

Oberlin Municipal Court
OBERLIN, OHIO
ANNUAL REPORT



(For the period January 1, 2008 through December 31, 2008)

“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-2008

It continues to be an honor and privilege to serve as Judge of the Oberlin Municipal Court.

The Oberlin Municipal Court was established in 1958 by the Ohio Legislature as a Part-Time Court located in the City of Oberlin. In 1989 the Court was made a Full-Time Court. The Oberlin Municipal Court has jurisdiction in the cities of Amherst and Oberlin and the villages of Kipton, Rochester, South Amherst and Wellington and the Townships of Amherst, Brighton, Camden, Henrietta, Huntington, New Russia, Pittsfield, Penfield, Rochester and Wellington.

The attached report contains information required by law to be reported to Oberlin City Council and to the Lorain County Commissioners.

Summary of Caseload

Overall Caseload- 2008

Overall case filings in 2008 decreased to 8,820 from 9,193 in 2007 despite a record number of filings in the civil division and a record number of OVI filings. The court remains very current with its docket. At the end of 2001 there were 1920 cases pending in the court. As of December 31, 2008 there were 878 cases pending representing a 54% drop in pending cases compared to year end 2001. Case load has been managed very effectively since 2002. [See page 55 of this report for the history of cases filed and disposed of by the court since 1997]

Criminal and Traffic

Overall Criminal and Traffic case filings decreased for the fifth year in a row to 7320 compared to 7411 in 2007 and down 25% from 9782 filings in the peak year of 2003. The categories are:

Felony Cases

In 2008 there were 207 felony offenses filed compared to 208 in 2007. 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 and are not included in this number. Also not included are filings against juveniles. 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 hearing¹ to determine if there is probable cause that a

¹ Within 10 days if incarcerated and within 15 days if not incarcerated.

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 OVI² offenses and Domestic Violence offenses. With regard to felony OVI 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, possible lifetime suspension of driving privileges and a forfeiture of the vehicle driven if registered in the offender’s name.

With regard to felony Domestic Violence a person charged with causing actual physical harm to a household or family member with one prior conviction for Domestic Violence is charged as a 4th degree felony [up to a \$5,000.00 fine and 18 months in prison] and a person charged with causing actual physical harm to a household or family member with two or more prior convictions for Domestic Violence is charged with a 3rd degree felony [up to a \$10,000.00 fine and 5 years in prison].

OVI Cases

OVI case filings increased from 2007 [329] to 2008 [350]. This is the highest number of filings for OVI in the history of the court. The largest increase was with the Amherst Police Department. Filings increased 37% for filings by Amherst Police from 2007 to 2008 and the increase represents a 367% increase from 2001 when only 34 OVI were filed by Amherst Police. All other agencies combined had an 11% decrease in OVI filings [From 211 in 2007 to 188 in 2008]. Ohio State Highway Patrol OVI case filings were down 11 ½ % from 2007 [121] to 2008 [107], City of Oberlin OVI case filings fell 34% from 2007 [38] to 2008[25], Village of Wellington increased 17% from 2007 [35] to 2008 [41] but remained lower than the previous two years 2005 [44] and 2006 [45], Lorain County Sheriff OVI increased from 7 to 12 but well below 2001[25] and 2002 [22], and South Amherst decreased from 10 to 3.

Criminal Misdemeanor Cases

² 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.

Criminal misdemeanor case filings decreased 3.3% from 2007 [1148] to 2008 [1110]. The largest percentage decrease was the City of Oberlin – 23.5%. The largest increase was the Village of South Amherst – 107%. 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 (excluding OVI) decreased (3.5%) from 2007 [5726] to 2008 [5528]. This is the lowest number of traffic cases filed during the period [1997-2008] and represents a 33% decrease from the peak year of 2003 when 8208 traffic filings were made. The largest percentage decrease was the City of Amherst – a 27 ½ % decrease. The largest percentage increase was the Lorain County Sheriff – a 43 ½ % increase from 2007. 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.

