CITY OF MINNEAPOLIS -
A REVIEW OF THE TICKETING/CITATION PROCESS, AND RELATED FINE REVENUE

MAY 2005

INTERNAL AUDIT
CITY OF MINNEAPOLIS
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REVIEW OF THE TICKETING/CITATION PROCESS AND RELATED FINE REVENUE

PURPOSE:
The purpose of this audit was to review, analyze, and assess the procedures and related internal controls in use over the ticket/citation area. The primary procedures in use here encompass Hennepin County, the State of Minnesota, and the City of Minneapolis. The Minneapolis Park Police were also included in the review. Additionally, we reviewed the amount of fine revenue received by the City of Minneapolis for reasonableness.

OBJECTIVE:
Determine if the current procedures are effective and the ticketing/citation system is operating efficiently.

SCOPE:
Review of current policies and procedures in use. Citation & revenue reports requested and received were from 1/1/03-12/31/03 as well as the first six months of 2004, however these were of limited value because of the restricted data base (outside of Parking & Traffic Control/Regulatory Services) of citations in existence at this time.

METHODOLOGY:
The methodology included numerous interviews with City of Minneapolis, Hennepin County, State of Minnesota and Minneapolis Park Police personnel; a review of procedural flowchart(s) for the system and a review of citation revenue reports.

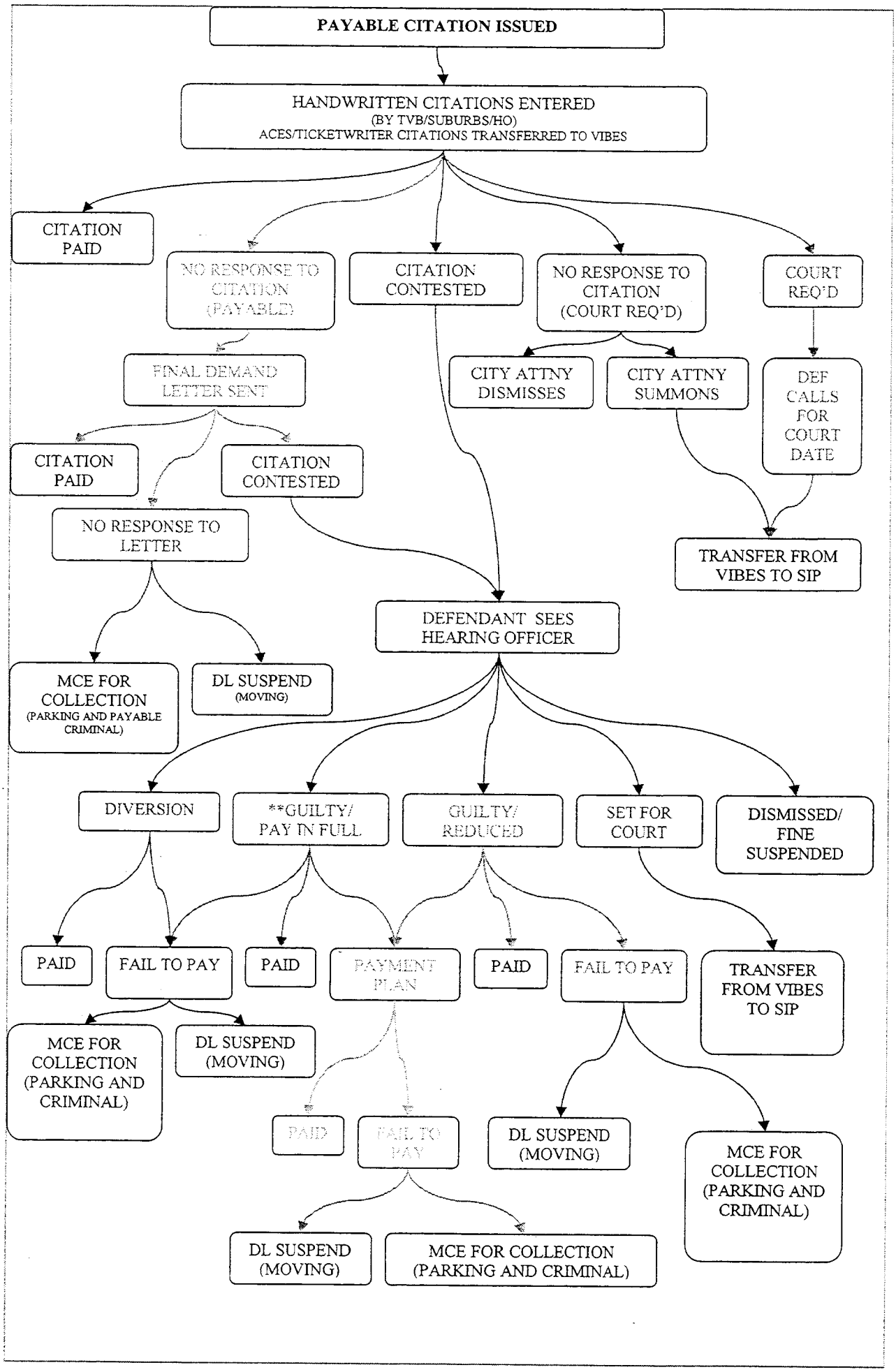
CONCLUSIONS AND RECOMMENDATIONS:

- The electronic citation system (Mobil Data Computers/MDC) recently implemented by the MPD in October, 2004, should allow for historical citation and fine information to be gathered into a single database, thereby identifying the various stages/categories of each as well as the ability to analyze as a whole.

