

2012 Annual Report

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Law Director & City Prosecutor



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ANNUAL REPORT

2012

I. Civil Report

A. CIVIL ACTIVITIES

1. Council

- a. Under the Ohio Revised Code, the Law Director is the civil attorney for all City departments, Boards, and the Lancaster Board of Education. The Law Director's office attends all council meetings, as well as special meetings when requested.

2. Legislation Services provided

d. Yearly Statistics

YEAR	ORDINANCES	RESOLUTIONS
1996	57	221
1997	94	134
1998	76	146
1999	70	177
2000	42	167
2001	43	186
2002	59	146
2003	82	157
2004	85	214
2005	91	179
2006	57	180
2007	65	184
2008	64	175
2009	42	182
2010	29	159
2011	30	182
2012	33	199

e. Ordinances/Resolution of interest for year.

1. Establishment of guidelines for PreIntement Fund and Cemetery Perpetual Care Fund (Ordinances 21-12 and 22-12)

This legislation addressed the misconception that the Ohio Revised Code set parameters on the funds as opposed to the City. New guidelines are established to both protect the funds for the future while allowing emergency repairs.

3. **Legal Opinions**

The Law Director issues oral and written legal opinions upon request of council or City Administrators. The Law Director encourages written opinions so that the City develops an archive for the future to assist the City on difficult issues.

B. **ADMINISTRATION**

1. **Contact with Administration**

The Law Director and her staff provided advice, assistance, and opinions to the Mayor, Service-Safety Director, Engineer, Auditor, Treasurer, and all department heads upon request. Our office also assisted the Planning Commission, Certified Building Department, Board of Zoning Appeals, Engineering, and the Lancaster City Schools offices on a broad range of legal issues. The Law Director meets weekly with the administration of the City to assist with continued information sharing.



2. **Outside Counsel**

a. **Bond Counsel – Benesch, Friedlander, Coplan & Aronoff, LLP**

Steve Grassbaugh is utilized for bond, tax, and assessment issues, and has offered consistent expertise to the Administration for over 20 years.

b. **Labor Counsel – Downes, Hurst & Fishel**

The Law Director partnered with outside counsel to handle the labor negotiations and labor contract disputes for the City. Our office did consult with City departments on daily labor issues, i.e. payroll, status of contracts, layoffs, benefits, and family leave.

The Law Director & Administration utilize Attorney Marc Fishel for assistance on questions and procedures involving employment and labor issues.

c. **Construction Law Counsel – Bricker & Eckler**

This firm was retained to assist in litigation concerning the South Wellfield new water plant. Attorney Mark Evans and Jack Rosati are part of Bricker's construction law division and have assisted in rewriting our bid specs and will be utilized on critical issues in planning, engineering, bidding, and building of the new water pollution control plant. Bricker and Eckler are retained to work on all aspects of City construction law in an as needed basis.

d. **Workers Compensation Counsel – J. Miles Gibson, Esq.**

Attorney Gibson and his associates were retained to represent and defend the City of Lancaster in an employee's appeal of the Bureau of Workers' Compensation denial of benefits.

- e. Special Prosecutor – Eric Nordman, Esquire

A special prosecutor was retained in several criminal cases/investigations.

- f. Temporary Help – Discovery

We have found that our litigated caseload has increased by at least 300 cases in the last five years, straining the administrative staff structure of my office. In response, we contracted with a temporary worker, through a temporary agency, to handle all criminal discovery cases in the office which requires at least 25 hours per week. We are unsure of our funding status of this in the upcoming year.

C. BOARD OF EDUCATION

Pursuant to Section 3313.35 of the Ohio Revised Code, the Law Director represented the Board of Education of the Lancaster City School District. Due to budgetary constraints, the superintendent of Lancaster City Schools notified the Law Director in 2007 that the School System intended to begin utilizing the Law Director for legal representation. The Law Director's office has worked on a number of projects in 2012 for the superintendent, including real estate and contract matters.

