



Office of Inspector General

City of New Orleans

Assessment of New Orleans' System of City Courts

and

Performance Review of New Orleans Traffic Court

OIG-I&E-10-013

**E. R. Quatrevaux
Inspector General**

Final Report

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OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



ED QUATREVAUX
INSPECTOR GENERAL

October 7, 2011

Re: Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court: OIG-I&E-10-013

I certify that the inspector general staff 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

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OIG-I&E-10013

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) evaluated the efficiency and effectiveness of the City of New Orleans' system of city courts, with a focus on Municipal Court and Traffic Court. During the course of the evaluation, we identified fundamental problems in Traffic Court operations that led us to expand the scope to include a performance review of Traffic Court practices in 2010.

Part I of this report presents an assessment of the City's court system and recommends changes that would produce cost savings for the City. Part I also identifies deficiencies in the City's budget adoption practices for Municipal and Traffic Courts and recommends changes to improve City oversight and control over Court revenues and expenditures.

Part II contains findings related to Traffic Court performance in 2010, including weaknesses in financial management, internal controls, personnel practices, and other functions. The recommendations presented in Part II are designed to improve Traffic Court's efficiency, safeguard cash receipts, increase accountability for case dispositions, ensure compliance with laws, and increase revenues paid to the City's General Fund from traffic fines.

PART I: ASSESSMENT OF NEW ORLEANS' CITY COURT SYSTEM

Louisiana has 49 city courts and 3 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 First City Court and Second City Court, a total of four full-time judges hear civil disputes under \$25,000, small claims, and evictions. These courts share funding with Orleans Parish Civil District Court, derived from fees paid by attorneys and litigants, and receive little operational support from the City. In Municipal Court, four judges hear criminal cases based on violations of city ordinances and misdemeanor offenses. Traffic Court also has four judges; its jurisdiction is limited to traffic offenses. Municipal and Traffic Courts are courts of criminal jurisdiction and, unlike the civil courts, are not supported by fees from attorneys and litigants. In 2010, Municipal Court received \$3,250,089 and Traffic Court received \$5,597,972 in city funds. These funds were derived from the City's General Fund budget and from certain fees and city fines collected by the Courts and retained for their expenses.

To gauge the efficiency of the New Orleans court system, we compared the four city courts with Baton Rouge City Court, where five judges handled all civil, criminal, and traffic cases for the City of Baton Rouge. We chose Baton Rouge for this comparison because of its similarity to New

Orleans in terms of the numbers and kinds of cases filed in 2010. The comparison showed that five Baton Rouge City Court judges handled approximately the same volume of cases in 2010 as 12 New Orleans city court judges.¹

A fair assessment of judicial workloads requires adjustments to factor in the relative complexity of different types of cases and the amount of judicial time an average case requires. The Louisiana Supreme Court, through its Judicial Council, has developed work point values for different categories of city court cases, including civil, criminal, and traffic. These work point values are multiplied by the number of annual case filings, to determine the number of full-time judges needed to handle a given caseload.

We applied the Judicial Council’s work point formula to the cases filed in 2010 in Municipal Court, Traffic Court, First and Second City Courts, and Baton Rouge City Court. This analysis showed that: (1) the City of New Orleans needed about six full-time judges in 2010 rather than the current 12 judgeships, and (2) the judicial workloads for New Orleans’ separate city courts were grossly uneven. As shown in Figure A, the Municipal Court workload called for about four full-time judges, while Traffic Court needed only one judge, as did First and Second City Courts combined.

Figure A: 2010 Work Loads of New Orleans and Baton Rouge City Court Judges

	New Orleans			Baton Rouge		
	<u>Court</u>	<u>Work Point Value</u>	<u># Judges Needed</u>	<u>Court</u>	<u>Work Point Value</u>	<u># Judges Needed</u>
(Civil)	1st & 2nd City	2,892	0.91		3,039	0.96
(Criminal)	Municipal	12,183	3.85	Baton Rouge	16,282	5.14
(Traffic)	Traffic	3,070	1.16	City Court	2,897	0.91
(DWI)	Traffic	609			639	0.20
<i>Total</i>		18,754	5.92		22,857	7.21

To assess the efficiency of court operations, we calculated the total annual operating cost, including personnel and other expenses, for the four New Orleans city courts combined and for Baton Rouge City Court. We divided total operating cost by the point value of the combined workload of each city’s court system to gauge comparative efficiency. We concluded that the Baton Rouge City Court was far more efficient than New Orleans’ fragmented system of four separate city courts, as shown in Figure B.

¹ The comparison of judicial workloads is complicated by a law that allows some Municipal and Traffic Court judges to maintain private law practices. These judges are considered part-time. No statute or other rule defines the schedule a part-time judge is expected to work; the distinguishing factor is that part-time judges are permitted to maintain outside practices while full-time judges are not. Six of the 12 New Orleans judges and all five Baton Rouge judges are full-time; six New Orleans judges are considered part-time.

Figure B: Efficiency of City Court Operations for New Orleans and Baton Rouge in 2010

	New Orleans	Baton Rouge
Work Point Value	18,754	22,857
Annual Cost of Court Operations	\$11,985,165	\$8,744,440
<i>Cost per Work Point</i>	\$639	\$383

The comparatively lower cost per work point achieved by the Baton Rouge City Court suggests that New Orleans could improve the efficiency of its city court system by consolidating the separate courts. The evidence also shows that First and Second City Courts and Traffic Court each have too many judges and that Municipal Court judges bear much heavier workloads. This workload disparity provides additional evidence that a combined court, which could distribute the workload equitably among judges, would reduce unnecessary costs.

We calculated potential savings that could be achieved by consolidating Municipal and Traffic Courts.² This merger would make it possible to reduce the number of judges for the two courts from the current eight (two full-time and six part-time) to five full-time judges, the number called for by Judicial Council standards. Combining court operations would also allow personnel and resources to be allocated rationally and avoid the duplication and inefficiency inherent in maintaining multiple personnel, case management, information technology and financial management systems. Our assessment identified an estimated \$2.5 million in annual cost savings that could result from the consolidation of these two courts.

The 2010 Budgets for Municipal Court and Traffic Court

The OIG found that the City did not include a comprehensive budget for Municipal Court or Traffic Court in the City’s 2010 Operating Budget. The Operating Budget reported only the General Fund appropriation for each court, omitting the revenues the courts collected on behalf of the City from fines and fees and retained for their own operating expenses. The failure to include revenues and expenditures from fines and fees in the Operating Budget created a misleading picture of the cost of court operations. The General Fund appropriation for each court – the total amount reported in the Operating Budget – and each court’s actual expenditures for 2010 are shown in Figure C.

Figure C: 2010 Operating Budget Appropriations vs. Actual Court Expenditures

	Municipal Court	Traffic Court
Appropriation in City's 2010 Operating Budget	\$1,783,882	\$940,000
Actual Cost of Court Operations in 2010	\$3,250,089	\$5,597,072

² Data from First and Second City Courts was used to develop a comparison between New Orleans and Baton Rouge because Baton Rouge employs the same judges, court personnel, and other resources for civil, criminal, and traffic cases. Because First and Second City Courts operate under a joint funding system with Orleans Parish Civil District Court and receive little operational support from the City, we did not consider the possibility of consolidating these two courts with Municipal and Traffic Court.

The Louisiana Local Government Budget Act requires the City to disclose through its annual budget all revenues the City expects to receive and how those revenues will be spent. The City did not comply with this requirement with respect to the two court budgets.

The OIG also found that the City did not exercise oversight over court expenditures from the fines and fees collected on behalf of the City and other agencies. In the absence of any effective budget control, Traffic Court spending in 2010 exceeded the budget the judges had proposed to the City's Chief Administrative Office by more than \$1 million. The City Finance Department did not monitor these expenditures and had no means to determine whether the City received all the revenue the Traffic Court should have remitted from the fines it collected.

Based on the findings produced by this evaluation, the OIG provided five specific recommendations to improve accountability and control of city court revenues and expenditures. The OIG recommended that the City:

- Require Traffic Court to provide a comprehensive accounting of 2010 revenues and expenditures and seek recovery of money owed to the General Fund.
- Incorporate all revenues and expenditures for Municipal and Traffic Court into the Operating Budget.
- Monitor Municipal and Traffic Court revenues and expenditures through monthly reports.
- Fully fund Municipal and Traffic Court payrolls through the General Fund.
- Ensure that Municipal and Traffic Court contracts are procured competitively through the City's Chief Procurement Officer.

The OIG also recommended that the City seek legislative changes that would improve accountability and increase efficiency of city court operations. The recommended changes would:

- Require revenue collected by Municipal and Traffic Court to be controlled and administered by the City's Department of Finance.
- Amend state mandates related to Municipal and Traffic Court staffing.
- Limit the number of personal employees appointed by judges and institute Civil Service requirements for non-judicial employees.
- Reduce the number of judgeships in city courts.
- Merge Municipal and Traffic Courts.

PART II: PERFORMANCE REVIEW OF NEW ORLEANS TRAFFIC COURT

Traffic Court 2010 Collections and Disbursements

Traffic Court collects fines on behalf of the City and statutory fees on behalf of numerous criminal justice agencies. The Court is entitled to retain specific fines and fees to be used for Court operating expenses. These fines and fees, which are retained in the Court's Judicial Expense Fund (JEF), include a \$10 statutory Traffic Court fee, contempt fines, bond forfeitures, and reinstatement fees. The OIG's review of 2010 collections and disbursements found that Traffic Court judges directed approximately \$1.3 million in city fines and statutory fees payable to other agencies to the Court's JEF. Of this amount, approximately \$800,000 represented fines payable to the City's General Fund and \$500,000 represented statutory fees that should have been remitted to agencies such as the Indigent Defender Fund, Crimestoppers, Inc., and the Orleans Parish District Attorney.

The OIG also found that Traffic Court created a surplus for its Judicial Expense Fund by retaining about \$500,000 in traffic ticket revenues in excess of the Court's operating expenses and that the Court used about \$425,000 in city fine revenue to pay a Court contractor.

Traffic Court Procedures

All cases in Traffic Court are prosecuted by city attorneys, who have sole authority to dismiss or reduce traffic charges. The OIG found that the City Attorney's Office maintained no records of non-DWI case dispositions and lacked any written policies to guide prosecutorial discretion. We inspected a randomly selected sample of 250 non-DWI traffic tickets filed in 2010 and found that city attorneys dismissed, or reduced to nonmoving violations, 99% of all contested moving charges. The moving violations we reviewed included reckless driving, red light violations, speeding, and one hit and run charge. We also found that Traffic Court judges improperly dismissed charges, and permitted some of their employees to dismiss charges, without the required authority of a city attorney.

The OIG found that the Traffic Court's financial management capacity in 2010 was not adequate to properly safeguard and administer \$12.8 million in revenues. The Court relied on an accounting services contractor to oversee the Court's finances, but failed to oversee the contractor's work. Traffic Court also lacked adequate controls against misappropriation of cash. We found that cashiers entered case dispositions in the Court's case management database and accepted cash payments. This practice violated the control principle that requires segregation of incompatible duties and created a risk of theft.

The OIG also identified the following findings relating to Traffic Court operations:

- Traffic Court had no written policies or procedures.
- Traffic Court judges' part-time employees received full-time salaries and benefits.
- Traffic Court hired Violations Bureau employees without regard for Civil Service requirements.
- Traffic Court inappropriately classified employees as contractors.
- Traffic Court spent over \$250,000 on materials, supplies, and non-professional services without seeking competitive bids.
- Traffic Court paid professional service contractors more than \$800,000 without using any competitive procurement process.
- Traffic Court did not exercise adequate oversight over its accounting services contractor or require documentation to support hourly billings.
- Traffic Court's accounting services contractor also acted as campaign fund treasurer for the Acting Chief Judge.
- Traffic Court did not make effective use of its information technology systems.
- Traffic Court did not provide accurate public information on court schedules.
- Traffic Court judges improperly used the Judicial Expense Fund to purchase disability insurance for themselves and to pay ad hoc judges.

Based on the findings developed in this performance review, the OIG made two recommendations to the City Attorney's Office to improve accountability and ensure fair and uniform standards for Traffic Court prosecutions. The OIG recommended that the City Attorney:

- Provide written policies to guide prosecutorial discretion in Traffic Court cases.
- Maintain data on case dispositions to ensure accountability for prosecutorial decisions.

The OIG recommended that Traffic Court judges:

- Ensure that all decisions to prosecute or dismiss charges are made by city attorneys.
- End the practice of directing revenue from fines and statutory fees to the Judicial Expense Fund.

In addition, the OIG also provided specific recommendations to Traffic Court judges to correct deficiencies and improve the efficiency of court operations. These recommendations including developing written policies and procedures, strengthening internal controls over cash receipts, reducing courtroom staffing levels, integrating case management and accounting systems, improving procurement and contract management practices, and developing an in-house capacity for basic bookkeeping and accounting functions.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Office of Inspector General for the City of New Orleans (OIG) conducted an evaluation of the system of city courts in New Orleans, which 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;³
2. A review of the City's 2010 Operating Budget expenditures for Municipal Court and Traffic Court compared to 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 evaluation was undertaken to determine whether it is cost-effective for the City of New Orleans to maintain a system of four separate city courts and to make recommendations to improve efficiency and effectiveness. During the course of the assessment, however, we identified fundamental problems in Traffic Court operations that led us to expand the scope to include an in-depth review of Traffic Court performance in 2010.

The review of Traffic Court was specifically conducted to (1) assess the Court's compliance with applicable laws, regulations, and best practices; (2) evaluate whether proper controls existed to limit the potential for waste, fraud and abuse; (3) measure the outputs, effectiveness and overall efficiency of the Court's operations; and (4) evaluate whether the Court operated in a fair, equitable, and transparent manner.

The OIG interviewed employees and contractors working for the Traffic Court and employees of the Chief Administrative Office, City Attorney's Office, Finance Department, Civil Service, and Police Department. The OIG 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. We 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. OIG staff also attended 40 sessions of Municipal Court and Traffic Court to observe the operations of each court section anonymously.

³ The OIG gathered data about the cost and operation of each court system from a variety of sources, such as interviews with relevant officials, formal document requests, and database research. Data collected was carefully reviewed to ensure equitable comparison across the locales. For example, in Baton Rouge, one city court provides services that the four city courts provide in New Orleans; data for the New Orleans city courts were combined for comparison purposes.

The evaluation was performed in accordance with Principles and Standards for Offices of Inspector General for Inspections, Evaluations, and Reviews.⁴ This report includes findings and recommendations relating to the cost effectiveness and efficiency of the four New Orleans city courts; City oversight over Traffic Court's collection and disbursement of city revenues; and the policies and procedures implemented by Traffic Court. These findings and recommendations are based on legal requirements and best practices adopted by professional organizations and other municipal governments for improving transparency, accountability, effectiveness, efficiency, and fiscal control.

⁴ 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)).

PART I: NEW ORLEANS' UNIQUE SYSTEM OF CITY COURTS

Each Louisiana parish has a district court with general jurisdiction over all civil and criminal matters.⁵ In addition to the district courts, there are 49 city courts and three parish courts that exercise limited jurisdiction, concurrent with district courts, over civil disputes below a set dollar limit (typically \$20,000) and lesser criminal offenses (misdemeanors and city ordinances). City and parish courts also typically handle traffic violations within their jurisdictions.

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. This fragmented system of courts has historical roots that extend back to the 19th century when the 1898 Louisiana Constitution created two territorially distinct city courts for civil matters: First City Court on the east bank of the Mississippi and Second City Court on the west bank. The 1921 Louisiana Constitution created Municipal Court, with jurisdiction over minor criminal offenses, and Traffic Court. As a result of this history, New Orleans today has four separate city courts – with a combined total of 12 judges – to exercise jurisdiction over the matters that are handled in a single city court in other Louisiana jurisdictions.

These city courts were originally created as constitutional entities. However, the 1974 Louisiana Constitution brought about a change in their constitutional status. Article V of the current Louisiana Constitution provides that these courts are subject to change by law. As a result, changes to the structure of New Orleans city courts can be made through state legislation, a simpler process than constitutional amendment.

FUNDING FOR THE CITY COURTS

The City owns the three buildings occupied by the City's four courts and pays for repair, maintenance, heating, cooling, and other facility expenses. The State pays a portion of the salaries for the 12 judges.⁶ In 2010, each judge received about \$43,000 from the State. Aside from the state portion of judicial salaries, all court personnel and other operating costs are funded either by court fees or by city funds, including General Fund appropriations and city revenues from fines.

⁵ Orleans Parish has two district courts, Civil District Court and Criminal District Court. In 2006, the State enacted legislation to consolidate these courts into a single Orleans Parish District Court. This consolidation is scheduled to occur in 2014.

⁶ La. R.S. 13:1874(E); La. R.S. 13:2152(A).

A. First and Second City Courts

First and Second City Courts hear civil lawsuits with claims under \$25,000, small claims up to \$3,000, and evictions for properties with rents up to \$3,000 per month.⁷ Although they are city courts, they have historically shared a funding source with Orleans Parish Civil District Court and have not been financially dependent on the City. Operating funds for First and Second City Courts are derived from fees they receive from litigants and from fees collected by the Clerk of the Civil District Court, the Recorder of Mortgages, and the Register of Conveyances of Orleans Parish.⁸ The City pays a small portion of the salaries for First City Court; the City's General Fund budget appropriated \$5,400 for the Court in 2010.

B. Municipal Court and Traffic Court

Municipal Court hears criminal charges based on violations of city ordinances and misdemeanor offenses, such as public intoxication, criminal trespass, and disturbing the peace.⁹ Traffic Court jurisdiction is limited to traffic offenses, including driving while intoxicated.¹⁰ Municipal and Traffic Court are courts of criminal jurisdiction and, unlike First and Second City Courts, are not supported by fees paid by attorneys and litigants for services.

Fines imposed by Municipal and Traffic Court are not self-generated funding comparable to civil filing fees. The great majority of cases in Municipal and Traffic Court are filed by the New Orleans Police Department (NOPD) for the purpose of enforcing laws and ensuring public safety.¹¹ Fines collected by these courts are an important revenue source for the City's General Fund.

Although fines are General Fund revenues, the Municipal and Traffic Courts have been authorized to apply some of the revenue they collect, including certain fees designated for court costs, to their operating expenses. In addition, each of these Courts receives a General Fund appropriation from the city budget. In 2010, the total amount of city funding from these two sources was \$3,250,089 for Municipal Court and \$5,597,072 for Traffic Court.

⁷ La. C.C.P. art. 4843(E); La. C.C.P. art. 4844(A)(3).

⁸ La. R.S. 13:1312.

⁹ La. R.S. 13:2493.

¹⁰ La. R.S. 13:2501.1(E).

¹¹ State Police and other law enforcement agencies file some cases in Traffic Court.

NEW ORLEANS CITY COURT SYSTEM COMPARED WITH BATON ROUGE

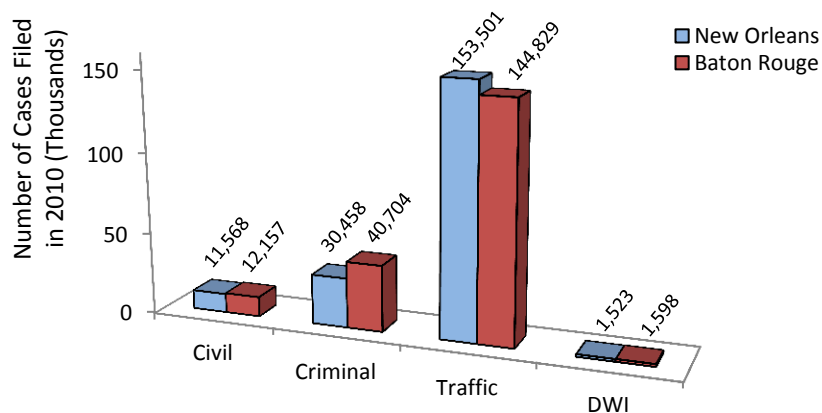
In this evaluation, the OIG sought to determine whether consolidating New Orleans’ separate city courts would increase efficiency and produce cost savings for the City. To this end, we compared New Orleans’ four city courts to the single Baton Rouge City Court with respect to the numbers and kinds of cases handled and the overall costs of operation for 2010. We chose Baton Rouge for this comparison because of its similarity to New Orleans in terms of the numbers of annual case filings. The purpose of this comparison was to determine whether Baton Rouge – with a consolidated court structure and five judges sharing the caseload – handled a comparable workload more efficiently than New Orleans.

Municipal and Traffic Courts were the primary focus of this evaluation because they rely on city funds, while the City’s two civil courts receive little operating support from the City. It was not possible, however, to exclude civil case filings from this comparison because Baton Rouge employs the same judges, court personnel, and other resources for civil, criminal, and traffic cases. For this reason, we included data from First and Second City Courts, in addition to Municipal and Traffic Courts, in the comparison with Baton Rouge.

FINDING 1. FIVE BATON ROUGE CITY COURT JUDGES PROCESSED APPROXIMATELY THE SAME VOLUME OF CASES IN 2010 AS 12 NEW ORLEANS CITY COURT JUDGES.

As shown in Figure A, the number of cases filed in 2010 in each category was similar for the two cities. Baton Rouge City Court had the advantage of being able to distribute the caseload evenly across all five judges.

Figure A: Comparison of 2010 Case Filings in New Orleans and Baton Rouge City Courts



		New Orleans		Baton Rouge		
	Court	# Cases Filed	# of Judges	Court	# Cases Filed	# of Judges
(Civil)	First & Second City	11,568	4		12,157	
(Criminal)	Municipal	30,458	4	City	40,704	5
(Traffic)	Traffic	153,501	4	Court	144,829	
(DWI)	Traffic	1,523			1,598	
Total		197,068	12		199,288	5

The data in Figure A show that Baton Rouge City Court, with five judges, handled a volume of cases similar to the combined caseloads of the New Orleans city courts, which had 12 judges. A comparison of judicial workloads, however, was complicated by a law that allowed some of the judges in the New Orleans courts to maintain private law practices. These judges were considered part-time. No statute or other rule defined the schedule a part-time judge was expected to work; the distinguishing factor was that part-time judges were permitted to maintain private law practices while full-time judges were not. Six of the 12 New Orleans judges were considered full-time, while the other six were considered part-time.

In the view of the OIG, allowing judges to maintain outside law practices served no public purpose. Part-time judgeships increased the risk to the justice system from conflicts of interest and made it more difficult to hold judges accountable for workload standards.

FINDING 2. JUDICIAL COUNCIL STANDARDS SHOW THAT NEW ORLEANS CITY COURTS NEED ONLY SIX OF THE CURRENT 12 JUDGESHIPS.

A fair assessment of judicial workloads requires adjustments to factor in the relative complexity of different types of cases and the corresponding amount of judicial time an average case requires. The Louisiana Supreme Court, through its Judicial Council, has developed a work point formula used to make recommendations to the State Legislature regarding the need for new judgeships. This formula was developed by a committee made up of judges, clerks of court, district attorneys, and legislators, and was approved by the Judicial Council in 2008.¹²

The Judicial Council system assigned a work point value to each category of cases. The following work point values were developed for city courts:

<u>City Court</u>	<u>Work Point Value</u>
Civil Cases	0.25
Criminal Cases	0.40
Traffic Cases	0.02
Driving While Intoxicated (DWI)	0.40

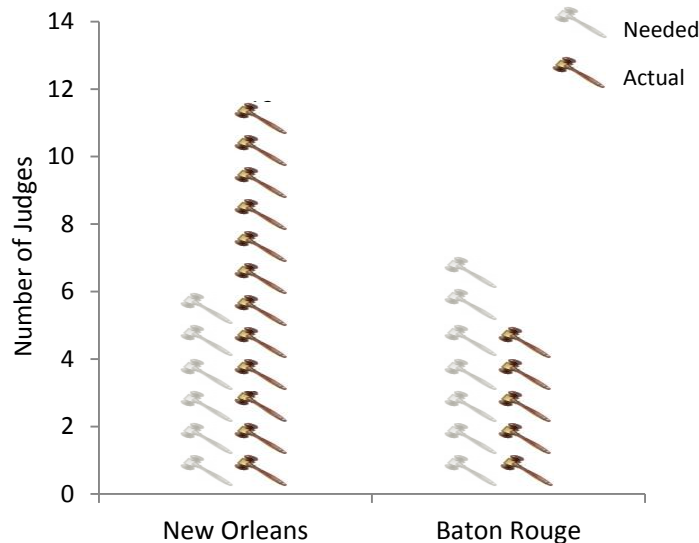
Under this system, the work point values are multiplied by the number of annual case filings to determine the number of judges needed to handle a caseload. The Judicial Council determined that 3,167 work points represents a standard caseload for one full-time judge. To compare the workloads of the New Orleans and Baton Rouge courts in 2010, we multiplied the number of cases by the work point value for each case category to determine the number of full-time judges required.

