

Lessons from Ferguson

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The **Ferguson unrest** (also referred to just as **Ferguson**) was a series of protests and civil disorder that began the day after the fatal shooting of Michael Brown, an 18 year-old black male, by Darren Wilson, a white police officer on August 9, 2014, in Ferguson, Missouri.

Department of Justice Report

In response to the shooting and subsequent unrest, the U.S. Department of Justice conducted an investigation into the policing practices of the Ferguson Police Department.

Including Ferguson Municipal Court?

The conclusion of the 100 page report was based primarily on the actions of the Ferguson Police department. The Department of Justice report also included detailed practices of the Municipal Court.

Why ?

“Ferguson’s police and Municipal Court practices have sown deep mistrust between parts of the community and the police department ...” DOJ Report, pg. 2

Findings

- Focus on Generating Revenue
 - “In March of 2010, for instance the City Finance director wrote to Chief Jackson that “unless ticket writing ramps up significantly before the end of the year, it will be hard to significantly raise collections next year... Given that we are looking at a substantial sales tax shortfall, it’s not an insignificant issue.” DOJ report pg. 2
 - “In March of 2013, the Finance Director wrote to the City Manager: Court fees are anticipated to rise about 7.5%. I did ask the Chief if he thought the PD could deliver 10% increase. He indicated they could try.” DOJ report, pg. 2
 - In an April 2014 communication from the Finance Director to Chief Jackson and the City Manager, the Finance Director recommended immediate implementation of an “I-270 traffic enforcement initiative” in order to “begin to fill the revenue pipeline.” DOJ report, Pg 13

Year	Court Fees /Fines Collected
2010	\$1.38 Million
2011	\$1.41 Million
2012	\$2.11 Million
2013	\$2.26 Million
2014	\$2.63 Million (budgeted projection)

Between July 1, 2010 and June 30, 2014

- 90,000 citations issued
- 50% more citations in the last year of that time period than in the first.

DOJ report, pg. 7-9

Revenue Generating - POLICE

In November 2011, a patrol supervisor wrote to his patrol lieutenants and sergeants that “[t]he monthly self-initiated activity totals just came out,” and they **“may want to advise [their] officers who may be interested in the open detective position that one of the categories to be considered when deciding on the eligibility list will be self-initiated activity.”**

The supervisor continued: “Have any of you heard comments such as, why should I produce when I know I’m not getting a raise? Well, some people are about to find out why.” The email concludes with the instruction to **“[k]eep in mind, productivity (self-initiated activity) cannot decline for next year.”** DOJ Report pg. 11

During the DOJ interviewing process several Ferguson police officers from all ranks stated that revenue generation was stressed heavily within the police department, and that the message came from City Leadership. DOJ report pg. 10

The DOJ report concluded that City and Police leadership has pressured officers to write citations, independent of any public safety needs, and relied on citation productivity to fund the City budget.

Revenue Generating - Court

- In April 2011, the Court Clerk wrote to the Presiding Judge that the fines the new Prosecuting Attorney was recommending were not high enough and concluded: "We need to keep up our revenue". DOJ report, pg.15
- In 2012, a Ferguson City Councilmember wrote, to other city officials, regarding his opposition to the re-appointment of the Judge saying **"the Judge does not listen to the testimony, does not review the reports or the criminal history of the defendants, and doesn't let all the pertinent witnesses testify before rendering a verdict"** The City Manager acknowledged mixed reviews of the Judge but supported the re-appointment, noting that the **city could not experience any decrease in Fines and Forfeitures.** DOJ report, pg.15

The DOJ report found that the City of Ferguson **"has allowed its focus on revenue generation to fundamentally compromise the role of the Municipal Court"** and instead **"uses its judicial authority as the means to compel the payment of fines and fees that advance the City's financial interests. This has led to court practices that violate the Fourteenth Amendment's due process and equal protection requirements."** DOJ report pg. 3

Questionable Court Practices

- The court often times failed to provide clear and accurate information regarding a persons charges or court obligation. The DOJ investigators found evidence in court records, of people appearing in court many times- in some instances more then ten times- to try to resolve a case but being unable to do so, and subsequently having additional fines, fees and arrest warrants issued against them.

DOJ report pg. 44-45

- It was found that the initial information provided to people who were cited for violating Ferguson's municipal code was often incomplete or inconsistent. **Communication with Municipal Court defendants was haphazard and known by the court to be unreliable.**
- Also, the court's procedures and operations were ambiguous, were not written down, and were not transparent or available to the public on the court's website or elsewhere.

DOJ report, pg. 45

- Municipal Judges issued rules of practice and procedure verbally and on an ad hoc basis.
- "Court staff members have themselves informed us that there are certain offenses for which they will sometimes require a court appearance and other times not, depending on their own assessment of whether an appearance should be required in a given case. That information, however, is not reliably communicated to the person who has been given the citation." DOJ report, pg. 46

"In July 2014, an assistant court clerk wrote in an email that she rejected a defendant's request for a reduced monthly payment on account of inability to pay and told the defendant, "everyone says [they] can't pay."

- It was found that "The Ferguson court's failure to assess a defendant's ability to pay stands in direct tension with Missouri law, which instructs that in determining the amount and the method of payment of a fine, a court "shall, insofar as practicable, proportion the fine to the burden that payment will impose in view of the financial resources of an individual." Mo. Rev. Stat. § 560.026." DOJ report, pg. 53-54

- Ferguson court staff told the investigators that they believed the high number of missed court appearance in their court could be attributed to the popular belief among Ferguson residents that if they could not immediately pay the fines they owed , they would be arrested and sent to jail. DOJ report, pg. 48

- "Despite the fact that those arrested by FPD for outstanding municipal warrants can be held for several days if unable to post bond, the **Ferguson municipal court does not give credit for time served.**"
- Court records do not track the total amount of time a person has spent in jail as part of a case. When asked why this is not tracked, a member of court staff told us: "It's only three days anyway."

DOJ Report pg. 60

So that's why Municipal Court Practices were included in the Department of Justice report.



Public Servants

DOJ investigators uncovered direct evidence of **racial bias in the communications of influential Ferguson decision makers**. In email messages and during interviews, several court and law enforcement personnel expressed discriminatory views and intolerance with regard to race, religion, and national origin. **The content of these communications is unequivocally derogatory, dehumanizing, and demonstrative of impermissible bias.**

DOJ report, pg. 71

It was found that emails were circulated by police supervisors and court staff that stereotyped racial minorities as criminals, including one email that joked about an abortion by an African-American woman being a means of crime control. DOJ Report, pg. 5

During the DOJ investigation they could not find a single instance in which a police or court recipient of such inappropriate email asked that the sender refrain from sending such emails, or any indication that the emails were reported as inappropriate. Instead, the emails were usually forwarded along to others. DOJ report, pg. 72

We don't want it to be us.



“The ordinary administration of criminal and civil justice...contributes, more than any other circumstance, to impressing upon the minds of people affection, esteem, and reverence towards the government.”

Alexander Hamilton
