



OFFICE OF THE CITY AUDITOR
COLORADO SPRINGS, COLORADO

14-15
City of Colorado Springs
Municipal Court Fine
Audit

June 2014



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14-15 Municipal Court Fine Audit

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Purpose

This audit of the Municipal Court was conducted with the objective of determining the causes for the reduction of fine revenue.

Highlights

We concluded that the reduction in fine revenue was attributable to the combination of a reduction in the number of traffic speeding citations issued and a drop in the average fine per speeding citation.

Municipal Court handled cases related to traffic and criminal citations along with parking tickets. The largest component of total court revenue was traffic fines of which speeding violations were the largest group.

The total number of speeding cases declined 54.87% from 2008 to 2013. This reduction contributed to the 53.22% decline in total fine revenue from speeding cases. The other part was due to a 10.76% decline in the average fine collected per speeding citation.

Court caseload was determined by the number of citations written by law enforcement personnel. Case handling decisions made by the Prosecution Division of the City Attorney's Office also impacted court caseload.

The number of traffic citations issued per officer had declined in the first five of the six years reviewed. The sixth year of our review seemed to indicate that the number of traffic citations being issued per officer by the Colorado Springs Police Department had not declined as in previous years. It appeared that for the group of officers who issued the largest number of citations, the trend had reversed and citations had increased in 2013.

Management Response

Management was in general agreement with our recommendations. See the attached report for detailed responses.

Recommendations

1. The Colorado Springs Police Department should provide the Budget Office, Municipal Court, and the Prosecution Division of the City Attorney's Office with anticipated citation activity.
2. The Municipal Court should include data analysis features in the requirements of the replacement information system.
3. The Municipal Court, police department, and Prosecution Division of the City Attorney's Office should conduct a study to determine the root cause in the decline in average fine revenue per traffic ticket.

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Office of the City Auditor Public Report

Date: June 30, 2014

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

Re: 14-15 Municipal Court Fine Audit

We conducted an audit of the fines collected by the Municipal Court. The purpose of this audit was to determine causes for the reduction of fine revenue. The scope included an analysis of data for the fiscal years of 2008 through 2013.

The Municipal Court for the City of Colorado Springs adjudicated cases. Cases were based upon violations of City Code and citations of those violations were created by law enforcement personnel. Citations could also be created by non-traditional law enforcement, such as through Pikes Peak Regional Building Department or the Humane Society of the Pikes Peak Region. Citations were written as summonses (or more commonly known as tickets), which acted to summon the violator to court. Throughout this report, we will use the word citation to designate a summons or ticket.

We concluded fine revenue was down due to a decrease in traffic citations, especially for speeding, in combination with a decrease in fines collected per speeding citation. We also noted that generating fine revenue was not a primary objective of the court, but rather was a by-product of the primary mission of promoting public and traffic safety. We also noted that the court caseload was determined by the number of citations written by the Colorado Springs Police Department and others in addition to case handling decisions made by the Prosecution Division of the City Attorney's Office. We identified three observations that could be beneficial in optimizing court activities related to fine revenue and have listed our recommendations for each in the attached report.

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

Sincerely,

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
Chief Peter Carey, Chief of Police
Vince Niski, Deputy Chief, Operations Support Bureau
Steve Cox, Chief of Staff
Kara Skinner, Chief Financial Officer
Charae Moore, Budget Manager



Office of the City Auditor Municipal Court Fine Audit

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REPORT DETAILS

PURPOSE AND SCOPE

This audit of the Municipal Court (court) for the City of Colorado Springs was conducted with the objective of determining the causes for the reduction of fine revenue.

The scope included court information for 2008 through 2013. During the audit, we recognized 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 an analysis of police functions.

To accomplish our objectives, we interviewed staff from the court, judges from the court, staff from the Prosecution Division of the City Attorney's Office, staff from the police department and staff from the budget office. We appreciate the cooperation and assistance from these staff members as we conducted this audit.

CONCLUSION

We concluded that the reduction in fine revenue was attributable to the reduction in the number of traffic citations, especially for speeding, in combination with a drop in the average fine per disposition. We identified three recommendations that could be beneficial related to fine revenue.

BACKGROUND

The stated mission of Municipal 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."¹ The court had historically dealt with cases resulting from three types of offenses: traffic, parking, and criminal violations of the City Code². More serious crimes (such as driving under the influence and other felonies) were handled by the County or District Court for El Paso County.

