



**To: Honorable Gary S. Glazer**

**From: William G. Chadwick**

**Date: November 19, 2012**

**Re: Philadelphia Traffic Court**

## **OVERVIEW**

This interim report addresses the judicial conduct of the five duly elected and commissioned judges of the Traffic Court and two senior judges who sat regularly prior to the September 2011 raid by the Federal Bureau of Investigation (FBI). They are: Judges Thomasine Tynes, Michael Sullivan, Robert Mulgrew, Michael Lowry and Willie Singletary; senior Judge Bernice DeAngelis; and senior Magisterial District Judge Warren Hogeland (Bucks County). In addition, the report addresses certain conduct by Traffic Court Judge Christine Solomon, a former ward leader who assumed office in March 2012.

The report's findings are supported by substantial evidence that was secured by the Chadwick team through interviews of Traffic Court judges and employees, examination of voluminous Traffic Court records, extensive data analysis, and research regarding applicable ethical standards. Due to the high volume of cases and the nature of the Traffic Court's operations, the body of evidence supporting the findings is highly fact-intensive and often repetitious. To address these issues and to strike a balance between clarity and comprehensiveness, the report provides both a composite view of the practices identified and specific examples regarding individual judges.

While our review identified other areas of concern in the operation of the Traffic Court, this report is limited to the conduct of the judges in adjudicating cases.

The report finds that the judges routinely made, accepted and granted third-party requests for preferential treatment for politically connected individuals with cases in Traffic Court. In some

cases, judges granted preferential treatment to violators whose identities or connections they knew even if no express request was made.

These practices violated established standards of conduct for the minor judiciary and resulted in a court with a two-track system of justice, one for the politically connected and another for the unwitting general public. These practices were facilitated by extensive *ex parte* communications among judges, their personal aides and court criers, administrative employees of the court and politically active individuals outside the court.

Three commissioned judges presently remain on the Traffic Court, which has an authorized complement of seven commissioned judges. Of the three, Judges Sullivan and Solomon refused to be interviewed for our review. Judge Lowry agreed to be interviewed, cooperated with our review, admitted his involvement in the practice of granting special consideration of cases, and implicated other judges in the same practice.

## **BACKGROUND**

On September 21, 2011, the Federal Bureau of Investigation (FBI) executed search warrants at the following locations: the home and chambers of Traffic Court then-Administrative Judge Michael Sullivan<sup>1</sup>; the home of senior Judge Fortunato Perri, Sr., former Administrative Judge of the Traffic Court; and the home and office of William Hird, then-Director of Operations for the Traffic Court<sup>2</sup>. The FBI also seized computers and paperwork from Sullivan's and Hird's Traffic Court offices. On the same day, the FBI executed search warrants at the Fireside Tavern, a bar owned by Judge Sullivan's family, and at the Cannonball Tavern, a bar of which Hird is alleged to be an owner. The media reported that the FBI was investigating allegations that public officials and their friends and family members had tickets fixed at Traffic Court.<sup>3</sup>

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<sup>1</sup> Judge Sullivan was removed as Administrative Judge by Order of the Supreme Court dated December 19, 2011; he remains a judge at Traffic Court.

<sup>2</sup> Hird declined our request for an interview and submitted a letter of resignation on November 16, 2011.

<sup>3</sup> On August 18, 2010, the FBI had executed search warrants at the home and office of Philadelphia Traffic Court ("Traffic Court") Judge Robert Mulgrew, at the legislative district office of Pennsylvania State Representative Bill Keller, and at a private business owned by Keller. On September 13, 2012 the United States Attorney for the

Following these searches, the United States Attorney's Office for the Eastern District of Pennsylvania and the FBI (collectively, "the government") served grand jury subpoenas on numerous Traffic Court employees and subpoenas *duces tecum* on Traffic Court administrators seeking specific case files and materials relating to the standard policies, procedures and practices of the court.

Although the full scope of the federal investigation is not known at present and likely encompasses activities external to the operations of the Traffic Court, it is evident that the seven judges who were sitting regularly at the time of the 2011 raid are subjects or targets of federal scrutiny. They are:

- Judge Thomasine Tynes (former President Judge; retired on July 3, 2012)
- Judge Michael Sullivan (former Administrative Judge; currently sitting)
- Judge Michael Lowery (currently sitting)
- Judge Robert Mulgrew (suspended without pay on September 18, 2012)
- Judge Willie Singletary (suspended without pay on January 5, 2012; resigned on March 1, 2012)
- Judge Bernice DeAngelis (senior; the last day Judge DeAngelis presided at Traffic Court was April 20, 2012)
- Judge Warren Hogeland (senior; the last day Judge Hogeland presided at Traffic Court was August 10, 2012)

To date, no Traffic Court judge has advised the Chief Justice in writing that he or she is the target of the government's investigation as is required under Rule 1921 of the Pennsylvania Rules of Judicial Administration.

In late December 2011, unrelated to the federal investigation, a young female Parking Authority employee assigned to Traffic Court alleged that Judge Willie Singletary had made improper

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Eastern District of Pennsylvania announced the indictment of Judge Mulgrew and others on charges of grant fraud and tax evasion related to Judge Mulgrew's roles as Vice President of the Friends of Dickinson Square Park in south Philadelphia. The Supreme Court suspended Judge Mulgrew without pay on September 18, 2012.

sexual advances, displayed obscene photographs to her, and then intimidated her and attempted to interfere with the investigation after she reported the incident.

## **RESPONSE BY THE JUDICIARY**

On September 23, 2011, two days after the search warrants were executed, after consultation with Chief Justice Ronald D. Castille, who is liaison justice to the First Judicial District (FJD), the FJD engaged Chadwick Associates, Inc. to facilitate the cooperation of Traffic Court personnel with the federal investigation and to conduct an independent review of the integrity of the court's operations, the quality of its internal controls, and its compliance with applicable statutes and regulations.

On December 19, 2011, pursuant to its constitutional oversight authority of the Unified Judicial System, the Supreme Court removed Judge Sullivan from the position of Administrative Judge of the Traffic Court and appointed Philadelphia Common Pleas Judge Gary S. Glazer as Administrative Judge to oversee the implementation of Traffic Court reforms.

On January 5, 2012, the Supreme Court suspended then-Traffic Court Judge Singletary, without pay, as a result of the allegations made in late December and referred the matter to the Judicial Conduct Board. On March 1, 2012, Judge Singletary submitted his resignation to Judge Glazer following the Judicial Conduct Board's filing of formal charges against him on the same day. In an opinion filed October 9, 2012, the Court of Judicial Discipline found that the Judicial Conduct Board had established by clear and convincing evidence the Judge Singletary's conduct brought the judicial office into disrepute in violation of Article V, Section 18(d)(1) of the Pennsylvania Constitution. Further proceedings are pending before the Court of Judicial Discipline.

On September 18, 2012 the Supreme Court suspended Judge Mulgrew without pay following the announcement of his federal indictment.

The Supreme Court is no longer certifying Judges DeAngelis and Hogeland to sit as senior judges pending the outcome of this review and the federal investigation.

## COOPERATION WITH THE FEDERAL INVESTIGATION

At the outset, Chadwick Associates met with the United States Attorney's Office for the Eastern District and the FBI to communicate the FJD's full cooperation with the investigation and to establish a protocol for responding to subpoenas for Traffic Court documents. For sound legal and policy reasons, it was mutually agreed that Chadwick Associates' review would proceed independently of the federal investigation and that neither side would share its findings with the other.<sup>4</sup>

Chadwick Associates encouraged Traffic Court employees to cooperate with the government's investigation as ordered by the Supreme Court and, working with the FJD, arranged for private counsel to provide legal advice to facilitate their cooperation with the federal investigation.