¹² *Report of the Judicial Council in Response to Senate Concurrent Resolution #91 of the 2007 Regular Session of the Legislature Regarding the Determination of Judgeships*, March 31, 2009.

Figure B: 2010 Work Loads of New Orleans and Baton Rouge City Court Judges

	New Orleans			Baton Rouge		
	Court	Work Point Value	# Judges Needed	Court	Work Point Value	# Judges Needed
(Civil)	First & Second City	2,892	0.91	City Court	3,039	0.96
(Criminal)	Municipal	12,183	3.85		16,282	5.14
(Traffic)	Traffic	3,070	1.16		2,897	0.91
(DWI)	Traffic	609			639	0.20
<i>Total</i>		18,754	5.92		22,857	7.21

Figure C: Discrepancy between Number of City Court Judges Needed versus Actual in New Orleans and Baton Rouge for 2010



Note: Six of the 12 New Orleans judges were considered part-time.

The data in Figures B and C indicate that, overall, New Orleans had more city court judges than were needed. As noted earlier, six of the 12 New Orleans judges were considered part-time, a factor that complicates the comparison of judicial workloads. Nonetheless, standards developed by the Judicial Council showed that the combined caseloads of the City’s four courts could be handled by six full-time judges. This assessment is supported by the comparison with Baton Rouge City Court, where five full-time judges managed a workload comparable to that of the four New Orleans city courts combined.

FINDING 3. WORK LOADS FOR NEW ORLEANS' SEPARATE CITY COURTS WERE GROSSLY UNEVEN.

The data also show that the work load was unevenly distributed among New Orleans' separate city courts. First and Second City Courts' combined caseloads called for only one judge, as did the Traffic Court caseload. In contrast, the work point analysis shows that Municipal Court should have had about four full-time judges.

The 3,167 point standard was developed for a full-time judge. All First and Second City Court judges were full-time, so 3,167 work points is an appropriate standard for their caseloads. Municipal and Traffic Court, however, each had one full-time administrative judge and three judges who were allowed to maintain outside law practices and were therefore considered part-time.

As noted earlier, the Traffic Court work load could be handled by a single full-time judge. For Municipal Court, if we assume, based on the pay differential, that the work load for a part-time judge should be 75% of full time, or 2,375 work points, the Court would need at most one full-time and four part-time judges.¹³ Factoring in an adjustment for part-time judgeships, the combined work load for Municipal and Traffic Court could be handled by five full-time judges, rather than the current eight judges.

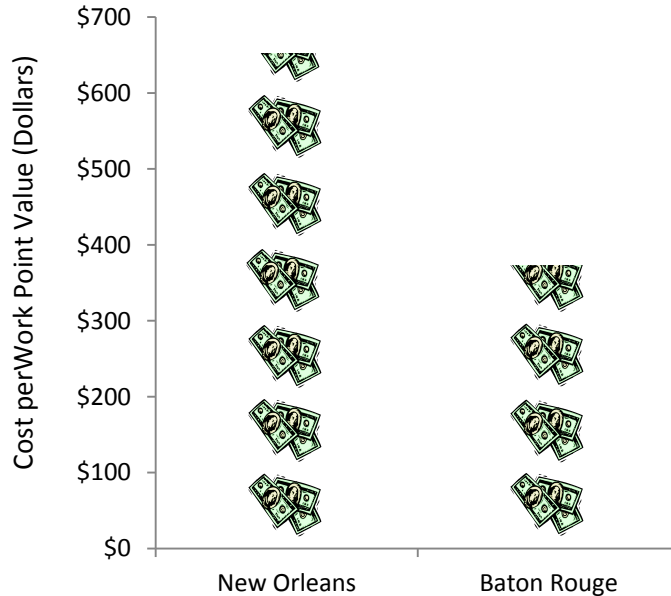
FINDING 4. BATON ROUGE CITY COURT WAS FAR MORE EFFICIENT THAN NEW ORLEANS' FRAGMENTED SYSTEM OF SEPARATE CITY COURTS.

To assess the efficiency of court operations, we determined the total annual operating cost, including personnel and other expenses, for the combined New Orleans' city courts and for Baton Rouge City Court. We then divided total operating cost by the point value of the combined court workload to gauge the comparative efficiency of the two cities' court systems. Figure D shows the results of this analysis.

¹³ The administrative judges in Municipal and Traffic Court received the same annual salary as a district court judge, which was about \$134,000 in 2010. The part-time judges were paid about \$106,000.

Figure D: Efficiency of City Court Operations for New Orleans and Baton Rouge in 2010

	New Orleans	Baton Rouge
Work Point Value	18,754	22,857
Annual Cost of Court Operations	\$11,985,165	\$8,744,440
<i>Cost per Work Point</i>	\$639	\$383



The comparative data in Figure D shows that the Baton Rouge court system was more efficient – as measured by cost per work point – than the fragmented system that has evolved in New Orleans. This result is not surprising in light of the findings that New Orleans had more judges than needed and that the work load was unevenly distributed among the New Orleans city courts. Baton Rouge’s caseload can be distributed equitably among all of its judges, avoiding the gross workload disparities evident among New Orleans’ separate courts. Baton Rouge court personnel and resources can also be allocated rationally to avoid the duplication and inefficiency inherent in creating multiple personnel, case management, information technology, and financial management systems. The dramatic difference in the combined costs of operations for the two cities’ court systems suggests that New Orleans could achieve substantial savings through increased efficiency by consolidating its courts.

Differences between Baton Rouge and New Orleans in control over court budgeting and staffing may also have accounted for differences in efficiency. The Baton Rouge budgeting scheme gave local government more control over the cost of its City Court operations. Under state and local laws, Baton Rouge, through its Metropolitan Council, set the salaries of the city court judges

and determined the number and compensation of other court employees.¹⁴ The judges appointed a Clerk/Judicial Administrator, but all other employees were members of the Classified Service.¹⁵

In contrast, the City of New Orleans was required to fully fund the operations of Municipal and Traffic Courts, but state law dictated staffing requirements with a high degree of specificity. Each Municipal and Traffic Court judge, including part-time judges, was entitled to appoint his or her own minute clerk, court reporter, crier, secretarial, clerical, research, administrative and other personnel as the judge deemed necessary.¹⁶ These judicial appointees were not members of the Classified Service. Evidence presented in the following section indicates that the large number of personal judicial staff employed in New Orleans Traffic Court contributed to the inefficiency of the court system.

POTENTIAL COST SAVINGS FROM CONSOLIDATING MUNICIPAL AND TRAFFIC COURTS

One of the objectives of this evaluation was to identify potential cost savings for the City of New Orleans. As described earlier, First and Second City Courts operated under a joint funding system with Orleans Parish Civil District Court and received little operational support from the City.¹⁷ For this reason, we did not consider the possibility of merging the City's civil and criminal courts. Instead, we analyzed the potential for increasing efficiency by restructuring Municipal and Traffic Courts.

FINDING 5. TRAFFIC COURT HAD SUBSTANTIALLY MORE EMPLOYEES AND HIGHER OPERATING COSTS THAN MUNICIPAL COURT IN 2010 DESPITE ITS LOWER JUDICIAL WORKLOAD.

The data in Figure B showed a major disparity between the judicial workloads of these two courts and revealed a surplus of judges in the Traffic Court. Figure E, seen on the next page, compares the numbers of employees (not including judges), personnel costs, and other operating expenses of Municipal and Traffic Courts in 2010.

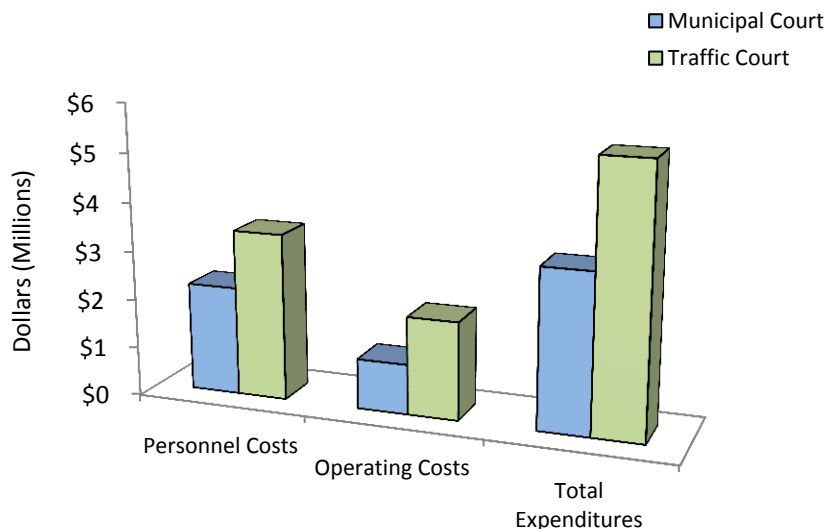
¹⁴ The City of Baton Rouge and East Baton Rouge Parish operate as a governmental unit under a Plan of Government to perform local government functions. A Metropolitan Council enacts ordinances, including an annual operating budget, for the local government. This governmental unit is referred to in this report as "Baton Rouge."

¹⁵ La. R.S.13:2071; Plan of Government for East Baton Rouge Parish and City of Baton Rouge, Section 11.04.

¹⁶ La. R.S. 13:2496 *et seq.*; La. R.S. 13:2501.1.

¹⁷ The City does, however, have expenses associated with funding all facility related costs for these courts, including building maintenance and utilities.

Figure E: 2010 Personnel and Total Expenditures for New Orleans Municipal and Traffic Courts



	Number of Employees	Personnel Costs *	Total Expenditures**
Municipal	45	\$2,225,789	\$3,250,089
Traffic	88	\$3,416,941	\$5,597,072

*Includes salaries and benefits for court employees, not including judges.

**Includes all salaries and benefits for employees and judges.

Judicial Council standards showed that Municipal Court needed four full-time judges in 2010, compared with one judge for Traffic Court, so the comparatively high number of Traffic Court employees is unexpected. Although there is no generally accepted formula for determining the appropriate ratio of staff to number of cases for traffic violations, we found evidence that Traffic Court had more employees than necessary in 2010. We also found that Traffic Court incurred high costs for contracted services and did not exercise adequate oversight over contract billings, as detailed in Findings 21 through 23. These factors contributed to Traffic Court's higher expenses.

Traffic Court judges were each allowed to appoint an unusually large complement of personal staff. According to the Court's acting administrative judge, each judge had 10 or 11 personal appointees in 2010.¹⁸ (By way of comparison, judges in Orleans Parish Criminal District Court each had five personal staff.) Traffic Court judges shared courtrooms, so each judge had either a morning or an afternoon session. Because of these half-day sessions, each judge's personal staff, including criers, court clerks, and cashiers, generally worked only a few hours per day in

¹⁸ In addition to clerks, criers and secretaries, Traffic Court judges each appoint two or three cashiers to their personal staff, in addition to the cashiers employed by the Clerk of Court.

2010.¹⁹ These appointees were paid as full-time employees, as detailed in Finding 18. Had these individuals actually worked full-time, and covered both the morning and afternoon court sessions, the number of Traffic Court employees could have been substantially reduced.

Consolidating the operations of the two courts would reduce redundant expenses but would not resolve problems identified in Part II of this report relating to Traffic Court operations. Those problems call for improved management practices and controls.

FINDING 6. CONSOLIDATING MUNICIPAL COURT AND TRAFFIC COURT WOULD PRODUCE AN ESTIMATED \$2.5 MILLION IN ANNUAL COST SAVINGS FOR THE CITY.

An analysis of cost savings from merging Municipal and Traffic Courts is presented in Figure F. The savings estimate is based on eliminating part-time judgeships and reducing the number of judges from eight to five, in accordance with the standards set by the Judicial Council. The changes proposed would also reduce the number of personal staff controlled by individual judges. As discussed in Finding 4, state law gives New Orleans city judges broad authority to determine the number and utilization of court employees. Changing current practices by allocating court positions in a rational manner would eliminate unnecessary employees and greatly improve operational efficiency.

The numbers of employees in some positions could be substantially reduced if they were pooled instead of assigned to individual judges. For example, in Traffic Court, court reporters are needed infrequently, since electronic recording can be used in the vast majority of cases. It would be sensible to hire fewer court reporters and pool their services. The current system, which gives individual judges, rather than the Clerk of Court, control over these personnel, stands in the way of implementing such basic, common sense practices.

In addition to each judge's personal appointees, state law provided a Clerk of Court for each court, to be appointed by the judges.²⁰ The Clerk of Municipal Court was authorized to appoint "not less than twenty deputy clerks and other employees of the court," and the Traffic Court Clerk had, "the right to appoint such deputy clerks, assistants and other employees of the clerk's office as may be necessary for the proper functioning of the office and the violations bureau."²¹ Municipal Court and Traffic Court each had a Clerk of Court, Deputy Clerk of Court, Judicial Administrator and Assistant Judicial Administrator. Consolidating the two courts would eliminate the need to maintain multiple administrative organizations.

In 2010, each of the two courts incurred contract expenses for accounting and information technology services, as well as for computer hardware and software. Municipal Court submitted a report to the OIG showing \$144,245 for computer services and software and

¹⁹ Traffic Court employees who worked part-time were paid as full-time employees by the City in 2010 and received benefits to which they were not entitled, as detailed in Finding 18.

²⁰ La. R.S. 13:2495.

²¹ La. R.S. 13:2497; La. R.S. 13:2505.

\$54,369 for accounting. Traffic Court records showed much higher expenditures: \$681,655 for accounting, \$113,195 for computer hardware and software, and \$185,400 for information technology services. The total spent by both courts for these contracted services was \$1,178,864.

Figure F shows staff reductions resulting from combining court operations and improving personnel allocation. It also estimates savings that could be achieved through the joint use of accounting and information technology resources. Overall, the changes shown in Figure F would reduce total personnel for the two courts from the current number of 148 to 109 and save approximately \$2.5 million in annual operating costs.

Figure F: Potential Cost Savings by Combining Municipal and Traffic Court Systems

Judges

	# Judges	Cost
Current System	2 FT; 6 PT	\$913,000
Consolidated System	5 FT	\$674,000

Savings = **\$239,000**

Judges' Personal Appointees (Clerks, Criers, Court Reporters, etc.)

	# of Employees	Cost
Current System	64	\$2,496,000
Consolidated System	32	\$1,248,000

Savings = **\$1,248,000**

Judicial Administrator

	# of JA	Cost
Current System	2	\$180,000
Consolidated System	1	\$90,000

Savings = **\$90,000**

Assistant Judicial Administrator

	# of Asst. JA	Cost
Current System	2	\$130,000
Consolidated System	1	\$65,000

Savings = **\$65,000**

Clerk of Court

	# of COC	Cost
Current System	2	\$160,000
Consolidated System	1	\$80,000

Savings = **\$80,000**

Deputy Clerk of Court

	# of Deputy COC	Cost
Current System	2	\$150,000
Consolidated System	1	\$75,000

Savings = **\$75,000**

Information Technology and Accounting

		Cost
Current System	Separate computer systems and accounting contracts	1,178,864
Consolidated System	Shared resources and coordinated services	\$500,000

Savings = **\$678,864**

TOTAL COST SAVINGS = \$2,475,864

THE 2010 BUDGETS FOR MUNICIPAL COURT AND TRAFFIC COURT

State law and the City of New Orleans Home Rule Charter contain procedures that govern all expenditures of city funds. These procedures, which apply to all sources of city revenue, including taxes, fees, and fines, ensure that expenditures are legally authorized and that the City maintains a balanced budget.

Legal authority to spend city money stems from the adoption of an annual budget in accordance with the Louisiana Local Government Budget Act (the “Budget Act”), which requires the City to prepare:

A comprehensive budget presenting a complete financial plan . . . for the general fund and each special revenue fund. The budget document setting forth the proposed financial plan . . . shall include . . . estimates of all receipts and revenues to be received; revenues itemized by source; [and] recommended expenditures itemized by agency, department, function, and character.²²

Simply put, the City’s annual budget must disclose all revenues the City expects to receive and must describe how the money will be spent.

The City must make the proposed annual budget available for public inspection and hold public hearings before the budget can be adopted. The budget is adopted in an open meeting through a vote of the City Council.²³ The opportunity for public participation in the budget process allows citizens to hold elected officials accountable for the use of public funds.

FINDING 7. THE CITY’S 2010 OPERATING BUDGET DID NOT INCLUDE COURT EXPENDITURES FROM FINES AND FEES REVENUE, AS REQUIRED BY STATE LAW.

Municipal Court and Traffic Court were required by state and local laws to remit revenues they collected to the City’s Department of Finance. Since 2005, however, the courts have established their own bank accounts and have assumed control over all the fines, fees, and other revenue they collect.²⁴ In 2010, the courts used money they collected to pay contractors and vendors directly and to cover some personnel costs. In addition to the fines and fees each court retains for its own use, the City appropriates money each year from the City’s General Fund to cover some of the courts’ personnel costs.

²² La. R.S. 39:1305.

²³ La. R.S. 39:1307 *et seq.*

²⁴ In an audit of the Municipal Court’s remittances to the City in 2009, the OIG found that the Court’s practice of retaining all revenues collected did not comply with law that required the Court to remit these revenues to the City’s Department of Finance. See, *A Performance Audit of the Municipal Court’s Remittance to the City*, OIG-A&R-10PAU002, City of New Orleans Office of Inspector General.

Municipal and Traffic Court judges submitted annual budget requests to the City for 2010 pursuant to the City’s budget preparation process. Each budget included all funds to be used for court operations, including revenue from fines, fees and other collections, and General Fund appropriation. These budgets showed that Municipal Court planned to spend \$3.5 million and Traffic Court about \$4.3 million in 2010, as shown in Figure G.

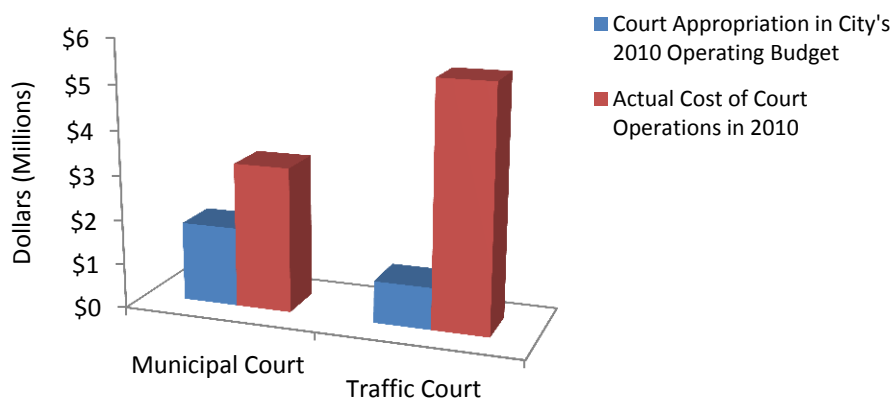
Figure G: 2010 Budget Requests Submitted by Judges to City Chief Administrative Officer

	Municipal Court	Traffic Court
General Fund Appropriation	\$2,800,000	\$1,006,901
Revenue from Fines, Fees, and Other Collections	\$700,000	\$3,369,711
<i>Total Annual Budget</i>	<i>\$3,500,000</i>	<i>\$4,376,612</i>

The Chief Administrative Officer prepared a Proposed Operating Budget for the City for 2010, to be submitted by the Mayor to the City Council. The Proposed Operating Budget is the document made available to the public pursuant to the Budget Act. The purpose of this document is to report to citizens and council members all anticipated revenues and proposed expenditures for city operations and to inform the public debate about the use of public funds.

The Proposed Operating Budget presented to the City Council for 2010 reported only General Fund appropriations for the two courts and omitted all information on proposed court expenditures from fines and other city revenue collected by the courts. Figure H below shows the funding for the two courts approved by the City Council through the adoption of the 2010 Operating Budget. It also shows actual 2010 court expenditures.

Figure H: Funding Approved for Municipal and Traffic Courts in the City’s Operating Budget and Actual Court Expenditures in 2010



	Municipal Court	Traffic Court
Court Appropriation in City's 2010 Operating Budget	\$1,783,882	\$940,000
Actual Cost of Court Operations in 2010	\$3,250,089	\$5,597,072

As shown in Figure H, the City's Operating Budget contained only a portion of the courts' actual budgets. By omitting information about expenditures of fines and fees revenue, the City rendered the true cost of court operations invisible to the public. The OIG obtained data on actual court expenditures (Figure H) through a review of court records. This information was not readily accessible to the public or to the City's decision makers because it was not included in the City's Operating Budget.

Citizens and elected officials need a complete and accurate picture of all city revenues and expenditures to hold public institutions accountable and effectively manage limited public resources. One of the major purposes of the Operating Budget is to provide such a picture. The Operating Budget also plays a crucial role in oversight and control of public resources, as discussed in Finding 8.

FINDING 8. TRAFFIC COURT SPENDING FOR 2010 EXCEEDED THE JUDGES' BUDGET PROPOSAL BY MORE THAN \$1 MILLION.

The City's Operating Budget is the spending plan that governs how city revenues are used and ensures that a department's expenditures do not exceed the amount of its appropriation. The Louisiana Local Government Budget Act describes the control function of the Operating Budget in the following provision:

The adopted budget and any duly authorized adopted amendments shall form the framework from which the chief executive or administrative officers and members of the governing authority of the political subdivision shall monitor revenues and control expenditures.²⁵

As discussed in Finding 7, the Traffic Court judges submitted a 2010 budget proposal of \$4,376,612 to the Chief Administrative Officer. The judges' budget proposal included a schedule of positions and salaries for 77 court employees, in addition to the judges. But the City omitted most of the Traffic Court budget – the portion covered by fines and fees revenue – from the City's Operating Budget. In so doing, city budget officials did not treat money collected by the Court as city revenue and could not monitor or control its use.

By agreement between the City Finance Department and the Traffic Court, the Court retained all money collected in its own bank accounts and spent it without oversight by city budget officials. Based on a review of Traffic Court records, we determined that actual Court operating expenses for 2010 totaled \$5,597,072, about \$1.2 million more than the \$4,376,612 budget proposal the judges submitted to the City's Chief Administrative Officer (Figure G).²⁶ We also determined from the City's payroll records that the Court actually had 88 employees in 2010, substantially more than the 77 positions the judges had requested in their budget submission.

²⁵ La. R.S.39:1311.

²⁶ Expenditures include the \$940,000 appropriation from General Fund, \$4,231,148 expenditures reported in the 2010 audit of the Judicial Expense fund, and \$425,924 in City fine payments retained by the Court not reported in the audit.

Figure I: Traffic Court 2010 Budget Proposal and Actual Expenditures

	Budget Proposal	Actual Expenditures
Personal	\$3,714,191	\$3,769,790
Operating	\$662,421	\$1,827,282
<i>Total</i>	\$4,376,612	\$5,597,072

In addition to the absence of effective budgetary controls, the financial reporting requirements for the Traffic Court were inadequate. As a result, complete information about the Court's revenues and expenditures could not be easily obtained. The Traffic Court's only reporting requirement was to cause an annual audit of its Judicial Expense Fund to be performed. We found, however, that the 2010 audit of the Traffic Court Judicial Expense Fund provided an incomplete and misleading picture of the Court's finances because of its limited scope, which included only a portion of the revenue collected and omitted a substantial portion of the Court's operating expenditures, as discussed in Finding 11.

To determine the specific type of revenues the Traffic Court used to fund its operating budget, the OIG analyzed the Court's 2010 collections and disbursements. The results of that analysis are presented in the following section.