All cases handled by the court were initiated by the issuance of a summons. A summons is often referred to as a citation or a ticket³. Citations were issued by Parking Enforcement, Animal Control, Regional Building, or the Colorado Springs Police Department (police). For parking offenses, the court provided referees to assist in the 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). Upon acceptance of a plea or finding of guilt, the court may impose a fine.

¹ Colorado Springs Municipal Court 2012 Annual Report

² During 2010 and 2011 the Court also handled cases stemming from photo enforcement cameras. Because photo enforcement was no longer a City function, we eliminated those cases from our analysis.

³ In this report, the term citation will be used to indicate a summons and complaint or other form of citation.

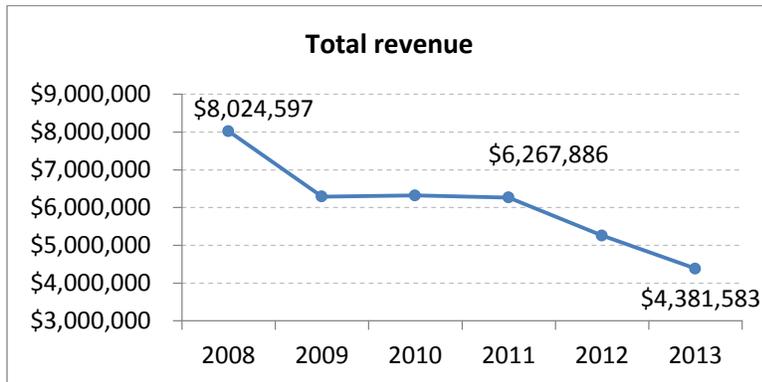


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The primary purposes of sentencing were fourfold; deterrence, incapacitation, rehabilitation, and retribution (i.e., punishment). Fines serve as the deterrence and retribution functions. Fines must be adequate in amount so that they will have the desired deterrent effect. If the fines were stiff enough, they also effected some rehabilitation, especially if coupled with other requirements such as traffic school, community service, etc.

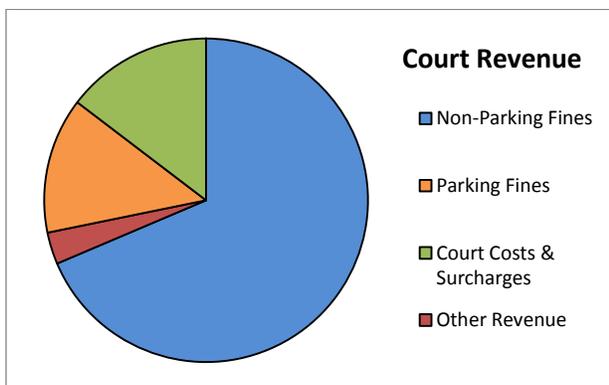
Revenue generated by the judicial process of Municipal Court was based on the number of citations detailing violations of City Code by law enforcement and a decision to prosecute those violations from the CAO. As such, revenue generated by the judicial process was a consequential type of revenue, as compared to intentional revenue. "Government seeks intentional revenue through such means as property or sales taxes, fees, and cost recovery methods. Fines from enforcement, however, are merely consequences incorporated into the accountability for violations of traffic, civil, or criminal law."⁴

Court revenue contributed to the general fund and was included in the city's budget each year by the Budget Office.



Total revenue generated by the court had declined by 45.40% from 2008 through 2013.

We divided the total revenue obtained by the court into four different types, namely, non-parking fines, parking fines, court costs/surcharges, and all other types of revenue. From 2008 through 2013, the period of our audit, fine revenue from non-parking violations as a percentage of total court revenue averaged 68.60%.



Fine revenue from non-parking violations was the largest contributor to the total revenue generated by the court.

⁴ "The Evolution of the Colorado Springs Police Department Motorcycle Unit; A Report to the Community", May, 2011, Richard W. Myers, Chief of Police



