount (typically \$20,000), lesser criminal offenses (misdemeanors and local ordinances), and traffic violations. The City of New Orleans is unique among the State's local governments in having separate city courts for civil and criminal cases and a court devoted exclusively to traffic violations. New Orleans has four city courts, with a combined total of 12 judges, to exercise jurisdiction over matters that are handled in a single city court in other Louisiana jurisdictions.

In 2011 OIG Evaluators found wide-ranging problems in both the system of city courts in New Orleans and with the performance of the New Orleans Traffic Court in particular. Based on these findings, evaluators made twenty-nine recommendations to both the City of New Orleans and to the New Orleans Traffic Court.

Recommendations to the City included making legislative changes at the municipal level and proposing legislation to the state to consolidate the municipal and traffic courts and to reduce the number of judges. Evaluators also recommended that the City enforce budgetary controls on the courts and to seek the recovery of funds that were owed to the City in 2010.

At the time of this follow-up, the City did not accept many of the recommendations in the original report and had not acted upon those recommendations it did accept. The City had not changed its level of oversight regarding Court accounting and procurement, and the wasted resources and non-transparent expenditures presented in the OIG's 2011 report related to recommendations that were not accepted still exist.

Recommendations to the New Orleans Traffic Court were related to various aspects of the Court's operation, including personnel management, information technology, and financial controls. Evaluators also made recommendations to the City Attorney's office at the court to develop standards for prosecutorial discretion and to record and monitor case dispositions to hold prosecutors accountable to the public.

Overall, the Traffic Court made progress in implementing the recommendations in the original report. The Court adopted policies and procedures, improved management of employees and contractors, and planned to add accounting functions to its case management system. The Court also adopted a purchasing policy, but did not consistently follow it in 2012.

Appendix B of this report includes a table that summarizes recommendations from the original 2011 report and follow-up findings from 2012.

I. OBJECTIVES, SCOPE, AND METHODOLOGY

The Office of Inspector General for the City of New Orleans (OIG) conducted a follow-up to its 2011 Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court. This report included:

1. An analysis of the cost effectiveness and efficiency of the four city courts in New Orleans compared to the one city court in Baton Rouge;
2. A review of the City's 2010 General Fund expenditures for Municipal Court and Traffic Court compared with the actual expenditures of both courts that year; and
3. A performance review of Traffic Court, including an in-depth assessment of policies and procedures and inspections of financial and operating practices in 2010.

The objectives of this follow-up were to determine whether the City and Traffic Court implemented the recommendations in the original report.

This review encompassed court policies, procedures, and finances in 2012 and used the same methodology used in the initial assessment of 2010 data. Evaluators interviewed employees and contractors working for the Traffic Court and employees of the Chief Administrative Office, City Attorney's Office, Finance Department, and Civil Service. Evaluators reviewed documents provided by some of the aforementioned parties in response to requests for information issued pursuant to Sections 2-1120(18) and (20) of the Code of the City of New Orleans and state statute La. R.S. 33:9613. Evaluators also obtained documents and information from the Municipal Court, Clerk of Court for Baton Rouge City Court, and from the Judicial Administrator for the Orleans Parish Civil District Court pertaining to revenues and expenditures of Municipal Court, Baton Rouge City Court and First City Court and Second City Court, respectively.

The follow-up analysis was performed in accordance with Principles and Standards for Offices of Inspector General for Inspections, Evaluations, and Reviews.¹

¹ "Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General," *Principles and Standards for Offices of Inspector General* (Association of Inspectors General, 2004).

II. INTRODUCTION

In November of 2011, the Office of Inspector General issued an Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court. The initial 2011 assessment included twenty-nine recommendations to both the City and the Traffic Court; only those recommendations agreed to by the managing entity have been included in the body of this report. The recommendations that were not accepted are listed in Appendix A. A follow-up report was conducted to determine if the agencies examined have implemented those corrective actions with which they agreed.

The first set of recommendations in the 2011 report was made to City managers for the purpose of creating a more cost-effective and accountable city court system. Some of the recommendations required legislative changes; other recommendations required changes in policies and procedures that could be implemented under existing laws.

Part II of the report, Performance Review of New Orleans Traffic Court, contained recommendations directed to the City's Law Department and the Traffic Court. These recommendations were designed to correct practices that did not comply with legal requirements or that impeded the efficiency, effectiveness, or accountability of court operations.

This follow-up report follows the structure of the original 2011 Assessment. A summary of all follow-up findings from the 2011 Assessment can be found in Appendix B.

The OIG staff was greatly assisted in the preparation of this report by the full cooperation of City and Court employees and officials.

III. RECOMMENDATIONS RELATED TO THE CITY COURT SYSTEM

A. Recommendations Not Requiring Legislative Change

Recommendation 5: The City should ensure that Municipal and Traffic Court contracts are procured competitively through the City’s Chief Procurement Officer.²

Recommendation Accepted by City. “We will transmit to the Courts the City’s procurement policies and ask that they be followed consistent with the requirements imposed on all other city agencies.”

Follow-up 5: The City could not provide oversight of Municipal and Traffic Court procurement.

Our report found that Traffic Court spent \$1.2 million on procurements in 2010, but it did not submit purchasing requests through the City’s Bureau of Purchasing or seek competitive bids.

The City was not able to provide oversight of Municipal and Traffic Court procurement in 2012. After our 2011 report, the City forwarded its procurement policies to the Courts and offered advice regarding purchasing practices. According to the City, Traffic Court was not able to use the City’s procurement software, because it did not have adequate technology. To remedy this, the City’s information technology department worked with the Court to attend to its system’s shortcomings. To date, the systems are still incompatible. Additionally, the City was not able to oversee purchases made from the Court’s Judicial Expense Fund, because state law gives judges control over the JEF.

