

Oberlin Municipal Court  
OBERLIN, OHIO  
ANNUAL REPORT



(For the period January 1, 2005 through December 31, 2005)

“To us this may be just another day at the office. For the participants it is perhaps the single most important event in their life. Endeavor to treat every case with the utmost care and attention whether a simple traffic violation or a serious allegation of wrongdoing, whether a small claim or a claim for the maximum monetary jurisdiction of this Court.”

Thomas A. Januzzi,  
Judge Oberlin Municipal  
Court

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## **JUDGE'S COMMENTS-2005**

It continues to be an honor and privilege to serve as Judge of the Oberlin Municipal Court. The attached report contains information required by law to be reported to Oberlin City Council and to the Lorain County Commissioners. Although the following commentary is not required it is provided to help understand the operation of the court including its challenges and accomplishments.

### **Summary of Caseload**

#### Criminal and Traffic

There was decrease in every statistical category in the criminal and traffic cases filed with the court. The categories are:

#### Felony Cases

In 2005 there were 249 felony offenses filed in this court compared to 255 in 2004. Although felony filings were down slightly they are still significantly higher than the previous two years of 197 in 2003 and 176 in 2002.

Felony cases can either be initiated in a Municipal Court or the Common Pleas Court. Felony cases filed in the Common Pleas Court are typically a result of an indictment issued by the county grand jury. Cases initiated in the Municipal Court are usually a result of a person being charged and/or arrested at or near the time of the alleged incident without further need for investigation. When a person is arrested the person is entitled to a speedy hearing<sup>1</sup> to determine if there is probable cause that a felony has been committed and probable cause that the person accused committed the felony. If probable cause is found the case is "bound over" (transferred) to the Lorain County Court of Common Pleas Grand Jury for consideration of whether an indictment will be issued.

Felony offenses can include OVI<sup>2</sup> offenses. The law was amended effective September 23, 2004 to provide that a person who has three prior OVI offenses within the past 6 years or 5 prior OVI offenses within the past 20 years who is again charged with OVI can be charged with a felony offense. The possible penalties for a felony OVI include a maximum fine of \$10,000.00, 5 years in prison, a possible lifetime suspension of driving privileges and a forfeiture of the vehicle driven if registered in the offender's name.

#### OVI Cases

There was a decrease in OVI filings from 317 in 2004 to 292 in 2005. Although it is always good to have a decrease in filings the number of OVI arrests

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<sup>1</sup> Within 10 days if incarcerated and within 15 days if not incarcerated.

<sup>2</sup> OVI stands for Operating a Vehicle while under the Influence of Alcohol or Drugs. The terminology has changed over the years. The offense is still commonly referred to as DUI.

is still significantly higher than in 2003 (270) and 2002 (279).<sup>3</sup> Persons charged with multiple prior OVI offenses continue to appear at a remarkable level. During 2005 at least 28 people were charged with OVI that had at least 4 prior alcohol related offenses. 17 of the persons had at least 5 prior offenses and 10 of the persons had at least 6 prior offenses. Remarkably of the 28 persons with 4 or more alcohol related offenses **none** of these persons previously appeared in the Oberlin Municipal Court since January 1, 2002.<sup>4</sup>

#### Criminal Misdemeanor Cases

Criminal Misdemeanor filings were slightly down from 2004. In 2005 1364 criminal misdemeanor charges were filed compared to 1398 in 2004. Although the numbers were slightly down from the previous year the numbers are still much higher than recent years 2003 (1,107), 2002 (1031), 2001 (1,024), 2000 (927), 1999 (948), 1998 (798), 1997 (731).

Criminal misdemeanor cases include misdemeanor assault and domestic violence cases, criminal trespass, disorderly conduct, misdemeanor drug offenses, obstructing official business, criminal damaging, petty theft and passing bad checks.

#### Traffic Cases

Traffic cases were down significantly for the second year in a row. The major decrease has been in the filings by the Ohio State Highway Patrol.<sup>5</sup> Included in this category are speeding offenses and other minor misdemeanor offenses such as assured clear distance ahead, stop sign, red light, improper turn signal, and equipment violations such as a missing or burned out license plate light. Also included in this category are crimes involving operating a motor vehicle without a valid license, with no license or while under suspension. While exact statistics are not available, as of January 16, 2006 of the approximately 382 criminal cases awaiting pretrial or trial, approximately 92 of the cases fell into the category where the primary charge is driving without a valid license, no license, or driving under suspension. In 2005 at least 700<sup>6</sup> cases were filed for these types of offenses. Due

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<sup>3</sup> This does not include felony OVI offenses which are included statistically with felony offenses filed.

