

BOOKING POLICIES AND FEES

**Minneapolis City Attorney's Office
Minneapolis Police Department**

**Public Safety and Regulatory Services Committee
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PART 1

BOOKING POLICIES AND FEES MINNEAPOLIS CITY ATTORNEY'S OFFICE

Introduction

Several years ago, because of serious over-crowding in the old jail, the practice developed that the Sheriff released all misdemeanor arrestees with "no bail required" (NBR). There is no longer a need for this practice, which has contributed to bad policy in the area of arrest, detention, and release (the "revolving door" problem). A committee comprised of representatives from the Sheriff, Court, City Attorney, Probation, and Public Defender met for several months to gather and review data, discuss alternatives, and recommend new procedures. Based on these discussions the following improvements to pretrial detention policies became effective on April 4, 2005.

Court Approved Bail Schedule

Pursuant to Minnesota Rule of Criminal Procedure 6.01, Minneapolis police officers may only "book" a defendant into the Public Safety Facility (the new jail) on a misdemeanor charge when "it reasonably appears that detention is necessary to prevent bodily harm to the accused or another, or further criminal conduct, or that there is a substantial likelihood that the accused will fail to respond to a citation." Pursuant to Minneapolis Police Department (MPD) policy, prior to all misdemeanor bookings, the arresting officers must obtain supervisor approval and must detail the Rule 6.01 reasons supporting the officer's decision to detain the defendant in his or her police report.

All persons booked pursuant to this procedure will have bail set according to the attached bail schedule. (See attached schedule). A defendant arrested for offenses for which bail is required will be held for court unless he or she posts bail or is eligible for release by the Hennepin County pre-trial release unit. The only exception to this policy occurs when the Sheriff determines that release is medically necessary. In such cases, the Sheriff may release the defendant to the Hennepin County Medical Center for treatment or medical intervention at the discretion of the Sheriff without bail.

The majority of the committee members recommended that any person arrested on a payable offense shall not be booked, but shall be issued a citation by the arresting officer unless unusual circumstances exist and detention is authorized pursuant to Rule 6. If a person is booked for a payable offense, the jail will release the person without bail unless there is an independent reason to hold him or her, such as a pending warrant.

Since the new bail schedule went into effect on April 4, 2005, the City Attorney's Office has maintained statistics on individuals booked pursuant to the new bail schedule. Attachment 1 describes these bookings and the outcome of the cases. Between the dates of April 4, 2005 and July 8, 2005, 739 defendants have been booked on misdemeanor offenses. The most common offenses for which a defendant was booked were: disorderly conduct (180); loitering with intent (118); and trespassing (82). The most common reason for the bookings was to stop the defendant's continuing criminal activity (281 defendants). Of the 739 defendants who were booked, 448 defendants were held on bail until their first court appearance, and 291 defendants were released by the jail or posted bail prior to their first court appearance. Of the 291

defendants who were released prior to their first court appearance, 31% bench warranted or failed to appear for the first appearance.

The Minneapolis City Attorney's Office and the Minneapolis Police Department have been working diligently to ensure that defendants are being booked pursuant to Rule 6.01. An attorney in the City Attorney's Office reviews these cases each day and sends a report to the Community Attorneys in each of the police precincts, who in turn communicate with the police officers. This report contains a list of all defendants appearing on the calendar that day who are either in custody or who have been released or posted bail and were given an out-of-custody court date. The report details the Rule 6 reason for the booking as well as the case outcome. The Community Attorneys work with the police officers to ensure that the Rule 6 reasons are being articulated in the report, that the reports are being written and uploaded into CAPRS in a timely manner so that there is probable cause to proceed on these cases when the defendant appears in court and one area for further discussion with the court and others in the criminal justice system is booking defendants for payable offenses. Currently, many of the identified chronic offenders commit payable offenses, such as consuming in public. Under the current rules, such an offender would be released without bail, regardless of the person's criminal history. The City Attorney's Office will continue discussions with the courts on this issue.