- There appears to be a lack of understanding among all the interacting layers of personnel (city, county, state) with the overall citation system itself. Internal Audit feels bringing together key personnel from all involved areas to discuss the system as a whole is justified. Additionally, the dismissal of citations and their related court costs continues to warrant further review. Internal Audit endorses the previously discussed creation of a task force including personnel from the City Attorneys Office, Police and Hennepin County Court to include this phase in their analysis.

- A request was made to the Minneapolis City Attorneys Office to provide an opinion as to what would be required to have the current State/County parking ticket process brought under an administrative adjudication process. The response received referred to a formal opinion from State Auditor Patricia (Awada) Anderson dated October 2, 2003 which ultimately led to the following two conclusions. In order for the City of Minneapolis to enforce parking violations by administrative citation, (1) the Minneapolis Code of Ordinance section 2.20 would need to be amended to include traffic controls agents as persons authorized to issue administrative citations for traffic and parking violations; and (2) the City of Minneapolis would need to allow the administrative enforcement of parking violations either by expressly authorizing the City to do so or by removing the $3.00 surcharge imposed on all parking violations.

- Greater focus on the collection process for ticketed out of state vehicles from the State of Minnesota, Department of Revenue is warranted. For example, the current collection process (MCE) does not attempt to collect from those ticketed with out of state license plates. The reason given by MCE is that, in order to initiate collection activities they need the social security number of the registered vehicle owner and that information is not readily available. Additionally, the reciprocity agreement with Wisconsin, whereby vehicle/driver information is exchanged electronically between Hennepin County/State of Minnesota and the State of Wisconsin does not provide social security numbers and hence is apparently useless as a collection tool as no collection activity on this information could be found. The fourth Judicial District Court, which provides Court services for Hennepin County, is in the midst of working out a contract with another collection agency that has the ability to collect for tickets on out of state vehicles.


PAYABLE CITATION ISSUED
HANDWRITTEN CITATIONS ENTERED
(BY TVB/SUBURBS/HO)
ACES/TICKETWRITER CITATIONS TRANSFERRED TO VIBES
CITATION PAID
NO RESPONSE TO CITATION (PAYABLE)
CITATION CONTESTED
NO RESPONSE TO CITATION (COURT REQ'D)
COURT REQ'D
FINAL DEMAND LETTER SENT
CITY ATTNY DISMISSES
CITY ATTNY SUMMONS
DEF CALLS FOR COURT DATE
CITATION PAID
CITATION CONTESTED
NO RESPONSE TO LETTER
TRANSFER FROM VIBES TO SIP
DEFENDANT SEES HEARING OFFICER
MCE FOR COLLECTION (PARKING AND PAYABLE CRIMINAL)
DL SUSPEND (MOVING)
DIVERSION
**GUILTY/ PAY IN FULL
GUILTY/ REDUCED
SET FOR COURT
DISMISSED/ FINE SUSPENDED
PAID
FAIL TO PAY
PAID
PAYMENT PLAN
PAID
FAIL TO PAY
TRANSFER FROM VIBES TO SIP
MCE FOR COLLECTION (PARKING AND CRIMINAL)
DL SUSPEND (MOVING)
PAID
FAIL TO PAY
DL SUSPEND (MOVING)
MCE FOR COLLECTION (PARKING AND CRIMINAL)
DL SUSPEND (MOVING)
MCE FOR COLLECTION (PARKING AND CRIMINAL)

BACKGROUND:

For purposes of this review, citations are issued by the Minneapolis Police Department, Parking & Traffic Control (a division of Regulatory Services), and the Park Police - a Division of the Park and Recreation Board Office.

The Fourth Judicial District provides court services in Hennepin County. Since July 1, 2003 the district became integrated into the State court system. District 4's main receipt collection sites are in the Hennepin County Government Center. The largest point of receipt collection is the center's Public Service Level. The district also has three suburban locations – Southdale, Ridgedale, and Brookdale, with a hearing officer located at each. Customers can pay in person, through the mail, by credit card, or by electronic payment.

There are four main types of tickets: 1) Parking; 2) criminal citation (payable misdemeanors or court required); 3) petty moving violations; and 4) misdemeanor traffic (payable misdemeanors or court required). Additionally, there are four main options a ticket recipient can take: a) no response (if a traffic or petty misdemeanor, goes to drivers license suspend, if criminal payable it goes to MCE and if it is court required, a summons is sent); b) pays the fine; c) defendant requests to see a hearing officer (if it is a petty misdemeanor or a misdemeanor payable traffic, it will go to the traffic calendar, if it is a court required traffic it goes to the serious traffic calendar and if it is a criminal offense, payable or court required it goes to the community court calendar); d) defendant requests a court appearance.

CITATION PROCESS:

Citation Issuance: A citation is issued by either the Minneapolis Police Department; Parking & Traffic Control: or the Park Police and is either downloaded into the court information system or a paper copy is delivered to the downtown Minneapolis court location for hand entry into the court information system.

Court Appearance: The court determines whether the citation is court required or payable. A court required citation means the defendant has to appear before a judge to resolve the citation. A payable citation means the defendant can choose to contest the citation in the Fourth Judicial District Court Hearing Office or the defendant can pay the citation outright. On a payable citation, a court appearance is not required. This report focuses on payable citations only.

