



OFFICE OF THE CITY AUDITOR
COLORADO SPRINGS, COLORADO

14-16
City of Colorado Springs
Municipal Court Judge
Audit

June 2014



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14-16 Municipal Court Judge Audit

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Purpose

This audit of Municipal Court was conducted with the objective of providing management with an independent assessment of the effectiveness of utilizing part-time judges. Data for the fiscal years of 2008 through 2013 was used in our analysis.

Highlights

We concluded the use of part-time judges was a more cost effective use of city resources than equivalent full-time judges would be, if the same number of dockets were continued. We identified five observations and two opportunities for improvement that could be beneficial in optimizing court activities.

The Colorado Springs Municipal Court was staffed by part-time municipal judges. These judges were all licensed, practicing attorneys. Municipal court judges were considered special employees of the city with annual employment contracts, which specified compensation. Part-time judges were utilized in order to provide full coverage for the five divisions while offering the public broad availability of court resources.

The five divisions handled different types of cases, and each division could have a morning and afternoon session:

- Division 1 – Traffic Arraignments
- Division 2 – Criminal Arraignments
- Division 3 – Jury Trials; Pretrials; Court Trials
- Division 4 – Jury Trials; Pretrials; Court Trials
- Division 5 – Jail Arraignments; Trials; Motions

(Continued on page 2)

Management Response

Management was generally in agreement with our recommendations. Responses may be found in the attached report.

Recommendations

1. Compensation for the upcoming year should be determined in time to be included in the annual budget process, and contracts should be properly executed prior to the start of the year.
2. Municipal Court should coordinate with the police department to determine the root cause for the uneven caseload, and identify a way, if possible, to prevent overloading the court on Mondays and days following holidays. Once this improvement has been made, the court should consider if changes to the session schedule could improve court efficiency. The court should schedule Division 1 for the caseload typical for the vast majority of sessions and adjust the Division 1 schedule as needed for peak caseloads.
3. Municipal Court should evaluate the cost and benefit of having a greater number of brief sessions vs. a lower number of longer sessions in

(Continued on page 2)

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(Highlights continued from page 1)

The workload of the judges was determined by how many citations were issued, how many pleas were accepted and how many citations were resolved prior to a scheduled court date. In order to staff the court appropriately, prior to the start of the calendar year, the sessions and judges were scheduled for each week for each division.

During the audit period, there was a noticeable decline in the number of cases which involved at least one appearance before a judge. To compensate for this decrease in cases the session schedule was adjusted during the period of the review. Scheduled sessions were not held if there were no cases for the session; however, the details for each docket could not be known until the week prior when the daily dockets were finalized. Historically 11.9% of all sessions scheduled were cancelled.

Colorado law required municipal judge salaries to be a fixed annual compensation. The annual compensation for the municipal judges was last calculated in 2011, and resulted in a decrease in the full-time equivalent (FTE) of the part-time judges. The annual salary of a full-time El Paso County Court judge was used as the benchmark to set the equivalent salary for the part-time judges.

We calculated the differential cost to the city between the existing part-time structure and equivalent full-time positions. The only benefits the part-time judges received were PERA, Medicare and workers' compensation coverage, as required by law. The judges were not eligible to receive any voluntary benefits such as vacation time or medical coverage. The savings realized by using part-time judges was \$83,624 annually, assuming the same number of dockets were continued. Making a change to all full-time judges would require other changes to the court's schedule and would impact other court operations, which were outside the scope of our review.

(Recommendations continued from page 1)

Division 1. Traffic arraignment sessions should be scheduled to effectively utilize judge time and other court resources, balanced against convenience to citizens who are required to appear in court.

4. We recommend performing a court-wide optimization study in order to provide the most efficient staffing usage.

5. Following the proposed optimization study, reevaluate what the appropriate basis for the judicial compensation calculation should be and document it for future use.

Opportunities for Improvement

1. We recommend a training manual or policies and procedures for judges be created and maintained on a regular basis.

2. We recommend that the Municipal Court personnel, judges, prosecution division and police department work together to develop other innovations that may help further reduce the need for in-person appearances by defendants with the goal being a reduction in the operating costs for the court.



Office of the City Auditor Public Report

Date: June 30, 2014

To: President King, President Pro-Tem Bennett, and Members of City Council

Re: 14-16 Municipal Court Judge Audit

We conducted an audit of Municipal Court. The purpose of this audit was to provide management with an independent assessment of the effectiveness of utilizing part-time judges. The scope included an analysis of data for the fiscal years of 2008 through 2013.

We concluded the use of part-time judges was a more cost effective use of city resources than equivalent full-time judges would be, if the same number of dockets were continued. We identified five observations and two opportunities for improvement that could be beneficial in optimizing court activities. Please see the attached report for our complete recommendations.