## METHODOLOGY

Initial meetings with Traffic Court administrators established the existence of major integrity problems in the adjudication of cases, in particular, the longstanding practice of affording preferential treatment to motor vehicle code violators with connections to the court through family, friends and political networks. Preferential treatment - basing an adjudication in whole or in part on the violator's identity and connections rather than solely on the merits of the case itself - most commonly followed secret requests to the judges for "special consideration," which were made extra-judicially and *ex parte*. Although special consideration most frequently followed *ex parte* third party requests, judges also granted preferential treatment *sua sponte* when they knew the violator or the violator's political connections. As a result of this information, we prioritized the area of special consideration in our review.

At the outset, we identified the standards of conduct for judges and court employees relating to *ex parte* communications and favoritism. Traffic Court judges are bound by the Rules Governing the Standards of Conduct of Magisterial District Judges, which were adopted by the Supreme

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<sup>4</sup> One policy consideration arises from a decision of the United States Court of Appeals for the Third Circuit in *United States v. Garrity*, which holds that statements compelled in a public employment setting may be subject to suppression under the Fourth Amendment in a criminal prosecution.

Court, pursuant to Article V, Section 10 of the Pennsylvania Constitution. The key provisions prohibiting favoritism and *ex parte* communications are as follows:

Rule 2(A):

Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Magisterial district judges shall not allow their family, social or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of their office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.

Rule 4(D):

Magisterial district judges shall accord to every person who is legally interested in a proceeding, or their lawyer, full right to be heard according to law and, except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding. Magisterial district judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them if they give notice to the parties of the person consulted and the substance of the advice and afford the parties reasonable opportunities to respond.

These ethics topics are covered as part of the mandatory annual training required of Traffic Court judges and administrators by the Minor Judiciary Education Board. All judges who presided in Traffic Court at the time of the federal raid had completed the required annual training for as long as they had been on the bench.

After identifying the applicable rules, we observed courtroom operations; acquired and examined relevant documents including case folders and docket lists; analyzed case disposition data to identify patterns; interviewed court employees including administrators, court criers, court officers and judges' personals; and attempted to interview the judges.

One difficulty that we encountered is that because Traffic Court is not a court of record, proceedings are not transcribed and records of the evidence presented in court (e.g., proof of registration, licensure and insurance) are not reliably maintained. As a result, the evidentiary basis for most adjudications cannot be discerned from the individual case folder. Moreover,

written requests for special consideration, described by numerous employees as names on index cards or on database printouts that were passed to judges or their personals were discarded after the hearings, leaving no record of the cases on which special consideration had been sought.

Many court employees were not fully cooperative with our review, which was manifested by some reluctance to speak with us and by their misrepresentations about the extent of their knowledge of the practice of special consideration. Numerous employees – including those who readily admitted that the requests were part of the culture at Traffic Court – were reluctant or unwilling to name violators for whom special consideration had been sought or to identify the judges who had granted special consideration unless the judge was deceased or no longer sat in Traffic Court. One employee admitted seeking special consideration for her son in 2006 from now-deceased Judge William Adams (for which he was found not guilty in absentia) but failed to disclose that her son had also been found not guilty in absentia by Judge Lowry in March 2009 and not guilty before Judge Sullivan in November 2009.

Reasons for employees' reluctance to cooperate varied. We believe that the primary reason is the intensely political environment of Traffic Court, where most employees are hired based on political connections and where party allegiance often determines employees' career paths. Despite Judge Glazer's and our own assurances, employees were wary of cooperating with this review. Some employees expressed the belief that the review was politically motivated and maintained that there was nothing wrong with doing favors as long as money did not change hands. Others were concerned about their own exposure in the federal investigation.

As of the date of this report, we have interviewed 42 court employees, four Traffic Court judges and one Supreme Court justice; reviewed hundreds of case folders; reviewed applicable ethical standards for judges and court employees and related training materials; and analyzed case disposition data in order to identify patterns and trends. We confined our interviews to FJD employees and current judges of the Traffic Court and did not interview individuals outside of Traffic Court.

## FINDINGS

Our review determined that the commissioned Traffic Court judges and the senior judges who were regularly assigned to the Traffic Court in the years leading up to the federal raid in September 2011 routinely entertained and acted upon extra judicial, *ex parte* requests for favorable treatment of traffic violators from sources within the Traffic Court and sources external to its operations. The judges also made their own requests for favorable treatment from other Traffic Court judges and granted preferential treatment *sua sponte* in the absence of special requests to violators whose identities or whose connections they knew. These practices were deeply ingrained in the culture of Traffic Court. Numerous court employees at all levels of administration participated in this practice and treated the ability to influence the outcomes of traffic cases on behalf of themselves, their family members and their friends as a perquisite of their jobs or as a requirement of employment. The cumulative effect of these practices resulted in a court with two tracks of justice – one for the connected and another for the unwitting general public.

Preferential treatment of connected violators was so commonplace that it was broadly accepted by court employees. Many employees expressed the belief that handling requests for special consideration was part of their job responsibilities. Having secured their jobs through political connections, they felt obliged to help others who were politically connected or suffer employment repercussions, including termination, if they refused. Numerous employees claimed that there was nothing wrong with the practice so long as money or other consideration did not change hands. One employee even argued that the system was fair because every violator had access to preferential treatment if only the violator was savvy enough to ask his elected ward leader for help. The employee said that it was the violator's own fault if he or she didn't know enough to seek help from someone who was politically connected.

The volume of requests for special consideration varied from week to week. In some weeks there would be no requests; in other weeks there would be numerous requests for each judge.

While we did not conduct interviews outside of Traffic Court, and while no one inside Traffic Court alleged that money or anything else of value changed hands, preferential treatment in a



traffic case has substantial financial value. With fines in the thousands of dollars, insurance surcharges, driver license suspension and scofflaw incarceration all at stake, there is a serious risk of these services being bought and sold.

**External requests for special consideration.** External requests came from political party officials, such as ward leaders, and from the staff of elected officials. Court employees identified the offices of State Senator Mike J. Stack, of Philadelphia City Councilwoman Jannie L. Blackwell, and of United States Congressman Robert Brady as frequent requestors of special consideration. We have not interviewed these officials or their staffs regarding these allegations.

External requests were made directly to the judges, to the judges' personals, and to the court criers, particularly for senior judges who did not have personals. The system of conveying requests was partially centralized approximately four years ago when William Hird, then-Director of Courtroom Operations, began acting as a clearinghouse for many external consideration requests. Hird would receive telephone calls in his office about an upcoming case, access the electronic case file from his office computer, print out the docket, make handwritten notes on it, and then deliver - or have it delivered - to the judge assigned to the case. Sometimes Hird would give the printouts to his subordinate Bernard Lindline, Chief of Courtroom Operations, who would visit the courtroom and deliver the request to the presiding judge or the judge's personal. One court official advised that Hird assumed the clearinghouse role at the request of Judge Mulgrew for the purpose of insulating the judges from the numerous outsiders seeking to influence Traffic Court adjudications, an allegation that Judge Mulgrew denies. Despite Hird assuming this role, court employees – primarily personals – continued to accept external requests directly. For example, Danielle Czerniakowski, Judge Sullivan's personal, handled the vast majority of requests from external sources for Judge Sullivan's special consideration.