<sup>4</sup> This is the year that the Oberlin Municipal Court established its probation department.

<sup>5</sup> In 2002 the Ohio State Highway Patrol filed 6,045 cases, in 2003 5,554 cases, in 2004 4,171 cases, and in 2005 only 3726 cases. Historically, the court has operated in the black due in large part to the number of filings by the OSHP. The dramatic drop in OSHP arrests has directly affected the cash flow of this court. Typically, the vast majority of the cases filed by OSHP are simple traffic offenses where the offender will pay a fine and court costs by waiver and without appearance. These relatively low maintenance cases result in funds for the operation of the court without crowding the docket. The loss of court costs alone is significant. For example the local court costs collected per case is presently \$ 39.00 (\$32.00 general costs, \$3.00 probation costs, and \$4.00 security costs). 6,045 cases could generate \$235,755.00 compared to \$145,314.00 a difference of \$90,441.00. The fewer cases that are filed also directly affects the special funds the court has established for court improvement, computer, and indigent alcohol.

<sup>6</sup> Of the approximately 700 cases about ½ of these types of cases were filed in the jurisdiction of the City of Amherst.

to the volume of these cases a separate ½ day is set aside twice per month for these types of cases filed in the City of Amherst alone.<sup>7</sup>

Although the total amount of criminal and traffic cases filed in 2005 was substantially less than in 2004, the number of felony, non-traffic misdemeanors, driving without a valid license and OVI cases were only slightly below 2004. For most minor traffic cases, (e.g. speeding, red light, stop sign etc.), the Clerk processes a waiver and the file is closed. However, with other traffic related misdemeanors, (e.g. driving under suspension, wrongful entrustment, fictitious plates etc.) and non-traffic misdemeanors (e.g. domestic violence, assault, criminal trespass etc.) where a jail penalty, a significant fine and/or the possible loss of

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<sup>7</sup> There are many reasons that there is such an increase in the number of filings for these types of cases. First, there are many people who drive knowing that their license is under suspension. There are also a percentage of people that drive and do not know that their license is suspended. There are many ways to lose your driving privileges. Some of the more common ways include: 1. If you do not have insurance and receive a traffic ticket: (a) for a first violation in 5 years there is a 90 days license suspension; (b) for a second violation in 5 years there is 1 year suspension; (c) for a third or more violation in 5 years there is a 2 year suspension. 2. Failure to pay child support. 3. For any drug offense conviction, including a minor misdemeanor, 180 days – 5 year suspension. 4. Random insurance check; this occurs when the BMV randomly sends a person a notice to produce proof of insurance. If the person does not provide proof or fails to respond then there is a suspension of 90 days – 2 years. 5. Mandatory suspensions for OVI convictions: (a) 180 days -3 years for a 1<sup>st</sup> offense in 5 years (b) 1 year – 5years for a 2<sup>nd</sup> offense in 5 years (c) 2 years – 10 years for a 3<sup>rd</sup> offense in 5 years (d) 3 years – life for a 4<sup>th</sup> offense in 5 years or a 6<sup>th</sup> offense in 20 years. 6. Mandatory suspension of up to one year for a conviction of most driving under suspension charges 7. 180 day license suspension for a 12 point violation 8. A mandatory suspension of 3 years – life for fleeing a police officer 9. Mandatory suspension for failure to pay fine and costs when owed or failure to appear to review payment of fine and costs until the fine and costs are paid or secured to be paid and payment of a reinstatement fee. 10. Security suspensions of 2-7 years for failure to file accident reports or failure to pay a judgment or post security for damages caused in a motor vehicle accident. 11. Failure to maintain proof of financial responsibility (certain persons who have been convicted of driving under suspension or OVI and certain other persons are required to maintain documented proof of insurance with the BMV for certain periods of time. If the person fails to pay their insurance or there is a miscommunication with their insurance agency the BMV will suspend the person's license upon notification from the person's insurance company. The person is not entitled to notice of the suspension under these circumstances) 12. Wrongful Entrustment of a motor vehicle. If a person's license is suspended by the court the person is immediately aware of the suspension. However, when a person's license is suspended by the BMV in most cases the BMV is required to send a notice to the last known address of the offender. The suspension takes effect even if the person is not notified due to change of address, incorrect address, BMV error etc.

