

# **Criminal Warrant Process Audit August 2009**

Patrice Randle, City Auditor  
Craig Terrell, Assistant City Auditor  
Lee Hagelstein, Internal Auditor



City Auditor's Office

August 28, 2009

Honorable Mayor and Members of the City Council:

I am pleased to present the City Auditor's Office's report on the Criminal Warrant Process within the City of Arlington. The purpose of the audit was to evaluate the efficiency and effectiveness of the Arlington Municipal Court's warrant process.

Our review indicated that while the Municipal Court has been able to increase revenue collection and process more warrants, a significant backlog exists of cases that should be in warrant status. It will be a challenge for Municipal Court staff to clear the existing backlog prior to implementing the new court software.

Management's responses to our audit findings and recommendations, as well as target implementation dates and responsibilities, are included in the following report.

We would like to thank the Municipal Court and Arlington Police Department for their full cooperation and assistance during this project.

A handwritten signature in cursive script that reads "Patrice Randle".

Patrice Randle, CPA  
City Auditor

- c: Jim Holgersson, City Manager
- Fiona Allen, Deputy City Manager
- Bob Byrd, Deputy City Manager
- Gilbert Perales, Deputy City Manager
- Trey Yelverton, Deputy City Manager
- Theron Bowman, Police Chief
- David Preciado, Municipal Court Services Director

# Criminal Warrant Process Audit

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# Criminal Warrant Process Audit



Office of the City Auditor  
Patrice Randle, CPA  
City Auditor

Project # 08-14

August 28, 2009

## ***Executive Summary***

***Municipal Court revenue has increased***

***The number of warrants processed has increased***

***There is a significant backlog of cases that should be in warrant status***

***Warrants were not issued in a timely manner***

## ***Opportunities for Improvement***

- ***Timely Preparation of Complaints and Warrants***
- ***Complete Transfer of Warrant data from the Municipal Court to the Arlington Police Department Warrant Unit***
- ***Compliance with Collection Improvement Program***

As part of the Fiscal Year 2008 Annual Audit Plan, the City Auditor's Office conducted an audit of the City's criminal warrant process. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The objectives of the audit were to determine whether:

- cases that should have been in warrant status were in warrant status;
- warrants were processed in a timely manner and were supported with documentation required by City policy and/or applicable law;
- the Arlington Police Department's warrant process is efficient and warrant activity is adequately documented;
- the Municipal Court is in compliance with the Office of Court Administration's (OCA) Collection Improvement Program, as required by Article 103.0033 of the Code of Criminal Procedure; and,
- the process of forwarding outstanding warrants to the collection agency is effective.

The City Auditor's Office noted that while revenue collected has increased, there is still a significant backlog of cases that should be in warrant status. In addition, warrants that were issued were not issued in a timely manner. The transfer of newly issued warrants from the Judicial Enforcement Management System (JEMS) to the Arlington Police Department Warrant Unit was incomplete. The City Auditor's Office also noted instances where the City did not comply with the OCA's Collection Improvement Program.

These findings and recommendations are discussed in the Detailed Audit Findings section of this report.

## ***Audit Scope and Methodology***

The audit was conducted in accordance with generally accepted government auditing standards. The following methodology was used in completing the audit.