Civil

Civil filings increased to 1242, the highest number of filings in the history of the court. 131 of these cases were Eviction filings compared to 126 in 2007, 137 were Small Claims filings compared to 219 in 2007, 907 were filings for the collection of money compared to 692 in 2007 – a 31% increase, 22 were filings for accidents compared to 10 in 2007 and 45 were miscellaneous filings compared to 35 in 2007.³

³ 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. 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. The Judge has assumed all duties previously handled by the Magistrate. 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 the calendar years 2004, 2005, 2006, 2007 and 2008 for a total savings of \$54,200.00 since January 2002 not including raises. The City has not had a Magistrate expense for the past four years (\$14,400.00 per year for five years or \$72,000.00) and \$7,200.00 per year for 2002 and 2003 for a total of \$79,200.00. The grand total savings to County and City from 2001 Magistrate expense for the past 7 years is \$133,400.00.

If the trend in the reduction in overall filings, especially the trend in the reduction of simple traffic filings, and the increase in OVI filings, continues the court may be faced with significant challenges to provide resources of time, staff and funds to service the trend. Cases can be placed into two categories, low maintenance or high maintenance. An example of a low maintenance case is a speeding ticket in which the person charged with the offense has little or no contact with the court. The person is given a speeding ticket and told the amount of a waiver and that the waiver can be mailed to the court. The person mails the waiver to the court. A clerk receipts the waiver and has not personal contact with the offender. Very few additional resources of staff and time are needed to handle a modest increase in these low maintenance cases. The waiver amount includes basic court costs which are similar to the court cost of a high maintenance case. An example of a high maintenance case is an OVI case. Functions performed by the staff and appearances by the offender include:

1. Initial appearance at arraignment – Clerk inputs a not guilty plea; case is scheduled for a pretrial; bond issues are discussed in open court; if a person is a repeat or habitual offender the community control department may request pre-conviction conditions of bond and the person will meet with a probation officer; Clerk inputs the bond entry; if the person cannot afford counsel a discussion is had on the record regarding their qualification for court appointed counsel and if the judge pre-qualifies them in the courtroom the person then fills out a form required to be completed on a form provided by the Ohio Public Defender's office to confirm their qualification for court appointed counsel – a staff member assists them with the form and then the form is presented to the Judge for final approval.
2. In most OVI cases a person receives an administrative license suspension⁴ and will apply for limited driving privileges. The person must file a petition – the petition is received by the Clerk and entered into the docket. The petition is then presented to the Judge who reviews the petition. If the privileges are granted a staff member then types a limited driving privilege order. Depending on the number of prior offense the privileges may require either special license plates

⁴ The law provides that if a person is charged with OVI and they either test over the legal limit or refuse to submit to an alcohol test that their operator's license is immediately suspended. The person is permitted to apply for limited driving privileges after a waiting period of either 15, 45, or 180 days depending on whether the person has any prior refusals or positive tests.

- and/or ignition interlock. If either of these is required additional forms must be processed. If ignition interlock is ordered then the Community Control Department must be involved to monitor the connection of the ignition interlock and whether there are any violations. The clerk must enter the limited driving privilege order in the docket.
3. In cases where a person is charged with a multiple OVI offense the vehicle is typically seized by law enforcement. The person may petition the court to release the vehicle from the impound lot. The petition must be docketed by the Clerk. The petition or request is reviewed by the Judge. Many times, because the person does not have valid driving privileges the vehicle will be permitted to be released but only subject to immobilization. Immobilization consists of having the vehicle towed to a residence and placing a disabling club on the steering wheel to ensure compliance with the court order of immobilization. The entry of immobilization is completed by the Judge. The entry must be docketed by a Clerk. A court bailiff effectuates the clubbing of the vehicle and documents the immobilization in a file opened by the bailiff. At the conclusion of the case – if the person is convicted of the charge that requires immobilization – then the club is removed from the vehicle which is monitored by the bailiff. A form is required to be sent to the Bureau of Motor Vehicles (BMV). This form is completed by the bailiff and sent to the BMV.
 4. Court hearings for OVI typically include at least 3 and sometimes 5 or 6. Rarely, is an OVI completed at the first hearing. At arraignment the case is set for an initial pretrial. If the person has an attorney at the first pretrial, the attorney meets with the Prosecutor and exchanges information in a process called discovery. The attorney obtains specific information regarding the case from the Prosecutor (e.g. police report, witness statements, breath reading and calibration reports). At the conclusion of the first pretrial, if all information requested by the defense attorney has been provided the defense attorney is then given the opportunity to file motions. Typically, a motion to suppress evidence seized as a result of an alleged improper stop, detention, arrest or failure to follow proper procedure to obtain an alcohol sample is filed. If additional information is requested (e.g. sometimes there is a video or the stop or the booking room etc.) then the case is scheduled for another pretrial to allow the Prosecutor time to obtain or the defense attorney time to retrieve the additional

