

The Town of Highland Park

Municipal Court

Best Practices Assessment



Background

In the past 10 years, there has been an apparent increase in the level of scrutiny rendered to the concerns regarding fair and equal treatment under the law. This focus has not only been centered around law enforcement; in addition, 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 some of the municipal courts across the United States. Specifically, the United States Department of Justice (DOJ) investigation on the City of Ferguson’s municipal court has led most to pause, reflect 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.

Recently, various non-profit groups (some based in Austin, Texas) have filed open records requests from local courts throughout the State in an effort to identify the patterns and practices in place. More specifically, there is an interest in identifying data trends to determine if the court is engaging in biased behavior and if the rights of all defendants, regardless of their race, ethnicity, religion, gender identification, or place of birth, are being preserved under the Constitution of the United States and the State of Texas.

The Objectives of the Highland Park Municipal Court Study

A few years ago, 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 would 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 very supportive, open and responsive to the needs for information during the course of my involvement in this project. There has not been one instance where information has been sought, where an almost immediate response has been issued with the information sought and a detailed explanation of all of its components. 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 based on court data from July 1, 2016 to March 31, 2018. That is, the study constitutes an “early trend” to the overall patterns and practices of the Municipal Court of the Town of Highland Park. Restated, the findings can now be generalized while observing some degree of caution that the data is limited to 21 months. As additional data is collected, a more comprehensive and detailed analysis is expected to be provided in the future.

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 has been completed and all standing orders are updated, current, and within the scope of the law.

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 to be more “user-friendly”; thus, allowing individuals that are not skilled on web browsing, to find 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 to 21 months, it is substantive enough in order to reach

conclusions on early trends on the patterns and practices of the court. It is expected that as additional data is collected and analyzed, generalizable findings will be attained.

The analysis of the data produced interesting and relevant results. Overall, the significant 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 “disposed”. Of the cases disposed, and aside from the cases “not entered”, Caucasians and Hispanics had the most significant percentage. This was followed by African Americans and Asians. Based on this preliminary data, it is clear that among the cases disposed, the highest percentages are of individuals belonging to protected classes (i.e., African Americans and Hispanics). **Clearly, the data shows that the court does not favor a particular racial or ethnic group in its disposition of cases.**

When analyzing the “reasons for disposition” and as shown in table 2, the data also demonstrates that of the 3,931 cases with court appearances, 2,585 of them involved Caucasian defendants. The second (but distant) most significant number (529) related to Hispanic defendants. This was followed by African Americans (387) and Asians (127). It is also evident that Native Americans constituted the group with the least number of court appearances (11). Of the cases involving Caucasian defendants, 9% of them were dismissed by the Prosecutor. Cases dismissed through Deferred Adjudication (DA) accounted for 33% of the cases. This was followed by cases closed by the court (22%) as shown in table 2. With regards to African American defendants, a similar percentage of their cases 13% were dismissed by the prosecutor, and 25% were dismissed through Deferred Adjudication (DA) and 25% were closed by the court; this was followed by the

percentage of cases closed by the court (18%) and those where the case was dismissed due to completion of the defensive driving course (as shown in table 2). With regards to Hispanic defendants, a significant percentage (43%) of the cases were closed by the court; this was followed by cases dismissed by the prosecutor (8%) as shown in table 3 and 23% dismissed through Deferred Adjudication (DA) 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 represented 21 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 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 an early indicator that justice seems to be distributed across race and ethnicity.
- c) Cases involving juvenile or minor offenders seem to be based mostly 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, 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, the findings suggest that the Highland Park Municipal Court engages in fairness as measured via the availability of options on disposition of cases. There is no question that additional data over the next few months will reveal if the pattern on the distribution of cases and disposition of these, continues. The update of policies and standing orders along with the collection and analysis of data as it relates to disposition of cases, will ensure a more detailed analysis in future reports.

