

# **PAYABLES**

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

**Public Safety and Regulatory Services Committee  
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## INTRODUCTION

A person first enters the criminal justice system through a variety of means. The most common means are through arrest, citation, or tab charge by a police officer. Pursuant to Minnesota Rule of Criminal Procedure 6.01, police officers shall issue citations to persons subject to lawful arrest for misdemeanors unless it reasonably appears to the officer that arrest or 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. Certain misdemeanor offenses have been designated as “payable” offenses by the Conference of Chief Judges. Payable citations and their impact on the criminal justice system, the Minneapolis City Attorney’s Office and the Minneapolis Police Department will be discussed below.

### **PART 1: MINNEAPOLIS CITY ATTORNEY’S OFFICE**

#### Definition of a Payable Offense

A payable offense is a misdemeanor offense for which a set fine amount is attached to the violation, along with mandatory surcharges. When an individual is given a citation for a payable offense, that individual may choose to plead guilty by paying the designated fine amount and surcharges, see a hearing officer or set the case for a court appearance. If an individual pleads guilty to a payable misdemeanor offense by paying the fine, by operation of law, the charge is reduced to a petty misdemeanor on the individual's record.

Payable offenses include, but are not limited to, the following categories:

- Parking violations
- Equipment violations
- Moving violations
- Driver’s license violations
- Housing and inspection violations
- Noise violations
- Alcohol violations

#### The Aging Process and Unanswered Citations

When a defendant is issued a payable citation, the defendant has approximately 25 days to respond to that citation, by either paying the fine, seeing a hearing officer, or setting the case for court. If the defendant does not respond within the 25 day period, a reminder notice is sent out and the defendant is given another 25 days in which to respond. If the defendant still does not respond, a late fee is added to the payable fine. If the citation was for a criminal or parking offense, the citation is referred to a collection agency. If the citation was for a traffic violation, the Minnesota Department of Public Safety is notified and the defendant’s driver’s license is suspended.

The Hennepin County District Court is currently considering shortening the “aging” period for all citations and/or allowing police officers to issue citations which contain court dates.

### Payable Offenses and the Business Plan

The Minneapolis City Attorney's Office has identified the prosecution of livability offense as a priority in its business plan. Many of the identified livability offenses are currently on the payables list, including, but not limited to:

- Consuming in Public (\$110)
- Minor Consuming (\$130)
- Littering (\$180)
- Loiter with an Open Bottle (\$110)
- Noise violations (\$110)

As of April 4, 2005 Hennepin County District Court removed Public Urination and Possession of Drug Paraphernalia in a Public Place from the payables list. This has enabled the City Attorney's Office to more aggressively prosecute these two livability offenses.

### Restorative Justice and Payable Offenses.

One of the prongs of the City Attorney's Office public safety strategy is "active collaboration with neighborhoods on community justice." Through targeted partnerships with community groups offering restorative justice services, the City Attorney's Office has taken major steps towards achieving that objective. Today, restorative justice programs not only remain viable but continue to expand both their areas of service and the numbers of offense types they review. The City Attorney's association with restorative justice programs has also helped forward the City's goal of promoting partnerships to address disparities and supporting strong, healthy families and communities.

The City Attorney's Office currently works in cooperation with the following restorative justice diversion programs: Central City Neighborhoods Partnership (CCNP), Midtown Restorative Justice Program (MRJP), Men Who Use Prostitutes (MWUP), and the Police Diversion Program for minor consumption citations. These programs target livability offenses in different geographical areas of the City. These programs generally offer first-time offenders the opportunity to avoid a criminal conviction for a livability offense by working with members of the victimized community to devise a contract to repay that community for the damage the offenders' actions have caused.

The Central City Neighborhoods Partnership (CCNP) restorative justice program has requested that the Hennepin County bench consider removing consuming in public, public urination, possession of drug paraphernalia in a public place, minor consumption, noise violations, loiter with an open bottle and littering offenses from the payables list. These categories of offenses constitute 73 percent (73%) of the total offenses sought by CCNP for its diversion program. As of April 4, 2005, the District Court agreed to remove possession of drug paraphernalia and public urination offenses from the list. The City Attorney's Office will continue discussions with the court on the remaining offenses.