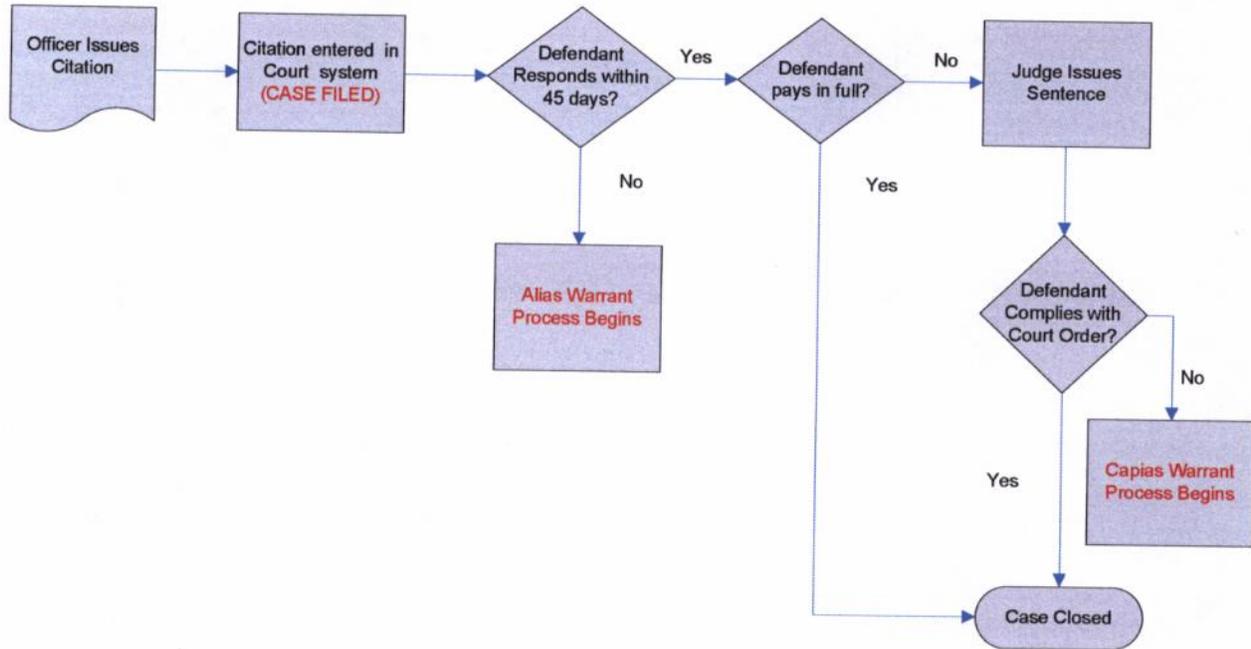
- Interviewed employees within the Municipal Court and the Arlington Police Department Warrant Unit to gain an understanding of the various components of the warrant process.
- Performed tests to ensure that citations qualifying for alias or capias warrants went through the warrant process and that the process was performed in a timely manner.
- Performed tests to ensure that information relating to outstanding warrants processed by the Municipal Court was accurately transferred to the Arlington Police Department's Warrant Unit.
- Performed tests of compliance with the Office of Court Administration's Collection Improvement Program.

## ***Background***

Article 15.01 of the Code of Criminal Procedure states that "a 'warrant of arrest' is a written order from a magistrate, directed to a peace officer or some other person specially named, commanding him to take the body of the person accused of an offense, to be dealt with according to law." There are two types of arrest warrants – alias and capias. An alias warrant is issued against a person who does not respond to an order to appear before the court. A capias warrant is issued against a person who fails to satisfy an agreed upon judgment.

According to Municipal Court personnel, after a citation is filed, a defendant is given 45 days to respond to the citation. The 45 days includes 30 days from the date the citation is entered in the Municipal Court software to the court appearance date plus an additional 15 days to allow mail to be received and processed. The defendant can pay the fine, enter a plea with the court or ignore the citation. When a defendant chooses to ignore the citation, upon reaching 45 days, the court may legally issue an alias warrant for the defendant's arrest. The alias warrant process begins with a Court Clerk running an "Appearance Dates Past Due" report which lists, for a specific date, citations with no activity for 45 days. From this report, Court Clerks prepare a complaint. A complaint is an affidavit made before a magistrate or a district or county attorney that charges the commission of an offense. The complaint must include the name of the accused. It must also show that the accused has committed some offense against the law, the time and place of the commission of the offense, and an affidavit signed by two Court Clerks. Once the complaint has been properly completed and signed, it is forwarded to the Court Warrant Clerk who then can prepare the warrant. Complaints must be prepared in order to issue alias warrants and all warrants must be signed by a judge to be legally binding.

## Criminal Warrant Process



After the Municipal Court has prepared alias or capias warrants, information relating to the warrants is uploaded to the National Crime Information Center (NCIC) database on a daily basis and to the Arlington Police Department (APD) Warrant Unit on a weekly basis. NCIC is a computerized index of criminal justice information available to federal, state and local law enforcement and other criminal justice agencies 24 hours per day, 365 days per year. By utilizing NCIC, any law enforcement agency can access the NCIC database and verify whether individuals have outstanding warrants. If the individuals have outstanding warrants, any law enforcement agency may arrest those individuals on behalf of the agency that issued the warrant. Upon arrest, the arresting agency notifies the agency that issued the warrant. If payment is made, the arresting agency releases the defendant and forwards the defendant's payment to the agency that issued the warrant.

For 60 days, the APD Warrant Unit initiates any type of contact which will convince the defendant to resolve the warrant, including being arrested. The warrant unit initiates contact by making phone calls, writing letters and making home and work visits. Warrants not cleared after 60 days are referred to an outside attorney. On September 25, 2007, the City of Arlington entered into a contract with Linebarger, Goggan, Blair & Sampson, LLP (LGBS) for the collection of municipal court debts. The contract allows an additional 30% penalty to defray collection costs. Since this 30% is added to the original municipal court costs, the City still receives the full fine amount when paid by the defendant. The City's contract with LGBS expires on June 30, 2011. In addition to utilizing City staff and an outside legal firm to notify and collect from defendants with outstanding warrants, the Arlington Municipal Court uses the City's website to publicize warrants issued within the past week and alias and capias warrants issued as far back as 1999.