B. Recommendations That Require Legislative Change

Recommendation 6: The City should amend ordinances relating to the judicial expense funds for Municipal and Traffic Court, including Ordinance No. 1482 M.C.S. and City Code Section 50-6.

Recommendation Accepted by City. “Recommendations 6-9 are proposals for changes in City ordinances and state law that would provide greater clarity and consistency in the practices the City and the Courts use to account for deposits and expenditures in the Judicial Expense Fund of the Courts, to ensure that revenues generated by the Courts are appropriately transferred to the City’s treasury, and to limit staff to the amount required to perform the work of the courts and better ensure staff are hired and

² The report begins with Recommendation 5 because Recommendations 1-4 were not accepted by the City. Follow-up on recommendations not accepted is located in Appendix A.

promoted based on merit. Following the discussions we will work with the Courts and the City Council on resolving all of these fiscal matters, we will then attempt to seek ordinances and state legislative changes to ensure that the laws and our practices are in concert.”

Follow-up 6: The City Council began the process of amending these ordinances, but no changes have been adopted to date.

In the 2011 report, evaluators found that City ordinances authorized the courts to keep one-half of any “surplus” revenue collected and deposit the other half of the surplus into the General Fund. It also noted ambiguity regarding what funds should be deposited into the Judicial Expense Fund (JEF) versus revenues collected that should be remitted to the General Fund throughout the year.

In late 2011, Chair of the Criminal Justice Committee of the City Council began working with the Administration to draft a set of ordinances that would end the practice of splitting the surplus of Municipal and Traffic Court revenues at the end of each year. Although the ordinances were originally introduced in December 2011, none of the proposed recommendations has been adopted. Discussions regarding the identified funding and accountability issues continue.

Recommendation 7: The City should seek state legislation to require all Municipal and Traffic Court revenues to be deposited into the City treasury to be administered by the City’s Department of Finance.

Recommendation Accepted by City. “Recommendations 6-9 are proposals for changes in City ordinances and state law that would provide greater clarity and consistency in the practices the City and the Courts use to account for deposits and expenditures in the Judicial Expense Fund of the Courts, to ensure that revenues generated by the Courts are appropriately transferred to the City’s treasury, and to limit staff to the amount required to perform the work of the courts and better ensure staff are hired and promoted based on merit. Following the discussions we will work with the Courts and the City Council on resolving all of these fiscal matters, we will then attempt to seek ordinances and state legislative changes to ensure that the laws and our practices are in concert.”

Follow-up 7: The City did not include in its legislative agenda any proposals requiring Court revenues to be deposited into the City treasury to be administered by the City’s Department of Finance.

State statutes adopted in 2004 and 2011 authorized Traffic and Municipal Court Judicial Expense Funds. In the 2011 report, evaluators found that the judges and the City Finance Department agreed to allow the judges to control not only court operating funds but all

revenues collected. These recent changes in law and practice eroded the City's ability to control and monitor its own revenues.

The City did not include proposed amendments related to the Judicial Expense Funds in its 2013 legislative agenda.

Recommendation 8: The City should seek amendments to state mandates related to Municipal and Traffic Court staffing.

Recommendation 9: The City should seek legislative changes to limit the number of personal employees appointed by judges and institute civil service requirements for non-judicial appointees.

Recommendations Accepted by City. "Recommendations 6-9 are proposals for changes in City ordinances and state law that would provide greater clarity and consistency in the practices the City and the Courts use to account for deposits and expenditures in the Judicial Expense Fund of the Courts, to ensure that revenues generated by the Courts are appropriately transferred to the City's treasury, and to limit staff to the amount required to perform the work of the courts and better ensure staff are hired and promoted based on merit. Following the discussions we will work with the Courts and the City Council on resolving all of these fiscal matters, we will then attempt to seek ordinances and state legislative changes to ensure that the laws and our practices are in concert."

Follow-up 8 and 9: **The City did not include in its legislative agenda amendments to state mandates related to Municipal and Traffic Court staffing or amendments to limit the number of employees appointed by judges as their personal staff.**

The City did not seek amendments to the state statutes to eliminate staffing requirements for Municipal and Traffic courts or to limit the number of employees appointed by judges.

IV. RECOMMENDATIONS RELATED TO THE PERFORMANCE REVIEW OF TRAFFIC COURT

The 2011 Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court included a number of recommendations to the City Attorney and Traffic Court regarding court operations and procedures.

Recommendations related to the performance review of Traffic Court are included below.

A. Recommendations to the City Attorney

Recommendation 2: The City Attorney should maintain data on case dispositions to ensure accountability for prosecutorial decisions.

Recommendation Accepted by City Attorney. "The law department is in the process of hiring a consultant to identify the most appropriate computer program to assist our department in meeting this goal. Once the appropriate program is identified, we are committed to seeking the funds to implement the necessary programs."

Follow-up 2: The City Attorney hired a consultant but has not maintained data on case dispositions.

The Law Department hired a consultant to assess the case management system. In June 2012, the consultant issued a report that recommended a new case management system that restricted the ability to enter case notes and update charges to city attorney staff. According to the consultant's report, the purchase of a new case management system would cost the Court between \$500,000 and \$700,000.

After the consultant's report was issued, Traffic Court developed user profiles for city attorneys that allowed them limited access to the Court's current case management system. The system records the disposition of cases and, as a result of the changes, allowed attorneys to enter their decisions and only permitted the person who had entered a decision to change it. The adapted system can also track all changes, which would enable the Chief Deputy City Attorney to assess an individual attorney's case management performance.

However, attorneys are not using the case management system, so individual attorney performance cannot be evaluated and prosecutions and convictions cannot be tracked and analyzed. For instance, evaluators' analyses of data in the Court's case management system indicated that city attorneys prosecuted more cases between 2010 and 2012 than they had previously, but the prosecutions have not resulted in more convictions. Given the absence of

the case management data, the Chief Deputy City Attorney would not be able to analyze the data to determine possible reasons for the relative decrease in the number of convictions.