information. Once the motion is filed it is either scheduled immediately for a hearing or the issues raised in the motion are discussed at the next pretrial. If after the pretrial(s) the case has not been resolved then an evidentiary hearing is held so that the judge can decide the disputed issues in the motion. Motion hearings usually last between ½ hour and 2 hours depending on the complexity of the issues. During the past approximately 6 months motion hearings have been scheduled at 7:30 A.M. due to the volume of OVI cases. After the hearing, the matter is typically submitted for ruling – sometimes to allow the parties to supplement or submit written arguments regarding the issues at the hearing. After the Judge rules on the motion a final pretrial is scheduled to see if the case can be resolved before a trial. If the case is not resolved the case is set for trial.

5. Once the case is resolved the law requires that the plea be made in open court and that a Judge have a meaningful dialogue with the accused to make sure the person understands the plea and the consequences of having the plea on his/her record. The Judge's explanation includes the consequences of subsequent convictions and the effect of the various pleas that can be made. An entry is typed by the Judge or the Judge's staff as is a waiver of rights form and a dialogue form. Once the plea is completed the person is escorted to the Clerk's office to calculate the financial obligations owed and then escorted to the Community Control Department to discuss what obligations the person has with regard to programs, assessments and/or probation depending on the orders of the court. Persons charged with repeat offenses are mandated by law to obtain an assessment and follow through with the Community Control Department with treatment and/or programs.
6. If there was not a pre-conviction immobilization – on certain repeat OVI offenses there is either a mandatory immobilization period or a forfeiture of the vehicle if titled in the name of the offender at the time of the offense. A mandatory immobilization must be effectuated by the bailiff with similar steps as the pre-conviction immobilization. If there is the possibility of forfeiture then a separate hearing must be scheduled. With a mandatory immobilization the law now provides that if a household or family member relies on the vehicle to be immobilized that the household or family member may petition the court for a waiver of the immobilization. If the person files a petition another hearing is scheduled on that request.

7. The Community Control Department then follows the person through their treatment course and/or required programming and also monitors the persons' compliance with probation and monitors them for repeat offenses. If there is a violation, then proceedings are initiated for the alleged violation. If the person does not pay their fine and costs at the time of the plea then the Community Control Department monitors compliance.

Another example of a high maintenance case includes domestic violence cases. In a typical domestic violence charge the person is held – by law – without bond until the person is brought before a Judge. In a great percentage of cases there is a request made for a protection order (an order prohibiting the accused from having contact with the alleged victim and/or family members of the alleged victim.) Before issuing a protection order information from the Prosecutor and sometimes the Community Control Department and from other sources is received and/or a hearing is held to determine whether to issue a protection order. This information and hearing usually take a minimum of 15 minutes up to 45 minutes. If an order is issued there are two forms that need to be prepared by the court and processed. The Clerk must docket the information and notify law enforcement of the issuance of the order. Rarely, is a domestic violence case completed until at least 2-4 additional hearings are held.

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.

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 has implemented a juror information line 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.

Diana Bizorik, Deputy Clerk , serves as the Jury Commissioner.