Citation Resolution: The defendant determines whether they will pay for the citation outright, contest the citation at the Hearing Office, or fail to pay for the citation.
If the defendant chooses to pay for the citation outright, they can pay by phone with a credit card, pay on the court website with checking account or credit card information, pay by check via US mail, or pay in person by check, credit card or cash at the Hearing Office

If the defendant chooses to pay in person they can go to any one of four court locations previously mentioned. The Hennepin County Government Center Public Service Level is the largest point of receipt collection for Minneapolis issued citations. In 2003, 388,070 or 82.3% of the 471,303 payable citations issued that were closed were paid in full via phone, internet mail or in person.

If the defendant chooses to contest the citation, they can either appear at the Hearing office at the Hennepin County Government Center on a walk-in basis or by appointment or they can appear at any of the three previously mentioned suburban Hearing Office locations by appointment.

There are seven hearing officers at the Hennepin County Government Center location and one hearing officer at each of the suburban Hearing Office location for a total of ten hearing officers. Hearing officers are appointed by the fourth Judicial District Court bench and work under guidelines provided by the city attorney's office of each of the municipalities in Hennepin County. See (**Attachment A)** for Minneapolis City Attorney guidelines. In 2003 97,691 or 20.7% of the 471,303 payable citations that were closed chose to contest by visiting the Hearing Office.

One of the following outcomes is reached at the Hearing Office:

- Guilty plea, payment in full
- Guilty plea, sentence to service issued * (See Definitions, **Attachment B**)
- Guilty plea, fine amount reduced
- Guilty plea, fine amount suspended
- No plea, diversion or continuance for dismissal issued * (See Definitions, Attachment B)
- No plea, court requested (referred to Judge or Referee calendar)
- No plea, citation dismissed
    1. Statute required dismissals (i.e. current information is presented such as insurance, drivers license updated, etc),
    2. Citations dismissed by Hearing Office based on city attorney guidelines.

Fine Distribution: For those defendants who pay outright and for those defendants who resolve their citation in the Hearing Office with a disposition involving payment, the fines/fees are receipted and then distributed by the Fourth Judicial District Court Finance Division. There is no fee to the defendant or to the City for appearing in the hearing Office. The format for the distribution of money on payable citation that are paid outright or resolved in the hearing Office is as follows:

Parking -

80% Fines to Municipalities
20% Fines to State General Fund
$3 State Surcharge

Petty Misdemeanor –

80% Fines to Municipalities
20% Fines to State General Fund
$3 State Surcharge

Misdemeanors –

20% Fines to State Treasurer
Balance (after 20% goes to State Treasurer) distributed 80% to municipalities, 20% to State General Fund
$60 State Surcharge to State Treasurer
$ 3 Law Library Fee

Charges with a disposition of Diversion or Continuance for Dismissal

100% of Prosecution Costs go to Municipalities
No State Surcharge
No Law Library Fee

Some payable citations that are contested in the Hearing Office are not resolved and the defendant requests a court appearance. These citations are set on a calendar before a Judge or referee. Of the 471,303 payable citations that were closed in 2003 – 22,921 (4.8%) requested a court appearance. Charges going before a Judge or referee with a disposition involving payment, the fines/fees are receipted and then distributed by the Fourth Judicial District Court Finance Division. The distribution is as follows:

Parking –

100% Fines to Municipalities
$3 State Surcharge
$5 Fees tax charged to municipality & credited to State General Fund (for arraignment only or no trial)
$15 Fees tax charged to municipality and credited to State General Fund (for court or jury trial)

Petty Misdemeanor –

100% Fines to Municipalities
$60 Surcharge to State Treasurer
$3 Law Library Fee
$5 Fees tax charged to municipality & credited to the State General Fund (for arraignment only or no trial)
$15 Fees tax charged to municipality & credited to the State General Fund

Misdemeanor –

20% Fines to State Treasurer
80% Fines to municipality
$60 Surcharge to State Treasurer
$ 3 Law Library Fee
$ 5 Fee tax charged to municipality & credited to State General Fund (for arraignment only or no trial)
$15 fees tax charged to municipality & credited to State General Fund (for court or jury trial)

Charges with a disposition of Diversion or Continuance for Dismissal-

100% of Prosecution Costs go to Municipalities
No State Surcharge
No Law Library Fee

Failure to pay: When there is no response to the citation or payment is delinquent (over 25 days from date of offense) a $5 late fee is added and a letter is sent to the defendant from the Fourth Judicial District Court demanding resolution.

If the defendant fails to pay after the payment demand letter is sent (45 days from the date of offense) an additional $45 in collection and delinquency fees are added to the original citation amount. All delinquent fines and fees for traffic related convictions go to the Department of Public Safety where the defendant's drivers license is suspended until a resolution has been reached. All delinquent fines and fees for payable criminal and parking citations go to the State of Minnesota – Department of Revenue, Collection Division (MCE) where collection is pursued via tax refund recapture, wage garnishment, and other collection methods.

While 471,303 payable citations (77.7%) were closed in 2003 – 135,137 (22.3%) remain open with the following outcomes: 25.2% had a letter sent to them or had a late fee added; 41.7% had gone to MCE for collection; 19.8% went to the Department of Public Safety for drivers license suspension and 13.3% had been entered into the court information system at the end of 2003 and had not yet been due for payment (not yet past 21 days old). All fines and fees collected after the citation has gone to the Department of Public Safety or MCE are distributed under the same rules as if they had been paid outright in full.

Fine Revenue: The Minneapolis Police Department collected $3,293,331 in 2003; Traffic Control brings in around $4,000,000 annually, and the Park Police totaled about $500,000 in 2003. If a ticket goes to court and is dismissed, the City does not collect any fine revenue and the court system charges the City a fee (usually $5) per offense cited. According to City of Minneapolis Finance Department, these fees reduce the overall fines paid to the City by $10,000 - $15,000 a month.

