



# BALANCING REVENUE CONCERNS WITH DISPOSITION CONCERNS IN MUNICIPAL COURT

A Post-Ferguson Discussion

Corey Fickes, Capital Partner  
Linebarger Goggan Blair & Sampson, LLP



# Overview

- Basics of the Court process
- Background on Department Of Justice Report
- Why are you talking about non-monetary issues with Finance Directors?
- Conclusion

# Court Process

## ■ The Basics

### – *Judicial Process*

- Neutral Arbiter of Justice

### – *Adversarial*

- Defendant
- Court
- State

### – *Class C Misdemeanors*

- Traffic Offenses
- Minor Offenses?
- Teenager DUI; Speeding in a school zone; Failing to restrain a child while operating a motor vehicle; Selling cigarettes to children; Public intoxication; Assault

# Court Process

- Three types of punishment:
  - *Fine, Incarceration, and death penalty*
- Fine Only
  - ....sort of
- Fine
- Court costs

# Court Process

- Citation is issued
- Appearance is required
- Non-appearance may trigger warrant
  
- What is a Warrant?
  - *Capias*
  - *Alias*

220985 31067269 B-8

UNIFORM TRAFFIC TICKET AND COMPLAINT

CASE No. \_\_\_\_\_ DOCKET No. \_\_\_\_\_ PAGE No. \_\_\_\_\_  
 IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

**EVA GREGORY** COMPLAINT - AFFIDAVIT

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_  
 THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS:

ON \_\_\_\_\_ THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_ A.M.  
 P.M.

NAME \_\_\_\_\_  
 LAST (PLEASE PRINT) FIRST INITIAL

STREET \_\_\_\_\_

CITY - STATE \_\_\_\_\_

AGE \_\_\_\_\_ BIRTH DATE \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_ HT. \_\_\_\_\_ WT. \_\_\_\_\_

DRIV. LIC. No. \_\_\_\_\_ STATE \_\_\_\_\_ KIND \_\_\_\_\_ DID UNLAWFULLY (OPERATE) (PARK) \_\_\_\_\_

COMMERCIAL VEHICLE  HAZARDOUS MATERIAL

VEH. LIC. No. \_\_\_\_\_ YR. \_\_\_\_\_ STATE \_\_\_\_\_

YR. MAKE \_\_\_\_\_ STYLE \_\_\_\_\_ COLOR \_\_\_\_\_

UPON A PUBLIC STREET OR HIGHWAY, NAMED (LOCATION) \_\_\_\_\_  
 LOCATED IN THE CITY, VILLAGE, TOWNSHIP, COUNTY AND STATE AFORESAID AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

ACCORDING TO LEADING CAUSES OF ACCIDENTS	<input type="checkbox"/> SPEEDING (over limit) <input type="checkbox"/> 5-10 m.p.h. <input type="checkbox"/> 11-15 m.p.h. <input type="checkbox"/> over 15 m.p.h.	<input type="checkbox"/> Unreasonable for conditions (MPH in MPH zone)	<input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Unable to stop in assured clear distance ahead.	<input type="checkbox"/> Cut corner	<input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Improper LEFT TURN <input type="checkbox"/> No Signal	<input type="checkbox"/> Into wrong lane	<input type="checkbox"/> From wrong lane
	<input type="checkbox"/> Improper RIGHT TURN <input type="checkbox"/> No Signal	<input type="checkbox"/> Past middle intersection	<input type="checkbox"/> Middle of intersection
<input type="checkbox"/> Disobeyed TRAFFIC SIGNAL (When light turned red)	<input type="checkbox"/> Past middle intersection	<input type="checkbox"/> Middle of intersection	<input type="checkbox"/> Not reached intersection
<input type="checkbox"/> Disobeyed STOP SIGN	<input type="checkbox"/> Wrong place	<input type="checkbox"/> Walk speed	<input type="checkbox"/> Faster
<input type="checkbox"/> Improper PASSING AND LANE USAGE	<input type="checkbox"/> At intersection	<input type="checkbox"/> Cut in	<input type="checkbox"/> Wrong Side of pavement
	<input type="checkbox"/> Between Traffic Lane Straddling	<input type="checkbox"/> On right	<input type="checkbox"/> On hill
		<input type="checkbox"/> Wrong lane	<input type="checkbox"/> On curve

OTHER VIOLATIONS (describe) \_\_\_\_\_ OF THE \_\_\_\_\_ OF THE \_\_\_\_\_  
 State Statute  Local Ordinance in such case made and provided.