Community Control Department (Probation Department)

Alcohol and/or drug abuse are typically contributing factors for the underlying offense that results in a person being placed on probation. Individuals charged with these 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 seven basic categories of service to the court.⁵ At the beginning of 2008 the Community Control

⁵ 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. 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 most persons 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.**

Monitored Time – **When a convicted person is placed on Monitored Time (prior to 1-1-04 the term used was “good behavior”) 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.**

Department consisted of two full time probation officers and a secretary. The court also continued to utilize interns⁶to assist in the department.

The Community Control Department continues to experience growth and change. Due to the increase in cases being serviced by the Community Control Department, including the increase in high maintenance cases, a third probation officer was added in November 2008. As of September 25, 2008 the Community Control Department had a caseload of approximately 1004 for the two probation officers. This compared to 729 at the end of 2007, 611 at the end of 2006 and 561 at the end of 2005. Many of the functions performed by the Community Control Department are mandated by the law especially in the area of OVI law. Changes in the OVI law are constantly being made. This past year the OVI law was changed effective

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. The Community Control Department also screens candidates and makes recommendations to the court regarding whether an offender qualifies for diversion.

Court Supervised Release – In any pending charge where jail is a possible penalty the court may set conditions on the bond of an accused. The court may pursuant to Criminal Rule 46: (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. 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.

Basic Probation Supervision – DUS record check – A new category of probation has been added for selected persons convicted of driving under suspension. House Bill 490 – Misdemeanor Sentencing – effective 1-1-04 includes a provision that the court is to consider the community resources when imposing a sentence. In the past, jail sentences were commonly given to a multiple DUS offender. But due to the population at the Lorain County Jail and the need for jail space for more serious offenders the court is attempting to find alternate ways to curb the incidence of repeat DUS offenders. In these cases the person is typically given a fine, community service and a suspended jail sentence. The jail sentence is suspended conditioned on no further violations for a stated period of time. In order to monitor compliance the Community Control Department runs periodic records checks using public record searches. The offender pays a supervision fee and is warned that if there is a repeat offense within the monitoring period that they will have to serve their suspended sentence.

⁶ The court has utilized interns from Tiffin University, Miami of Ohio University, Lorain County Community College and Ashland University.

June 24, 2008 and again effective September 30, 2008. With the most recent changes, almost all OVI offenders must be placed on some form of probation. 1st offenders are required to either serve 3 days in jail or in the alternative to attend a 3 day Driver Intervention Program. Very seldom does a first offender serve jail. Instead they are urged to attend the 3 day program. At the program an assessment is made for any alcohol issue and the 1st offender then follows through with any recommendations through the Community Control Department. For second and third offenders the law now mandates an assessment and treatment as follows:

[2nd Offense OVI] The offender is placed on Intensive Probation Supervision. The offender 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 offender's case. Under the law the offender must be assessed by an alcohol and drug treatment program that is authorized by section 3793.02 of the Revised Code and must follow the treatment recommendations of the program. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. The program is required to submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

[3rd Offense OVI] The offender is placed on Intensive Probation Supervision for an initial period of 12 months. The offender 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 offender's case. Under the law the offender must participate in an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code and shall follow the treatment recommendations of the program. The operator of the program must determine and assess the degree of the offender's alcohol dependency and make recommendations for treatment. The program must submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

The law also now requires that certain repeat offenders be monitored using electronic monitoring devices as a condition of probation and/or have an ignition interlock device installed as a condition of obtaining driving privileges. The court also requires monitoring of other offenders who have a significant and/or history of alcohol related offenses that appear to create a safety risk to the community and/or themselves.

The Community Control Department also administers payment plans for offenders who cannot immediately pay their fine and costs. Due to the state of the local economy more offenders are unable to pay fine and costs. Those that can pay are given a payment plan. Many of those that cannot are given an opportunity to perform community service. The Community Control Department monitors compliance with these orders.

The Community Control Department also handles investigations for and administers Diversion programs. For certain offenses 1st time offenders are offered an opportunity to complete a diversion program in lieu of conviction of a crime. Typically, a 1st offender for Underage Consumption of alcohol and some 1st offenders for Petty Theft and a few other miscellaneous non-violent offenders are offered this opportunity. The diversion programs usually include the performance of community service, writing a paper, attending an awareness program related to the offense and leading a law abiding life during the period of the program.