Over the past several years both the Supreme Court of Ohio and the Supreme Court of the United States have expanded the reasons that a law enforcement officer may stop a motor vehicle. The law has expanded so greatly that a police officer can stop a vehicle for reasons including: 1. An officer can now check **any** person's license plate whether or not they are otherwise obeying the traffic laws to determine if the license plate is valid and whether the driver of the vehicle has a valid driver's license. Some officers now have computers in their vehicles and spend time doing this to find those persons who are in violation of the driver's license law. 2. An officer can stop a person who is otherwise obeying the traffic rules if they have an equipment violation such as a license plate light is burned out or the license plate cannot be fully read for some other reason. 3. An officer can stop a vehicle for certain other minor traffic violations. Many of these stops result in a discovery that the driver does not have a valid license. The person is then either arrested or given a summons to appear in court. If there is no other licensed driver then the vehicle must be towed from the scene. Many of these stops also result in arrests or citations for other offenses. For example, after a person is stopped the officer might smell an odor of alcohol or marijuana and further investigate a drinking or drug violation. Sometimes the person is discovered to have a warrant for their arrest or someone else in their vehicle has a warrant for their arrest. A significant amount of the caseload of this court consists of cases such as these where the police are aggressively enforcing the traffic laws and discover other crimes while investigating the traffic offenses.

driving privileges is involved, the case is rarely resolved at the initial appearance. These types of cases typically have at least 2 to 3 hearings prior to resolution. With each hearing the staff must process the file and depending on the type of hearing several staff members might need to service the file in addition to making court time available for the case. Also, the more non-minor traffic violations that are filed the more the need for possible supervision by the Community Control Department.

As reported in last year's annual report the most notable increase in filings of non-minor traffic violations from 2003 to 2004 was in the jurisdiction of the City of Amherst. As a result in the increase of filings in non-minor traffic violations in the City of Amherst in 2004 an adjustment was made in the scheduling of Amherst cases. Two half days per month were set aside for persons charged with offenses related to driving under suspension or without a license. In 2005 an additional change was made. Preliminary hearings for felony cases filed in Amherst cases are now scheduled on either Tuesday or Friday mornings. This has helped ease the Amherst docket. Instead of forcing these cases into an already crowded day when Amherst pre-trials, trials and other hearings are set, holding these hearings on a separate day allows for a more efficient and productive hearing for these cases while not interfering with the cases already set on the regular Amherst day.

### Civil

There was a slight decrease in the filings of civil cases from 2004 to 2005. In 2004 1013 cases were filed. In 2005 994 cases were filed. 140 of these cases were eviction cases, 257 were small claims cases, 553 were cases filed for the collection of money, 11 were for accident cases and 33 were miscellaneous.

There are two employees in the Clerk's office that devote almost all of their time to the Civil Department. Prior to 2002 there was also a part time Magistrate that worked ½ day per week and was compensated the sum of \$24,000.00. The duties of the Magistrate position consisted mainly of hearing small claims cases. Immediately upon taking office in 2002 a decision was made to cut the Magistrate's salary in half to \$12,000.00 per year allowing the additional funds to be used toward establishing a probation department. Effective January 2004 the position of Magistrate was totally eliminated for reasons including that there is not a proper hearing room for a Magistrate in the court facility.<sup>8</sup> The Judge has assumed all duties previously handled by the Magistrate.<sup>9</sup>

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<sup>8</sup> The court facility only has one hearing room. This is the courtroom that is shared with City Council that uses the room as its council chambers.

<sup>9</sup> Pursuant to the Ohio Revised Code 40% of the Magistrate's position is paid by the County. The County realized an immediate savings of \$4,800.00 per year for calendar years 2002 and 2003 and a savings of \$9,200.00 per year for

## **Jury Trials**

In order to keep a current docket and for the efficient operation of the court it is necessary to have jurors available and jury trials scheduled on a regular basis. When a person is charged with a crime that has a possible penalty of a jail sentence or a fine in excess of \$1,000.00 the person is entitled to a jury trial. Also, a person is entitled to a jury trial in any civil case that can result in a money judgment or in certain other cases including an eviction. The court schedules jury trials on most Mondays unless it is a legal holiday. In 2005 approximately 120 jury trials were scheduled although only 5 went forward.