The judges, court staff, City Attorney's Office, and police department were all very helpful in providing assistance during the audit.

As always, feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Denny Nester".

Denny Nester, MBA, CPA, CIA, CFE, CGFM, CGAP
City Auditor

Cc: Steve Bach, Mayor
HayDen Kane, III, Presiding Judge
Wendi Lichtenegger, Clerk of Court
Wynetta Massey, City Attorney
Michael Curran, Division Chief, Prosecution
Peter Carey, Chief of Police
Vince Niski, Deputy Chief, Operations Support Bureau
Steve Cox, Chief of Staff



Office of the City Auditor

Municipal Court Judge Audit

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REPORT DETAILS

PURPOSE AND SCOPE

The objective of the Municipal Court (court) Judge audit was to provide an independent assessment of the effectiveness of utilizing part-time judges.

The scope included court information for 2008 through 2013. During the audit, it became clear that the court's activities were closely tied to the activities of the Colorado Springs Police Department. Some data was provided by the police department to assist in our analysis; however, the scope did not include analysis of police functions.

CONCLUSION

We concluded part-time judges were more cost effective than full-time judges would have been, if the same number of dockets were continued. We also noted several advantages to using part-time compared to full-time judges. Our scope did not include analysis of court operations apart from the judges' activities; however, we believe there could be improvements made if the court were evaluated as a whole to optimize its resources. We identified five observations and two opportunities for improvement.

We greatly appreciate the assistance and cooperation provided to the auditors by the judges, court staff, City Attorney's Office and the Colorado Springs Police Department.

BACKGROUND

The stated mission of the court was "to enhance the quality of life of the citizens of Colorado Springs by promoting public safety, traffic safety, and respect for the administration of justice by applying sanctions for violations of municipal ordinances." The Colorado Springs Municipal Court has historically dealt with cases resulting from three types of offenses: traffic, parking, and criminal violations of the City Code¹. More serious crimes (such as DUI's and any felonies) were handled by the County or District Courts for El Paso County.

All cases handled by the court were initiated by issuance of a citation (ticket)². These citations were issued by Parking Enforcement, Animal Control, or the Colorado Springs Police Department (police). For parking offenses, the court provided referees to assist in final determination of the case. All non-parking cases moved forward through various processes managed by the court staff and prosecutors from the City Attorney's Office (CAO).

¹ During 2010 and 2011, the Court also handled cases stemming from photo enforcement cameras. Because the photo enforcement was no longer a City function, we have eliminated these cases from our analysis.

² In this report the term citation will be used to indicate a summons and compliant or other form of citation.



There were multiple points along this process in which a case could be completed. For example, with most traffic citations, recipients could elect to pay their fine by mail if they plead guilty to the charge as written or if they were offered a “Good Driver” letter by the prosecution division. Some cases could be dismissed prior to their set appearance date, for example, a case where the defendant provided proof of insurance and lack of insurance was the only charge. For cases going to trial, a case could be settled prior to the scheduled trial date if a plea agreement was reached with the prosecutor. About 64% of the non-parking cases resulted in an appearance before a judge. Our analysis of judge compensation and utilization was limited to those cases that resulted in an appearance before a judge.

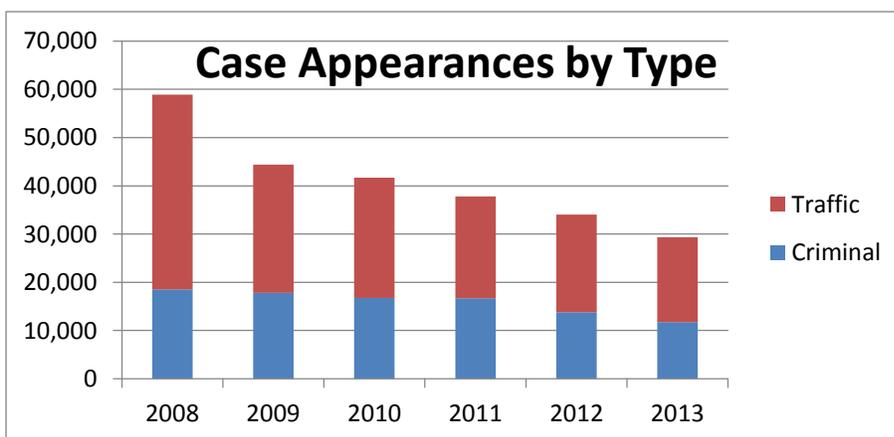
JUDGE UTILIZATION

The Court operated five separate Divisions to handle different types of cases.