PARKING: Meter No. \_\_\_\_\_ (Describe) Other \_\_\_\_\_  
 Overtime  Prohibited Area  Double Parking  Expired Meter

parking violation

CONDITIONS THAT INCREASED SERIOUSNESS OF VIOLATION	<input type="checkbox"/> SLIPPERY PAVEMENT	<input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Ice	CAUSED PERSON TO DOODGE	<input type="checkbox"/> Ped. <input type="checkbox"/> Vehicle	
	<input type="checkbox"/> DARKNESS	<input type="checkbox"/> Night <input type="checkbox"/> Fog <input type="checkbox"/> Snow <input type="checkbox"/> Cross		<input type="checkbox"/> Driver <input type="checkbox"/> Hit Fixed Object	
	<input type="checkbox"/> OTHER TRAFFIC PRESENT	<input type="checkbox"/> Oncoming <input type="checkbox"/> Pedestrian		<input type="checkbox"/> JUST MISSED ACCIDENT	<input type="checkbox"/> Right Angle <input type="checkbox"/> Head on <input type="checkbox"/> Sideswipe
	<input type="checkbox"/> AREA: <input type="checkbox"/> Business <input type="checkbox"/> Industrial <input type="checkbox"/> School <input type="checkbox"/> Residential <input type="checkbox"/> Rural	<input type="checkbox"/> Same direction <input type="checkbox"/> Intersection		<input type="checkbox"/> REAR END	<input type="checkbox"/> Ran off Roadway <input type="checkbox"/> Intersection
	HIGHWAY TYPE: <input type="checkbox"/> 2 lane <input type="checkbox"/> 3 lane <input type="checkbox"/> 4 lane <input type="checkbox"/> 4 lane divided			<input type="checkbox"/> FATAL	

THE UNDERSIGNED FURTHER STATES THAT HE HAS JUST AND REASONABLE GROUNDS TO BELIEVE, AND DOES BELIEVE, THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH, CONTRARY TO LAW AND AGAINST THE PEACE AND DIGNITY OF THE STATE. SWORN TO AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

(Name: and title) \_\_\_\_\_ (Signature and identification of officer or other complainant) \_\_\_\_\_  
 (Unit No.) \_\_\_\_\_

COURT APPEARANCE: \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_ M.

ADDRESS OF COURT \_\_\_\_\_  
 I PROMISE TO APPEAR IN SAID COURT OR BUREAU AT SAID TIME AND PLACE.

SIGNATURE \_\_\_\_\_  
 NOTICE, UNDERSTANDING THAT FAILURE TO APPEAR CONSTITUTES A SEPARATE OFFENSE.

NAME \_\_\_\_\_  
 Address/Divided to \_\_\_\_\_  
 Accepted Bond/Am. or Type \_\_\_\_\_  
 Occupation \_\_\_\_\_  
 Social Security Number \_\_\_\_\_

# Forms of Resolution

- Pay
  - *Full*
  - *Reduced*
- Community Service
- Credit for Time Served
- Dismissal
- Indigent



# Court Process

- Common Misconceptions

- *The inability to pay triggers additional fines/fees*
- *The inability to pay results in a warrant or jail time*
- *The fine assessed will be collected*

# Department of Justice

- Ferguson Overview
- Report Findings

Case: 4:16-cv-00180 Doc. #: 1 Filed: 02/10/16 Page: 1 of 56 PageID #: 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, ) No. \_\_\_\_\_  
 )  
Plaintiff, )  
 )  
v. ) **COMPLAINT**  
 )  
THE CITY OF FERGUSON, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**INTRODUCTION**

Plaintiff, the United States of America ("United States"), brings this civil action against Defendant, the City of Ferguson ("City"), under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.