Minneapolis Police Department Identification Unit

In the absence of a Rule 6.01 reason to book a person, a Minneapolis police officer who is unable to confirm a misdemeanor defendant's identity at the scene will transport the defendant to the First Precinct's new identification unit, staffed by First Precinct officers. Once the defendant is properly identified the police officer will issue the defendant a citation. In addition, the MPD plans to increase the use of IBIS portables in the field.

This new identification process not only complies with Rule 6.01, it may result in considerable monetary savings due to reduced bookings.

Tab Charging by Police

Historically, when a person is issued a citation and that person either has no permanent address or is currently residing in a shelter, if that person does not respond to that citation, it is eventually dismissed, as no summons can issue if the court does not have a current address for the defendant. To address this issue, the courts have authorized the police to tab charge offenders if the offender has no permanent address or if he or she currently resides in a shelter. On payable offenses, when an officer encounters such an individual and makes the determination that booking is not necessary, the officer will tab charge this individual rather than issue a citation. The officer will bring the person to the Identification Unit where the person will be fingerprinted and then given a court date to appear within seven (7) business days. This change in procedure is a great improvement over the previous procedure where offenders were given citations which required the offender to contact the court to schedule a court date. If the person does not appear on the scheduled court date, a bench warrant will be issued for his or her arrest. This policy will help avoid the situation where a person avoids consequences for his or her criminal behavior simply because he or she has no permanent address or stays in a shelter.

Fines and Administrative Fees

Minnesota Statute Section 609.0341, subdivision 1, provides that the maximum fine for a gross misdemeanor violation is \$3,000. Minnesota Statute Sections 609.033 and 609.0334 provide that the maximum fine for a misdemeanor violation of either a state statute or city ordinance is \$1,000. Minnesota Statute Sections 609.0331 and 609.034 provide that the maximum fine for a petty misdemeanor violation of either a state statute or city ordinance is \$300.

Minnesota Statute Section 609.10, provides that when a person is convicted of a gross misdemeanor or misdemeanor offense, the court must impose a fine of not less than 30 per cent (30%) of the maximum fine authorized by law. This would be a minimum fine of \$300 in all misdemeanor cases and a minimum fine of \$1,000 in all gross misdemeanor cases. Minnesota Statute Section 609.101, subdivision 5 prohibits the court from waiving the minimum fine amounts. However, if the court finds that the convicted person is indigent or that immediate payment of the fine would create an undue hardship, the court may reduce the minimum fine to \$50 or allow the convicted person to perform community service in lieu of the fine.

Minnesota Statute Section 488A.03, subdivision 11 governs how fines are distributed to the City of Minneapolis and regulates administrative fees imposed on the City. When a defendant appears in the **Violations Bureau** or simply elects to pay the full amount on the citation, the fine revenue is distributed in the following manner:

Parking:

- 80% of the fine to the City of Minneapolis
- 20% of the fine to the State General Fund
- \$3 State surcharge¹.

Petty Misdemeanor (non parking):

- 80% of the fine to the City of Minneapolis
- 20% of the fine to the State General Fund
- \$60 State Surcharge to State Treasurer²
- \$3 Law Library Fee

Misdemeanors:

- 20% of the fine to the State Treasurer
- Balance remaining – 80% to the City of Minneapolis and 20% to the State General Fund
- \$60 State Surcharge to State Treasurer
- \$3 Law Library Fee

Charges with a disposition of a CWOP or Diversion:

- 100% of the prosecution costs to the City of Minneapolis
- No State Surcharge
- No Law Library Fee.

¹ Starting July 1, 2005, the parking surcharge will increase from \$3 to \$4.

² Starting July 1, 2005, the criminal surcharge will increase from \$60 to \$72.

