

**REPORT TO PUBLIC SAFETY & REGULATORY SERVICES
SECOND QUARTERLY REPORT ON NUISANCE NIGHT HEARING PROGRAM**

April 20, 2005

Background

On April 9, 2003, this Committee directed the Minneapolis City Attorney's Office to "work with the Minneapolis Police Department, in consultation with the chief judge of Hennepin County District Court, and others to explore the possibility of creating a nuisance night court, and the feasibility of piloting this program during the summer of 2003."

On May 7, 2003, the Minneapolis City Attorney's Office presented a report to this Committee that outlined the court options available to the City to address livability offenses. Based on a "best practices" analysis of the Midtown Manhattan Community Court and the Philadelphia Nuisance Night Court, the report recommended further study of two main models: 1) Same Day/Night Court and/or 2) Next Day Court.

This Committee then directed staff to move "aggressively forward, with the Minneapolis City Attorney's Office being the coordinator of the project." The Committee action included a reporting schedule encompassing the next three meeting cycles as follows:

1. One cycle-May 21: The CCP/SAFE Team shall provide information through the Minneapolis City Attorney's Office for the Committee to decide on a geographic area to use for a pilot program.
2. Two cycles-June 11: Committee to receive a written update from the Minneapolis City Attorney's Office in terms of the stakeholders' involvement (i.e. the courts being a partner, possible location for the court, resource needs and demands on the various departments).
3. Three cycles-June 25: Staff to provide in person update looking at the specific things that would need to be done in order to implement the program this summer.

On May 21, 2003, the Minneapolis City Attorney's Office and CCP/SAFE presented a report, which outlined the type, incidence, and location of livability offenses occurring within the City in order to provide guidance to the Committee in selecting a geographic area to use for a Nuisance Night Hearing pilot program. At a special meeting of the Public Safety & Regulatory Services Committee on June 2, 2003, the Committee "identified Downtown as the geographic area for a Nuisance Night Hearing Program."

On June 11, 2003, the Minneapolis City Attorney's Office provided a written report to this Committee outlining stakeholders' involvement in the Nuisance Night Court proposal, including courtroom staffing and facilities/equipment needs.

On June 25, 2003, The Minneapolis City Attorney's Office provided a written report to this Committee summarizing the visit to observe Philadelphia's Nuisance Night Court and Summary Diversion Program, estimating staffing and cost requirements of night court/same day or next day court, and outlining next steps and recommendations. The Minneapolis City Attorney's Office was directed to develop "a general idea of the resources needed and the feasibility of initiating a program similar to Philadelphia's Summary Diversion Behavior Class, including a potential Restorative Justice component" and the use of the City's Administrative Adjudication Process on a dual track.

On July 16, 2003, the Minneapolis City Attorney's Office provided this committee with an oral report which briefly analyzed first precinct offenses and dispositions, and discussed the feasibility of initiating a program similar to Philadelphia's Summary Diversion Behavior Class and possible class referral processes.

On August 13, 2003, the Minneapolis City Attorney's Office provided this committee with a written report that summarized the July 16, 2003 oral report and additionally discussed how several other communities have approached administrative enforcement systems. The Minneapolis City Attorney's Office and the Minneapolis Police Department were directed to develop specific recommendations regarding expanded use of the Administrative Enforcement and Hearing Process as well as a pre-charging diversion process and a post-charging diversion process through the Traffic Violations Bureau; including specific staffing and cost requirements for each process; to outline a proposed curriculum for a Livability Offenses Behavior Class; and to work with the City's IGR staff to pursue the legislative options discussed in the August 13, 2003 report.

On September 17, 2003, the Minneapolis City Attorney's Office provided this committee with a written report outlining the specific steps necessary to expand the use of the Administrative Enforcement and Hearing Process, to develop the Livability Offenses Behavior Class curriculum, implement a pre-charging diversion process and to modify the Traffic Violations Bureau process to allow post-charging diversion. The report also identified important municipal and state legislative changes, as well as changes to the Rules of Criminal Procedure necessary to implement the recommendations.

