

INTERNAL AUDIT DEPARTMENT

INTEROFFICE MEMORANDUM

Date: March 1, 2010

To: Honorable Mayor Ronald Jones

Members of the City Council

cc: Bill Dollar, City Manager

Bryan Bradford, Senior Managing Director, Budget and Research

George Kauffman, Managing Director of Financial Services

Paige Bobbitt, Municipal Court Director

From: Craig Hametner, City Auditor

Subject: Municipal Court Operations Audit – Follow-up

This is a follow-up of the report "Municipal Court Operations Audit" issued on November 28, 2007. The original audit was an examination of the operations of Municipal Court. The audit was not intended to be a detailed study of every relevant system, procedure, and transaction. They did not find any instances of fraud, waste, or abuse within the process.

The following are the recommendations that were made with responses:

1. Citation Reconciliation

Recommendation was:

- A. The City Manager should ensure that:
 - All enforcement departments reconcile issued, voided, and unused citations on a monthly basis and process these citations to the Municipal Court.
 - A citywide citation reconciliation policy/procedure manual is developed immediately for the departments to implement.
- B. The City Manager should initiate discussion with all enforcement departments to determine if automating the citation process would be appropriate.

Response was: The Court Director is unauthorized to respond for the City Manager; however, a statement from the City Manager is as follows: "The City Manager will ensure that enforcement departments develop a process for reconciling all citations on a monthly basis and investigate the feasibility of automating the citation process."

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Follow-up:

We generated a report from the Court System of citations processed through Municipal Court from Fire, Municipal Court, Building Inspection, Health, Animal Services, Code Compliance and Police. Due to the number of citations issued from one department to the next, our samples reflected the volume based on a specific time period. We based our judgmental sample on the following table:

Enforcement Department	# Citations Issued June 1, 2008 to May 30, 2009
Fire	5
Municipal Court	30
Building Inspection	146
Health	400
Animal Services	861
Code Compliance	1,992
Police	53,588

Fire, Municipal Court and Building Inspection citations were reviewed during a one year period, June 2008 to May 2009; Health, Animal Services and Code Compliance citations were reviewed during a one month period, June 2009; and Police citations were reviewed for the day of June 1, 2009. Each citation booklet holds a total of 75 citations with 4 part citations and most departments issue citation booklets to each officer. We separated citations by officer and sited those that had citation number gaps greater than three. We found 6 out of the 7 departments to have gaps. From the 6 departments containing gaps, we judgmentally sampled 3 departments from the table above who issued the most citations. We performed further testing with Animal Services, Code Compliance and Police.

We reviewed the citation process with the Senior Animal Services Officer, the Code Compliance Field Supervisor and the Police Patrol Administrative Assistant. We found that an Animal Services and Code Compliance officer checks citation booklets in and out by completing a log that is kept in the department. A Police Officer checks out a citation booklet by completing a log that is kept in the Patrol Mailroom and the Traffic Division Office; however, the booklets are not checked back in but rather collected on a daily basis by the Patrol Administrative Assistant where they are entered as returned in the Citation Log Access Database. The citation booklets contain a white copy that is to be filed with the Court immediately, a blue copy that is used for the departments' records, a hard copy that is given to the violator and a pink copy that remains in the citation booklet for any notes taken at the time of the citation.

We found the following to be of concern in regards to the Animal Services citation process:

- Officers can check in and out booklets without supervision or supervisor signatures
- Voided citations are not consistently reviewed
- 4 citation booklets belonging to terminated employees are missing
- Not all voided citations are submitted to Court on a monthly basis
- No written citation policies or procedures

We found the following to be of concern in regards to the Code Compliance citation process:

- Officers can check in and out booklets without supervision or supervisor signatures
- Voided citations are not consistently reviewed
- Blue citation copies are not kept with the Supervisor
- Voided citations are not submitted to Court until after an Officer completes a citation booklet
- No written citation policies or procedures

We found the following to be of concern in regards to the Police citation process:

- Officers can check out booklets without supervision or supervisor signatures
- No written citation policies or procedures

According to the City Manager, he is in the process of developing a citywide citation reconciliation policy/procedure manual for the departments to implement and determine if automating the citation process is appropriate. As of November 2, 2009, the Municipal Court Technology Fund had a balance of \$895,670.90. According to the Texas Code of Criminal Procedure – Article 102.0172, the Municipal Court Technology Fund may be used only to finance the purchase of or to maintain technological enhancements for a municipal court or municipal court of record, including:

- computer systems
- computer networks
- computer hardware
- computer software
- imaging systems
- electronic kiosks
- electronic ticket writers
- docket management systems

Recommendation was Partially Implemented.