As of March 3, 2009, there were 63,211 outstanding alias warrants with a total value of \$26,877,285 and 14,383 outstanding capias warrants with a total value of \$4,592,257. A yearly distribution of the outstanding alias and capias warrants is shown in the following chart.

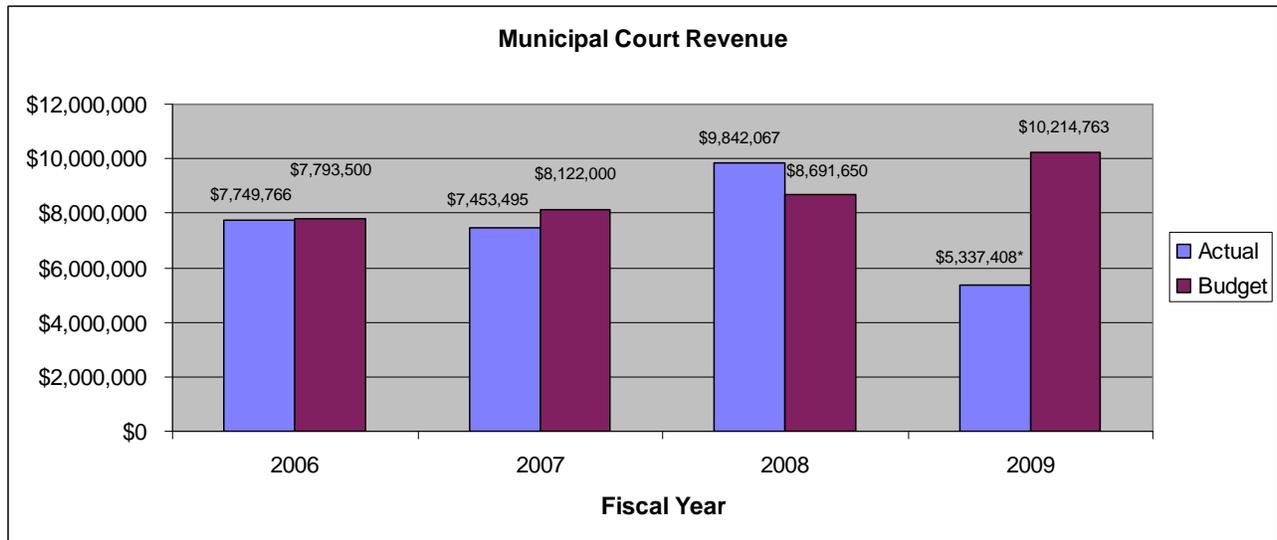
<b>OUTSTANDING WARRANTS</b>					
<b>(By Year of Citation)</b>					
<b>Alias Warrants</b>			<b>Capias Warrants</b>		
<u>Year</u>	<u># Warrants</u>	<u>Warrant Value</u>	<u>Year</u>	<u># Warrants</u>	<u>Warrant Value</u>
2008	13,803	\$6,542,870	2008	419	\$153,176
2007	12,630	6,267,451	2007	1,209	534,037
2006	11,690	5,537,701	2006	972	435,378
2005	3,895	1,607,946	2005	770	275,735
2004	2,009	860,430	2004	1,844	599,176
2003	8,424	2,687,181	2003	2,417	810,556
1999 – 2002	10,760	3,373,706	1999 – 2002	6,752	1,784,199
<b>Totals</b>	<b>63,211</b>	<b>\$26,877,285</b>	<b>Totals</b>	<b>14,383</b>	<b>\$4,592,257</b>

Source: Municipal Court/JEMS

Although the total value of outstanding warrants, as of March 3, 2009 exceeds \$31 million, that value does not represent the amount of revenue that will be received by the City. The City will not receive revenue for warrants that are cleared by jail time served, judicial action, or warrants that are uncollectible. In addition, the City is required to forward a percentage of revenue collected to the state of Texas and will not receive the 30% penalty mentioned on page 3, which is included in the total warrant value.