PART II: PERFORMANCE REVIEW OF NEW ORLEANS TRAFFIC COURT

Traffic Court 2010 Collections and Disbursements

Traffic Court collected fines for the City of New Orleans, remitting approximately \$5.2 million to the Finance Department for 2010. In addition to fines, the Court was responsible for collecting statutory fees on behalf of other governmental entities and organizations. These fees were imposed by state law to fund various criminal justice activities. Traffic Court acted as an escrow agent with respect to the fees, disbursing them on a monthly basis to the various agencies. Traffic Court was also authorized to charge a \$10 fee to be used by the Court to defray its own operating expenses.²⁷ The statutory fees assessed for traffic violations are displayed in Figure J.

Based on court records, we determined that the Court collected approximately \$12.8 million in 2010 for fines, statutory fees, forfeited bonds, and other charges. Of that amount, the Court remitted approximately \$5.2 million in fines to the City and approximately \$2.3 million in statutory fees to various agencies. The Court retained about \$5.3 million of the revenue it collected. The Court used most of this money for its expenses.

As part of this performance review, the OIG examined court records to determine the types of revenue, e.g., fines, statutory fees, bond forfeiture proceeds, etc., retained by the Court for its own use. As explained in the next section, the Court had statutory authority to retain certain revenues in a Judicial Expense Fund.

Traffic Court Judicial Expense Fund

The Traffic Court was authorized by state law to maintain a Judicial Expense Fund (JEF), to be used at the discretion of the judges for any operating expense, except salaries for judges.²⁸ The statute creating the fund stated:

There is hereby established the judicial expense fund for the Traffic Court of New Orleans, which shall be a special account for use in administration of the court. The judicial administrator shall deposit into the fund any monies specifically designated for such purpose.²⁹

The statute was clear about the permissible uses of this fund, but not about the sources of revenue that would fund it. The intended meaning of the term “monies specifically designated” for the JEF was not explained.

²⁷ La. R.S. 32:393. In 2011, the Louisiana Legislature enacted La. R.S. 13:2501.1(N), authorizing the Traffic Court to charge a fee of up to \$30 to be used by the court to defray its expenses.

²⁸ La. R.S. 13:2507; 2507.1.

²⁹ La. R.S. 13:2507.1.

The only source of revenue specifically designated by state law for use by the Traffic Court was a \$10 fee authorized by La. R.S. 32:393. In addition to this fee, the Court relied on an uncodified city law, Ordinance No. 1482 M.C.S., enacted in 1974, as the source of its authority to keep revenue that would otherwise be remitted to the City's General Fund. The ordinance stated the following:

[T]he Judicial Expense Fund shall consist henceforth of monies collected from contempt fines and penalties paid by persons charged with traffic violations.³⁰

This ordinance was not incorporated into the City Code, so some city officials may not have been aware of its existence. It was also ambiguous and could be interpreted to authorize the Court to retain either (1) only "fines and penalties" associated with contempt charges, without including fines and penalties associated with any other charges, or (2) "fines" associated with contempt charges *and* "penalties" paid for any type of traffic violation. The second interpretation could give the Court total control over all city revenue from traffic fines.

The principal of the Court's contract accounting firm, Thomas & Thomas Accounting Services (Thomas), who managed the data system allocating court revenues the various funds, told us that in 2010 the JEF was funded from four different sources of revenue: the \$10 statutory Traffic Court fee, contempt fines, bonds forfeited by defendants, and driver's license reinstatement fees received through the Louisiana Department of Public Safety. We asked officials in the City Finance Department what revenue sources the Court was authorized to retain for the JEF. They told us that the Court could retain certain court fees, but was required to pay all fines to the City's General Fund.

³⁰ Traffic Court judges had discretion to impose fines for contempt for defendants who failed to either pay a ticket or contest it by the return date.

Figure J.

Statutory Fees Collected for Traffic Violations

Agency	Fee	Purpose	Authorization
*INDIGENT DEFENDER	\$35	Collected on all traffic convictions to support the Orleans Parish Indigent Defender Board.	La. R.S. 15:168, <i>et seq.</i>
*TRAFFIC COURT	\$10	Collected on all traffic convictions and retained by Traffic Court to defray certain operating costs.	La. R.S. 32:393
*POLICE TRAINING	\$2	Collected on all traffic convictions to support the post-academy police training sponsored by the Louisiana Commission on Law Enforcement and Criminal Justice.	La. R.S. 46:1816(E)
*CMIS	\$2	Collected on all traffic convictions to support the (Louisiana Supreme Court) Trial Court Case Management Information System (CMIS) used throughout the state.	La. Code of Criminal Procedure Art. 887(F)
*CRIMINAL COURT	\$5	Collected on all traffic convictions to support the Orleans Parish Criminal District Court, which has original jurisdiction over state traffic offenses and appellate jurisdiction over all traffic offenses.	La. R.S. 13:1381.4(A)(1)
*MUNICIPAL COURT	\$5	Collected on all traffic convictions to support the administration of the Orleans Parish Municipal Court	La. R.S. 13:2500.2(B)
*CRIMESTOPPERS, INC.	\$2	Collected on all traffic convictions to support the non-profit, citizen-run agency that enables citizens to help law enforcement apprehend wanted criminals.	La. Code of Criminal Procedure Art. 895.4
DISTRICT ATTORNEY	\$20	Collected on DWI and other state convictions to support the Orleans Parish District Attorney.	La. R.S. 16:16.3
APPLIED TECHNOLOGY	\$25	Collected only on DWI convictions of defendants tested on the Breath Analyzer Machine to support the Applied Technology section the municipality owning the instrument used to perform the analysis, or the Office of State Police if performed by them.	La. Code of Criminal Procedure Art. 887(C)
BLOOD OR OTHER TEST	\$50	Collected only on DWI convictions for which a blood or other test was administered to the motorist to support the City whose officers performed the test.	La. Code of Criminal Procedure Art. 887(C)
HEAD & SPINAL CORD INJURY TRUST	\$5/\$25	Collected on all DWI, Reckless Driving and Speeding convictions to support the Louisiana Rehabilitation Services fund for traumatic head and spinal injury.	La R.S. 46:2633
PROBATION	\$50	Collected only on DWI convictions to help the City and Traffic Court defray expenses for administering condition of probation.	La. Code of Criminal Procedure Art. 887(D)
VICTIMS OF CRIME	\$7.50	Collected on DWI, Reckless Driving, and Hit & Run convictions to support the Louisiana Commission on Law Enforcement and Administration of Justice.	La. R.S. 46:1816(D)

*These statutory fees accounted for a major portion of the cost of a regular traffic ticket. With the exception of a seat belt violation, every regular traffic conviction carried a cost of at least \$111; of that amount, \$61 was assessed for statutory fees.

FINDING 9. TRAFFIC COURT JUDGES DIRECTED AN ESTIMATED \$1.3 MILLION OF CITY FINE REVENUE AND STATUTORY FEES TO THE JUDICIAL EXPENSE FUND.

We examined a random sample of 250 regular (non-DWI) traffic tickets to evaluate dispositions of charges and determine the manner in which revenue from fines and fees was allocated.³¹ In this sample, we identified 20 (8.6%) cases in which the Court imposed standard fines and statutory fees for a violation, but by order of the judge, directed all the ticket payments to be deposited into the JEF.

Of the 250 sampled tickets, there were 232 convictions for which statutory fees were assessed.³² This extrapolates to 48,291 such convictions in the overall population of tickets filed at Traffic Court in 2010. We used this value, and other data from Traffic Court, to estimate the amount of revenue collected by the Court in 2010 for traffic fines, fees due to other agencies, and monies specifically designated for deposit into the JEF for the Court's use (i.e., \$10 statutory fee, contempt fines, reinstatement and other fees, and bond forfeitures).³³

Our analyses revealed that, of the \$12.8 million collected by Traffic Court in 2010, judges directed approximately \$1.3 million in city fines and statutory fees to the Court JEF. As a result, the JEF received \$1.3 million more, at the expense of the City's General Fund and the other agencies, than it if had been funded only from other fees, including the \$10 Traffic Court fee, contempt fines, probation fees, reinstatement and other fees, and bond forfeitures. This practice of the judges reduced the amount paid to the City by \$811,351 and the amount paid to other agencies by \$490,181.

We interviewed staff in the Judicial Administrator's office about the practice of directing all payments collected on certain tickets into the JEF. The staff acknowledged that, in some cases, judges directed revenue payable to the City or to other agencies to be deposited into the JEF. The staff told us that judges had complete discretion to determine how revenues were allocated and were not constrained by laws governing the payment of fees to agencies.

This is not a new practice. In 2006, Traffic Court hired an auditor to perform the required annual audit the JEF. The auditor examined 50 cases from intake until the fine was paid to see if the Court disbursed funds to agencies in the proper amount. Of the 50 cases, the auditor found that in seventeen cases (34%) funds were disbursed to the JEF without "proper authorization." As a corrective action, the court reported that it "has now implemented a requirement that all fines coded to the Judicial Expense Fund be signed off by only the judge or the court's minute clerk in the judges' absence."

³¹ The sample size (n = 250) of regular traffic tickets maintains a statistical Confidence Level of 95% and a Margin of Error of plus or minus 6.

³² There are several reasons why a conviction may not have statutory fees assessed. For example, fees are not assessed for seatbelt convictions.

³³ For a complete description of the methodology, see Appendix A.

In this performance review, the OIG found that the disbursements of fines and statutory fees to the JEF were authorized by judges. City Ordinance No. 1483 M.C.S. may have authorized the judges to retain fines that would otherwise have been paid to the City's General Fund, to be used at their discretion "for any purpose or purposes connected with, incidental to, or related to the proper administration or function of said court or the offices of the individual judges."³⁴

We know of no legal authority, however, for judges to divert fees assessed by statute to fund other agencies. The Traffic Court's practice assumed that judges had authority to override a statutorily mandated system for the collection of fees. The Louisiana Supreme Court specifically rejected this proposition in *State v. Parker*, 423 So. 2d 1121 (La. 1982). In that case, the Supreme Court ruled that a city court judge had no authority to assess costs to be paid into a court-created fund:

There already exist statutory provisions for the handling of fines and costs which may be assessed by the trial court in city prosecutions. . . . In creating the Baker City Court "criminological fund," the trial judge failed to confine his exercise of the judicial power to its proper scope and usurped the legislative prerogative as to the proper allocation of costs and fines assessed in criminal proceedings in city courts. *Id.* at 1125.

In December 2010, the Louisiana Public Defender Board and the Orleans Parish Public Defenders Office sued 23 New Orleans judges seeking an order requiring the judges to assess and collect the \$35 fee on behalf of the Indigent Defender Fund. In 2011, the 19th Judicial District Court for East Baton Rouge Parish issued an order that required the judges to remit the \$35 fee to the Indigent Defender Fund.

In the view of the OIG, the Traffic Court judges exceeded their authority when they directed funds to the JEF that were legally designated for other agencies.

FINDING 10. TRAFFIC COURT CREATED A SURPLUS FOR ITS JUDICIAL EXPENSE FUND BY RETAINING ABOUT \$500,000 IN "EXCESS" REVENUE.

As discussed in Finding 9, Traffic Court judges directed about \$800,000 in fines owed to the City's General Fund to the Court's JEF. The only purpose of the JEF was to fund court operating expenses, so all city fine revenue in excess of the amount needed for court operations should have been remitted to the City. We found, however, that the Court retained about \$500,000, in addition to its operating expenses, as "surplus" revenue.

³⁴ Ordinance No. 1482 M.C.S.

The 2010 audit of the JEF provided the following statement of JEF revenues, which consisted primarily of traffic fines and fees:

Figure K. Statement of Revenues from 2010 Traffic Court JEF Audit

Bond Forfeiture	\$56,864
Reinstate Fee	\$121,075
Tickets	\$4,796,714
Interest	\$4,588
<i>Total Revenue</i>	<i>\$4,979,241</i>

In Finding 9, we noted that about \$1.3 million of the “ticket” revenue shown in Figure K consisted of traffic fines and statutory fees that judges directed to the JEF, rather than to the City or the various designated agencies. In addition to those actions taken by the judges, we found that the Traffic Court shifted about \$500,000 in ticket revenues to the JEF through an accounting transaction. This accounting shift further reduced the amount the Traffic Court paid to the City’s General Fund by about \$500,000 and produced a surplus for the JEF.

The acting Administrative Judge told the OIG that the Traffic Court was authorized to retain surplus revenue, pursuant to the following provision in Ordinance No. 1482 M.C.S.:

Any surplus remaining in this Judicial Expense Fund as of December 31, 1975, and every year thereafter, shall be distributed as follows: one-half shall be retained in the Judicial Expense Fund and the remaining one-half shall be remitted to the City of New Orleans, General Fund. Such funds shall be annually audited by the Director of Finance of the City of New Orleans.³⁵

The apparent intent of this ordinance was to authorize the JEF to retain revenue collected but not spent in a fiscal year. The City Charter, however, does not allow operating funds to be retained past the end of the year.³⁶ Aside from the Charter prohibition, it is difficult to fathom a rationale for allowing the Court to retain more operating money than needed.

According to the acting Administrative Judge, as of October 2011, the Traffic Court had accumulated \$2.2 million from JEF surplus revenues and had committed those funds to the renovation of the New Orleans Traffic Court building. Notwithstanding this explanation, we were not able to identify any statute or ordinance that authorized the Court to establish a fund for the renovation of the building it occupies, which belongs to the City of New Orleans. The laws establishing the JEF specified that it was to be used for court operating expenses.

³⁵ Neither the Traffic Court nor the City Department of Finance provided documentation to the OIG to show that the Court remitted one-half of the surplus revenue to the City’s General Fund. The Director of Finance did not audit the funds for 2010.

³⁶ City of New Orleans Home Rule Charter Section 6-103(1).

The Court's renovation project was not included in the five-year Capital Program or the Capital Budget approved by the City Council for 2011, as required by the City Charter.³⁷ For this reason, the project was not part of the City's process for planning and prioritizing the use of available funds for city projects.

In effect, the Traffic Court accumulated revenue that should have reverted to the City's General Fund and retained it for its own building fund. The Court's building fund was used to bypass the City Charter requirements for determining how city resources will be allocated among all city building projects. In 2010, the Traffic Court withheld about \$500,000 from the City's General Fund for this purpose.

FINDING 11. THE 2010 AUDIT OF THE TRAFFIC COURT JUDICIAL EXPENSE FUND PRESENTED AN INACCURATE PICTURE OF THE COURT'S ACTIVITIES.

The only financial report of the Court's 2010 activities was a statutorily required audit of the JEF, which covered only a portion of the funds under the Court's control in 2010. As discussed in Finding 9, the JEF was established, pursuant to state law, for the deposit of monies specifically designated for use in the administration of the court. The audit therefore did not encompass most of the revenue collected and disbursed by the Court. We also found that it did not include all of the Court's operating expenditures.

The audit contained a serious misstatement of revenue added to the Court's fines and fees account, which indicated that the Court collected more than \$15 million. We asked the Court's accounting contractor, Thomas, about this figure, and he explained that the misstatement was based on a misunderstanding. The figure double counted about \$2.8 million received from credit card payments, and therefore overstated receipts by approximately \$2.8 million. According to Thomas, total 2010 revenues were approximately \$12.8 million.

OIG staff compared expenditures reported in the JEF audit with the check register for the Court's JEF bank account and noted an apparent discrepancy. The audit reported \$783,984 in expenses for professional services, but we identified \$1,086,589 in payments from the JEF bank account to several professional service firms. We asked court officials why some of these expenses were not reported in the audit. Thomas told us that his firm was paid \$681,564 for services, but only \$255,640 of that amount was charged against the JEF. The other \$425,924 was charged against revenues due to the City, as discussed in Finding 12, and therefore not reported in the JEF audit.

Deducting Thomas' fees reduced the revenue remitted to the City by \$425,924. Although this was a court operating expense, these transactions were not reported in the audit. As a result, the expenditures were not disclosed and would not have come to light but for this performance review.

³⁷ City of New Orleans Home Rule Charter Section 6-104.

FINDING 12. TRAFFIC COURT USED CITY FINE REVENUE TO PAY A COURT CONTRACTOR FOR SERVICES THE CITY DID NOT AUTHORIZE.

As discussed in Finding 11, the Court withheld \$425,924 in city revenue to pay for services provided by its accountant, Thomas. To explain these charges, Thomas gave us a copy of a letter dated April 29, 2010, from the City's then Chief Administrative Officer³⁸ to the then Chief Administrative Judge for the Traffic Court. The letter stated:

The Administration of the City of New Orleans agrees that the Traffic Court online payment system reconciliation costs will be prorated to the various agencies that share in Traffic Fines. The estimated amount to be deducted for the City of New Orleans' share is approximately \$150,000.

Our staff has also indicated that Chase Bank, the City's current online processor, will provide services in the near future. This change will eliminate any additional reconciliation costs in the future.

According to Thomas, this letter authorized the Court to charge the City for services performed by his firm to reconcile online credit card payments with the Traffic Court accounting system. Although the City was charged for the services, Thomas' invoices were approved by the Traffic Court's Judicial Administrator and payments were made from the Court's JEF bank account. The failure to disclose these expenditures in the Court's JEF audit, or in any other report, effectively concealed these payments from city officials and from public disclosure.

According to officials in the City's Finance Department, the City did not receive any of Thomas' invoices and they were not aware that the firm charged the City more than the \$150,000 estimate. Finance Department staff familiar with the letter said that the former Chief Administrative Officer intended to authorize only a one-time project, to clean up the City's credit card account after Katrina. According to Finance Department personnel, the City did not authorize payment for on-going credit card reconciliation services.

As was the case with Thomas' other billings to the Traffic Court, the invoices had only vague descriptions of tasks performed and included no timesheets to document the hours worked or to identify the individual performing the work. A typical invoice included two or three general tasks with a large block of time, e.g. 50 hours, attributed to each task. Records indicate that the Judicial Administrator approved all of the invoices without questioning any charges.

³⁸ On May 3, 2010, four days after the date on this letter, a newly elected Mayor took office and a new Chief Administrative Officer was appointed.

Traffic Court Procedures

In 2010, Traffic Court prosecutions were handled by city attorneys, who had broad discretion with respect to the disposition of traffic charges. An individual who wished to contest any charges on a traffic ticket was required to appear in person at Traffic Court when a city attorney was present, typically between 9:00 and 11:00 a.m. or 2:00 and 4:00 p.m. The individual was directed to speak with the city attorney, who had authority to dismiss or reduce some or all of the charges.

Court personnel interviewed by the OIG reported that essentially all contested traffic tickets, except driving while intoxicated (DWI) cases, were resolved through an agreement between the defendant and the city attorney, and that the Traffic Court virtually never conducted a trial for a non-DWI ticket. The OIG reviewed the dispositions for the entire population of traffic charges filed in 2010 and determined that trials for DWI cases were also rare; we counted only four DWI cases in 2010 that were disposed of through a trial.

FINDING 13. THE CITY ATTORNEY'S OFFICE MAINTAINED NO RECORDS OF NON-DWI CASE DISPOSITIONS AND LACKED WRITTEN POLICIES TO GUIDE PROSECUTORIAL DISCRETION.

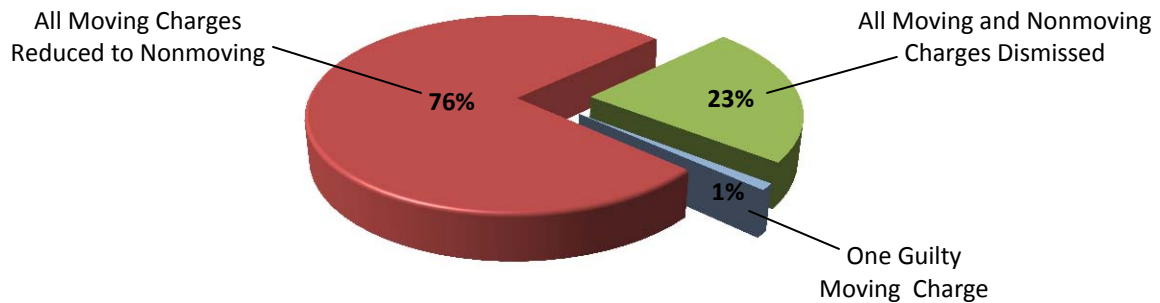
After our office learned that regular traffic charges were almost never tried in court, we decided to inspect the dispositions for all moving charges across a random sample of 250 regular traffic tickets filed in 2010.³⁹ Of the 250 tickets, 149 (60%) contained at least one moving violation.⁴⁰

We analyzed the dispositions across the 149 tickets and found that all of the charges across 56 (38%) of the tickets were not contested and simply paid. Each of the remaining 93 tickets included at least one moving charge that was contested in court. Of these tickets, 71 had all of the moving charges reduced to nonmoving and 21 had all charges dismissed by city attorneys. Only one of the 93 contested tickets had a guilty plea for a moving charge. The disposition outcomes across the 93 contested traffic tickets are shown in Figure L.

³⁹ This was the same sample used for the analysis in Finding 9. We did not include tickets with DWI charges because in these cases all charges except the DWI charge are nearly always dismissed. See Appendix A for detailed methodology.

⁴⁰ Moving violations (charges) include infractions such as speeding, running a red light, or hit and run. Nonmoving violations include not wearing a seatbelt, non-working tail lights, no registration, and no driver's license. The Court reports moving violations to the Louisiana Department of Public Safety and auto insurers use the information to set premiums. A city attorney we spoke with said that she commonly reduces moving violations to nonmoving violations in order to give people a break on their insurance.

Figure L: 2010 Sample Analysis, Outcomes for Contested Tickets with Moving Charges



Of the 93 contested tickets with moving violations, we isolated specific charges of interest – hit and run, reckless driving, running of a red light, and speeding charges – and reviewed the dispositions for each. Across this sample of 93 tickets, there were a total of 120 contested moving charges, as shown in Figure M.

Figure M: 2010 Sample Analysis, Dispositions of Specific Moving Charges on Contested Tickets

	Total # of Charges	Guilty	Dismissed
Hit and Run	1	0	1
Reckless Driving	7	0	7
Red Light	13	1	12
Speeding	41	0	41
Other Moving Violation	58	0	58
<i>All Moving Violations</i>	<i>120</i>	<i>1 (1%)</i>	<i>119 (99%)</i>

The data in Figure M shows a pattern of dismissing nearly all contested moving charges. Only one of the 120 contested moving charges resulted in a conviction, while 119 moving charges were dismissed by city attorneys.

This analysis revealed a systematic practice of dismissing moving violation charges. In many cases, moving charges appeared to be dismissed in return for a guilty plea to a non-moving charge, often one that was not cited by the police officer when the ticket was issued. Such plea agreements eliminate the need to conduct trials, but may not always serve the interests of public safety or hold the defendant accountable.

As a prosecutor, the city attorney serves as an independent administrator of justice. The position necessarily calls for the exercise of discretion and requires societal interests to be the prosecutor’s paramount concern. The public could not be assured that this discretion was exercised fairly in the absence of written prosecution policies and reporting on the outcomes of cases prosecuted in Traffic Court in 2010.

FINDING 14: TRAFFIC CHARGES WERE DISMISSED BY JUDGES OR BY JUDGES' STAFF MEMBERS WITHOUT THE REQUIRED AUTHORITY OF A CITY ATTORNEY.

During our review of a sample of dismissed charges we discovered that some judges had signed tickets to dismiss charges. We also discovered cases in which tickets with dismissed charges were signed by courtroom employees. Traffic Court staff told us that one of the judges had authorized certain members of his courtroom staff to dismiss charges.

State law grants the prosecuting attorney the exclusive authority to determine against whom, when, and how prosecution should proceed.⁴¹ The prosecutor's authority includes the discretion to dismiss any charges, provided that the dismissal is made orally in open court or by the prosecutor's written signature.⁴² The Louisiana Code of Judicial Conduct prohibits a judge from making ex parte decisions – actions taken outside of the presence of the prosecutor – on the merits of a criminal case.⁴³ A Traffic Court judge has no authority to dismiss traffic charges outside of the presence of a city attorney without an open hearing or trial.

As discussed in Finding 16, court routine required employees to review tickets with dismissed charges to ensure that the tickets were signed by someone with authority to do so. However, when asked to identify the signatures on 31 tickets from our sample, a court employee identified signatures of five city attorneys, one judge, one ad hoc judge, the minute clerks for Divisions A and D, and the court crier for Division D. Of these, only the city attorneys had the authority to dismiss charges. All of these tickets which we inquired about had previously been reviewed by court employees, who had determined that all of the dismissed charges were properly authorized.⁴⁴

In interviews with OIG staff, two other court employees confirmed that some judges and judges' staff signed tickets dismissing traffic charges. These court employees told us that they were instructed to accept the signatures of judges and of certain courtroom staff dismissing traffic tickets. Some court employees we spoke with believed that judges had authority to dismiss charges and could delegate that authority to their staff.