2. Warrant Collection and Issuance

Recommendation was:

- A. The Police Chief should continue to ensure that outstanding warrants are served and collected in a timely manner.
- B. The Municipal Court Director should ensure that eligible Citations older than 30 days are processed for warrants.

Response was:

- A. The Court Director and the Police Chief have reviewed the audit findings; both concur the Warrant Unit is and will continue to effectively serve and collect on outstanding warrants utilizing the current allocation of resources. No further action needed.
- B. The Court Director & Chief Judge are both confident eligible cases <u>are sent</u> for warrant issuance within the 30-day parameters established as the department policy. This is not intended to imply an all-inclusive process... instances arise when

some cases do extend past the established timeline for reasons such as resets, defer defaults, pay plans, etc. The Auditor's calculations originate from **arrest date** instead of **default date**, which governs when a case is **possibly** eligible for warrant. Additionally, failure to factor judicial and prosecutor discretionary authority into the warrant activation timeline would suggest their authority has no impact on the timeliness of warrant activation; this is not the case. Discretionary authority **is** ultimately the final approval or disapproval for a case to move into warrant status. Lastly, implementation of On-Base Imaging facilitates timely warrant activation of eligible cases, while satisfying legal parameters. **No further action needed**.

Follow-up:

A. We generated a report from the Municipal Court Database and determined that 30,873 warrants were issued during calendar years 2007 and 2008. Of the total warrants issued, approximately 64% were resolved through warrants served. It is noted that the Municipal Court is continuing to ensure that outstanding warrants are served and collected in a timely manner.

Recommendation was Fully Implemented.

B. A review of the warrant issuance process at the Municipal Court revealed the following:

Average # of days taken to issue the latest Alias*, Bench**, or Capias Warrant***			
	Alias/Bench	Capias	
†Calendar Year 2004	93	318	
†Calendar Year 2005	61	210	
†Calendar Year 2006	34	117	
Calendar Year 2007	71	283	
Calendar Year 2008	41	170	

†Note: The average days shown in the Municipal Court Operations Audit #0705 are different than the data in the table above. Municipal Court does not issue a warrant until after 30 days from the Arrest Date (Citation Date); therefore, the calculation must not include the first 30 days.

- * Issued when defendants have not shown any responses or done anything to the citation within the time frame allowed by law.
- ** Issued when defendants responded to summons to appear or appeared in Court and requested a court date. The requests were granted but the defendants never followed up to fulfill them.
- *** Issued for any citation in which judgment was entered but the action required by the judgment was not fulfilled.

Internal Audit understands instances arise when some cases do extend past the established timeline for reasons such as defensive driving, deferrals, pay plans etc. However, due to time constraints, we are not able to analyze each case individually

to verify default dates in the Court system. When all factors are taken into consideration, eligible citations seem to be processed for warrants within a reasonable time.

Recommendation was Fully Implemented.

3. Warrant Collection Services Provided by a Private Vendor

Recommendation was:

- A. The Municipal Court Director should establish performance standards by which MSB's collection efforts can be evaluated at the time of contract renewal.
- B. The Municipal Court Director should ensure that:
 - The Court provides MSB with a database of new warrants that have become 60 days old.
 - On each business day, the City shall advise MSB of the clearance of any cases on the database and the amounts received.