CCNP and the Minneapolis City Attorney's Office have recently joined together to create the Police Diversion Program. This new program, administered by CCNP, offers diversion opportunities to people in the University of Minnesota, Marcy-Holmes and Southeast Como neighborhoods for targeted non-driving alcohol-related offenses. University of Minnesota and Second Precinct police officers inform offenders about the program. Approximately 40 percent (40%) of all offenders cited for these targeted offenses have elected to participate in the program. The eligible offenses for this program are currently all payable offenses. In order to

provide the offender with an opportunity to participate, the City Attorney's Office must dismiss the payable citation before the offender pleads guilty and pays the fine. If the offender does not successfully complete the program, the offense is recharged by formal written complaint.

### Payables and Chronic Offenders

When a chronic offender is cited for a payable offense the only way that defendant may be required to appear in court on that offense is if the payable citation is dismissed and the charge reissued by formal written complaint, or if the defendant has an upcoming court date, the Special Prosecutions Team may request that the payable offense be added to the court calendar on the upcoming appearance.

### Driving Offenses

In August 2003, Hennepin County District Court added several misdemeanor traffic offenses to the payables list. These offenses and the payable amounts are:

- Driving After Cancellation (\$180)
- Driving After Suspension (\$180)
- Driving After Revocation (\$180)
- No Insurance – no accident (\$280)
- Failure to Provide Proof of Insurance – no accident (\$280)
- Driver Possess an Open Bottle (\$230)
- Driver/Owner Allow an Open Bottle (\$230)
- Driver Consume in Motor Vehicle (\$230)

When a defendant does not respond to one of these citations, the Department of Public Safety is notified and the defendant's driving privileges are suspended. Often this does not have much of a deterrent effect because the defendant's driving privileges may have already been suspended or revoked when the citation was issued.

### Payable Traffic Calendar

The Payable Traffic Calendar is scheduled at 8:30 a.m. Tuesday through Thursday in the Hennepin County Government Center, room 1159. The types of cases heard on this calendar are the payable traffic offenses, such as driving after suspension, cancellation or revocation, no insurance where there is no accident, careless driving, open bottle or marijuana in a motor vehicle, and all petty misdemeanor violations. The calendar is presided over by Referee Susan Cochrane. The City Attorney's Office has provided Referee Cochrane with guidelines, which she uses to resolve these cases. No Assistant City Attorney is present at this calendar. Since there is no city attorney or public defender present, the cases result only in fines, continuances for dismissal, or outright dismissals as part of a plea bargain. No jail time is given for these offenses in this courtroom. If cases do not resolve on this calendar, the misdemeanor offenses are set for a pretrial and eventual jury trial date and the petty misdemeanor offenses are set directly for a court trial.

The following are Payable Traffic Calendar statistics collected by Hennepin County District Court for the period between August 6, 2004 and January 13, 2005.

There were 2,955 Minneapolis misdemeanor and petty misdemeanor cases handled in the payable traffic calendar.

Of these 2,955 cases:

- 1,738 were misdemeanors (59%)
- 1,217 were petty misdemeanors (41%)

Of those 2,955 cases, 1,061 (36%<sup>1</sup>) were resolved at arraignment (i.e., either dismissed, continued without prosecution, or convicted via a guilty plea). The breakdown is as follows:

- 570 misdemeanors resolved = 33% (of 1,738)
- 491 petty misdemeanors resolved = 40% (of 1,217)

Conversely, 1,894 (64%) of the 2,955 cases were not resolved at arraignment and went on to a pretrial hearing or a court trial. The breakdown is as follows:

- 1,168 misdemeanors went on to pretrial = 67% (of 1,738)
- 726 petty misdemeanors went directly on to court trial = 60% (of 1,217)

While not an exact comparison, during the period between August 5, 2003 and January 13, 2004, the City Attorney's Office staffed a "Prosecutor Only" calendar. Petty misdemeanor parking and moving violations were scheduled for this calendar. During this time period, the Minneapolis City Attorney's Office handled 1,471 petty misdemeanor offenses. Of these offenses, we resolved either by plea, continuance for dismissal, or outright dismissal, 652 cases or 44 percent.