**Internal requests for special consideration/*sua sponte* grants of special consideration.**

Judges and court employees made internal requests on behalf of their family members, friends and associates. These requests were generally made in writing to the judges, their personals or to other court employees. Czerniakowski would often write the names of violators on index cards

that were passed along to the hearing judges. Thereafter, the personal or court officer would flag the violator's case folder to inform the presiding judge that special consideration had been sought on the case. Judges also routinely granted special consideration in the absence of a request to Traffic Court employees and members of their families who appeared as violators. Specific cases are discussed later in this report. Data analysis established an acquittal rate of 85% for Traffic Court employees<sup>5</sup> and their family members<sup>6</sup> compared with an acquittal rate of 26% for the public at large, a difference of 327%.<sup>7</sup>

**Nature of the special consideration granted.** The special consideration granted by judges ranged from outright acquittals and dismissals to amendments of the citation downgrading the offense to a charge carrying fewer demerit points on the offender's driving record. Some personals questioned whether the requests affected the outcomes of the cases, citing the broad discretion that judges have in deciding cases. A valuable and unusual form of special consideration was a "not guilty in absentia" for which the violator was not required to appear for a hearing. Hird on occasion would write "WNA" (will not appear) on the case printout seeking special consideration, indicating that the violator would not appear in court for the hearing.

**Extent of participation by Traffic Court judges and staff.** Twenty-two (22) employees whose assignments exposed them to special consideration and who admitted having knowledge of the practice said that the practice was common at Traffic Court. Nineteen of the twenty-two<sup>8</sup>, including the Deputy Court Administrator and two directors, could not identify a single judge who did not participate in the practice either by making, accepting, or granting requests for preferential treatment.<sup>9</sup> In addition, as described more fully below, neither Judge Hogeland nor Judge Lowry, both of whom admitted participating in the practice, could identify a single judge

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<sup>5</sup> We determined the hire date for all current Traffic Court employees, and calculated the "not guilty" rate for all adjudications of themselves or their family members during the time at which they were employed at Traffic Court; if the adjudication took place prior to the employee's hire date, it was excluded from the calculation.

<sup>6</sup> We determined a violator was a "family member" of an employee either by confirming that they reside at the same address or during interviews with the employees.

<sup>7</sup> Twenty-six percent is the average "not guilty" rate for Traffic Court from 2009 through 2011.

<sup>8</sup> Twenty employees were not asked about judges who did not participate because they had only limited exposure to the practice as a result of their job responsibilities.

<sup>9</sup> Three employees qualified their statements in some manner but acknowledged that the practice was common.

who did not participate. They both related that Judge DeAngelis, who was the administrative judge when they first sat in Traffic Court, discussed the practice with them and led them to believe their participation was expected. Judge Mulgrew was less forthcoming, but conceded that special consideration was a part of the culture at Traffic Court.

While it is clear that all judges participated in the practice, not every employee participated in it. Numerous employees, because of their office assignments, were not in a position to observe the practice or to participate in it. Others declined to participate and did not seek special consideration for themselves or their family members.

Most employees who were interviewed and Judges Lowry and Hogeland advised that the practice ceased as of the federal raid in September 2011. However, as recently as September 5, 2012, a ward leader called Traffic Court and asked to be transferred to Judge Solomon. When asked the purpose of his call, the ward leader said that he wanted to tell Judge Solomon that a friend of his had a case listed before her the next day and to let her know that he would be coming down. The ward leader called back a few hours later to confirm that his message had been delivered to Judge Solomon and was told that his message had instead been referred to Judge Glazer, the Administrative Judge. He responded, "How does that help me" and again asked whether his message had been delivered to Judge Solomon. This, and similar calls received in recent months, suggests that politically connected Philadelphians still believe they can influence the outcome of cases at the Traffic Court, despite widespread publicity of the federal investigation.

## **DISCUSSION OF INDIVIDUAL JUDGES**

The previous section presented findings common to the seven judges who were sitting regularly at the time of the federal raid in September 2011. This section describes additional evidence specific to individual judges and provides the responses of those judges who agreed to be interviewed.

***Judge Michael Lowry***

Michael Lowry was sworn in as a Traffic Court judge in January 2008. Both Judge Lowry and his personal, Kevin O'Donnell, agreed to be interviewed and were cooperative with our review.<sup>10</sup>

Judge Lowry admitted that prior to September 2011 he made, received and acted upon requests for special consideration. He said that all judges of the Traffic Court were expected to participate in the practice and that all did participate in the practice. When he was sworn in, Judge DeAngelis, then Administrative Judge, told him it was a requirement, saying "You have to do what you have to do, just be careful."

Judge Lowry described the number of requests for special consideration as "minimal," approximately a "couple" per month. He channeled requests through O'Donnell, but if O'Donnell was not available, Hird would come to Judge Lowry directly with requests. He said he generally could not recall the names of those who had made requests and referred us to O'Donnell for specifics. He did recall, however, receiving requests from Frank Conway, a former ward leader, William Dolbow, Ward Leader 35(D), and Mike McAleer, Ward Leader 66B(D). He said that he has not participated in the practice since the government executed search warrants in September 2011.

O'Donnell confirmed that he received the consideration requests and then passed them along to Judge Lowry, telling him the name of the person who had made the request and the name of the violator. O'Donnell said he received requests from every personal at Traffic Court on behalf of their judges, from Hird and from employees on behalf of their family members and friends. The requests varied in frequency, sometimes two per week and sometimes none. The requests from personals typically came on a piece of paper bearing the violator's name.

O'Donnell did not always accept requests. Sometimes, depending on Judge Lowry's "mood"<sup>11</sup>, O'Donnell would tell the requestor he was not accepting names that day. O'Donnell said that, as

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<sup>10</sup> Walt Smaczylo, a court officer who primarily served as Judge Lowry's crier, was also interviewed and while he acknowledged that special consideration was a common practice at Traffic Court, he provided no details and denied any involvement.

time progressed, he would only accept internal requests from personals on behalf of their judges and from Hird<sup>12</sup>, and stopped accepting requests from employees on behalf of their family members and friends. O'Donnell said that he always accepted external requests from politically active individuals outside of Traffic Court employees and said McAleer and Dolbow were among the more frequent requestors of special consideration.

Regarding the types of special consideration granted, Judge Lowry said that if a case was "weak," the request would make it easy for him to acquit the offender. On some occasions, though, he would convict despite the request for special consideration. He said that his reputation was more important to him than making someone happy and he didn't care "who they were." He cited one case involving the nephew of a police liaison officer whom he found guilty of the most serious traffic offense. O'Donnell advised that Judge Lowry sometimes acquitted the offender and other times amended the charge to a lesser offense.

Independent evidence corroborates that Judge Lowry acted upon requests for special consideration. Traffic Court employee John Lynch advised that a case against his nephew, Kevin Lynch, was dismissed after he requested special consideration. Traffic Court records reflect that Judge Lowry dismissed Kevin Lynch's case on January 25, 2011.

An examination of cases involving Traffic Court employees and their family members identified five cases where Judge Lowry appears to have granted special consideration: two of the cases were dismissed; three were adjudicated not guilty (two of those were adjudicated not guilty in absentia). Questioned about a not guilty in absentia adjudication involving Carl King, the son of court officer Arlene King, Judge Lowry initially could not recall the basis for his adjudication. He said that he did not recognize the name of the violator and questioned whether the signature on the adjudication was his. Upon a closer examination, however, he conceded that the signature was his and that special consideration may have been requested because he rarely acquitted offenders in absentia. Advised that Carl King was the son of Arlene King, Judge Lowry stated

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<sup>11</sup> Judge Lowry said it "irritated him" when O'Donnell had a request for him.

<sup>12</sup> O'Donnell said that when a request came from Hird, he would not ask on whose behalf Hird was making the request.

that that was the likely basis for his decision. He said that while it was unusual for this to happen, he was probably trying to be a “nice guy” to the employee.

Both Judge Lowry and O’Donnell acknowledged that, in addition to accepting requests from others, Judge Lowry made personal requests for special consideration. However, their accounts differed as to the frequency of those requests. Judge Lowry said that he had sought special consideration only once, on behalf of his nephew and godson, Franny Lowry. O’Donnell, however, recalled making multiple requests on Judge Lowry’s behalf. O’Donnell’s account is corroborated by other personals who advised that Judge Lowry, through O’Donnell, had sought consideration from each of their judges on at least one occasion.<sup>13</sup> O’Donnell said Judge Lowry would give him the name of the violator and O’Donnell would write it down and pass it to the personal for the presiding judge. O’Donnell said that he would later, on his own initiative, follow up regarding the disposition of the case but he never shared that information with Judge Lowry.