D. LITIGATION

1. Civil Litigation

- a. Civil litigation for the City in 2012 involved thirty-two (32) active cases involving community block grant mortgage foreclosures, declaratory and injunctive relief actions, the Storm Water Utility Program, property zoning, vehicle towing, automobile accidents, property damage claims, breach of contract claims, and death benefit claims. The Law Director's Office is actively litigating these cases internally and, in some cases, with the assistance of outside counsel. Due to the nature of civil litigation, additional details regarding these pending civil litigation cases is attorney/client privilege and/or work product privilege, but will be made available to City Council members for review.

2. Self Insured Claims Adjusting Reports

- a. The City received sixteen (16) insurance claims in 2012 involving vehicle and property damage. The Law Director's Office assumed this responsibility in 2005 in order to save the City approximately \$20,000/year. The Law Director's Office reviewed these claims against the City in the context of governmental immunity provided in the Ohio Revised Code. Due to the nature of these claims, additional details regarding their review and disposition is attorney/client privilege and/or work product privilege, but will be made available to City Council members for review.

E. MISCELLANEOUS AREAS OF SERVICE

1. General Services

a. Hours of Operation

The Law Director's office is open from 8:00 a.m. to 4:30 p.m., Monday through Friday.

b. Civil Claim Investigation

Civil claims are now investigated and considered by the Law Director's Office with limited referral to our insurance carrier at a savings to the City of at least \$20,000.00 per year. This has required tremendous time from this office and continues to be an option only with adequate staffing, but resulted in \$100,000 savings to the General Fund.

c. Down Payment Recovery

The Law Director has assisted the coordination of the Community Development Program and assists in recovery of down payments through foreclosures and bankruptcy procedures. In the current economic situation, foreclosures being filed have increased work for our office.

d. Collections on Damage to City Property

This Law Director's Office conducted collection proceedings for the departments of the City when City property has been damaged. (i.e. fire hydrants and electrical poles) In 2012, our office obtained judgments or collected for more than \$20,330.33, in an attempt to reclaim taxpayers' money. Overall we have recovered \$183,676.06

e. Income Tax Collections

The Law Director sends out correspondence on income tax delinquency cases where individuals fail to file income tax returns or pay taxes owed and for a total collection since 2005 of \$100,000.00.

2. New Services

a. Legal Work for City Schools

A new area of responsibility for the Law Director is the Lancaster City Schools. Due to budgetary restraints, the School Board has requested legal assistance as authorized by the Ohio Revised Code.

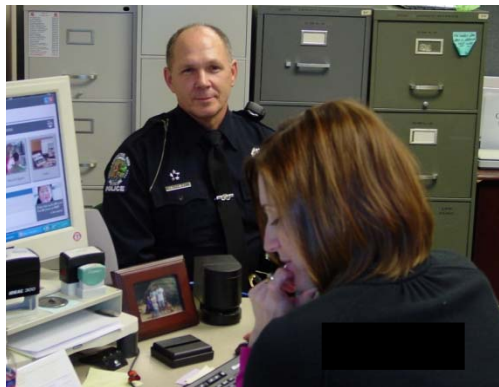
b. Zoning and Code Enforcement Work for Additional Villages

The Law Director's office is mandated by the ORC to handle zoning and code enforcement prosecution for townships and villages in Fairfield County. This activity has increased in the last three years as more municipalities and townships adopt property maintenance and zoning codes.

