

MUNICIPAL COURT OPERATIONS

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DEPARTMENT OF INTERNAL AUDIT

CITY OF GARLAND

AUDIT #0705

MUNICIPAL COURT OPERATIONS

OVERALL EVALUATION

The audit revealed the Municipal Court is fulfilling its mission statement of providing professional assistance to the citizens in the process of disposing their cases before the Court. The Municipal Court has made noticeable improvements in its operations since Audit #0312.

These include:

- Improved collection efforts and regular deposits to the bank.
- Reinstatement of the OmniBase program with the Department of Public Safety (DPS).
- Change the warrant cycle from 45 to 30 days.
- Improved file retention.
- Improvements enhanced by the OnBase Imaging project.

This audit showed several issues that require management attention and resolution. The significant issues include:

- Citations are not being adequately reconciled.
- Collection and serving of warrants needs further improvement. As of December 2006 there were over 82,000 outstanding warrants totaling \$21 million.
- Transfer of warrant database and clearance report to Municipal Services Bureau (MSB) needs improvement.
- Operating procedures for the department needs to be developed.
- Performance Report needs to indicate the total number of outstanding citations and warrants.
- Defensive driving course citations with expired qualified disposition dates are not processed into warrants in a timely matter.
- Fine structure within Court Specialist Incorporated (CSI) needs to be revised and corrected.

BACKGROUND

Article 4 Section 4 of the City Charter provides for the establishment and administration of a Municipal Court of Records within the City of Garland. The Municipal Court provides administrative and judicial functions. The administrative area is managed by the Director. The area provides overall clerical and administrative functions, which include the processing of all Class C misdemeanor violations, violation of City ordinances, case management, and fine and penalty collections. The administrative section supports the judiciary function.

The judicial function has two full time judges, two part time judges, and a secretary. The Municipal Court has jurisdiction provided by general law for Municipal Courts. The Municipal Judge interprets and applies State laws and municipal ordinances within the corporate limits of the municipality. The Municipal Court Judge is a magistrate and has the authority to issue search and seizure warrants. The City Attorney supports this function by providing a prosecutor. The Municipal Judge is appointed by and reports to the City Council.

A defendant charged with a violation of a class C offense may choose from several options to dispose of his liability to the Court. These include:

- Uncontested cases and payment of the fines,
- Dismissal because of submission of material evidence,
- Contested cases with plea bargains,
- Defendant chooses not to respond.

Unresolved cases are subject to warrants, including additional court costs and penalties. When payments of fines are not received in a timely manner, the defendants' accounts may be sent to the collection agency. The Municipal Court provides the DPS a list of juveniles who do not comply with the Judge's decisions, so that drivers' licenses will not be issued or renewed, until the obligations to the Court are satisfied.

All data from citations delivered to Municipal Court is entered into the database. After data entry, the citations are scanned into the OnBase imaging system for storage and retrieval purposes.

SCOPE AND OBJECTIVES

Our examination was conducted in accordance with the Generally Accepted Government Auditing Standards. We reviewed records, performed audit tests, and procedures deemed necessary under the circumstances. The scope of this audit was for the period of January 2006 through December 2006. Time-periods before and/or after the covered period were reviewed when necessary.

The objectives of the audit were:

- To report progress toward resolution of prior audit findings,
- Document operating procedures,
- Analyze internal control structure,
- Determine the accuracy of revenue reported,
- Reconcile revenue calculation with cash collected,
- Evaluate the accuracy of the City's payments to the State for fines,
- Determine that fines have not been lowered to amounts below what must be paid to the State,
- Compare the fines levied by each judge to allowed amounts.

METHODOLOGY

Interviews with the Court and other enforcement department personnel were conducted. Review of previous audit reports, departmental policies, procedures, and City ordinances were performed. Observance of staff performing daily transactions was performed to gain an understanding of the Municipal Court operations. We reviewed Court documents, Finance documents, MIS generated court reports, and Crystal reports prepared by Internal Audit. Contracts with the collection agency, DPS, City Charter, and laws establishing the Municipal Court were examined to determine compliance, consistency and reasonableness in the Court operations.

