

**Overland Park Municipal Court
State of the Court Report
2008**



By The Honorable Karen Arnold-Burger, Presiding Judge

MARCH 2009

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THE CITY OF OVERLAND PARK, KANSAS

Overland Park was incorporated as a first-class city May 20, 1960 with a population of 28,085. The city now has 166,917 residents, making it the second most populous city in Kansas. Its geographical area includes about 56 square miles of Johnson County, which is located in the Kansas City metropolitan area. With almost 7,000 businesses it has a daytime population in excess of 300,000. The average gross annual income of the city's households is approximately \$96,047 (144% of the national average). The U.S. Census Bureau ranks Overland Park 25th in the nation in per capita retail sales.

The City of Overland Park traces its roots back to 1905 with the arrival of its founder William B. Strang Jr., who platted subdivisions along a military roadway. Strang envisioned a "park-like" community that was self-sustaining and well planned. He also sought strong commerce, quality education, vibrant neighborhoods, convenient transportation and accommodating recreational facilities.

In 2000, Applied Geographic Solutions reported that Overland Park as the second smartest city in the nation. Intelligence was judged by the percentage of residents 25 or over with a four year college degree. Johnson County, Kansas was ranked second smartest county in the country, with 94.5% of its residents having high school diplomas in the 2002 American Community Survey.

In 2001, the city was recognized as the #1 kid-friendly city in the nation by the Zero Population Growth's Kid Friendly Cities Study. In the same year, the county ranked 32nd in the country in per capita income. The City was also ranked the 10th best city in the United States for doing business by *Business Development Outlook*. *Ladies Home Journal* declared it one of the top 10 cities for women.

In 2005 American City Business Journal ranked Overland Park as the third least-stressed large city in the United States and BabyFit.com, a Cincinnati-based online pregnancy planner, named Overland Park the number one city in the country for healthy pregnancies. And finally, in 2006, *Money* magazine ranked Overland Park in the top ten most desirable places to live in the United States with populations of more than 100,000. Relocate America listed Overland Park in its top 100 places to live, regardless of city size and Allstate listed Overland Park drivers as the 25th safest in the nation based on their accident rates as compared to the national average.

In 2008, Overland Park was ranked 17th by Business Week magazine among the best places to raise kids in the United States.

Today, Overland Park remains a nationally recognized city and has a stable economy.

I. COURT ORGANIZATION AND RESPONSIBILITIES

A. MISSION STATEMENT

To provide fair, accessible and timely resolution of alleged violations in the Overland Park Municipal Court by:

- ◆ Providing access to justice in an expeditious and timely manner,
- ◆ Ensuring equality, fairness and integrity,
- ◆ Ensuring court facilities are safe, assessable and convenient to use, and
- ◆ Instilling public trust and confidence.

B. OVERALL ORGANIZATION

The Overland Park Municipal Court, as all municipal courts in Kansas, was established by state statute for the purpose of providing a just determination of every proceeding for violation of city ordinances.¹ The municipal judges have the power to hear and determine all cases properly brought to the court with the authority to enforce all orders, rules and judgments so made.² The Clerk of the Court issues all process of the Court, files and preserves all papers, docket cases, sets cases for trial and performs other duties and responsibilities of the court.³ In Overland Park, these functions are funded by Cost Center 131. To assist in the achievement of the responsibilities of the court orders, to aide in the enforcement of court orders, and to administer the diversion program for the City Attorney's Office, the City has established an in-house probation office. The operation of diversion, probation and parole functions, including the Alcohol and Drug Safety Action Program (ADSAP), are provided by Cost Center 132. Cost Center 132 is also referred to as "Court Services."

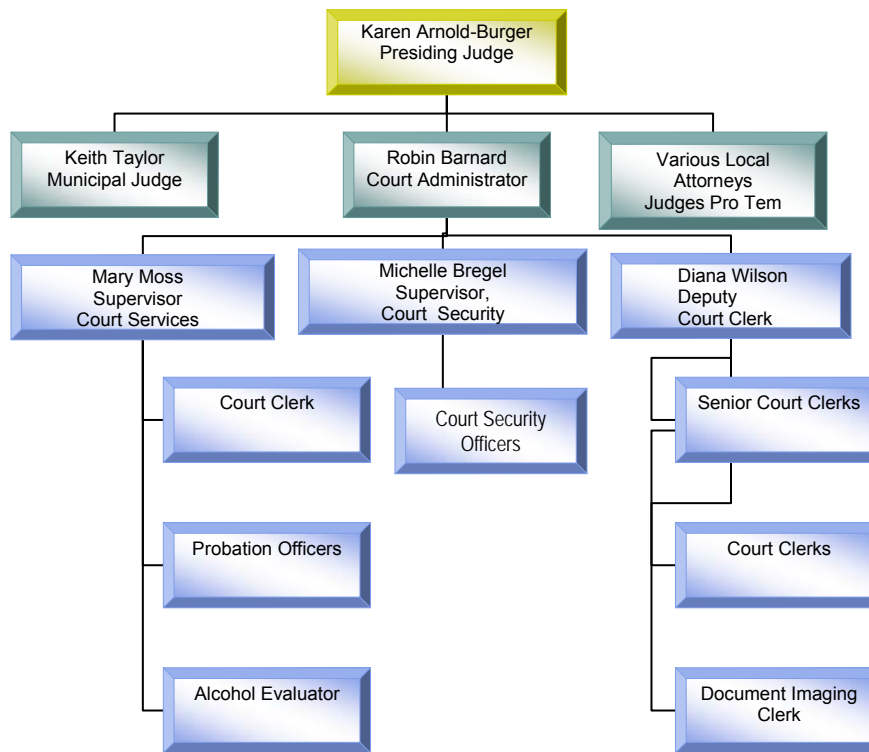
The two full-time municipal court judges are appointed by and are directly responsible to the Governing Body.⁴ In turn, the Presiding Judge appoints a minimum of five qualified Kansas attorneys to serve as Judges Pro Tem or substitute judges. Each September the Presiding Judge meets with the FAE&D Committee for a review of the pro tem status.

¹K.S.A. §12-4103 (2001).

²K.S.A. 2007 Supp. §12-4106.

³K.S.A. §12-4108 (2001).

⁴Overland Park Resolution No. 3688, *See Appendix, p. 33.*



C. MUNICIPAL JUDGES

Overland Park has two full-time municipal judges. Vacancies are handled by the use of pro-tempore judges (“pro-tems”). See *Appendix, pp. 38-42 for biographical sketches of each permanent pro tem and for a summary of pro tem usage for 2008*. Pro-tem judges are not allowed to currently practice as defense attorneys or prosecutors in Overland Park Municipal Court.

The two full time judges normally handle a total of 12 dockets each per week. A docket is defined as one session of court, i.e. morning or afternoon. See *Appendix, p. 41*. The Presiding Judge is Karen Arnold-Burger. The Municipal Judge is Keith Taylor. Both judges are appointed for renewable four-year terms.



Presiding Judge Karen Arnold-Burger is a 1981 graduate of the University of Kansas School of Law. She served for 7 years as an Assistant City Attorney for the City of Overland Park and 2 years as an Assistant United States Attorney for the District of Kansas before becoming a full-time judge in 1991. She was appointed Presiding Judge in 1996. She is a former president of the Johnson County Bar Association, the Kansas Municipal Judges Association and the Drug and Alcoholism Council of Johnson County. She edits

a quarterly newsletter for the Kansas Municipal Judges Association, *The Verdict*, and serves by order of the Kansas Supreme Court on the Municipal Judges Education and Testing Advisory Committee and the Kansas Judicial Council Municipal Court Advisory Committee. In 2000, she was asked to join the adjunct faculty of the National Judicial College in Reno, Nevada. She serves by appointment of the mayor to the Johnson County Community Corrections Advisory Board, which she chairs. She also serves on the Executive Board of the American Bar Association-Judicial Division. In 2006 the Johnson County Bar Association awarded her the Justinian Award, the highest award given by the organization. Finally, she was elected by a vote of the over 3,000 attorneys who reside in Johnson County to serve on the 10th Judicial District Nominating Commission.



Judge Keith Taylor is a 1972 graduate of UMKC School of Law. He is a Vietnam veteran and former municipal judge for the cities of Shawnee and Lenexa. Judge Taylor formerly maintained a private practice in Olathe for 25 years. He was appointed full-time Overland Park Municipal Judge in March 1997. He is a Rotarian and served for six years on the Board of Directors of the Drug and Alcoholism Council of Johnson County (DAC), where he chaired the Public Policy Committee. He is also an active member of the Johnson County Bar Association, serving as Chair of the Municipal Bench/Bar Committee. In 2001, Judge Taylor became active in the local chapter of the American Cancer Society, particularly regarding its efforts to curb underage tobacco use.

A survey of court users in 2008 found that 97% believed the Overland Park judges had treated them with courtesy, respect and concern.⁵ Finally, both judges are involved in judicial outreach in the community. They are often asked to speak to classes at Overland Park middle schools and high schools. In addition, they actively assist local students in mock trial preparation, presentation, and evaluation in an effort to educate our youth about the judicial system. They are often sought out as resources in the area of municipal court law and procedure.

C. COURT ADMINISTRATOR



Robin Barnard is administrator of the Court. Three major components of the Court report to her, Court Clerks Division, Court Security Division, and the Court Services Division. Each division is explained in detail below. Ms. Barnard holds a B.S. degree in Criminal Justice from Michigan State University and an M.A. degree in Administration of Justice from Wichita State University. She is a Fellow of the Institute for Court Management and currently serves as a faculty advisor in the Court Executive Development Program. In 2006 the Institute placed her on its Curriculum Review Board for recently developed courses. Ms. Barnard is a graduate of the Overland Park Leadership Forum.

⁵ There were 636 total survey respondents.

1. COURT CLERKS DIVISION



In 2008, the Overland Park Municipal Court employed 16 full-time court clerks and 1 part-time clerk, including supervisory personnel. One Deputy Court Clerk, Diana Wilson, supervises the Division.

The duties of individual clerks vary, but include initial data entry and filing of criminal complaints and tickets, accepting fine payments, docketing cases, answering the phones, filing and recording motions, coordinating conviction and diversion information with the metropolitan ALERT system and the various state motor vehicle departments, coordinating house arrest with Johnson County Community Corrections, docketing and tracking appeals, assigning and monitoring community service and fine payment, tracking and recording warrant information, coordinating traffic school, and preparing expungements. In addition, the clerks handle dog license renewals as a satellite location for the City Clerk, processing almost 495 licenses/renewals in 2008.