The Community Control Department also has the duty of presenting most probation violations in open court and making recommendations with regard to probation violations. For contested probation violations the Community Control Department may request the assistance of the prosecutor's office for the agency that charged the underlying offense.

As of December 31, 2008 there were 1,505 persons being supervised or monitored including – 82 on Intensive Supervised Probation, 398 on Basic Probation Supervision, 265 on Basic Probation Supervision Money Review, 39 on Court Supervised Release and 174 on Basic Probation Supervision DUS record check. 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.⁷

Efforts have been made to fund the department so that it does not become a burden on the general operating fund of the court.⁸ As the department continues to expand there is need for quality space. There is no dedicated space in the building for a probation department. 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 Court Security Committee was established in anticipation of a pending Supreme Court rule that would require every court in the State to form such a Committee. The committee includes the court's Chief Security Officer, Chief Bailiff, Clerk of Court, Chief Probation Officer, a representative from each law enforcement agency in the jurisdiction of the court, the Oberlin fire department, the city manager's office and additional members that may be added by the committee.

As anticipated the Ohio Supreme Court enacted a Rule that will be effective March 1, 2009 requiring every court in the State to form a security committee. Matters that come before the committee are confidential.

A metal detection device was installed 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.

The device is presently staffed by three retired police officers working on a rotating basis.⁹ They are also available to provide additional security on

⁷ As of December 31, 2008 only 6 persons were being supervised by the County Probation Department.

⁸ The Probation office is funded in part through the collection of Supervision Fees that are permitted by law. In 2008 the sum of \$127,229.54 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.

⁹ 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 2008 court costs in the amount of \$25,004.00 was collected to defer the costs of providing additional security.

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.

In 2007 additional security cameras were installed. The cameras are monitored by the Oberlin Police Department.

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.

Effective January 1, 2008 court costs were increased to \$90.00 per criminal and traffic case filed with the court that consists of:

Local Court Costs	\$37.00
Probation Costs	\$ 3.00
Computer Costs (Clerk)	\$ 5.00
Computer Costs (Court)	\$ 2.00
Court Security Costs	\$ 4.00
Section #169 SVCF	\$ 9.00
Court Improvement Costs	\$15.00
General (State) Costs	\$15.00

Effective September 23, 2008 an additional court cost of \$10.00 per case was mandated by the State for each traffic case as follows: Criminal Justice Drug Enforcement Fund \$3.50; Indigent Driver Treatment Fund \$1.50; Indigent Defense Support Fund \$ 5.00

Basic court costs in a Civil Case were also amended to \$110.00 per civil filing effective January 1, 2008.

Magistrate

The Court operated without a Magistrate for the fifth year in a row. Prior to 2003 the court had a Magistrate for approximately 15 years. The Magistrate position was eliminated at the end of 2003 due to cost and space issues. In past years the Magistrate 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 appears to be a need for a Magistrate based on the volume of cases in this Court. Civil cases this past year totaled 1242, the highest number of filings in the history of the court. Although the criminal and traffic filings decreased this past year the main decrease was in traffic filings. Traffic filings historically are low maintenance cases where usually a Judge or Magistrate is not involved. The traffic citation in most cases results in a waiver which is processed by the Clerk’s office. Criminal misdemeanor, felony and OVI cases, on the other hand, are high maintenance cases that usually require court time and attention by a Judge or Magistrate. Similarly, Small Claims cases need court time and attention.

Since there is not a separate hearing room with proper recording facilities it is impractical to fill the position at this time. But because of the need for a magistrate the position has been included in the budget for 2009.

Prosecutor Offices

There are several prosecutors that serve the different law enforcement agencies that make arrests in the Oberlin Municipal Court jurisdiction. At present the Prosecutors in the court are:

Jurisdiction	Prosecutor
City of Amherst	Frank Carlson ¹⁰
City of Oberlin	Michelle Nedwick ¹¹
Townships of Amherst, Brighton, Camden, Henrietta, Huntington, New Russia, Penfield, Pittsfield, Rochester and Wellington.	Michelle Nedwick ¹²
Village of South Amherst	Michelle Nedwick ¹³
Village of Wellington	Donald Zaleski ¹⁴
Village of Kipton	Margaret O’Byron

¹⁰ Prosecutor O’Byron is appointed by the Amherst City Law Director – Anthony Pecora.