B. Recommendations to the Traffic Court Judges

Recommendation 3: Traffic Court judges should ensure that all decisions to prosecute or dismiss charges are made by city attorneys.

Recommendation Accepted by Court. “Effective October 26, 2011 no Traffic Court Judge or staff member shall have the authority to dismiss charges.”

Follow-up 3: City attorneys dismissed thirty-nine of forty cases in a random sample of tickets; evaluators found no instances where a judge, or judge’s designee, signed tickets to dismiss charges.

Evaluators repeated the methodology from the 2011 report and asked the Court’s ticket auditor to verify that only city attorneys had authorized the dismissal of charges on a random sample of tickets. The ticket auditor was able to verify that thirty-nine of forty signatures on randomly selected tickets belonged to city attorneys. The remaining signature was illegible.

Recommendation 4: Traffic Court judges should end the practice of directing revenue from fines and statutory fees to the JEF.

Recommendation Accepted by Court. “The need to direct fines and statutory fees to the Judicial Expense Fund has been substantially lessened with the enactment of La. R.S. 13:2501.1(N), authorizing Traffic Court to increase court costs to \$30.”

Follow-up 4: Evaluators did not find any instances in which a Traffic Court judge directed revenue from fines and statutory fees to the JEF.

In a sample of tickets, evaluators did not find any cases in which fines and statutory fees were directed to the JEF. Evaluators examined a random sample of 143 tickets to look for cases in which a judge directed fines and fees to the JEF. In the sample, no tickets had any money disbursed to the JEF other than authorized contempt fees.

Recommendation 5: The Traffic Court should submit complete revenue and expenditure reports to the City on a monthly basis.

Recommendation Accepted by Court. “Reports itemizing the Court’s revenue and expenditures have been produced for the last two years. Effective November 1, 2011 these reports will be forwarded monthly to the City’s Finance Department.”

Follow-up 5: The Court did not submit monthly reports to the City.

The Court did not submit monthly reports to the City. The Administrative Judge stated that the Court produces monthly reports reviewed by the judges, but these reports have not been sent to the City.

Recommendation 6: Traffic Court judges should develop written policies and procedures for court personnel.

Recommendation Accepted by Court. “The Court began drafting an employee manual in late spring 2011. Simultaneously, the Louisiana Supreme Court initiated and coordinated efforts to produce such a handbook for City Courts statewide. Assuming that those efforts will be successfully merged, an employee manual should be available for publication and distribution in the early part of 2012.”

Follow-up 6: The Court has developed written policies and procedures for court personnel.

The Court’s Judicial Administrator convened a committee that has created a number of written policies for court administrative personnel since the release of 2011 report. To date the court has approved policies for purchasing, credit card issuance and use, accurate time keeping and reporting, password security, quality assurance, cash handling, and cash and surety bonds. At this writing, the Committee continues to meet regularly to discuss the development of additional policies.

Recommendation 7: Traffic Court judges should reduce the risk of misappropriation of cash receipts by restricting computer privileges and segregating incompatible duties.

Recommendation Accepted by Court. “Effective October 26, 2011 employees of the Clerk’s Office have been denied screen access to enter disposition codes. Courtroom personnel with access to enter disposition codes cannot cashier. Conversely, cashiers have been denied access to process non-cash transactions.”

Follow-up 7: Traffic Court has restricted computer privileges and segregated duties between clerks entering case dispositions and clerks accepting payments from defendants.

Traffic Court has segregated duties by restricting computer privileges, and according to the Court's Comptroller, as of October 1, 2012, cashiers can no longer change fines or enter case dispositions. Cashiers currently have the ability only to set cases for trial, take payments in full, and take partial payments.

Recommendation 8: Traffic Court judges should reduce courtroom staff to the level needed for court operations and ensure that timesheets submitted to the City reflect actual hours of work.

Recommendation Accepted by Court. "Effective January 1, 2011, all Traffic Court employees, regardless of assignment are required to work seven hour shifts. Time sheets must reflect hours actually worked."

Follow-up 8: Traffic Court has reduced courtroom staff and requires courtroom employees to work full time.

Traffic Court reduced courtroom staff and requires courtroom employees to work full time. All court employees have signed a payroll policy acknowledgement statement that states:

I, ____, hereby acknowledge my obligation to personally verify and enter accurate information each week. I also understand that I must account for all hours of my basic work week of ____ hours by a combination of actual hours worked and leave used on my weekly timesheet. I agree that all recorded items are subject to supervisory review. I also understand that I may be subject to severe disciplinary action, including dismissal and prosecution for any violation of these standards.

At the time of our review, there were twenty-four courtroom employees (excluding judges) instead of the forty-three on staff payroll in 2011.

Recommendation 10: Traffic Court should integrate its case management and accounting systems.

Recommendation Accepted by Court. "This electronic interface was specked out with Sungard some time ago and for under \$ 30,000 the system could be made WINDOWS Browser Based accessible.

For an additional \$7200 the backend could be made to totally eliminate manual data entry on the back end I.E. accounting resources.”

Follow-up 10: The Court had not integrated its case management and accounting systems but has plans to do so.

The Court has not integrated its case management and accounting systems, because the Court is considering an entirely new case management system. In 2012, when the Court first began researching new systems, evaluators met with the City’s technology consultant. The consultant stated that the court’s case management system could be integrated with the accounting system for about \$30,000, but that this would only be a temporary fix and would not fix other problems underlying the system. According to the consultant’s report, the purchase of a new case management system would cost the Court between \$500,000 and \$700,000.