Jurors are randomly chosen from voting lists. It has been the experience of this Court that the jurors who have served jury duty using this method of selection have taken their duty very seriously and served the community well. Since serving jury duty is an inconvenience for many citizens the court has attempted to minimize this inconvenience. As required by the Ohio Supreme Court the Court has adopted a Jury Management Plan. The Jury Management Plan limits jury duty to a selected juror to no more than four trial dates usually in a one (1) month period that typically consists of initially being called for four consecutive Mondays and serving on no more than two of those dates. The court implemented a juror information line in 2002 that informs jurors of the status of upcoming jury trials. We take this opportunity to thank the many citizens who were called for jury duty this past year for their service to this court and to the community.

## **Community Control Department (Probation Department)**

During 2005 the Community Control Department consisted of two part-time probation officers and a secretary. Due to a vacancy in the Clerk's office in November 2005 one of the part time probation officers was transferred to the Clerk of Court office.<sup>10</sup> The chief probation officer, previously serving part-time, is employed full-time beginning in January 2006. In addition, the court will continue to utilize interns<sup>11</sup> to assist in the department. Depending on the needs of the department the court will evaluate the need to hire an additional probation officer.

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the calendar years 2004 and 2005 for a total savings of \$26,600.00 since January 2002. The City has not had a Magistrate expense for the past two years (\$14,400.00 per year for two years or \$28,800.00) and \$14,400.00 for 2002 and 2003 for a total of \$43,200.00. The grand total savings to County and City from 2001 Magistrate expense for the past 4 years is \$72,000.00.

<sup>10</sup> This employee started as an unpaid intern from Ashland University. After graduation she was employed as a part-time probation officer. Although her primary duties are now in the Clerk's office, because of her experience in the Community Control Department she will be available to assist with probation matters when needed.

<sup>11</sup> Presently, the court has one intern from Ashland University and is expecting a second intern to be provided to assist the chief probation officer.

Alcohol related offenses continue to drive the growth of this department. The number of repeat offenders, especially in alcohol related charges, continues at a remarkable rate.<sup>12</sup> Individuals charged with alcohol related offenses are often required to obtain evaluations or assessments and the Community Control Department monitors compliance with the assessment for the benefit of the community at large, the person charged and their families. The Community Control Department provides six basic categories of service to the court. They are:

**Intensive Supervised Probation** – When a convicted person is placed on Intensive Probation Supervision she/he is required to maintain frequent contact with the Community Control Department and follow the Standard Conditions of Probation and any other conditions imposed by the court or the Community Control Officer assigned to Defendant’s case.

**Basic Probation Supervision** – When a convicted person is placed on Basic Probation Supervision she/he is required to maintain contact with the Community Control Department in order to comply with any sanctions imposed by the court (e.g. attendance at AA meetings, community service, restitution etc.)

**Basic Probation Supervision Payment of Fine and Costs** – Many persons charged with crimes have significant financial problems. Examples include persons charged with petty theft, persons charged with driving without a valid driver’s license and persons charged with alcohol related offenses and other offenses in general. Most persons that have legal problems do not have a steady income and/or cannot hold a steady job. They often commit crimes because of their poor financial condition. While not a justification, this creates significant problems for the court in enforcing the collection of fines and court costs.<sup>13</sup> The law was recently changed to allow a court to charge a fee for placing a person on a payment plan. The court now charges a \$50.00 collection fee for any person placed on a payment plan. Payment plans are administered by the Community Control Department and the charge for the payment plan is considered a court supervision fee for a person placed on the payment plan.

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<sup>12</sup> Multiple OVI offenders continued to appear at an unacceptable level. In 2005 at least 28 defendants appeared that had at least 4 prior OVI or OVI related offense on their record. Most of the offenders were placed on conditions of bond pursuant to Criminal Rule 46. It is notable that none of the offenders on the list had a prior conviction in the Oberlin Municipal Court within the past 4 years.