MANAGEMENT ACCOMPLISHMENTS

ADMINISTRATION

- Increased fine collections by \$600,000 (2006)
- Awarded the Bridge Building & Innovator Award (2005)
- Received statewide recognition from the Office of Court Administration (2004)
- Certified 5 clerks for Bilingual skill certification (2005-06)
- Trained all Full-time clerks by TMCEC (2006)
- Decreased unresolved cases by 87% (2005)
- Implemented Court Notify System & distributed software to enforcement depts. (2006)
- Internship Program w/ Lakeview High School (2005)
- Setup Court Website & Online fine payments (2004)
- Re engineered all Court processes for Imaging (2004-06)
- Implemented one of the first Paperless Courts in the Texas (2007)
- Court Director presents Garland Court accomplishments (2007)

DATA ENTRY/WARRANT DIVISION

- Fully automated Data Entry function w/Imaging (2004)
- Minimized dismissals & delays 75% w/ Affidavit process (2005)
- Implemented Online Warrant Confirmation and Clearance with N. Texas Regional Database (2004)
- Cross trained staff in all divisions of the Court (2005-present)
- Reinstated outside collection contract and expanded the program to include all warrants (2005)
- Increased final disposition prior to warrant issuance by 26K (2005)

DOCKET DIVISION

- Set 99% of all eligible cases for Court within 30 days (2006)
- Utilized over 400 hours of Community Service saving \$5000 in labor costs (2006)
- Increased Docket settings by 12,000 (2005-06)
- Decreased # of dismissals due to missing cases (2004)
- Implemented Cross training on each docket (2006)

- Setup Community service w/ Volunteer Center (2005)
- Dockets generated 2 weeks in advance (2005)

SUPPORT SERVICES DIVISION

- Established a Verification clerk position for increased quality control
- Lowered transaction error rate from 18% to 10% (2006)
- Installed Telephone software to measure service levels (2005)
- Developed electronic auditing for OCE's for Finance to track refunds (2006)
- Automated the refund process between Court & Finance (2007)
- Implemented Monthly In-House Training Program (2006)
- Developed Pharaoh Award for Fully cross-trained clerks (2006-07)
- Supported & Contributed to the initial success of the Red Light Program (2003)

MARSHAL DIVISION

- Implemented the Reserve Marshal Program to serve in the absence Marshals (2004)
- Setup process to Notify officers of missing court appearances (2006)
- All City Marshals TLETS trained and certified (2005)
- Participated in 2 regional warrant roundups clearing 1262 warrants totaling \$395,369.00 (2006)
- Negotiated New Security Contract (2007)
- Trained Jail staff on Time Serves to minimize officers transferring prisoners from other agencies (2006)

COMPLIANCE DIVISION

- Recognized by OCA for a model in-house collection program (2005)
- Increased compliance w/ Court orders (2005)
- Implemented proactive notification postcards (2004)
- Increased collections by \$400K in first 8 months (2004)
- Scheduled 98% of appointments in 5 days (2005)
- Maintains 86% completion rate (2005)
- Collects 25% of fines within 1st 48 hours (2006)

AREAS FOR IMPROVEMENT

1. CITATION RECONCILIATION

A review of the citation reconciliation process of the City Enforcement Departments (Police, Municipal Court, Fire, Code Compliance, Animal Control, Health Department, and Building Inspection) pointed out that not all enforcement departments are performing adequate reconciliation of issued, voided, and unused citations. This is a significant deficiency because it is difficult to determine whether misuse or abuse of citations has occurred. The following are a few examples of the findings:

- The Police Department failed to locate citations from P4575212 through P4575217.
- The Health Department failed to locate citations from H4000076 through H4000150.
- Building Inspection failed to locate citations from B4000001 through B4000075
- The Fire Department failed to locate citations from F4000051 through F4000075.
- Animal Control failed to process issued citations from A4000025 through A4000027 to the Municipal Court.

The following are just few examples of what can occur without proper citation reconciliation:

- If citations do not make it to the docket then justice will not be served.
- An unauthorized individual may issue citations and make collections without the Department's knowledge.
- An authorized individual may issue citations, and make collections outside the office.
- The City will not collect court costs, fees and fines if departments fail to forward copies of the issued citations to the Court.

