

The Town of Highland Park

Municipal Court

Best Practices Assessment



Background

In the past few years, there has been an increasing level of scrutiny given the concerns regarding fair and equal treatment under the law. This concern has not only been focused on law enforcement; instead, it has extended to municipal courts across the United States regarding the manner in which they administer the law. The concept of “equal but separate” is believed to still be in practice in municipal courts across the United States. Specifically, the recent United States Department of Justice (DOJ) investigation on the City of Ferguson’s municipal court has led most to pause and consider the current practices in courtrooms. This particular investigation has led many to ask: what are the current practices, policies and trends and how can it be demonstrated, should the need arise, that the current courtroom practices are based on the fair and impartial administration of justice? The DOJ Ferguson Report (2015), focused not only on the police practices but also on the courtroom behavior and processes in an attempt to highlight areas where the individual’s constitutional rights had been violated. The DOJ Report highlighted the following:

The Ferguson Municipal Court has a pattern or practice of:

- *Focusing on revenue over public safety, leading to court practices that violate the 14th Amendment’s due process and equal protection requirements.*
- *Court practices exacerbating the harm of Ferguson’s unconstitutional police practices and imposing particular hardship upon Ferguson’s most vulnerable residents, especially upon those living in or near poverty. Minor offenses can generate crippling debts, result in jail time because of an inability to pay and result in the loss of a driver’s license, employment, or housing.*

The study found a pattern or practice of racial bias in both the FPD and municipal court:

- The harms of Ferguson’s police and court practices are borne disproportionately by African Americans and that this disproportionate impact is avoidable.

- Ferguson’s harmful court and police practices are due, at least in part, to intentional discrimination, as demonstrated by direct evidence of racial bias and stereotyping about African Americans by certain Ferguson police and municipal court officials.

The Report also found that *“minor offenses can generate crippling debts, result in jail time because of an inability to pay and result in the loss of a driver's license, employment or housing.”* It highlighted the notion that *“city, police and court officials for years have worked in concert to maximize revenue at every stage of the enforcement process.”*

Further, that *“court staff are keenly aware that the City considers revenue generation to be the municipal court's primary purpose.”*

It is clear that the DOJ Report on Ferguson concluded that the application of the law in the city’s municipal court was not fair and impartial. Further, it was not constitutional in its practice. The DOJ report requested for the City of Ferguson to make the following changes in its municipal court:

- Changing policing and court practices so that they are based on public safety instead of revenue.
- Improve training and oversight of the court.
- Change practices to reduce bias.
- Terminate overreliance on arrest warrants as a means of collecting fines.

The impact of the DOJ study of the City of Ferguson police and municipal court resulted in the implementation of a consent decree with oversight provided by the federal court. Like many other cities under a similar consent decree, the city of Ferguson is now being monitored by a federal monitor who reports directly to a federal judge.

Although historians will one day provide a better understanding of the phenomenon now called “the Ferguson effect” on law enforcement, it is clear that the DOJ report on Ferguson also impacted the manner in which municipal courts operate across the United States. The most important point to keep in mind here is that regardless of whether the court in a particular municipality is engaging in an unfair and unconstitutional application of the law, the Ferguson case has set a critical need for all municipalities to review their current practices, assess the way they administer the law, and create data-driven mechanisms which allow for the court to demonstrate in a factual manner, the way it applies the law in a fair, impartial and constitutional manner.

The Objectives of the Highland Park Municipal Court Study

The town leadership of Highland Park took a proactive position towards police and court reform in deciding to hire an independent and objective expert in order to provide the analysis of its current police and court practices, based on best practices models and some of the recommendations by the United States Department of Justice. The objectives of the Highland Park Municipal Court Study were as follows:

- a) Review and assess its current policies to determine the need to replace, add, or remove current court policies.
- b) Review and assess the current web-based information to the public in order to identify areas where the content and dissemination of information could be improved.
- c) Review the case-processing system in order to identify areas of improvement.

- d) Assess the current information/data being collected and make the necessary changes in order to improve the information available for further analysis.
- e) At a further point, once the data collection mechanisms are in place, analyze the court related data and provide relevant findings.

It should be noted, before discussing the findings of this study, that the Town of Highland Park leadership including the Mayor, Council Members, Town Administrator, CFO, Attorney, Judge, Prosecutor and Court Staff, have been incredibly supportive, open and responsive to the needs for information during the course of my involvement in this project. When information has been sought, it has been received immediately. This is truly commendable as it is a testament of transparency and an attitude that is responsive to the best practices model as established by the United States Department of Justice and respective experts.

The Highland Park Municipal Court Study Preliminary Findings

When considering the findings related to the study, it should be noted that these are preliminary in nature. That is, the study can be considered as currently being “underway” as the significance of the data is limited to a few months and some of the policy revisions are taking place. Restated, once the data has been collected and analyzed for a longer period of time, the findings will be more generalizable and provide a more significant understanding of the courtroom practices and systems in place.