- Division 1 – Traffic Arraignments
- Division 2 – Criminal Arraignments
- Division 3 – Jury Trials; Pretrials; Court Trials
- Division 4 – Jury Trials; Pretrials; Court Trials
- Division 5 – Jail Arraignments; Trials; Motions

Each division was further organized into morning and afternoon sessions. Most divisions were scheduled for both a morning and afternoon session each day. The caseload for each session was called a docket. Two dockets (one in the morning and one in the afternoon) represent one docket day. The length of each session varied depending on the division and caseload scheduled for that session.

During the audit period, there was a noticeable decline in the number of cases which involved at least one appearance before a judge.



For cases requiring at least one appearance in court, traffic cases declined by 56.38% and criminal cases declined by 36.49% from 2008 - 2013. The overall decline was 50.12%.



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The following chart shows the trend in number of sessions from 2010 through 2013, the years for which schedule data was available. To compensate for a decrease in the number of traffic arraignments and trials, the session schedule was adjusted in 2010 and again in 2012. Specifically, sessions were eliminated in Divisions 2 and 4 to better align with the caseload. Sessions were not held if there were no cases for the session, however the details for each docket could not be known until the week prior when the daily dockets were finalized. Historically 11.9% of all sessions scheduled were cancelled.

Municipal Court Sessions by Year			
Year	Sessions Scheduled	Sessions Held	% Cancelled
2010	2,158	1,911	11.4%
2011	1,948	1,715	12.0%
2012	1,942	1,750	9.9%
2013	1,950	1,671	14.3%
Total	7,998	7,047	11.9%

Next we evaluated the session length. The court was required to keep a verbatim record of session proceedings, and audio recordings were made for this purpose. We analyzed the recording lengths for the years 2012 and 2013, and determined the average session length for each Division, as shown in the chart below. This calculation does not include any prep time or administrative time spent by the judges before or after court appearances. The judges did not use any time keeping system to indicate how many hours they spent at the court. The court did not staff for the average session caseload and length because there were sessions that lasted significantly longer than the average. Session lengths for arraignments (Divisions 1, 2 and 5) were driven by the number of cases while session length for Divisions 3 and 4 (Trials) was driven by the complexity of the specific cases.

Division	1	2	3	4	5
Average hours per session	1.59	1.36	2.77	2.50	1.03
Average cases per session	39.3	21.2	12.9	6.8	9.5
Average minutes per case	2.43	3.86	12.79	21.79	6.46

The workload of the judges was impacted by how many citations were issued, how many pleas were accepted, and how many citations were resolved prior to a scheduled court date. In order to staff the court appropriately, prior to the start of the calendar year, the sessions and judges were scheduled for



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each week for each Division. The judges were assigned equally to each division when the schedule was created.

Effective January 1, 2014, multiple legislative changes began to impact the workload of the court. 2014 was outside of the period of our review. Therefore, we did not attempt to quantify the impact of the legislative changes. The impact of these changes should be considered before any changes are made to court staffing.

JUDGE COMPENSATION

The Colorado Springs Municipal Court was staffed by part-time municipal judges. These judges were all licensed, practicing attorneys. Municipal Court judges were considered special employees of the city with annual employment contracts, which specified compensation. Part-time judges were utilized in order to provide full coverage for the five Divisions while offering the public broad availability of court resources.

Offering five divisions daily was an important aspect of the court's scheduling philosophy due to the stated objective of customer service. The more sessions that were offered, the shorter the wait time would be for the citizens who interacted with the court. Use of the part-time judges also allowed the city to attract and retain high quality, experienced individuals to the bench because the judges were able to remain in private practice.

Per Colorado statute CRS § 13-10-107, "the municipal governing body shall provide by ordinance for the salary of the municipal and assistant judges. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. The municipal governing body may pay any substitute judge appointed pursuant to section 13-10-105 (1) (b) based upon the number of court sessions served by such judge."

The annual compensation for the municipal judges was last calculated in 2011. The calculation was based on 1,969 planned sessions. According to a document prepared by City Human Resources, each session was assumed to be 4-hours long. Our discussions with judges indicated the 4-hour assumption was contrary to prior discussions with Human Resources and unrealistic. However, the calculation resulted in each judge being considered 34.423% of a full-time equivalent (FTE) employee. This was a decrease from the previous 41.67% FTE calculation. The decrease was intended to adjust the judge's compensation for the planned changes in the session schedule due to decreased case load.

The \$123,067 annual salary of a full-time El Paso County Court judge was used as the benchmark to set the equivalent salary for the part-time judges. El Paso County Court judge salary had been used as the comparison for Municipal Court judge salary since 1985. Therefore, the Municipal Court judge annual salary was established as $34.423\% \times \$123,067 = \$42,363$.