While most employees reported that requests for special consideration stopped after the FBI raid in September 2011, Tanya Hilton, the personal for former Traffic Court Judge Willie Singletary, said Judge Lowry continued to make requests to Judge Singletary after the raid. Judge Lowry strongly denied Hilton’s allegation stating “that would be a lie. I wouldn’t risk that for anybody.”

Judge Lowry believes that the issue of special consideration has been “blown a little out of proportion even though it’s something we shouldn’t have done.” He has spoken with several attorneys, all of whom he claims have told him that they could not identify a “crime” in letting his personal take names of violators. Nonetheless, Judge Lowry acknowledged that the practice is wrong and believes he can be an effective advocate for its abolishment.

Judge Lowry confirmed that he has been interviewed by federal investigators.

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<sup>13</sup> At one point during his interview, Judge Hogeland, who does not have a personal because of his position as a Senior Judge, said that while he received requests from some judges, he never received a request from Judge Lowry; he subsequently contradicted that statement later in his interview.

***Judge Warren Hogeland***

Judge Warren Hogeland was certified as a senior Magisterial District Judge from Bucks County. He was first assigned to the Philadelphia Traffic Court in January 2005 when he became senior judge. He has not been certified to sit since August 10, 2012. As a senior judge, Judge Hogeland did not have an assigned personal, and Maryann Trombetta, the crier most frequently assigned to his courtroom, channeled requests for special consideration to and from the judge. Both Judge Hogeland and Trombetta agreed to be interviewed and were cooperative.

Judge Hogeland admitted accepting requests for special consideration and granting special consideration in response to the requests. He said that he was essentially ordered to do so by Judge DeAngelis, who was the Administrative Judge when he first was assigned to Traffic Court. On his first day at Traffic Court, Judge DeAngelis congratulated him, engaged in small talk, and then told him, "This is Philadelphia. We do things a lot different in Philadelphia. Everything you've learned, throw out the window, because this is what we do down here." Judge Hogeland initially did not understand the meaning of her message. But shortly thereafter, he found a piece of paper on his desk and did not know what it was. His court officer told him that it was a request for consideration on a ticket, and explained that sometimes "they" want help. Thereafter, when Judge Hogeland received such requests, he said he would review the tickets and sometimes amend them down to less serious charges and sometimes dismiss them entirely. He received requests from Judges DeAngelis, Sullivan, Singletary and Perri. He received requests on behalf of Judge Tynes from Migdalia (Dolly) Warren, a member of Judge Tynes' staff. He also received requests from Hird. He said that Judges Lowry and Mulgrew never made requests of him.

Judge Hogeland said that, beginning in approximately 2008, he came to believe that special consideration was wrong and decided he would no longer participate in the practice. Shortly thereafter, he received a request from Judge DeAngelis and he went to her and told her that he would not give special consideration any longer. According to Judge Hogeland, Judge DeAngelis stood up, beat her hands on the table, and said, "I want you to understand. This is Philadelphia. This is the way we do things. I want you to get with the game plan." Judge

Hogeland said that he did not argue with her, but he began rejecting requests for special consideration.

Judge Hogeland said that on two subsequent occasions, he rejected requests for special consideration from Judge Singletary, who confronted him both times and said that Traffic Court judges are supposed to take care of each other, that “this is what we are supposed to do.”

Judge Hogeland believed that, after a while, everyone at Traffic Court came to realize that he did not participate in special consideration. Although he never “announced” his policy of not accepting requests, he told individuals who made requests that he would not participate in this practice.

Despite Judge Hogeland’s assertions that by 2008 he had stopped accepting requests and had so informed numerous court employees, none of the 22 court employees who were asked if they knew of judges who did not participate identified Judge Hogeland as a judge who did not participate. Trombetta, who accepted requests for special consideration on Judge Hogeland’s behalf, said that Judge Hogeland never told her prior to the federal raid taking place that he would no longer accept requests for special consideration; and Lindline, who passed requests to Judge Hogeland from Hird, corroborated Trombetta’s statement that there was no point at which Judge Hogeland stopped accepting requests for special consideration.

An examination of cases involving Traffic Court employees and their family members identified two offenders who appear to have received special consideration from Judge Hogeland. The two offenders were charged with a total of seven citations, each of which Judge Hogeland adjudicated not guilty. The first offender, Keith Adams, the son of now former Traffic Court employee Mary Adams, was cited for 1) failure to carry registration, 2) investigation by police, and 3) reckless driving. The narrative on the reckless driving citation read as follows:

Above drove through the scene of an auto accident with multiple injuries at a (sic) extremely high rate of speed causing pedestrians to dive out of (sic) way to avoid being hit – Refused to stop for police approx. ½ m.



When initially questioned about the not guilty adjudication on these citations, Judge Hogeland explained that the first two citations were facially defective. However, after reading the narrative for the third citation, he conceded that his not guilty adjudication must have been entered in response to a request for special consideration. He said that without a request for special consideration, Adams would have been found guilty. This case was adjudicated in 2010, two years after Judge Hogeland claimed to have stopped accepting requests for special consideration.

The second offender was Charles Mapp, Jr., an FJD employee<sup>14</sup> who is the son of FJD Chief Deputy Court Administrator Charles Mapp. The senior Charles Mapp had approached Deputy Court Administrator Bob DeEmilio seeking assistance with his son's case, which was listed before Judge Hogeland. DeEmilio advised that he communicated the request for Judge Hogeland's consideration to Billy Hird. Court records reflect that on March 29, 2007, Judge Hogeland acquitted Charles Mapp, Jr., of all charges in the case. Mapp, Jr. has also been acquitted in two other Traffic Court cases.<sup>15</sup>

In another case, on July 16, 2010, Judge Hogeland acquitted Lise Rapaport, the wife of Pennsylvania Supreme Court Justice Seamus McCaffery, of the charge of driving the wrong way on a one-way street on May 14, 2010. Two Traffic Court administrators reported that on the date of Ms. Rapaport's hearing, they were in a meeting with Billy Hird when Hird received a cell phone text message from Justice McCaffery asking Hird to meet him outside the building. One administrator recalled Hird saying that Hird was helping Justice McCaffery out with something in front of a judge whose name the administrator could not remember. The administrator later learned that Justice McCaffery's wife had been found not guilty of a traffic violation that day. The other administrator recalled Hird saying that Justice McCaffery's wife "had a little issue" and that the justice "did not want to come in." Hird told the administrator that he had gone to the entrance, escorted the justice's wife into the building, seen to it that she was "okay", and then

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<sup>14</sup> Mapp's job title is "Court Representative".

<sup>15</sup> This report focuses on the role of judges of the Traffic Court in the practice of special consideration. However, substantial evidence supports the involvement of other FJD employees in the practice, including deputy court administrators.

“went outside and saw Seamus in the car.” The administrator reported that Hird had told him on numerous occasions that he was close to Justice McCaffery, whom he referred to as “chief”.

During our interview with Judge Hogeland, we showed him the Rapaport case folder and asked whether he recalled the case and the basis for the acquittal. He said that he did not recall the case and did not recognize the offender’s name. As to the basis for the acquittal, Judge Hogeland said that in a case of this type he would want to know the location of the police officer when he observed the violation because the rules require that it be noted at the bottom of the ticket.<sup>16</sup> Upon further questioning, Judge Hogeland said he had heard a rumor that Justice McCaffery’s wife had been at Traffic Court. He said that he could not recall her name, but he had heard that she had been in the building and that Justice McCaffery was with her, as was Billy Hird. He said that was all he knew about her ticket.