¹¹ Prosecutor Nedwick is appointed by the Oberlin City Law Director Eric Severs.

¹² Pursuant to law the Prosecutor for the home city of the court prosecutes all cases filed in the unincorporated areas of the jurisdiction of the court.

¹³ Prosecutor Nedwick is appointed by the South Amherst Law Director – Quentin Nolan

¹⁴ Prosecutor Zaleski is appointed by the Mayor of the Village of Wellington.

Significant changes have been made in the operation of the Prosecutor offices since January 2002. Shortly after taking the bench in January 2002 Judge Januzzi 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 provide 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 or administrative assistant 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 impartiality and independence.

Video Hearings

Video Hearings continue to be utilized by the court whenever possible. 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 utilizes the system for most arraignments when a person has not posted bond and 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.

As anticipated, effective July 1, 2008 the Ohio Supreme Court adopted a Rule change affecting video hearings. As a result of the rule change a telephone has been made available in the hallway adjacent to the video room at the Lorain County Correctional Facility to permit an accused to have a confidential conversation with his/her counsel.

Night Court

“Night Court” does not appear to be a realistic possibility in the near future. Several issues, both economic and practical, pose significant barriers to the implementation of “night court”.¹⁵

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 has three informational power point presentations. One presentation addressed roles in the justice system and underage drinking. This is a presentation that Judge Januzzi makes to local high schools. Persons charged with Underage Consumption in this court are often referred to this power point in conjunction with a paper that they are required to write regarding the effects of alcohol. There is also a presentation that addressed misdemeanor sentencing. Judge Januzzi has made presentations on misdemeanor sentencing to the Lorain County Bar Association and to the

¹⁵ 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.

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.

Ohio Community Corrections Association. There is also a presentation that addressed the issue of Judicial Independence.

Technology

The software program was changed from a character based program to a windows word based program in 2008. This has created many opportunities to improve the efficient input and processing of cases.

A work station was added to the courtroom permitting the efficient transfer of court entries directly from the court to the Clerk's office and permitting the Judge to create and/or modify court entries in the courtroom.

A new court recording system was purchased to capture video as well as audio for court proceedings.

Community Outreach

Judge Januzzi continues to make him self available for presentations to local schools. In the past Judge Januzzi has given presentations at Wellington High School, Amherst High School and Oberlin High School and also presided over Mock Trials with Oberlin High School students. This past year Judge Januzzi gave a presentation on Judicial Independence to the League of Women Voters.

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.

(end)

CIVIL BRANCH

Civil Case Load

Civil filings in 2008 were the highest number in the history of the Court. The previous high was in the year 1977 – 1,126 filings.

Year	Cases Filed
2001	732
2002	818
2003	1,042
2004	1,047
2005	994
2006	932
2007	1,082
2008	1,242

Receipts of Civil Division

Receipts increased substantially as a result of the increase in civil filing fees as of January 1, 2008 and the record number of civil filings.

Year	Amount
2001	\$52,239.45
2002	\$53,262.86
2003	\$74,023.46
2004	\$84,301.37
2005	\$78,545.54
2006	\$71,591.23
2007	\$80,315.22
2008	\$107,801.39*

*Does not include \$16,225.00 in receipts for Court Improvement Fund or \$6,086.00 in receipts for Clerk's Computer Fund.