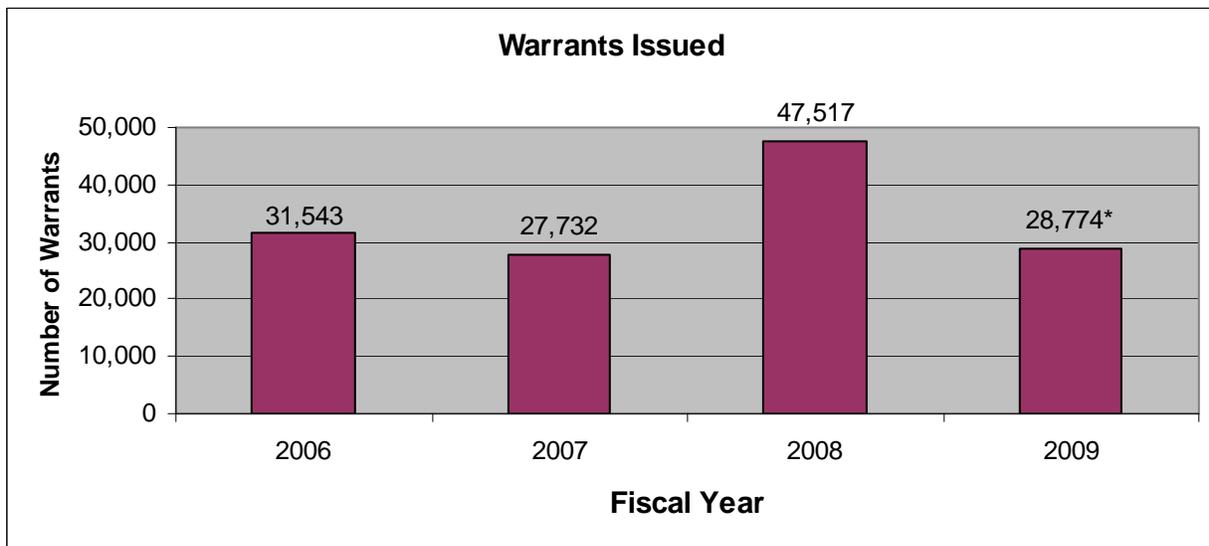
### Audit Results

Municipal court revenue has increased over the past few years. The Municipal Court has increased warrant processing and provides defendants with increased opportunities to pay their citations. The court now enables defendants to pay for citations in person, by telephone, mail, website, at a drop-off location within the lobby of the Ott Cribbs Public Safety Center, and at 62 convenient off-site locations in Arlington.



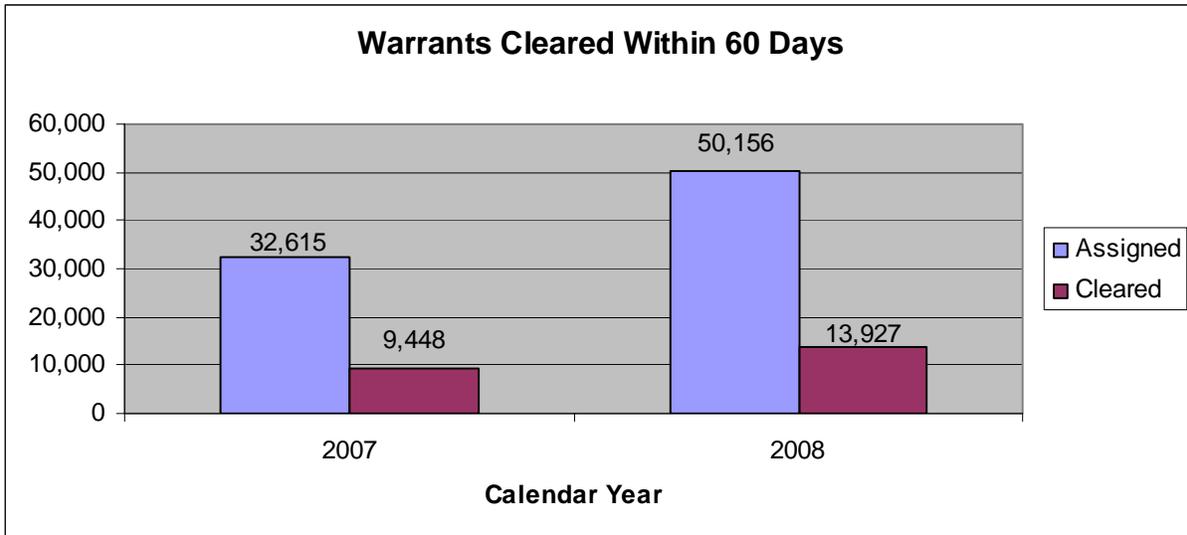
Source: Lawson Financial System \* - As of March 31, 2009

Over the past four years, the Arlington Municipal Court has increased the number of warrants issued, as shown in the chart below.