F. GRANTS WRITTEN AND RECEIVED BY LAW DIRECTOR IN 2010 - 2012

PROJECT	AMOUNT	FUNDING SOURCE
Safe Routes to School I	\$ 383,000.00	SRTS Federal Money
Safe Routes to School II	\$ 345,000.00	SRTS Federal Money
Safe Routes to School Enforcement	\$ 21,840.00	SRTS Federal Money
Safe Routes to School Signs/Safety Equipment	\$ 62,000.00	SRTS Federal Money
Safe Routes to School I (West Sidewalks)	\$ 453,600.00	SRTS Federal Money
Safe Routes to School II (Sheridan Drive Sidewalks)	\$ 453,385.00	SRTS Federal Money
Bike Trail Phase IV	\$ 373,605.00	Clean Ohio Fund State Money
Bike Trail Phase IV	\$ 5,400.00	Columbus Foundation
Family Violence Prosecution Unit	\$ 116,349.00	JAG – ARRA Stimulus Funds
Family Violence Prosecution Unit	\$ 29,828.00	VAWA – ARRA Stimulus Funds
VAWA	\$ 44,410.15	Federal pass through
TOTAL	\$ 2,288,417.15	

II. Criminal Report



A. CRIMINAL PROSECUTORIAL RESPONSIBILITIES

Pursuant to Ohio Revised Code 1901.34, the Law Director's office is responsible for the prosecution of misdemeanor criminal cases arising in the City of Lancaster and in the unincorporated areas of the county. We therefore prosecute any misdemeanor violation which occurs in Fairfield County. In 1997, we began the process of formalizing contracts for reimbursement to the City for prosecution we do for municipalities in Fairfield County (i.e. Bremen, Lithopolis, Pickerington, Reynoldsburg, etc.). For 2002 we signed a contract with the Commissioners for both Fairfield County and all municipalities within the county for Fifty-Four Thousand Dollars (\$54,000.00). This contract expired at the end of 2004 and was renegotiated for 2005 at \$74,000.00, 2006 at \$76,000.00, and 2007 at \$106,000.00. The Law Director successfully negotiated a five year contract for \$150,000.00 per year starting 2008, working towards a more proportionate level of participation by the County Commissioners in the overall cost of misdemeanor criminal prosecution for Fairfield County. Additionally, the Law Director has negotiated prosecution contracts with the City of Pickerington in the amount of \$24,999.00 and the City of Reynoldsburg in the amount of \$5,500.00 due to the increased number of criminal cases from those jurisdictions being filed and prosecuted in the Fairfield County Municipal Court.

B. CRIMINAL STATISTICS

The Courts statistics for the Law Director and City Prosecutor's Office for 2012 represent the major use of resources of this office. Approximately 80% of funds for the Law Director's Office is directed towards criminal activity. The management and prosecution of these high numbers of cases take a team approach to file management and prosecution efforts. Because of the short time line for prosecution of misdemeanor cases (30-90 days without a time waiver), cases continue regardless of the availability of the prosecutor. Our office slides attorneys into the dockets as needed to keep cases moving forward where possible.

Fairfield County Municipal Court Statistics				
Types of Cases	2009	2010	2011	2012
Misdemeanor	2,660	2,246	2,809	2,246
OVI	601	751	755	698
Other Traffic	11,828	13,448	12,132	12,877
Jury Trials	14	8	9	17
Trials to Court	2,411	2,520	2,662	5,485
New Court Filings	19,915	21,239	20,417	21,239



*Court statistics not released until late February. Statistics provided by Court Administrator.

C. SENATE BILL 2/VICTIM RIGHTS LEGISLATION

1. This office has implemented the necessary notification procedures for victims of crime as now mandated. Victims must be notified as to hearings and status of the case.
 - A. A Federal grant from the Violence Against Women Act was obtained from 2000-2006 funding 75% of this position. This grant was defunded for 2007 due to its age. In response, the Law Director worked with the Fairfield County Municipal Court to establish the Fairfield County Family Violence Unit court cost to help fund a prosecutor for family violence/stalking cases.

The Family Violence Unit Court Cost was terminated December 31, 2009 through Attorney General's Opinion OAG 01-2009. This resulted in a loss of monies for prosecution in the amount of over \$100,000.00 per year. The Law Director's Office received ARRA Stimulus grants as a stop gap measure for 2010. In 2011, the Law Director had to lay off the Family Violence Prosecutor based on budget constraints. For 2012, the Law Director was successful in obtaining a 12 month grant for a Family Violence Prosecutor. This grant is renewed for 2013.