The practice by some judges of dismissing traffic charges is contrary to the law. Even if the judges had the authority, it would be improper to authorize staff to perform a judicial function; such a practice would constitute an improper delegation of authority.⁴⁵ Dismissing charges without the authority of the prosecutor may also violate the judges' duty to respect and comply with the law and act at all times in a manner that promotes confidence in the integrity and impartiality of the law.

⁴¹ La.C.Cr.P. art. 61. While the article refers to the "district attorney," La. C.Cr.P. art. 693 clarifies that the article includes the prosecuting officer in a city court.

⁴² La. C.Cr.P. art. 691.

⁴³ Code of Judicial Conduct, Canon 3(A)(6).

⁴⁴ In a separate interview, one of the two city attorneys regularly assigned to Division D told us that she had no knowledge of courtroom staff signing traffic tickets.

⁴⁵ See *In re Hughes*, 874 So. 2d 746 (La. 2004).

FINDING 15. TRAFFIC COURT'S FINANCIAL MANAGEMENT CAPACITY IN 2010 WAS NOT ADEQUATE TO PROPERLY SAFEGUARD AND ADMINISTER \$12.8 MILLION IN REVENUES.

In 2004, a statute was enacted to allow Traffic Court to take control over and administer all deposits and disbursements of the Judicial Expense Fund.⁴⁶ As discussed in Finding 9, the Judicial Expense Fund consists of monies specifically designated for use by the Court for its own operating expenses.

By agreement with the City's Finance Department, however, the Traffic Court actually controlled and administered *all* revenues in 2010, not just the Judicial Expense Fund revenues. The Court deposited all monies, including city revenue from fines and revenue due to other agencies, into bank accounts maintained by the Court. This was a major departure from the pre-2004 practice of depositing revenues in the City Treasury to be administered by the City Finance Department. The practice also departed from state law, which required all money collected by the Court, except for monies specifically designated for the Judicial Expense Fund, to be remitted daily by the Clerk to the City's Director of Finance.⁴⁷

Although the Court took control of all traffic violation revenue in 2004, it did not develop the financial management capacity needed to properly safeguard and administer these funds. We learned from Traffic Court personnel and from audit reports that, prior to Hurricane Katrina, the court's financial management systems were maintained in handwritten ledgers. Subsequent to Katrina, the Court hired a bookkeeping firm to computerize the court's accounting system by implementing QuickBooks software.

After implementing QuickBooks, the Court continued to depend on contracts with outside accountants for financial management functions. In 2010, these functions were performed by Thomas at a rate of \$80 per hour. Thomas handled the Court's bookkeeping by entering transactions into QuickBooks, preparing monthly reports of the Court's financial results, and reconciling bank accounts.

In 2010, the Court had not taken steps to end its dependence on outside contractors for basic financial management by developing a skilled accounting staff. The Court's nearly total reliance on a contractor for financial record-keeping and reporting was costly, as discussed in Finding 23.

This dependency was also risky for an organization that lacked the capacity to effectively oversee the contractor's work. Thomas, the Court's contract accountant, manually entered all the Court's financial data into the QuickBooks account in 2010. The QuickBooks accounts could not be reconciled with the Court's case management system, making it impossible to verify the accuracy of the accountant's work. Thomas allocated \$12.8 million to the City and various agencies without any oversight.

⁴⁶ La. R.S. 13:2507.1.

⁴⁷ La. R.S. 13:2507.

An organization responsible for safeguarding and administering more than \$12 million in public funds annually should have sufficient in-house expertise to manage its accounting, financial reporting, procurement, and contract administration functions. Findings in this report show that Traffic Court did not have that expertise in 2010.

FINDING 16. TRAFFIC COURT LACKED ADEQUATE CONTROLS AGAINST MISAPPROPRIATION OF CASH.

The Traffic Court collected a large volume of payments in cash. For this reason, effective safeguards against theft were especially critical. Past criminal prosecutions involving bribery or theft of Traffic Court funds have highlighted vulnerabilities and the need to control access to the Court's computer system.

In 2005, nine individuals, including five Traffic Court employees and two city attorneys, pled guilty in federal court on charges of accepting bribes for fixing traffic tickets. In 2007, four other individuals pled guilty on criminal charges connected to Traffic Court payments. Two of these defendants were convicted of accepting bribes and two other Traffic Court employees admitted embezzling money from fines.

In 2007, in response to the misappropriation of funds by court employees, the Traffic Court obtained an audit of certain internal controls. The auditor found weaknesses in computer security that allowed employees to misappropriate funds. The Traffic Court's Judicial Administrator prepared the following response, describing corrective action the Court had taken in response to the finding in the 2007 audit report:

[T]he misappropriation took place because court personnel could change case information without the approval of upper management. A change was made to the court's operating system that requires court personnel to input a password to change case information. Upper level management maintains this password and upper level management must input this password into the operating system to change case information.

In this review, we found the corrective action taken by the Traffic Court in response to the 2007 audit was inadequate. The Court's use of passwords was not an effective control because computer privileges were not appropriately restricted and almost all court employees had access to enter charge dispositions into the computer system.

A. Cashiers entered case dispositions and collected cash payments, in violation of the control principle that requires segregation of incompatible duties.

As previously discussed, almost all contested cases were resolved by agreement between the defendant and a city attorney. At that point, the city attorney handwrote the disposition of the charges on the front of the ticket and signed it. The minute clerk in the courtroom was supposed to enter the disposition into the Court's computerized docket system. In practice,

however, this did not generally occur. Instead, the defendant was directed to a cashier to pay the fine, if any, or to receive a written report of dismissal if no fine was imposed. The cashier was required to read the handwritten disposition on the ticket, determine that city attorney's signature was genuine, enter the disposition into the computerized database, and accept payment of the amount due.

Court personnel told us that almost all court employees, including courtroom clerks and cashiers, had computer privileges that allowed them to enter dispositions on traffic charges. Court personnel said that all of these employees needed this level of access because they frequently performed different job functions, with clerks acting as cashiers and vice versa. However, affording all of these employees, including employees who accept cash payment, privileges to enter dispositions posed a serious risk of misappropriation.

Segregation of duties is a basic internal control that provides that no single individual should have control over two or more phases of a financial transaction or operation. Traffic Court procedures called for a single individual – a cashier – to both enter the disposition of a case and accept payment of the fine. These procedures made it possible for a cashier to accept a payment, but enter a dismissal into the database, showing that no money was paid. If the cashier kept the money, there would be no indication in the database of a missing payment.

B. Traffic Court's procedure for preventing misappropriation of cash payments was inefficient and ineffective.

To ensure that all cash collected by cashiers was properly accounted for, Traffic Court employed several employees whose primary job function was to compare dispositions entered into the Court's computer database by cashiers with handwritten information on the traffic tickets. If the city attorney's handwritten notes agreed with the disposition entered in the computer, the disposition was accepted. If the court employee found a problem with the notes or with the city attorney's signature on the ticket, the cashier would be questioned about the transaction. Reviewing traffic tickets was a time-consuming task that could only be effective if court employees could correctly interpret all the handwriting and positively identify the signatures of city attorneys.

Traffic Court relied on the presence of a signature on each ticket to verify that it was dismissed by a city attorney. However, when an OIG staff member observed a court employee checking signatures of tickets, the employee was unable to identify signatures on at least the first six tickets that passed her desk. These tickets would have passed through the review process unquestioned if OIG staff had not inquired about the signatures.

After this observation, OIG performed a signature check to see if court employees could recognize signatures on tickets that had been finalized. We collected a random sample of 31 finalized tickets and asked court employees to identify the signatures on them. Several employees would not participate, claiming that they "wouldn't know" the signatures, although

their job duties required them to check signatures on tickets. The supervisor was unable to identify eight of the 31 signatures that were presented.

In addition to the risk of misappropriation by court employees, the antiquated system of relying on handwritten notes on paper tickets also created a risk that others could alter case dispositions. For example, a defendant could alter the handwritten disposition on the ticket before taking it to the cashier.

The observations made it clear that the Traffic Court's reliance on signatures as a control mechanism for verifying that tickets had been properly dismissed created a very weak control mechanism. This procedure was also costly; it consumed most of every work day for several court employees.

FINDING 17. TRAFFIC COURT HAD NO WRITTEN POLICIES OR PROCEDURES TO GOVERN COURT OPERATIONS.

Traffic Court lacked written policies or procedures governing any of its functions. In particular, the OIG found that the lack of guidance or standards had adverse impacts in the following areas:

Employee Roles and Responsibilities

There were no job descriptions to define the responsibilities of clerks, cashiers and other employees. Employees regarded some distinct job roles as interchangeable, which led to a lack of segregation of incompatible duties, as discussed in Finding 16.

The Court did not establish rules of conduct or standards of job performance and employees did not receive written performance evaluations. Some court personnel told us that there were no consequences for poor work performance. We observed, for example, that there was no standard policy with regard to cash shortages discovered in cashier tills. Court records showed that in 2010, the Court identified 39 instances of cash shortfalls, most of which were attributed to a few cashiers. In particular, four cashiers stood out for having regular, repeated cash shortages. According to court personnel, the cashiers were simply allowed to repay the shortages over time and no consequences were imposed.

Use of Computer Systems

The Court used a specially designed software program to manage all of its case information and financial data. However, there was no manual or formal employee training to teach employees how to use the system. Court managers told the OIG that employees used incorrect codes for transactions and made other data entry errors so frequently that the database was unreliable. They also told us that the Court was not using the system to its full capacity and was performing tasks manually that the computer system could do more efficiently and accurately.

Accounting and Financial Management

There were no written procedures governing the Court's financial operations or establishing a system of internal controls. These operations were overseen by a contractor, Thomas, and court employees played only a limited role in the Court's financial management.

Records Management

The Court had no records retention policies or standards. The Court still relied heavily on hard copy original traffic citations to document dispositions and maintained paper files for all cases. OIG requested a sample of traffic case files to analyze as part of our evaluation. We requested a sample of 278 cases but the court was only able to provide 255 of the requested cases. Traffic Court could not provide 8% of the files we requested.

The files we reviewed varied widely with respect to the documentation included. Documents such as payment receipts and printouts of dockets were found in some files but not others. Some files were missing the original citation. The biggest differences were among the DWI case files. Some DWI files included such documents as records of prior convictions and documentation for probation and rehabilitation programs, while others lacked this documentation.

Procurement

The Traffic Court had no procedures for procurement of goods, services, or professional services, as detailed in Findings 21 and 22.

Written policies and procedures are essential to provide employees with a clear understanding of an agency's basic practices and functions, to provide direction in the proper manner in which transactions should be processed, to clearly delineate who has responsibility for any given task, and to provide training tools for new employees. Written procedures and guidelines ensure that tasks are performed on a uniform and timely basis even if a key employee leaves the organization or is absent for an extended period of time.

The lack of written policies or procedures contributed to the high rate of errors in the Court's case management system, made it difficult to hold employees accountable for their job performance, and undermined controls.

FINDING 18. TRAFFIC COURT JUDGES' EMPLOYEES RECEIVED FULL-TIME SALARIES AND BENEFITS FROM THE CITY WHILE WORKING PART TIME.

As discussed in Finding 5, 43 of Traffic Court's employees were hired by and assigned to work directly for one the four judges as unclassified, at-will employees.

According to the Acting Administrative Judge and other court employees, judges' personal staff worked part time in 2010, typically not more than three hours per day. Based on observations conducted by OIG staff, Traffic Court sessions generally run for two or three hours. Division D, for example, began its session at 2:00 p.m. and typically ended by 4:00 p.m. Judges' employees'

schedules were based on the length of the court sessions rather than on the City's requirement that full-time employees work 35 hours per week.

Despite their part-time work schedules, the judges' personal employees were paid full-time salaries and received benefits only afforded to full-time city employees. Benefits included vacation and sick leave, life insurance, enrollment in the city pension plan, and eligibility for coverage under the city health care plan. As court employees, they also had 18 paid holidays during the year, while other city employees only received 10.

The City's personnel policies required all employees to work a minimum of 30 hours per week in order to be eligible for health or life insurance benefits, a standard these court employees did not meet. Although the judges' employees held unclassified positions, the City's Civil Service rules governed their salaries and schedules. The Civil Service Commission and the City Council approved a new pay plan for unclassified court employees in 2009, increasing their salaries on the same basis as salaries for other city workers. The approved pay plan was based on a 35-hour work week.

The Acting Administrative Judge told us that, in his view, the low number of hours worked was justified by the low salaries. These salaries ranged from a high of \$45,169 for one of the minute clerks to a low of \$21,975 for an "Office Assistant," a generic job class used for entry-level courtroom clerks and cashiers. These salaries were in line with what other city employees received for comparable full-time work. For example, an Office Assistant II hired to work for any other city department would be paid a salary of \$21,436 for a 35-hour week.⁴⁸

The Acting Administrative Judge told us courtroom employees had been working part time for many years and he believed that city officials were aware of the practice. However, officials in the City's Finance Department told us they were not aware of part-time workers receiving full-time salaries and benefits. They knew of no exceptions to the City's policies that would permit this practice.

FINDING 19. TRAFFIC COURT HIRED VIOLATIONS BUREAU EMPLOYEES WITHOUT REGARD FOR CIVIL SERVICE REQUIREMENTS.

As discussed in Finding 4, state law requires the City to pay the salaries of Traffic Court judges, personal employees hired by each of the judges, the Clerk of Court, employees of the Clerk of Court (who work in what is called the Violations Bureau), and the Judicial Administrator.

The Clerk of Court and the Judicial Administrator are each appointed by the Traffic Court judges.⁴⁹ State law also authorizes each judge to appoint his own minute clerk, stenographer, crier, court reporter, and any other personnel deemed "necessary to expedite the business and

⁴⁸ *City of New Orleans Revised Pay Plan for the Classified Service*, June 20, 2011.

⁴⁹ La. R.S. 13:2501.1(H).

functions of the court.”⁵⁰ These employees are unclassified and are therefore selected by and work at the pleasure of the judges.

In addition to these appointed positions, the Clerk of Court is authorized to hire deputy clerks, assistants, and other employees, including a chief deputy clerk, cashiers, bond clerks, affidavit clerks, docket clerks, stenographers, and secretaries to work in the Violations Bureau. Unlike the judges’ personal employees, however, the law provides that these are classified civil service positions. The Clerk of Court is required by law to appoint, employ, and remove these employees “only in accordance with the provisions of law applicable to the city civil service system.”⁵¹

Since Hurricane Katrina, all new employees hired by the Clerk of Court to work in the Violations Bureau were placed in unclassified positions, in contravention of the state law that required the Violations Bureau to be staffed by classified employees. By circumventing Civil Service rules for classified employees, the Clerk of Court avoided requirements to advertise open positions, obtain qualifications from candidates, and hire employees based on merit.

Prior to 1942, all employees of the City of New Orleans served at the pleasure of elected officials. The Civil Service was created by the Louisiana Constitution to oversee and administer personnel functions to protect employees from political pressure and to base employment on merit.⁵² The rules prohibit classified employees from engaging in political activities or donating campaign funds (a protection from employers who might require such activities) and protect them from termination without cause.

As a result of hiring practices that circumvented the law, the Violations Bureau was staffed with employees who did not have these protections.

FINDING 20. TRAFFIC COURT INAPPROPRIATELY CLASSIFIED EMPLOYEES AS CONTRACTORS.

Traffic Court paid about \$200,000 in 2010 from its Judicial Expense Fund to individuals it described as “contract laborers” who were employed by the Court. These payments included no deductions for federal or state income tax, Social Security, or Medicare withholdings. The individuals in question performed the functions of regular court employees. The Traffic Court had no written contracts with any of these workers.

\$50,127 of that total was paid to individuals who were later added to the City’s payroll as permanent employees in 2010 or 2011. The Clerk of Court explained to us that the City delayed adding these new employees to the payroll and, rather than postpone their hiring, the Court paid them as contractors until they went on the payroll. Some of these employees were paid as contractors for more than six months before they were added to the payroll.

⁵⁰ La. R.S. 13:2501.1(l)(1).

⁵¹ La. R.S. 13:2510.

⁵² La. Const. Art. X §1, *et seq.*

Another Traffic Court employee has been paid as a “contract laborer” since returning after Hurricane Katrina. She acted as an assistant to the Assistant Judicial Administrator, with the same functions she performed prior to Hurricane Katrina as a court employee classified as an “Administrative Assistant.” She received \$51,805 in contract payments in 2010.

In 2010, the Court also paid 23 “summer workers” a total of \$72,975 to work as contract laborers from late May to late August 2010. These summer workers performed tasks at the specific direction of permanent Traffic Court employees, including working as cashiers, collecting money and entering dispositions.

The Court also made \$21,600 in salary payments to ad hoc judges who filled in when regular judges were absent. These payments violated a state law against paying judges from the JEF, as well as IRS payroll tax withholding requirements.

According to IRS Publication 15-A, entitled “Employer’s Supplemental Tax Guide,” an employer must generally withhold federal income taxes, withhold and pay social security and Medicare taxes, and pay unemployment tax on wages paid to an employee. To determine whether an individual may properly be treated as an independent contractor instead of an employee, the IRS will consider facts providing evidence of whether an employer has control over an individual’s work or whether the individual has freedom to perform the work independently. These facts generally fall under three categories: behavioral control (i.e., whether the employer controls the details of a worker’s performance and the methods which must be used), financial control (whether a worker has invested in facilities or tools, whether a worker is paid on an hourly or weekly basis versus a flat fee or time and materials basis), and the nature of the relationship (by written contract or otherwise).

Based on these factors, we determined that the Traffic Court workers were employees subject to payroll withholding under the Internal Revenue Service rules. The Court’s failure to properly withhold taxes exposed the City to potential legal liability. The Internal Revenue Code provides that anyone who has failed to collect, account for and pay federally mandated withholding taxes may be liable for penalties equal to the total amount of taxes not collected, accounted for or paid.⁵³ An employer who classifies an employee as an independent contractor without a reasonable basis for doing so may also face additional liability. Penalties and interest on those unpaid taxes could also be assessed. Potential liability for failure to withhold payroll taxes is shown in Figure N.

⁵³ 26 U.S.C. §6672(a).

Figure N: Potential Liability of City for Failure to Withhold Payroll Taxes in 2010

	Amount of Wages Paid to Employees	Unpaid Social Security and Medicare Taxes (15.3%) ⁵⁴	Additional Liability for Withholding Taxes (1.5%)	2010 Potential City Liability
Added To Payroll	\$50,127	\$7,669	\$752	\$8,421
1 Regular Employee	\$51,805	\$7,926	\$777	\$8,703
Summer Employees	\$72,975	\$11,165	\$1,095	\$12,260
Ad Hoc Judges	\$21,600	\$3,305	\$324	\$3,629
<i>Total</i>	<i>\$196,507</i>	<i>\$30,065</i>	<i>\$2,948</i>	<i>\$33,013</i>

FINDING 21. TRAFFIC COURT SPENT OVER \$250,000 ON MATERIALS, SUPPLIES, AND NON-PROFESSIONAL SERVICES WITHOUT OBTAINING COMPETITIVE BIDS.

Traffic Court had no written procedures governing purchases and did not seek bids or proposals to procure any goods or services.

The City’s procedures require purchasers to obtain three quotes for purchases of materials, supplies, or non-professional services over \$1,000, and purchases over \$20,000 require the City to seek bids via public advertisement. For items purchased in partial deliveries throughout the fiscal year, such as office supplies, the bidding threshold is determined by the estimated total value of the items that will be purchased during the year.

The uncodified city ordinance that established the Court’s Judicial Expense Fund, Ordinance No. 1482, M.C.S., provides that “[p]rocurement of equipment and supplies and materials shall be obtained by the Traffic Court through requests submitted to the Department of Finance, Bureau of Purchasing, for procurements through public bid.” The Traffic Court did not comply with this ordinance but instead made sole-source purchases directly from vendors of office equipment and supplies and computer hardware and software.

The Traffic Court paid 24 different companies between \$1,000 and \$19,999 in 2010 for a total of \$134,561 in purchases of items, including office and computer equipment for which the City’s Purchasing Department had already entered into competitively bid contracts. The Traffic Court did not purchase the items from the City’s designated contractors. The Court also paid three companies more than \$20,000 each for office equipment, supplies, and computer software purchases totaling \$143,459.

Public procurement laws and policies exist to increase public confidence in the ability of public agencies to purchase goods and services for the best possible price and to ensure that all persons involved with the procurement are treated fairly. The Court’s non-competitive purchasing practices gave citizens no assurance that public money was well spent.

⁵⁴ 26 U.S.C. §3101(a), 26 U.S.C. §3111(a).

FINDING 22. TRAFFIC COURT PAID PROFESSIONAL SERVICE CONTRACTORS \$887,404 IN 2010 WITHOUT USING ANY COMPETITIVE PROCUREMENT PROCESS.

Traffic Court paid \$887,405 to three professional service providers in 2010 to provide accounting services, information technology services, and the statutorily mandated audit of the Court's Judicial Expense Fund without issuing any requests for proposals or using any competitive process.

The largest of these sole-source contracts was with Thomas & Thomas Accounting Services (Thomas). Thomas was hired to provide a variety of services at an hourly rate of \$80. In 2010, Thomas received \$681,565 through this contract. Thomas oversaw the Court's financial management system and performed other tasks, as discussed in Finding 23.

Major Services, Inc. (MSI) was paid \$185,840 in 2010 to provide one full-time information technology worker to the Traffic Court at a rate of \$80 per hour. The Court's contract with MSI consisted of a one page "Proposal for Services" prepared by MSI dated October 7, 2005, for one consultant to "provide technical support, coordination and direction in restarting and operating New Orleans Traffic Court's computerized case management system and traffic ticket imaging systems" following Hurricane Katrina. The proposal was signed by the Traffic Court's Chief Administrative Judge at the time and by the President of MSI. No updated proposal or contract was provided.

We determined that the responsibilities and skill set called for in the technical support contract were similar to the Information Technology Manager position under the City's Civil Service job classifications. The salary for this position was \$68,909.⁵⁵ At this salary, a full-time employee, including city benefits, would cost \$96,456. Hiring a qualified information technology employee would therefore cost about \$90,000 per year less than the current contract. But regardless of whether the Court's decision to contract for this worker was sensible, the failure to seek competition for the contract was imprudent.

The third professional service contractor retained by the Court was Ronald W. Garrity, APAC, who was paid \$20,000 to prepare the Traffic Court's required 2010 audit of its Judicial Expense Fund. This contract was also awarded on a sole-source basis.

Although neither state law nor the City Charter require the Traffic Court to utilize a competitive process to select professional service contractors, the Court, like any other department or agency charged with the stewardship of public funds, should strive to use a process that ensures fair, open, and transparent selection of contractors to ensure the public that funds are being spent properly.⁵⁶

⁵⁵ *City of New Orleans Revised Pay Plan for the Classified Service* June 20, 2011.

⁵⁶ Section 6-308(5) of the New Orleans City Charter require that the Executive Branch and the City Council must both utilize a competitive selection process to procure professional services.

FINDING 23. TRAFFIC COURT DID NOT EXERCISE ADEQUATE OVERSIGHT OVER ITS ACCOUNTING SERVICES CONTRACTOR OR REQUIRE DOCUMENTATION TO SUPPORT HOURLY BILLINGS.

As discussed in Finding 22, the Court paid its contract accountant, Thomas, \$681,565 in 2010. In response to our request for Thomas' billings, the Court provided copies of 260 invoices reflecting 7,104 hours of work performed for a total \$561,925.⁵⁷

The invoices were extremely vague and did not identify specific tasks or work products. No timesheets were provided showing hours worked on a daily or weekly basis, individuals performing work, or descriptions of work completed. Instead, the bills consisted of nothing more than unspecific line items associated with large blocks of time, like the following examples:

- Reports and Documentation Reconciliation (45 hours)
- Audit Work for Fines and Fees (60 hours)
- August Thru September Internal Transactions Review (60 hours)
- Reconciliation and Review of City Capital One Account (102 hours)
- Meetings with Staff Regarding Tickets (50 hours)
- Traffic Court Accounting Review of Issues With Non-Pros and Surety (\$5,600 – no hours identified)

The invoices from Thomas were approved by the Judicial Administrator. When asked how he determined the accuracy of the billings, the Judicial Administrator said "the work was done." He acknowledged that he had no way to verify the numbers of hours worked and did not know whether work was done by the firm's owner or by employees. He approved billings averaging more than 160 hours per week without obtaining timesheets or other documentation to support the charges. Records show that the Judicial Administrator did not question or seek explanation for any single charge before approving payment.