REGULATORY SERVICES – PARKING & TRAFFIC CONTROL (PTC)

PTC currently employs 34 Traffic Controllers who brought in approximately $4 million in fine revenues in 2003. Additionally, they issue an estimated 250,000 tickets in that same period.

Traffic Controllers electronically issue a ticket via a "handheld" computer. The original paper copy of the ticket is left with the vehicle. The handheld can hold up to 400 tickets (two books @ 200 tickets per book). They download every morning from the previous day with the exception of Friday, Saturday and Sunday – which all download the following Monday. The resultant information is then transmitted that night into Hennepin County's ViBES (Violations Bureau Electronic System) where it is processed into archives. When payments are made (cash, check, credit cards via walk-ins, phone, mail, web) the tickets are updated on the record in ViBES.

Although the ticket costs vary for the individual violation, the current cost of a "regular" parking ticket is $33. This includes a base fine of $30 that is distributed 80% to the municipality and 20% to the State General Fund and a $3 surcharge to the State.

PTC can track the number of tickets issued and dismissed by the Traffic Controllers, but do not know how many are dismissed by the hearing officers. Traffic Controllers can dismiss tickets, but it is only dismissed when it is a mistake. Once they start a ticket on the handheld they have to continue. These dismissals are tracked separately.

In order to gain a feel of the system, Internal Audit (IA) selected a haphazard sample of 20 tickets for testing from the Autocite System at PTC, assisted by Jeff Miller, PTC Field Supervisor. Using the first six months of 2004, IA selected twenty random dates, the log of tickets for that date was then brought up on the screen and IA selected one from each of those dates. We attempted to select a variety of offenses, state plates & traffic controllers.

After selection of a ticket, we then went to the next sequential screen which shows the citations entry in the county/state ViBES, as well as a brief recap of the citation. Finally a third screen shows the status of the ticket (i.e. paid, dismissed, in collection, etc.).

A breakdown of the 20 selected is as follows:

- 14 of the 20 were paid (one with a late fee, another with a reduced fine),
- 4 of the 20 were for out of state vehicles, and remain unpaid after 45 days. After further review, two of these four are in Collections (MCE), with a $50 late fee assessed; the two others were both Illinois plates and according to Hennepin County personnel, they do not have an agreement with Illinois and therefore cannot get their name/address and cannot send them to collections,
- One citation was dismissed, reason(s) are not shown on the screens,
- One citation was suspended, again no reason(s) shown.

MINNEAPOLIS POLICE DEPARTMENT

The Minneapolis Police Department (MPD) has been using electronic citations on a very limited basis since September 2003. This has resulted in about 12% of citations being issued electronically. The remaining paper citations have no information that identifies the offenses cited, officer involved, related fine/offense information, date, etc.

Effective October 15, 2004 MPD personnel with Mobil Data Computers (MDC) in their squad cars will be required to issue electronic citations. This will result in 95% of citations issued being electronic. Only "beat cops" and those on motorcycles will not have this capability. Ticket information from these citations will automatically be sent to ViBES.

Additionally, a 2004 ticket change allows officers to list more than one offense on a citation, as previously separate tickets had to be issued for each offense. This was done more as a convenience for the officer, but according to MPD personnel it has turned into a bargaining tool for the hearing officer where they may dismiss one charge if the individual ticketed agrees to pay the other(s). Also the State surcharge is not negotiable for reduction. With only 12% of the citations issued electronically, no random sample substantive testing was conducted in the MPD area.

Internal Audit spoke with Lt. Jeff Rugel, in charge of the MPD Traffic Unit and learned that since April of 2003 the size of the Traffic Unit has doubled (currently 20) with a corresponding 400% increase in tickets issued from one year to the next. Those in the Traffic Unit were hired from other precincts within the department where they were also writing tickets, and not coincidentally, among the heaviest ticket writers. Hence, there was a decrease in the number of tickets written at those locations. Prior to Lt. Rugel's coming to the Traffic Unit there were 700-800 tickets issued in Traffic (for 10 officers) per month. Currently there are approximately 3,500 – 4,200 issued on a monthly basis.

Lt. Rugel feels the hearing officers are doing an outstanding job, the problem lies with the number of tickets dismissed in the courtroom costing the City at least $5 each, plus the cost of officers appearing in court; either pulling them off the street or at overtime costs.

MINNEAPOLIS CITY ATTORNEY'S OFFICE

The issue of dismissals, was also discussed with Mary Ellen Heng of the Minneapolis City Attorney's Office. Ms. Heng told Internal Audit, for the parking tickets, because of the sheer volume, the main impetus with the hearing officers is to "get it resolved and move on." If a tickets ends up going to court, we (the City) often are at the mercy of the judge. She also feels we have a good relationship with the County/State as well as the hearing officers and much discretion is given to them to get issues resolved. The protocol for the hearing officers used for the resolution of moving and parking citations can be found on Attachment A of this report. Internal Audit was informed this document was written by the Hearing & Fines Management Office with ultimate final approval by the Minneapolis City Attorneys Office.

Internal Audit and its Audit Management Committee asked the Minneapolis City Attorneys Office to provide a written opinion as to what would be required to have the current County/State parking ticket process brought under an administrative adjudication process. The response (**Attachment C**) refers to an October 2, 2003 opinion from State Auditor Patricia Awada which stated "...we found no authority allowing local government units to impose administrative penalties for traffic violations. Awada based this conclusion on three reasons: first, Awada found that the State has already fully occupied the field of traffic enforcement, thereby, preempting local governments form regulating the field. This finding would also apply to the field of parking enforcement. Second, Awada cited a public policy concern of allowing citizens to have undocumented traffic violations that the State could not track. Since most parking violations do not go on a citizen's driver's license record, this is not a major concern. Third, Awada stated that by using administrative citations, the cities were attempting to avoid the mandatory state surcharge."