Each citation sheet contains three violations. An officer can issue a citation for one, two, or three violations using the same citation sheet. The unused citation number is not recorded in the Court database. The Municipal Court computer system can track all issued, voided, and unused citations that are entered into the database. This has been enhanced by use of the imaging system, OnBase. The Municipal Court is able to generate a report for any period, showing the status of all citations received. However, not all the issued, voided and/or unused citations are processed to the Municipal Court. At the departmental level, citation books are not adequately tracked and reconciliations among citations issued, voided, and unused are not performed. Without proper reconciliation, the cause of missing citations cannot be determined because validation cannot be performed.

Obtaining and using hand-held ticket writers can automate the citation issuance and tracking process. This technology enables officers to key in the required information into the ticket writers and print hard copies of the citations for the violators. The hand-held units download data into the court system so no data will be lost. As of August 8, 2007,

the Municipal Court Technology Fund has a balance of \$987,392, and this may be used as a funding source for this project.

RECOMMENDATIONS

- 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

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."

2. WARRANT COLLECTION AND ISSUANCE

A. A review of the warrant collection at the Municipal Court revealed that there are approximately 64,000 warrants totaling \$14.7 million, pending resolution, that were issued on or before December 31, 2003.

It should be noted that improvements in warrant collection and/or resolution were made since January 2004, which is proven by resolution of 65% of the 52,000 warrants issued since then. The implementation of the new OnBase system and the movement of warrant collection function from the Marshals to the Police Department facilitated this process.

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

Average # of days taken to issue a Alias *, Bench **, or Capias warrant ***		
	Alias/Bench	<u>Capias</u>
Calendar Year 2004	123	348
Calendar Year 2005	91	240
Calendar Year 2006	64	147

This timeline is contrary to the guidelines, established by the Municipal Court Director, which states that after 30 days of issuance, the Court system may place a citation into warrant status.

- * 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.

RECOMMENDATIONS:

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

RESPONSE

- 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.**
- The Court Director & Chief Judge are both confident eligible cases are sent 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.

3. WARRANT COLLECTION SERVICES PROVIDED BY A PRIVATE VENDOR

According to the Texas Code of Criminal Procedure Chapter 103 Art 103.001, a municipality may enter into a contract with a private vendor to provide collection services. On January 19, 2007, the City Manager entered a contract with Gila Corporation, d/b/a Municipal Services Bureau (MSB), to provide notification to individuals who have delinquent court fines, fees and costs with the Garland Municipal Court.

A review of the notification process used by MSB and Municipal Court's delivery of information to MSB identified the following areas that need improvements:

- Warrant notification efforts by MSB. A minimum collection standard (percentage) has not been set which is proven by the low collection percentage of 12% in year 2006.
- Process of forwarding new databases to MSB. The contract with MSB states that, on a regularly scheduled basis, the City shall provide a database of new cases that have become at least 60 days old. Even though these lists are prepared and sent monthly to MSB, the age of new cases from 2006 warrants forwarded was 75 days.
- Process of forwarding clearance reports to the MSB. The contract with MSB states that on each business day, the City shall advise MSB of the clearance of any cases on the database and the amount received so that MSB can update its database. Currently, the City is advising MSB three times a week. This process needs improvement.

RECOMMENDATIONS

- 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:

- 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,

- b. 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.

- 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.**

4. OPERATING PROCEDURES

The Municipal Court has no documented operating procedure manual for all of its divisions. These divisions include warrant, data entry, docket, marshal, window clerks, phone, filing, mail, and bond. The Court has an instruction manual that describes the

series of consecutive steps that are to be performed by the staff to execute a process within Court Specialist Incorporated (CSI). The current manual was prepared in 2001. It has not been updated to include the progress made because of the new imaging system and other management actions. They have a weekly evaluation form for the window clerks and a procedure manual for the compliance division. According to the Municipal Court Director, the decision was made not to develop a procedure manual for all divisions until the implementation of the new imaging system was completed.