1. Policy Review

With regards to the first objective related to the review and assessment of the court's current policies in order to determine the need to replace, add, or remove current court policies, an initial assessment took place. This initial assessment led to the conclusion that a series of court policies were outdated and others should be created, given the current best practices and issues affecting municipal courts nationwide. For instance, current practices include the creation of municipal court policies which prohibit the discrimination and selective punitive measures of individuals being processed through the courts. This is one of several policies currently being developed and adopted. This process is currently underway.

2. Review and Assess Website Information

The second objective included the review and assessment of the current court website information made available to the public in an attempt to identify areas where the content and dissemination of information would be improved. The assessment of this information resulted in the following initiatives, which are now visible on the web site, and are consistent with best practices recommended by the United States Department of Justice:

- a) Provided a language translator to assist people in obtaining needed information about municipal court that do not use English as a primary language.
- b) Clarified information related to payment plans consistent with expectations from the United States Department of Justice.

- c) Assisted defendants with identifying public transportation opportunities to access municipal court.
- d) Transformed the web site information to be clearer thus, allowing individuals that are not familiar with court terminology, to find and understand relevant information, without any challenges.
- e) Making the “plea form” available online for individuals to download, complete and submit accordingly.

There is no question that these initiatives, now in place, have allowed for ALL individuals to have access to information in a fair and consistent basis. This clearly follows the DOJ recommendations to provide access of information for all individuals including the marginalized and members of minority groups.

3. Review the Case-Processing System in Order to Identify Areas of Improvement

During the course of the review of the current case-processing system, it became clear that there are circumstances when municipal court judges are faced with unique scenarios which may be perceived as the unfair administration of justice. If left unmeasured or without the proper documentation, others may be quick to make inaccurate inferences on what may be perceived as “fair and impartial” administration of justice. For instance, the disposition of a case involving an undocumented individual who receives a citation for an expired license. On paper, it may show that the judge was more likely to issue a harsher penalty on this individual when compared to someone who receives the same citation but enjoys legal immigration status. A closer look at these types of cases revealed that in fact, the judge afforded the same opportunity relevant to

the disposition of the case (i.e., dismissal of the case and a reduction of the financial penalty) upon the successful renewal of the individual's driver's license. It became clear, however, that the undocumented defendant opted to pay the complete financial penalty as the possibility of renewing the driver's license is simply not in place given this person's immigration status. This example, among others, clearly highlights the need for documentation on behalf of the court in order to demonstrate and show that the transparency in practice is in fact, measurable. In addition to the implementation of new data requirements in order to identify trends and practices, the following initiatives were adopted:

- a) A protocol pertaining to people with arrest warrants that cannot pay the fine when they arrive at municipal court was modified to ensure that individuals who are trying to pay their fine and "do the right thing" are not arrested on site merely for not being able to pay the fine in full. These individuals are now directed to attend the next available court session to speak to the judge and their warrant is "lifted" until they are able to speak with the judge.
- b) At the direction of the judge, the court no longer issues Capias Pro Fine warrants. These warrants require that people who have a judgement against them and have not made payment to the Court or established a payment plan, be arrested when found. In an effort to avoid perpetuating a cycle of poverty and follow best practices, the court opted to forgo issuing these types of warrants; payment of their fines is pursued using other avenues.

- c) The court has also developed processes to ensure that the defendants understand their rights and options when disposing of a citation. This information is disseminated through a brochure developed by the Texas Municipal Court Education Center (TMCEC) and modified for Highland Park's use. Additionally, each defendant is now provided a form aimed at ensuring that they understand their options in disposing of the citation.

4. Assess Data and Make Necessary Recommendations

The fourth objective of the study was to assess the current information/data being collected and make the necessary changes in order to improve on the information being collected. Specifically, the focus of the review related to data that was missing or areas where additional data could be collected that would assist in explaining the "reasons" why a particular case was disposed and the outcome of each of the cases processed through the courts. The rationale here is that by being able to explain the patterns and practices of the municipal court, insight would be provided related to fair and impartial practices. Specific categories where the collection of additional data was recommended included, but not exclusive, of the following:

- a) Reasons for the disposition of a case.
- b) Number of cases settled out of court and the reasons why these never made it to court.
- c) Number of cases reviewed and disposed by the prosecutor.
- d) Deferred cases dismissed by mail.

- e) Cases where defendant completed the alcohol awareness course.
- f) Cases dismissed by compliance with citation where insurance evidence was not produced.
- g) Cases where dismissal took place after the appeal was made.