In 2008, the Court Clerks Division conducted a court costs and fine survey. The results of that study are attached at *Appendix, pages 43-44*. And finally, a survey of court users found that 99% believed the court clerk had treated them with courtesy, respect and concern.

2. COURT SECURITY DIVISION



Michelle Bregel was promoted to supervisor of the Court Security Division in 2007. Michelle is a 1996 graduate of Washburn University in Criminal Justice. She has been a Kansas Certified Law Enforcement Officer since 1993, serving the cities of Topeka and Overland Park consecutively. The Court employs four full-time Court Security Officers and one part-time Court Security Officer. One Court Security Officer also has probation monitoring duties. All five are former police officers and are required to maintain their law enforcement certification. They have a variety of duties including, weapons screening, courtroom security, transportation and detention of prisoners, coordination of video arraignment, fingerprinting those convicted of class A and B misdemeanors, administering court-ordered alco-sensors, warrant calls, bailiff duties, and subpoena service. The division fingerprinted over 1,563 offenders in 2008. According to the KBI, Overland Park Municipal Court submits more fingerprints than any other court in the state.

In a 2008 survey of court users 98% reported that the court security staff treated them with courtesy, respect and concern.

3. OVERLAND PARK COURT SERVICES DIVISION⁶

Overland Park Court Services is generally regarded as the “enforcement” arm of the Court. Its stated mission is to enforce and enhance court orders by conducting

⁶Also referred to as the "Diversion/Probation/Parole Office", "Overland Park Alcohol and Drug Safety Action Program (ADSAP)" or Cost Center 132.

assessments and evaluations, compiling criminal history reports, supervising persons on probation and diversion and promoting prevention activities within the community.

The Division remains in good standing with the Chief Judge of the 10th Judicial District as an approved Alcohol and Drug Safety Action Program (ADSAP). For many years, the Division has chosen to have the program licensed through the State of Kansas, Social and Rehabilitation, Addiction and Prevention Services. The program is licensed to provide diagnosis/referral and ADSAP services.

In January 2008, following the legislative process, the State released new licensing standards to which all ADSAP programs must comply. Overland Park Court Services was audited in the first quarter of 2008 and received numerous accolades for its policy and procedure manual, overall program operation and compliance with these new standards. The Court has been advised that in 2009, state licensure of ADSAP programs will become mandatory. The Division is proud to have voluntarily maintained this licensure over the years.

The Division is also periodically audited by the Johnson County District Court ADSAP Provider Monitor and has always been found to be in full compliance with required practices and procedures.

Finally, this Division is responsible for monitoring the Court's compliance with all the state and federal requirements for accessing criminal history information. In 2007 the Court was audited by the Kansas Highway Patrol and found to be in full compliance with all state and federal regulations. Another audit is not scheduled until 2010.

a. Mission Statement

To enforce court orders by:

- 🏠 Conducting assessments,
- 🏠 Completing criminal history reports
- 🏠 Supervising probation and
- 🏠 Promoting prevention activities within the community

b. Organization and Staffing



Mary Moss, who has completed her eighteenth year with the program, supervises the Court Services Division. Ms. Moss has completed her Master of Social Work Degree and continues to maintain both state licensure and national certification credentials as a substance abuse professional.

In 2008, she continued to serve as an active member of the Johnson County ADSAP Committee, a committee comprised of all ADSAP providers in Johnson County, both for-profit and not-for-profit. The purpose of the committee is to discuss methods to improve the provision of services in Johnson County and to serve as a resource to Chief Judge Stephen Tatum on issues related to ADSAP programs. She was appointed this year by Mayor Gerlach to be the Overland Park representative on the Drug and

Alcoholism Council of United Community Services.

In 2008, in addition to the Supervisor, Court Services, the program was staffed with one full-time Substance Abuse Evaluator, one Court Clerk, three full-time Probation Officers, and a Court Security Officer (who also has a probation/parole caseload).

c. Caseload

Persons placed on diversion, probation or parole status are required to be under the supervision of a monitor (in the case of diversion) or a probation officer (in the case of probation or parole). Regardless of the person's status, the Court commonly refers to the monitor as a "probation officer."

Probationers are criminal offenders who have been sentenced to a period of conditional supervision in the community.

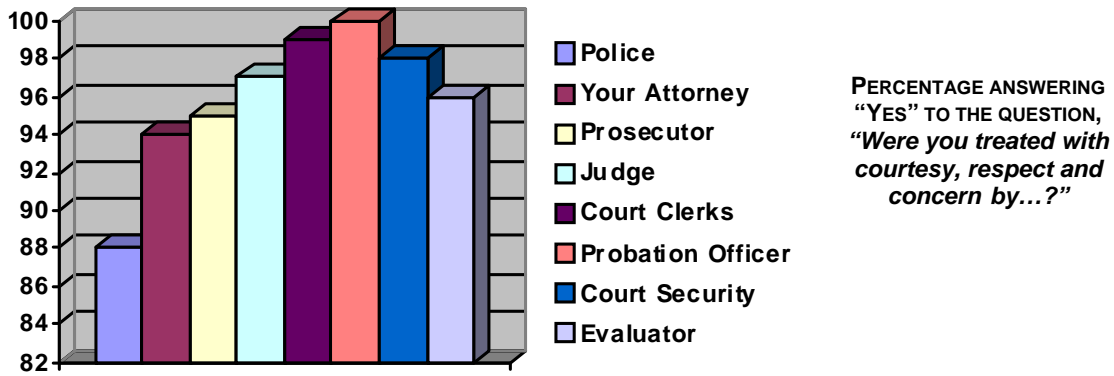
In 2008, Overland Park Court Services had an active caseload of 1,325 defendants under supervision. Therefore, the diversion, probation, parole officers each had an active caseload of approximately 331 clients, a slight decrease over last year. Thirteen (13%) percent of all persons placed on diversion or probation had their diversion or probation revoked for non-compliance. This compares to 25% last year. Conversely, 87% successfully met the conditions of their supervision. Twenty-eight (28%) of the people that completed diversion or probation two years ago have been involved in the criminal justice system, somewhere, within the last two years. This is also known as the "recidivism" rate.⁷

Overland Park Court Services conducted a total of 860 alcohol/drug evaluations in 2008, a slight decrease from 2007.

In addition, this Division seeks and receives feedback from its clientele regarding the provision of services. At the conclusion of diversion or probation, defendants are asked to anonymously complete a Program Evaluation form. In 2008, 648 such forms were completed. Ninety-six percent (96%) of the respondents stated that the person from Overland Park Court Services conducting their alcohol evaluation treated them with respect, concern and courtesy. Eighty-three percent (83%) believed that the Overland Park evaluation accurately reflected their level of abuse (down from 90% last year).

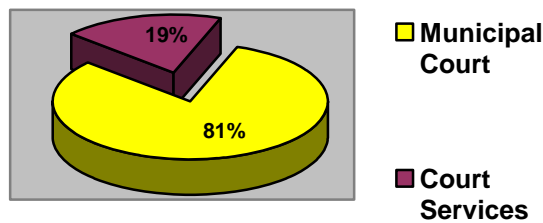
For the third year in a row, 100% of the respondents believed that the diversion/probation/parole officer treated them with respect.

⁷ National misdemeanor recidivism rates are difficult to locate. The U.S. Department of Justice Statistics reports that of those persons released from prison (which would be felons), about 60% are re-arrested within 2 years. "Reentry Trends in the U.S., 2003" U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics; and *Sourcebook of Criminal Justice Statistics 2001*, pg. 506, Table 6.42. The Court's goal is to keep recidivism at or below 25%.



d. Funding

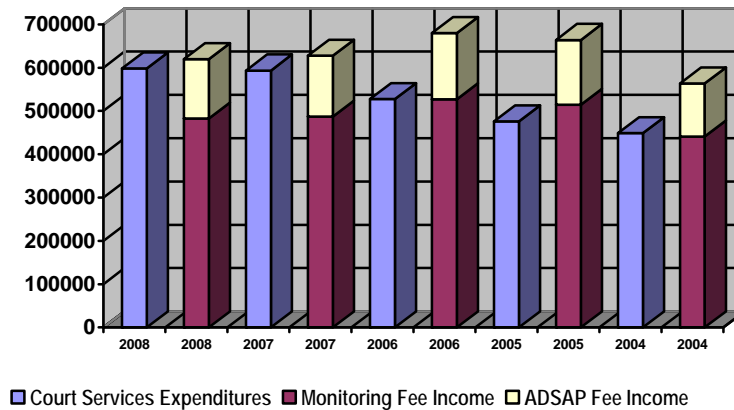
The Overland Park diversion, probation and parole program represents 19% of all Court expenditures and is totally financed from "user" fees and not from general revenue tax dollars, although the budget itself does not reflect the offsetting income.



Each person convicted or placed on diversion for an alcohol or drug offense is assessed, by law, an alcohol and drug safety action program (ADSAP) fee of \$150. This money is collected in a fund administered solely by the Presiding Judge.⁸ In addition, the City assesses a monitoring fee of \$35 for every month the person is on probation or diversion. These two fees, combined, over the long term, are designed to fund all of cost center 132, including salaries, benefits, equipment, and supplies. This was accomplished in 2008 with the program again ending the year with a positive balance. The Court will continue to make yearly program adjustments as necessary to insure that the program remains primarily user-funded.

⁸ K.S.A. §8-1008 (2001) states in pertinent part:

"...the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over the court...Moneys credited to the...fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for the costs of the services specified [alcohol and drug evaluations, supervision and monitoring,] or otherwise required or authorized by law and provided by ...alcohol and drug safety action programs [example: alcohol and drug safety education programs required by K.S.A. 2007 Supp. §8-1567] Explanatory parenthetical added.



II. PERFORMANCE MEASUREMENT

The Court continued its commitment to performance measurement in 2006. With the assistance of the City Manager’s Office, the Finance Department and our state-of-the-art case management software, we have been able to monitor and track performance in new and exciting ways.

- ✚ The Court collects 85% of all fines and fees assessed in the same **calendar year** that they are assessed.
- ✚ The average amount of time it takes to dispose⁹ of a traffic ticket from the date it is issued by the police officer to the date of final disposition is 44 days.
- ✚ The average amount of time it takes to dispose of an A or B misdemeanor charge (DUI, theft, drugs, etc.) is 67 days from the date of the offense.
- ✚ The Court is able to dispose of 89% of all traffic tickets within 90 days of issuance and 95% of all A or B misdemeanors within 180 days of issuance.
- ✚ The Kansas Supreme Court has adopted time standards for district court cases. It requires that 50% of the traffic cases filed in district court be resolved within 30 days of **filing**. Although this rule is not applicable to municipal courts, 57% of our traffic cases were resolved within 30 days of **filing**, well within the state time standards.
- ✚ Likewise, the same Supreme Court rule requires resolution of at least 50% of misdemeanor cases within 60 days of **first appearance**. We were able to resolve 48% of our misdemeanor cases in less than 60 days of **first appearance**, up from 42% last year.