The resultant conclusion reached by the Minneapolis City Attorneys Office was: In order for the City of Minneapolis to enforce parking violations by administrative citation, (1) Minneapolis Code of Ordinances Section 2.20would need to be amended to include traffic control agents as persons authorized to issue administrative citations for traffic and parking violations; and (2) the City of Minneapolis would need to seek the amendment of state law to allow the administrative enforcement of parking violations either by expressly authorizing the city to do so or by removing the $3 surcharge imposed on all parking violations.

MINNEAPOLIS PARK & RECREATION BOARD (PARK POLICE)

The Park Police have a sworn staff of 50 plus another 15 park patrol agents (these are law enforcement/criminal justice students) who cannot make arrests.

Park Police will issue around 34,000 citations in 2004. Ticket revenues for 2003 were around $500,000. Fine amounts are the same as the City, with the exception of Park Board Ordinance items. Internal Audit was informed the Park Police are not looking at using MDC's (Mobil Data Computers) at this time.

The process here involves issuing manual tickets which are in triplicate. One copy goes to the offender, another to Park Police and another to Hennepin County violations. Once a ticket leaves here, they (Park Police) have no knowledge of its ultimate disposition. Fine revenue dollars are ultimately wired to the City Treasury where they are coded to the Park Board and deposited. Revenue information is sent to Brad Johnson of the Park Police.

RELATED AREAS:

1. COLLECTIONS & RECIPROCITY AGREEMENTS WITH OTHER STATES

As mentioned, collections of past due tickets is conducted by the State of Minnesota: Department of Revenue, Collection Division (MCE), located in Ely, Minnesota. Internal Audit contacted Beth Hupila, supervisor with MCE in Ely. Internal Audit was informed MCE does not conduct any collection activities on out of state citations (i.e. those issued to vehicles with out of state license plates). These are "kicked back" to the county/state operation and MCE concentrates their efforts on in-state citations only. The reason as explained to Internal Audit was that they (MCE) need the individuals social security number before they can proceed with collection efforts which can include a levy on salaries and/or revenue recapture against a tax refund.

If a past due citation, with a social security number is deemed uncollectible by MCE, they will refer it to one of the private collection agencies under contract with MCE. Only with a social security number does it go to a third party collection service.

Additionally, as far as Internal Audit was able to determine, there is one reciprocity agreement in existence; that being between Hennepin County and the State of Wisconsin, and it is not certain whether this agreement is informal or a written agreement. If it is a written agreement, Internal Audit could find no one to supply a copy. Under this agreement, information (license plate number) on unpaid citations issued to Wisconsin vehicles (plates) is electronically sent to Wisconsin on a weekly basis and registration information on that plate number is electronically sent back to Minnesota. The Fourth Judicial District court is then able to attempt collection. A $5 late fee is added and a demand to pay letter is sent to the Wisconsin address. The problem lies wit those defendants who fail to pay after the final demand to pay letter is sent from the Fourth Judicial District court. While the Fourth Judicial District court is able to obtain contact information from the State of Wisconsin, they are unable to obtain social security numbers. With both the Fourth Judicial District court and MCE unable to obtain social security numbers, the collection effort ends.

Internal Audit also contacted numerous sources (city, county, state) but was unable to find anyone who knew who to contact to initiate any future reciprocity agreements with other states, or to amend the current agreement.

There is currently a compact known as the Non-Resident Violator Compact (NRVC) which requires member states to suspend the drivers license of those who get traffic tickets for moving violations in other states and fail to pay them. The compact is not supposed to include non-moving violations such as parking violations. Internal Audit spoke with Pat McCormack, Director of Driver Services for the State of Minnesota who stated the NRVC is still in effect in all states but Wisconsin and Michigan. McCormack also said it would probably require a change in statute to allow linkage to social security numbers as there is no compact regarding registration on drivers license.

She added that a group appointed by the American Association of Motor Vehicle Administrators (AAMVA – www.aamva.org) is currently in the process of initiating a new drivers license agreement in which all member states would have one record for one drivers license. The record would travel with you from state to state as all violations (moving violations only) go with the driver. This agreement, which is still in draft form, will ultimately replace the Non-Resident Violator Compact.

The Fourth Judicial District Court is in the process of seeking out and contracting with a secondary collection agency that will have the ability to collect on out of state vehicle citations.

2. DISMISSALS

As mentioned previously, when a citation goes to court and is then dismissed, the court system charges the City a fee (usually $5) per offense cited & dismissed. According to the City of Minneapolis Finance Department, the City paid $167,000 in court costs to Hennepin County in 2004.

Attachment D illustrates the breakdown of all citations (including parking tickets) written in Minneapolis during 2004 and their disposition. City Finance personnel were unable to reconcile the $167,000 paid in court costs to an amount even "reasonably" close using the number of tickets and percentages shown as a gauge. Difficulties with such a reconciliation are comprised, in part, by the inclusion of parking tickets (in the chart) which rarely go to court, prior year offenses which may have court costs in 2004, the fact that court costs prior to 2004 were not tracked, and no precise certainty on what percent of citations include more than one offense.