<sup>13</sup> There are a vast number of persons driving vehicles without valid driving privileges. One of the main reasons that they do not have valid privileges is because they do not pay their car insurance or owe fine and costs from another driving related offense. The law requires a court to suspend a person’s license if they do not pay fines and costs in a driving related case. Once a person’s license is suspended in many cases they are required to carry “high risk” insurance. Due to their financial situation the people do not pay their insurance premiums and do not pay their fine and costs resulting in license suspensions. The police have recently been given additional tools to use to enforce driving laws. Both the Supreme Court of Ohio and the Supreme Court of the United States now allow a police officer to run a driver’s license check on any vehicle driving or parked in areas permitted to be used by the public. Even though the person may otherwise be obeying the traffic or other laws the police are permitted to check their license plate and then determine if the driver has a valid license. This has resulted in hundreds of cases being filed against persons who do not have valid driving privileges. Most times the person is required to reinstate their license and to pay a fine and court costs. In 2005 approximately 700 of these types of cases were filed in this court. Also, see footnote 7.

**Monitored Time**<sup>14</sup> — When a convicted person is placed on Monitored Time she/he is required to lead a law abiding life for a stated period of time. This includes but is not limited to not committing any similar offense, any offense of violence or any alcohol related offense if alcohol was a contributing factor to the offense(s) that gave rise to the filing of the charges in the case.

**Diversion Cases** — In certain types of cases (e.g. Underage Consumption) the law permits the court to place an offender into a diversion program with the opportunity to complete a program and have the charges filed dismissed. The Community Control Department monitors compliance with the terms and conditions of the diversion programs. In the jurisdictions of Amherst, Wellington, and Kipton the Community Control Department also screens candidates and makes recommendations to the court regarding whether an offender qualifies for diversion.<sup>15</sup>

**Conditions of Bond** — In any pending charge where jail is a possible penalty the court may set conditions on the bond of an accused. The court may: (1) Place the person in the custody of a designated person or organization agreeing to supervise the person;(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;(3) Place the person under a house arrest or work release program;(4) Regulate or prohibit the person's contact with the victim;(5) Regulate the person's contact with witnesses or others associated with the case upon proof of the likelihood that the person will threaten, harass, cause injury, or seek to intimidate those persons;(6) Require a person who is charged with an offense that is alcohol or drug related, and who appears to need treatment, to attend treatment while on bail;(7) Any other constitutional condition considered reasonably necessary to ensure appearance **or public safety**.<sup>16</sup> In certain cases the court evaluates a person's record when they appear for arraignment on an alcohol related offense and if the court determines that it is necessary for public safety and/or a person appears to need treatment the court places conditions on the person's bond including obtaining an alcohol assessment and reporting to the Community Control Department.

The Community Control Department supervised a total of 975 persons in 2005. As of December 31, 2005 there were at least 512<sup>17</sup> persons being supervised or monitored including – 108 on Intensive Supervised Probation, 181 on Basic Probation Supervision, 167 on Basic Probation Supervision Money Review and 24 on Conditions of Bond. The Community Control Department also continues to utilize the services of the Lorain County Adult Probation Department for conflict cases and a few serious offenders.<sup>18</sup>

Prior to 2002 there was not a probation department in this Court. A part-time probation officer was hired at the beginning of 2002. After a year and one-half of operating with a part-time probation officer it became apparent, due to the number of cases with need for probation services, a part-time probation officer in a full

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<sup>14</sup> Effective 1-1-04 the law was changed so that what was commonly referred to as “good behavior” is now defined as “monitored time.” It is a form of probation or community control, a violation of which can result in the imposition of a suspended jail sentence.

<sup>15</sup> See footnote 17.

<sup>16</sup> See Rule 46 of the Ohio Rules of Criminal Procedure.

<sup>17</sup> An exact number is not available at this time. The probation department has an additional category that has been added to its workload recently as a result of the position taken by the new Amherst and Wellington Prosecutor. The Probation Department now reviews candidates for diversion for cases filed in the jurisdictions of Amherst, Wellington and Kipton. See footnote A separate statistical category was not immediately assigned when the change was made making it difficult to identify the number of these types of cases pending with the Community Control Department.

<sup>18</sup> As of December 31, 2005 only 7 persons were being supervised by the County Probation Department.

time court was not sufficient. Therefore, a second part-time probation officer was hired in February on a temporary basis while a search was made for a permanent part-time probation officer. While searching for a permanent part-time probation officer an opportunity became available to hire an intern from Ashland University initially at little cost to the Court.<sup>19</sup> Beginning in 2006 the composition of the Community Control Department will be:

Chief Probation Officer – duties include supervising the department and handling most of the offenders that are placed on Intensive Probation Supervision.