Much of the work performed by Thomas in 2010 consisted of routine tasks that were also performed by court employees. These tasks included reconciling daily tills and performing data entry functions, such as manually entering data from the Court's case management system into a QuickBooks database. The Court had no contract oversight procedures that would show whether Thomas' invoices included work that was done by court employees and we found no rationale for paying a contractor \$80 per hour for these tasks. Thomas also charged many hours for bank reconciliations. Records indicate that some reconciliation was done manually, rather than electronically, a time-consuming and costly practice.

Hourly rate contracts require oversight to guard against the risk of excessive costs. The Traffic Court not only neglected to monitor this contract, but also failed to require any documentation to support billings. The Court's failure to responsibly manage this contract put public funds at risk.

⁵⁷ The Court provided information showing that Thomas received \$681,654 from the Court in 2010. The Court did not, however, provide invoices supporting the full amount Thomas was paid for the year.

FINDING 24. TRAFFIC COURT'S ACCOUNTING SERVICES CONTRACTOR ALSO ACTED AS CAMPAIGN FUND TREASURER FOR THE ACTING CHIEF JUDGE IN 2010.

Vandale Thomas, owner of Thomas & Thomas Accounting Services, was the Traffic Court's primary contractor in 2010, and received \$681,565 for work that included supervising the Court's accounting personnel. At the same time, Vandale Thomas also served as Treasurer for the Acting Administrative Judge's political campaign fund.

Under Canon 7 of the Louisiana Supreme Court's Code of Judicial Conduct, a judge may not solicit or accept campaign contributions. According to Canon 7, a judge should discourage employees and officials subject to his or her direction from doing anything on the judge's behalf that the judge is prohibited from doing.⁵⁸

Traffic Court records indicate that Thomas was retained by the Traffic Court judges and reported to the judges under the contract. The Acting Administrative Judge told us that he regarded Vandale Thomas as the Court's Chief Financial Officer. Although Thomas was not a court employee, the contract created a relationship in which Thomas performed work for the Court that was subject to the direction of the judges, including the Acting Administrative Judge.

By contracting with Thomas for services such as reviewing cashier tills, judges outsourced the work of court employees. Thomas' contractual relationship with the Court was not compatible with serving as Treasurer for a judge's campaign fund.

FINDING 25. TRAFFIC COURT DID NOT MAKE EFFECTIVE USE OF ITS INFORMATION TECHNOLOGY SYSTEMS.

In 2010, the Traffic Court used an electronic case management software program to maintain its docket. The program was customized to allow court employees to enter dispositions for different categories of traffic violations. Depending on the charge, the software program automatically generated the amount of the fine and all statutory fees. When a payment was entered, the program determined the disbursements to various funds. This computer system was capable of maintaining the Court's financial data and generating the necessary financial reports for court operations. The system could have been integrated with banking applications to automate transaction processing and reconciliations, but it was not.

The Court was using only some of the capabilities of this system. Court employees made docket entries and entered case dispositions. However, court personnel told us that the case management system was not used for financial management. Instead, data from the system was re-entered manually, either by court employees or by the Court's accountant, Thomas, into a QuickBooks accounting system. We asked several court employees the reason for this practice, which required the same data to be entered twice. We were told that the employees entering dispositions into the case management system, typically cashiers, were poorly trained and made so many errors in data entry that the database was not considered reliable. A court

⁵⁸ See *In re Cannizzaro*, 901 So.2d 1035 (La. 2005); *In re C. Hunter King*, 857 So.2d 432 (La. 2003).

employee told us that when the individual making QuickBooks entries discovered an error in the Court's computer database, the correct data was entered into QuickBooks, but the Court's computer database remained uncorrected. As a result, it was impossible to reconcile any reports from the Court's computer case management system with the QuickBooks financial data.

In 2010, the Traffic Court paid an information technology contractor \$185,840 for support services and invested \$113,000 in computer hardware and software. Despite these expenditures, the Court did not use the capabilities of its systems to carry out its operations in an efficient and cost-effective manner.

The Court's dysfunctional practice of using two separate databases to manage information was inefficient and costly. Many of the hours billed by Thomas were for manually transferring data from one system to the other. This function also consumed an unknown number of hours of work by court employees.

In addition to inefficiencies, the ineffective use of technology also affected the Court's ability to maintain accurate data. As a result, it is difficult, if not impossible, to generate reliable reports of basic court operations.

FINDING 26. TRAFFIC COURT DID NOT PROVIDE ACCURATE PUBLIC INFORMATION ON COURT SCHEDULES.

The Louisiana City and Parish Judges Association adopted the *Strategic Plan of the City and Parish Courts 2007-2011* to assist the efforts of courts and judges to improve the administration of justice. The first goal set forth in this plan was to establish a more open and accessible system of justice. One of the plan's strategies for achieving this goal was the promulgation of court schedules. This strategy called for each court to notify the public of court schedules through various means, including voice response telephone messaging and use of websites.

The Traffic Court did not have its own website, but the City of New Orleans website devoted a page to Traffic Court information.⁵⁹ Unfortunately, some of the information provided was inaccurate.

The website informed citizens that trials in morning sessions were scheduled for 8:00 a.m. and in afternoon sessions for 1:00 p.m. The site also advised citizens wishing to contest a traffic ticket to appear at any time between 8:00 a.m. and 4:00 p.m.

OIG staff observed 40 Traffic Court sessions. During these observations, we found that court sessions did not begin until 9:00 a.m. or 2:00 p.m., respectively, for morning and afternoon sessions. After the session opened, we observed that city attorneys often did not arrive on time and, on many occasions, citizens waited another hour or more for an opportunity to speak with

⁵⁹ See: <http://www.nola.gov/en/GOVERNMENT/Traffic-Court>

a prosecutor. Morning sessions typically ended at 11:00 a.m., so citizens hoping to contest a ticket during a lunch hour would find no city attorney available until at least 2:00 p.m.

The inaccurate information offered on the website was a disservice to citizens, many of whom take time off from their jobs to resolve a matter in Traffic Court.

The website also provided inaccurate information on court holidays. The website provided a list of the 10 holidays observed by the City. However, the Court actually observed 18 annual holidays, so a citizen relying on this website risked making a trip to Court only to find it closed. In addition, the website advised citizens that they could contest a ticket by mail and receive a trial date. However, Traffic Court staff told us that it is not possible to do this; the Court does not provide trial dates in response to such requests.

In addition to these inaccuracies, the website is unhelpful in other ways. The Traffic Court does not have email, so citizens cannot seek information or answers to questions via the internet. The phone number provided on the site is an automated voice recording that provides essentially the same information as the website. Citizens cannot obtain any other information by telephone.

The Traffic Court website, with its inaccuracies and limitations, fell short of meeting the goal set forth in the strategic plan for improving access to justice.

FINDING 27. TRAFFIC COURT JUDGES IMPROPERLY USED FUNDS FROM THE JUDICIAL EXPENSE FUND TO PURCHASE DISABILITY INSURANCE FOR THEMSELVES AND TO PAY AD HOC JUDGES.

Traffic Court judges spent \$3,753 from their Judicial Expense Fund to purchase disability insurance for themselves in 2010. This benefit was not provided to other city employees and constituted a form of additional compensation.

The statute governing the Traffic Court's Judicial Expense Fund, provides that "[n]o salary shall be paid from the judicial expense fund to any judges of the court."⁶⁰ Another state law, which limits the maximum salaries of city court judges, makes it clear that a judge's "salary" means the total annual compensation paid directly or indirectly for all services as judge.⁶¹

The law prohibiting Traffic Court judges from using money raised from fines or fees for their personal benefit reflects the same rationale as another statute that forbids all city court judges from receiving any fees in criminal matters.⁶² Judges have wide discretion to impose or suspend penalties in criminal cases; the exercise of that discretion should not be influenced by a judge's personal interest in the revenue generated by these cases.

⁶⁰ La. R.S. 13:2507.1(B).

⁶¹ La. R.S. 13:1874.1.

⁶² La. R.S. 13:1874(A)(2).

In addition to using the JEF to provide a personal benefit to themselves, Traffic Court judges also paid ad hoc judges, who fill in as substitutes when regular judges are absent, from the JEF. Salaries paid to ad hoc judges from the JEF totaled \$21,600 in 2010. In addition to violating the law against paying judges from the JEF, the Court failed to withhold payroll taxes from these salary payments, exposing the City to potential liability as discussed in Finding 20.

CONCLUSION AND RECOMMENDATIONS

Two overarching problems contributed to the inefficiencies and lack of accountability in the City's court system documented in this report. The first was that New Orleans had too many city courts and judgeships in 2010. The second was the City's movement in recent years away from consolidating Municipal and Traffic Court revenue with other city revenue in the General Fund and administering the courts' budgets through the City Finance Department. The shift toward funding court operations through "off the books" judicial expense funds undermined the City's ability to monitor and control the use of city revenue.

City courts in other Louisiana jurisdictions, including Baton Rouge, submit detailed operating budgets to legislative bodies responsible for funding their operations. These local courts operate with appropriated budgets and submit the revenues they collect to the general fund. This funding approach encourages efficiency and lets citizens know how their money is spent.

The judicial expense funds established for Municipal and Traffic Court are funded by penalties imposed in criminal cases. The use of criminal penalties to fund court operations not only erodes budgetary controls and accountability, but also raises constitutional concerns about due process.

A federal court in Louisiana found that using a bail bond fee to fund the Judicial Expense Fund for criminal court judges violated the rights of defendants to due process by giving the judges a financial incentive to set higher bails. In *Augustus v. Roemer*, 771 F.Supp. 1458 (E.D.La. 1991), the U.S. District Court for the Eastern District of Louisiana granted a permanent injunction prohibiting criminal court judges from exercising administrative authority over funds generated by a 2% fee on bail bonds.

The court in *Augustus v. Roemer*, citing to the U.S. Supreme Court's opinion in *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57 (1972), ruled that applying the bail bond fee to the Judicial Expense Fund created "a temptation for the judges to forego due process and assess high bail amounts in order to maintain the level of funding necessary to run their respective criminal justice systems."⁶³ Under *Ward*, the test for determining if a judge would be "tempted" is whether a judge exercises sufficient executive control over the finances and financial policies of the funds at issue to make him a "potential partisan in order to maintain the level of the particular fund."⁶⁴ The fact that the criminal court judges exercised joint control over the funds "[did] not serve to diffuse the significance of their power over the funds since no non-judicial parties share[d] in that control."⁶⁵

The judicial expense funds established for Municipal and Traffic Courts, like the fund at issue in *Augustus v. Roemer*, give judges complete control over funds generated by each court. That

⁶³ *Augustus*, 771 F.Supp at 1473.

⁶⁴ *Id.* at 1472 (citing *Ward*, 409 U.S. at 60, 93).

⁶⁵ *Id.* at 1473.

judges consider the need to generate operating funds when they impose criminal penalties is apparent. When faced with a reduction in the Court's General Fund appropriation for 2010, Municipal Court judges presented the following statement to city budget officials:

The Court will have to reconsider their placement of individuals cited in Municipal Court to community service as an alternative to incarceration. The community service option has resulted in over a million (\$1,000,000) dollars in kind services to the City of New Orleans agencies but has also resulted in the loss of revenues to the Court. As the Court will be looking to maximize revenues, incarceration has proven a more persuasive incentive to collections than alternative sentencing. The inevitable result will be an increase to the City in prisoner housing costs. This again might also encourage litigation which the Court and the City were previously able to settle, but our hands will be forced by the Council's draconian cuts.

This statement demonstrates the risk that judges will be motivated to impose harsher penalties in order to increase funding for court operations. By separating court funding from revenue generation, the City can not only improve accountability for the use of the funds but also free the courts to perform their role as impartial arbiters of justice.

RECOMMENDATIONS

This report contains two sets of recommendations. One set stems from Part I findings related to the organization and funding of the city court system. The second set pertains to Part II findings about Traffic Court operations.

PART I: RECOMMENDATIONS RELATED TO THE CITY COURT SYSTEM

These recommendations are directed to the City's managers and policy makers. Based on findings in Part I of this report, the proposed changes are aimed at creating a more cost-effective and accountable city court system. Some of the recommendations can be implemented under current law, while others call for legislative changes.

We did not include recommendations related to First and Second City Courts because they do not rely on city funding. Nonetheless, the City should be aware that the excessive number of judgeships devoted to these courts is wasteful and will likely prove unsustainable in an era of budget reductions.

Recommendations Not Requiring Legislative Changes

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.

Findings 9 and 10 describe actions taken by the Traffic Court to direct funds payable to the City's General Fund into the Court's JEF. Traffic Court accumulated city revenues that were surplus to court operating expenses in its JEF, to be used for a court renovation project. These revenues were not appropriated, as required by the state Budget Act and the City Charter, for court renovations and therefore cannot legally be applied to such a project. The City should recover this money for the City's General Fund.

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.

The state Budget Act requires all revenues and expenditures to be accounted for in the City's Operating Budget. The City omitted revenues collected by the courts from the City's 2010 Operating Budget, thereby creating a misleading picture of the cost of court operations and making it difficult to monitor or control expenditures of those city revenues.

Municipal Court collected about \$1.8 million in 2010 and Traffic Court collections totaled about \$12.8 million. These city revenues should be appropriated, budgeted, and monitored along with other city operating funds. The failure to include Traffic Court revenues in the 2010 Operating Budget allowed the Court to spend over \$1 million more than the budget request the judges submitted to the City, to divert city revenue and agency fees to the JEF, and to use city fine revenues to pay the Court's primary contractor.

The City should bring the City's Operating Budget into compliance with state law and ensure that city revenues and expenditures are accounted for by incorporating all city-funded court operations into the budget process.

Recommendation 3. The City Should Monitor Municipal and Traffic Court Revenues and Expenditures through Monthly Reports.

City budget officials should ensure that the courts, like other entities funded with city revenues, are making expenditures in accordance with appropriations made through the City's Operating Budget.

Findings in this report showed that the annual audit of the Traffic Court JEF did not provide the accountability needed to safeguard the use of public funds. The audit did not encompass most of the revenue collected, and did not report more than \$400,000 in court expenditures or an accounting transfer of \$500,000 of city fine revenue to the JEF. The City cannot rely on such an audit to ensure that revenue collected by the Court is spent or disbursed in accordance with legal requirements.

City budget officials should monitor reports on a monthly basis showing court revenues, current expenditures, and year to date expenditures, and disbursements to all recipient entities.

Recommendation 4. The City Should Fully Fund Municipal and Traffic Court Payrolls Through the General Fund.

The City should appropriate amounts adequate to cover all court payroll costs the City intends to fund. In 2010, as in prior years, the City paid salaries and benefits for court employees through the city payroll system, even though the General Fund appropriation was not sufficient to cover the cost. Failing to include the full amount of salaries in the General Fund budget did not reduce the cost, but simply disguised the amount the City actually paid for court employees.

The practice of omitting city obligations, such as court payroll costs, from the Operating Budget is unwise. It creates the illusion of a balanced budget, while exposing the City to the very real risk of incurring deficits. Court payrolls should be appropriated in the same manner as other city personnel costs to ensure that the City maintains a transparent and balanced budget.

Recommendation 5. The City Should Ensure that Municipal and Traffic Court Contracts are Procured Competitively Through the City's Chief Procurement Officer.

The city-funded courts should adhere to the same rules for competitive contracting as other city agencies. The Traffic Court, which spent more than \$1.2 million for goods and services in 2010, did not adhere to the requirement contained in Ordinance No. 1482 M.C.S. to submit purchasing requests to the city's purchasing department, nor did it seek competitive bids for contracts.

Findings in this report showed that Traffic Court did not have procedures in place for conducting competitive procurements or administering contracts. The City should require the courts to use city contracts or submit purchasing requests to the City's Chief Procurement Officer.

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.

City ordinances authorizing each of the two courts to maintain a judicial expense fund call for any “surplus” remaining in the fund at year end to be divided, with one-half to be retained in the JEF and one-half to be paid to the city General Fund. The rationale for this arrangement is puzzling; it is not clear why a court should retain more operating revenue than it needs for its operations. The provision is also inconsistent with the City Charter requirement that appropriations lapse at year end and unexpended funds revert to the General Fund. Provisions in these ordinances relating to so-called “surplus” revenue should be eliminated.

In addition, the City Code should be amended to provide clear, unambiguous rules to govern the specific revenues to be deposited into judicial expense funds. Findings in this report showed that city officials did not have a clear understanding of which fines, fees, or other revenues were directed to the Traffic Court JEF. Findings also showed that the Traffic Court inappropriately directed revenue from traffic fines and agency fees to the JEF.

State law currently requires every defendant convicted of a traffic violation to pay a special \$30 fee, in addition to all other fines and fees, for the benefit of the Traffic Court. Convictions in Municipal Court also carry special costs or fees to be deposited into probation, building maintenance, or other dedicated court funds. The City Code should make it clear that these specific revenues, and not city fines or agency fees, can be deposited into the judicial expense funds.

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.

The statutes governing Municipal and Traffic Court revenues are a patchwork of confusing and sometimes inconsistent enactments.

The 2004 statute that established the Traffic Court Judicial Expense Fund gave judges control over the administration of “monies specifically designated” for any operating expense of the Court. Findings in this report show that, by agreement between the Traffic Court judges and the City Finance Department, the Traffic Court controlled and administered not only its own operating funds, but all the revenue it collected.

Until 2011, state law required Municipal Court to remit revenues daily to the Department of Finance. In 2005, however, Municipal Court judges and the City agreed that the Court would take control over the administration of the revenue it collected. This Office issued an audit in 2010, finding that the practice did not comply with state law. In response to the OIG audit, the City supported state legislation, enacted in 2011, to authorize Municipal Court judges to control

and administer “monies specifically designated” for court operating expenses. As is the case with the Traffic Court, by agreement between Municipal Court judges and the City Finance Department, the judges control not only court operating funds but all revenues collected.

These recent changes in law erode the City’s ability to control and monitor its own revenues. For the reasons discussed in this report, removing court funding from the City’s Operating Budget and into court controlled judicial expense funds did not provide adequate accountability or control for the use of public funds. The findings related to Traffic Court operations showed that the Court lacked capacity in areas such as financial management, procurement, and contract administration to effectively administer the money it collected. In addition to accountability and control problems, reliance on judicial expense funds for Municipal and Traffic Court operating expenses raised concerns over due process.

The City of New Orleans should follow the example set by local governments such as Baton Rouge and return to funding courts through the City’s Operating Budget.

Recommendation 8. The City Should Seek Amendments to State Mandates Related to Municipal and Traffic Court Staffing.

State law currently dictates, with a remarkable degree of specificity, court staffing requirements that apply only to the City of New Orleans. For Municipal Court, the state law imposes the following requirement:

Each judge shall appoint his own minute clerk, court reporter, secretarial, clerical, research, administrative, and other personnel as the judge may deem necessary to expedite the business and functions of the court and shall fix their salaries and benefits.

The salaries and benefits shall be paid by the city of New Orleans on the warrant of the appointing judge.

The above appointees of the judge, or judges, of the court shall not be included in the civil service system, and shall be considered, for all intents and purposes, as unclassified personnel of the court and shall be included in the unclassified pay plan of the city of New Orleans.⁶⁶

Other state statutes impose additional mandates, including:

- a requirement that the Municipal Court Clerk appoint no fewer than 20 deputy clerks and other employees as unclassified, at-will employees;

⁶⁶ La. R.S.13:2496.

- a requirement that each Traffic Court judge appoint his own minute clerk, stenographer, crier, court report, and such clerical, research, administrative, and other personnel as he deems necessary, as unclassified, at-will employees;
- a requirement that the Traffic Court Clerk appoint such deputy clerks, assistants, and other employees as may be necessary.

These state laws require the courts to be staffed with an excessive number of employees who serve at the pleasure and under the personal direction of individual judges. These requirements provide a recipe for a bloated patronage system and stymie the City's ability to institute an efficient and effective staffing plan for Municipal or Traffic Court. Findings in this report, which compare New Orleans with Baton Rouge, suggest that the City could achieve substantial cost savings by implementing a more rational personnel system.

These state mandates are rigid and unreasonable. The City should seek legislative changes to give local elected officials control over these personnel systems, which are supported entirely by city funds.

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.

The findings in this report related to Traffic Court operations showed that each judge appointed and controlled at least 10 personal employees in 2010. This practice may be authorized by state law, but it invites abuse and conflicts with the City Code, which authorizes each judge to appoint only two personal employees, a minute clerk and a stenographer.⁶⁷ The City Code authorizes Traffic Court judges collectively to appoint the Clerk of Court, who may employ assistants and deputies as classified civil service employees.⁶⁸

The City should seek to amend state laws related to Municipal and Traffic Court to mirror the more sensible provisions in the City Code relating to Traffic Court. The amendments should authorize each judge to appoint no more than two personal employees and assign all other court personnel to a central administrator, such as the Clerk of Court, to be deployed according to an efficient and rational staffing scheme. The non-judicial appointees should be hired through the City's civil service system to promote merit-based hiring and protect the employees from political pressure.

⁶⁷ City Code Section 154-105.

⁶⁸ City Code Section 154-104.

Recommendation 10. The City Should Seek Legislative Changes to Reduce the Number of Judgeships.

Findings in this report showed that the City's courts have an excessive number of judgeships relative to their workloads. Maintaining these judgeships imposes a financial burden on the City that cannot be justified, particularly in an era of budget austerity. Leaving aside First and Second City Courts, which currently do not receive substantial city funding, the City could achieve significant cost savings from eliminating three of the eight judgeships shared by Municipal and Traffic Court and making the five remaining positions full time.

Eliminating judgeships is a more far-reaching and complex proposition than the previous legislative recommendations. The implementation of a plan to eliminate judgeships would have to take into consideration the terms of incumbent judges. It would be prudent, however, for the City to begin a planning process with the ultimate goal of phasing out unneeded judgeships.

Recommendation 11. The City Should Seek Legislative Changes to Merge Municipal and Traffic Courts.

This report identified \$2.5 million in annual cost savings to be achieved from consolidating the two courts, in combination with reducing the number of judges. This estimate was conservative. Data comparing the fragmented court system of New Orleans with Baton Rouge show that the administrative efficiencies gained through consolidation, including more efficient allocation of staff and resources, offer great potential for reducing costs.

Like the elimination of judgeships, the merger of the two courts would require a careful planning process. We recommend that the City undertake that process with the goal of establishing a cost-effective court system.

PART II: PERFORMANCE REVIEW OF NEW ORLEANS TRAFFIC COURT

The recommendations in this section stem from the findings in Part II, relating to the operation of the Traffic Court. These recommendations are aimed at correcting practices that did not comply with legal requirements or that impeded efficiency, effectiveness, or accountability of court operations.

The first two recommendations are directed to the City Attorney, who is responsible for prosecuting Traffic Court cases. The other recommendations are directed to the Traffic Court judges, who are responsible for the management and operation of the court.

Recommendation 1. The City Attorney Should Provide Written Policies to Guide the Exercise of Prosecutorial Discretion in Traffic Cases.

Standards promulgated by the National Association of District Attorneys call for the chief prosecutor in a jurisdiction to provide written policies for staff to ensure that fair and uniform standards are applied to all defendants and that no improper factors play a role in prosecutorial

discretion. The City Attorney should develop this written guidance and ensure that all staff prosecutors adhere to the policies.

Recommendation 2. The City Attorney Should Maintain Data on Case Dispositions to Ensure Accountability for Prosecutorial Decisions.

As chief prosecutor, the City Attorney is accountable to the citizens of New Orleans for performing prosecutorial functions in a manner that meets the community's expectations for fairness and justice. Citizens should be able to assess the City Attorney's record and the City Attorney should be able to monitor the performance of individual prosecutors to ensure consistency and uniformity. Without data on case dispositions, neither interested citizens nor the chief prosecutor can meaningfully assess performance. The City Attorney should develop an efficient means for maintaining this data and make it available to the public.