During 2004 there was some discussion between Finance and the MPD regarding the formation of a high level task force consisting of members from the City Attorneys Office, Police Department, and the Court system to review the policies of the current process. Internal Audit encourages the formulation of such a task force with a more in-depth review of court costs included in their process review.

ATTACHMENT A

Minneapolis:

Single Petty Misdemeanors:

- CFD for 1 year for $130 prosecution costs plus any delinquency fees.
- No prior moving violation convictions within the past 2 years.
- No pending moving violations including other CFD's.
- No accident involved.
- Stipulation to the facts supporting the charge.

Multiple (2) Petty Misdemeanors (single incident):

- CFD both for $260 prosecution costs.
- Criteria as above.
- If not eligible, pay one dismiss one.

DAS and DAC:

- CFD for 1 year for $180 prosecution costs plus any delinquency fees.
  - Multiple DAS citations may be CFD to a point at the discretion of the Hearing Officer – prosecution costs per DAS may increase with each citation.
- No Accident involved.
- Driver's license now valid.
- Stipulation to the facts supporting the charge.
- Prior convictions or pending DAS charges will not make a defendant ineligible, in the discretion of the Hearing Officer. The goal is to have defendant's driver's license get and stay valid.
- Hearing Officer Guidelines are generally more liberal than those used by Assistant City Attorneys in the courtroom.

DAR:

- If the offense is **during the revocation period** or if the defendant has **2 or more** DARs, defendant must plea and pay fines or set for court.
- If after the basic revocation period, CFD for $180 prosecution costs as with DAS and DAC.

No Driver's License in Possession, Expired DL or Fail to Change Name/Address

- If defendant presents current DL (including name/address) – dismiss.

No Valid Minnesota Driver's License:

- Hearing Officer may give reasonable amount of time to get valid DL and dismiss.

Careless Driving:

- CFD for 1 year for $180 prosecution costs.
- Stipulation to the facts supporting the charge.
- No prior moving violations within the past 2 years.
- No Accident involved.

Open Bottle / Driver Allow, Possession of Marijuana in Motor Vehicle:

- CFD for 1 year for $230 prosecution costs.
- Stipulation to the facts supporting the charge.
- No prior drug or alcohol related traffic violations within the past 2 years.
- No Accident involved.

Open Bottle – Driver in possession / driver consume

- Same as above except that there are no prior alcohol related traffic offenses in the past **5** years.

Insurance:

- CFD for 1 year for $280 prosecution costs plus any delinquency fees.
- No prior Insurance convictions or revocations ever.
- No other pending Insurance charges.
- No accident involved.
- Stipulation to the fact supporting the charge.
- Proof of current insurance for at least 3 months, or proof that the car was sold.
- If defendant can establish that the vehicle was not owned by defendant (or anyone in the household), dismiss unless it can be proved defendant had knowledge of lack of insurance.
- Vehicle not registered in Minnesota – dismiss.

Parking citations referred to MCE or Revenue Recapture for collection is not subject to negotiation by the Hearing Officer.

Parking citation hearings with persons other than the vehicle owner: a hearing may be held with a person taking responsibility for parking tickets on a vehicle owned by another party.

1. If the responsible party is paying for the tickets, they should be transferred into the responsible party's name.
2. If the responsible party wants a payment plan, it may be granted, **but the tickets MUST be transferred into the responsible party's name.**
3. The City Attorney has advised us that **only the vehicle owner may schedule parking citations for Court.** If the responsible party wants to dispute the parking ticket, it must be through the registered owner of the vehicle.

1st, 2nd and 3rd parking citations within a 12 month period: the Hearing Officer has open and complete discretion with regard to dismissals, fine suspensions or fine reductions.

1. Discretion is generally more limited in the cases of Airport, fire lane, and police issued Complaint citations.
2. This may be applied to situations where more than one person may be responsible for citations issued to a vehicle. For example, cabs are owned by one person but may be driven by more than one driver. The Hearing Officer may take both the vehicle parking record or driver parking record into account.

Subsequent citations within a 12 month period: the general rule is that no more reductions or suspensions will be made. Possible exceptions to this rule:

1. Scofflaw tow for tickets subject to delinquency fees: settlement for approximately 2/3 of the total fine amount is acceptable. Generally paid in full with no payment plan. If the amount is enormous, defendant must pay at least ½ up front with limited time to pay the rest.
2. Scofflaw tow for tickets NOT subject to delinquency fees: discounts are not made because defendant already has the benefit of not paying delinquency fees. Time can be given for no more than ½ of the amount due.
3. Large numbers of tickets with no tow: settlement may be made for approximately 2/3 of the total with no time to pay. Payment of MCE tickets first is required. Then deal with any non-MCE tickets to make adjustments.
4. Ticket which resulted in a tow of the vehicle (obstructing traffic, temporary no parking etc): entry of Guilty and Suspend Fine may be entered because of the cost of the tow.
5. Tickets that have delinquency fees but are not MCE of Revenue Recapture: as a general rule, ½ of the late fees may be dismissed.

As a general rule, adjust each individual fine rather than dismissing citation or suspending the fine.