Ashland University Interns – duties include supervising those charged alcohol related offenses with recent or multiple alcohol related convictions and assisting with Basic Probation Supervision Money Reviews and Diversion cases.

Court Secretary – duties include typing, filing and otherwise assisting the probation officers in organizing and maintaining their files.

Although the Community Control Department continues to experience growth and changes the funding for the department has not become a burden on the general operating fund of the court.<sup>20</sup> It is anticipated that the department will continue to expand.<sup>21</sup> One of the main difficulties with expansion is that there is no dedicated space in the building for a probation department. Therefore, finding space for the probation department has been a challenge. Although this remains an obstacle to the expansion and proper operation of the department the court remains committed to the continued growth and improvement of this most valuable part of the administration of justice in the Oberlin Municipal Court.

## **Security**

A metal detection device was installed in and placed into operation in July 2004. The device was installed very economically. The device was placed in a location that avoided any major modification to the structure of the building so that the costs of installation of the device were limited to the cost of the device itself, labor to install the device and signage. These costs were paid out of the Court Improvement Fund and did not interfere with the general operating costs of the court.

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<sup>19</sup> Although the interns are not presently compensated any hourly wage the court has included in its 2006 budget a line item to pay the interns a travel stipend.

<sup>20</sup> Actually the Probation office generates near sufficient funds to pay for salaries for its operation through the collection of Supervision Fees that are permitted by law. In 2005 the sum of 83,746.09 was collected. In addition, as of 2002 the Magistrate's salary was cut from \$24,000.00 to \$12,000.00 to provide room in the Court's budget for the probation department.

<sup>21</sup> In mid 2004 a secretarial position was created with the intent that the secretary would service both the Judge and the probation department. However, due to the large volume of probation cases the duties of the secretary are almost entirely devoted to the probation department.

The device is presently staffed by three retired police officers working on a rotating basis.<sup>22</sup> They are also available to provide additional security on heavy court days and to substitute for the regular bailiffs in their absence due to vacation or illness. In addition to court personnel the Oberlin Police Department, located adjacent to the court in the same building, continues to supply additional security when needed. The court thanks Chief Tom Miller and the entire Oberlin Police Department for its courteous and efficient response during the past year to the needs of the court.

### **Court Costs**

There are several different components in the costs charged by the court as court costs. One of the components is “local court costs.” These local court costs are intended to fund the operation of the court. There are also court costs that are required by the State of Ohio and court costs for special projects (e.g. Court Improvement Fund, Computerization Fund, Indigent Alcohol Fund). These costs are not used to fund the basic operations of the court.

Presently, there is a basic court cost of \$75.00 per criminal and traffic case<sup>23</sup> filed with the court that consists of:

Local Court Costs	\$32.00
Probation Costs	\$ 3.00
Computer Costs	\$ 2.00
Court Security Costs	\$ 4.00
Section #169 SVCF	\$ 9.00
Court Improvement Costs	\$10.00
General (State) Costs	\$15.00

Basic court costs in a Civil Case presently are \$72.00.

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<sup>22</sup> The court has chosen to employ the security staff rather than impose this burden on the Oberlin Police Department. The Ohio Revised Code permits the court to order the police to provide security. However, the court has chosen to carry this economic burden and assesses a court cost of \$4.00 per criminal and traffic case filed to defray the cost of providing security. In 2005 court costs in the amount of \$26,978.00 was collected to defer the costs of providing additional security.

<sup>23</sup> Research showed that the “local court costs” of \$22.00 per case had not increased since at least as far back as February 1996. No records could be located that indicates exactly the last increase in “local court costs”. During this time period the cost to operate the court has increased dramatically. Hospitalization costs alone increased over \$50,000.00. Workers compensation costs recently increased almost three-fold. As a result, effective 9-26-03 the local court costs increased to \$26.00 per case. Although the increase has helped defray the rising costs it was not sufficient to cover operating costs of the court. The law provides that any operating expenses not covered by court costs are to be borne by the host City, in this court the City of Oberlin. As mentioned in the 2003 annual report the increase in local court costs should have been more. After evaluating the needs of the court, the history of the court cost increases, and the usage of the court by the various jurisdictions the court has increased the local court costs to \$32.00 effective April 2005.