On September 26, 2003, based upon this committee's recommendations, the City Council approved the expanded use of the use of the Administrative Enforcement and Hearing Process. The City Council directed that, within the first 90 days, the Minneapolis City Attorney's Office:

- Hire permit intake clerk;
- Hire permit administrative clerk;
- Begin process to hire permanent intake and administrative clerks;
- Set up necessary telephone and computer equipment;
- Develop and print administrative citation forms;
- Distribute administrative citation forms;
- Train police officers on administrative citation forms;
- Hold first administrative hearing; and,
- Issue quarterly report to the Public Safety and Regulatory Service Committee regarding the program status.

On October 15, 2003, the City Council introduced the subject matter of the public urination and drug paraphernalia ordinances, and referred the proposed ordinances to this committee for public hearing. The City Council adopted the proposed public urination and drug paraphernalia ordinances on November 1, 2003.

On November 3, 2003, the Minneapolis City Attorney's Office and the Minneapolis Police Department jointly began utilizing the Minneapolis Administrative Enforcement and Hearing Process,¹ by implementing a Nuisance Night "Hearing" Program.² Under this program, when a police officer has a reasonable belief that a non-chronic offender has committed one of the enumerated nuisance ordinance violations, he or she "personally serves" an administrative citation upon the offender. Administrative citations are issued under those circumstances in which an officer currently would not arrest and book the person. The administrative citation includes the date, time, and the nature of the violation; the name of the official issuing the citation; the appropriate civil fine schedule; and instructs the person to contact the intake clerk to request a hearing or confirm the fine amount and arrange payment.

Prior to November 3, 2003, the Minneapolis City Attorney's Office: 1) developed a specific implementation plan with the Minneapolis Police Department, 2) developed and printed administrative citation forms, 3) set up necessary office telephone and computer equipment, and 4) purchased recording equipment for the administrative hearings.

Beginning the week of November 3, 2003, the Minneapolis City Attorney's Office in collaboration with the Minneapolis Police Department began conducting eleven group training sessions and several individual training sessions on the Nuisance Night Hearing Program in which 62 police officers and 2 civilians have been trained in the First Precinct. The curriculum for the training included:

1. What enumerated nuisance ordinance violations are eligible for the Nuisance Night Hearing Program;
2. When an officer has a reasonable belief that a non-chronic offender has committed one of the enumerated nuisance ordinance violations;
3. When an officer should arrest and book the offender versus issuing an administrative citation;
4. How an officer completes an administrative citation;
5. How an officer "personally serves" an administrative citation;
6. How an officer enters the corresponding police report into CAPRS;
7. What information the officer should provide to offender upon service of the administrative citation;
8. What the clerk does when contacted by an offender;
9. How the clerk determines the civil fine;
10. What civil fine alternatives the intake clerk can extend to the offender;

¹ This administrative hearing process is outlined in Minneapolis Code of Ordinances, Chapter 2.

² Unlike Pennsylvania, the rules of criminal procedure in Minnesota prohibit trials *in absentia* and petty misdemeanor certification without the defendant's consent. See Minn. R. Crim. P. 26.03; Minn. R. Crim. P. 23.04. See Also Attachment A "Memorandum - Minnesota Laws Prohibits Trials *In Absentia*." A Nuisance Night "Hearing" Process will more effectively address these legal limitations than a Nuisance Night Court, especially in light of existing interagency resistance to a Nuisance Night Court.

11. How the administrative hearings will be conducted; and,
12. How the administrative citations will be enforced.

In late December, the Minneapolis City Attorney's Office and the Minneapolis Police Department began using an interactive database, developed jointly by the Minneapolis Police Department and the Minneapolis Police Department named "Acite", for the Nuisance Night Hearing Program. Acite allows the intake clerk to access an offender's entire administrative file from one desktop application. Acite couples relevant information from each CAPRS report with a Microsoft Access application that contains triaging fields for the disposition process. This database allows multiple users to access the records simultaneously thereby eliminating the need for multiple paper copies of an offender's case. It further allows for a process that is virtually paperless in updating and retaining Nuisance Night Hearing Program records. Acite is also capable of creating limitless query permutations for statistical analysis. Acite allows an intake clerk to perform his or her job duties more efficiently than if the intake clerk used a traditional paper-based case management system. The Acite program is approximately four-times more efficient than a paper-based case management system.