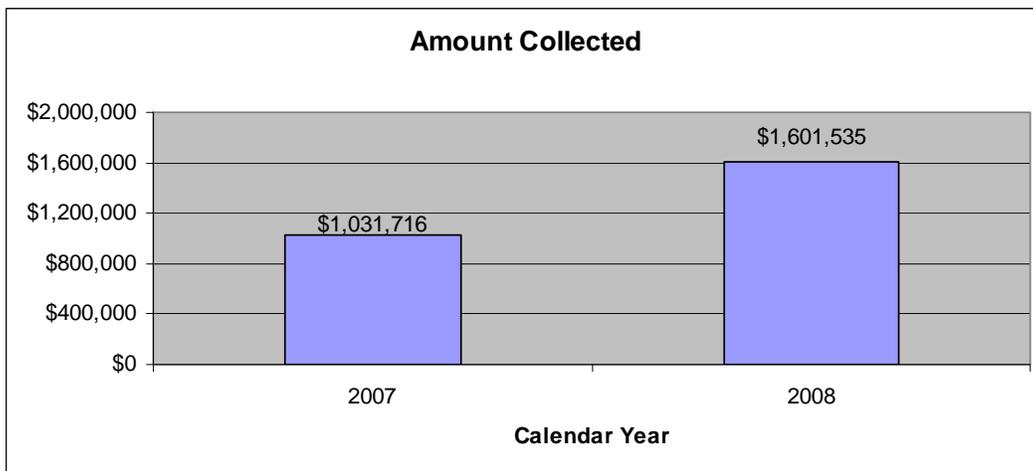
Source: Municipal Court Warrant Progress Reports \* - As of March 31, 2009

During calendar years 2007 and 2008, approximately 28 percent of the warrants appeared to have been cleared within 60 days. The warrant clearance rate remained somewhat consistent even though the number of warrants increased, as shown in the following chart.



Source: APD Warrant Unit Database

As indicated below, the dollar amount collected for warrants cleared within 60 days increased in calendar year 2008.



Source: APD Warrant Unit ACCESS Database

## *Detailed Audit Findings*

### **1. Warrants were not issued for cases that should have been in warrant status.**

Audit tests conducted by the City Auditor's Office indicated that warrants were not issued for cases that should have been in warrant status. In order for the Arlington Municipal Court to ensure that justice is served, arrest warrants must be issued when defendants do not properly address and/or resolve outstanding citations. Failure to properly issue warrants results in non-compliance with the law and loss of potential revenue for the City of Arlington.

The City Auditor's Office identified a significant number of cases for which the warrant process should have been initiated. The number of cases identified does not include cases for defendants who failed to complete deferred adjudication, driver safety requirements, etc. Therefore, the number of cases that should be in warrant status actually exceeds the number indicated on the following charts. With an established performance standard of 200 cases per day, processing warrants for this backlog equates to approximately 164 working days.

#### **Alias Warrants**

During this audit, the City Auditor's Office requested that the Municipal Court run a JEMS report to identify cases with no activity within 45 days. As discussed in the Background section of this report, cases with no activity 45 days from when the citation was entered in the Municipal Court software should be processed as alias warrants. From the JEMS report, the City Auditor's Office identified over 18,000 citations issued between 2006 and 2008 that should have been in alias warrant status but were not. The number of cases that were not placed in alias warrant, by year, is presented in the following chart.

Calendar Year	Number of Alias Warrants Issued	Number of Cases Not in Warrant Status	Value of Cases Not in Warrant Status
2006	28,174	9,631	\$1,844,301
2007	27,846	3,920	787,691
2008	47,633	4,975	1,027,223
<b>Totals</b>	<b>103,653</b>	<b>18,526</b>	<b>\$3,659,215</b>

Source: Municipal Court/JEMS, citations from January 1, 2006 through December 31, 2008

The Municipal Court indicated that during fiscal year 2006, priority was given to the top 10 offenses such as speeding, ran red signal, failure to maintain financial responsibility, invalid inspection, etc. During 2007, the top 25 offenses were considered priority. Other offenses were only processed as time allowed. The Municipal Court indicated that they currently make an effort to process all offenses. However, due to citation volume and staff limitations, not all offenses get processed.

#### **Capias Warrants**

The City Auditor's Office also identified cases that should have been in capias warrant. During the review of extensions and payment plans, there were 3,290 extensions/payment plans granted in 2007 and 10,920 in 2008 for which the defendant did not complete their payment obligation, as shown in

the following chart. It should be noted that as of June 16, 2009, a review of the JEMS system indicated that the Municipal Court still had not issued *capias* warrants for 30% (976 of 3,290) of the 2007 cases and 42% (4,545 of 10,920) of the 2008 cases.