In addition to their salary, the only benefits the judges received were PERA, Medicare and workers' compensation coverage, as required by law. The judges were not eligible to receive any voluntary benefits such as vacation time or medical coverage.



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We calculated the differential cost to the city between the current part-time structure and equivalent full-time positions. The only difference in the payroll cost was the employer-paid portion of insurance and other non-required benefits offered to employees of the city³.

Fully burdened cost to city for 11 part-time judges	\$537,756
Cost of using four full-time judges, assuming the same schedule was maintained	\$621,380
Savings realized by using part-time judges	\$ 83,624

Therefore, we concluded that the part-time judges were a more cost-effective use of the city's resources than equivalent full-time positions would be, if the same number of dockets were continued. Furthermore, four full-time judges could not cover the current division schedule. Making a change to all full-time judges would require other changes to the court's schedule and would impact other court operations. Further, using part-time judges provided the court with greater flexibility to cover sick and vacation days that otherwise could create scheduling issues if all judges were full-time.

³ Employer-paid portion of benefits for full-time employees included health, dental and life coverage, parking subsidy and EAP enrollment.



OBSERVATION 1 – THE JUDGES’ EMPLOYMENT CONTRACTS WERE NOT EXECUTED TIMELY

The 2013 contracts for judges were not executed until after June 1, 2013. Because these agreements set the compensation for the judges, they should be agreed to in time to determine the budget for the court for the coming year.

Of the twelve agreements, all stated the effective date was either June 6th or June 11th, but the year was shown as 20__ on all but four of the agreements. None of the agreements had a date next to the signatures of the Mayor or the City Attorney’s office. Only eight of the judges completed the signature date.

Waiting to execute the judges’ agreements until mid-year put this activity out of synch with the city’s budget and operating year.

AUDITOR’S RECOMMENDATION

Compensation for the upcoming year should be determined in time to be included in the annual budget process, and contracts should be properly executed prior to the start of the year.

MANAGEMENT RESPONSE

The Court agrees that compensation should be determined in time to be included in the annual budget process, and contracts executed prior to the start of the year. Contracts have already been prepared to present to the Mayor for 2014-15. It is the Court’s intention to present proposed contracts each June, concurrent with the beginning of the next fiscal year’s annual budget process.



OBSERVATION 2 – CASE SCHEDULING TECHNIQUE CREATED UNEVEN WORKLOAD IN THE COURT

Our analysis showed that 66% of the Division 1 sessions with the highest caseloads in 2013 appeared to occur because of weekend or Monday holiday citation dates. The docket schedule overall contained heavier caseloads on Mondays with much lower caseloads on the other days of the week. The reason for this caseload imbalance was unknown.

Because Division 1 made up 85.5% of cases processed in 2013, we focused our analysis on this division. Division 1 was scheduled for a morning and afternoon session for every day the court was open except Friday afternoons, with Monday through Thursday being traffic arraignment. Traffic arraignment cases were assigned to sessions at the time the citation was issued, based solely on the next business day occurring 21 days after the citation date.

If the caseload were evened out for the week, the court would be better able to predict their workload and could entertain adjustments to the session schedule. For example, if Division 1 sessions only lasted one hour every day, the same judge may be able to handle the duties currently scheduled for a different division during his or her same time slot. Because the caseload varied so greatly it was difficult to determine if improvements could be made to optimize the court's activities. The court maintained their full session schedule in order to process a high number of cases every day in the event they materialized.

AUDITOR'S RECOMMENDATION

Municipal Court should coordinate with the police department to determine the root cause for the uneven caseload, and identify a way, if possible, to prevent overloading the court on Mondays and days following holidays. Once this improvement has been made, the court should consider if changes to the session schedule could improve court efficiency. The court should schedule Division 1 for the caseload typical for the vast majority of sessions and adjust the Division 1 schedule as needed for peak caseloads.

MANAGEMENT RESPONSE

The Court agrees with the recommendation and has initiated a fix with the Police department's software vendor. The e-citation hot sheet was putting 4 days of citations on Monday, causing the huge arraignment dockets for both traffic and criminal. A solution to more evenly spread the workload has been submitted to the vendor. The fix is currently in testing and should be implemented in the near future. County Court is having similar scheduling issues and has requested the same solution for implementation.



OBSERVATION 3 – DIVISION SCHEDULES WERE NOT OPTIMIZED FOR COURT RESOURCES AND COSTS

During 2013, only 16.74% of Division 1 sessions required more than 2.0 hours. 23.66% of Division 1 sessions lasted less than one hour. While this quick turnaround was beneficial to the public, the cost to deliver this level of service had not been calculated.