In early 2013, the Court learned that the Louisiana Highway Safety Commission (LHSC) had developed a case management system that was available for free to courts in the state. The Court researched the system and found that it would meet all of its needs and would be capable of integrating with its accounting system. According to the Court, it would need to pay about \$150,000 to install and adapt the software to its particular needs, but the LHSC offered grant money to assist courts with these expenses. The Court anticipated between \$40,000 and \$60,000 in yearly maintenance fees for the system and planned to seek LHSC grant funding to help defray the cost. The Court predicted it could have the new case management system up and running within six months of receiving grant funding.

Recommendation 11: Traffic Court should train staff in the use of the court’s computer system.

Recommendation Accepted by Court. “Beginning November 28, 2011 all cashiers will undergo mandatory training. Training for non-cashiers will commence the second week of December, 2011.”

Follow-up 11: Traffic Court instituted a training program and developed a manual for the use of the Court’s computer system.

The Court’s technology staff developed a training manual and training program for the Court’s case management system. Technology staff held a training class in the fall of 2012 and reported plans to hold a class every six months. Technology staff also reviewed the manual with all new hires and were available to provide technical assistance.

In addition to the training program, the Court assigned staff to audit data entries by cashiers and clerks. The auditors corrected any mistakes they uncovered. Auditors found and corrected 2,905 mistakes between June 12, 2012, and December 4, 2012, averaging 25.7 mistakes per

day. Though the Court audited data entries, it did not track errors or provide feedback to cashiers and clerks or their supervisors.

Recommendation 12: Traffic Court should develop in-house capacity to handle basic bookkeeping and financial management functions.

Recommendation Accepted by Court. “The contract with Vandale Thomas and Associates will not be renewed. The Court anticipates having an in-house replacement by January 1, 2012.”

Follow-up 12: The Court hired an in-house comptroller.

In February 2012 the Court hired a comptroller who was also a Certified Fraud Examiner. In addition to performing basic bookkeeping functions, the Comptroller also developed financial policies for the Court. The comptroller was a court employee but was hired without Civil Service approval through an alternate payroll system; she left the position at the end of October 2012.

Between November 2012 and the spring of 2013, the court did not have a comptroller on staff. The Court attempted to hire the comptroller as an unclassified position, but the Civil Service Department did not approve the position, arguing that La. Const. Art. X, §2 required that the position be classified. In May of 2013, the Court hired a comptroller through the classified service.

Recommendation 13: Traffic Court should end the practice of inappropriately classifying employees as contractors.

Recommendation Accepted by Court. “There were far fewer employees misclassified as contractors in 2011 contrasted with 2010. All ad hoc judges were paid through the City’s Finance Department’s payroll account in 2011.

The misclassification of employees should be completely eliminated in 2012.”

Follow-up 13: The Court ended the practice of classifying employees as contractors but paid some employees through an alternative payroll system rather than the City’s system.

The Court did not issue payment from its JEF to regular employees. Also, according to the Court’s Comptroller, the Court no longer used summer hires or temporary workers, who had been paid through the Judicial Expense Fund (JEF) in 2010. Ad hoc judges, paid through the JEF in 2010, were paid through the City’s payroll system in 2012.

However, in 2012 the Court still employed some people without the approval of the City due to disputes over salary or budget. These employees were paid through a third-party payroll company, which was responsible for withholding payroll taxes. However, La. R.S. 13:2501.1 prohibits the Court from using an alternative payroll system and requires appointees of judges to be included in the unclassified pay plan of the City of New Orleans.

Recommendation 14: Traffic Court should make purchases through a competitive process.

Recommendation Accepted by Court. “Effective November 1, 2011 the court will use existing City contracts when appropriate and follow the City’s competitive procedures for the award of new contracts.”

Follow-up 14: The Court did not use the City’s procurement process but developed its own purchasing process, which it did not consistently follow. Evaluators found one instance in which the Court violated the Louisiana Public Bid Law.

Traffic Court developed a procurement policy based on the Louisiana Public Bid Law that included a competitive process for goods and non-professional services. The policy does not require a competitive process for professional services. It states: “The Court may choose to competitively bid professional services not included in R.S. 38:2310(7) if they feel it is necessary and in the best interest of the court.”

Evaluators reviewed a sample of six purchases to see if the Court followed its procurement policy. The court did not seek competitive proposals for either of the two professional service contracts we reviewed. One of these professional service contracts was for \$300,000 and the other was for \$40,000. Of the four purchases of goods reviewed by evaluators, the Court did not seek bids for one: a \$5,289 purchase. In one of the remaining three (a \$60,000 purchase), the Court did not advertise bid specifications or invite formal bids as required in its policy and in state law. The Court followed its procurement policy for the remaining two purchases of goods.

Recommendation 15: Traffic Court should exercise responsible contract oversight.

Recommendation Accepted by Court. “Greater oversight from the Judicial Administrator’s Office is mandated. Personnel changes in that office will bring about the needed change.”

Follow-up 15: **The Court did not require documentation to support hourly billings on some of the invoices we reviewed, but in 2012 it ended the contract in question.**

Evaluators requested a sample of eight 2012 invoices and payments for professional services from Traffic Court. Of the invoices we reviewed, six contained documentation to support hourly billing, but two, both from Major Services, Inc., did not. However, the court ended its contract with Major Services, Inc. in August of 2012. The Court also addressed this finding by eliminating bookkeeping and information technology contracting in 2012.

Recommendation 16: Traffic Court should end the practice of contracting for the services of individuals who play a role in soliciting or accepting judicial campaign funds.

Recommendation Accepted by Court. “Mr. Thomas’s contractual relationship with the Court will terminate before December 31, 2011.”

Follow-up 16: **The Court ended its contractual relationship with Mr. Thomas, who had played a role in soliciting or accepting judicial campaign funds.**

The Court did not contract with Mr. Vandale Thomas in 2012.