<b>Extensions and Payment Plans</b>						
	<u>2007</u>		<u>2008</u>		<u>2009 *</u>	
	<u>Count</u>	<u>Original Value</u>	<u>Count</u>	<u>Original Value</u>	<u>Count</u>	<u>Original Value</u>
Paid-In-Full	12,060	\$3,294,019.58	12,660	\$3,368,903.16	589	\$143,394.90
Partial Payments	1,599	\$645,244.95	6,454	\$2,449,124.32	902	\$305,487.65
No Payments	1,691	\$587,497.40	4,466	\$1,266,332.45	420	\$120,503.35
Total Extensions/Payment Plans	15,350	\$4,526,761.93	23,580	\$7,084,359.93	1,911	\$569,385.90
Less: Payments Received		(\$3,517,480.11)		(\$4,389,379.24)		(\$262,127.53)
<b>Current Balance Owed on Extensions and Payment Plans</b>	<b>3,290</b>	<b>\$1,009,281.82</b>	<b>10,920</b>	<b>\$2,694,980.69</b>	<b>1,322</b>	<b>\$307,258.37</b>
* Extensions and payment plans granted in January 2009 only						

Source: JEMS through February 2009

*Capias* warrants should be issued to defendants who fail to comply with extensions and payment plans. *Capias* warrants should also be issued when defendants fail to comply with defensive driving and deferred adjudication requirements. When a defendant is granted an extension, the time period to comply with the judgment is extended by 30 days. A defendant that is approved for a payment plan is required to make the first installment payment on the day the payment plan is approved. The defendant is then required to make installment payments over the next three to four months. When the defendant does not pay as scheduled, Court Collection Clerks make a delinquency call and send a delinquency notice to the defendant. The case is then sent to Court Warrant Clerks to process the *capias* warrant.

### **Other Alias and Capias Warrants**

In addition to the cases mentioned above, the City Auditor's Office observed six lateral file drawers containing complaints, failure to appear and probable cause documents which, per Municipal Court staff, represented additional cases that should have been in warrant status. Court staff indicated that time has not permitted them to process these additional cases. Management indicated that due to the current workload, less emphasis is placed on *capias* warrants because *capias* warrants require more research to process than alias warrants.

### ***Recommendation:***

The Municipal Court Services Director should request authorization for staff overtime needed to decrease the warrant backlog. Operational efficiencies gained from implementing Incode should be considered when determining the appropriate amount of overtime requested. While the APD Warrant Unit may not be able to process the additional number of

warrants generated, additional revenue may be recognized since the warrants will at least be captured on NCIC. Also, the planned implementation of OmniBase, a program that prevents driver's license renewals for individuals with outstanding warrants, may also result in additional revenue.

**Management's Response:**

*Concur. The current budget year is at an end and a request for additional overtime will be submitted in the 2011 budget year to accommodate warrant backlog. In the meantime, anticipated efficiencies gained through the Incode software implementation will be leveraged to begin reducing the backlog.*

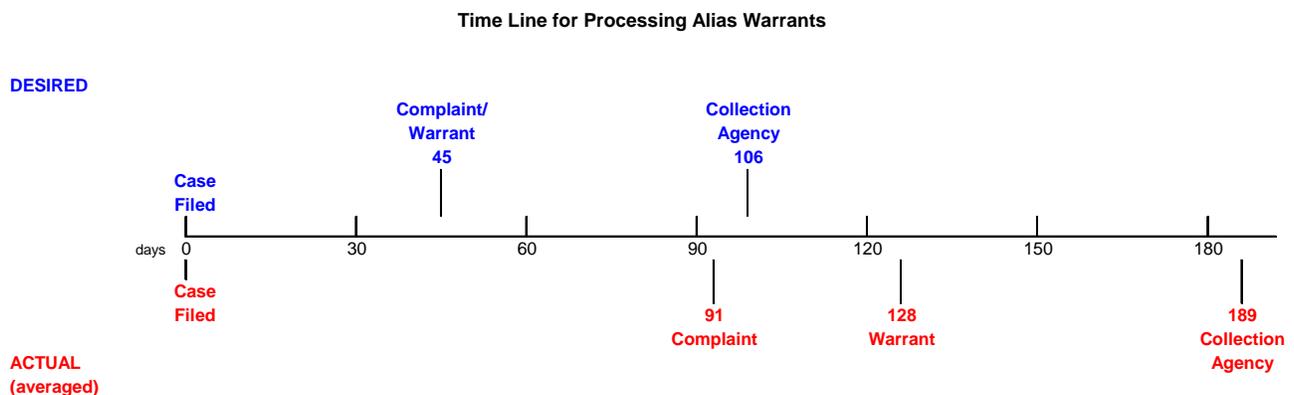
*Target Date: April 2010*

*Responsibility: David Preciado, Municipal Court Director*

**2. Warrants that were issued were not processed in a timely manner.**

According to Municipal Court personnel, after a citation is filed, a defendant is given 45 days to respond to the citation. If the defendant does not respond within this time frame, the warrant process may begin. The warrant process begins with a Court Clerk running the "Appearance Dates Past Due" report that is discussed in the Background section of this report.