Table 1. Profile of Cases (July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases Filed	%	Cases Disposed	%	Outstanding Cases	%
Caucasian	11,875	100	8,336	70	3,539	30
African American	2,170	100	1,001	46	1,169	54
Hispanic	2,940	100	1,891	64	1,049	36
Asian	555	100	409	74	146	26
Middle Eastern	324	100	240	74	84	26
Unknown	39	100	30	77	9	23
Native American	66	100	40	61	26	39
Not Entered	339	100	294	87	45	13
Total	18,308	100	12,241	67	6,067	33

Table 2. Disposition of Cases with Court Appearances

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Total Cases with Court Appearances	%	Cases Closed by the Court	%	Cases Dismissed Completion of Defensive Driving Course	%
Caucasian	2,585	100	559	22	485	19
African American	387	100	97	25	71	18
Hispanic	529	100	225	43	64	12
Asian	127	100	21	17	39	31
Middle Eastern	99	100	8	8	24	24
Unknown	7	100	5	71	0	0
Native American	11	100	3	27	2	18
Not Entered	186	100	17	9	0	0
Total	3,931	100	935	24	685	17

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases Dismissed by Prosecutor	%	Cases Dismissed by Judge	%	Cases Dismissed (Juveniles/Minors) Theme in	%
Caucasian	222	9	56	2	119	5
African American	52	13	29	7	2	.5
Hispanic	40	8	21	4	2	.4
Asian	12	9	3	2	2	2
Middle Eastern	9	9	9	9	1	1
Unknown	1	14	0	0	1	14
Native American	0	0	0	0	2	18
Not Entered	167	90	2	1	0	0
Total	503	13	120	3	129	3

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases Complied Dismissal (3J)	%	Cases Complied Dismissal (3P)	%	DA Dismissed/Deferred Completed	%
Caucasian	122	5	147	5	870	33
African American	16	4	21	5	97	25
Hispanic	19	4	29	5	126	23
Asian	6	5	3	2	41	32
Middle Eastern	3	3	2	2	43	43
Unknown	0	0	0	0	0	0
Native American	0	0	0	0	3	27
Not Entered	0	0	0	0	0	0
Total	166	4	202	5	1,180	30

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases DI/Dismiss (Proof Insurance)	%
Caucasian	5	.2
African American	2	.5
Hispanic	3	.6
Asian	0	0
Middle Eastern	0	0
Unknown	0	0
Native American	1	.9
Not Entered	0	0
Total	11	.3

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases Dismissed by Judge (in percentages)	Cases Dismissed by Prosecutor (in percentages)
Caucasian	1	5
African American	.7	1
Hispanic	.5	.9
Asian	.07	.3
Middle Eastern	.2	.2
Unknown	0	.02
Native American	0	0
Not Entered	.05	4
Total	3	11

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Cases Disposed at Window (in percentages)	Cases Disposed via U.S. Mail (in percentages)
Caucasian	88	12
African American	94	6
Hispanic	98	2
Asian	93	7
Middle Eastern	93	7
Unknown	100	0
Native American	0	0
Not Entered	100	0

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Fine Paid to Clerk	Driving Course Completed	Re-Scheduled Court Date	Deferred by Clerk	Requested Defensive Driving Course to Clerk	Not Qualified for Other Option
Caucasian	2,876	859	123	375	547	37
African American	341	92	83	34	37	3
Hispanic	954	104	55	56	91	50
Asian	134	58	10	22	23	4
Middle Eastern	55	32	3	12	9	2
Unknown	22	0	0	0	0	0
Native American	15	6	0	4	2	0
Not Entered	108	0	1	14	0	0
Total	4,505	1,151	275	517	709	96

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

(July 1, 2016---March 31, 2018)

Race/Ethnicity	Deferment Requested via U.S Mail	Requested Defensive Driving Course by U.S. Mail	Provided Eligible Insurance
Caucasian	353	312	18
African American	14	28	6
Hispanic	12	21	15
Asian	9	12	3
Middle Eastern	4	5	1
Unknown	0	0	0
Native American	3	2	0
Not Entered	0	0	0
Total	395	380	43

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

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com

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