Recommendation 17: Traffic Court should discontinue payments from the JEF to provide supplemental benefits for judges or to pay salaries for ad hoc judges.

Recommendation Accepted by Court. “Effective November 1, 2011 the disability insurance policies for Judges were cancelled.”

Follow-up 17: **The Court discontinued payments to ad hoc judges but made one payment for benefits from its JEF.**

According to the Comptroller, in 2012 the City paid ad hoc judges through the City payroll, and we found no payments to ad hoc judges or regular payments for supplemental benefits in our review of 2012 JEF payments.

However, on July 5, 2012, Traffic Court issued payment from its JEF to the Louisiana State Employees' Retirement System (LASERS) in the amount of \$2,558.83 for enrolling one of the judges in the retirement system. After this payment was made, the City and the Court both agreed that further employee contribution payments to LASERS should be paid out of the City's General Fund and not from the Judicial Expense Fund. The Court could find no documentation that the Court was reimbursed by the City.

Recommendation 18: Traffic Court should provide useful and accurate public information on its website.

Recommendation Accepted by Court. "Mr. Noel Cassanova, Honorable Clerk of Court, is working hard and fast to condense and amend the dated content presented the public on the City Website. These schedules become complicated as they are encompassing the 4 divisions of Traffic Court and the Violations Bureau."

Follow-up 18: The Court changed its website to reflect accurate hours for Court operations and holidays.

The Court has updated its website to reflect operating hours and to reflect additional court holidays.

V. CONCLUSION

Overall, the Traffic Court made progress in implementing the recommendations in the 2011 Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court. The Court made progress in adopting policies and procedures, in managing its employees and contractors, and was planning to add accounting functions to its case management system. The Court also adopted a purchasing policy, but did not consistently follow it in 2012.

The City did not accept many of the recommendations in the original report and had not acted upon those recommendations it did accept. The City had not changed its level of oversight regarding Court accounting and procurement. The underlying conditions presented in the OIG's 2011 report related to recommendations that were not accepted still exist and are reported in Appendix A.

APPENDIX A: RECOMMENDATIONS NOT ACCEPTED

Part I-A. Recommendations to the City Not Requiring Legislative Change

Recommendation 1: The City should require Traffic Court to provide a comprehensive accounting of 2010 revenues and expenditures and seek recovery of money owed to the General Fund.

Follow-up 1: **The City did not require a comprehensive accounting of 2010 revenues and expenditures; therefore, the City could not determine if it received the correct amount of fine and fee revenue from the Traffic Court.**

In the original report, evaluators found that Traffic Court directed funds payable to the City's General Fund into the Court's JEF and recommended that the City perform an audit to determine how much it was owed.

The City did not require a comprehensive accounting of the Court's 2010 revenues and expenditures, but the Court did transfer its JEF account surplus to the City at the end of 2011. According to the City, the Court provided it with a report that did not agree with evaluator's calculations showing that the Court did not disburse enough in court fees to the City and other agencies in 2010. Rather than asking the Court for a complete audit of its 2010 finances, the City asked the Court to transfer all of its available balances to the City's General Fund. The City then agreed to use the general fund budgeting process to allocate funds to the other agencies based on need.

According to the City's Chief Administrative Officer, each agency's dedicated fees were taken into consideration when the City determined 2012 General Fund allocations. Accounting for the fees in the budget process did not reduce the agencies' total funding; agencies would have received a smaller 2012 general fund allocation if they had already received dedicated fees from the Court.

However, without a comprehensive audit, the City could not determine if it had based budget allocations on an accurate accounting of dedicated court fees. Nor could the City determine if it had received the correct amount of fine revenue from the JEF.

Recommendation 2: The City should incorporate all revenues and expenditures for Municipal and Traffic Court into the operating budget as required by the Budget Act.

Follow-up 2: The City did not incorporate all Municipal and Traffic Court expenditures and revenues into its budget.

The 2011 report found that the 2010 budgeting process for Municipal Court and Traffic Court was not transparent. The City’s general fund operating budget for Municipal Court was \$1,783,882 while the Court’s actual expenses were \$3,250,089. For Traffic Court, the budget was \$940,000 while the Court’s actual expenses were \$5,597,072. Because the City’s budget did not present a complete and accurate picture of the courts’ expenditures, we recommended that the City incorporate all court expenses into its operating budget.

A review of budget documents and court finances showed that for 2013, the City failed to budget for all Municipal and Traffic Court expenditures and revenues.

In 2012 Municipal Court collected \$1,204,136 in revenue, but the 2013 budgeted revenues were only \$420,000, a difference of \$784,136. The difference between the Municipal Court’s budgeted and actual expenditures was even greater: the Court’s 2012 expenditures were \$3,421,715, while the Court’s 2013 budgets projected expenses of \$1,867,343.