The City Auditor's Office reviewed 70 outstanding warrants, issued between June and August 2008, to determine how timely warrants were processed. A comparison of case filed dates, complaint dates and warrant dates indicated that the average number of days from the case filed date to the complaint date was 91 days. The average number of days from the case filed date to the warrant date was 128 days. The *case filed date* is the date the citation was entered into JEMS. The *complaint date* is the date that the complaint was signed by two court clerks. The *warrant date* is the date that the warrant was signed by the judge. As shown below, the average timing of the warrant process (128 days) is much greater than that which is desired (45 days).



According to court personnel, there are numerous reasons for delaying the process of issuing warrants.

- For reasons unknown to Municipal Court staff, some citations do not appear on the “Appearance Dates Past Due” report. This appears to be a JEMS issue. Since JEMS is being replaced, the City Auditor’s Office did not perform a detailed review.
- The warrant process is delayed when additional information is required from the officer that wrote the citation. Currently, the Municipal Court requests additional information from patrol officers when the complaint is ready to be prepared. The City Auditor’s Office concluded that the warrant process would be more efficient if information is requested from the officer during the data entry process rather than at the time of complaint generation. Management indicated that when the Municipal Court begins using Incode, all necessary information will be required at the time of ticket entry.
- If the court requires an opinion from the City Attorney’s Office regarding a citation, the court clerks must wait before processing a warrant.
- Prior to August 2008, Municipal Court mailroom staff ran the “Appearance Dates Past Due” report after they finished processing mail payments. If the mail room got behind in processing mail payments, the “Appearance Dates Past Due” report got delayed. According to court personnel, the mailroom got further and further behind over time. Although this process has changed, the former process may explain some of the existing backlog.
- A report produced by the Municipal Court indicated that backlogs resulted when warrants were processed by the Municipal Court but were awaiting a judge’s signature.

Spreadsheets used to record the number of warrants processed indicate that Court Warrant Clerks prepared an average of 217 warrants per day for the first four months of calendar year 2009. The Municipal Court has established a performance standard of 200 daily warrants. Since the Municipal Court does not retain the past due report and the report could not be ran for prior dates, the City Auditor’s Office was unable to determine the average number of cases that were eligible for daily warrant processing. However, if the number of citations included on the “Appearance Dates Past Due” report exceeds the amount of citations that staff is able to process, a warrant backlog will result. Delayed warrant processing decreases the possibility of clearing warrants and, therefore, decreases potential revenue for the City.

In February 2009, the City Auditor’s Office reviewed an additional sample of 70 citations issued between March 2007 and August 2008 which appeared to qualify for a warrant, but had not been processed as such.

- Seven of the cases had been paid and cleared, so no exception was noted.
- Seven of the cases contained documentation explaining the reason for the delay, so no exception was noted.
- Staff had only processed complaints for 15 of the cases.
- Complaints nor warrants had been prepared for 41 of the cases.

In March 2009, a second review of the 56 cases with no explanation as to why complaints and warrants were not processed was performed.

- Warrants had been issued for seven of the 15 cases that only had a complaint previously. Warrants had not been issued for the remaining eight cases, five of which were over six months old. There was no documentation within JEMS to explain the reason for the delay.
- Complaints had been prepared for 19 of the 41 cases which previously had no complaint or warrant. A warrant had only been prepared for one of the cases.

***Recommendation:***

The Municipal Court Services Director should ensure that complaints and warrants for arrest are prepared as close as possible to the 45-day desired cycle. This can be accomplished by more closely matching the resources needed to process complaints with the resources needed to issue warrants.

***Management's Response:***

*Concur. The warrant department has modified the complaint issuance process to allow for the timely issuance of both complaints and warrants. It will take approximately four months to work through the current complaint inventory. The transition to Incode software will allow for the timely processing of the warrant. The new process will require a 45-day lead time.*

*Target Date: January 15, 2010*

*Responsibility: Katy Tagg, Court Support Services Supervisor*

**3. Outstanding warrant list sent to the Arlington Police Warrant Unit was incomplete.**

As discussed in the Background section of this report, the APD Warrant Unit becomes involved in the warrant process after warrants are issued. Each Monday, newly issued warrants are uploaded from JEMS to the APD Warrant Unit. The new warrants are then assigned to APD Warrant Officers who contact and encourage defendants to resolve the warrants.

Audit results indicated that the upload of newly issued warrants from JEMS to the APD Warrant Unit is incomplete. A comparison of the Municipal Court's warrant list and the warrant unit's database indicated that there were 4,255 cases that had not been transferred to the Warrant Unit. Those warrants dated as far back as 1999. As shown in the following chart, most of the cases (2,495) occurred in 2002 and 2003. A total of 1,072 cases were identified during the past five years (2004 – 2008).