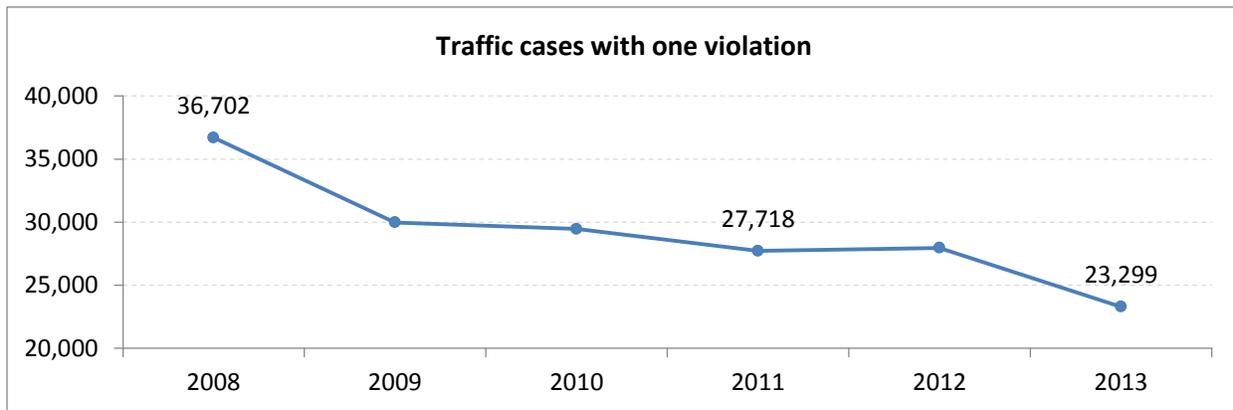
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Fine revenue from non-parking fines was composed of fines generated from traffic cases and fines generated from criminal cases. For the audit period, traffic cases averaged 86.35% of the total cases processed by the court.

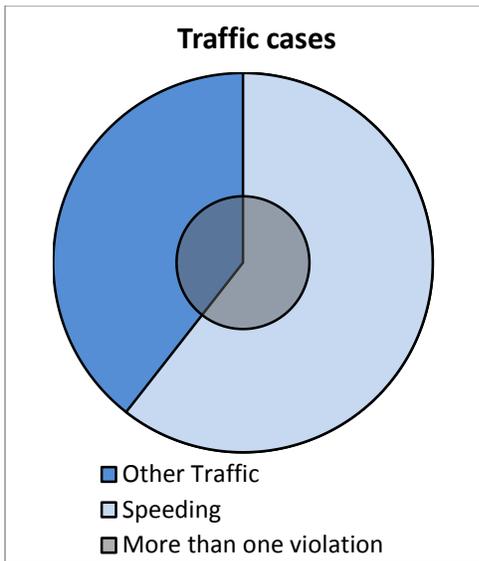
Of all traffic cases processed by the court during the audit period, 61.16% had at least one speeding type of violation. We classified those types of cases as speeding cases.

Year	Speeding Cases	Non-Speeding Cases	Total Traffic Cases	Speeding % of Total
2008	28,250	15,862	44,112	64.04%
2009	21,824	13,959	35,783	60.99%
2010	21,532	12,904	34,436	62.53%
2011	19,937	11,184	31,121	64.06%
2012	18,067	11,827	29,894	60.44%
2013	12,748	11,975	24,723	51.56%
Total	122,358	77,711	200,069	61.16%

For the audit period, the number of traffic cases with a single charge totaled 87.54% of all traffic cases, and declined by 36.52% from 2008 through 2013.

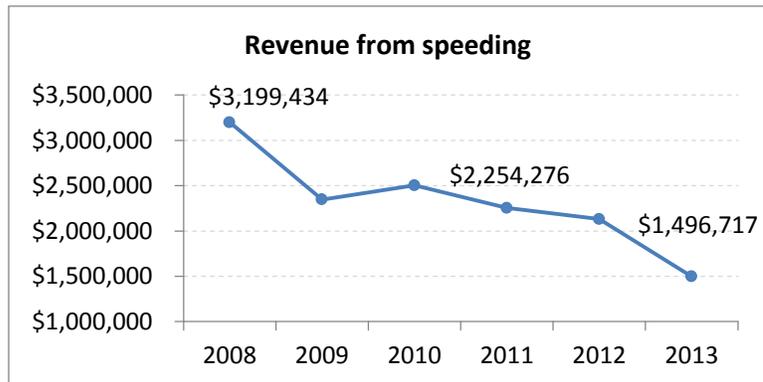


We limited the remaining analysis of fine revenue to those cases that had a citation which noted only one speeding violation. Additional investigation indicated that over the period of our audit, 86.78% of the speeding cases had only a single speeding violation.