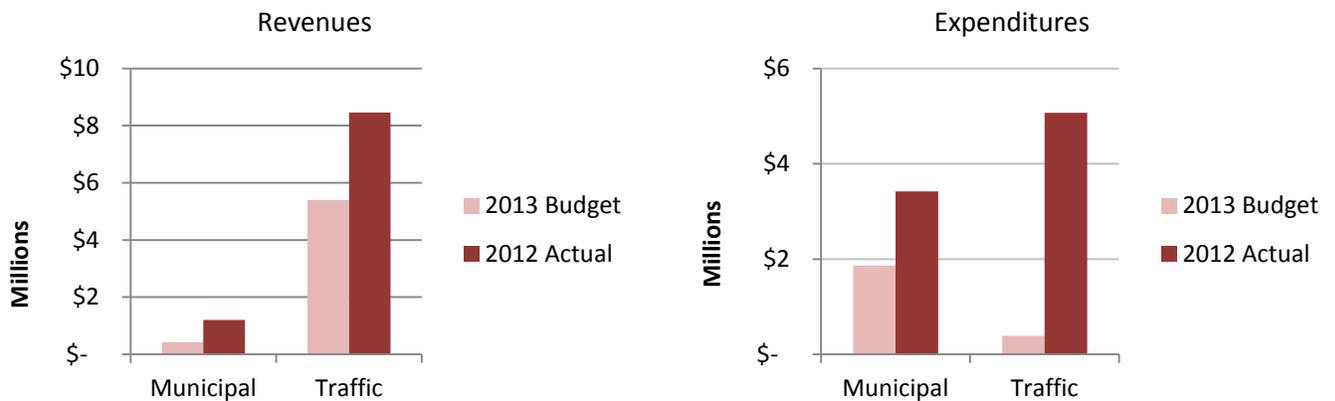
Traffic Court’s 2013 budget and 2012 actual revenues and expenditures showed even greater disparities. Traffic Court collected \$8,464,114 in revenue in 2012, while the City’s and 2013 budget projected \$5,400,000 in revenue. The Court’s 2012 actual expenses were \$5,068,856, while the 2013 budgets projected \$389,640 in expenses.

In 2013 the City and Municipal Court budgets anticipated revenues and expenses less than 2012 actual amounts. For Traffic Court, budgets indicated \$3 million less in revenue than the 2012 actual amount. The budgeted expenses in 2013 were one-third the actual 2012 expenses. In sum, the budget did not include nearly \$4 million in courts’ revenues and appeared to underestimate expenses by \$6.2 million.

Figure 1: Table of Funding Approved for Municipal and Traffic Courts in the City’s 2013 Operating Budget and Actual Court Revenue/Expenditures in 2012

	Revenue			Expenditure		
	Municipal	Traffic	Total	Municipal	Traffic	Total
2013 Budget	\$420,000	\$5,400,000		\$1,867,343	\$389,640	
2012 Actual	\$1,204,136	\$8,464,114		\$3,421,715	\$5,068,856	
Difference	\$784,136	\$3,064,114	\$3,848,250	\$(1,554,372)	\$(4,679,216)	\$(6,233,589)

Figure 2: Chart of Funding Approved for Municipal and Traffic Courts in the City’s 2013 Operating Budget and Actual Court Revenue/Expenditures in 2012



Recommendation 3: The City should monitor Municipal and Traffic Court revenues and expenditures through monthly reports.

Follow-up 3: The City did not monitor Municipal and Traffic Court revenues through monthly reports.

In the original Traffic Court report, evaluators found that the 2010 annual audit of the Traffic Court Judicial Expense Fund did not encompass most of the revenue collected by the Court, did not report more than \$400,000 in court expenditures, and did not include an accounting transfer of \$500,000 from city fine money to the JEF. The City could not rely on the accuracy of the Court’s audit; therefore, we recommended that the City request monthly reports of revenue and expenditures.

In 2012 the City did not monitor Municipal and Traffic Court revenues through monthly reports. When we requested these reports from the City, it provided documentation of monthly deposits to the City’s General Fund from Municipal and Traffic courts. The Traffic Court reports were attached to a report from the Traffic Court’s accounting software showing daily deposits into the “Fines and Fees Account” for each cashier till. The Municipal Court’s reports contained the name of each defendant who paid a fine, the amount paid, and the case number. The documents included only revenues due to the City, did not include JEF expenditures (neither current nor year-to-date), and included no accounting of JEF disbursements to recipient agencies.

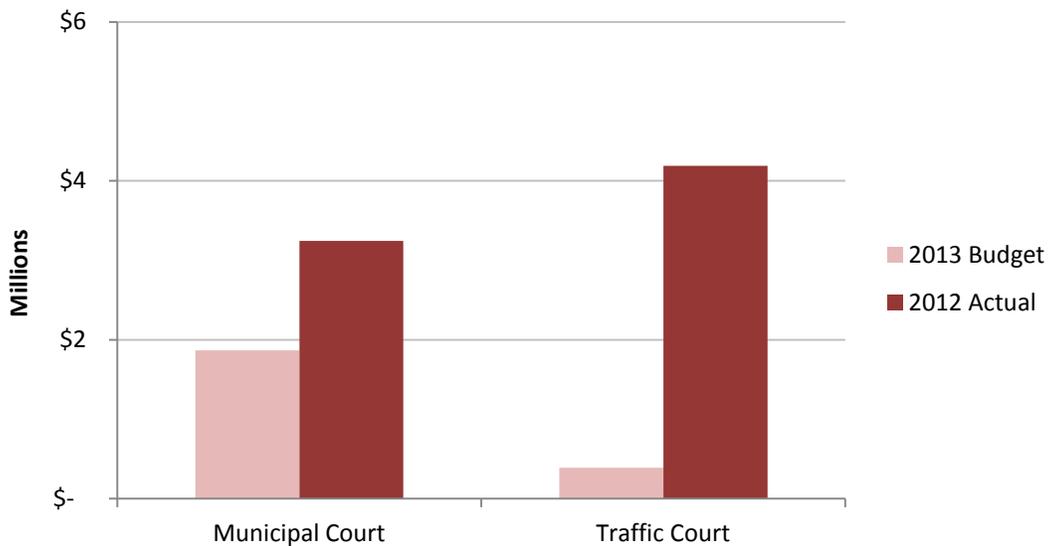
Recommendation 4: The City should fully fund Municipal and Traffic Court payrolls through the General Fund.

Follow-up 4: The City did not fully fund the Municipal and Traffic Court Payrolls in the 2013 General Fund budget.

In the 2011 report, evaluators found that neither Municipal Court nor Traffic Court payrolls were fully accounted for in the 2010 budget; therefore, we recommended that the City budget for all of the funds.