When a person elects to go to **court** on their citation, the fine distribution is as follows:

Parking:

- 100% of the fine to the City of Minneapolis
- \$3 State Surcharge
- \$5 Fees taxed charged to City of Minneapolis and credited to the State General Fund (for arraignment appearance only)
- \$15 Fees taxed charged to City of Minneapolis and credited to the State General Fund (for court trial appearance only).

Petty Misdemeanors:

- 100% of the fine to the City of Minneapolis
- \$60 Surcharge to the State Treasurer
- \$3 Law Library Fee
- \$5 Fees taxed charged to City of Minneapolis and credited to State General fund (for arraignment appearance only)
- \$15 Fees taxed charged to City of Minneapolis and credited to State General Fund (for court trial appearance only).

Misdemeanors:

- 20% of the fine to the State Treasurer
- 80% of the fine to the City of Minneapolis
- \$60 Surcharge to the State Treasurer
- \$3 Law Library Fee
- \$5 Fees taxed and charged to City of Minneapolis and credited to State General Fund (for **arraignment** and **pretrial** appearances only)
- \$15 Fees taxed and charged to City of Minneapolis and credited to State General Fund (for **court trial** and **jury trial** appearances only).

Charges with a disposition of CWOP or diversion:

- 100% of the prosecution costs to the City of Minneapolis
- No State Surcharge
- No Law Library Fee.

All revenue generated by fines goes into the City's general fund, which in turn helps fund the criminal division of the City Attorney's Office as well as the Minneapolis Police Department. Several factors determine whether or not the City collects any fine revenue on a certain case. First, a defendant who is unable to pay a fine may be offered the option to perform "Sentence to Service" (STS). This is a program offered by Hennepin County in which the defendant is taken to a work site to perform work for the County. Currently, defendants who commit offenses in Minneapolis are not always required to perform work at sites within the City of Minneapolis, so often times the City is not directly benefiting from the STS program. The City may wish to explore with Hennepin County Community Corrections setting up City-specific sites for defendants to perform the required hours of service so the City may obtain a direct benefit from this option.

Second, sentencing of offenders is ultimately up to the judge. Although required by state law to impose a minimum fine, in many cases the judge will elect to either not impose a fine or will suspend some portion of, or the entire fine. When this occurs, the City not only does not collect any revenue, but the City is assessed the \$5 or \$15 administrative fee.

One positive step taken by the County to ensure fine collection began in June 2004. Starting in June 2004, all unpaid court fines were being sent to a collection agency, MCE for collection. As of May 2005, MCE has collected \$51,852.76 in unpaid court fines. As of May 2005, MCE has collected \$1,037,504.52 in unpaid citations. When an unpaid fine is sent to MCE for collection, the City of Minneapolis still receives its 80%. When the citation becomes delinquent, late fees and collection fees of up to \$50 are added to the fine amount to cover the costs of using a collection agency. MCE charges 15% for citations that are recaptured through state revenue such as tax returns, and 25% for citations that are collected via a private agency. This 15% or 25% is more than covered by the additional \$50 fees assessed on delinquent citations.

Finally, the Minneapolis City Attorney's Office criminal division currently reviews all court required citations. An attorney screens these cases prior to setting them for a court appearance. By proactively screening these cases, the City is able to dismiss cases where there is either no probable cause or insufficient evidence to proceed, thereby avoiding the \$5 administrative fee that would be assessed if dismissed at arraignment.

Many police officers are converting from paper tickets or citations to electronic ticket writers. When an officer issues a citation using the electronic ticket writer, the citation is automatically entered into Hennepin County's citation system (VIBES) and the aging process begins. This still allows for our review prior to a citation being set for court. The District Court is in the process of shortening the aging process from approximately fifty (50) days to ten (10) days. The City Attorney's Office will continue to examine its prescreening process to adjust to this new schedule.