In an interview, Justice McCaffery advised that it was raining on the evening that Rapaport received the citation and, due to poor visibility, she mistakenly turned onto a one-way section of Market Street travelling in the wrong direction. Despite that it was a mistake, the police officer issued Rapaport a citation for driving the wrong way on a one-way street. Justice McCaffery said that he called Hird to have the case assigned to an out-of-county judge because it would be a conflict for a Philadelphia Traffic Court judge to hear Rapaport’s case. Justice McCaffery said that he called Hird because he knew Hird from political campaigns. Justice McCaffery said he did not know at the time that Hird was the key contact for politically connected individuals outside of Traffic Court seeking special consideration on motor vehicle cases.

Justice McCaffery said that on the day of Rapaport’s hearing, he drove her to Traffic Court and waited in his car while Rapaport attended her hearing. Justice McCaffery said he did not enter the building because of his position. Justice McCaffery sent Hird a cell phone text message asking Hird to meet him outside. Hird met with Justice McCaffery in Justice McCaffery’s car until Rapaport returned from her hearing and advised that she had been found not guilty. Justice

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<sup>16</sup> In the Remarks section of the citation, the officer had written: “Above veh was observed going the wrong way on a one way street.” The Location of Occurrence was “1900 Market”.

McCaffery said that he believed he had done nothing wrong and had only acted to avoid a conflict in the handling of the case.<sup>17</sup>

In addition to admitting that he accepted requests for special consideration, Judge Hogeland also admitted making requests for special consideration on three occasions, although he claimed not to recall the names of the individuals on whose behalf he made the requests. He said that one case involved an acquaintance from Bucks County, where Judge Hogeland had served as a magisterial district judge. Judge Hogeland made the requests through the personals of three judges, one of whom he believes was Judge Sullivan's personal. He said he made the requests prior to 2008.

Asked whether he ever reported his concerns about the practice of special consideration to anyone, Judge Hogeland said that he could not have reported them to the administrative judge because that was where the "authority" to engage in the practice started.

In summary, Judge Hogeland's assertion that he ceased the practice three years prior to the federal raid is contradicted by substantial evidence.

### ***Judge Bernice DeAngelis***

Judge Bernice DeAngelis was sworn in as a Traffic Court judge in January 1992. On December 30, 2010, Judge DeAngelis was certified as a Senior Judge on Traffic Court. She was appointed Administrative Judge by the Supreme Court in May 1996 and served in that capacity through December 2000. She was appointed Administrative Judge again in February 2005 and served until April 2011 when she was replaced by Judge Sullivan. Judge DeAngelis last sat as a senior judge at Traffic Court on April 20, 2012. She has not been assigned since that date. Judge DeAngelis is represented by counsel and numerous attempts to schedule an interview with her were unsuccessful.

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<sup>17</sup> The federal government served a grand jury subpoena on the Traffic Court for the Rapaport case file and the file was produced pursuant to the subpoena.

Numerous witnesses and documentary evidence confirm that Judge DeAngelis actively encouraged and participated in the practice of special consideration.

As described above, 19 employees and two judges with personal knowledge of the practice, when questioned, said they could not name a single judge who did not participate.

As noted above, Judge Hogeland described in detail two separate occasions when Judge DeAngelis argued emphatically in favor of granting consideration requests.

Judge Lowry described a similar experience. He said that when he started hearing cases at Traffic Court, Judge DeAngelis told him that he had to participate in the practice saying, "You have to do what you have to do, just be careful."

Bernard Lindline, who passed requests for special consideration to judges or personals on behalf of Billy Hird, said that Judge DeAngelis participated in the practice but that she preferred that requests to her be handled by Hird personally.

As previously described, Bob DeEmilio, Deputy Court Administrator for Traffic Court, on three separate occasions, sought special consideration through Hird for Charles Mapp, Jr., the son of FJD Deputy Court Administrator Charles Mapp. Court records reflect that on April 21, 2008, Judge DeAngelis found Charles Mapp, Jr. not guilty of passing improperly<sup>18</sup>.

A review of Traffic Court cases identified four other cases adjudicated by Judge DeAngelis involving Traffic Court employees and their family members. Three resulted in acquittals and one in a conviction.<sup>19</sup>

Tom Niblack, a court officer who recently died, said that he personally sought special consideration from Judge DeAngelis on behalf of friends or family members.

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<sup>18</sup> As previously described, Judge Hogeland also found Charles Mapp, Jr. not guilty of a traffic offense on March 29, 2007. He was adjudicated not guilty of a third traffic offense by Senior Judge Kenneth Miller on May 8, 2006.

<sup>19</sup> The average conviction rate for contested traffic offenses between 2009 and 2011 was 71 percent.

Danielle Czerniakowski, personal to Judge Sullivan, said that she received requests for special consideration from Susanna Harris on behalf of Judge DeAngelis. Harris was Judge DeAngelis' personal from 1998 through April 2011.

Migdalia ("Dolly") Warren, the assistant to Judge Tynes who acted as her personal, said that she also received requests from Harris, but she was not specific about whether those requests were made on behalf of Judge DeAngelis or on Harris' behalf.

Harris and Gail Kenney, the crier most frequently assigned to Judge DeAngelis' courtroom, contradicted the evidence described above. Kenney, who was in a position to observe, stated that she never heard anyone talking about special consideration.

Harris admitted accepting requests but claimed that she only accepted requests for Judge DeAngelis to continue cases and not for other forms of special consideration. She said that other personals would come to her with the names of violators seeking continuances and she would pull the folder and place it in a separate pile for Judge DeAngelis. Judge DeAngelis would ask Harris what person had made the request and sometimes would grant it and other times would not. Harris said that DeAngelis was not the other judges' "most favorite person" because of her unwillingness to accept requests for consideration other than continuances.

Harris' and Kenney's statements are not supported by the accounts of other witnesses or the documentary evidence.

### ***Judge Robert Mulgrew***

Robert Mulgrew was sworn in as a judge in the Traffic Court in January 2008. Gloria McNasby has been his personal since his swearing in and Tanya Muskelley has been the crier most frequently assigned to his courtroom. Judge Mulgrew, McNasby and Muskelley were interviewed and generally denied or minimized Judge Mulgrew's involvement in special consideration. Other witnesses and documentary evidence, however, support that Judge Mulgrew made and accepted requests for special consideration. In fact, no employee other than Judge Mulgrew's personal and crier said that Judge Mulgrew did not participate in the practice.

McNasby was evasive during her interview and gave inconsistent accounts about whether she accepted requests for Judge Mulgrew and her process for managing them. She admitted that during Judge Mulgrew's first year she accepted requests for special consideration and passed them along to him. Regarding subsequent years, she alternatively said that she accepted requests but shredded them; that she told those who approached her that Judge Mulgrew did not give special consideration; and that no requests were made after the first year. McNasby said that it was "standard knowledge" within Traffic Court that Judge Mulgrew does not accept requests for special consideration, but no other employee corroborated this statement.

McNasby said that when she did receive requests for special consideration, the requests would come in the form of computerized printouts from the system, which typically came from Hird or Lindline, or on index cards, which came from the other judges' personals. She described one occasion on which William Dolbow, Democratic Ward Leader 35(D), called requesting special consideration on behalf of a constituent. McNasby said she told Dolbow that Judge Mulgrew "doesn't do that" and did not convey the request to Judge Mulgrew.

McNasby said that "after a while" requests for special consideration stopped coming from everyone except Hird because Judge Mulgrew treated all of the violators in his courtroom the same.

Tanya Muskelley, Judge Mulgrew's court crier, claimed that no one ever came to her with a request for special consideration from Judge Mulgrew, and that she had no information to suggest he participated in the practice. She said that on one occasion while in Judge Mulgrew's robing room, she heard McNasby tell him about a request for special consideration and Judge Mulgrew replied "Don't come to me with these requests."