⁹ To dispose of a case means that the charge has either been dismissed, gone to trial and obtained a finding of guilty or not guilty, the person has entered a plea of guilty or no contest as charged or as amended or the person has entered a diversion program.

- ✚ No cases were dismissed in 2008 for lack of a speedy trial.¹⁰
- ✚ The Court closed 35,314 cases in 2008 and opened 46,355 for a clearance rate of 76%.
- ✚ The Court issued 3,746 warrants and returned 4,179 warrants for a service rate of 112%. There are approximately 3,900 warrants outstanding at any given time.
- ✚ The Court housed 1,868 prisoners in the county jail for a total of 9,147 days, or an average of 5 days per prisoner. This is a 7% decrease in total number of prisoners and a 12% decrease in prisoner days over 2007.
- ✚ Solely in direct court clerk time and expense, it costs \$39.67 to process every charge issued. This is down \$1.73 or 4% from 2007.
- ✚ Hearings were translated by court-ordered translators into 19 different languages: Amharic, Cantonese, Farsi, French, Hindi, Japanese, Korean, Laotian, Mandarin, Micronesian, Portuguese, Punjabi, Russian, Samoan, Somali, Spanish, Swahili, Vietnamese, and for the hearing impaired American Sign language.
- ✚ The Court spent \$36,765 on translation services in 2008. Significant savings in this area were realized due to the fact that two court clerks, one probation officer and one judge are bilingual in Spanish and English.
- ✚ The Court processed 76 expungements.
- ✚ Of the 592 defendants who opted for community service in lieu of fine payment, they completed an average of 46 hours of community service each, for an average credit of \$322 toward their fines.

By assessing our performance on a wide variety of performance measures, we are able to set goals to improve our performance in relation to prior years. In addition, as more and more courts start to embark on these kinds of measurements, we will be able to compare our performance to other similar courts around the country.

¹⁰ This measurement is often a red flag for an overwhelmed and backlogged court system that is not able to schedule case dispositions within the constitutional speedy trial time frame of 180 days (not counting continuance requests from the defendant). All cases dismissed for lack of a speedy trial are fully analyzed and are usually dismissed due to lack of witness availability.

III. NEW IN 2008

A. COURT SERVICES OFFICE RENOVATIONS

In late 2008, the Overland Park Police Department Detective Division vacated the Sanders Justice Center and relocated to Tomahawk Ridge Community Center. This allowed the Overland Park Court Services Division to relocate its space from a hodgepodge of scattered, inadequately small offices to a suite of offices in the vacated space. In turn, the Court was able to return the space in front of each courtroom to the attorney conference areas for which they were originally designed.



B. E-TICKETS

The Court, the Police Department, the Law Department and the Information Technology Department began working on the implementation of electronic ticketing in 2008. When fully operational in 2009, this will allow officers to scan the bar code on the driver's license to populate various fields on a standard traffic ticket. The ticket will be completed electronically with a print-out served upon the defendant. Each day, the tickets the officers write would be downloaded wirelessly into the Court case management system. This process should reduce dramatically the number of errors on tickets and will significantly decrease the amount of time necessary to manually enter tickets into the system.



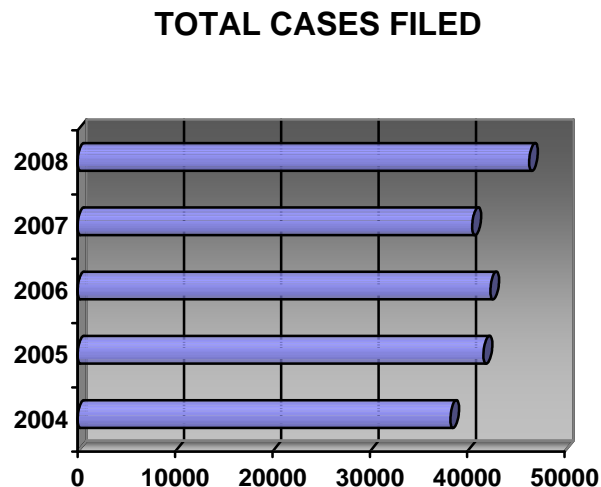
C. WEAPONS SCREENING

Weapons screening was fully operational in 2008 with a variety of weapons and drugs seized.



IV. CASELOAD ANALYSIS

There were 46,355 total cases filed in 2008, a 15% increase from 2007. See *Appendix, p. 46*.



The Court accepted 24,280 hazardous traffic tickets for filing. These represent those violations classified as “moving” violations by the state of Kansas, including suspended driver's license, speeding, failure to control speed to avoid a collision, failure to yield, etc. An additional 16,805 non-hazardous traffic tickets were filed. These would include no seat belt, no driver's license in possession, no proof of liability insurance and equipment violations. The Court received 412 theft charges for filing and there were 876 DUI's filed (a 9% increase from 2007) and 309 drug cases filed (up 16% from 2007). Finally, the Court accepted approximately 1,746 cases in the "other" category which would include, among others, assault, battery,¹¹ telephone harassment, prostitution, soliciting a prostitute, disorderly conduct, codes violations, zoning violations, littering, fireworks, parks violations and possession of firearms to name a few (up 21%).

Overland Park caseloads remain among the highest of any city in Kansas, with the exception of Wichita. See, *Appendix, p. 45*. In addition, total traffic case filings in the state decreased in 2008 by 5.5%.¹²

¹¹ The number one crime in Johnson County in terms of number of case filings in 2008 was again battery, primarily domestic battery.

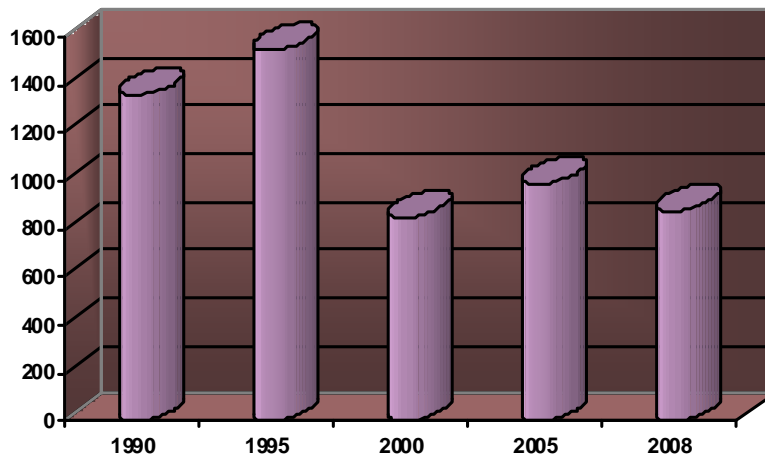
¹² The Kansas Supreme Court lists traffic filings in state courts at 199,568 in FY 2008 compared to 211,310 in FY 2007, a 5.5% decrease. <http://judicial.kscourts.org:7780/stats/>. This compares to 399,288 traffic cases for the municipal courts in the state during FY 2008.

A. DRIVING UNDER THE INFLUENCE

While alcohol is society's oldest and most popular legal drug, drunk driving is the nation's most frequently committed violent crime, killing someone every 30 minutes in this country and injuring someone every minute.¹³

A stop or arrest, in and of itself, often does not deter future impaired driving. However, the arrest coordinated with the use of punishment and education and/or treatment often are successful as an intervention in the drunk driver's lifestyle, turning that person into a responsible driver. These matters come under the responsibilities of the Court Services staff (Cost Center 132).

In 2008, 876 charges were filed in Overland Park Municipal Court for driving under the influence of alcohol (DUI), a 9% increase from 2007 but still well below the record high levels in the early and mid-1990's.



At the same time, the county, as a whole, experienced virtually no change in DUI arrests in 2008,¹⁴ and the State experienced a 4% decrease in total DUI cases filed in state courts over last year.¹⁵ Finally, municipal courts around the state report minimal changes in DUI filings in the last four years, although they have been decreasing.¹⁶

The Kansas Sentencing Commission reported that 100 DUI offenders were in the state

¹³ NHTSA, 2003.

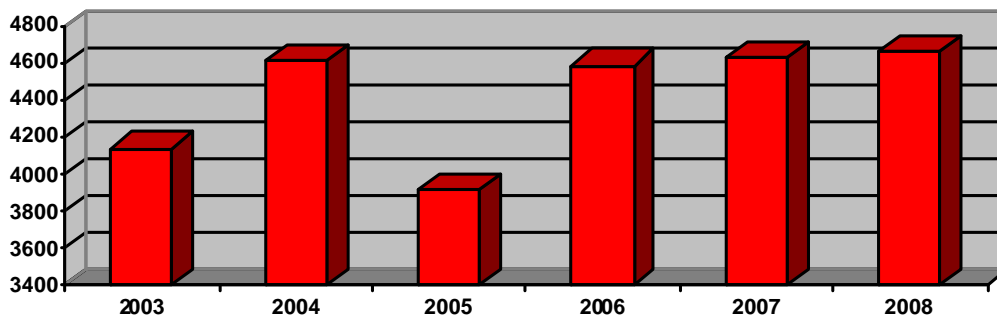
¹⁴ **2007: 4,628; 2008: 4,666** . It should be noted that traffic cases are not the predominate caseload in the Criminal Division of Johnson County District Court. The Johnson County District Attorney's Office reports that the top five most frequent crimes (includes both felony and misdemeanor filings) filed in the Johnson County District court in 2008 were **Battery: 1,652 (68% of which were domestic battery charges and a total of 23% were battery charges committed by juveniles); Theft: 1,382 (53% of which were juvenile thefts); Possession of Drugs: 1,043 (31% of which were filed through the juvenile division); Criminal Damage to Property: 822 (23% were filed in the juvenile division); and DUI: 984 (felony and misdemeanor combined)**. These numbers are virtually unchanged from 2007. Although **Worthless Check Writing** is on the decline with 287 cases, and is no longer in the top five crimes in the county, identity theft is growing rapidly.

¹⁵ **2008: 5,833 2007: 6,086**.

¹⁶ **FY 2005: 11,757; FY 2006: 11,318; FY 2007: 11,207 FY 2008: 11,077**

prison system in 2007 (the last year available). DUI offenders generally serve all their jail time in local jails. They are only sent to prison if they are fourth or subsequent DUI offenders who violate the conditions of their parole. The Johnson County District Attorney's office reported 429 felony DUI's were filed in the 10th Judicial District in 2008. However, it is still only 9% of the total DUI filings in the both the city and state court combined. To look at this another way, an average of thirteen (13) people are arrested for DUI every day, 365 days a year in Johnson County.