PART 2

BOOKING POLICIES AND FEES MINNEAPOLIS POLICE DEPARTMENT

Background

Prior to 1968, the City of Minneapolis and Hennepin County each had an Adult Detention Center (ADC) in City Hall. In 1968, the City and County passed joint resolutions providing that the City of Minneapolis would relinquish its detention facility to the County and reimburse the County for certain expenses of prisoners charged through municipal court³. The expenses reimbursed would cover operating costs, specified as salaries, benefits, maintenance, food, travel, medical drugs, cleaning, etc. The billable expenses were paid by deducting fees from fine revenue exchanged back and forth between the City and County. In 1981, the County Board authorized extending the same billing arrangement to all other municipalities in Hennepin

³ Municipal Court, as outlined in the 1968 resolution no longer exists. Hennepin County District Court now handles misdemeanors.

County. Currently, Hennepin County is the only county in the state which charges municipalities for jail costs.

In October of 2001, a Hennepin County internal audit studied the ADC rates billed to cities. The study recommended significant rate increases to allow for capital costs and warrant arrests. The rate increases corresponded with the building of a new jail by Hennepin County. As a result of those recommendations, booking fees increased as booking counts decreased. From 2002 to 2004, booking fees at Hennepin County rose 37%. Residential fees (*per diem*) increased 39% during the same time frame. The following chart illustrates the changes in booking fees and *per diem* rates from 1997 through 2004.

Year	Booking Fee	% Change	Count	Per Diem	% Change	Count	Total Paid
2004	\$253.95	1%	5,152	\$115.27 ⁴	-9%	2,410	\$1,585,808
2003	\$271.21	35%	6,457	\$126.10 ⁴	18%	2,093	\$2,057,405
2002	\$185.80	26%	4,974	\$107.04	21%	2,563	\$1,816,793
2001	\$147.45	26%	7,579	\$88.37	7%	4,407	\$1,507,005
2000	\$117.12	1%	10,595	\$82.93	2%	5,034	\$1,668,379
1999	\$115.92	-.2	10,349	\$81.36	-5%	4,807	\$1,590,724
1998	\$118.29	7%	10,439	\$85.65	7%	6,831	\$1,825,831
1997	\$110.58	2%	10,633	\$79.79	8%	7,451	\$1,770,298

Options

Faced with rising booking costs, shrinking budgets and the potential layoff of police officers, the police department sought out several options to reduce expenses. These options included reopening the MPD Booking Unit, re-negotiating the 1968 joint City/County action, bringing prisoners to another county, and/or have all bookings reviewed by the City Attorney's Office. The Department believed reopening the Booking Unit was the most efficient and effective method to address these issues. The Booking Unit was in fact reopened in May 2003, with the objectives of reducing overall booking expenses by 30%, then using the savings to prevent the layoff of nine sworn officers.

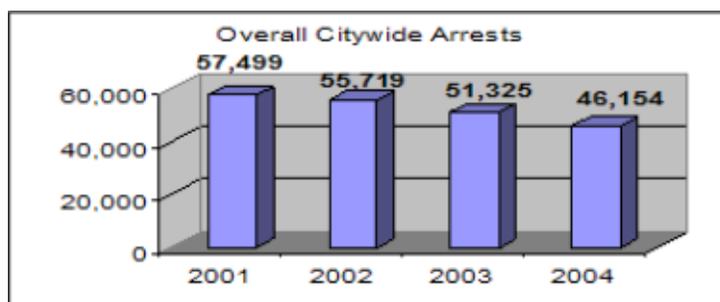
An April 2003 MPD Booking Unit Proposal⁴ projected that the 2003 booking costs alone would climb to slightly more than \$2,000,000 per year. It was felt that the Department could cut booking costs by one-third (1/3) and save approximately \$695,098.00. This savings depended on a reduction of 2,767 chargeable bookings per year. With the cost reductions, nine officers could be retained and the Department would also realize an additional \$71,182.07 in savings (at the time, a FTE was valued at \$69,324/year).