The City did not fully fund the Municipal and Traffic Court payrolls in the 2013 budget. Though neither court anticipated large reductions in staff, we found that payrolls budgeted for 2013 were lower than 2012 payroll expenses. In the 2013 budget, the City budgeted \$389,640 for Traffic Court payroll, while in 2012 the City spent \$4,188,976 on Traffic Court payroll. In the 2013 budget, the City budgeted \$1,867,343 for Municipal Court payroll and expenses, while in 2012 the City spent \$3,243,173 on Municipal Court payroll alone. These amounts total \$5,175,166 in un-budgeted payroll.

Figure 3: 2013 Budgeted Payroll and 2012 Actual Payroll



Part I-B. Recommendations to the City Requiring Legislative Change

Recommendation 10: The City should seek legislative changes to reduce the number of judgeships.

Follow-up I-10: The City did not seek legislative changes to reduce the number of judgeships during the 2012 legislative session.

The City did not state that it would implement this recommendation in the 2011 report, but evaluators found similar underlying conditions in 2012. Evaluators repeated the work point analysis from our 2011 report to determine if the city had an appropriate number of judges. Again, we determined that New Orleans had more judges than the workload warranted according to the Judicial Council’s work point calculation. New Orleans employed twelve judges to complete a total of 19,585 work points; enough work for only six judges. Municipal Court had an appropriate number of judges: its 13,247 total work points called for 4.18 judges. Traffic Court’s 3,762 work points indicated it required only 1.19 judges.³

Figure 4: Number of Judges in 2012 versus Number of Judges Needed Based on Workload Analysis

	<u>Work Point Value</u>	<u># Judges 2012</u>	<u># Judges Ideal</u>
Municipal Court	11,818	4	4.18
Traffic Court	2,231	4	1.19
Total	14,049	8	5.37

Recommendation 11: The City should seek legislative changes to merge Municipal and Traffic Courts.

Follow-up I-11: The City did not seek legislative changes to merge the courts during the 2012 legislative session.

The City did not seek legislative changes to merge the courts during the 2012 legislative session.

Evaluators repeated the analysis of the cost of court operations per work point for New Orleans. Due to increased efficiencies in the courts and increased workload, in 2012 the New Orleans court system cost \$600 per work point.⁴

³ For more information on methodology used in assessing efficiency of court operations, see City of New Orleans Office of Inspector General, “Assessment of New Orleans’ System of City Courts and Performance Review of New Orleans Traffic Court” (November 17, 2011), pp. 11-13.

⁴ Evaluators took into account potential savings due to a merging of Municipal and Traffic Court judges and reducing the judgeships for the new court from eight to five. After a merger, the cost would be \$512 per work point.

Evaluators also used 2012 expenses to estimate cost savings that would result from merging the two courts and found that changes made as a result of recommendations in the 2011 report increased efficiencies and lowered the estimated savings from a merger. However, potential savings were still significant; based on 2012 expenses, evaluators found that merging the Courts would save \$1.7 million annually.

Part II A. Recommendations to the City Attorney

Recommendation 1: The City Attorney should provide written policies to guide the exercise of prosecutorial discretion in traffic cases.

Follow-up 1: **The City Attorney has not developed written policies to guide the exercise of prosecutorial discretion in traffic cases.**

The Law Department has not developed written policies to guide the exercise of prosecutorial discretion. The Chief Deputy City Attorney who oversaw Municipal and Traffic Courts stated that it would be impossible to develop written guidelines for prosecutorial discretion. Instead, the Chief Deputy City Attorney met monthly with the city attorneys working in the courts to discuss caseloads and related issues.

The National District Attorneys Association has developed National Prosecution Standards that include considerations such as the nature of the offense; the age, background, and criminal history of the defendant; and sufficiency of admissible evidence to support a verdict. The Law Department could simply add these standards to its “general guidelines” to create a policy that allows for flexibility while ensuring that discretion is fairly exercised.

Recommendation 9: Traffic Court should end the practice of using unclassified positions to hire non-judicial staff.

Follow-up 9: The Court hired an unclassified employee that should have been hired through the classified service, but Civil Service enforced regulations for the remaining hires in 2012.

In 2012 the State Legislature repealed La. R.S. 13:2510, which stated that the Traffic Court clerk's employees should be in the classified service. Although the repeal removed the requirement in the Louisiana Revised Statutes, it did not remove the requirement from the State Constitution, which excludes "offices of clerk of the municipal and traffic courts in New Orleans" from the unclassified service. Throughout 2012 and early 2013, the Court was in discussion with Civil Service about hiring classified versus unclassified employees.

In 2012 the court hired four full-time employees through the City's Civil Service Department. Three were hired as unclassified employees (a court crier, a cashier, and the judicial administrator) and one was hired as a classified employee (an information technology specialist). Of the three unclassified employees, two were hired to work for a judge and one worked in an administrative position. Under the State Constitution, the cashier should have been hired as a classified employee.

In addition to these employees hired through the Civil Service Department, Traffic Court employed at least two staff members (an Office Assistant and the Comptroller) using a third-party payroll company, because Civil Service would not approve the hires as unclassified positions.