We conducted benchmarking inquiries of other Colorado municipal courts and documented several different approaches to scheduling that could be used if the stated goal of customer service was not a priority of the court.

The average Division 1 session included 39.3 cases in 2012 and 2013. We analyzed the audio recordings for sessions held in 2012 and 2013 and determined the average session length for Division 1 was 1.593 hours, which means a typical case in Division 1 was processed in 2.43 minutes. The auditors observed several court sessions and arrived at a similar average time per case. Given such brief session lengths, the judges did not appear to be as fully utilized as they could be.

In addition to the time recorded for a Division 1 session, defendants interact with other court personnel and the prosecution division before and after each session. Those activities occurring outside the recorded session were not reviewed as part of this audit.

One of the stated goals of the court was to complete the traffic arraignment process for Division 1 as quickly as possible to ensure the public received prompt resolution of their case and to prevent staff from having to work overtime.

AUDITOR'S RECOMMENDATION

Municipal Court should evaluate the cost and benefit of having a greater number of brief sessions compared to a lower number of longer sessions in Division 1. Traffic arraignment sessions should be scheduled to effectively utilize judge time and other court resources, balanced against convenience to citizens.

MANAGEMENT RESPONSE

The Court agrees to evaluate the cost/benefit of holding more brief sessions vs. fewer longer sessions in 2015. The Court agrees that "Traffic Arraignment dockets should be scheduled to effectively utilize Judge time and other court resources, balanced against convenience to citizens." The Court does and will continue to evaluate the cost and benefit of the number of traffic arraignment dockets that are scheduled. Due to decreasing caseload, the Court eliminated 33.3% of its traffic arraignment dockets as recently as 2011. Although the Court will be consolidating trial dockets as of July of 2014, the Court does not anticipate altering the scheduling of traffic arraignments (first appearances) in Division 1 at this time. This decision is based on the following facts, circumstances and criteria:



1. Legislative Changes

As noted by the Audit; “effective January 1, 2014, multiple legislative changes began to impact the workload of the Court. 2014 was outside of the period of our review. Therefore, we did not attempt to quantify the impact of the legislative changes. The impact of these changes should be considered before any changes are made to Court staffing.”

It cannot be understated the impact of these recent legislative changes have had on Court operations. At the Court’s request, the Auditors conducted audio recording analysis for the first quarter 2014 as they had for 2012 and 2013. This analysis documented increased time on the bench in 2014 as compared to the previous 2 years. Examples of these impacts are as follows:

- a. House Bill 13-1210, effective January 1, 2014, requires a defendant to either attempt to qualify for a Court Appointed Attorney or waive the right to be represented prior to entering a plea to the charge and talking to the City Attorney. This legislation has significantly extended the time required to process criminal cases, especially the Criminal Arraignment docket. The cost for Court Appointed Attorneys for the indigent has also increased substantially.
- b. House Bill 13-1236, also effective in 2014, along with House Bill 14-212, just recently signed by the Governor, requires specific findings to issue cash-only conditions on bonds, requiring further court time.
- c. The combination of House Bills 13-1210 and 13-1236 required the Court to split its jurisdictional limits to no jail and \$500 fining authority on minor traffic violations or decriminalized ordinance violations and 189 days jail and \$2,500 fining authority on criminal violations. This split in jurisdiction has complicated court process.
- d. On May 9th, 2014, the Governor signed House Bill 14-1061, which eliminates the ability for Municipal Courts to issue failure to pay warrants and requires the Court to give a defendant an opportunity to explain why court ordered fines, etc. have not been paid. Anticipating the Governor would sign this legislation, the Court has been scheduling hearings to review compliance to payment plans, further extending the bench time required to complete a docket.

2. Increased Case Load

In addition to these legislative changes, overall caseloads, both traffic and criminal, are up over 31% in 2014 as compared to the same time frame in 2013. The E-Citation Process was finally implemented in late 2013 to increase efficiency and accuracy, providing both officer safety and customer service. E-Citation is currently deployed to only motorcycle units and to downtown patrol. CSPD has indicated they intend to have full deployment to all patrols of E-Citation by summer/fall of 2014, which could potentially further impact current caseloads.

3. Customer Service

As referenced in the Audit, “one of the stated goals of the Court was to complete the traffic arraignment process as quickly as possible to ensure the public received prompt resolution of their case”. A majority of the cases handled by the Court involve alleged traffic violations. Historically, the Court has maintained a customer satisfaction rate of 85-90%, and 2013 was no different.