When the City of Minneapolis was involved in the prosecution of these cases at the arraignment stage, the percentage of cases being resolved was similar to the percentage of cases being resolved currently without prosecutor involvement.

Hennepin County is running a pilot program in this court room whereby defendants are having their cases dismissed upon the completion of a required number of days on the sentence to service program. The purpose of this program is to assist defendants in reinstating their driver's licenses while still providing a criminal consequence for the offense. This concept was carried over into court from the two restorative justice days sponsored by the Court and others.

#### Violation's Bureau

The Minneapolis City Attorney's Office has authorized the Hennepin County Violation's Bureau to handle payable offenses on its behalf. The Violation's Bureau handles mostly traffic payables, but occasionally will handle a criminal payable offense. When a defendant is cited for a traffic violation, the defendant may choose to go to the Violation's Bureau and see a hearing officer. The hearing officer will offer a plea bargain based upon guidelines authored by the City Attorney's Office. If the defendant accepts the offer, the case is disposed of without a court appearance. If the defendant rejects the offer, the case is set for the appropriate court. In

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<sup>1</sup> When the Court adds in offenses that were continued for a defendant to return to court with a valid driver's license or valid insurance or continued to the Restorative Justice Program to the resolved group, the percentage of cases resolved at arraignment increases to 53%.

2004, the violations bureau disposed of a total of 105,060 citations – 2,653 criminal, 35,381 parking and 67,020 traffic. By handling these cases, they are not seen in court, thereby easing not only the court's case load but the case load of the City Attorney's Office.

### 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 either the defendant or to the city for appearing in the Hearing Office. The format for the distribution of money on payable citations 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
- \$60 State Surcharge to State Treasurer
- \$ 3 Law Library Fee

#### 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. For charges where the defendant appears 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 Fee charged to municipality & credited to State General Fund (for arraignment only or no trial)

\$15 Fee 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 Fee charged to municipality & credited to State General Fund (for arraignment only or no trial)

\$15 Fee charged to, municipality & credited to State General Fund (for court or jury trial)

Misdemeanor

20% Fines to State Treasurer

80% Fines to municipality

\$60 Surcharge to State Treasurer

\$ 3 Law Library Fee

\$ 5 Fee charged to municipality & credited to State General Fund (for arraignment only or no trial)

\$15 Fee 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

All revenue generated by fines goes into the City's general fund, which funds the criminal division of the City Attorney's Office as well as the Minneapolis Police Department.

Bail Schedule

On April 4, 2005, Hennepin County initiated a new misdemeanor bail schedule. This new schedule sets a mandatory bail amount for certain misdemeanor offenses, such as disorderly conduct, false information to police and trespassing. Payable offenses do not have a set bail amount. A police officer may book a defendant on a payable offense if one of the required Rule 6.01 criteria is present. However, once a person is booked on a payable offense, as soon as they are processed by the jail, they will be released without bail and given the option to pay and satisfy the fine or the defendant will be given a court date to appear out of custody. This will occur even if the defendant has been designated as a chronic offender.

**PART 2: MINNEAPOLIS POLICE DEPARTMENT**

**CONCLUSION**

Whether an offense is designated a payable determines the path the defendant will take through the criminal justice system. Currently the list of payable offenses is long and many police officers do not know what offenses are designated as payable. The Minneapolis City Attorney's Office will continue to work with the Minneapolis Police Department to help educate the officers on what are payable offenses and how these offenses proceed through the system. The Minneapolis City Attorney's Office will also continue to work with the District Court to ensure that our office is able to meet its goals as set out in the business plan in regards to payable offenses.