2. Victims served through the Family Violence Fund Statistics

Statistics Family Violence Unit						
Year	DV Intakes	Stalking Intakes	Other SB2 Cases	Total Intakes/Victims Served	DV Cases Prosecuted	Stalking Cases Prosecuted
2008	233	18	523	774		

2009	206	8	583	797		
2010	197	5	491	693	246	5
2011	166	5	510	681	*	*
2012	648	3		651	300	

*Waiting on Court Report

D. TOWNSHIP ZONING VIOLATIONS

An area this office has seen greatly expanded in our office is filing of criminal violations of township zoning codes. As the townships grow, zoning enforcement has become an increasingly necessary issue. Since my office prosecutes all misdemeanor violations in the unincorporated areas of Fairfield County, this includes township zoning issues. The County Prosecutor's Office handles all other civil aspects of the townships legal needs.

E. FAMILY VIOLENCE UNIT



The Law Director developed a proposal adopted by the Fairfield County Municipal Court which funded the Family Violence Unit, utilizing court costs. This fund generated around \$100,000.00 savings to taxpayers by ensuring that the users of Municipal Court pay toward the Victims of Crime in Fairfield County, by hiring a prosecutor and victim services coordinator. However, Ohio Attorney General's Opinion OAG 01-2009 prevented continuation of this fund after December 31, 2009. We will operate with a 12 month VAWA grant for 2013 in lieu of our 2011 layoff.

F. LAW ENFORCEMENT TRAINING

The Law Director's Office provides free training to law enforcement in the County. In 2012, the office conducted short shift change trainings (15 minute) on the new Driving Under Suspension Law at no cost to taxpayers.

G. BUDGET CRISIS

The Law Director and City Prosecutor's Office greatest challenge in 2012 was meeting the budget cuts that were required. Our office laid off one prosecutor at a yearly savings of \$63,000.00 (including all benefits) in 2009 and was able to return \$30,000.00 to the General Fund for 2010. At the same time, the office suffered the devastating loss of the Family Violence Unit Court Cost as of December 31, 2009 which had generated \$100,000.00 for the prosecutor's efforts to combat Domestic Violence by funding a Domestic Violence Prosecutor and a Victim Services Coordinator. The Fund was negatively affected by an Ohio Attorney General's Opinion and will result in a larger demand for funding by the General Fund. A stop gap measure was received in 2009 as the Law Director was awarded two stimulus grants for the Family Violence Unit in the amount of \$146,000.00 running from July 2009 through December 31, 2010.

In 2011, we had to lay off an additional prosecutor, the Family Violence position which takes the prosecutor level to a 10 year low while crime statistics are being directly affected by the opiate crisis in Fairfield County.

We have received a 12 month VAWA grant for 2011 and 2012 which returns the Family Violence Prosecutor for 12 months but does not create future stability for our prosecution efforts.

III. How Did We Do Meeting Our 2012 Goals?

A. RENEGOTIATE COUNTY PROSECUTION CONTRACT

We have renewed the contract for 12 months and negotiations are ongoing.

B. RESTORE FAMILY VIOLENCE UNIT

We have received a 2012 VAWA grant to fund the Family Violence Prosecutor for 2013.

C. UPDATE FIRE IMPACT FEE

Due to reduced staffing size, we were unable to complete this project.

D. UPDATE CONTRACTOR REGISTRATION

Due to reduced staffing size, we were unable to complete this project.

E. ANNEXATION OF CRITICAL RIGHT-OF-WAY

Due to reduced staffing size, we were unable to complete this project.

IV. Goals for 2013

- A. RENEGOTIATE A MULTI YEAR PROSECUTION CONTRACT**

- B. BEGIN THE ANNEXATION OF RIGHT OF WAY PROJECT**

- C. COMPLETE INDEXING OF ALL LAW DIRECTOR'S FILES**