As shown in the diagram to the left, speeding cases represented the largest segment of fine-generating cases. Including cases with multiple charges made data analysis unfeasible and were therefore excluded. While speeding cases constituted a majority of total traffic cases throughout the audit period, the total number of speeding cases as the only charge processed by the court declined by 47.58% from 2008 through 2013.

The decline in speeding cases also resulted in a 53.22% decline in the amount of fine revenue collected by the court.



CAUSES FOR THE REDUCTION IN FINE REVENUE

There were several possible reasons for the decline in fine revenue which we considered and have discussed in further detail below.

- Change in police enforcement philosophy
- Number of citations issued
- Prosecutorial discretion
- Judicial discretion
- Amount of fine revenue per citation

CHANGE IN POLICE ENFORCEMENT PHILOSOPHY

The following details some of the changes implemented by a former police chief:

- Issuance of traffic warning citations, instead of traffic citations; started in February 2009



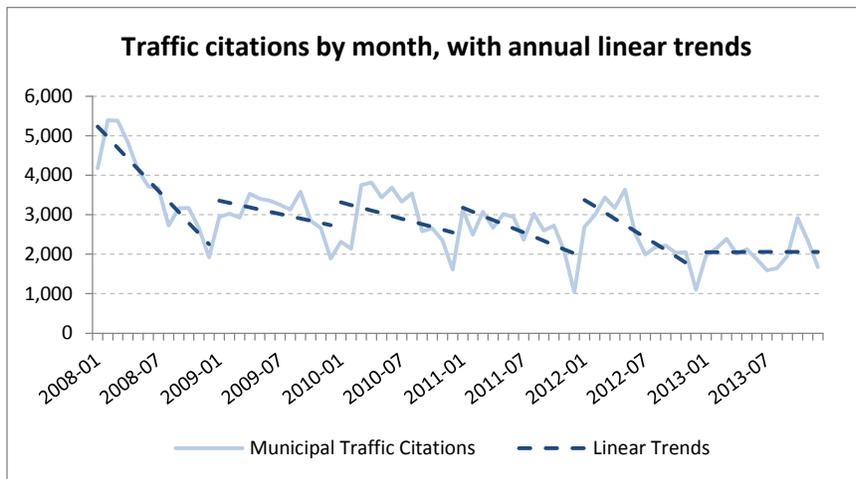
- Assignment of Specialized Enforcement Motorcycle Unit⁵ officers to other responsibilities outside of traffic enforcement due to budget restrictions
- Decrease in the total number of officers throughout the police department due to budget restrictions

The current police chief was attempting to re-align the efforts of the police by:

- Eliminating the use of traffic warning citations
- Expecting officers to issue traffic citations
- Have officers utilize the Data Driven Approach to Crime during traffic stops

It seemed apparent that police philosophy regarding traffic enforcement impacts the number of citations issued. The actions taken by the current chief may offset some of the impacts of changes made by the former police chief.

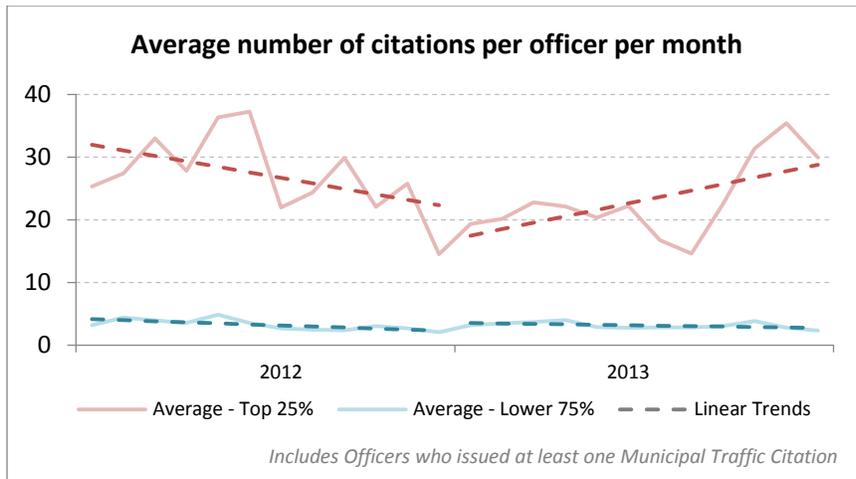
NUMBER OF CITATIONS ISSUED



As seen to the left, the number of traffic citations decreased over the reviewed period. In addition to the general downward trend, each individual year showed a downward trend with the exception of 2013, in which the trend appeared to flatten out.