Total DUI Cases Filed in Johnson County*



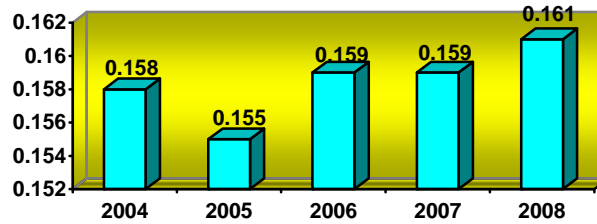
*Includes all DUIs filed in all Johnson County cities and in the Johnson County district court COMBINED.

In 2008, the Court adjudicated 824 DUI's. Of the cases adjudicated, 43% were placed on diversion by the Prosecutor's Office. Alcohol diversion is a program mandated by Kansas statute for all eligible first-time offenders. To be eligible for diversion the defendant must, among other things, have no prior alcohol-related offenses, not have previously participated in an alcohol diversion, not be on probation or parole for any offense and, in the pending case, not have been involved in an injury accident. Thirty-eight percent (38%) of the 824 DUI's adjudicated in 2008 were found guilty either after trial or by plea, 2% were found not guilty and 17% of the charges were dismissed either by the Court at the close of the City's evidence or by motion of the City Prosecutor prior to trial. Of those cases dismissed, 64% were dismissed to be refiled in the County as felonies.

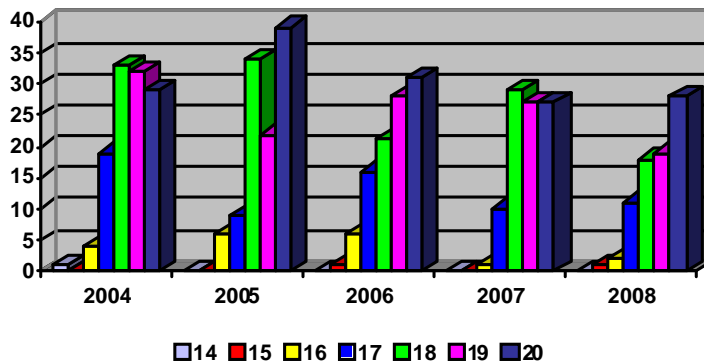
The Johnson County District Court received a referral for over 89 DUI cases from Overland Park in 2008. All but a few of those were direct referrals from the municipal court as third or subsequent offenders.

It is also important to again examine the *average* blood alcohol concentration (BAC) for all those arrested. BAC is the amount of alcohol in an individual's body, measured by the weight of the alcohol in volume of blood. The BAC limit determines the maximum amount of alcohol that can be consumed before it is illegal to operate a motor vehicle on a public road. Blood alcohol concentration is directly correlated with the degree of impairment an individual displays when driving after drinking. According to the U.S. Department of Justice, National Institute of Justice, on late weekend nights, a driver with a blood alcohol level of .15 (approximately 8-10 drinks) is 18 times more likely to have a traffic collision than is a sober driver. These drivers are at least 382 times more likely

to be involved in a fatal crash than a non-drinking driver.¹⁷ In addition, most professionals opine that a BAC of .15 or greater is a clear indication of alcoholism.



In 2008, the Court continued to track the number of DUIs committed by persons under the age of 21. As an age group they remain disproportionately overrepresented in drunk driving crash statistics. They must be viewed not only as inexperienced new drivers, but also as inexperienced drinkers.



A trend can be seen in the percentage of total DUI arrests that can be attributed to underage drinkers. Nationwide one in twelve impaired drivers is under the age of 21, or roughly 8%.¹⁸ In 2008, 9% of those arrested for DUI in Overland Park were under the legal age for consumption of alcohol.^{19, 20} Although in 2008 Overland Park teenagers continued to be above the national average, their percentage in relation to adult arrests dropped significantly from prior years.

The National Highway Traffic Safety Administration (NHTSA) reports that alcohol-related crashes are the leading cause of death for people age 15-24.

¹⁷ Zador, P. L., Krawchuk, S.A., & Voas, R.B. (2000). *Relative Risk of Fatal Crash Involvement by BAC, Age, and Gender* (Report HS-809-050). Washington, DC: U.S. Department of Transportation, National Highway Traffic Safety Administration.

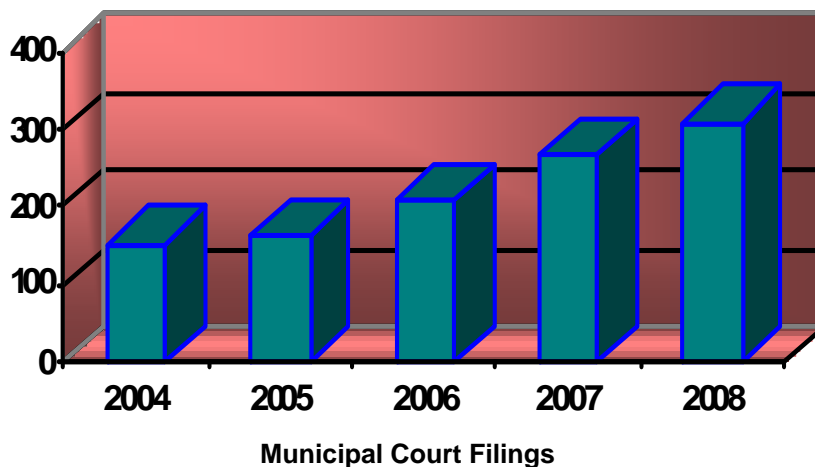
¹⁸ *Strategies for Success, Combating Juvenile DUI*, published by NHTSA in December 1999.

¹⁹ 2001: 15%; 2002: 13.4%; 2003: 11.7%; 2004: 12.8%; 2005: 11.1%; 2006: 12.2%; 2007: 11.7%; 2008: 9.0%

²⁰ 2002: 69; 2003: 72; 2004: 118; 2005: 110; 2006: 103; 2007: 94 2008: 79

B. POSSESSION AND OF DRUGS

In 2008, 309 cases were filed for possession of controlled substances or drug paraphernalia.²¹ The drug possession cases usually involve possession of small quantities of marijuana. These figures only reflect charges filed in Municipal Court. Possession of larger quantities of controlled substances is generally filed by the police department through the District Attorney's office as felonies or in certain cases, through the United States Attorney's Office in the U.S. District Court. In addition, all drug charges against juveniles are filed in the District Court.

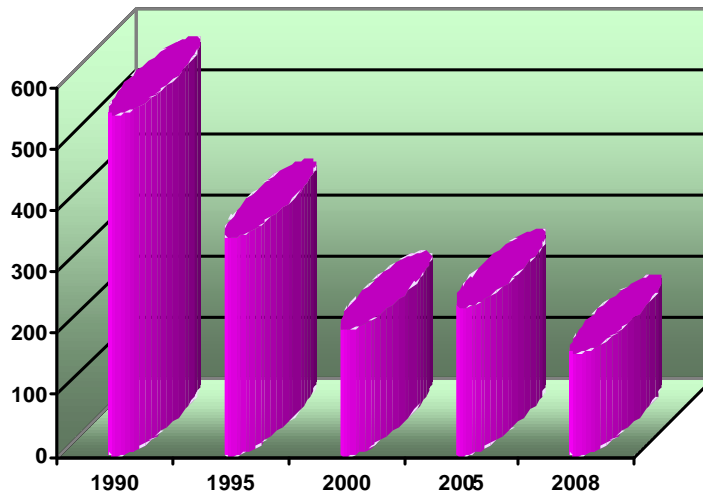


Of the 229 drug cases adjudicated in 2008, 33% were placed on diversion, 54% were either found guilty or plead guilty, 13% were dismissed either by the Court at the close of the City's evidence or by the City Prosecutor prior to trial, and 1% were found not guilty. Thirty-four percent (34%) of the "dismissed" charges were refiled in the county as felonies.

C. OTHER SUBSTANCE ABUSE RELATED OFFENSES

The Overland Park Municipal Court has jurisdiction over persons between the ages of 18 and 21 that possess or consume cereal malt beverage or intoxicating liquor. The Police Department filed 169 cases of under age possession of alcohol in 2008.²² This is a 29% decrease from 2007. These cases are generally disposed of by diversion or plea. Pursuant to both state and city mandate, these cases result in an alcohol evaluation and alcohol education similar to that required of DUI offenders, and result in a 30 day driver's license suspension on a first offense with increasing periods for multiple offenders, regardless of whether or not the offender was in or near a car at the time of the offense.

²¹ In 2008, the City adopted a drug paraphernalia ordinance. Of the 306 cases cited above, 105 were paraphernalia charges. Therefore, the actual charges for possession of drugs, decreased about 25%.



In addition only 11 adults were charged through the municipal court with furnishing alcohol to a minor (50% decrease from 2007). In 2004 the Kansas Legislature and the City of Overland Park adopted a new social host law that makes it unlawful for an adult to host a party at which the adult is aware that persons under the age of 18 will be consuming alcohol. In 2008, two such cases were filed in the Municipal Court.

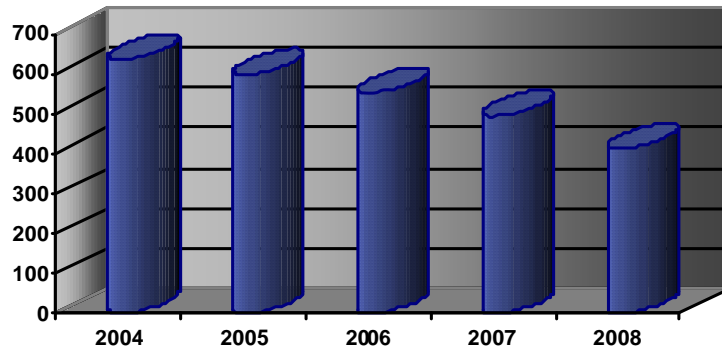
In 2008, the Police Department filed 206 charges (up 9%) for transporting an open container. When these numbers are added to charges like "alcohol in the park", "consuming alcohol in public", and "refusing the preliminary breath test", 755 alcohol-related charges (excluding DUI) were filed in 2008. These charges often require an alcohol evaluation and education as a part of any sentence or diversion.