Handicap parking citations:

1. **Misuse of Handicap Permit**: the firm general rule for the Hearing Office is to offer a reduction to no lower than $403 or the opportunity to go to court. The University of Minnesota Police has provided the Hearing Office with police reports on all of these citations issued by them. The offense is a misdemeanor, as are all the handicap violations, so the right to go to court is never waived by failure to appear.
2. **Handicap Parking Zone with permit**: verify the permit on DVS – Disability screen with confirmation with a driver's license or the picture screen on DVS – DL Record. If it is a valid permit issued to the defendant the citation must be dismissed whether properly displayed or not. This dismissal is a statutory mandate.
3. **Handicap Parking Zone without a permit**: If the defendant has a good enough record the fine may be reduced to $103 or $153. In extraordinary circumstances the lowest fine should be $78. The more intentional the offense, the less the reduction should be.
4. **Handicap Transfer Zone with permit (overtime parking)**: May be handled in the same manner as any overtime parking ticket ($33 fine).
5. **Handicap Transfer Zone without a permit**: May be handled in the same manner as the Handicap Parking Zone without a permit.

Failure to display current license plates citations (issued to parked vehicles):

1. 169.79-HO may be used by Hearing Officers to amend the charge on a parking ticket with a $37 fine and $3 surcharge for a total of $40. **Minneapolis tickets only.**

2. If the defendant received no notice of renewal, the first citation must be dismissed if the defendant renewed the tabs within 10 days.

3. The Hearing Officer has discretion to dismiss tabs tickets if the defendant:
   - bought the tabs and forgot to put them on the plate;
   - forgot to renew but did so promptly;
   - cites extenuating circumstances for the citation;
4. The Hearing Officer has discretion to dismiss missing plate tickets when the defendant shows an effort to promptly correct the problem. When dismissing these tickets, the "Equipment Repair" should be used.

ATTACHMENT B

DEFINITIONS:

Diversion or Continuance for Dismissal: An agreement between defendant and city that the ticket is in "pending" status for a determined amount of time, at the end of the term, the hearing officer will check the defendant's driving and citation records and if there are no traffic convictions, the charge will be dismissed. In the event there has been another conviction during the term, the charge will be certified to the driving record. The fee for this agreement is determined by the City Attorney.

Sentence to Service (STS): Many defendants appearing in the Hearing Office want to resolve outstanding citations but have no real money for fines or prosecution costs. STS enables defendants to settle their citations both with consequences to them and with positive results for the community. Some examples of STS activities can include street cleaning, park landscaping and upkeep, snow removal, etc.

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ATTACHMENT C

INTEROFFICE MEMORANDUM

TO: Robert Bjorklund, Director of Internal Audit

FROM: Mary Ellen Heng, Assistant City Attorney

DATE: December 28, 2004

RE: Using Administrative Citations to Enforce Parking Regulations

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On behalf of the Audit Management Committee you have requested an opinion as to what would be required in order to use the Administrative Enforcement and Hearing Process to enforce parking tickets. Following is our response.

ISSUE

Can administrative citations be used to enforce parking regulations?

Most of the parking tickets issued within the City of Minneapolis are for violations of the Minneapolis Code of Ordinances and not a state statute. Minneapolis Code of Ordinances Chapter 2 provides for the administrative enforcement of certain violations of the Minneapolis Code of Ordinances. Section 2.20 lists which city employees are authorized to issue administrative citations for violations of the Minneapolis Code of Ordinances. The list includes

Minneapolis Police Officers.. Traffic control agent IIs are authorized to issue administrative citations, but only for violations of Title 13, Chapter 341, governing the licenses and business regulations of taxi cabs. Most of the parking violations issued in the City of Minneapolis are issued by traffic control agents for violations of Title 18, Chapter 478, which governs parking regulations. Section 2.20 does not authorize traffic control agents to issue administrative citations for parking violations. To permit a traffic control agent to write an administrative citation for a parking violation, section 2.20 would need to be amended.

Minnesota Statute Section 357.021, subd. 6(a) mandates that the court impose a $3 surcharge on all persons convicted of a violation of a law or ordinance relating to vehicle parking. Minnesota Statute Section 357.021, subd. 6(c) states that this surcharge may not be waived by the court. Whenever a person is fined for a parking violation of the Minneapolis Code of Ordinances, the court and court administrator must impose a $3 surcharge in addition to any fine imposed for the violation.

On October 2, 2003, State Auditor Patricia Awada issued a formal opinion related to the use of administrative citations by cities to enforce traffic offenses, such as speeding. I have enclosed a copy of the opinion as well as the press release from the State Auditor's office. In the opinion, Awada states "[i]n short, we found no authority allowing local government units to impose administrative penalties for traffic violations." Awada based this conclusion on three reasons. First, Awada found that the State has already fully occupied the field of traffic enforcement, thereby, preempting local governments from regulating the field. This finding would also apply to the field of parking enforcement. Second, Awada cited a public policy concern of allowing citizens to have undocumented traffic violations that the State could not track. Since most parking violations do not go on a citizen's driver's license record, this is not a

major concern for parking citations. Third, Awada stated that by using administrative citations, the cities were attempting to avoid the mandatory state surcharge. Awada stated that this was improper and concluded that "by using their own local tickets, cities appear to be circumventing state law". Awada went on to state that if a municipality wanted to use administrative enforcement for traffic offenses, the municipality would need to seek legislative authority to do so, otherwise it would be deemed an improper attempt to avoid the court system and raise municipal revenue.

In 2003, the Minnesota State Legislature amended Minnesota Statutes Section 357.021 to include a parking surcharge. Prior to that date, parking violations were exempt from any surcharge requirement. Based upon Awada's 2003 opinion, the City of Minneapolis cannot enforce parking violations with administrative citations. Using administrative citations to enforce parking regulations would be viewed as the City attempting to circumvent the required surcharge.

Finally, in Awada's report, she cites concerns with the role of the court in enforcing parking and traffic violations. Awada concluded that the legislature would have to expressly allow a municipality to hear violations administratively so as not to usurp the jurisdiction of the district court and to ensure that all the violator's constitutional rights were upheld.