A procedure manual establishes managements' expectations of employees' performance. The procedure manual helps the department in achieving its goals and objectives. Documented procedures form a basis for disaster planning, recovery, and business continuity. Documented procedures provide employees with direction in which a particular job function is to be performed and explains performance standards that each function is to achieve. In the absence of a procedural manual, the staff relies on a perception of what their job functions are and the objectives of the department may be defined in, as many ways as there are employees. Lack of operational procedures may result in differing work products by similar staff members.

Fully documented procedures that have been distributed to and understood by all employees will provide a clear reference for any job related issue. It will improve internal controls and help guide staff on their day-to-day operations. Documented procedures serve as a guide for any new employee, as well as provide continuity of this essential operation in times of disaster. In addition, documented procedures need regular reviews if they are to remain relevant.

RECOMMENDATION

- 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.
- The manual will be periodically reviewed and updated with the current policies and procedures.

RESPONSE

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**.

5. PERFORMANCE REPORTS

A review of the Performance Indicator report showed that it does not demonstrate the progress of some key operational areas in the Municipal Court. The report does not

indicate the total number of outstanding citations and warrants in the court system. These numbers are necessary in order to demonstrate to the City's management the Municipal Court's progress in achieving their goal, as stated to the City Council of maintaining a case disposition rate of 100% each month, and processing all warrant issuances on all eligible cases each month.

RECOMMENDATIONS

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

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.**

6. **DEFENSIVE DRIVING COURSE**

A review of the defensive driving disposition process discovered the Municipal Court does not process all expired, adult drivers' safety course cases for warrants and juvenile drivers' safety course cases to DPS for a hold on issuance of a driver's license. A report for the period of January 2006 to December 2006 shows that 30 cases totaling \$3,750 of outstanding fines are still listed in the system as active after 120 days from the initial disposition date. These cases lacked documentation to show completion of the driver education program.

Violators who choose to take the defensive driving course in lieu of paying the fine have 90 days to complete the course. On the 91st day, the new OnBase system alerts the Failure to Appear Clerk about the late DSC (Driver Safety Course). The Clerk pulls the late DSC once a week and sets the DSC show cause hearing. On adult and juvenile cases, the defendant will be found guilty and gets 30 days to pay the fines with late fees. On adult cases, if there is a no show on the day of the DSC show cause hearing and/or payments are not made within 30 days, a warrant is to be processed on the 31st day. On juvenile cases, if there is a no show on the day of DSC show cause hearing and/or payments are not made within 30 days, a report is to be processed on the 31st day to the DPS for a hold on issuance of a driver's license.

RECOMMENDATIONS

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

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.**

7. INACCURATE CHARGE CODES DATA

A review of Municipal Court charge codes tables confirmed the recommended minimum fines of 10 charge codes within the CSI software are inaccurate since they are greater than the amount allowed by law. This poses a serious risk to the City as the Municipal Court overcharges defendants who plead no contest and pay their fines at the counter, through the mail, or through the lockbox system. These over-charges breach State and local laws and ordinances.

The Municipal Court maintains a charge code table within the CSI software, which serves as guidance for the identification of fines for individual offenses. The CSI software forms the basis for the allocation of costs to the various State and City related accounts affected by a particular citation. Charge code fine amounts reflect the recommended minimum fine for a particular offense as set by the local jurisdiction and the maximum fines that are allowed under State and local laws and ordinances.

The audit revealed the following findings:

- There were no reference statutes for seven charge codes.
- In seven instances, charge codes contained no recommended minimum or maximum fines or court costs.
- Charge codes that do not represent 'Class C' misdemeanors are included in the tables, though the Municipal Court has no jurisdiction over these offenses.

The absence of reference statutes in the database raises the question whether these charge codes are valid and/or legal and the absence of maximum fines raises the question of the validity of the fines charged for these offenses.

Discussions with the Chief Judge confirmed that a complete review of the charge code tables would be appropriate at this time.

RECOMMENDATION

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 CSI. All inaccuracies should be corrected immediately.
- Instruct the responsible staff to research and document the identified missing information within the system.

RESPONSE

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.