Recommendation 3. Traffic Court Judges Should Ensure That All Decisions to Prosecute or Dismiss Charges Are Made by City Attorneys.

State law grants the prosecuting attorney the exclusive authority to determine whether charges should be prosecuted. This report described instances in which a judge or a member of a judge's staff signed traffic tickets to indicate that the judge or staff member had dismissed charges. Traffic Court employees told us that judges and their designated staff members had discretion to dismiss charges. Traffic Court judges should take immediate steps to ensure that all court personnel are instructed that the discretion to dismiss charges can be exercised only by city attorneys and that no other signatures can be accepted to evidence a dismissal.

Recommendation 4. Traffic Court Judges Should End the Practice of Directing Revenue From Fines and Statutory Fees to the Judicial Expense Fund.

We found that approximately \$1.3 million in fines and statutory fees were directed to the JEF by judges' instructions. Cashiers following these instructions coded all payments for some traffic tickets for deposit into the JEF rather than applying the standard codes to disburse payments to the City and other designated agencies. As a result of these instructions, approximately \$800,000 in city revenue from fines and \$500,000 in statutory fees due to other agencies were deposited into the JEF. Traffic Court employees told us that judges had authority to direct all fines and fees to the JEF. Traffic Court judges should immediately end the practice of directing payments to the JEF and ensure that all court personnel are instructed to apply the pre-programmed codes when entering payments into the case management system, to ensure that fines and fees are disbursed in accordance with the law.

Recommendation 5. The Traffic Court Should Submit Complete Revenue and Expenditure Reports to the City on a Monthly Basis.

We found that the annual audit of the Court's JEF did not provide an accurate picture of the Court's financial activities. The audit covered only a portion of court revenues and did not report expenditures made by the Court using city fine revenues. It is incumbent on the Traffic

Court as a city agency to provide complete and accurate public reports of its financial activities. The Court should submit these reports to the City monthly.

Recommendation 6. Traffic Court Judges Should Develop Written Policies and Procedures for Court Personnel.

A number of the findings in this report related at least in part to the lack of any written policies or procedures to guide court operations. The judges should develop written policies and procedures that provide a clear understanding of court functions and directions for processing transactions. Job roles and responsibilities should be defined and standards for work performance should be established. Court policies for computer system use, records management, accounting and financial management, contracting, and other operations should be clearly explained.

Recommendation 7. Traffic Court Judges Should Reduce the Risk of Misappropriation of Cash Receipts by Restricting Computer Privileges and Segregating Incompatible Duties.

We found that nearly all court employees had computer access that allowed them to enter case dispositions in 2010. This violated a fundamental rule of computer security; employees should have only the computer privileges needed to perform their job functions. The Court also failed to segregate responsibility for accepting cash payments from entering case dispositions in the computer system. Court cashiers routinely performed both of these functions, creating a risk of theft. The Court should segregate these functions and restrict access to enter case dispositions to employees who do not accept cash 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.

This report found that 43 court employees worked part time in 2010, while receiving full-time salaries and benefits from the City. This practice did not comply with city policies. It is apparent that the Court did not need 43 full-time employees to fulfill these job functions. The Court should either reduce the salaries of these individuals to reflect their actual work schedules or require some of them to work full-time, covering both a morning and an afternoon session. If the Court chooses the first of these options, the part-time workers will not be eligible for city healthcare benefits. Under the second option, some of these employees should be laid off.

Regardless of any past understanding that the City tacitly agreed to allow these employees to work part time, this practice cannot be justified, particularly in light of the City's current fiscal condition. In addition to imposing an unreasonable financial burden on the City, this practice may violate Canon 3 of the Code of Judicial Conduct, which states that a judge shall not make unnecessary appointments or appointments that create the appearance of impropriety or approve compensation beyond the fair value of services rendered. These employees were all personally appointed by individual judges, who should take responsibility for the accuracy of the timesheets submitted to the City.

Recommendation 9. Traffic Court Should End the Practice of Using Unclassified Positions to Hire Non-Judicial Staff.

State law and the City Code both specify that employees performing work for the Clerk of Court should be hired under classified civil service positions. We found that individuals hired after 2005 to work for the Clerk of Court were hired as unclassified appointees. This practice should be discontinued for new hires.

Recommendation 10. Traffic Court Should Integrate Its Case Management and Accounting Systems.

A 2007 audit of the Traffic Court's Cash Bond Fund reported that, as of December 31, 2007, the Court was engaged in a process to reconcile data in the Court's computerized case management system with data in its QuickBooks accounting software. We found that as of 2010, the Court had not integrated these systems and still could not reconcile data from the two systems. This weakness calls into question the reliability of the Court's financial data. It also resulted in major inefficiencies in 2010, requiring the same data to be entered separately into the two systems.

The Court had invested substantial resources in its computerized case management system, but was not using the system to its full capacity in 2010. The case management software had the capability to perform financial management functions for which the Court continued to rely on QuickBooks in 2010. The Court should expand the use of its case management system to integrate the accounting and financial reporting functions and discontinue its reliance on QuickBooks.

Recommendation 11. Traffic Court Should Train Staff in the Use of the Court's Computer System.

In interviews with court personnel, OIG staff learned that cashiers and other court employees frequently made data entry errors. Some of these errors had serious consequences, including causing fines or fees to be assessed incorrectly. We also learned that the Court did not provide formal training or a manual to teach employees how to use the computer system. The Court should implement a training program for computer users.

Recommendation 12. Traffic Court Should Develop In-House Capacity to Handle Basic Bookkeeping and Financial Management Functions.

We found that the Court relied on a contractor to perform basic bookkeeping functions and prepare the Court's financial reports in 2010. This reliance was costly; the Court paid more than \$600,000 for contracted bookkeeping and accounting services in 2010. The Court also lacked the capacity to effectively oversee the contractor's work. The Court should hire staff with the necessary bookkeeping and accounting skills to handle these basic functions.

Recommendation 13. Traffic Court Should End the Practice of Inappropriately Classifying Employees as Contractors.

The Court paid individuals who performed the services of court employees without complying with legal requirements to withhold payroll taxes. This practice could result in legal liability for the City and should be discontinued.

Recommendation 14. Traffic Court Should Make Purchases Through a Competitive Process.

The Traffic Court was required, under a city ordinance, to submit purchasing requests for supplies to the city purchasing department. We found that the Court did not comply with this requirement in 2010 and that the Court purchased supplies, equipment, and services without seeking competitive quotes, bids, or proposals.

Purchases using public funds should be made through an open and fair process to ensure that prices paid are reasonable and that qualified vendors have an opportunity to compete for public business. The Court did not have procedures in place for competitive procurement in 2010. We therefore recommend that the Traffic Court submit all requests for supplies, equipment, non-professional services, and professional services to the City's Chief Procurement Officer. The Court should use existing city contracts when appropriate and follow the City's competitive procedures for the award of new contracts.

Recommendation 15. Traffic Court Should Exercise Responsible Contract Oversight.

This performance review found that the Court paid more than \$600,000 under an hourly rate contract for bookkeeping and accounting without requesting or receiving timesheets to document the hours worked or work products to verify the completion of tasks. Hourly rate contracts provide incentives for contractors to inflate billings and require more intensive oversight than contracts based on lump sum payments for defined work products. The Traffic Court's failure to manage this major contract to guard against overbilling put public funds at risk.

In addition to reducing its excessive reliance on contracted services, the Court should institute contract oversight procedures with appropriate safeguards for the quality and cost of work performed.

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.

This performance review found that the Court's primary contractor is a firm whose owner serves as campaign fund treasurer for a court judge. The treasurer personally performs services under the contract that would otherwise be performed by court employees and is subject to the direction of the judges. This arrangement may violate the Code of Judicial Conduct and should be discontinued.

Recommendation 17. Traffic Court Should Discontinue Payments from the Judicial Expense Fund to Provide Supplemental Benefits for Judges or to Pay Salaries for Ad Hoc Judges.

Payments from the JEF were used to purchase disability insurance to supplement the compensation of the Court's judges. The JEF was also used to pay the salaries of ad hoc judges. This practice violates the legal prohibition against the use of judicial expense funds for to pay judges' salaries and should be discontinued.

Recommendation 18. Traffic Court Should Provide Useful and Accurate Public Information on Its Website.

The City's website includes a page of Traffic Court information. We found that some of the information relating to court schedules and procedures is not accurate. The Court should revise the website information to make it accurate and useful to the public.

OFFICIAL RESPONSES TO THE INTERNAL REVIEW DRAFT

The Office of Inspector General provides an internal review draft to any person or entity that is the subject of report findings or recommendations. Any written response submitted by a subject within 30 days after receiving the draft will be included in the final public report.

The OIG provided a review draft of this report to the New Orleans Traffic Court judges, the New Orleans Municipal Court judges, the City's Chief Administrative Officer, and the City Attorney on October 7, 2011, and offered to meet with these officials to discuss the report findings prior to finalizing the public report. OIG staff subsequently met with New Orleans Traffic Court judges and Municipal Court judges. Each of the report subjects submitted a written response; these responses are included in their entirety in this section.

This public report reflects corrections and other changes made to the review draft based on the responses received from the report subjects.



State of Louisiana
 City of New Orleans
 Municipal Court



727 SOUTH BROAD STREET
 NEW ORLEANS, LA 70119

PAUL N. SENS
 ADMINISTRATIVE JUDGE
 SECTION "A"

SEAN P. EARLY, JUDGE
 SECTION "B"

DESIRÉE M. CHARBONNET, JUDGE
 SECTION "C"

JOSEPH B. LANDRY, JUDGE
 SECTION "D"

November 15, 2011

Mr. E. R. Quatrevaux
 Inspector General
 525 St. Charles Avenue
 New Orleans, Louisiana 70130

RE: Assessment of New Orleans' System of City Courts and
 Performance Review of New Orleans Traffic Court: OIG-I&E-10-013
 Internal Review Copy of October 7, 2011.

Dear Mr. Quatrevaux:

On behalf of the Municipal Court bench I want to thank your staff for the opportunity to have met with them on November 3, 2011 so we could clarify many issues relative to Municipal Court's inclusion in the *Assessment of New Orleans' System of City Courts* confidential draft report. The Judges of Municipal Court respect your staff's courtesy and professionalism in correcting some erroneous issues and findings of the confidential draft report. We are, however, disturbed by the fact that not one person from Municipal Court was interviewed during this assessment process. It was not until November 3, 2011 that someone from Municipal Court was contacted, which was after the draft report was completed. We are equally disturbed that this confidential "Internal Review Copy" had been leaked to public officials and the media prior to Municipal Court having the opportunity to correct the errors contained in the draft and prior to its finalization.

I would like to take this opportunity to comment on a number of issues presented in the *Assessment of New Orleans' System of City Courts*. The most important issue as it pertains to New Orleans Municipal Court is that the report is **outdated and ignores the current operational realities of our court**. As you should be aware the Orleans Parish District Attorney has begun to transfer to this court approximately 40% of the caseload of the Criminal District Court, and it is estimated that New Orleans Municipal Court will **process 70% of all criminal cases instituted by the New Orleans Police Department in 2012**. The report is so dated as to be stale and since no one from this Court was interviewed during the compilation of the draft report these current realities are ignored and omitted from the report.

Similarly, the report also fails to acknowledge the severe impact that these new cases will have on court operations. The Municipal Court will now be hearing all Louisiana state stand-alone misdemeanors filed

in Orleans Parish. These state misdemeanors include, but are not limited to, all domestic violence violations, possession of firearms on school grounds, aggravated assault with a weapon, possession of concealed weapons and possession of drugs and drug paraphernalia as well as all other state misdemeanor offenses. We respectfully question whether such charges are also handled by Baton Rouge City Court and whether they have been given appropriate weight in the calculations of work point values and, if handled, does the staffing of probation officers, case managers, social workers and domestic violence advocates come under the budgetary inclusion of that court. Presently, Municipal Court has none of those positions within our budget except for 4 probation officer positions for over 25,000 cases.

In addition, the assessment report fails to recognize that, as a result of the New Orleans Police Department's policy changes, much of the data entry work previously performed by the Sheriff's office is now being done by the Municipal Court staff. For example, in the last 4 years the Municipal Court has experienced a complete paradigm shift in how the Police Department initiates prosecutions. Our court has gone from 70% arrests and 30% summons to 30% arrests and 70% summons. That policy change has saved the Police Department untold sums in off the street police time but has significantly increased the workload of our staff without additional personnel.

Likewise, the initiatives undertaken by the Municipal Court itself over the last 4 years, have resulted in prisoner housing costs savings of over 5 million dollars a year without any increase in the budget appropriation for the Court. As the Inspector General's own report on prisoner housing costs noted, if Municipal Court could do a more complete job with reference to defendants who come before it with substance abuse and mental health disorders, additional prisoner housing costs savings will be realized. Yet our requests for funding for these positions remain ignored by the Administration and Council. Presently our Court has no budgeted positions for social service personnel to assist us with defendants who present themselves to the Court with these issues. The same IG report on prisoner housing costs also noted that a stronger Municipal Court community service program would also save the City of New Orleans significant prisoner housing costs. Despite our repeated requests for additional funding, we still have only 1 employee who processes and reviews for compliance the thousands of defendants referred by the court to community service. Those cost savings and efficiencies are not contained in this current report because Municipal Court was not given the opportunity to provide our input prior to the final draft of this assessment report.

To put it as succinctly as possible, close to one half of the workload of a court that has thirteen (13) elected judges, four (4) commissioners, ninety (90) clerk's office personnel, and a budget estimated \$10,000,000, will be transferred to a court with one (1) fulltime and (3) part time judges, twelve (12) clerk's office personnel and a recommended **reduced** budget for 2012 of just over \$2,000,000. But that information is not included in this assessment because Municipal Court was not interviewed. Other reasons why we consider this assessment fatally flawed include the following issues.

This assessment report also combines the caseload of First and Second City Courts, Municipal Court and Traffic Court in order to compare their operational efficiencies to the operational efficiencies of Baton Rouge City Court. However, the assessment report then fails to take into consideration fees generated

by, and the expenses of, First and Second City Courts, thus distorting any financial comparison of operations between the Baton Rouge and New Orleans courts.

Furthermore, the assessment report cites the protections offered to Municipal Court by state legislation relative to personnel as a reason for the merger of Municipal and Traffic Court. But the report again fails to report the historical nature of those protections, because again, Municipal Court was not included in the process leading up to the drafting of the assessment report. The historical perspective is that every time previous administrations found themselves in budget shortfalls, across the board budget and personnel reductions were made, without regard to the constitutional nature of the Court's operations or the fact that the Courts are not an agency or department of the administration **but a separate and equal branch of government**. More to the point, the past administrations have failed to comply with these statutory laws and to this day they still do not comply. For example, the report cites R.S. 13:2497 and R.S. 13:2505 as evidence of unnecessary Municipal Court personnel, but conspicuously fails to note that the court employs about half of the number of employees mandated by one statute and fewer than the number authorized by the other. For instance, R.S. 13:2505 specifically states that the Court shall be allowed research staff but when Municipal Court sought to fill these positions, we were denied the appropriate funding. Likewise, R.S. 13:2497 mandates a minimum of 20 clerk's office personnel but the City only funds 12 positions.

In another instance, the report argues against the Judicial Expense Fund that is also established under state law. However, the assessment report does not state that the Judicial Expense Fund provides for the only financial resource to fund the non-personnel expenses of the Court, even though the City is required to make those appropriations and fund those operational costs. On many occasions in the past, as a result of City budget shortfalls, none of which were the fault of this Court, previous administrations restricted all fourth quarter expenditures. Those restrictions may be acceptable for departments or agencies within city government **but not for a separate branch of government which must constitutionally operate daily to afford citizens their constitutionally protected rights**. The operational expenses of the Court cannot become the whim and caprice of succeeding administrations' budget shortcomings, so Municipal Court will make the case to the legislature and the public that these legislatively protected mandates provide for the protection of the citizens who come before our court and for the stability of judicial operations.

Based on 2010 workloads the assessment report determined that Municipal Court needed 4 full-time judges, or 1 full-time and 4 part-time. In either case it is more than the Court presently employs. The IG determined this number of part-time judges based on a percentage of work points developed for full-time judges. The percentage used (75%), is arbitrary and capricious as it is based on the ratio of part-time judges' pay to full-time judges' pay. The Judicial Council determined that 3,167 work points represent a standard caseload for one full-time judge. The Judicial Council did not, however, determine that 2,375 work points represent the standard case load for one part-time judge, nor did it imply that level because part-time judges are paid 75% of what full-time judges are paid. As has been noted above the number of cases processed in Municipal Court is significantly greater than what is reported in the assessment report and the Court will seek additional staffing to handle those cases, however, the number of judgeships is the sole purview of the Louisiana Supreme Court and the Judicial Council.

Finally, the assessment report's most fatal flaw is its complete unfairness in failing to **directly compare** New Orleans Municipal Court's operational efficiencies to those of the Baton Rouge Court. The efficiency of Municipal Court is not apparent when the four New Orleans courts are combined. However, when New Orleans Municipal Court's operational efficiencies are compared directly to those of Baton Rouge City Court, Municipal Court's greater operational efficiencies become clearly evident. For instance, in 2010 the Municipal Court handled over thirty thousand (30,000) filings, with a staff of forty-six (46) employees and an annual total budget of \$3,250,000, resulting in an average cost of \$107 per filing. Using the assessment report's method of calculating efficiency of court operations (divide total operating cost by point value of court workload) the Municipal Court's Cost per Work Point is \$262, significantly less than the Report's combined Cost per Work Point of \$639, and one-third less than that of Baton Rouge City Court at \$383.

Combining the operations and budgets of two courts allows the IG to make an invalid generalized conclusion that combining courts will **necessarily** lead to greater efficiencies. This conclusion is invalidated when you analyze the combined courts separately. **In the case of New Orleans Municipal Court the conclusion is very simple, and that is, a specialty court, like Municipal Court, will produce greater efficiencies than a combined court, like Baton Rouge City Court even if both have efficient operations. The issue is not one of consolidation creating the savings but that efficiency creates the savings.** As it pertains to New Orleans Municipal Court the IG's own formula proves this point.

While combining Municipal Court with other courts may provide for economies of scale, it will not guarantee corresponding courtroom cost efficiencies. Before consideration is given to combining courts, the effective management of each court must be addressed. The Judges of Municipal Court assert that their effective management, and the resulting efficiency of Municipal Court operations, is not accurately portrayed in this Assessment Report. Before a recommendation to combine courts is made further analysis of the current situations and operational efficiencies of each of the courts should be required.

Respectfully, for the reasons stated above the Judges of New Orleans Municipal Court believe that this *Assessment of New Orleans' System of City Courts* as presented is fundamentally unfair and fundamentally flawed as it pertains to New Orleans Municipal Court.

Sincerely,



Paul N. Sens
Administrative Judge
New Orleans Municipal Court

OFFICE OF INSPECTOR GENERAL COMMENTS ON MUNICIPAL COURT JUDGES' RESPONSE

The Municipal Court judges' response states that the OIG failed to take into consideration fees generated by and expenses of First and Second City Courts in the comparison of the New Orleans city court system with Baton Rouge City Court. The Court's statement is inaccurate. The OIG's analysis factored in all of the revenues and expenses for all of the New Orleans courts.

The OIG stands by the methodology used to compare the efficiency of the New Orleans court system with Baton Rouge City Court, including the work point values assigned to cases in each court. OIG staff observed 40 Municipal Court sessions in 2010 and interviewed the City Attorney to obtain information about Municipal Court proceedings.¹ With the possible exception of marijuana possession cases, the charges filed in Municipal Court in 2010 were comparable to criminal cases prosecuted in Baton Rouge City Court.² Applying the same work point values for both courts provided a valid basis for comparison.

In its response, the Court also states that the OIG failed to directly compare Municipal Court, standing alone, with the Baton Rouge City Court. That comparison would not have been valid because all five Baton Rouge judges handle civil, criminal, and traffic cases using shared support personnel and resources. No meaningful conclusions can be drawn from a direct comparison of two courts that perform very different functions.

The OIG's finding that Baton Rouge's court system is more efficient does not imply that Municipal Court does not operate efficiently. We agree with the Court's statement that effective court management is critical to achieving cost savings. Nonetheless, a court system that allows workloads and resources to be allocated rationally has greater potential for efficiency than the City's current fragmented system.

If, as the Court's response states, Municipal Court experiences an increased workload of challenging cases in 2012, the argument for consolidating the courts will be strengthened. Combining the courts will eliminate the need for duplicative administrative, information technology, and other systems. These savings could free up resources for other court personnel and services.

¹ We also requested and received documents from Municipal Court.

² The Baton Rouge City Court budget for 2010 included 14 probation officers.



State of Louisiana
City of New Orleans
Traffic Court



JUDGE ROBERT E. JONES, III
DIVISION "B"

JUDGE MARK J. SHEA
DIVISION "C"

JUDGE RONALD J. SHOLES
DIVISION "D"

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NOEL P. CASSANOVA
CLERK OF COURT

LOUIS W. IVON
JUDICIAL ADMINISTRATOR

November 14, 2011

Ed R. Quatrevaux, Inspector General
Office of Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, Louisiana 70130-3049

RE: Assessment of New Orleans System of City Courts and
Performance Review of New Orleans Traffic Court
OIG-I&E-10013

Dear Mr. Quatrevaux:

Below please find Traffic Court's responses to your office's Internal Review Draft of the Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court.

We offer no comment on "Part II: New Orleans Unique Systems of City Courts". The consolidation of courts and the possible reduction of the number of judgeships are courses that may be undertaken by the Louisiana Supreme Court, in concert with the Legislature, after appropriate study. We defer taking a position until such time.

Finding 9: Traffic Court Judges Directed An Estimated \$1.3 Million Of City Fine Revenue And Statutory Fees To The Judicial Expense Fund.

The Traffic Court Judges were **not** sued by the Louisiana Public Defender Board and the Orleans Parish Public Defenders Office. Prior to the referenced litigation's institution, we had discussions with both agencies regarding our collections and disbursements. We were not, however, parties to the litigation.

Finding 10: Traffic Court Created A Surplus For Its Judicial Expense Fund By Retaining About \$500,000 In "Excess" Revenue.

Traffic Court's Judicial Expense Fund was primarily funded through contempt fees and statutory court costs. Your statement

that it “was funded primarily by traffic fines owed to the City’s general fund” is inaccurate.

Moreover, the accumulated \$2.2 million (not \$2.7 million), surplus is being transferred to the City’s General Fund to reduce the City’s 2010 budgetary deficit. In return, the City’s Administration has agreed to include the renovation of Traffic Court in a future capital project outlay.

Finding 11: The 2010 Audit Of The Traffic Court Judicial Expense Fund Presented An Inaccurate Picture Of The Court’s Activity.

The misstatement of revenue contained in Mr. Garrity’s original audit report was corrected in a supplemental report filed by him.

Finding 12: Traffic Court Used City Fine Revenue To Pay A Court Contractor For Services The City Did Not Authorize.

Excluding Administrative Judge Dennis Dannel, the judges of Traffic Court were unaware that Thomas was performing “extra” work for the City and the Court. We were also unaware of the \$150,000, or any other sums, in additional compensation. Our lack of knowledge is not disputed.

Documentation (See Exhibit “A”) appears to suggest that the following members of the City’s Administration were aware that Vandale Thomas was providing additional accounting services to the City: Tammy Broussard, Budget Analyst; Cary M. Grant, Director of Budget; Andrew Kopplin, Chief Administrative Officer (Landrieu Administration); Brenda G. Hatfield, Chief Administrative Officer (Nagin Administration); Derrick A. Muse, Department of Finance; Reginald E. Zeno, Department of Finance; and Gloria S. Journee.

Finding 13: The City Attorney’s Office Maintained No Records Of Non-DWI Case Dispositions And Lacked Written Policies To Guide Prosecutorial Discretion.

The findings herein do not require our response.

Finding 14: Traffic Charges Were Dismissed By Judges Or By Judges’ Staff Members Without The Required Authority Of A City Attorney.

The findings herein were substantially correct.

Finding 15: Traffic Court's Financial Management Capacity In 2010 Was Not Adequate To Properly Safeguard And Administer \$12.8 Million in Revenues.

The findings herein were substantially correct.

Finding 16: Traffic Court Lacked Adequate Control Against Misappropriation Of Cash.

The findings herein were substantially correct.