In 2008, 92 juveniles, ages 11-17, were charged through municipal court with having cigarettes in their possession (compared to 98 in 2007). Based on legislative change in 1998, these cases require that the juvenile appear in court with a parent. In Overland Park, the Court conducts a 45 minute educational forum on tobacco usage before the juvenile goes before the judge. The program is taught by personnel from the Regional Prevention Center. Program evaluations completed at the conclusion of each session show a satisfaction rate in excess of 95% from both parents and children.

Finally, three adults were charged with providing cigarettes to minors.

D. THEFTS

In 2008, the Court experienced a 10% decrease in theft charges, with a total of 412 charged. Theft offenses include crimes such as shoplifting, employee theft, and gasoline drive-offs. Seventy-seven percent (77%) of offenders list an address outside of Overland Park as their residence. Standard probation or parole conditions for all those convicted of theft is a prohibition from returning to any branch of the "victim" store or any retail store in Overland Park and attendance at an anti-theft class, such as Checkmate. On a per case basis, this category consumes significant time and resources.



Likewise, the Johnson County District Attorney’s Office reports that theft is the second most frequently filed crime in the Johnson County District Court, with 1,382 cases filed in 2008, the majority of which were juveniles (53%). This was unchanged from 2007.

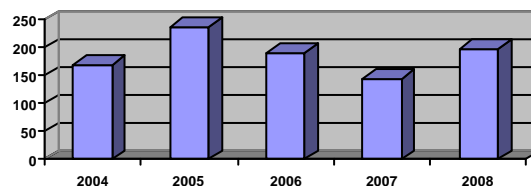
Oak Park Mall security personnel reported in 2008 that 341 shoplifters were stopped in the Mall and 85% were females under the age of 18. Nationally shoplifting has consistently been one of the most frequent crimes committed by adults and juveniles. Nationally, shoplifters report that they are caught on average once every 48 times they steal. They are turned over to the police 50% of the time. Only about 3% are “professionals” who steal solely for resale or profit as a business. Habitual shoplifters steal an average of 1.6 times per week.”²³

E. CODE ENFORCEMENT

In 2008, the Court again dedicated two separate court sessions each month for the trial and disposition of cases referred from the Neighborhood Preservation Division and the Inspections Division of the Planning and Development Services Department.

1. NEIGHBORHOOD PRESERVATION DIVISION CASES

In 2008, 197 cases were filed by the Neighborhood Preservation Division (NP). This is a 36% increase from 2007.

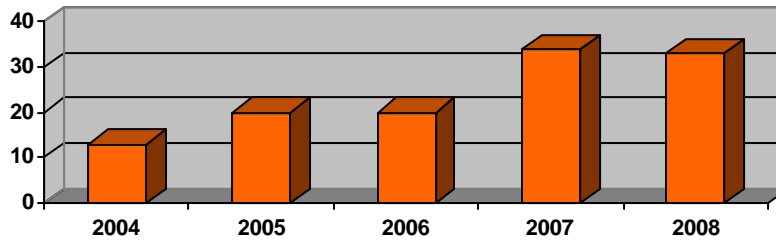


Twenty cases, representing 18 defendants, remain pending from 2008. Of those, ten defendants are in warrant status for failure to appear on a total of twenty-three charges. Of the 2008 cases brought to final adjudication as of the date of this printing, 133 were found guilty. There were six not guilty findings. Twenty-five charges were dismissed on

²³ National Association for Shoplifting Prevention
<http://www.shopliftingprevention.org/WhatNASPOffers/NRC/PublicEducStats.htm>

the City's motion. Fines collected on these cases totaled \$14, 421 or an average of \$108 per charge adjudicated "guilty." A total of \$39,744 was assessed.²⁴

2. INSPECTIONS DIVISION CASES



A total of 33 building code violations were filed in 2008, involving 27 different builders/individuals. All case involved failure to obtain a necessary permit. All but seven cases have been determined at the time of this report, five of which are in warrant status. Two cases were dismissed on the City's motion and the balance either pled guilty or were found guilty. A total of \$3,630 was collected in fine money on these cases. The average fine assessed was \$500, with an average amount suspended of \$350²⁴ and an average of \$150 collected per case adjudicated "guilty."

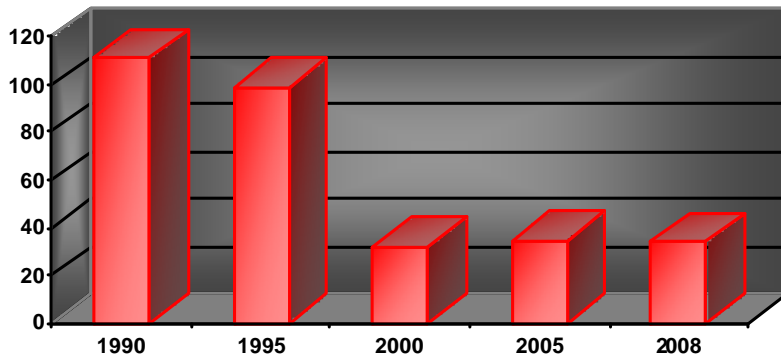
3. ENVIRONMENTAL HEALTH DIVISION CASES

Sixty-seven (67) cases were filed in 2008 by the Environmental Health Division. This is up 86% from 2007. All cases were for improper food sanitation. All cases were resolved by the end of January 2009. One case was dismissed on the City's motion and all others were either found guilty or pled guilty. A total of \$14,726 was collected on these cases, or an average of \$220 per charge.

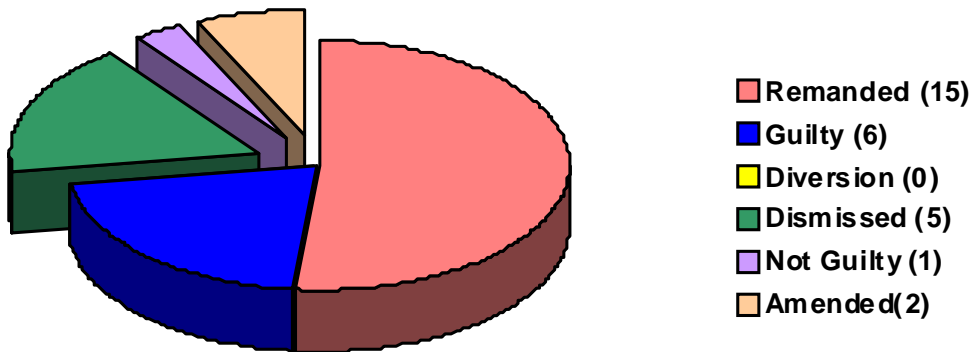
²⁴ The maximum fine allowed by the ordinance is often assessed with a portion suspended on the City's recommendation on the condition that the defendant have no more violations of the law for one year.

V. APPEALS

In 2008, 34 cases were appealed to the Johnson County District Court.



The following results have been recorded for appeals filed in 2008. Five cases remain pending.

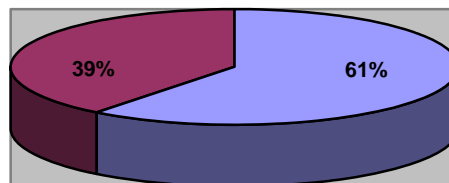


VI. SENTENCING ALTERNATIVES

Nationally, it costs an average of \$58.64 per day or \$21,400 to keep an inmate in a local jail for one year.²⁵ In Overland Park, at \$35 per day, it costs \$12,775. In a recent report to the Johnson County Commission, the Sheriff's Department estimated the actual costs to the county in 2007 of \$104 per inmate per day, or \$37,960 per year, almost twice the state average.²⁶ The Sheriff reported that in 2004, 25% of the inmates in the county jail were there solely on municipal ordinance violations from one of the many cities in Johnson County.²⁷ The Board of County Commissioners has made it clear that building more jail space is a top priority in the coming years. In 2005, while still planning a jail expansion, the Sheriff continued agreements with several Kansas counties to house a total of 330 out of a total of 832 county prisoners outside of the county. These agreements alone cost the county about \$6 million per year.

In 2008, the Court spent \$320,145 to house prisoners in the county jail. This represents a 12% decrease over 2007. The City pays the County \$35 per day to house one adult inmate for one day (or any portion of a day). It charges the City \$78 per day to house a juvenile. In addition, when medical treatment is required of indigent inmates, the City is required to pay for said treatment. Medical expenses have been as high as \$12,000 in past years. Exclusive of personnel costs, the cost of incarceration is the single largest expenditure in the Municipal Court budget.

The Court was able to recoup 39% of this expense in 2008 through the collection of a jail fee.



■ Jail Fees Collected From Defendants

In 2008, the Court continued its commitment to sentencing alternatives in an effort to not only have the punishment fit the crime, but to try to ensure that the behavior is not repeated.

²⁵ Source: "Jails Total Budget 2000" The Corrections Yearbook 2002, Criminal Justice Systems, Inc. a comparison of 123 county jails nationwide with a cross section of small, medium and large systems, including Johnson County, Kansas.

²⁶ Kansas: \$54.14 per day according to the 2003 Directory of the American Corrections Association.

²⁷ Meeting with consultants hired by the county to study jail needs, March 29, 2005.

A. WEEKEND INTERVENTION

Persons convicted of DUI are required to serve a minimum of 48 hours in jail. In November, 1993, the City of Overland Park entered a partnership with Charles Stebbins Counseling Services to proactively intervene in the addiction process by providing a 48 hour weekend intervention program. For 48 hours, offenders are confined, under police guard, to a secured residential setting for an intense educational intervention.

In 2008, the Community Weekend Intervention Program (commonly referred to as "CWIP") resulted in 130 defendants being diverted from the county jail at a cost savings of \$105 each,²⁸ or a total of \$13,650. During their 48 hour detention, defendants are presented with over 20 hours of alcohol education and group interaction. In addition, at most sessions, a victim impact panel is convened and the panel members share their experience with the devastating consequences of drunk driving. This program is only open to substance abuse offenders recommended in the evaluation process. Their confinement satisfies statutorily mandated jail service. There is no cost to the City associated with this program. In fact, since its inception, this program has saved the City of Overland Park over \$250,000 in jail fees. It has also been expanded over the years to include participation by all cities in the county, as well as the district court.

B. HOUSE ARREST

The Court has expanded its use of the house arrest program, through Johnson County Community Corrections. It is the only house arrest program in the area that has been certified by the American Correctional Association. In fact, in a March 2002 audit, Johnson County's Department of Corrections demonstrated full compliance with all 599 standards established by the American Correctional Association for its adult residential services. This score makes it one of the highest performing correctional agencies in the nation. It consistently serves as a model of best practices for other state and local programs. "In all my years of auditing, I've seen maybe three perfect scores over a twenty-five year period," said auditor Rufus Thomas, underscoring the Department's significant achievement.