Response was:

- A. The *Auditor is correct*; Consistent with the practices of 120 other Texas Courts which MSB services; the Court Director has not set a Performance Measure (PM) requirement. The Director recognized and considered:
 - a. the absence of an industry benchmark of PM's for warrant collections,
 - the risk of discouraging vendors from bidding on a contract with concrete PM requirements,
 - c. the IT and staff resources necessary to automate and monitor the 1000's of warrants on a regular basis and
 - d. Jeopardizing compliance with OCA collection regulations, if required to re-bid because of vendor default of PM's;

then determined the PM recommendation had more disadvantages than advantages. Thus, while reinstating the MSB program in 2004, the Director chose to enhanced the program to include <u>all</u> outstanding warrants; which contributed to increased collections of old cases. Previously, contractual requirements between Garland and MSB were limited to Alias Warrants only; now all outstanding warrants including those very old cases identified in the 2003 Audit findings are sent for collections. Additionally, the Director is re-bidding the contract periodically (approx. every 2-3 years – scheduled for 12/07) to ensure external agencies remain committed to collecting on our cases and not take Garland's business for granted. This option allows the Court to periodically modify the contract terms and conditions, utilize current formatting without exhausting more IT & Court staff and keep vendors interested in working with Garland.

В.

• The Director is *indifferent* to the Auditor's recommendation of warrant submissions to collections that are at least 60 days old. This practice is already in place; as mentioned earlier, warrant submissions are not based on arrest date, but on default date. Additionally, it is common, in a Court operation for some warrants to be clear by arrest one day and reissued a few days or weeks later because of defaults; thus it is highly possible for some warrants to stagger between 60 to 90

days outside the normal processing parameters. This does not reflect a negative finding; on the contrary; it is a consequence, which exist within the justice system. Defendants do not always conform to a schedule; therefore processing cannot always conform to concrete schedules. The contractual terms with MSB require the case to be **AT LEAST 60 DAYS OLD**; this sets the *minimum age of warrants* submitted for outside collections, not the limit and the Court is in compliance with the established terms. **No further action needed.**

• The **Auditor is correct**; clearance reports **were** not being submitted to the collection agency on a daily basis during the early portion of 2007. The Director authorized this decision (MSB was advised) during implementation of the Imaging system when prioritizing functions among available staff was necessary. Nevertheless, the clearance reports were being submitted three (3) times a week; no complaints or incidents arose during the interim period and the clearance reports are back to **daily submissions as of Aug 07. No further action needed.**

Follow-up:

A. We reviewed the Municipal Services Bureau (MSB) Client Collection Analysis for FY07, FY08 and FY09 and found the collection percentages to be 19%, 17% and 16% respectively. According to the State of Texas Office of Court Administration, the City is free to structure its Collection Agency contract in any way it sees fit. The City can require the third party vendor to guarantee a certain rate of collection or amount. We recommend, at the time of a new contract solicitation the City should require all vendors to propose a guaranteed rate of collection. This criterion should be also weighted during the evaluation process before selecting a Collection Agency.

Recommendation was Partially Implemented.

B.

• We generated a Crystal Report from the Municipal Court Database and determined that is has taken on average 76 days for 2007 citations and 78 days for 2008 citations to be reported to MSB after issuing warrants. However, the contractual terms with MSB require the case to be at least 60 days old before it is submitted; therefore, it is taking Municipal Court on average 16 days for 2007 citations and 18 days for 2008 citations to be reported to MSB. Municipal Court should continue to provide MSB with a database as soon as possible of new warrants that have become 60 days old.

Recommendation was Not Implemented.

• We received the clearance reports, emails and confirmation email receipts for the week of July 20, 2009 and verified that daily clearance reports are sent to MSB.

Recommendation was Fully Implemented.

4. Operating Procedures

Recommendation was:

- A. The Municipal Court Director should develop a manual that details the procedures that are required to be followed in carrying out the job functions within the Municipal Court.
- B. The manual will be periodically reviewed and updated with the current policies and procedures.

Response was:

The Director **concurs** a manual should be put together as soon as possible; additionally, the Director understand that a procedures manual is advantageous; however, timing, higher priority issues and a host of other outstanding items lowered the priority of producing a manual. Court intentions are to have a manual ready by **early 08**.