Further analysis revealed that beginning in 2013, the trend line for the average number of citations issued actually increased among those officers who issued the greatest number of citations. In all years, the top 25% of officers that issued at least one citation submitted more citations by a significant margin than did the remaining 75% of officers.

⁵ The Motor Unit's primary direction continues to *include* traffic safety and education. But due to budget cuts, staff reductions, and an increased focus on crime reduction, Motor Officers are more responsible for assisting Patrol during their day-to-day operations and minimizing other impacts to Patrol.



From 2008 to 2012, both groups showed a general decrease in the number of citations submitted per month. In 2013, the group of the top 25% of officers by citation submissions showed a reversing of this trend. 2012 and 2013 are shown to the left.

It appeared to us that the police department’s efforts to address the decline in the number of citations was beginning to show results in 2013.

PROSECUTORIAL DISCRETION

The Prosecution Division of the CAO indicated that one of their primary objectives was to prosecute all violations submitted by law enforcement. Our analysis indicated that 94.79% of all traffic cases resulted in a “guilty” finding. And for speeding cases, 98.38% of the cases resulted in a “guilty” finding. It appeared that most of the traffic cases were being prosecuted by the CAO. Therefore, we do not believe that prosecutorial discretion was a significant contributor to the decline in fine revenue.

JUDICIAL DISCRETION

Subsection 11.2.103C of the City Code granted the presiding judge the authority to set the fines for violations of City Code. The presiding judge had issued a *Schedule of Fines and Bail* that sets payable fines for many of the violations of the City Code, including the minimum fines for five specific offenses to the City Code.

However, per the *Schedule of Fines and Bail*, “individual trial judges remain free to assess fines and sentence those convicted of these violations as they individually deem appropriate, given the specific circumstances of the offense and individual.” During interviews for this audit, it was indicated that individual judges have discretion to base the fine assessed on the original charge or on the amended charge. Based on analysis further described in Observation 3 related to speeding citations, judicial discretion over fines assessed had not resulted in an aggregate difference between actual fine collections and expected fine collections. However, we did not perform an analysis of the impact of judicial discretion in all areas because data was not available in the court’s information system.



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AMOUNT OF FINE REVENUE PER CITATION

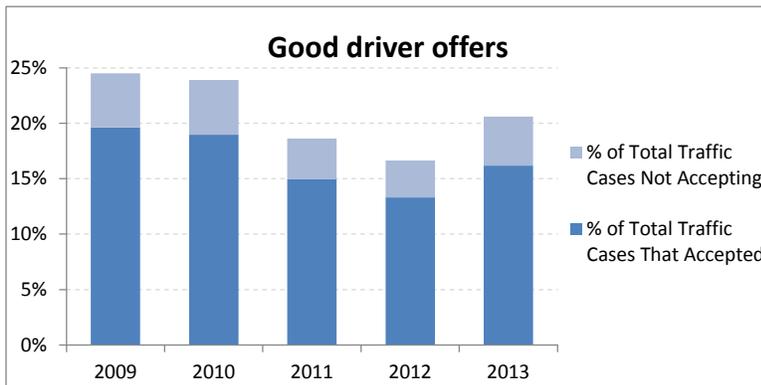
The total traffic fines collected by the court were not only determined by the number of traffic citations issued and prosecuted, but were also determined by the fines assessed on each citation. During the period of our review, the fines paid for the majority of traffic cases averaged \$112.22 per case, while fines paid for cases with a speeding violation averaged \$131.20 per case. Speeding tickets represented the largest segment of all tickets issued. Therefore the decline of 10.76% in average speeding ticket fine was a contributor to the total decline in fine revenue.

Average fines paid	Non-Speeding	Speeding	Total
2008	\$79.53	\$139.00	\$116.82
2009	\$79.36	\$129.42	\$109.64
2010	\$81.83	\$135.49	\$115.47
2011	\$81.88	\$127.90	\$111.15
2012	\$88.93	\$126.33	\$111.48
2013	\$87.32	\$124.04	\$106.34
<i>Average Fine</i>	<i>\$82.99</i>	<i>\$131.20</i>	<i>\$112.22</i>
<i>Change from 2008 to 2013</i>	<i>9.80%</i>	<i>(10.76%)</i>	<i>(8.98%)</i>



COMMENDABLE PRACTICE

In 2009, the court, with support from the Prosecution Division of the CAO, implemented a process to identify “Good Driver” defendants and offer them a standard plea arrangement. To be eligible, the defendant must not have had any traffic violations in the past two years and the current citation could not be over four points, among other criteria. The good driver offer reduced the number of points assessed due to the violation by up to two points. The offer did not reduce the fine or surcharge as indicated on the citation.