APPENDIX B: SUMMARY OF FOLLOW-UP FINDINGS

Section	Recommendation	Accept	Follow-Up	Met
I-A	1. The City should require Traffic Court to provide a comprehensive accounting of 2010 revenues and expenditures and seek recovery of money owed to the General Fund.	No	The City did not require a comprehensive accounting of 2010 revenues and expenditures.	Met
I-A	2. The City should incorporate all revenues and expenditures for Municipal and Traffic Court into the operating budget as required by the Budget Act.	No	The City did not incorporate all Municipal and Traffic Court expenditures and revenues into its budget.	Met
I-A	3. The City should monitor Municipal and Traffic Court revenues and expenditures through monthly reports.	No	The City did not monitor Municipal and Traffic Court revenues through monthly reports.	Met
I-A	4. The City should fully fund Municipal and Traffic Court payrolls through the General Fund.	No	The City did not fully fund the Municipal and Traffic Court payrolls in the 2013 budget.	Met
I-A	5. The City should ensure that Municipal and Traffic Court contracts are procured competitively through the City's Chief Procurement Officer.	Yes	The City could not provide oversight of Municipal and Traffic Court procurement.	No
I-B	6. The City should amend ordinances relating to the judicial expense funds for Municipal and Traffic Court, including Ordinance No. 1482 M.C.S. and City Code Section 50-6.	Yes	The City Council began the process of amending these ordinances, but no changes have been adopted to date.	No
I-B	7. The City should seek state legislation to require all Municipal and Traffic Court revenues to be deposited into the City treasury to be administered by the City's Department of Finance.	Yes	The City did not include proposals to require Court revenues to be deposited into the City treasury to be administered by the City's Department of Finance in its legislative agenda.	No

Section	Recommendation	Accept	Follow-Up	Met
I-B	8. The City should seek amendments to state mandates related to Municipal and Traffic Court staffing.	Yes	The City did not include amendments to state mandates related to Municipal and Traffic Court staffing or amendments.	No
I-B	9. The City should seek legislative changes to limit the number of personal employees appointed by judges and institute civil service requirements for non-judicial appointees.	Yes	The City did not include changes to limit the number of employees appointed by judges as their personal staff in its legislative agenda	No
I-B	10. The City should seek legislative changes to reduce the number of judgeships.	No	The City did not seek legislative changes to reduce the number of judgeships during the 2012 legislative session.	
I-B	11. The City should seek legislative changes to merge Municipal and Traffic Courts.	No	The City did not seek legislative changes to merge the courts during the 2012 legislative session.	
II-A	1. The City Attorney should provide written policies to guide the exercise of prosecutorial discretion in traffic cases.	No	The City Attorney did not develop written policies to guide the exercise of prosecutorial discretion in traffic cases.	
II-A	2. The City Attorney should maintain data on case dispositions to ensure accountability for prosecutorial decisions.	Yes	The City Attorney hired a consultant, but has not maintained data on case dispositions.	No
II-B	3. Traffic Court judges should ensure that all decisions to prosecute or dismiss charges are made by city attorneys.	Yes	City attorneys dismissed thirty-nine of forty cases in a random sample of tickets; evaluators found no instances where a judge, or judge's designee, signed tickets to dismiss charges.	Yes
II-B	4. Traffic Court judges should end the practice of directing revenue from fines and statutory fees to the JEF.	Yes	Evaluators did not find any instances in which a Traffic Court judge directed revenue from fines and statutory fees to the JEF.	Yes

Section	Recommendation	Accept	Follow-Up	Met
II-B	5. The Traffic Court should submit complete revenue and expenditure reports to the City on a monthly basis.	Yes	The Court did not submit monthly reports to the City.	No
II-B	6. Traffic Court judges should develop written policies and procedures for court personnel.	Yes	The Court has developed written policies and procedures for court personnel.	Yes
II-B	7. Traffic Court judges should reduce the risk of misappropriation of cash receipts by restricting computer privileges and segregating incompatible duties.	Yes	Traffic Court has restricted computer privileges and segregated duties between clerks entering case dispositions and clerks accepting payments from defendants.	Yes
II-B	8. Traffic Court judges should reduce courtroom staff to the level needed for court operations and ensure that timesheets submitted to the City reflect actual hours of work.	Yes	Traffic Court has reduced courtroom staff and requires courtroom employees to work full time.	Yes
II-B	9. Traffic Court should end the practice of using unclassified positions to hire non-judicial staff.	No	The Court hired an unclassified employee that should have been hired through the classified service, but Civil Service enforced regulations for the remaining hires in 2012.	
II-B	10. Traffic Court should integrate its case management and accounting systems.	Yes	The Court had not yet integrated its case management and accounting systems, but has taken steps to do so.	No
II-B	11. Traffic Court should train staff in the use of the court's computer system.	Yes	Traffic Court has instituted a training program and written a manual for the use of the Court's computer system.	Yes
II-B	12. Traffic Court should develop in-house capacity to handle basic bookkeeping and financial management functions.	Yes	The Court hired an in-house comptroller.	Yes

Section	Recommendation	Accept	Follow-Up	Met
II-B	13. Traffic Court should end the practice of inappropriately classifying employees as contractors.	Yes	The Court ended the practice of classifying employees as contractors but paid some employees through an alternative payroll system rather than the City's system.	No
II-B	14. Traffic Court should make purchases through a competitive process.	Yes	The Court did not use the City's procurement process, but developed its own purchasing process, which it did not consistently follow. Evaluators found one instance in which the Court violated the Louisiana Public Bid Law.	No
II-B	15. Traffic Court should exercise responsible contract oversight.	Yes	The Court did not require documentation to support hourly billings on some of the invoices we reviewed, but it ended the contract in question in 2012.	Yes
II-B	16. Traffic Court should end the practice of contracting for the services of individuals who play a role in soliciting or accepting judicial campaign funds.	Yes	The Court ended its contractual relationship with the individual who played a role in soliciting or accepting judicial campaign funds.	Yes
II-B	17. Traffic Court should discontinue payments from the JEF to provide supplemental benefits for judges or to pay salaries for ad hoc judges.	Yes	The Court discontinued payments to ad hoc judges but still made one payment for benefits from its JEF.	No
II-B	18. Traffic Court should provide useful and accurate public information on its website.	Yes	The Court changed its website to reflect accurate hours for Court operations and holidays.	Yes

	Accepted and met	Accepted and did not meet	Did not accept
City of New Orleans		5	6
City of New Orleans, City Attorney		1	1
City of New Orleans Traffic Court	10	5	1