Finding 17: Traffic Court Had No Written Policies Or Procedures To Govern Court Operations.

The findings herein were substantially correct.

Finding 18: Traffic Court Judges' Employees Received Full Time Salaries And Benefits From The City While Working Part Time.

Historically, the City Attorney's office has been aware of this practice. During Mayor Marc Morial's administration, both CAO Marlin Gusman and Executive Council Paul Sens were aware of this practice.

Currently, assistant city attorneys assigned to Municipal and Traffic Courts work abbreviated shifts averaging less than three (3) hours daily. They receive "full time" salaries with insurance and retirement benefits. According to Deputy Mayor Andrew D. Kopplin, they have been "exempted" from the thirty-five (35) hour weekly requirement.

Finding 19: Traffic Court Hired Violations Bureau Employees Without Regard For Civil Service Requirements.

The findings herein were substantially correct.

Finding 20: Traffic Court Inappropriately Classified Employees As Contractors.

The findings herein were substantially correct.

Finding 21: Traffic Court Spent Over \$500,000 On Materials, Supplies, And Non-professional Services Without Obtaining Competitive Bids.

The findings herein were substantially correct.

Finding 22: Traffic Court Paid Professional Service Contractors \$887,404 In 2010 Without Utilizing Any Competitive Procurement Process.

Major Services, Inc. was paid \$80 per hour in 2010 to provide technical support services. This rate is identical to the rate in its original 2005 contract. As of this date, the contractual rate remains \$80 per hour.

Finding 23: Traffic Court Did Not Exercise Adequate Oversight Over Its Accounting Services Contractor Or Require Documentation To Support Hourly Billings.

The findings herein were substantially correct.

Finding 24: Traffic Court Accounting Services Contractor Also Acted As Campaign Fund Treasurer For The Acting Chief Judge in 2010.

The findings herein were substantially correct.

Finding 25: Traffic Court Did Not Make Effective Use Of Its Information Technology Systems.

Please see attached response, Exhibit "B", from Jack Horil.

Finding 26: Traffic Court Did Not Provide Accurate Public Information On Court Schedules.

Please see attached response, Exhibit "C", from Jack Horil.

Finding 27: Traffic Court Judges Improperly Used Funds From The Judicial Expense Fund To Purchase Disability Insurance For Themselves And To Pay Ad Hoc Judges.

The findings herein were substantially correct.

RECOMMENDATION 1: The City Attorney Should Provide Written Policies To Guide The Exercise Of Prosecutorial Discretion In Traffic Cases.

Recommendation requires no response from Traffic Court.

RECOMMENDATION 2: The City Attorney Should Maintain Data On Case Dispositions To Ensure Accountability For Prosecutorial Decisions.

Recommendation requires no response from Traffic Court.

RECOMMENDATION 3: Traffic Court Judges Should Ensure That All Decisions To Prosecute Or Dismiss Charges Are Made By City Attorneys.

This recommendation has been adopted and embraced by the Judges of Traffic Court. Effective October 26, 2011 no Traffic Court Judge or staff member shall have the authority to dismiss charges.

RECOMMENDATION 4: Traffic Court Judges Should End The Practice Of Directing Revenue From Fines And Statutory Fees To The Judicial Expense Fund.

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 \$30.00.

RECOMMENDATION 5: The Traffic Court Should Submit Complete Revenue And Expenditure Reports To The City On A Monthly Basis.

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.

RECOMMENDATION 6: Traffic Court Judges Should Develop Written Policies And Procedures For Court Personnel.

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.

RECOMMENDATION 7: Traffic Court Judges Should Reduce The Risk Of Misappropriation Of Cash Receipts By Restricting Computer Privileges And Segregating Incompatible Duties.

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. The access of remaining employees (i.e.

most employees) has been substantially restricted; they cannot process cash transactions nor can they enter dispositions codes.

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.

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.

Currently, 39 employees are assigned to the courtrooms. The Judges agree that this is too many; seven per division is optimal. With voluntary and involuntary attrition, it is anticipated that this number can be achieved within a few years. A judge will not be allowed to fill staff vacancies unless his staff size decreases to six.

RECOMMENDATION 9: Traffic Court Should End The Practice Of Using Unclassified Positions To Hire Non-Judicial Staff.

The Clerk of Criminal Court for the Parish of Orleans, the Clerk of Civil District Court for the Parish of Orleans, the Clerk of First City Court, the Clerk of Second City Court, the Clerk of Juvenile Court, and the Clerk of the 24th Judicial District Court for the Parish of Jefferson all report that their employees are unclassified. Traffic Court will seek legislative clarification/change regarding this matter during the 2012 Legislative Session.

RECOMMENDATION 10: Traffic Court Should Integrate Its Case Management And Accounting Systems.

Please see Mr. Horil's response to Finding 25.

RECOMMENDATION 11: Traffic Court Should Train Staff In The Use Of the Court's Computer System.

Beginning November 28, 2011 all cashiers will undergo mandatory training. Training for non-cashiers will commence the second week of December, 2011.

RECOMMENDATION 12: Traffic Court Should Develop In-House Capacity To Handle Basic Bookkeeping And Financial Management Functions.

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

RECOMMENDATION 13: Traffic Court Should End The Practice Of Inappropriately Classifying Employees As Contractors.

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.

RECOMMENDATION 14: Traffic Court Should Make Purchases Through A Competitive Process.

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.

RECOMMENDATION 15: Traffic Court Should Exercise Responsible Contract Oversight.

Greater oversight from the Judicial Administrator's Office is mandated. Personnel changes in that office will bring about the needed change.

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.

Mr. Thomas's contractual relationship with the Court will terminate before December 31, 2011.

RECOMMENDATION 17: Traffic Court Should Discontinue Payments From The Judicial Expenses Fund To Provide Supplemental Benefits For Judges Or To Pay Salaries For Ad Hoc Judges.

Effective November 1, 2011 the disability insurance policies for Judges were cancelled.

RECOMMENDATION 18: Traffic Court Should Provide Useful And Accurate Public Information On Its Website.


Please see Mr. Horil's response to Finding 26.

Appreciating your staff's professionalism, we remain

Very truly yours,



ROBERT E. JONES, III
Administrative Judge, Division "B"



MARK J. SHEA
Judge, Division "C"



RONALD J. SHOLES
Judge, Division "D"

Attachments

cc: Hon. Mitchell J. Lanrieu, Mayor
Andrew D. Kopplin, First Deputy Mayor
Richard F. Cortizas, City Attorney
Hon. Paul N. Sens

REJ/aag



State of Louisiana
City of New Orleans
Traffic Court



JUDGE DENNIS J. DANIEL
DIVISION "A"

JUDGE ROBERT E. JONES, III
DIVISION "B"

JUDGE RONALD J. SHOLES
DIVISION "D"

727 SOUTH BROAD STREET
NEW ORLEANS, LA 70119
(504) 658-8500

LOUIS W. IVON
JUDICIAL ADMINISTRATOR

December 30, 2008

City of New Orleans
Brenda Hatfield, CAO
1300 Perdido Street
New Orleans, La 70112

RE: Internet accounting transactions

Dear Mrs. Hatfield,

We are writing regarding the internet accounting transactions processed by the court of New Orleans (hereafter "the court") which has produced revenue for the City of New Orleans. In 2003, the City of New Orleans (hereafter "the city") set up a website which enabled citizens to pay traffic tickets on-line through the City's official website. This process was set up with the involvement of City personnel, court personnel, and a third party administrator. Initially when this process was set up, all transactions were controlled the City and the third party administrators without the involvement of the court personnel. In fact, court personnel was only notified of the payments being made and did not have knowledge of where money went, the breakdown of each ticket, or where bank accounts were located. However, subsequent to Hurricane Katrina, the court accounting process changed dramatically.

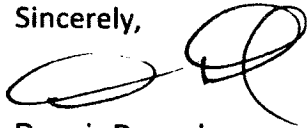
This change included the court becoming responsible and proactive with its accounting practices and recordkeeping. As a result of the proactive nature of the accounting transactions, the court retained independent accountants to reconcile all accounts and payments processed by the court. In updating our accounting records and reconciling accounts our independent accountants located funds that were listed in City bank accounts that pertained to internet transactions and reconciled these transactions. This reconciliation and subsequent disbursement of funds resulted in approximately \$ 1 million of additional revenue to the City of New Orleans above and beyond the normal fines collected by the court and submitted to the City. Now the internet account is up to date but due to the complex nature of the transactions the account is still being maintained and reconciled by independent accounts. Since the

EXHIBIT "A"
OIG-I&E-10013

account was set up by the city and eight (80) percent of the revenue from internet payments are submitted to the City. We would like to reduce fine money submitted to the City for internet payments by accounting expenses incurred by the court.

After Hurricane Katrina, court representatives meet with representatives from the CAO's office to discuss the reconciliation of accounting transactions and problems with the internet account. In that meeting, representatives established an understanding that the court could have the liberty to fix accounting problems as need be and reduce fine money accordingly. The court would like to continue to be proactive and provide the necessary services to process internet payments and provide revenue to the City. However, the court would like the City to incur the accounting expenses as a direct percentage with the correlation of revenue that the City receives. For instance, if the City receives eighty (80) percent of the revenue then it should incur eighty (80) percent of the accounting costs to generate that revenue. If you have any questions, please feel free to contact our accountant Vandale Thomas at 504-669-0257.

Sincerely,



Dennis Dannel
Chief Administrative Judge

Cc: Carey Grant
Vandale Thomas

EXHIBIT "A"

OIG-I&E-10013

CHIEF ADMINISTRATIVE OFFICE
CITY Of NEW ORLEANS

MAYOR
C. RAY NAGIN

BRENDA G. HATFIELD, PHD
CHIEF ADMINISTRATIVE OFFICER

Via E-Mail PDF & U.S.Mail

April 29, 2010

The Honorable Dennis Dannel
Chief Administrative Judge
Traffic Court
City of New Orleans
727 South Broad Street
New Orleans, Louisiana 70119


Dear Judget Dannel:

The Administration of the City of New Orleans agrees that the Traffic Court online payment system reconciliation costs will be prorated to the various agencies that share in Traffic Fines. The estimated amount to be deducted for the City of New Orleans' share is approximately \$150,000.

Our staff has also indicated that Chase Bank, the City's current online processor, will provide services in the near future. This change will eliminate any additional reconciliation costs in the future. Ultimately, our goal is for Traffic Court revenues to be distributed to the appropriate agencies on a timely basis in the future.

If there are any questions, please contact Cary M. Grant, Assistant Chief Administrative Officer, at (504) 658-8625.

Sincerely,


Brenda G. Hatfield, PhD
Chief Administrative Officer

cc: Cary M. Grant, Assistant CAO
Reginald Zeno, Director of Finance
Derrick Muse, Deputy Director of Finance
Vandale Thomas

2010 APR 29 P 2:09
RECEIVED
CHIEF ADM.

1300 PERDIDO STREET / SUITE 9E06 / NEW ORLEANS, LOUISIANA / 70112
PHONE 504.658.8600/ FAX 504.658.8648



OIG-I&E-10013

EXHIBIT "A"
CONT'D

Memo

To: Andrew Kopplin, Deputy Mayor and Chief Administrative Officer
From: Tammy Broussard, Budget Analyst
cc: Cary M. Grant, Director of Budget
Date: February 22, 2011
Re: Traffic Court Ticket Reconciliation

Part of the City's revenues from moving vehicle violations come from the New Orleans Traffic Court in the form of in-person payments, online ticket payments, and automated payment by phone.

Within the last eighteen months, Traffic Court has been auditing, reconciling and implementing upgrades to its collections processes with the help of Vandale Thomas of Paillet, Meunier and LeBlanc, L.L.P.

The City of New Orleans agreed to a rate to share in the collection costs for these revenues. The agreement for the online ticket payment option is already in place.

Now the court is asking for a letter agreeing to collect revenues through the automated phone system, or integrated voice response / edify system (IVR).

The Court is requesting a statement similar to the following::

The Administration of the City of New Orleans agrees that the Traffic Court integrated voice response/edify system (Ivr system) reconciliation costs will be prorated to the various agencies that share in Traffic Fines. The estimated amount to be deducted for the City of New Orleans' share is approximately \$150,000.

Our staff has also indicated that Chase Bank, the City's current online processor, will provide services in the near future for the IVR system and the online system. This change will eliminate any additional reconciliation costs in the future. Ultimately, our goal is for Traffic Court revenues to be distributed to the appropriate agencies on a timely basis in the future.

While the court anticipates expending another \$100,000 to have the system upgraded to a second level, it maintains that this automation process should eliminate any need for additional reconciliation costs beyond 2011.

Please see attachments for more information.

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

Barbara P. Coulon

From: Tammy M. Broussard **Sent:** Tue 5/11/2010 9:25 AM
To: djdannel@hotmail.com; Barbara P. Coulon; Vandale D. Thomas; vandale35@yahoo.com
Cc:
Subject: FW: Traffic Court
Attachments: Traffic Ct Online Ticket Letter.pdf(87KB)

Please note, the original was placed in the mail today to the Honorable Dennis Dannel's attention.

From: Tammy M. Broussard
Sent: Monday, May 03, 2010 2:29 PM
To: djdannel@hotmail.com; Barbara P. Coulon; Vandale Thomas; vandale35@yahoo.com
Cc: Tammy M. Broussard; Cary M. Grant; Derrick A. Muse; Reginald E. Zeno
Subject: RE: Traffic Court

As requested, a new letter has been signed.

From: Tammy M. Broussard
Sent: Thursday, April 29, 2010 11:30 AM
To: Cary M. Grant; Reginald E. Zeno; Derrick A. Muse; Gloria S. Journee
Subject: FW: Traffic Court
Importance: High

Cary, you said to coordinate getting a new letter signed to Dr. Hatfield but the amount has changed. Was this anticipated?(see second email from Vandale). Vandale says the figure goes from \$85,000 to \$150,000 due to the help of implementing the procedures and helping chase develop the procedures.

Just checking.

From: Vandale Thomas [mailto:vthomas@pmlcpa.com]
Sent: Thursday, April 29, 2010 11:06 AM
To: Tammy M. Broussard
Subject: FW: Traffic Court

EXHIBIT "A"
CONT'D

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

Barbara P. Coulon

From: Tammy M. Broussard **Sent:** Mon 5/3/2010 2:28 PM
To: djdannel@hotmail.com; Barbara P. Coulon; Vandale Thomas; vandale35@yahoo.com
Cc: Tammy M. Broussard; Cary M. Grant; Derrick A. Muse; Reginald E. Zeno
Subject: RE: Traffic Court
Attachments: Traffic Ct Online Ticket Letter.pdf(87KB)

As requested, a new letter has been signed.

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To: Cary M. Grant; Reginald E. Zeno; Derrick A. Muse; Gloria S. Journee
Subject: FW: Traffic Court
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Just checking.

From: Vandale Thomas [mailto:vthomas@pmlcpa.com]
Sent: Thursday, April 29, 2010 11:06 AM
To: Tammy M. Broussard
Subject: FW: Traffic Court

Here is the letter that was sent to traffic court. Call me if you have any questions.

EXHIBIT "A"
CONT'D

From: Gloria S. Journee [mailto:gsjournee@cityofno.com]
Sent: Tuesday, September 22, 2009 11:08 AM
To: djdannel@hotmail.com
Cc: Brenda G. Hatfield; Cary M. Grant; Reginald E. Zeno; Derrick A. Muse; Vandale Thomas
Subject: Traffic Court

Vandale Thomas

From: Vandale Thomas
Sent: Wednesday, September 30, 2009 6:09 PM
To: 'Gloria S. Journee'; djdannel@hotmail.com
Cc: Brenda G. Hatfield; Cary M. Grant; Reginald E. Zeno; Derrick A. Muse
Subject: RE: Traffic Court

Thanks for the response to Judge Dannel's letter. While the letter was okay for our auditor, I think there are three (3) issues regarding the content of the letter. First, where did the amount in the letter originate? Listing an amount there seems to indicate that there was a set agreement for that figure when there was not. Secondly, there is no period of time in the letter. The amount does not cover any period in time. This process started in 2007 and has continued through the years. Third, the last paragraph states that Chase will assume the responsibility of the internet transactions as if this has already occurred. We are in the process of implementing Chase as the on-line processor but Chase has indicated that the implementation process will take two(2) to three(3) months. I know the letter did indicate an estimate for the amount so if there is a plan to write another letter truing up the costs after Chase goes on-line please let us know. Since January 2008, the court has provided the City with approximately \$ 1.5 million of revenue from normal on-line payments and approximately \$ 1.5 million in special projects performed to correct problems with missing payments and on-line revenue. We would like to continue this process (hopefully through Chase), but we are also trying to ensure that court files are properly documented. If there are any questions then please call Vandale Thomas at 225-976-3793.

From: Gloria S. Journee [mailto:gsjournee@cityofno.com]
Sent: Tuesday, September 22, 2009 11:08 AM
To: djdannel@hotmail.com
Cc: Brenda G. Hatfield; Cary M. Grant; Reginald E. Zeno; Derrick A. Muse; Vandale Thomas
Subject: Traffic Court

Judge Dannel,

Please see attached correspondence. The original copy has been placed in the mail.

Gloria Smith Journee
Confidential Assistant
Chief Administrative Office
1300 Perdido Street, Rm 9E06
New Orleans, Louisiana 70119
504.658.8910 (ofc)
504.658.8647 (fax)

EXHIBIT "A"
CONT'D

From: Gloria S. Journee [mailto:gsjournee@cityofno.com]
Sent: Tuesday, September 22, 2009 11:08 AM
To: djdannel@hotmail.com
Cc: Brenda G. Hatfield; Cary M. Grant; Reginald E. Zeno; Derrick A. Muse; Vandale Thomas
Subject: Traffic Court

Judge Dannel,

Please see attached correspondence. The original copy has been placed in the mail.

Gloria Smith Journee
Confidential Assistant
Chief Administrative Office
1300 Perdido Street, Rm 9E06
New Orleans, Louisiana 70119
504.658.8910 (ofc)
504.658.8647 (fax)

EXHIBIT "A"
CONT'D

OIG-I&E-10013

Judge R. Jones;

These are my observations and correlations pertaining to the Inspector's inquiry with regard to the IT department. It is hard to focus on only 2010 taken out of context of the 4 year recent history. 2010 simply does not tell our story. It was an amazing year and we make our best progress in that time span.

11/10/2011

Re: Office of Inspector General
City of New Orleans
Internal Review Copy Review of City Courts and Traffic Court
Page 41 of 53 October 7, 2011

Finding 25. TRAFFIC COURT DID NOT MAKE EFFECTIVE USE OF ITS INFORMATION TECHNOLOGY SYSTEMS.

"Traffic Court used an electronic case management software program to maintain its docket.

The program was customized to allow Court employees to enter dispositions for different categories of traffic violations. Depending on the charge, the software automatically generated the amount of the fine and all statutory fees. When a payment was entered, the program determined the disbursements to various funds. This computer system was capable of maintaining the Court's financial Data and generating the necessary financial reports for court operations. The system could have been integrated with banking applications to automate transaction processing and reconciliations, but was not."

In Response to the above observation,

The New Orleans Traffic Court since about 04/08/2008 began to move forward mitigating the challenges brought forth by Hurricane Katrina only to be amplified by circa 1960 facilities. In April of 2008 the Court for the first time was able to commence processing "programmatically" court cases and interact electronically with the Louisiana Supreme Court reporting convictions, driver's license suspensions, and cases whereby a given defendant failed to appear to address traffic affidavits. It should be noted that the New Orleans Traffic Court Computer System IBM S108D26A was removed from the facility located at 727 S. Broad Street and was installed at the 3rd floor of 1300 Perdido Street New Orleans City Hall. This is the location of CNO MIS. This caused the court to operate remotely from the system upon substandard communication lines and daily outages with regard to the access to the court system.

On October 29, 2009, The New Orleans Traffic Court completed migrating to its new system local to the court house at 727 S. Broad Street. The New System IBM 10BD682 vastly improved appliance in regard to hardware and software.

In addition, Sungard Public Sector Software was upgraded over six revisions and caused to be "up to date" and for the first time since 08/2005, the court enjoyed a system affording 100% computerized access to records in order to process cases.

EXHIBIT "B"

In December of 2009, The Judicial Administrator and staff leaned forward upon securing an automated telephone system to conduct automated telephone collections 24 hours per day, 7 days per week. This system was implemented and active 09-29-2010 and is electronically interfaced to the court system with regard to interaction with defendants by phone and credit card collections.

In January of 2010 New Orleans Traffic Court also to great measure improved its means of fine collection via the internet. Similar to the functional of the above phone base collection system, the internet Chase Collection site is now on line serving the public.

So in essence, the "Front End" of the New Orleans Traffic Court that serves the community in both ease of remote access and enhanced fine collection was embraced phase one. The actual fine collections have increased reflecting the above.

For the sake of argument, the "Back End" of the court system, I.E. the accounting staff and processes, as well as to the four divisions of the court sessions daily and Violations Bureau 8AM to 5PM, have also been boosted since the inception of the New Traffic Court System.

A Document Server has been established in order to create more readable and diverse documents such as court notices, receipts, subpoena ETC. Electrical issues plague this system daily because of 1966 electrical circuits and the lack therein. But the system is a vast improvement and causes efficiency gains over case processing times prior to its existence.

A list is also automatically and manually compiled daily to process notices every working court day that are mailed to defendants who become delinquent. All associated additional fees are also electronically applied.

The Court has established an Optical Imaging Server that is a very large resource preserving cases and is slated to be integrated to the court primary system moving another step toward paperless processing of the majority of simple cases in the near future. Simply stated, each traffic case document is digitally scanned into a Dell Frame Server hosting the Hyland Software "OnBase". This is a fully open ended and premier system regarding hard and software. This system is also primary to meeting the task of daily backup of data and is redundant / off system.

"The Court was only using some of the capabilities of this system. Court Employees made docket entries and entered case dispositions. However, Court Personnel told us that the case management system was not used for financial management. Instead, data from the system was re-entered manually, either by Court employees, or by the court's accountant, Thomas, into a QuickBooks accounting system."

In Response to the above observation,

The New Orleans Traffic Court system does presently calculate the fine collections and disbursements in general terms. The system calculations are sometime in need of corrections due to fee's deducted by banks, check clearing houses, and credit card institutions. In light of the vast dynamics and complexities regarding the various cases and collections, the accountant for the court, Thomas, and the related court staff, have been caused to procure additional methods in order to reconcile daily proceedings.

Can the present system be advanced to act as the end all accounting tool? The answer is yes but not before the system, primarily the back end, be made open ended regarding employments of various clerical tools such as MS Excel, Access, ETC. In addition, the physical reports generated are in need of expansion and modifications to keep pace with the ever changing fine amounts and disbursement processes.

The Court is also utilizing QuickBooks for daily processing tasks regarding bond forfeiture and reimbursement. This is another example whereby a process is external and slated in the future to become internal to the New Orleans Traffic Court SunGard System.

Mr. Thomas and the related accounting staff at Traffic Court are compelled to manually input data into external software because again, the backend of the system is simply not customized as of yet to electronically interface with external software.

This electronic interface was specked out with Sungard some time ago and for under \$ 30000 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.

Both of these proposals have been tabled due to fiscal challenges but not cancelled.

“We were told that the employees entering dispositions into the case management system made so many errors that the data in the system was un-reliable.”

In Response to the above observation,

This is a correct observation. There are virtually 5 entities in the New Orleans Traffic Court. Division A, B, C, D and the Violations Bureau.

Training initiatives are underway to simply get every one on the same page. Later this month, November 2011, Classes are to occur in order to not only standardized the processes and case handling procedures, but to reduce replication of work that has been uncovered as the “Office Work Flow” has been modified and honed. These improvements have been in part thanks to Mr. Thomas, the accountant, who has with great care and consideration, advanced the automation of offices within the traffic court greatly improving the workplace globally. He has been a large boost embracing external technology vendors, attending meetings, and acting as liaison for the court and the CNO MIS resource.

“In 2010, the traffic court paid an information technology contractor \$185,840 for support services and invested \$113,000 in computer hardware and software. Despite these expenditures, the Court did not use the capabilities of its systems to carry out its operations in an efficient and cost effective manner.”