Follow-up:

Per the Municipal Court Director, the Court's procedure manual has not been developed; however, large volumes of material have been compiled for the manual. The Municipal Court Director will continue to strive for its completion as time permits.

Recommendation was Not Implemented.

5. Performance Reports

Recommendation was:

The Municipal Court Director should ensure the total number of outstanding warrants, as well as, the total number of citations older than 30 days is reported to management monthly.

Response was:

The Director **disagrees** with the recommendation. The current performance measures for the Court were established and approved as acceptable in 2004 as recommended by the 2003 audit findings. The Court Director believes the current performance measures do effectively represent the Court's objectives are being met, although, no objection is given to periodically reviewing the measures for updates or modifications. **No further action needed.**

Follow-up:

We contacted the Managing Director of Financial Services and verified that he received a Performance Indicator report for the months of May and June 2009. The report shows the number of citations entered within 5 days and the percent of warrants cleared but it did not show the total number of outstanding warrants and total number of citations older than 30 days.

Recommendation was Partially Implemented. The Municipal Court Director disagreed with audit's recommendation; however, we believe providing this report to the Management is very important since it shows an overall summary of the total number of outstanding citations and warrants located in the court system. This will enable Management to determine how to serve/dispose of these cases.

6. Defensive Driving Course

Recommendation was:

The Municipal Court Director should ensure that if requirements are not met within the period given in the DSC show cause hearing, the adult cases are processed for warrants and juvenile cases are reported to the DPS.

Response was:

The Director **agrees** and feels confident DSC cases process in a timely fashion. Additionally, new legislation implemented will require an additional show cause hearing; consequently, this will further age cases before the default date expires. We have researched the **30** cases identified by the auditor as not following the set process; all are reset for Show Cause Hearings. It is highly possible, during 2006, on our **manual** system, that these 30 cases **(30 of 15,000)** fell through the cracks among the tens of thousands of DSC's processed annually. The Court's Imaging system triggers upon default and queues them for a show cause docket; this is not to imply system mishaps will not still occur; but the queues are reviewed daily. **No further action needed.**

Follow-up:

A review of the defensive driving disposition process discovered that Municipal Court has outstanding cases that have not been issued for warrant as of July 23, 2009. A report for the period of January 2007 to December 2008 shows that 4 cases totaling \$387 of outstanding fines are still listed in the system as active after 120 days from the initial disposition date. Municipal Court processed 1,259 DSC cases for 2007 and 2008 violations. Compared to the overall DSC cases processed during 2007 and 2008, audit finds the 4 outstanding DSC cases to be insignificant. Audit has since supplied Municipal Court with these cases and they are no longer outstanding.

Recommendation was Fully Implemented.

7. Inaccurate Charge Codes Data

Recommendation was:

The Municipal Court Director should conduct a complete review of the charge code tables and should specifically perform the following:

- Meet with the Judges and Prosecutors to determine the accuracy of the fines documented within Court Specialist Incorporated (CSI) system. All inaccuracies should be corrected immediately.
- Instruct the responsible staff to research and document the identified missing information within the system.

Response was:

The Director concurs a periodic review of the fines is beneficial, this was done as of Aug 07. In doing so, the referenced statutes have been updated for those seven (7) missing the data. No further action needed at this time.

Follow-up:

We obtained a Charge Code List for 2009 from Municipal Court and met with the Judge on Monday, August 3, 2009 to determine if the list was up to date. Per the Judge, to the best of his knowledge, emails are sent to him periodically containing the charge codes for his review; however, no one has physically met with him since August 2007 to discuss in detail the accuracy of the charge code tables. In August 2007, the codes were updated and the missing information found in the audit was corrected.

After reviewing the Charge Code List for 2009, we found the following:

- 1 charge code that exceeded the maximum fine allowed by law
- 1 charge code that did not have a statute code

The codes that exceeded the maximum fine and did not have a statute code have been corrected.

Recommendation was Partially Implemented. It is imperative that the Municipal Court Director meet face to face with the Judges and the Prosecutors at least annually to determine the accuracy of the fines documented within CSI.

We want to thank management and staff for their assistance on this follow up audit. Their assistance was essential for the successful completion of our work.