When a defendant is placed on house arrest, a Mitsubishi computer monitor is placed in the defendant's home and connected to the Community Corrections facility by telephone and modem. In 2006, the House Arrest program transitioned to the next generation of selected monitoring equipment, changing vendors and graduating to the Mitsubishi Electronic Monitoring System (MEMS) 3000. Now all transmissions are in color instead of black and white and there is a modem within each home unit, which enables the unit to be downloaded with specific offender information and schedules. The unit itself generates the monitoring events and calls back to the computer system following each event (instead of the central unit at the Community Corrections facility generating all events). The offenders' telephone no longer rings when a monitoring event is occurring; instead the unit sounds an alarm alerting the offender to the monitoring event. This allows for continued monitoring should an offender's phone line or electrical service become disabled. Each unit also has a 24 hour emergency battery to capture data

¹⁹48 hours in jail translates into 3 custody days at \$35 per day.

during an outage.

In addition, this program is entirely user funded, with no cost incurred by the City. In 2008, the Court placed 395 defendants on house arrest for a total of 12,641 custody days. This translated to a direct savings to the City in jail expenses of \$442,435 at \$35 per day. Since institution of the House Arrest program in 1993, the City has realized a cumulative savings of well over 5 million dollars.

C. COMMUNITY SERVICE

In 2008, 759 people were referred for community service, a 10% increase over last year. A total of 592 defendants paid all or part of their fines through community service. They ranged in age from 15 to 79. Fifty-three percent (53%) were male and 47% were female. They completed 27,328 hours (unchanged from 2007) for a work benefit, valued at \$7 per hour, of \$191,296. In numerous work assignments, the actual value of work performed exceeded the \$7.00 credit per hour worked. Defendants are allowed to work for any non-profit organization, including the City of Overland Park. In the final weeks of 2008, several provided services to the city's recycling center.

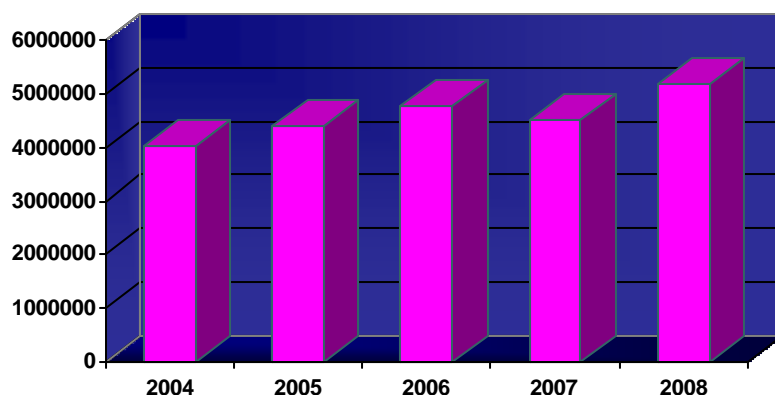
The Court has found that a "collateral" benefit to community service has been that many people, when faced with the thought of "working off" their fine, find the money to pay. Of the 759 people assigned to community service in 2008, 301 decided to pay some or all of their fines for payments totaling \$200,613.25.

D. SUMMARY

In 2008, the City would have paid \$776,230 for incarceration of city prisoners had the house arrest, weekend intervention, and jail fee programs not been in place. The actual net cost to the City was only \$194,007, for a **savings realized of \$582,223**. The jail bill will continue to merit close review in 2009. Although the Court was able to effectuate significant savings in jail fees by the alternative sentencing methods previously described, the judges continue to examine ways to further decrease the jail bill, while still incarcerating serious offenders as necessary to deter future unlawful conduct and protect the public.

VII. FINES AND FEES COLLECTED

In 2008, the Court contributed \$5,196,695 to the General Fund. This represents a 15% increase in collections, mirroring the increase in caseload. Approximately 18% of all fines and fees collected are paid by credit card. Approximately 14% are paid on-line.



In addition, to cover the cost of administration of the victim assistance program mandated by Kansas constitutional amendment, the Governing Body adopted a city assessment of \$1.50 on every "incident". In 2008, expenses for the victim assistance program were less than the fees collected.²⁹

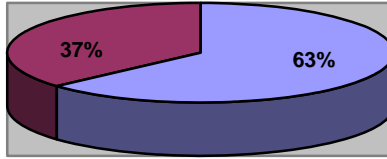
Finally, in 1997, the Court began collecting, pursuant to the authority granted by statute and charter ordinance³⁰, two user fees, a jail fee (\$35 per day of incarceration) and a court-appointed attorney fee (\$90 per case in which an attorney is appointed). Since an offender must meet the Federal Poverty Guidelines to qualify for court-appointed counsel, and since long periods of incarceration are not conducive to employment, the amounts collected in 2007 were a fraction of the cost of these two programs (about 39% of the combined total).³¹ Nationally, about 3% of all local criminal justice expenditures (includes police, judicial services, defense, corrections) goes for public defender programs.³² In Overland Park, public defender costs have been kept steady for the last 11 years and amount to about 3% of the total court budget. If you add just 10% of the police budget to the equation (which is the percentage of time it has estimated in the past it spends on city court cases), the public defender cost percentage goes down to .02%.

²⁹ Program expenses: \$20,614.60; Program Income: \$42,425.

³⁰ K.S.A. §12-4509(e)(13) (2001), Charter Ordinance No. 62 and O.P.M.C. §§2.33.294(13) and (14).

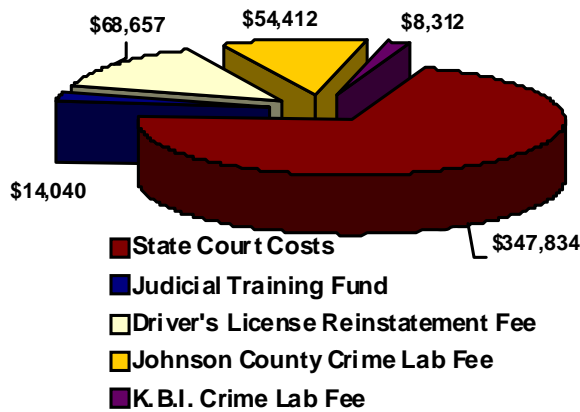
³¹ **Jail fees paid by the City: \$320,145. Amount collected from defendants: \$126,138 Attorney fees paid by the City: \$78,000. Amount collected from defendants: \$28,560.**

³² "Indigent Defense Statistics" U.S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Statistics, <http://www.ojp.usdoj.gov/bjs>

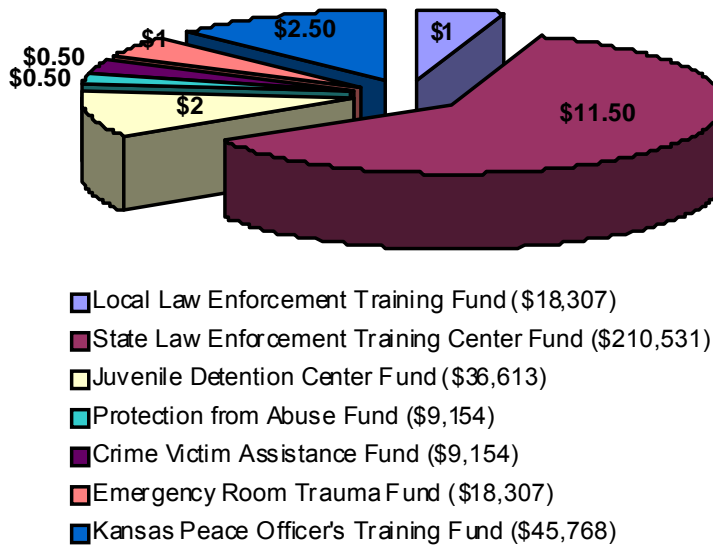


■ Attorney Fees Collected From Defendants

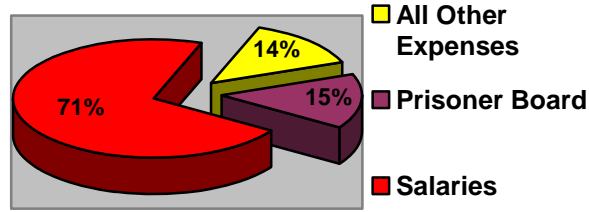
The Court also collects money for several state programs through state mandated court costs. In 2008, the Court collected state court costs, reinstatement fees and a judicial training fee for the state of Kansas.



The state court costs collected are used to fund several different state programs. The money collected by the City was allocated as follows:

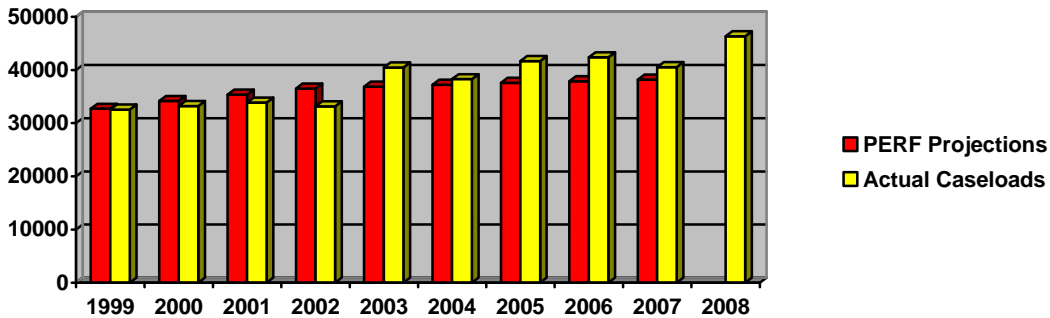


The Court's budget is made up primarily of salaries and jail board.



VIII. THE FUTURE

In 1998, the City contracted with the Police Executive Research Forum (PERF) to conduct a staffing analysis for the Police, Court and Prosecutors. The final report was released in January 1999. PERF projected increases in court caseloads as follows:



The PERF study recognized that these were relatively modest projections and suggested that the Court “consider returning to its 1996 staffing levels over the next 5 to 7 years.”³³ Our actual caseloads have been right on target with the PERF projections. However, rather than return to prior staffing levels, we have eliminated a total of 7 full-time positions since 1996. The Court has been able to handle this growth to date with significantly less staff.

The Court has developed the following goals and objectives for 2009:

1. Meet the stated goals and objectives as delineated in the 2009 budget.
2. Continue to adjust dockets based on public and litigant needs and caseload fluctuations.

³³ *Forecasts for the Overland Park Criminal Justice System 1998 – 2007*, Final Report, January 1999, Presented by the Police Executive Research Forum, page 42.