Lindline, however, said that he passed requests for Judge Mulgrew to McNasby and that she never told him that Judge Mulgrew "doesn't do" special consideration. Lindline said that he would have known if Judge Mulgrew did not participate in the practice and that none of the judges ever told him to stop making requests.

Tanya Hilton, Judge Singletary's personal, also said that she sought special consideration through McNasby for her nephew, Dwight Snead, and that McNasby never told her that Judge Mulgrew doesn't "do" special consideration. In Snead's case, Judge Mulgrew adjudicated Snead guilty but amended the charge to remove the points.

Judge Mulgrew denied participating in the practice. He conceded that occasionally people would approach him directly with requests, including Hird on four or five occasions, but that he told these individuals "everyone gets special consideration." He said that people stopped coming to him with requests after his home was raided by the FBI in 2010.

A review of Traffic Court records identified three cases that Judge Mulgrew adjudicated involving Traffic Court employees and their family members. Of the six citations, Judge Mulgrew convicted in three cases and acquitted in three cases.

Evidence supports that Judge Mulgrew also made requests for special consideration. McNasby admitted that she conveyed requests for special consideration from Judge Mulgrew on more than one occasion – a statement that was corroborated by other judges' personals. Judge Mulgrew initially denied making such requests, but when confronted about a request he had made on behalf of his nephew, Dennis Mulgrew, he admitted having an *ex parte* communication with Judge Singletary, who subsequently acquitted Dennis Mulgrew. Judge Mulgrew distinguished the *ex parte* communication from a request for special consideration by claiming he merely wanted Judge Singletary to know that his nephew who was a law student was coming to his courtroom so that Judge Singletary would not embarrass himself.

Despite Judge Mulgrew's expressed belief that the practice of making and granting requests for special consideration was improper, he conceded that he never reported anyone for making such requests.

### ***Judge Christine Solomon***

Christine Solomon was elected to Traffic Court in November 2011, but did not begin adjudicating cases until March 5, 2012 because she initially failed the required judicial education

examination. Prior to serving as a Traffic Court judge, she was the elected Democratic Ward Leader for the 53<sup>rd</sup> Ward in northeast Philadelphia for 20 years.

An employee reported that Solomon had been in the past a frequent visitor to the chambers of Judge George R. Twardy, Sr. when he was President Judge of Traffic Court from 1986 to 1991 and that Twardy was also involved in accepting and acting upon requests for special consideration, particularly from Philadelphia ward leaders.

Although our review focused on the period prior to Judge Solomon's election to the Traffic Court, we interviewed her because of her reported interaction with the Traffic Court as a ward leader and because her son, Matthew Solomon, has a lengthy history of traffic offenses and an extraordinarily high acquittal rate at Traffic Court.

By the time of the government's raid in September 2011, Judge Solomon's son, Matthew Solomon, had amassed 29 acquittals on 38 traffic citations arising from 20 separate incidents or traffic stops occurring between 1998 and 2011. He was acquitted of all charges on 14 of the incidents by Judges Sullivan, Hogeland, DeAngelis, Tynes, Kelly, Perri and Singletary. Of the remaining six incidents, records reflect that Solomon pled guilty in two cases and was convicted in four cases. Following the federal government's raid, Solomon was found guilty on charges arising from two additional incidents.

We attempted to interview Judge Solomon on three occasions: March 13, April 5 and April 10, 2012. In the first two interviews, Judge Solomon denied having any knowledge of the practice of special consideration. In the third interview, Judge Solomon admitted having knowledge about special consideration based on her 20 years as a ward leader, including information about consideration by sitting Traffic Court judges. However, she refused to provide any information despite being informed that our review was being conducted at the Administrative Judge's direction and that her refusal to cooperate would be forwarded to the Supreme Court. The substance of each of the interviews reflects her unwillingness to assist in this review.



***First Interview – March 13, 2012.*** Judge Solomon feigned surprise at the suggestion that people requested favorable treatment at Traffic Court, claimed to have no understanding of the term “ticket fixing”, and flatly denied any knowledge of the practice of special consideration.

She also denied ever making a request for special consideration and claimed that she did not even know the option was available to her. She said that when her constituents approached her for help with a traffic ticket, she would just advise them to “go down and plead not guilty.” She denied having any interaction with Judge Twardy when she was a ward leader and claimed that she seldom went to Traffic Court. She said she “never got involved with anyone with this stuff.”

Regarding her son, Matthew, Judge Solomon said she was aware of his record, but expressed surprise at the number of not guilty adjudications, which she conceded seemed high.

***Second Interview – April 5, 2011.*** Because Judge Solomon’s wholesale denial of any knowledge of special consideration at Traffic Court during her 20 years as a Philadelphia ward leader was inconsistent with the reported involvement of ward leaders in the practice of making such requests, we sought to re-interview Judge Solomon on April 5, 2012. Administrative Judge Glazer was present for the interview and explained to Judge Solomon that her claim that she never requested special consideration was not credible, and that as a judicial officer she had a responsibility to be truthful and fully forthcoming. At the conclusion of Judge Glazer’s warning, Judge Solomon asserted that she was not feeling well and declined to be interviewed that day, although she did hear her court docket that same afternoon. Her interview was rescheduled for April 10, 2012, the next day she was scheduled to sit.

***Third Interview – April 10, 2011.*** At the outset, Judge Solomon questioned the motive for “singling out” Traffic Court for investigation. She said she should not have to cooperate because she was not a target of the federal investigation. She admitted that she had relevant information about the practice of special consideration at Traffic Court that would facilitate our review, but would not share this information because she refused to incriminate other people. When pressed, Judge Solomon stated generally that, as a ward leader, she had made requests for special consideration to currently sitting Traffic Court judges, but “it’s just politics. That’s all.” Beyond that, she refused to cooperate with the review.

***Judge Michael Sullivan***

Michael Sullivan was sworn in as a Traffic Court Judge in January 2006. He was appointed Administrative Judge by the Supreme Court on April 27, 2011 and served in that position until December 19, 2011, when the Supreme Court appointed Judge Glazer to replace Sullivan as Administrative Judge. Danielle Czerniakowski has been Judge Sullivan's personal since he was sworn in. Czerniakowski is the daughter of the late Traffic Court Judge Joseph Howlett, for whom she was employed as a personal<sup>20</sup>. Richard Delario is the crier most frequently assigned to Judge Sullivan's courtroom.

Judge Sullivan, citing the advice of his attorney, declined to be interviewed.

Czerniakowski and Delario both implicated Judge Sullivan in making, receiving and granting requests for special consideration. Although most judges preferred that requests be routed through Hird, Czerniakowski served as a clearinghouse for requests to Judge Sullivan and accepted requests directly from employees, including Hird, and from politically connected individuals on the outside. She passed the requests on to Judge Sullivan and believed that he acted favorably upon them. Czerniakowski said that the majority of requests came from Traffic Court employees seeking consideration on behalf of family members and friends. She believed that Judge Sullivan also received direct requests that did not go through her.

Judge Sullivan's court crier, Delario, said that requests for special consideration were common practice at Traffic Court and in Judge Sullivan's courtroom. Once or twice a month Lindline, Delario's supervisor, gave Delario requests for Judge Sullivan's consideration that Delario then gave to Czerniakowski. Delario said it was common knowledge that Hird, Lindline's supervisor, made requests for special consideration. Hird would enter Judge Sullivan's courtroom personally and meet with Judge Sullivan in the robing room. Delario said that he deliberately distanced himself from those conversations.

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<sup>20</sup> Czerniakowski was employed as her father's personal for approximately seven years until he passed away in 2004. She then worked in other positions at Traffic Court before becoming Judge Sullivan's personal in 2006. Czerniakowski acknowledged that she and Judge Howlett regularly engaged in the practice of special consideration.