The first year of this new program resulted in 8,838 traffic cases eligible for the Good Driver offer. On average over the five years the offer had been available, 21.26% of all traffic cases were eligible for the offer. Of those eligible, 78.92% had accepted the offer, resulting in a total of 26,168 traffic cases not needing an appearance in court. This number of

traffic cases not needing a court appearance amounted to 16.78% of all traffic cases over the past five years.

As a result of this innovative idea, we believe that the court capacity for handling cases had been increased without negatively impacting fine revenue.



OBSERVATION 1 – FINE REVENUE PROJECTIONS WERE NOT DETERMINED USING HISTORICAL AND PROJECTED CITATION ACTIVITY

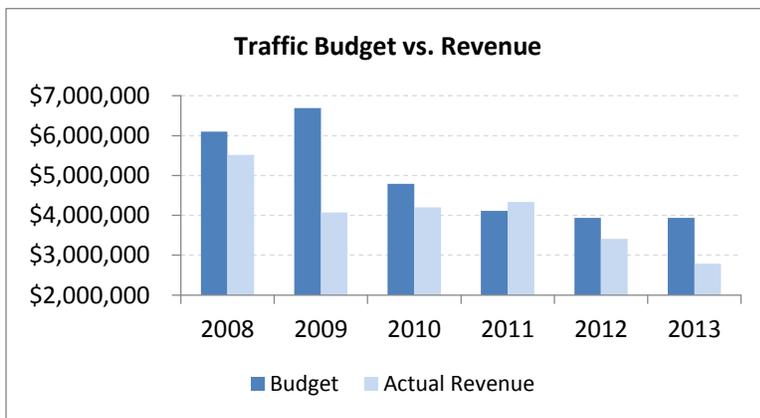
The police department was not providing anticipated citation activity to either Municipal Court, the Prosecution Division of the CAO, or the budget office. Outside of the issued traffic citations in which defendants were required to appear in approximately 21 days, the court had very little information to anticipate what the court’s activities could or would be.

The budget office utilized historical revenue data when working with the court during the creation of the budget. Neither was using any data based on the number of citations anticipated to be issued by the police or the historical fine collected per violation.

Most court activities were driven by law enforcement activities. The number of citations issued directly influenced the cases being processed by the court and also impacted the number of prosecuting attorneys and court staff necessary to process cases.

The number of citations anticipated to be issued by the police should not become a measurement of law enforcement activities. There are a significant number of factors that could influence the estimated numbers provided by the police, as recently demonstrated during the Waldo Canyon and Black Forest fires and recent flooding. It would be difficult to anticipate such influences during the budgeting process.

The information system utilized by Municipal Court contained quite a bit of historical data that could be utilized for the development of the court’s budget. Utilizing historical information could aid in better budgeting and analysis of the court’s activities.



The budgeted revenue from traffic fines for the court had been overestimated in five of the six past years. On average for the period reviewed, the budget was overstated by 17.68%.

AUDITOR’S RECOMMENDATION

The police should routinely provide the budget office, Municipal Court, and the Prosecution Division of the CAO with anticipated citation activity. This activity, along with historical citation data, should then be used to better anticipate what the potential consequential revenue from fines might be. This activity should also be used to help plan for the activities of the court and the prosecution division.



MANAGEMENT RESPONSE

The Court agrees to collaborate on proposed police activity and to communicate with the Budget Office during the budget process regarding projected revenues. However, it needs to be noted that these discussions have taken place on an annual basis since the arrival of Chief Carey. The Court has communicated with the Budget Office regarding anticipated fine collections for 2014. The Court has been tasked with providing an estimate for 2015 revenue.

Although citation activity was anticipated to increase in both 2012 and 2013, multiple factors contributed to a continued decline. This included the Waldo Canyon fire in 2012, the Black Forest fire in 2013, the difficulty and delay in implementation of the E-Citation program, all of which were beyond CSPD's control. Based on survey results within CSPD regarding the City Attorney's Office and the Municipal Court, the Senior Prosecuting Attorney and the Presiding Judge will be attending line-ups for all patrols and motors units addressing, among other things, the deployment of the E-Citation program.