Over 94% of all cases in Division 1 are resolved at this first appearance. To achieve resolution of so many cases in a timely manner requires detailed collaboration between Court staff, Judges and the City Attorney's Office. Further, customers are not done with their court business once they leave the courtroom. They need to pay their fine, make payment arrangements, schedule their next court date, or go to Probation. To avoid overtime and associated costs, all cases must be processed prior to the next docket (i.e. the next wave of customers that need to be served.) As stated by the Audit, "defendants interact with other court personnel and the prosecution division before and after each session. Those activities occurring outside the recorded session were not reviewed as part of this audit."

4. Time Analysis "On the Record" only

As indicated by the Audit, "this calculation (of time) does not include any prep time or administrative time spent by the Judge before or after court appearances." While a majority of Judges time is on the record in court, Judges do spend time on file and case management both before and after each docket session.

5. Docket Consolidation

The Court, even in the face of legislative changes and increase in caseload, will be consolidating trial dockets in July of 2014. Docket cancellation in 2013 was primarily due to an increase in Jury Trials being resolved prior to trial. However, more jury trials have already been heard in 2014 than in all of 2013. Additionally, the Court has been working with the City Attorney's Office to consolidate trial dockets in an attempt to address City Attorney staffing issues. As of July of 2014, all cases in the afternoon in Division 5 will be consolidated with other dockets. This eliminates 3 trial dockets per week and moves the Probation Revocation docket to Friday morning to be consolidated with the Deferred Sentence and Violations Review dockets.



OBSERVATION 4 – MUNICIPAL COURT STAFFING LEVEL HAS NOT MATCHED CHANGES IN WORKLOAD

Based on the number of appearances before a judge, the workload of the court has declined more than the staffing level. During the audit period, the number of appearances before a judge declined 50%, however the number of full-time equivalent (FTE) judges only declined 24% overall. The number of judge FTEs was adjusted in 2009 and again in 2011 in response to declining workload.

Because this audit focused on judges, we considered the number of appearances before a judge as a reasonable measure of the activity level in the court. We recognize that other court employees had duties not tied to the number of appearances and judges had some duties that would not be reflected in the count of courtroom appearances. In addition, the number of appearances represents one of the last steps in the life cycle of a case. The judges had little control over the number of appearances in their courtroom. Because of these limitations, the historical data we analyzed was not intended to result in a recommendation of the optimal workload or staffing level.

Due to the limited scope of this audit, and the limited data that was available, we were not able to discern the optimal staffing level for all court activities. Further process analysis and data gathering using current court activities should to be conducted to provide insight into the areas not researched for this audit.

AUDITOR'S RECOMMENDATION

We recommend performing a court-wide optimization study in order to provide the most efficient staffing usage.

MANAGEMENT RESPONSE

The Court agrees to conduct a court-wide optimization study in 2015 or 2016. An assessment of the impact of the legislative changes coupled with the significant increase in caseload which has increased process time building wide must be completed before such a study is contemplated due to the unpredictable nature of the Court's caseload. It is difficult to anticipate acceptable staffing levels with any precision. Due to a decrease in caseload and the budget crisis of 2008-09, court staff has been reduced 31%, from 51 to 35. This number includes Judges, staff and temporary employees, but does not include vacant positions. As of July 2014, Judges annual salaries will have been reduced by over 29% since 2009. With implementation of the Court Appointed Attorney process, the Probation Department has had difficulties getting applications processed by the close of business each day. These additional duties, along with their regular duties of monitoring compliance of probation conditions, have required the Court to reallocate other court staff resources to handle short-term payment plans. Historically, the Court has collected 96% of all traffic fines imposed.

Senate Bill 13-123, signed into law in 2013, vastly expanded the number of records that can be sealed by a Municipal Court. The Court is currently on pace to process twice as many sealing cases as we had in



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the two previous years. All of these factors have put significant pressure on current court staff to complete the People's business while still maintaining expected and historical customer service satisfaction, especially given a 31% caseload increase in 2014.

Even given the impact on staff noted above, the Court will be proposing the elimination of 2 courtroom positions and a hiring freeze for currently vacant positions in the 2015 budget year.



OBSERVATION 5 – THE BASIS FOR JUDGE COMPENSATION CALCULATION MAY CONTRIBUTE TO INEFFICIENCIES IN COURT SCHEDULE

Our analysis showed the individual judge’s salary, last adjusted for 2011, was reasonable compared to other uses of their time and for the estimated time spent on court duties. Furthermore, we agree that basing the part-time judge’s annual salary on some fraction of the County Court judge’s annual salary was an appropriate comparison. However, because the calculation has historically also been tied to the number of sessions planned, there was little incentive for modifying the court’s schedule to seek improvements in efficiency for the court as a whole. Any reduction in the number of sessions would have a direct negative impact on the judge’s compensation. Tying the judge’s compensation directly to the number of sessions would be akin to setting a city attorney’s salary based on the expected number of cases, or a firefighter’s salary based on the number of anticipated fires.