None of the witnesses we interviewed, including Judges Lowry and Hogeland and Deputy Court Administrator Bob DeEmilio, identified Judge Sullivan as not participating in the practice of special consideration.

A review of Traffic Court records identified seven cases involving Traffic Court employees and their family members in which Judge Sullivan acquitted the offenders of all charges.

Evidence also suggests that Judge Sullivan was alert for opportunities to grant special consideration, even in the absence of a specific request. Tom Niblack, a former court officer, described an incident where Judge Sullivan contacted Niblack in the middle of hearing his docket to ask Niblack if he was related to a violator with the same surname. Niblack told Judge Sullivan that the violator was not related, but believed that Judge Sullivan would have been more lenient if the violator had been related, because Niblack, who was also a pastor, had in the past requested and received special consideration from Judge Sullivan on behalf of his congregants.

Judge Sullivan also conveyed requests for special consideration to other judges through Czerniakowski. Each of the other judges' personals<sup>21</sup> confirmed that Judge Sullivan, through Czerniakowski, had sought special consideration from his or her judge on at least one occasion. Czerniakowski said that the frequency of these requests by Judge Sullivan varied from one or two a week to once a month. To make a request, Czerniakowski would write the name of the violator on an index card and give the index card to the judge's personal. Czerniakowski, like most Traffic Court employees who admitted to participating in the practice, said she could not recall the names of any of the violators on whose behalf Judge Sullivan requested special consideration and the index cards were disposed.

On at least two occasions, Judge Sullivan appears to have involved himself in matters involving his family members:

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<sup>21</sup> Senior Judges do not have personals. Judge Tynes had not had a personal since mid-2010, but had a clerical employee, Migdalia Warren, who served the functions of a personal. Warren is included as a personal when personals are identified as a group.

- On December 1, 2006 Judge Sullivan adjudicated Lisa Sciarrillo not guilty of disregarding a traffic device. Evidence supports that Sciarrillo is Judge Sullivan's half-niece, the daughter of his half-brother<sup>22</sup>. At the time of the hearing Sciarrillo resided in a house located approximately 500 feet from Judge Sullivan's residence.
- On September 13, 2011, Judge Sullivan signed an order enrolling his cousin, Shane Sullivan, in a payment plan. Shane Sullivan, a violator who now resides in Florida, owed \$893.00 in fines to Traffic Court. On March 27, 2012, after Shane Sullivan had defaulted on the payment plan and during the pendency of the federal investigation, Judge Sullivan advised Margaret Fenerty, Chief of Staff to the Administrative Judge, that he intended to sign a new order granting his cousin a new payment plan. Fenerty advised Judge Sullivan that Traffic Court procedure required a written request from the defendant with appropriate documentation and information about his financial status. Judge Sullivan then directed Czerniakowski to prepare a note ostensibly from his cousin requesting a new payment plan. Czerniakowski hand-printed a note purporting to be from Shane Sullivan, which began "My name is Shane Sullivan" and delivered it to Fenerty's office. Fenerty recognized the handwriting as Czerniakowski's and brought the matter to the Administrative Judge's attention. The following week, Shane Sullivan paid the balance of \$932.70 in full after the Administrative Judge sent him a letter requesting information about his financial status.

### ***Judge Thomasine Tynes***

Thomasine Tynes was sworn in as a Traffic Court judge in January 1990. She was appointed President Judge of Traffic Court by Governor Edward G. Rendell in June 16, 2005. She served in that capacity until February 8, 2012, when she began a medical leave of absence. She formally resigned her position on July 3, 2012.

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<sup>22</sup> The death notice for Francis J. Sciarrillo printed in the *Philadelphia Inquirer* and *Philadelphia Daily News* on December 14, 2009 states that Francis Sciarrillo was the son of "Peggy and Mike Sullivan", who were Judge Sullivan's parents and the brother of both "Jimmy, ... Michael." As noted above, Judge Sullivan's mother's first husband had the last name Sciarrillo; accordingly, Francis Sciarrillo is another half-brother of Judge Sullivan. The notice also states that Francis Sciarrillo was the father of Lisa Sciarrillo, which would make Lisa Sciarrillo the half-niece of Judge Sullivan.

Beginning in mid-2010, Migdalia “Dolly” Warren, an administrative employee assigned to Judge Tynes’s chambers, served as her personal. Christina Barzeski was the court crier most frequently assigned to Judge Tynes’ courtroom. Through her attorney, Judge Tynes declined to be interviewed for our review.

Numerous employees implicated Judge Tynes in the practice of special consideration.

Warren said that she accepted requests for Judge Tynes’ consideration from other personals, from Hird and from other Traffic Court employees. Warren passed the requests and the names of the individuals making the requests to Judge Tynes’ court crier, Barzeski. Warren said that Judge Tynes had “thrown her under the bus” with the FBI by telling them that everything “goes through Ms. Warren.”

Barzeski confirmed that she accepted requests for Judge Tynes’s consideration from other personals and employees at Traffic Court, including Hird and Czerniakowski. She would pull the folders for the requested cases, hand them to the police liaison officer in the courtroom, and tell the police liaison officer the identity of the requester. The officer would usually agree to amend the charges subject to Judge Tynes’ review. If Judge Tynes began to question an amendment, Barzeski would “give her a look,” indicating that Judge Tynes should not question the amendment. Judge Tynes handled special consideration cases early in the docket so that the violators would not have to wait until the end of the courtroom session.

A review of Traffic Court records identified eighteen cases, with a total of 26 tickets, involving Traffic Court employees and their family members that were adjudicated by Judge Tynes. Twenty of these tickets were adjudicated not guilty; six were adjudicated guilty.

One court officer recounted a case involving a judge from another court who was appealing a ticket from a red-light camera<sup>23</sup>. The evidence included three photographs clearly showing the car proceeding through a red light. Hird came in to the courtroom and requested that Judge

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<sup>23</sup> Red light camera ticket hearings are heard at the Land Title Building. However, the appeals for these tickets are heard at Traffic Court.

Tynes give the judge special consideration. Judge Tynes then walked the judge through a series of leading questions designed to elicit responses that would support a reversal<sup>24</sup>. Following the hearing in which the conviction was reversed, Hird greeted the violator outside the courtroom and both left together. Court records reflect that on August 3, 2011, Judge Tynes reversed a guilty verdict for Joseph J. O'Neill, Sr. for a red light camera ticket, citing weather conditions as the basis for the reversal. O'Neill is a judge of the Philadelphia Municipal Court judge, and a friend of Judge Tynes, according to Deputy Court Administrator DeEmilio.

## CONCLUSION

As described in this report, the Philadelphia Traffic Court, with its deep roots in Philadelphia's political culture, has an ingrained practice of granting favorable treatment to politically connected individuals. This practice has persisted despite clear ethics rules proscribing favoritism and the *ex parte* communications that facilitate it, and despite the mandatory annual training of all Traffic Court judges.

Although no allegations of judicial favors being sold were received in our internal review, there is an obvious risk that individuals with the ability to influence the outcomes of court cases will realize value from the exercise of that power. The present federal investigation and possible prosecution, which may punish targeted individuals and will likely shed more light on activities external to the Traffic Court, will stop short of broad-based reform,.

These practices have deprived the citizens of Philadelphia of the honest services of their duly elected Traffic Court judges through the administration of a disparate system of justice to violators with political connections. As a further consequence, the citizens, the City and the Commonwealth were deprived of revenue that would have been collected from violators but for their ability to manipulate the outcomes of cases through behind-the-scenes political influence.

This conduct is neither isolated nor recent in origin. The Philadelphia Traffic Court has been plagued with allegations of corruption, mismanagement and political influence since its creation

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<sup>24</sup> He gave examples such as, "It looked like a rainy evening. Were you having trouble applying your brakes?"

in 1938. Despite periodic reform initiatives – some of which have been quite substantial – scandal has returned chronically.