On February 18, 2004, the Minneapolis City Attorney's Office, in collaboration with the Minneapolis Police Department trained the "dogwatch" officers in the Nuisance Night Hearing Program. Dogwatch officers were not originally included in the initial training of First Precinct officers because of the potential budgetary impact to the police department, should individuals cited by dogwatch officers request administrative hearings. Due to the dogwatch officers' schedules, the police department must pay dogwatch officers overtime to attend hearings. Since a very small percentage of offenders had requested hearings, the Minneapolis City Attorney's Office expanded the Nuisance Night Hearing Program to include the dogwatch officers.

On October 27, 2004, the Minneapolis City Attorney's Office provided this Committee with a report regarding the Nuisance Night Hearing Program for the period of April, 2004 to September 31, 2004. During this time period First Precinct police officers issued an average of 2.1 more administrative citations, which may have been due to several factors such as the inclusion of the dogwatch officers in the Night Nuisance Hearing Program and an increase in livability crimes that are committed during the warmest months of the year.³ The report further explained that in May 2004, the Minneapolis City Attorney's Office had established a partnership with Central City Neighborhood Partnership's (CCNP) Restorative Justice Program to aid in contacting offenders that had failed to respond to his or her administrative citation. Although this new partnership enhanced the Nuisance Night Hearing Program by dramatically increasing the number of offenders selecting restorative justice as a fine alternative, there were still 136 offenders who failed to respond to their administrative citations.

On January 5, 2005, in lieu of a formal fourth quarter report, CCNP provided this Committee with a report analyzing the impact of the Night Nuisance Hearing Program on CCNP's restorative justice program. CCNP reported that the Nuisance Night Hearing Program had become an

³ The Minneapolis City Attorney's Office and the Minneapolis Police Department also conducted a study of utilization of the Night Nuisance Hearing Program. From March 1 through March 31, 2003,³ the officers issued 28 administrative citations and 36 criminal citations. Therefore, there is a 44% utilization rate by the First Precinct officers.

important referral source and that the Program provided “the community with greater access to offenses prioritized for restorative justice.”

This report provides the Committee an update regarding the Nuisance Night Hearing Program for the first quarter of 2005 and an overall analysis of the program’s strengths and weaknesses.

Update

1. Recent Outcomes

From January 1, 2005 to March 31, 2005, Minneapolis Police officers have issued ten administrative citations to offenders (nine public urination citations and one open bottle citation). This decrease in the number of administrative citations may reflect the natural decrease in livability crimes during the coldest months of the year. The Minneapolis City Attorney’s Office, however, is continuing its on-going dialogue with the Minneapolis police department to improve police officer utilization of administrative citations.

Although the volume of administrative citations was low in the first quarter of 2005, the process continues to produce quality results. Thirty percent (30%) of these citations have already been resolved, which is impressive considering that five of the ten citations were issued in March 2005. The average length of time to resolve these citations has been 11.5 days.

When the most recent six months of the program are compared to the first 11 months of the program, the numbers are equally impressive. During the last six months there has been a 10% increase in the resolution rate (increasing from 40% to 50%) and a significant reduction in the average length of time it takes to resolve a citation (reduced from 31 days to 12.3 days).

2. Long-Term Overall Outcomes

The Night Nuisance Hearing Program has been in operation for 17 months (November 2003 to March 2005). During that time, the police have issued 251 administrative citations. One-Hundred and three (103) offenders have resolved⁴ their citations for an overall resolution rate of 41% and an average of 29 days to resolve a citation.

The following table outlines: the number of citations issued, the average number of citations issued per month, the number of citations that were resolved, the percentage of citations that were resolved, and the average number of days for the resolution of a citation:

⁴ A case qualifies as “resolved” if the offender has committed to a resolution by paying at least part of the fine, has chosen and was referred to the Restorative Justice Program or choosing and , has chosen and was referred to a community service partner.

	November 2004 to March 2005	November 2004 to September 2005	November 2004 to December 2005	November 2004 to March 2005
Citations Issued	93.0	229.0	241.0	251.0
Citations Issued Per Month	18.6	20.8	17.2	16.7
Citations Resolved	50.0	93.0	100.0	103.0
% of Citations Resolved	51.6%	40.6%	41.5%	41.2%
Average Rate of Resolution	37.0 days	31.0 days	29.8 days	29.2 days

The following table outlines the breakdown of the 103 resolved cases by disposition:

	Number of Administrative Citations By Disposition	Percentage of Administrative Citations By Disposition
Payment of Fine	48	46.6%
Restorative Justice Program	32	31.1%
Criminal Complaint	11	10.8%
Community Service	5	4.8%
Dismissed ⁵	4	3.8%
Administrative Hearing	3	2.9%

The following table outlines the breakdown of the 251 administrative citations by ordinance violation:

	Number of Administrative Citations By Offense(s)	Percentage of Administrative Citations By Offense(s)
Begging/Aggressive Solicitation	12	4.8%
Consuming in Public	104	41.6%
Drug Paraphernalia In a Public Place	26	10.4%

⁵ Dismissed denotes a dismissal with no further action.