3. Be aware of and responsive to the public on perceived needs, suggestions and problems. Continue to distribute evaluation forms to attorneys and citizens appearing in municipal court to obtain feedback regarding court procedures, programs and personnel.
4. Continue expansion of the court performance measures as an aide to improving court operations.
5. Work with the police and law departments to implement electronic ticket books.
6. Continue to evaluate current fine collection process and implement improvements.

IX. CONCLUSION

In 2008, the Overland Park Municipal Court made significant advancements in the area of performance measurement and budget reductions. We are proud of our accomplishments. Due to the strong support of the Governing Body and City administration, the cooperation and assistance of other departments within the City, the continued interest, participation and support of the public and members of the local Bar and the hard work and dedication of our own staff, 2008 was a successful year. We are looking forward to 2009 as another year in which the Court successfully meets the challenges inherent in growth with professionalism and creativity.



APPENDIX

RESOLUTION NO. 3688

A RESOLUTION VESTING THE JUDICIAL POWER OF THE CITY IN THE MUNICIPAL COURT; CREATING DIVISIONS OF THE MUNICIPAL COURT, FULL- AND PART-TIME JUDGES, AND A PRESIDING JUDGE; DEFINING SELECTION PROCEDURES AND QUALIFICATIONS FOR MUNICIPAL COURT JUDGES; PROVIDING TERMS OF OFFICE FOR MUNICIPAL COURT JUDGES; PROVIDING FOR SUSPENSION, DISCIPLINE OR REMOVAL OF MUNICIPAL COURT JUDGES; PROVIDING COMPENSATION FOR MUNICIPAL COURT JUDGES; PROVIDING FOR JUDGES PRO TEMPORE; AND MANDATING ADHERENCE BY THE MUNICIPAL COURT JUDGES TO CITY POLICIES; AND RESCINDING RESOLUTION NO. 3617.

WHEREAS, the City of Overland Park, Kansas, by Charter Ordinance No. Fifty-Two has mandated that an ordinance or a resolution be passed which provides for the appointment and terms of Municipal Court Judges; and

WHEREAS, the City of Overland Park, Kansas, desires to otherwise provide for the operation of the Municipal Court.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. JUDICIAL POWER VESTED.

The judicial power of the City shall be vested in the Municipal Court.

SECTION 2. DIVISIONS OF COURT - FULL-TIME AND PART-TIME JUDGES.

There shall be three (3) divisions of the Municipal Court, to be known respectively as Divisions No. 1, 2 and 3. Each division shall be presided over by a designated and assigned Municipal Court Judge. Divisions No. 1 and No. 3 shall be presided over by a full-time judge. Division No. 2 shall be presided over by a part-time judge, provided the Governing Body, based on judicial staffing needs, may elect to not assign a judge to this division.

SECTION 3. PRESIDING JUDGE - DUTIES.

There shall be a Presiding Judge designated by the Governing Body. The Presiding Judge shall be responsible for the daily supervision, operation and administration of the court. The Presiding Judge shall prescribe and adopt rules of practice and procedure for the Municipal Court not inconsistent with this resolution or the laws of this State. In addition, the Presiding Judge shall schedule the dockets for the trial and disposition of matters before the court.

SECTION 4. PART-TIME JUDGES.

The part-time judge shall meet all of the qualifications of full-time judges. Unless otherwise authorized by the Governing Body, the part-time judge shall serve a minimum of 1,100 hours per year.

SECTION 5. SELECTION OF MUNICIPAL COURT JUDGES.

All full-time and part-time judges of the Municipal Court shall be selected and appointed by the Governing Body.

SECTION 6. JUDGES - SELECTION PROCEDURES.

All vacancies in the positions of full-time or part-time Municipal Court Judges shall be filled by using the following procedure:

- a. The Mayor shall authorize the publication of the notice of the vacancy, setting forth the qualifications the applicants must possess, a description of the position, the deadline for submitting letters of application to the Director of Human Resources and a statement pursuant to the City's Affirmative Action Policy that minorities and women are encouraged to apply.
- b. When the deadline for submitting of applications is past, the Mayor shall call a meeting of the Judicial Screening Committee to review all applications and narrow the field to not less than three (3) candidates to be interviewed.
- c. The Mayor and the Finance, Administration and Economic Development Committee shall serve as the Judicial Screening Committee. The Director of Human Resources shall serve as an *ex-officio* member of the committee and shall provide technical support to the committee in the interviewing of potential candidates.
- d. The Chairman of the screening committee shall call a meeting to interview each selected candidate and shall make a recommendation to the Governing Body for such appointment.

SECTION 7. JUDGES - QUALIFICATIONS.

All persons appointed as Municipal Court Judge shall have the following qualifications:

- a. An attorney admitted to the practice of law in the state of Kansas (required by K.S.A. 12-4105).
- b. Be a citizen of the United States and a resident of the City of Overland Park, Kansas, during their term of office.
- c. Possess a minimum of five (5) years' experience in the active practice of law as a lawyer, judge of a court of record or any court in the state or as a full-time teacher of law in any accredited law school or any combination thereof.

- d. As a full-time judge, not practice law during their term of office as required by Rules of Judicial Conduct.
- e. As a part-time judge, make a sufficient time commitment to being a part-time Municipal Court Judge to ensure the efficient and proper operation of the court and not engage in the practice of law as a criminal defense attorney or prosecutor in any municipal court during their term of office.
- f. Possess high personal, moral and professional integrity befitting the position of Municipal Court Judge.

In addition to the above, the Presiding Judge shall have the following qualifications:

- a. Have educational and professional experience in supervision or administrative matters.
- b. Have demonstrated skills in working with employees, and other groups participating in the Municipal Court.
- c. Have leadership qualities necessary to enhance the public image and professional stature of the Municipal Court.

SECTION 8. JUDGES - TERMS OF OFFICE.

- a. The term of office of all full-time and part-time Municipal Court Judges shall be for four (4) years. Prior to the end of the four-year term of office of each judge, the Governing Body shall determine whether to reappoint the judge or initiate the selection procedure for a replacement.
- b. No later than June of the year an incumbent judge's term expires, the Finance, Administration and Economic Development Committee shall initiate an evaluation process by which the Committee reviews the performance of that incumbent judge to determine whether he/she should be reappointed. The evaluation process shall include but not be limited to performance measures set forth in the National Trial Court Performance Standards. During the July Finance, Administration and Economic Development Committee meeting, the Committee shall make a recommendation to the City Council to either reappoint the incumbent judge or to initiate the selection process to replace him/her.
- c. The term of office of the incumbent Judge in each division of the Municipal Court expires as follows unless reappointed for another 4 year term as set out herein:

Division No. 1 - Keith R. Taylor September 1, 2010.

Division No. 2 - Vacant

Division No. 3 - Karen Arnold-Burger September 1, 2012

SECTION 9. JUDGES - SUSPENSION, DISCIPLINE AND REMOVAL.

Judges of the Municipal Court shall be subject to discipline, suspension or removal as provided in the Rules of the Supreme Court relating to Judicial Conduct.

SECTION 10. JUDGES - COMPENSATION.

- a. The base compensation of the judges of the Municipal Court shall be fixed by the Governing Body and shall be included as a part of the City's overall pay plan.
- b. Full-time judges shall be eligible for all full-time City employee benefits.
- c. The part-time judge shall be eligible for KPERS, MEPP, life insurance, single coverage health insurance, single coverage dental insurance and pro-rated sick leave and vacation leave based on the number of hours worked. It shall be the responsibility of the Administrative Judge to account for and report hours worked by the part-time judge to the Human Resources Department according to the Payroll Reporting Schedule.
- d. The base compensation afforded the Judges of Divisions No. 1, 2 and 3 of the Municipal Court shall be reviewed each July by the Finance, Administration and Economic Development Committee, and shall make a recommendation to the City Council to adjust salaries, effective September 1.
- e. The salary for Municipal Court Judges shall be adjusted based on the following formula: The salary of each judge shall be increased by an amount equal to the average salary increase given to all full-time City employees in the preceding year.
- f. The Presiding Judge shall be paid an additional \$650 per month for performing administrative duties as outlined in Section 3 and Section 11 of this resolution. Effective September 1, 2007, and on September 1 of each year thereafter the additional compensation shall be increased by an amount equal to the average salary increase percentage given to all full-time City employees in the preceding year.
- g. At the discretion of the Governing Body and upon a recommendation from the Finance, Administration and Economic Development Committee, Municipal Court Judge(s) may receive a lump sum award for exemplary service on a particular and significant court project, event or activity. Such lump sum awards shall not be tied in any way to the judge's rulings in any or all cases, but is instead to be based on an identifiable court process or program improvement(s).

SECTION 11. JUDGES PRO-TEMPORE

- a. In the event a Municipal Court Judge is temporarily unable to preside due to absence, illness, or disqualification, the Presiding Judge, or in the Presiding Judge's absence, another Municipal Court Judge shall select an attorney(s) to act as Judge Pro-Tempore. The Presiding Judge may also utilize Judge Pro-Tempore in circumstances where additional dockets are necessary due to the numbers of pending cases before the court.

- b. The Presiding Judge shall maintain a list of no fewer than five (5) names of persons qualified to serve as a Municipal Judge. Judges Pro-Tempore must meet the requirements of regular municipal court judges with the exception of residency status and the practice of criminal law.
- c. The list of Pro-Tempore judges shall be reviewed by the Finance, Administration and Economic Development Committee each September.
- d. The Presiding Judge or designee shall designate the persons to be called from the list. Compensation shall be a maximum of \$120 per session as determined by the Administrative Judge.

SECTION 12. ADHERENCE TO CITY POLICIES.

It is the expectation of the Governing Body that the Presiding Judge shall insure Municipal Court adherence to the administrative, personnel, budget, and operational policies of the City in the conduct of the business of the court.

SECTION 13. RESCISSION.

Resolution No. 3468 is hereby rescinded.

ADOPTED AND PASSED by the Governing Body this 21st day of July, 2008.

-s-

Carl Gerlach, Mayor

ATTEST:

-s-

Marian Cook
City Clerk

APPROVED AS TO FORM:

-s-

Michael R. Santos
Deputy City Attorney

JUDGES *PRO TEMPORE* BIOGRAPHICAL SKETCHES

Catherine Baird



Judge Baird received her degree from Washburn Law School in 1984, and became an Assistant District Attorney in Wyandotte County Kansas until 1987. From 1987 to 1995 she was an attorney for the firm *Logan & Logan* and served as Prosecutor for the city of Prairie Village and Leawood respectively. She is currently the Municipal Judge in Lenexa, Kansas. She has been a Judge Pro Tem for Overland Park Municipal Court since January 1999.