The court did not view judges as working a given number of hours and does not track the judge’s time. In fact, state law (CRS § 13-10-107) prohibited jurisdictions from paying judges by the hour or by the case; an annual salary must be set. Only substitute judges may be paid based on the number of sessions they preside over, and yet that is the basis being used for the current judge salary calculation.

A judge was available to preside over each scheduled session until that session was either cancelled or held. An analogy was drawn to an emergency room, which would be staffed for a certain level of activity that may or may not actually occur. These constraints make it difficult to determine exactly how many judges are needed and what the appropriate part-time compensation should be for each judge.

A better approach may be to evaluate the role of the judges once other court activities have been optimized. The role of the judge is dependent on all of the other participants in the court process. If these other roles and processes were optimized, the need for judges would become clearer and setting an equitable salary based on their role may be easier to accomplish.

Documents obtained indicated that the 2011 compensation determination was intended to be a temporary solution. Because the judge agreements are unique employment agreements in the City, the methodology for developing the appropriate compensation should be well documented and reviewed regularly.

AUDITOR’S RECOMMENDATION

Following the proposed optimization study, reevaluate what the appropriate basis for the judicial compensation calculation should be and document it for future use.

MANAGEMENT RESPONSE

The Court agrees that the determination of judge’s salaries should be based on a percentage of the applicable County Court Judge salary and recognizes the difficulty in determining an equitable methodology for setting the appropriate salary for part-time judges. Beginning July 1, 2014, the Court will consolidate 3 weekly trial dockets and the revocation docket with other dockets. This reduces



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overall dockets by 10%; therefore each Judges salary (which includes the Presiding Judge) will be reduced by over \$4,300 annually in our proposed 2015 contracts. We agree to reevaluate judicial compensation following a court-wide optimization study.



OPPORTUNITIES FOR IMPROVEMENT

OPPORTUNITY 1 – WRITTEN POLICIES AND PROCEDURES WERE NOT CURRENT

A training manual for judges was developed in 2006, but had not been updated since that time. There were no other written policies and procedures for the municipal court judges. Judge duties were authorized by the City Charter and governed by Colorado Revised Statutes (C.R.S.) Title 13 Article 10, and Chapter 11 of the City Code. There had been stability in staffing of judges for some time, making the need for written policies and procedures less significant. We also recognize that the power of judges to make decisions based on their judgment of the facts and circumstances, also known as judicial discretion, must be maintained. However, justice may be more consistently applied and new judges may learn court procedures more quickly if policies and best practices were documented in writing and kept up to date.

AUDITOR'S RECOMMENDATION

We recommend a training manual or policies and procedures for judges be created and maintained on a regular basis.

MANAGEMENT RESPONSE

Court procedure is mandated by the Colorado Supreme Court through the Colorado Municipal Court Rules of Procedure. The Court's processing of cases has been impacted by recently enacted legislation; it has literally changed the way we do business. The Court is still establishing and implementing process changes, especially regarding the 2014 legislation just signed into law regarding the restrictions on conditions of bonds and the elimination of failure to pay warrants. The Court anticipates the full deployment of E-Citation Process by mid to late 2014. Once all of these changes are realized and improvements to process are implemented, the Court is planning on an All Court Staff Training and a Continuing Legal Education class for the Judges in late 2014/early 2015.

The Municipal Court bench meets every two weeks for lunch (at their own expense) to discuss best process and business practices. Members of the bench also attend bi-annual conferences (at their own expense other than the conference fee) held by the Colorado Municipal Judges Association which provides education to Municipal Judges on recent legislative and procedural changes.



OPPORTUNITY 2 – CONSIDER METHODS TO REDUCE THE NUMBER OF CASES REQUIRING COURT APPEARANCES

During data analysis for this audit, we noted there had been an increase over time in the number of “good driver” letters sent out by the prosecution division. These letters offered pre-established pleas based on certain criteria for given traffic offenses. The impact on the court operations was that fewer people had to appear in court. More people chose to agree to the plea offered and pay a fine prior to their scheduled appearance date. In 2013, approximately 43.82% of all traffic cases were resolved before the cases required an appearance before a judge.

Our research indicated that there may be other methods to increase the number of cases that can be resolved prior to a court appearance. Further reducing the number of appearances would have a positive effect on the workload of the court and could help lower the cost to the city.

AUDITOR’S RECOMMENDATION

We recommend that the Municipal Court personnel, judges, prosecution division and police department work together to develop other innovations or methods that may help further reduce the need for in-person appearances by defendants with the goal being a reduction in the operating costs for the court.