A protocol for using the Booking Unit was established. The reinstated Booking Unit was to assist officers in positively identifying adult petty misdemeanor and misdemeanor arrestees that could not be identified on scene so that an officer could cite and release the offender in lieu of booking at HCJ. The arresting officer was responsible to cite and release the arrestee after he or she has been positively identified. If the arrestee was intoxicated, the arresting officers were responsible for the person's safety, and would divert the arrestees to the appropriate care facility (Detox, Special Care, etc.) for the welfare of the arrestee. Criteria for processing an

⁴ Minneapolis Police Booking Unit Proposal, (April, 2003) Gerlicher, S., Burt, G.

arrestee through the Booking Unit were as follows: 1) the arrestee has no valid form of identification at the time of arrest; 2) the arrestee should be cooperative and non-violent to the extent that they can be interviewed, fingerprinted, and photographed; and 3) arrestees who have been drinking or are chemically impaired should be competent enough to be processed by Booking Unit personnel.

The reopening of the Booking Unit did not meet its objectives. The initial goal was to process an average of 224 bookings a month. In the first four months of operation, only 401 offenders were processed through the MPD booking unit⁵. This level was 55% short of the expected volume. Overall, arrests in the city fell. The city saw an 8% decrease in all arrests in 2003, (see chart below). The Booking Unit was closed in mid-December 2003. Certainly, reductions in overall arrests played an important factor in the Booking Unit's demise. From May through August 2003, MPD booked 2,093 persons in HCJ for misdemeanor offenses. In 2002 MPD booked 3,114 persons for misdemeanors offenses, or a 33% reduction in HCJ bookings. While the Department realize its goal of a 1/3 reduction in booking costs, it continued to expend funds above the realized booking savings to retain nine officers on the force.



Additionally, the use of new technology in the field played a significant role in the underutilization of the Booking Unit. Since 2001, MPD's squad cars have been equipped with MDC (Mobile Data Computers). Through use of the mobile computer, officers are able to retrieve Minnesota driver license pictures and CAPRS records on-line in the field. These databases helped an officer make an identification of a suspect/arrestee. In many cases continued detention was no longer necessary. The officer could make a reasonable identification of the arrestee, issue a citation and release the detained party.

Current Booking Fees

At the beginning of 2005, the booking fee structure changed to what is currently in practice. The revamped fee structure is tiered by type of booking. There are four categories:

- **Processing:** \$75 fee assessed for inmates booked on Minneapolis cases that statutorily require fingerprints be submitted to the BCA (felonies, gross misdemeanor, Probable Cause, and targeted misdemeanors).
- **ID Cards:** \$75 fee assessed for first-time Minneapolis PD arrests.
- **Court Processing Fee:** \$75 fee assessed by Sheriff's Court Security Unit. This fee is assessed for inmates who have not been booked, but are ordered by the court to be

⁵ Booking Unit Update, (September, 2003). Sauro, M.

taken into custody for fingerprints required by statute. These are typically inmates who appeared on summons.

- **Per Diem:** \$4.15 per hour for eligible offenses.

Under this fee structure, MPD has expended \$512,224.00 for combined booking fees from January, 2005 to May, 2005⁶. If arrest and booking levels remain constant throughout the rest of the year, MPD can expect to pay Hennepin County \$1,229,338.00 in combined booking fees. This is a 22% reduction from the \$1,585,808.00 paid in 2004.

2005	January	February	March	April	May	Total
Processing	\$46,163	\$52,575	\$53,913	\$51,975	\$50,738	\$255,363
ID Cards	\$4,650	\$3,150	\$9,525	\$7,800	\$7,725	\$32,850
Court Processing	\$675	\$1,350	\$675	\$975	\$1,200	\$4,875
Per Diem	\$39,372	\$37,256	\$39,027	\$49,077	\$54,405	\$219,137
Total	\$90,859	\$94,331	\$103,140	\$109,827	\$114,068	\$512,224

Future Considerations

The process of booking misdemeanor arrestees is still evolving. As outlined in prior white papers, Hennepin County Courts implemented various changes regarding booking, bail, and mandated court appearances. As a result of these changes, the Department was required to implement some procedural changes. Unfortunately, without a MPD Booking Unit some arrestees would slip through the cracks in the booking process. In some cases, only an identification of the arrestee is necessary and further detention is not warranted. MPD officers may no longer book someone solely to determine identification.