## **Magistrate**

The Court operated without a Magistrate for the third year in a row. Prior to 2003 the court had a Magistrate for approximately 15 years. The Magistrate retired at the end of 2003 and has not yet been replaced. Immediate replacement was not made as the Court has been evaluating the need and role of a Magistrate in this Court. In past years the Magistrate has handled the small claims docket. In 2001 the Magistrate was being paid the sum of \$24,000.00 per year to hear small claims cases one half day per week excluding Monday holidays. In 2002 the salary was decreased to \$12,000.00. The decreased salary allowed the Court to partially fund and create a probation department.

There is still a need for a Magistrate based on the volume of cases in this Court. The exact role of the Magistrate and funding for the Magistrate position remains under evaluation. Since there is not a separate hearing room with proper recording facilities at the present time this issue will be addressed at some time in the future.

## **Prosecutor Offices**

There are several prosecutors that serve the different law enforcement agencies that make arrests in the Oberlin Municipal Court jurisdiction. At the beginning of 2005 the City of Amherst prosecutor was Scott Serazin. In approximately August Mr. Serazin was hired by Lorain County Prosecutor Dennis Will creating a vacancy in this position. He was replaced by Margaret O'Bryon, the Village of Wellington and Village of Kipton prosecutor. The Village of South Amherst prosecutor is Quentin Nolan. The City of Oberlin prosecutor is James Walsh. The City of Oberlin Prosecutor, by state law, also represents the 10 Townships located in the Oberlin Municipal Court jurisdiction.

Significant changes have been made in the operation of the Prosecutor offices since January 2002. Shortly after taking the bench in January 2002 the Court had immediate concerns regarding the staffing and operation of the prosecutor's offices. Other than the City of Oberlin, none of the other prosecutors maintained their own files nor did they use the services of a secretary. The clerk of court office was handling many of the duties that would ordinarily and properly be handled by a staff member of the prosecutor office. In March 2002 the Court issued a Memorandum to each prosecutor recommending and requesting that the prosecutors maintain separate files and utilize a secretary to perform basic duties including having contact with victims and prosecution witnesses, maintaining separate files and requesting subpoenas be issued.

The court also requested a prosecutor be present at each arraignment session. State law requires a prosecution representative to read a statement of facts whenever a no contest plea or guilty plea is entered. Previously a deputy clerk or a

bailiff was reading the statement of facts. A prosecutor is also needed at the arraignment session to represent the rights of victims in domestic violence and other crimes including requests for protection orders and to represent the State's interest in setting an appropriate bond for an accused being held in jail pending disposition of the case.

There is now a prosecutor in the courtroom at the arraignment session and now all of the prosecutor's offices have an on site secretary and maintain separate files. The Court is very pleased with these changes. These changes have provided for a more efficient and effective handling of cases. Most importantly, the utilization of a secretary and the presence of the prosecutor in the courtroom allow the Judge to maintain the impartiality and independence that is one of the hallmarks of our justice system.

### **Prosecutor Serazin**

Prosecutor Scott Serazin served as the Amherst Prosecutor for the past several years. The court publicly recognizes Mr. Serazin for his years of service as prosecutor for the City of Amherst. Mr. Serazin performed his duties as a public prosecutor competently and efficiently. The citizens of the City of Amherst were fortunate to have him as their public servant.

### **Video Arraignments**

The Video Arraignment continues to be a great success. Thanks to cooperation between the court and the various law enforcement agencies that serve the Oberlin Municipal Court jurisdiction a countless number of hours and a significant undetermined amount of money has been saved for the relatively small cost of the operation of the video system. The Court also utilizes the system for certain probation hearings and sentence reviews. The court does have a local rule that allows any person or his/her attorney to request a live appearance instead of a video appearance. The rule is rarely invoked.

### **Night Court**

The court continues to monitor the possible implementation of a "night court." Several issues remain to be resolved.<sup>24</sup>

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<sup>24</sup> Although the court has not ruled out the concept of a Night Court the implementation of a Night Court poses many issues, both economic and practical. Space, security, court staffing, clerk staffing and Prosecutor staffing are included among the issues. The courtroom is shared with Oberlin City Council. Council meets on Monday evening and sometimes has public hearings on other evenings. As a practical matter there are many Tuesday and Wednesday afternoons that the regular court docket is not completed until after 5:00 P.M. so that the late afternoon or early evening arraignments might conflict with use of the courtroom. Security personnel, at least one bailiff, and at least two employees in the Clerk of Court's office would have to be present. Although there may be options for re-arranging the hours of the deputy clerks the cost of the bailiff and security personnel would be an added expense.