# Ferguson Findings

- Finance Director email to Police Chief:

- *“unless ticket writing ramps up significantly before the end of the year, it will be hard to significantly raise collections next year. What are your thoughts? Given that we are looking at a substantial sales tax shortfall, it’s not an insignificant issue.”*
- *Chief Jackson responded that the City would see an increase in fines once more officers were hired and that **he could target the \$1.5 million forecast.***

- Later email from the Finance Director

- *“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.**”*

# Ferguson Findings

- The influence of revenue on court operations is significant and was highlighted in a 2011 report prepared by the City
  - *“efforts to increase efficiencies and maximize collection.”*
- In that report, then-Judge Brockmeyer describes:
  - *“...creating new fines and fees [...] none of these changes could have taken place without the cooperation of the Court Clerk, the Chief of Police, and the Prosecutor’s Office.”*

# Ferguson Findings

- In December 2014, the Finance Director stated publicly that Ferguson intends to **make up a 2014 revenue shortfall in 2015 through municipal code enforcement**  
  
...
- explaining that “[t]here’s about a million-dollar increase in public-safety fines to make up the difference.”

# Implications

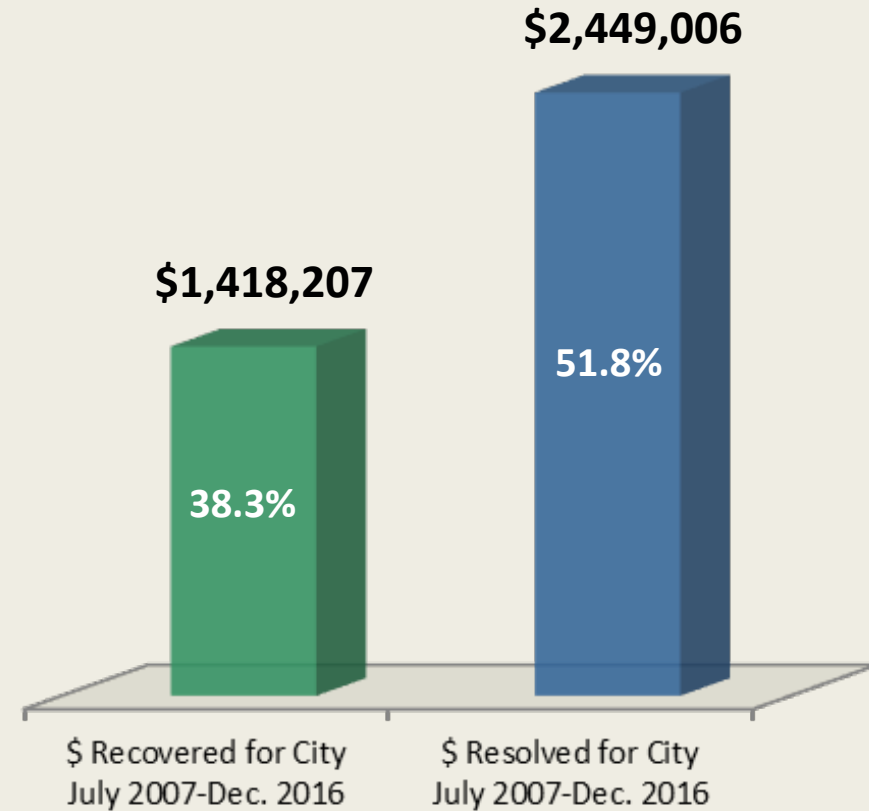
- Court Fines are not debt
- Every citation has a resolution opportunity which may differ from the window fine
- For the Court, a resolved citation should be equal to a collected citation
  
- Imagine an email out of context

# Recovery vs. Resolution Breakdown

## Recovery/Resolution Chart

Resolved	=	\$ 2,449,006
Recovered	=	<u>\$ 1,418,207</u>
Difference	=	\$ 1,030,799

What does the \$1,030,799 represent?



# Conclusion

- Don't be afraid of the Ferguson issue
  - Be aware
  - Courts will generate revenue
  - Embrace all resolution
- 
- Protect the public's trust in local government

# QUESTIONS

Corey Fickes  
Linebarger Goggan Blair & Sampson, LLP  
817-317-9556  
corey.fickes@lgbs.com