<b>Outstanding Warrants with no record in the Warrant Unit Database</b>	
<u>Year</u>	<u>Number of Cases</u>
2008	150
2007	132
2006	324
2005	383
2004	83
2003	1,144
2002	1,351
1999 to 2001	688
	<u>4,255</u>

Source: JEMS and APD Warrant Unit database

Neither Municipal Court nor APD Warrant Unit staff was aware that all warrants were not being uploaded to the APD database, which is an Access file. According to City software standards, Microsoft SQL is the City standard for multiple user database applications. Information Technology personnel indicated that Access databases are not supported by the Information Technology Department and are unstable compared to the City standards when utilized for large applications with multiple users. Internally created Access databases will typically not include stringent field edit and security controls that may be desired to protect warrant data.

Although the warrants were not properly transferred to the APD Warrant Unit, they appeared to be properly transferred to NCIC. The method by which warrant clearances are documented prevented the City Auditor's Office from determining the percentage of warrants cleared as a result of NCIC only versus those cleared as a result of APD Warrant Unit efforts. However, it seems reasonable to conclude that transferring incomplete warrant information to the APD Warrant Unit could negatively impact the City's warrant clearance rate. As a result, the City's potential revenue and the effectiveness of the City's warrant process could be negatively impacted.

Municipal Court management indicated that a warrant manager module has been funded in the Incode purchase. Management anticipates alleviating the need to upload newly issued warrant data to APD once this module is implemented.

***Recommendation:***

The Municipal Court Services Director, in conjunction with the Deputy Chief of Police over the Operations Support Division, should require weekly reconciliations of newly issued warrants that have been uploaded from the municipal court software to APD. Reconciling items should then be researched and resolved.

***Management's Response:***

*Do Not Concur. Current staff and resource shortages will not allow for the development of a programmatic solution to this problem. The new Warrant Management module in INCODE will eliminate the need for this reconciliation since both the Court staff and Warrant staff*

*will have access to the same warrant data. There will be no transfer from one program to another.*

*Target Date: December 2009*

*Responsibility: David Preciado, Municipal Court Director*

***Audit Comment:***

Since the City Auditor's Office did not determine whether the warrant transfer error was due to JEMS or Access, reconciliation is recommended until the Warrant Management module is actually implemented. Management indicated that the Warrant Management module will not be a part of the initial Incode implementation.

**4. The Municipal Court is not in compliance with the Collection Improvement Program.**

The Collection Improvement Program, established by the Office of Court Administration of the Texas Judicial System, was designed to improve in-house collections through application of best practices and to improve collection of balances more than 60 days past due. Article 103.0033 of the Code of Criminal Procedure requires that counties with a population of 50,000 or greater and municipalities with a population of 100,000 or greater comply with this program. The program relates to individuals who enter a plea with the court, but are unable to pay all amounts related to the citation at the time of the assessment or when time to pay is requested. Some key elements of the program, which are also stated in the Municipal Court's Collection Program Policy, include:

- staff time dedicated to collection activities;
- expectation that all court costs, fees and fines are due at the time of assessment;
- requirement that defendants unable to pay in full on the day of assessment complete an application for extension of time to pay;
- verification and evaluation of applicant information to establish a payment plan;
- strict payment terms;
- alternative enforcement options (e.g., community service) for those who do not qualify for a payment plan; and,
- close monitoring for compliance and prompt action for non-compliance.

The City has dedicated two staff persons to collection activities. These individuals are responsible for monitoring extension and payment plan agreements offered to defendants. In the past two years, there has been a significant number of individuals (23,580 in 2008 and 6,263 from January through March 21, 2009) who have utilized extensions and time payment plans offered by the City of Arlington. A random sample of 60 extensions and payment plans granted between October 2008 and January 2009 (30 that were paid in full and 30 that had partial or no payments) were selected for review. The following deficiencies were noted.

- Written agreements were not captured in JEMS for 17 cases (57%) that were paid in full and nine cases (30%) with no payments.
- Collection applications, for six cases without payments, were incomplete. In most instances, the income and expense sections were left blank.
- Capias warrants were not issued for the defendants who failed to pay as agreed.

Incomplete extension agreements indicate that staff may not be verifying defendant information prior to establishing payment plans. Not issuing capias warrants for those who fail to comply with payment arrangements results in lost revenue and contradicts one key element of the Collection Improvement Program, which is to act promptly when there is noncompliance. Not scanning extension agreements within JEMS may have impacted staff's monitoring efforts.

***Recommendation:***

The Municipal Court Director should require that Extension Applications for time payment plans are properly completed and retained as required by the City's Collection Improvement Program.

***Management's Response:***

*Concur. Judicial cooperation will be sought to create a policy that will allow the court to deny an applicant for a payment plan if the submitted documentation is not fully completed. The granting of a payment plan is a judicial function, not a ministerial function allowed by the Clerk of the Court.*

*Target Date: October 2009*

*Responsibility: David Preciado, Municipal Court Director  
Stewart Milner, Chief Judge*