CRIMINAL AND TRAFFIC BRANCH

Criminal Case Load

[Felony and Misdemeanor filings – excluding OVI and Traffic cases]

Criminal case filings decreased 2.5% from 2007 [1352] to 2008 [1317]. The largest percentage decrease was the City of Oberlin – 17.5%. The largest increase was the Village of South Amherst – 93%. The breakdown in criminal filings for the major police agencies in the jurisdiction of the court for the past eight years is:

Agency	2001	2002	2003	2004	2005	2006	2007	2008
Amherst	285	341	458	760	763	657	627	589
Oberlin	299	253	276	203	219	164	246	203
Wellington	132	122	117	97	97	149	122	115
Sheriff	205	190	238	197	152	174	149	166
South Amherst	37	59	12	41	10	28	43	83
Ohio State Patrol	74	93	87	168	141	107	78	93

OVI Case Load

[Operating a Motor Vehicle Under the Influence]

OVI case filings increased from 2007 [329] to 2008 [350]. This is the highest number of filings for OVI in the history of the court. The largest increase was with the Amherst Police Department. Filings increased 37% for filings by Amherst Police from 2007 to 2008 and the increase represents a 367% increase from 2001 when only 34 OVI were filed by Amherst Police. All other agencies combined had an 11% decrease in OVI filings [From 211 in 2007 to 188 in 2008]. Ohio State Highway Patrol OVI case filings were down 11 ½ % from 2007 [121] to 2008 [107], City of Oberlin OVI case filings fell 34% from 2007 [38] to 2008[25], Village of Wellington increased 17% from 2007 [35] to 2008 [41] but remained lower than the previous two years 2005 [44] and 2006 [45], Lorain County Sheriff OVI increased from 7 to 12 but well below 2001[25] and 2002 [22], and South Amherst decreased from 10 to 3.

The breakdown in OVI filings for the major police agencies in the jurisdiction of the court for the past eight years is:

Agency	2001	2002	2003	2004	2005	2006	2007	2008
Amherst	34	67	102	121	86	117	116	159
Oberlin	31	17	14	22	28	32	38	25
Wellington	35	37	31	37	44	45	35	41
Sheriff	25	22	9	13	8	10	7	12
South Amherst	15	16	8	14	7	7	10	3
Ohio State Patrol	123	115	106	108	113	97	121	107

(continued)

(Criminal and Traffic Branch, continued)

Traffic Case Load – excluding OVI filings

Traffic cases (excluding OVI) decreased (3.5%) from 2007 [5726] to 2008 [5528]. The largest percentage decrease was the City of Amherst – a 27 ½ % decrease. The largest percentage increase was the Lorain County Sheriff – a 43 ½ % increase from 2007. The breakdown in Traffic filings for the major police agencies in the jurisdiction of the court for the past eight years is:

Agency	2001	2002	2003	2004	2005	2006	2007	2008
Amherst	905	1145	1636	1411	927	971	850	617
Oberlin	868	425	360	446	370	338	293	297
Wellington	267	333	197	209	272	399	239	244
Sheriff	275	271	263	323	160	137	129	185
South Amherst	108	193	309	334	302	362	248	198
Ohio State Patrol	4630	5836	5360	3880	3726	3719	3920	3961

Receipts of the Criminal and Traffic Division

In 2008 total receipts from the Criminal and Traffic Divisions was \$1,420,989.89, an increase of 4.19% from 2007 total receipts of \$1,363,719.52.

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- 2008.

<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>
OVI	247	278	320	296	268	279	270
Felony	187	157	143	137	166	176	197
Misdemeanor	731	798	948	927	1,024	1,031	1,107
Traffic	6,700	5,622	7,819	6,753	7,119	8,208	8,208

<u>Type of Case</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
OVI	317	292	311	329	350
Felony	255	249	239	206	207
Misdemeanor	1,398	1,364	1,112	1,148	1,110
Traffic	6,887	5,967	6,040	5,726	5,528

The following is a list of total cases filed, terminated and pending in the court in 1997-2008.

<u>Year</u>	<u>New cases filed/transferred</u>	<u>Terminations</u>	<u>Pending 12/31</u>
1997	8,599	8,920	2,328
1998	7,585	7,738	2,175
1999	9,948	9,959	2,164
2000	8,730	8,872	2,022
2001	9,351	9,453	1,920
2002	10,765	11,396	1,289
2003	11,124	11,212	1,206
2004	10,530	10,642	1,103
2005	9,541	9,758	888
2006	9,013	9,068	833
2007	9,193	9,024	918
2008	8,820	8,860	878