MANAGEMENT RESPONSE

The Court will continue its efforts to develop innovative methods for executing its responsibilities. As stated in response to Opportunity 1, Court procedure is mandated by the Colorado Municipal Court Rules of Procedure. Those rules require that anyone charged with a violation of city ordinance is summoned to appear in Court to answer to those charges. Most alleged criminal violations of city ordinance require a mandatory court appearance.

However, these same rules allow for disposition of minor traffic matters prior to the first appearance date. The Court and the City Attorney’s Office have implemented the following processes to resolve a case prior to first appearance.

1. Good Driver Letter

Prior to a person’s first appearance on alleged minor traffic violation, the City Attorney will review that person’s driving record. If their record is clear for at least 2 years prior to the alleged violation and other criteria are met, the City Attorney will offer a reduced point plea offer. This program has been very successful, with 80% accepting this offer and eliminating approximately 5,000 appearances in court on an annual basis.

2. Mail Disposition

If the City Attorney is contacted by a person with an alleged violation prior to their first appearance and can provide a medical or practical reason they cannot appear, the City Attorney, in their discretion, may offer to resolve the case through a mailed disposition. This process, however, has been complicated by



the legislation that requires a waiver of the right to be represented prior to any plea discussions with the City Attorney.

3. Payable Schedule of Fines

Pursuant to Colorado Municipal Court Rule 210(5), the Presiding Judge sets a schedule of payable fines, i.e. a person can choose to pay the fines indicated on the citation and not appear in court. All minor alleged traffic violations (4 points or less) have a payable amount except alleged school zone, construction zone, no insurance and child restraint violations. There are multiple ways to pay the fine including the web, in person, or by mail. Approximately 1/3 of all traffic matters are resolved prior to the First Appearance date.

4. First Appearance

According to Court and Prosecution data, 94% of all traffic matters are resolved at a person's first appearance. This quick resolution is the critical element of our customer service component, as a traffic matter may be a person's only interaction with the judicial system. A quote from a New Jersey case summarizes the importance of this customer service component: *"Municipal Courts are critical to our judicial system. More cases are processed annually through those courts than any other branch of the judicial system. The large number of litigants who appear in those courts daily make it all the more important for the judges who serve those court to act responsibly and be sensitive to the public perception of their actions. It is the court of first and last resort for many, and for that reason, those courts are responsible "for the popular image of the entire system."* *In re Mattera*, 34 N.J. 259, 275 (1961), *In re Yengo*, 72 N.J. 425, 433-34 (1977). *In re Samay*, 166 N.J. 25, 44-45, 764 A.2d 398 (N.J. 2001)[Some citations amended for completeness.]

5. Methods tried and discontinued

The City Attorney's Office implemented an automatic point reduction program in 1999. However, due to policy concerns of both the City Attorney's Office and CSPD, this program was discontinued in 2000 and ultimately replaced by the Good Driver program.

In addition to the above methods for citizens to avoid and/or limit an appearance in court, providing a forum for citizens to dispute and/or challenge an alleged ordinance violation is a mission critical Court responsibility.

CITY COUNCIL'S OFFICE OF THE CITY AUDITOR

About our Office

The mission of the Office of the City Auditor is to provide City Council with an independent, objective and comprehensive auditing program for operations of the City. Our auditing program includes:

- Evaluating the adequacy of financial controls, records and operations
- Evaluating the effectiveness and efficiency of organizational operations
- Providing Council, management and employees objective analysis, appraisals, and recommendations for improving systems and activities

The Office of the City Auditor is responsible for auditing the systems used by the City of Colorado Springs and its enterprises, including Colorado Springs Utilities. We perform a variety of audits for these entities, including financial audits, performance audits, contract audits, construction audits, and information system audits. We also perform follow-up on a periodic basis to monitor and ensure management actions have been effectively implemented.

Authorization and Organizational Placement

Our audits are conducted under the authority of Chapter 1, Article 2, Part 7 of the Colorado Springs City Code, and more specifically parts 703, 705 and 706 of the Code. The Office of the City Auditor is structured in a manner to provide organizational independence from the entities it audits. This independence is accomplished by the City Auditor being appointed by and reporting directly to the City Council.

Audit Standards

The audit was conducted in a manner that conforms with the International Standards for the Professional Practice of Internal Auditing, a part of the Professional Practices Framework promulgated by the Institute of Internal Auditors.

The audit included interviews with appropriate personnel and such tests of records and other supporting documentation as deemed necessary in the circumstances. We reviewed the internal control structure and compliance tests. Sufficient competent evidential matter was gathered to support our conclusions.