OBSERVATION 2 – EXISTING COURT INFORMATION SYSTEM DID NOT INCLUDE SUFFICIENT DATA ANALYSIS FUNCTIONALITY

The primary information system utilized by Municipal Court did not include the ability to provide detailed data analysis. Data analysis had to be done by directly accessing the data stored in the database outside of the application. Detailed analysis was further complicated by inconsistent use of fields. Data analysis could help in scheduling the court's and Prosecution Division of the CAO's activities, thus helping to achieve better effectiveness and efficiency.

This information system was no longer being supported by the vendor and was scheduled to be replaced. There was funding in the original 2014 budget to write the requirements definition and select a vendor via a Request for Proposal procurement process.

AUDITOR'S RECOMMENDATION

We recommend that the requirements definition for the new information system for Municipal Court include the ability to analyze case, citation, violation, fine, and other related data. These requirements should be cost effective for the court and the prosecution division.

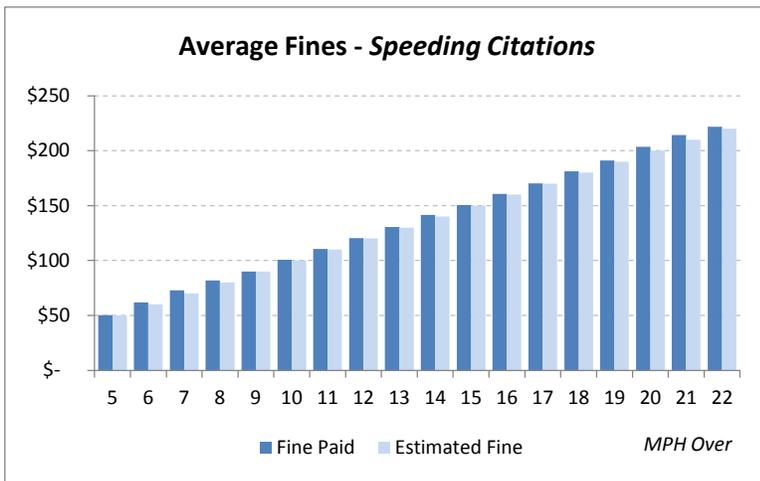
MANAGEMENT RESPONSE

The Court agrees to include requirements in our RFP for replacement of JIS to capture more data. The Court agrees that data analysis capabilities are required for mission critical operations and court performance. Therefore, the data must have a useful purpose for court operations. The Municipal Court will either replace or rebuild its current case management system in 2015.



OBSERVATION 3 – AVERAGE REVENUE GENERATED PER SPEEDING CITATION HAD DECLINED

The average 2013 revenue generated per speeding citation had dropped by 10.76% and by 8.98% for all traffic citations from the 2008 values. Because speeding citations represented the largest component of fine revenue for Municipal Court, this decline was a contributor to the overall decline in court revenues. There were multiple places in the life cycle of a traffic case in which the fine amount could be affected, including the initial citation written by a police officer, activities of the prosecutor, and the ruling of the judge. Since the scope of the audit did not include the police department or Prosecution Division of the CAO, our review in this area was limited to the court and judges.



Our review did not indicate there had been a decrease in the fines levied for a given violation, per the *Schedule of Fines and Bail* published by the court. During the audit period, the *Schedule of Fines and Bail* specified the payable fine for most speeding violations to be \$10 per miles per hour (MPH) over the speed limit. Using the \$10 per MPH calculation, we identified a subset of speeding citations with the necessary information to compare the

fine paid to the fine expected. The subset reviewed included 61,869 speeding citations, which represented 50.56% of all speeding citations. Our analysis indicated that the average fine paid was consistently within \$5 of the expected fine. Based on this analysis, it appeared that judicial discretion over fines assessed for speeding citations had not resulted in an aggregate difference between actual fine collections and expected fine collections.

Therefore, another root cause for our observed 10.76% decline per speeding citation from 2008 to 2013 is likely. We were not able to determine the root cause given the data available.

AUDITOR’S RECOMMENDATION

We recommend that Municipal Court, the Prosecution Division of the CAO, and the police cooperate to determine the likely root cause of the decrease in average fine revenue per citation. If additional action is beneficial and cost-effective, changes should be implemented.

MANAGEMENT RESPONSE

The Court agrees and has begun collaboration with CSPD and the City Attorney’s Office to determine the root cause of the reduction in per citation fines.

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.