Of the many factors that have contributed to the persistence of the practices, key among them are:

1. The demand by Philadelphians to avoid the points, fines and driver's license suspensions associated with convictions for motor vehicle offenses. This demand is fueled by the widely held belief that Philadelphia traffic tickets are fixable.
2. The strong sense of entitlement among elected officials and political party officials who for years have enjoyed the ability to reach into the Traffic Court to influence the handling of cases.
3. The willingness of Traffic Court judges to place the interests of their political parties, political supporters and friends above the interest of a fair and impartial adjudication.
4. The absence, until the appointment of Judge Glazer, of strong leadership at the Traffic Court committed to operating with integrity and in compliance with applicable legal standards. Prior Administrative and President Judges of the Traffic Court condoned and participated in the practice of special consideration.
5. Poor internal controls, lax record keeping, ad hoc practices in the handling of cases and lack of enforcement of existing policies and procedures that have allowed political interference and the manipulation of cases to go undetected.
6. The absence of ethics training for the staff, together with the direct participation in the practice of special consideration by judges and top administrators, led to ignorance and confusion about ethical requirements. A common refrain from court employees was the belief that doing favors was "okay" as long as it did not involve monetary consideration. This led to a sense of entitlement among employees that the ability to influence the outcomes of cases was a perquisite of their jobs.
7. The absence of meaningful enforcement actions against judges and court employees who engaged in unethical practices.

## **Measures to Restore Integrity**

The following measures have been taken or are underway to restore integrity and public confidence in the operations of the Traffic Court:

1. The Supreme Court took the unprecedented step of appointing Judge Gary Glazer, a highly respected judge of the Philadelphia Court of Common Pleas, to serve as the Administrative Judge of the Traffic Court. Judge Glazer is a former Assistant United States Attorney who prosecuted judicial corruption in Philadelphia prior to his election to the bench. Having recently been retained by the electorate, Judge Glazer will reach the mandatory retirement age prior to the conclusion of his current term and will not be eligible to seek retention. As such, he is beyond the reach of electoral politics and not susceptible to political leaders interested in influencing the handling of Traffic Court cases.
2. At the outset, Judge Glazer met with the entire staff of the Traffic Court in three separate shifts to introduce himself, to set forth his objectives of restoring integrity and professionalism to the Traffic Court, and to set forth his expectations of the staff. These meetings evidenced a ground shift in the governance of the Traffic Court and established a strong tone of reform at the top governance of the Traffic Court, a key element to establishing a culture of compliance in any organization.
3. An ethics training program has been developed and roundtable ethics training sessions have been conducted with all employees.
4. Merit based hiring has been introduced and employees have been hired without reference to their political connections.
5. Court officers are now administered an oath of office by Judge Glazer and given specific admonitions about the importance of integrity.
6. Data analysis has been undertaken to identify suspicious trends in the assignment and adjudication of cases.
7. Prompt investigations have been conducted when evidence of unethical conduct has been indicated.



8. Employees found to have engaged in unethical practices have been confronted with findings and subjected to progressive discipline, up to and including termination.
9. Practices for scheduling cases and for assigning judges to courtrooms have been revised to mitigate the risk of judge shopping and case manipulation.
10. Modifications have been made to the programming of the eTims case management system to limit the authority of employees to continue cases and to generate reports when attempts to reschedule and move cases reach certain threshold levels.
11. Court employees have been encouraged to seek guidance regarding ethics issues and to report questionable conduct by others. Positive results are beginning to show as more employees come forward with questions about ethics issues and to report others for suspected ethical violations.
12. Judges alleged to have engaged in unethical or inappropriate conduct have been referred to the Supreme Court and to the Judicial Conduct Board.
13. A full scale compliance program consistent with the best practices of private industry is being developed to ensure the integrity of the court's operations. The program's elements include the appointment of a compliance officer; enhanced policies and procedures for case handling; enhanced ethics and compliance training; a method for employees to report violations anonymously; the investigative capacity to pursue allegations of misconduct; enhanced record keeping and event logging; standardized data analysis; and periodic auditing of operations to confirm compliance.
14. Options for recording courtroom proceedings are being explored.

While these measures are beginning to have an impact, bringing about permanent change in the culture of the Traffic Court is a long term project that will require the steadfast commitment of the Administrative Judge, the Administrative Governing Board of the First Judicial District and the Supreme Court. Despite the progress of the past year, a sizeable percentage of the staff remains cynical about the potential for permanent reform. Having seen past reform efforts stall after the spotlight on the latest scandal faded, employees have some basis for skepticism. Moreover, the perseverance of individuals seeking favorable treatment can be daunting. Despite

the ongoing federal investigation and internal reform initiative, calls have continued to come in to the Traffic Court, albeit at a reduced level, from politically connected outsiders seeking favorable treatment for constituents, families and friends. And disciplinary proceedings are underway against a Traffic Court employee who recently made four separate attempts to influence the handling of a case involving a family member.

### **Structural Reform**

While we are reasonably confident that the reforms described above, if sustained over time, can bring about an ethically compliant and professional culture at Traffic Court, consideration has been given to structural reforms to improve the integrity of the process for adjudicating traffic violations in Philadelphia. Because the qualifications, composition and structure of the Philadelphia Traffic Court are established by the Pennsylvania Constitution, these structural reforms would require amendments to the Pennsylvania Constitution, statutory changes by the General Assembly, and/or rule changes by the Supreme Court pursuant to its administrative authority under Article V of the Pennsylvania Constitution.

The structural reforms outlined below address that the key integrity problem at Traffic Court is the judges themselves. Without their willing participation in accepting *ex parte* communications and granting favorable treatment to politically connected defendants, the practice could not exist. Accordingly, these options range from changing the qualifications for serving on the court to eliminating the court entirely. Each has benefits and shortcomings.

#### **1. Require that Traffic Court judges be admitted to the bar of the Supreme Court of Pennsylvania.**

The Pennsylvania Constitution does not require that Traffic Court judges be members of the bar of the Supreme Court but non-attorney judges must pass a course in the duties of their office prior to assuming office. Amending the constitution to require Traffic Court judges to be licensed members of the bar could enhance the professionalism of the bench by bringing greater legal expertise and a sensitivity to ethics and compliance issues, and creating the risk that misconduct could lead to disbarment and the consequential loss of

the ability to practice law. A concern, however, is that the compensation paid to Traffic Court judges, which is low relative to other judges in the Commonwealth, would attract only marginal legal practitioners who would be unlikely to enhance either the professionalism or the integrity of the Traffic Court bench. One suggestion has been to require that the judges be admitted to the bar but permit them to practice law outside of the First Judicial District, for example, in the counties surrounding Philadelphia.

**2. Eliminate the position of Traffic Court judge and employ non-elected administrative hearing officers to adjudicate the majority of motor vehicle violations.**

The adjudication of parking violations was statutorily transferred from the Traffic Court to the City of Philadelphia's Bureau of Administrative Adjudication. Cases formerly heard by Traffic Court judges are now heard by administrative hearing officers who are full time employees of the city's Department of Revenue. The employer/employee structure allows administrative oversight that is difficult to achieve with independently elected judges.

**3. Eliminate the Traffic Court entirely and transfer its jurisdiction to the Philadelphia Municipal Court.**

Between 2002 and 2004 the jurisdiction of the Pittsburgh Magistrates Court was transferred to the Pittsburgh Municipal Court. A similar process could be employed to transfer the jurisdiction of the Traffic Court to the Philadelphia Municipal Court. Because Philadelphia Municipal Court judges are required by the Constitution to be attorneys, this option would accomplish the objectives of the first option above.

These and other options merit further consideration.

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