In April of 2005, MPD opened the Arrestee Processing Center (APC) at the First Precinct. The APC is intended to assist officers with identification of a misdemeanor arrestee. First Precinct staff will be able to have arrestees fingerprinted and digitally photographed. These records are then checked with Bureau of Criminal Apprehension and the arrestee is issued a citation and released. The Department is also deploying a number of portable fingerprint (IBIS) readers in the field for identification purposes. The fingerprints are checked against the Hennepin County database. The APC is also used as an alternative for the booking process of identification, fingerprinting, and photographing of juvenile arrestees for some felony offenses.

A significant number of misdemeanor arrestees are homeless or who list “no permanent address” (NPA) as the home. In the past, officers would book these individuals because it was felt that they were at risk of failing to respond to a summons. The arrestee’s homelessness status was oft times the deciding factor for officers electing to detain a person arrested for a misdemeanor offense. In order to maximize the effectiveness of the APC, officers can and should use the facility any time an adult arrestee claims to have no permanent address or gives a shelter address as a home address. These arrestees will be photographed, fingerprinted, and given a court date. This should also be done for chronic offenders whose names are known by officers.

The Department already possesses the means to stream-line the booking process even further. Many of the squads are equipped with an electronic ticket writing package. With a change in programming, the electronic citation can be altered to include an assigned court date, which

⁶ Mpls. PD processing and per diem fees, 2005, (July, 2005). Cochlea, L.

would auto-populate when officers complete the citation. The court date and the rest of the citation information are transmitted instantly to the County via a secured FTP site. Assuming the officer can make a reasonable determination of who the arrestee is, the officer can issue a citation with the assigned court date and release the individual.

Further technology assistance is shortly over the horizon. Hennepin County has received a grant for a number of IBIS units. These electronic fingerprinting/identification devices require a subject to submit a two finger image, rather than the standard 10 finger rolled, photographed, or otherwise electronically gathered fingerprint. The current deployment plan takes into consideration that MPD is the largest agency within the county and is expected to use these devices more often than other agencies. MPD is expected to receive 10 or more of these units. The portable electronic units can be connected into the Department's MDC's currently installed in the squads and via the squad's internet connections a match of the arrestee's fingerprints can be made in the field. The caveat though, is that although it is a quick means to identify a person in the field, it is not 100% accurate. Officers would need other corroborating evidence to insure that they have made a positive identification of a person.

CONCLUSION

Over the past few years, significant strides have been made throughout the criminal justice system to improve booking policies and fees. These improvements include reintroduction of a bail schedule, new booking and identification procedures, and reductions in jail and booking fees. The City Attorney's Office and the Minneapolis Police Department continue to work together, along with others within the criminal justice system to proactively improve the criminal justice system, thereby increasing public safety in the City.

In the future, the Minneapolis City Attorney's Office will continue to work with the Minneapolis Police Department to: 1) ensure that, when appropriate, defendants are being booked; 2) ensure that police reports are being written and uploaded in time for court; and 3) ensure that the report details significant facts for the case to move forward. Finally, the Minneapolis City Attorney's Office will continue to request that defendants be held on bail when appropriate.

Some of the issues where the City Attorney's Office can attempt to improve in the areas of booking policies and fees include: 1) City prosecutors should be more aggressive in negotiating fines as part of plea negotiations; 2) the City should educate the District Court bench as to the financial impact to the City when the Court fails to impose fines or suspends fines; and 3) the City should also consider asking for defendants to reimburse the City for the \$5.00 administrative fee if the defendant is being offered participation in a restorative justice program. This could be done by either the restorative justice program or by the Court.