CONCLUSION

In order for the City of Minneapolis to enforce parking violations by administrative citation, (1) Minneapolis Code of Ordinances Section 2.20 would need to be amended to include traffic control agents as persons authorized to issue administrative citations for traffic and parking violations; and (2) the City of Minneapolis would need to seek the amendment of state

law to allow the administrative enforcement of parking violations either by expressly authorizing the city to do so or by removing the $3 surcharge imposed on all parking violations.

Please do not hesitate to contact me if you need additional information, or if I can be of further assistance.

Cc: Dana Banwer Criminal Deputy Minneapolis City Attorney's Office

PATRICIA AWADA
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FOR IMMEDIATE RELEASE
Thursday, October 2, 2003

CONTACT: Tony Sutton
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State Auditor Patricia Awada Finds No Authority for Cities and Counties to Impose Administrative Penalties for Traffic Violations

(Saint Paul) -- State Auditor Patricia Awada has found that some cities and counties across Minnesota have recently been giving out their own so-called traffic fines, circumventing state law and the uniform traffic citation in an effort to generate revenue for the local government.

The State Auditor announced today that her office found no authority for municipalities to issue local administrative tickets for traffic offenses, such as speeding, and to keep all fines for their own use. The State Auditor's Office reviewed the issue at the request of the President of the Association of Minnesota Counties and the Chair of the Minnesota House of Representatives Judiciary Policy and Finance Committee.

"Cities and counties may think this is a clever way to increase revenues in their coffers," said Awada. **"But the legislature requires use of a uniform state traffic ticket, even for traffic-related ordinance violations. By using their own local tickets, cities appear to be circumventing state law."**

Numerous cities and counties across the State impose administrative penalties for violations of local ordinances. Recently some cities have seen these penalties as a way to increase local revenue, particularly for speeding and other traffic offenses. The local penalties avoid the state surcharge which increased from $35 to $60 during the 2003 legislative session on most offenses.

The State Auditor's Office raised public policy concerns with the use of local traffic tickets instead of the uniform state tickets required by statute. Local traffic violations are not recorded on a driver's record. Prior violations may go undetected because there is no central repository for the local traffic violations.

(MORE)

"An important public policy question is whether or not the main purpose of traffic tickets is to enhance public safety by deterring speeding, or whether they are a source of revenue for the city or county," said Awada.

Counties have only been granted the authority by the legislature to use local penalties in a limited number of areas, such as underage smoking and some environmental violations. The State Auditor's Office cautioned counties of the need to seek similar specific legislative authority before they issue local citations and impose their own penalties for other violations.

Some cities use administrative penalties to enforce ordinances that improve the quality of life in the city because they believe the city will handle the violations more effectively than the court system. The State Auditor's Office recognized that charter cities, such as Minneapolis and White Bear Lake, may have additional authority in their charters to impose these administrative penalties excluding speeding and other similar state traffic offenses, if proper procedures are followed. However, statutory cities may only use administrative penalties if that authority has been granted by the legislature. The State Auditor's Office recommended that statutory cities ask the legislature for authority to impose administrative penalties for these specific types of ordinance violations if they plan on using them.

"I understand that cities and counties may desire to use administrative penalties to handle quality of life ordinance violations because they feel they can resolve these issues better than the courts," Awada said. **"In the future, the legislature may decide to grant cities and counties this authority.**

"Local traffic tickets should not be used as a way to avoid the court system and to raise revenue. Until the legislature gives cities and counties that authority, cities and counties cannot replace the court system with their own local penalty bureaus, or use police officers as uniformed revenue collectors."

State Auditor's letters to the Gene Short, President of the Association of Minnesota Counties, and Rep. Steve Smith, Chair of the House Judiciary Policy and Finance Committee, can be found on the State Auditor's website at www.auditor.state.mn.us.

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ATTACHMENT D

Minneapolis Citations Written in 2004
(Number=416,023)

Payable Citation
(410,202)
98.6%

Court Required Citation
(5,821)
1.4%

Closed in 2004
(310,490)
75.7%

Still Open in 2004
(99,712)
24.3%

Closed in 2004
(4,786)
82.2%

Still Open in 2004
(1,035)
17.8%

Type of Disposition

Guilty	85.4%	(78.1% Paid in full)
Diversion	2.0%	
Dismissed	9.4%	
Referred to Court	3.0%	
Other	0.2%	

Type of Disposition

Diversion	0.1%	
Dismissed	27.9%	
Referred to Court	71.9%	(29.1% summons)
Other	0.2%	

Type of Dismissal

By City Attorney	1.8%
By Hearing Office	34.0%
By Rest. Justice	1.8%
By Violation Bureau	0.2%
Presented Valid Info	52.0%
Cited in Error	8.1%
Other	2.0%

Type of Dismissal

By City Attorney	87.0%
By Hearing Office	0.7%
By Rest Justice	0.5%
By Violations Bureau	0.0%
Presented Valid Info	11.0%
Cited In Error	0.1%
Other	0.7%

Status of Open Citations

Late Letter and Late Fee	23.1%
Sent to MCE	44.8%
DL Suspension	20.0%
Requested Court	0.1%
Not reached time limit	11.5%

Status of Open Citations

Late Letter and Late Fee	0.1%
Sent to MCE	0.0%
DL Suspension	29.0%
No response-refer to court	46.2%
Not reached time limit	24.7%

Source: Fourth Judicial District Research Division