## **Website**

Effective October 2004 Oberlin Municipal Court has a Website. Public access to court records was added to the Website in December 2004. The address of the Website is Oberlinmunicipalcourt.org. The Website contains information about the daily operations of the court and general information about the office of the Clerk of Court, the office of the Judge, and the Community Control Department. The website also provides other information for those involved in a court proceeding as a party, a witness, a juror or attorney.

The website also has two informational power point presentations titled: “Roles in the Justice System” and “Underage Consumption – What’s all the Fuss about?” The Judge has made presentations to local high schools on both of these subjects. Persons charged with Underage Consumption in this court are also often referred to the power point in conjunction with a paper that they are required to write regarding the effects of alcohol.

Over the past 12 months there have been approximately 27,000 visitors to the court’s website.

## **Interpreter Services**

The court continues to use the services of the Oberlin College foreign languages department to provide interpretation services for both victims and those accused of crimes. Languages that interpreters have been provided include Spanish, Chinese and Russian. The services of the Cleveland Hearing & Speech Center are also used for persons deaf and hard of hearing.

## **Conclusion**

Thank you for the opportunity to allow me to serve as Judge of the Oberlin Municipal Court. It is a position that I truly enjoy and consider it an honor and a privilege to serve. We will continue to work toward improving the operation of the court to better serve both the community and the participants in the proceedings.

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A prosecutor would need to be present. Even if the Night Court were limited to minor misdemeanor traffic arraignments a prosecutor would need to be present to read reports and represent the interests of the State. If anything other than simple traffic arraignments were scheduled the various jurisdictions would have to provide a prosecutor for hearings. As set forth above under “Prosecutor Offices” because there are so many different jurisdictions there would have to be cooperation with all of the various jurisdictions to provide a Prosecutor for the “night court” and compensation for that person. The Court will continue to monitor this situation.

## **CIVIL BRANCH**

### **Civil Case Load**

**During the calendar year 2005, there were 994 new cases filed in the Civil Division of the Oberlin Municipal Court. By comparison, in the year 2004 there were 1,047 cases file and in the year 2003 there were 1,042 cases filed in the Civil Division.**

### **Receipts of Civil Division**

**In the calendar year 2004the Civil Division receipted \$78,545.54. In 2004, the Civil Division receipted \$84,301.37 and in 2003 the sum of \$74,023.46 was receipted.**

## **CRIMINAL AND TRAFFIC BRANCH**

### **Criminal Case Load**

**In 2005 there were 249 felony cases initiated in the Oberlin Municipal Court. By comparison in 2004 there were 255 felony cases and in 2003 there were 197 felony cases initiated. There were 1,364 criminal misdemeanor charges filed compared to 1,398 in 2004 and 1,107 in 2003. There were 292 OVI cases filed compared to 317 in 2003 and 279 in 2002.**

### **Traffic Case Load**

**There continues to be a dramatic fall in the number of traffic cases filed. In 2005 there were 5,967 and in 2004 6,887 compared to 2003 and 2002 when remarkably the same number of cases were filed each year, 8,208.**

### **Receipts of the Criminal and Traffic Division**

**In 2005 total receipts from the Criminal and Traffic Divisions was \$1,454,945.14 compared to \$1,404,304.56 in 2004 and \$1,433,542.38 in 2003.**

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## COMPUTER GENERATED STATISTICAL ANALYSIS

The following is a list of number of cases filed for various cases of interest from the criminal and traffic division in 1997- 2005.

<u>Type of Case</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
DUI	247	278	320	296	268	279	270	317	292
Felony	187	157	143	137	166	176	197	255	249
Misdemeanor	731	798	948	927	1,024	1,031	1,107	1,398	1,364
Traffic	6,700	5,622	7,819	6,753	7,119	8,208	8,208	6,887	5,967

The following is a list of total cases filed, terminated and pending in the court in 1997-2005.

<u>Year</u>	<u>Pending 12/31</u>	<u>New cases filed/transferred</u>	<u>Terminations</u>
1997	2,328	8,599	8,920
1998	2,175	7,585	7,738
1999	2,164	9,948	9,959
2000	2,022	8,730	8,872
2001	1,920	9,351	9,453
2002	1,289	10,765	11,396
2003	1,206	11,124	11,212
2004	1,103	10,530	10,642
2005	888	9,541	9,758