5. Analysis of the Data Collected

The final goal and objective of the study related to the collection and analysis of data. The objective in collecting and analyzing the data is to determine the patterns and practices of the municipal court in Highland Park, in its administration of justice.

Although the data is limited in nature given that it represents only a few months, it is revealing and insightful in that it shows that the current disposition of cases is fair and impartial and follows the best practices model. Further data that will be analyzed in months to come will continue to provide further insights regarding the court practices.

Some of the highlights regarding the data collected and analyzed involve multiple implications. Overall, the majority of cases filed related to Caucasian defendants. This was followed by Hispanics and African Americans, in that order. Of the cases filed, most (in all racial and ethnic categories) were “outstanding” (i.e., pending). Of the cases disposed, and aside from the cases “not entered”, Hispanics and Middle Easterners had the most significant percentage (37% each). This was followed by Asians (35%) and those cases belonging to the “unknown” racial/ethnic (33%) category. Based on this preliminary data, it is clear that the cases disposed at the highest percentages are of individuals belonging to protected classes (i.e., Hispanics and Middle Easterners).

Clearly, the data shows that the court does not favor particular racial or ethnic groups in its disposition of cases.

When analyzing the “reasons for disposition” and as shown in table 2, the data also demonstrates that most of the 300 cases with court appearances, 213 of them involved Caucasian defendants. The second (but distant) most significant number (39) related to Hispanic defendants. This was followed by African Americans (25) and Asians (11). It is also evident that Native Americans constituted the group with the least number of court appearances (1). Of the cases involving Caucasian defendants, a significant percentage (38%) of them were closed by the court. This was followed by cases closed by the prosecutor (14%) as shown in table 3. With regards to African American defendants, a significant percentage of their cases (28%) were closed by the prosecutor; this was followed by the percentage of cases closed by the court (24%) and those where the defendant complied (as shown in table 4) and the case was subsequently dismissed (24%). With regards to Hispanic defendants, a significant percentage (67%) of the cases were closed by the court; this was followed by cases dismissed by the prosecutor (13%) as shown in table 3, and the percentage of cases where the defendant complied with conditions (8%), as shown in table 4.

As illustrated in table 6, the most significant percentage of cases dismissed by the judge and prosecutor related to cases involving Caucasians. This was followed by African Americans for both the judge and prosecutor-related case dismissals. It should be noted that there were no cases dismissed by the judge or prosecutor, related to Native Americans.

As it is evident in table 7, the most significant percentage of cases involving Caucasians, African Americans, Hispanics, Asians and Middle Easterners were disposed at the window. Conversely, a rather small percentage of cases involving all of these groups were disposed via U.S. mail. In table 8, the data shows that for all racial and ethnic categories, the most significant percentages of cases were disposed through the payment of fines to the clerk, deferred by the clerk, requested the defensive driving course (to the clerk), corrected the eligibility offense, or were deferred via U.S. Mail.

Summary of Findings

Although the data was limited to only 3 months, it does present a preliminary profile regarding the disposition of cases. The importance related to the manner in which the cases are processed through the Highland Park Municipal Court, goes without saying. Given the recently established findings and guidelines established in the Ferguson Report by DOJ, it is therefore necessary to identify, collect and analyze data that is specific to the “patterns and practices” of the municipal court case processing systems. As such, the data shows that:

- a) The cases filed are mostly related to Caucasian defendants; this was followed by Hispanics and African Americans, respectively.
- b) The cases that were closed by the court, dismissed by the prosecutor and dismissed by the judge, seem to be proportionally distributed among Caucasians, African Americans and Hispanics. This is a preliminary indicator that justice seems to be distributed across race and ethnicity.

- c) Cases involving juvenile or minor offenders seem to be all based on Caucasian defendants.
- d) The cases dismissed at the window and those dismissed via U.S. Mail also seemed to be proportionally distributed among all races and ethnic groups.
- e) A significant percentage of cases by all races/ethnicities were disposed through the payment of fines to the clerk. This may be an indicator that defendants took advantage of the convenience of resolving their cases before their court date.
- f) The data also shows that there were various methods of disposing cases by all racial and ethnic groups. While no specific pattern was identified given the small sample of data analyzed, it is clear that disposition of cases ranged from driving courses being completed, to paying fines and providing proof of insurance. This particular case distribution warrants further analysis as additional data is acquired.

Overall then, the findings suggest early signs of fairness if this is measured via the availability of options on disposition of cases. Additional work, however, is required not only in terms of the acquisition of additional data but the expansion of particular categories such as “dismissals by the judge and prosecutor”. That is, “reasons” or “sub-categories” of dismissal decisions should be collected and analyzed. It is clearly encouraging to identify that the early profile of cases being processed through the court, demonstrate a record of fairness and equal application of the law to all. This is particularly evident through the work being performed (or having been performed in

some cases) on policies, the court web site, and case processing systems, which have made information and equal opportunities to dispose of cases, accessible to all defendants regardless of their racial and ethnic composition.