In Response to the above observation,

The court paid a professional services contractor “Major Services Inc.” \$185,000 for operation of the New Orleans Traffic Court Info Systems for 12 months I.E. 2010. It addresses these systems some 16 hours per day especially during frequently occurring electrical and environmental events.

On call 24-7 negotiating and managing communications of systems to the Louisiana Supreme Court regarding Drivers License Suspension, Conviction reporting, and FTA(fail to appear) status.

Operation and managing both Hardware and Software of the IBM ISeries 502 M15 10BD682.

Operation and managing both Hardware and Software of the Dell 1950 Hyland Software System and OnBase Imaging component.

The Computerized Phone Collection System was partially designed and implemented / expanded and operated daily. In addition data is processed via MS Excel and delivered to NOTC Accounting twice daily.

100 PC Devices and Printers / Telephones are supported.

The WEB Collections placed on line processed and operated daily and reconciled with Chase.

All Court Systems and relevant data that the traffic proceedings cause is backed up and secured both off site and replicated.

The \$113,000 expenditure produced the hardware and software conducting telephone fine collections. It gained this expense back in about a weeks time and caused a substantial increase in revenue according to Thomas and the record.

“The Courts dysfunctional practice of using two separate databases to manage Information was inefficient and costly. Many of the hours billed by Mr Thomas were for manually transferring data from one system to another. This process also consumed an unknown number of hours of work by Court Employees.”

In Response to the above observation,

I cannot comment Mr. Thomas’s attendance as a CPA or Court Accountant or his particular data entry hourly rates.

However, in regard to the manual data entry and replicated databases, they were necessitated by virtue of the fact that the Court Primary System is not open ended on the back end. This is not news to the IT staff, and, is slated for enhancement as indicated previously in this response, but to reiterate, for about \$7200, and properly sequenced amongst the other court techno advances, this can be easily achieved. One might note also NOTC and the public are challenged by environmental issues outside the scope of this inquiry and or response. These and other diverse unscheduled tasks have caused at least a delay to a more perfect Traffic Court System. NOTC has strived to place serving the public at the forefront of any advance since 2005.

“In addition to the inefficiencies, the ineffective use of technology also affected the Court’s ability to maintain accurate data. As a result, it is difficult, if not impossible, to generate reliable reports of basic Court operations.”

In Response to the above observation,

EXHIBIT “B”

Previously expounded upon.

Thank you for the opportunity to be a member of your team!

J. Horil

From: John J. Horil Jr.
Sent: Tuesday, October 25, 2011 2:09 PM
To: Jeremy M. Coudrain
Subject: question

Jeremy, know this is not your gig but thought you could steer us,

Traffic Court has a WEB Page on the City Site. Brenda Watzke was supposed to get credentialed to access and ammend same.

Who can I call for her to get her going.

Jack

CHIEF ADMINISTRATIVE OFFICE
CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU
MAYOR
November 14, 2011

ANDREW D. KOPPLIN
FIRST DEPUTY MAYOR & CAO

Mr. Edouard Quatrevaux
Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, LA 70130

Dear Mr. Quatrevaux:

Re: Office of Inspector General Report on Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court, Part 1: Recommendations Related to the City Court System.

Thank you for your office's comprehensive review of the City of New Orleans's Municipal and Traffic Courts and for your detailed recommendations. As we have written in our responses to your previous reports, we continue to appreciate the effective working relationship that we have developed with your office and especially for your detailed reports and recommendations for how we can improve the fiscal and operational effectiveness of city departments and political subdivisions, including the courts.

The OIG noted the following recommendations concerning funding of City Courts:

- 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.
- 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.
- Recommendation 3. The City Should Monitor Municipal and Traffic Court Revenues and Expenditures through Monthly Reports.
- Recommendation 4. The City Should Fully Fund Municipal and Traffic Court Payrolls through the General Fund.
- Recommendation 5. The City Should Ensure that Municipal and Traffic Court Contracts are Procured Competitively through the City's Chief Procurement Officer.

City Response:

We began discussions earlier this summer with the Traffic Court judges concerning the accumulated surplus in the Judicial Expense Fund as well as the City's funding of the Court's renovation project in the Capital Program. The Judges and the Landrieu Administration have tentatively agreed that the funding previously set-aside from the Judicial Expense Fund will be contributed to the City's general fund to help offset the City's 2010 deficit, and that the City will meet its obligations to fully fund the capital

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construction requirements of the new facility to house criminal justice agencies, including the Traffic Court. Based on these recommendations from the OIG, we will extend these conversations to resolve outstanding issues related to the Judicial Expense Fund.

Additionally, based on recommendations 2-5, we will initiate conversations with the City Council and the Municipal and Traffic Courts to discuss the overall arrangement for funding the various courts in terms of annual appropriations for operating costs, use of revenues, and budget practices. Although we are not going to have time to address them before the 2012 budget is finalized this month, because the City Council is able to amend the budget throughout the year by ordinance there may be actions that can be taken to address the recommendations during the calendar year 2012. Regarding recommendation 5, 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.

The OIG noted the following additional recommendations regarding potential changes to City ordinances and state laws:

- Recommendation 6. 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.
- Recommendation 7. The City Should Incorporate All Revenues and Expenditures for Municipal and Traffic Court into the Operating Budget, as Required by the Budget Act.
- Recommendation 8. The City Should Monitor Municipal and Traffic Court Revenues and Expenditures through Monthly Reports.
- Recommendation 9. The City Should Fully Fund Municipal and Traffic Court Payrolls through the General Fund.
- Recommendation 10. The City Should Ensure that Municipal and Traffic Court Contracts are Procured Competitively through the City's Chief Procurement Officer.

Recommendations 6-9 are proposals for changes in City ordinance 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 Funds 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 have with the Courts and the City Council on resolving all of these fiscal matters, we will then attempt to seek ordinance and state legislative changes to ensure that the laws and our practices are in concert.

Additionally, we will be happy to respond to any studies completed by the Supreme Court or the City Council regarding the merits of Recommendations 10 and 11.

Sincerely,



Andrew D. Kopplin
First Deputy Mayor &
Chief Administrative Officer



CITY OF NEW ORLEANS
LAW DEPARTMENT
1300 PERDIDO STREET, 5TH FLOOR EAST
NEW ORLEANS, LOUISIANA 70112
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MITCHELL J. LANDRIEU
MAYOR

RICHARD F. CORTIZAS
CITY ATTORNEY

November 15, 2011

Mr. Edouard R. Quatrevaux
Inspector General
Office of the Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, Louisiana 70130

Dear Mr. Quatrevaux:

The City Attorney's Office has the following response to the Office of the Inspector General's report dated October 7, 2011, on the Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court.

There were two recommendations that were directed to the City Attorney's office:

RECOMMENDATION 1:

THE CITY ATTORNEY SHOULD PROVIDE "WRITTEN POLICIES TO GUIDE THE EXERCISE OF PROSECUTORIAL DISCRETION IN TRAFFIC CASES.

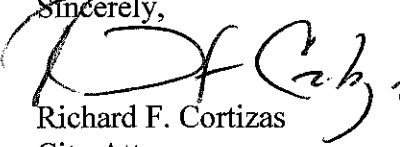
Our office is committed to pursuing equal justice for all citizens while prosecuting traffic and municipal offenses. We will review our current policies in an effort to determine which guidelines can realistically be reduced to writing without impeding the prosecutor's discretion to assess the facts. At present there are general guidelines that are adhered to in each of the respective courts, however, given the factually specific nature of the cases that our office prosecutes, it is difficult to reduce all guidelines to writing. Under Louisiana State law, prosecuting attorneys have the exclusive authority to determine against whom, when and how prosecutions should proceed. Thus, there are several factors that necessarily must be assessed prior to making the determination of whether to prosecute or dismiss each charge.

RECOMMENDATION 2:

THE CITY ATTORNEY SHOULD MAINTAIN DATA ON CASE DISPOSITIONS TO

ENSURE ACCOUNTABILITY FOR PROSECUTORIAL DECISIONS.

In an effort to further the transparency of our accountability, the law department is in the process of hiring a computer 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.

Sincerely,

Richard F. Cortizas
City Attorney

cc: Andy Kopplin, First Deputy Mayor and CAO
Norman Foster, Chief Financial Officer

APPENDIX A

TICKET PROJECT METHODOLOGY

TRAFFIC COURT 2010 COLLECTIONS AND DISBURSEMENTS

The OIG conducted an inspection to estimate the proportion of total revenue collected by Traffic Court in 2010 in city fine payments, statutory fee payments to other agencies, and monies to be retained by the Court. These proportional values were then compared to the actual proportions disbursed to the City and other agencies, and retained by the Court, in 2010. The comparison revealed that an estimated \$1.3 million in city fine and statutory fee payments made in 2010 were directed by the court judges to the Court's Judicial Expense Fund (JEF).

Rationale

When a motorist is convicted of a traffic violation, he must pay the fine and statutory fees associated with the type of offense. While the fine amount varies greatly across the different types of offenses, the basic set of statutory fees collected for all traffic convictions remains the same (Figure J). Given the standard fee schedule, and the total number of convictions during a specific period of time, one can reasonably approximate how much money should have been paid to other agencies during that time. However, fines and fees are not assessed for every conviction. A Traffic Court judge may deem that a suspension of the fines and fees for a conviction is appropriate, relieving the offender of having to pay any amount. This reduces the number of convictions that should be used to calculate how much should be paid to other agencies to only those for which fee payments are assessed.

Sample

The OIG requested a spreadsheet of the population of traffic tickets filed at Traffic Court in 2010. Court officials provided the OIG with a spreadsheet of 58,064 traffic tickets, broken down by charge. From this data, a sample of regular (non-DWI) tickets was randomly selected.⁶⁹ The OIG used the computer program Active Data to randomly sample 278 regular (non-DWI) tickets from the list of tickets provided by Traffic Court officials, stratified by section.⁷⁰ The Court was very helpful and provided the majority of the files.⁷¹ The final sample consisted of 250 tickets, with a Confidence Level of 95% and a Margin of Error of plus or minus 6%.

⁶⁹ The OIG only reviewed regular (non-DWI) tickets for simplicity of analysis because the fees associated with DWI convictions are variable, making generalization from a sample to the population unreliable.

⁷⁰ The Violations Bureau handles three times as many cases as each court section, so the sample request included 39 tickets for each of the Sections A, B, C, and D, and 117 tickets handled by the Violations Bureau. Five of the sampled tickets were handled at the Algiers Courthouse.

⁷¹ The Court was unable to locate the files for 8% of the requested tickets and some of the files provided did not have adequate information to be included in the sample.

Analysis

Traffic Court officials pulled the file folders for each of the 250 tickets making up the final sample, and made them available at the Court for OIG evaluators to review. Three OIG evaluators scanned all of the contents from each of the 250 ticket folders, including the actual tickets. The information relating to the variables of interest, as described in Table 1, was transcribed by the three evaluators from the scanned documents into a new spreadsheet.

Table 1: Ticket Project Variables of Interest

Variable of Interest	Description
File Date	Date the ticket was filed at Traffic Court
Section of Court	Identified the section of Court that handled ticket (Section A, B, C, or D, Violations Bureau, or Algiers Courthouse)
Origin of charges	Identified whether the charges were original (i.e. written on ticket by NOPD officer when issued) or added by city attorney at Traffic Court
Type of Charge	Identified the type of violation, whether Moving (i.e. Speeding) or Nonmoving (i.e. No Driver's License)
Disposition of Charge	Identified the final outcome for each charge, whether Guilty, Not Guilty, Dismissed, or Reset for Trial
Dismissed in Entirety	Identified when all charges on a ticket were dismissed
Disposition Signature	Identified whether a signature was found on the original ticket; the Court relies on a disposition signature of the city attorney, judge, or a minute clerk to validate final dispositions
Fine and Fee Payment Due	Identified whether fine and fee payments were due
Receipt	Identified whether a receipt of payment was in the file folder
Receipt Information	Identified whether the receipt included disbursement information and detailed amounts diverted to the City and other agencies
Cases Status	Identified whether a case was closed or pending

One variable of interest that stood out to the OIG pertained to the disposition and signature seen on some of the original tickets. On 20 of the 250 tickets, a judge had instructed the person handling the payment transaction to divert all of the fines and fees to the Judicial Expense Fund (JEF).⁷² This amounted to at least 8% of all regular tickets handled in 2010 having the city fines and agency fees directed to the JEF by a judge.⁷³

⁷²The person handling a transaction could have been, according to Court officials, a cashier or any other employee in the Court if a cashier was unavailable. The OIG also observed a summer intern handling payment transactions.

⁷³ The OIG was unable to determine the exact number of cases in the sample for which the fine and fee payments were directed by a judge to the JEF. This is largely due to the inconsistent procedures and record keeping across court sections. The finding of at least 8% prompted the OIG to use the sample to determine the total number of cases for which fines and fees were due in 2010 to deduce the amount of statutory fee payments directed to the JEF by the judges during that year.

Statutory Fees for Other Agencies. The OIG found that, in the sample, there were a total of 283 regular convictions, 232 of which had fine and fee payments due. Because there were 58,891 regular convictions in the population of all tickets, as indicated by the population data provided by the Court, the 232 value extrapolated to 48,291 tickets in the general population for which fine and fee payments were likely due. This value was multiplied by each of the standard statutory fees assessed on all regular convictions, as seen in Table 2.

Table 2: Calculation of the Amount of Standard Statutory Fees Collected by Traffic Court in 2010 to be paid to Other Agencies⁷⁴

Agency	Fee per Conviction	# of Convictions	Estimated Total
Indigent Defender	\$35	48,291	\$1,690,185
Police Training	\$2	48,291	\$96,582
CMIS	\$2	48,291	\$96,582
Criminal Court	\$5	48,291	\$241,455
Municipal Court	\$5	48,291	\$241,455
Crimestoppers	\$2	48,291	\$96,582
Total	\$51	48,291	\$2,462,841

The OIG determined that an estimated \$2.5 million should have been collected in standard statutory fees in 2010, and paid to the relevant agencies. This amounts to 19% of the \$12.8 million in overall revenue for 2010. The analysis, however, did not include DWI and other more serious convictions.⁷⁵ DWI and other more serious convictions account for nearly 2% of all convictions at Traffic Court. These convictions assess the standard statutory fees and a variety of more expensive, supplemental fees. The OIG accounted for the additional revenue collected on these types of convictions by adding 3% to the original proportion, bringing the value up to 22%. This amounted to \$2,819,954 in statutory fees owed to other agencies by the Traffic Court in 2010.

Judicial Expense Fund. As noted in the report, the Traffic Court was legally authorized to assess a \$10 fee on every traffic conviction to help support operating costs of the Court. The OIG used the same calculation method in Table 2 to estimate that a total of \$482,910 should have been assessed for this statutory fee.⁷⁶

The Traffic Court is also allowed to keep contempt payments, bond forfeitures, and reinstatement fees; however, it was impossible to determine how much money should have been collected for these assessments from the information obtained in the sample.⁷⁷ The OIG,

⁷⁴ This list refers only to the agencies that collect a fee for every conviction, and does not include agencies that collect a fee for DWI, other state offenses, and more serious offenses.

⁷⁵ A DWI conviction has additional fines and fees beyond the basic set of statutory fees (Figure J), making a generalization from a sample of DWI tickets to the population unreliable.

⁷⁶ Population of 48,291 convictions multiplied by \$10 fee equals \$482,910.

⁷⁷ There was no consistency in the Court's documentation of these assessments, as discovered by the OIG when reviewing all of the contents of the ticket file folders.

instead, relied on the Court’s end-of-year financial statement for 2010 to determine that \$2,338,669 was collected in contempt fines; reviewed the dispositions of all of the convictions listed in the population data originally provided by court officials to determine an estimated \$60,900 was collected in bond forfeitures; and found that \$121,075 was collected in reinstatement fees, as reported in the 2010 audit of the JEF.⁷⁸ The findings revealed that approximately \$3 million of the total revenue in 2010 (\$12.8 million) should have been retained for the JEF (Table 3).

Table 3: Estimated Revenues Expected for the Traffic Court JEF in 2010

Source of Revenue	Expected Amount
La. R.S. \$10 Fee	\$482,910
Contempt Fines	\$2,338,669
Bond Forfeitures	\$60,900
Reinstatement Fees	\$121,075
Total	\$3,003,554

City Fine Payments. The OIG estimated that, of the \$12.8 million in total revenue at Traffic Court in 2010, the Court should have paid \$2.8 million to other agencies and retained \$3 million for its JEF. This left \$7 million in 2010 revenue that should have been paid to the City in fine payments.⁷⁹

Comparison of Actual versus Estimated Distribution. The Traffic Court provided our office with documentation that the Court collected \$12.8 million in 2010. Of the \$12.8 million, the Court remitted \$2.3 million (18%) to other agencies, paid the City \$5.2 million (40%), and retained \$5.3 million (41%). The OIG analysis suggested the Court should have paid an estimated \$2.8 million to other agencies, \$7 million to the City, and retained \$3 million (Table 4).

Table 4: Actual versus Estimated Correct Distribution of 2010 Revenue

	Actual	Estimated Correct	Difference
City Fine Payments	\$5,174,417	\$6,994,465	(-\$1,820,048)
Statutory Fees to Agencies	\$2,329,773	\$2,819,964	(-\$490,181)
Retained in JEF	\$5,313,783	\$3,003,554	\$2,310,229

Given the confidence and margin of error of the sample, the findings of the analysis reasonably suggest the Traffic Court retained somewhere between \$1.5 million and \$3.1 million in City fine

⁷⁸ The sample data was more desirable than any other source because the information was obtained by the OIG directly from the actual tickets instead of from secondary source documents provided by the Court. However, when the information of interest could not be obtained from the sample, the OIG relied on documents provided by the Court (i.e. population data, JEF audit).

⁷⁹ This value was deduced after the more reliable statutory fee and JEF values were calculated because fine payments vary greatly according to the type of offense.

and statutory fee payments in 2010, and the Traffic Court judges directed approximately \$1.3 million of that total to the Court's JEF.⁸⁰

TRAFFIC COURT 2010 DISMISSAL ANALYSIS

The OIG conducted a second inspection using the same sample to analyze the rate at which city attorneys were dismissing moving violations in Traffic Court in 2010. We isolated contested tickets with moving violations from the rest of the sample and found that 99% of moving violations were either dismissed outright or reduced to nonmoving violations (Figure L in report).

Rationale

The OIG learned from the Clerk of Traffic Court (COC) that the Court's general practice is to convince motorists charged with a moving violation to not request a trial date and instead plead guilty to a nonmoving violation; in return, the Court dismisses the more serious moving charge. The COC reported that defendants who plead guilty on a lesser charge with a lower fine are more likely to pay some amount of money compared to defendants who are found guilty of all charges after a trial. The OIG also spoke with a city attorney who said she commonly reduces speeding charges to non-moving violations in order to give people a break on their insurance. The City Attorney's office had no policies or procedures to guide city attorneys in the decision of whether or not to dismiss charges. The objective of this analysis was to demonstrate the effects of the absence of such a policy.

Sample

The sample used in this analysis was the same one used in the previous analysis (n = 250).

Analysis

From the sample (n = 250), the OIG determined that 149 (60%) of the tickets contained at least one moving violation. Of these 149, the OIG found 56 tickets were uncontested. They were identified as such because they were all handled by the Violations Bureau and the disposition for every original charge across the tickets was guilty.⁸¹ These uncontested tickets were excluded from the current analysis. The remaining 93 tickets were contested, and reviewed for the current analysis.

⁸⁰ The remaining estimated \$1 million retained by the Court were City fine payments shifted by the Court's accountant, Thomas, as discussed in Findings 10-12.

⁸¹ In order to contest a ticket, a defendant must speak with a city attorney in a courtroom. Because each courtroom in Traffic Court has its own cashier, the OIG initially thought that any tickets processed by the Violations Bureau cashiers must be uncontested. However, during the analysis, the OIG found that many tickets handled by the Violations Bureau had charges reduced or dismissed, suggesting a city attorney had been consulted. The OIG regarded these tickets as contested.

As seen in Table 5, the OIG found that, for 21 of the contested tickets, all of the charges were dismissed; for 71 of the contested tickets, all of the moving violations were reduced to non-moving violations. Only one ticket had a guilty moving violation.

Table 5: Dispositions on Contested Tickets with Moving Violations

	# of Tickets	% of Tickets
All Moving & Non-moving Charges Dismissed	21	23 %
All Moving Charges Reduced to Non-Moving	71	76%
Guilty Disposition for Moving Violation	1	1%
<i>Total Charges</i>	<i>93</i>	<i>100%</i>

To determine whether more serious moving violations were being dismissed, we analyzed the dispositions for four moving violations of interest across the contested tickets in the sample.⁸²

Table 6: Dispositions for Specific Moving Violations on Contested Tickets

	Total # of Charges	Guilty	Dismissed
Hit and Run	1	0	1
Reckless Driving	7	0	7
Red Light	13	1	12
Speeding	41	0	41
Other Moving Violation	58	0	58
<i>All Moving Violations</i>	<i>120</i>	<i>1 (1%)</i>	<i>119 (99%)</i>

⁸² Because tickets often have more than one charge, the number of charges does not match the number of tickets.

APPENDIX B

ORDINANCE

CITY OF NEW ORLEANS
CITY HALL
April 18, 1974
CALENDAR NO. 5880
NO. 5412 MAYOR COUNCIL SERIES
BY: COUNCILMEN SAPIR
(BY REQUEST) AND DI-ROSA

AN ORDINANCE to amend and reordain Ordinance No. 1482 M.C.S., as adopted on October 9, 1958, relative to the re-establishment of the Revolving Fund of the Traffic Court of New Orleans, placing all funds in the present said account into a new account to be designated as the Judicial Expense Fund for the Traffic Court of the City of New Orleans, the rules and regulations thereof to be established by the Judges of the Traffic Court.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that Ordinance No. 1482, M.C.S., as adopted on October 9, 1958, be and the same is hereby amended and reordained by deleting Section 1 in its entirety and inserting in lieu thereof the following:

"SECTION 1. The Director of Finance is hereby authorized and directed to re-establish the Revolving Fund of the Traffic Court (as established by Ordinance No. 1482, M.C.S.) and to place all funds now in said account into a new account to be designated as the Judicial Expense Fund for the Traffic Court of the City of New Orleans. The Judges en banc of the Traffic Court of the City of New Orleans shall have complete control over the Fund and all disbursements made therefrom."

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that Section 2 of Ordinance

No. 1482 M.C.S., be deleted in its entirety and insert in lieu thereof the following:

"Section 2. That the said Traffic Court Judicial Expense Fund shall consist henceforth of monies collected from contempt fines and penalties paid by persons charged with traffic violations."

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that Section 3 of Ordinance No. 1482 M.C.S., be deleted in its entirety and insert in lieu thereof the following:

"Section 3. In general, the Judicial Expense Fund is established and may be used for any purpose or purposes connected with, incidental to, or related to the proper administration or function of said court or the offices of the individual judges, and is in addition to any and all other funds, salaries, expenses, or other monies that are not now or hereafter provided, authorized or established by law for any of the aforesaid purposes."

Procurement of equipment and supplies and materials shall be obtained by the Traffic Court through requests submitted to the Department of Finance, Bureau of Purchasing, for procurements through public bid. Reimbursement from this fund to the Department of Finance shall be made by voucher to cover the cost of police salaries for serving of attachments and/or subpoenas in accordance with an agreement entered into between the City and the Traffic Court, and for interim financing of personal services added during a budget year.

SECTION 4. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that Ordinance No. 1482 M.C.S., be further amended by adding Section 4 to read as follows:

"SECTION 4. The Judges of the Traffic Court shall establish rules and regulations for the management and control of this fund."

SECTION 5. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that Section 5 be added to Ordinance No. 1482 M.C.S. as follows:

"Section 5. Any surplus remaining in this Judicial Expense Fund as of December 31, 1975, and every year thereafter, shall be distributed as follows:

One-half shall be retained in the Judicial Expense Fund and the remaining one-half shall be remitted to the City of New Orleans, General Fund. Such funds shall be annually audited by the Director of Finance of the City of New Orleans."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS April 25, 1974.

JOSEPH V. DI ROSA

President of Council
Delivered to the Mayor
on April 25, 1974.

APPROVED: May 17, 1974.

MOON LANDRIEU

Mayor

Returned by the Mayor
on May 17, 1974 at 11:30
a.m.

CAROL L. BREAUX

Acting Assistant
Clerk of Council