Graffiti	0	0%
Littering	1	0.0%
Loitering	36	14.4%
Lurking	1	0.0%
Minor Consumption	6	2.4%
Noise Violation	0	0%
Public Urination	65	25.6%

The following table outlines the breakdown of the 251 administrative citations by ordinance violation and disposition:

	Fine	Restorative Justice	Complaint	Comm. Service	Dismiss	Admin. Hearing	Total Resolved	Total Issued	Percent Resolved
Aggressive Solicitation	0	0	4	0	1	0	5	12	41.7%
Consuming in Public	11	11	2	4	2	1	31	103	30.1%
Drug Paraphernalia	2	1	3	0	0	1	7	26	26.9%
Graffiti	0	0	0	0	0	0	0	0	0
Littering	1	0	0	0	0	0	1	1	100%
Loitering	10	4	0	0	0	0	14	36	38.8%
Lurking	0	0	1	0	0	0	1	1	100%
Minor Consumption	1	3	0	0	0	0	4	4	100%
Noise Violation	0	0	0	0	0	0	0	1	0
Public Urination	29	7	1	1	1	1	40	66	61%

3. Nuisance Night Hearing Costs and Revenue

The following table outlines the costs incurred and the revenue received:

Nuisance Night Hearing Costs	
Citation Books ⁶	\$1,822.57
Recording Equipment for the Hearings ⁷	\$3,395.00
Administrative Clerk	\$2,189.51
Total Costs	\$7,407.08

Nuisance Night Hearing Revenue	
Fines Paid by Offenders	\$ 3,700.00
Costs	\$ 7,407.08
Net Revenue	< \$ 3,707.08 >

4. Nuisance Night Hearing Outcomes Compared to Criminal Outcomes

In order to assess the success of the Nuisance Night Hearing program, the following table compares the administrative citations in the Nuisance Night Hearing Program to criminal citations in the traditional criminal process.⁸ According to the criminal citations statistics, the traditional criminal process resolves 41% of the criminal citations at an average rate of 38 days.

The following table compares the outcome of the criminal citation versus the administrative citation:

	Criminal Percentage of Resolved Citations	Administrative Percentage of Resolved Citations
Payment of Fine or Community Service versus Plea of Guilty	22.6%	21.2%
Restorative Justice Program	1.0%	12.8%
Criminal Complaint	N/A	4.4%
Criminal Trial versus Administrative Hearing	0%	1.2%
Dismissed ⁹	17.2%	1.6%
TOTAL	40.8	41.2

⁶ One hundred and twenty (120) citation books were printed.

⁷ The recording equipment is a one-time start-up cost. The recording equipment included one Advocate recorder, two microphones and two microphone stands.

⁸ The criminal citations statistics are based on a control group of 93 randomly selected criminal cases. These criminal citations were issued from November 3, 2003 through March 31, 2004. In order to ensure the most statistically reliable control group, the criminal citations also reflect the same portion of offense-type as the administrative citations as of March 31, 2004.

⁹ Dismissed denotes a dismissal with no further action.

The administrative citations for the Night Nuisance Hearing Program have essentially the same resolution rate of the traditional crime process: 21.2% for administrative citations as compared to 22.6% for criminal citations. Administrative citations, however, continue to have a 1200% greater referral process to CCNP's Restorative Justice Program than criminal citations. The administrative citations have a substantially lower dismissal rate¹⁰ than criminal citations. Finally, the administrative citations have a better disposition rate of 29.2 days versus 38 days for the criminal citations.

Next Steps and Recommendations

Based on the above, we recommend that the City Council:

- 1) Receive and file this report.

¹⁰ A percentage cannot be calculated for the difference between criminal dismissal rate and the administrative dismissal rate since the administrative dismissal rate is zero.