Table 1. Profile of Cases (January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases Filed	%	Cases Disposed	%	Outstanding Cases	%
Caucasian	2,124	100	702	33	1,422	67
African American	359	100	71	20	288	80
Hispanic	547	100	204	37	343	63
Asian	105	100	35	33	70	67
Middle Eastern	60	100	22	37	38	63
Unknown	6	100	2	33	4	67
Native American	14	100	4	29	10	71
Not Entered	18	100	9	50	9	50
Total	3,233	100	1,049	32	2,184	68

Table 2. Disposition of Cases with Court Appearances

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Total Cases with Court Appearances	%	Cases Closed by the Court	%	Cases Dismissed Completion of Defensive Driving Course	%
Caucasian	213	100	80	38	25	11
African American	25	100	6	24	1	4
Hispanic	39	100	26	67	2	5
Asian	11	100	2	18	3	27
Middle Eastern	10	100	3	30	3	30
Unknown	0	100	0	0	0	0
Native American	1	100	0	0	1	100
Not Entered	1	100	1	100	0	0
Total	300	100	118	39	35	12

Table 3. Disposition of Cases with Court Appearances (cont.)

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases Dismissed by Prosecutor	%	Cases Dismissed by Judge	%	Cases Dismissed (Juveniles/Minors) Theme in	%
Caucasian	30	14	3	1	21	10
African American	7	28	2	8	0	0
Hispanic	5	13	1	3	0	0
Asian	1	9	0	0	0	0
Middle Eastern	3	30	1	10	0	0
Unknown	0	0	0	0	0	0
Native American	0	0	0	0	0	0
Not Entered	0	0	0	0	0	0
Total	46	15	7	2	0	0

Table 4. Disposition of Cases with Court Appearances (cont.)

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases Complied Dismissal (3J)	%	Cases Complied Dismissal (3P)	%	DA Dismissed/Deferred Completed	%
Caucasian	31	15	21	10	2	1
African American	1	4	6	24	0	0
Hispanic	2	5	3	8	0	0
Asian	3	27	2	18	0	0
Middle Eastern	0	0	0	0	0	0
Unknown	0	0	0	0	0	0
Native American	0	0	0	0	0	0
Not Entered	0	0	0	0	0	0
Total	37	12	32	11	2	.7

Table 5. Disposition of Cases with Court Appearances (cont.)

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases DI/Dismiss (Proof Insurance)	%
Caucasian	0	0
African American	2	8
Hispanic	0	0
Asian	0	0
Middle Eastern	0	0
Unknown	0	0
Native American	0	0
Not Entered	0	0
Total	2	.7

Table 6. Percentages of All Cases Dismissed by Judge and Prosecutor

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases Dismissed by Judge (in percentages)	Cases Dismissed by Prosecutor (in percentages)
Caucasian	10	1
African American	2	.7
Hispanic	2	.3
Asian	.3	0
Middle Eastern	1	.3
Unknown	0	0
Native American	0	0
Not Entered	0	0
Total	15.3	2.3

Table 7. Percentages of Cases Disposed at Window and U.S. Mail

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Cases Disposed at Window (in percentages)	Cases Disposed via U.S. Mail (in percentages)
Caucasian	84	16
African American	95	5
Hispanic	96	4
Asian	90	10
Middle Eastern	96	4
Unknown	100	0
Native American	N/A	N/A
Not Entered	100	0

Table 8. Disposition of Cases at Court Window (in frequencies)

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Fine Paid to Clerk	Driving Course Completed	Re- Scheduled Court Date	Deferred by Clerk	Requested Defensive Driving Course to Clerk	Corrected Eligibility Offense
Caucasian	313	34	26	117	99	70
African American	31	5	7	14	16	7
Hispanic	138	4	6	24	20	17
Asian	18	1	1	7	10	3
Middle Eastern	6	2	0	6	4	2
Unknown	1	0	0	0	0	0
Native American	1	0	0	1	2	2
Not Entered	7	0	0	0	0	0
Total	515	46	40	169	151	101

Table 9. Disposition of Cases at Court Window (in frequencies) (cont.)

(January 1, 2017---March 31, 2017)

Race/Ethnicity	Deferment Requested via U.S Mail	Requested Defensive Driving Course by U.S. Mail	Provided Eligible Insurance
Caucasian	71	52	1
African American	1	3	1
Hispanic	3	5	3
Asian	3	1	1
Middle Eastern	0	1	0
Unknown	0	0	0
Native American	0	1	0
Not Entered	0	0	0
Total	78	63	6

For additional questions regarding the information presented in this report, please contact:

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