Sheldon Crossette



Judge Crossette received his law degree from the University of Missouri at Kansas City in 1961, and became an attorney in private practice in Overland Park. He was Assistant City Attorney for Overland Park from 1965 to 1972, and was Assistant County Attorney in Johnson County in 1969. From 1976 through 1990, Judge Crossette was the part-time Judge in Overland Park, and became the city's first full time Administrative Judge in 1990. Judge Crossette retired from that position in 1996 and has served as Pro Tem Judge since that time.

Ryan Dixon



Ryan received his law degree from the University of Kansas School of Law in 1998 and has maintained a law office in Johnson County for the last 10 years. In the fall of 2005, Ryan lived in Central America for seven months where he attended a Spanish language school in Antigua, Guatemala. Upon his return from Central America, Ryan was hired by the City of Olathe as a sworn part-time Municipal Court Judge. Ryan Dixon has been a life long resident of Overland Park having graduated High School from Shawnee Mission South. His father, Larry Dixon, is a retired lieutenant from the Overland Park Police Department.

John Donham



John Donham received his undergraduate degree in math from Bradley University, followed by a civil engineering degree from University of Missouri Rolla and a law degree from the University of Kansas. He served as a pilot in the National Guard. John was an Overland Park City Prosecutor from 1987-1991 and a contract Public Defender from 1991-1996. He has been in private practice in Overland Park and Olathe since 1991. He became a Pro Tem Judge in July, 2004.

Keith Drill



Judge Drill was born and raised in Westchester County, New York. He received an undergraduate degree from Colgate University in Hamilton, New York and went to Washburn Law School. He has been in private practice for the last 18 years with Wyrsh, Hobbs & Mirakian, in Kansas City, Missouri. He has also been a volunteer firefighter/EMT for Consolidated Fire District No. 2 for 22 years. He served as pro tem judge in Mission from 1994 to 2003, when he became the regular part-time judge for the city of Mission. He was added to our pro tem list in 2005.

Wayne Smith



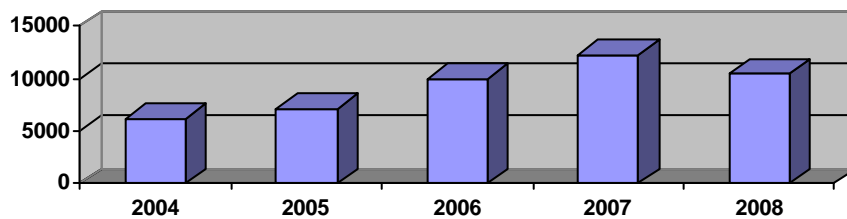
Judge Smith received his law degree from the University of Kansas and served as Judge Pro Tem in Reno County Kansas in 1991 and 1992. He became a Prosecutor for the City of Overland Park in 1993 and was Administrative Prosecutor from 1995 to 1998. He is currently an attorney for the firm Dougherty, Modin, & Holloway in Kansas City, Missouri. He has been a Pro Tem Judge in Overland Park Municipal Court since May, 2000.

2008 Court Schedule

| MONDAY | | TUESDAY | | WEDNESDAY | | THURSDAY | | FRIDAY | |
|-----------------|---------------------------|----------------------------------|--|---------------------------------|---------------------------------------|--|--------------------------|--|--------------------------|
| A | B | A | B | A | B | A | B | A | B |
| | 7:30 Video Arraign. | | 7:30 Video Arraign | | 7:30 Video Arraign | | 7:30 Video Arraign | | 7:30 Video Arraign |
| 8:00 Trials | | 8:00 Trials | 9:00 Code Arraign. 2 nd & 4 th Tuesday only | 8:00 Trials | KAB- Dept. Directors Meeting | 8:00 Time to Pays, DNA | | 8:00 Attorney Plea Docket | |
| 10:00 Trials | | 10:00 Trials | 10:00 Code Trials 2 nd & 4 th Tuesday only | 10:00 Trials | | 10:00 Sentencing | | Public Defender Plea Docket (Last Friday) | |
| | | | | | | 11:00 Sentencing | | | |
| LUNCH | | NOON | | LUNCH | | NOON | | LUNCH | |
| 1:30 Arraign | 1:00 Trials | 1:00 Diversion Info. | 1:00 Misd. Arraign | 1:00 Evidentiary Hearings | | 1:00 No-Go Diversion, Probation Revoc. | | 1:00 CWIP Walk-Ins | |
| 2:30 Arraign | 3:00 Trials | 2:00 Diversion Information | 2:00 Diversion | 2:00 Trials | | 2:00 Trials | | 2:30 Pro Se Plea | |
| 3:30 Arrain | | | 2:30 Diversion | 3:00 Trials | | 3:00 Trials | | 3:00 Pro Se Plea | |
| | | | 3:00 Diversion | | | | | 3:30 Pro Se Plea | |
| | | | 3:30 Pro Se Plea | | | | | | |
| | | | 4:00 Pro Se Plea | | | | | | |

2008 USAGE OF JUDGES PRO TEM *

| REASON | 1 ST Q | 2 ND Q | 3 RD Q | 4 th Q | TOTAL |
|---|-------------------|-------------------|-------------------|-------------------|-----------------|
| Vacation/Personal Days Every city employee is granted vacation plus 3 personal days a year. For Judge KAB that was 23 days in 2007, for Judge KT it was 18. Neither judge has ever used the entire allotment. | 0 | 10 | 11 | 19 | 40 |
| Sick Leave Every city employee accumulates sick leave at the rate of 12 days per year. Neither judge has ever used the entire allotment. | 4 | 5 | 1 | 0 | 10 |
| Funeral Leave | 0 | 0 | 0 | 1 | 1 |
| City Training This represents mandated city training. | 0 | 0 | 0 | 0 | 0 |
| External Training This represents continuing legal education training. | 5 | 2 | 0 | 3 | 10 |
| Intra-City Meetings Meetings with other city departments that either required both judges or one judge at a time when the other could not substitute due to other docket responsibilities. | 3 | 2 | 3 | 0 | 8 |
| External Meetings Meetings with people or agencies outside the city. Either both judges attended, or it was at a time when the other judge could not substitute due to other responsibilities. | 0 | 1 | 6 | 3 | 10 |
| Extra Dockets Due to scheduling conflicts cases must sometimes be specially set. This often requires use of a third courtroom because others are being utilized. | 0 | 1 | 1 | 0 | 2 |
| Mun. Judges Testing Committee Judge Arnold-Burger was appointed by Justice Holmes to the Kansas Municipal Judges Testing and Education Committee. She is required to go to Topeka twice a year to train other judges from around the state. The State pays all travel expenses. | 0 | 0 | 2 | 0 | 2 |
| KMJA Conference Each April the Kansas Supreme Court sponsors the Kansas Municipal Judges Association Conference. It is two days long and all expenses are paid by the Supreme Court. All municipal judges are encouraged to attend. CLE credit is awarded and the State pays all travel and lodging expenses. | 0 | 4 | 0 | 0 | 4 |
| TOTAL | 12 | 25 | 24 | 26 | 87 |
| COMPENSATION | \$1,440 | \$3,000 | \$2,880 | \$3,120 | \$10,440 |



*These are listed by session of court. Each session is 4 hours long. Pro tem judges are paid at a rate of \$30 per hour (\$120 per session). There are 12 sessions of court in a week. The 12 sessions are divided between two full time judges and, sometimes, two courtrooms. To put these numbers in perspective, if each judge were to simply take all his or her allotted vacation and sick time, that would equal 79 dockets per year out of a total of 572 dockets in 2009.

2008 CITY COURT COST SURVEY

| CITY | Court Costs |
|----------------------------------|--|
| Wichita | \$36.50 court, \$4.00 pub def fee, \$1.00 court technology fee |
| Kansas City, KS | \$30 if TTP or continuance request, \$40 if trial and guilty. |
| Overland Park | \$1.50 (victim fee) |
| Olathe | \$7.50 |
| Lawrence | \$22.50 |
| Topeka | \$66 gen traffic, \$133 misdemeanor |
| Shawnee | \$25 |
| Mission | \$10.50 |
| Johnson County | \$66 now, \$75 eff July 1— all to state |
| Leawood | NONE |
| Lenexa | \$10.50 |
| Merriam | \$10.50 |
| Salina | \$50.50 crim, \$30.50 other |
| Hutchinson | \$49.50 |
| Prairie Village | \$10 |
| Manhattan | \$53.50/\$110.50 |
| Roeland Park | \$10 |
| Mission Hills | \$10 |
| Fairway | \$25 |
| Gardner | NONE |
| Westwood | NONE |
| DeSoto | \$20.50 |
| Mission Woods | NONE |
| Spring Hill | \$20.50 |
| Lake Quivira | \$15.50 |
| Westwood Hills | NONE |
| Edgerton | \$20 |
| MISSOURI MUNICIPAL COURTS | |
| CITY | COURT COSTS |
| Independence, MO | \$5.00 |
| Kansas City, MO | \$38.50 |
| Lee's Summit, MO | \$11.50 |
| Liberty, MO | \$12 court, \$2 police trng |
| Parkville, MO | \$12 court, \$2 police trng |
| Platte City, MO | \$12 court, \$2 police trng, .37 crime victims |

2008 FINE SURVEY*

| CITY | Unsafe Speed for Conditions | 10 miles over limit | 15 miles over limit | 20 miles over limit | Moving violation (stop sign, red light, etc.) | Non-Moving Violation (exp. tags, equipment, etc.) | Upcharge for school or construction zone [#] |
|-----------------|-----------------------------|---------------------|---------------------|---------------------|---|---|---|
| Wichita | \$96 | \$106 | \$131 | \$156 | \$86 | \$81 | None |
| Overland Park | \$120 | \$100 | \$130 | \$155 | \$120 | \$90 | Both = \$50 |
| Kansas City | \$70 | \$70 | \$100 | \$126 | \$95 | \$70 | School = \$25 Construction = double |
| Topeka | \$136 | \$86 | \$96 | \$111 | \$116 | \$136 | School = triple Construction = double |
| Olathe | \$100 | \$80 | \$110 | \$160 | \$100 | \$65 | Both = double |
| Lawrence | \$129 | \$99 | \$129 | \$159 | \$129 | \$129 | Both = double |
| Shawnee | \$110 | \$102 | \$127 | \$157 | \$110 | \$95 | Both = double |
| Mission | \$100 | \$110 | \$135 | \$160 | \$100 | \$80 | School = \$50 Construction = double |
| District Courts | \$135 | \$105 | \$135 | \$165 | \$135 | \$105 | Construction = double |
| Leawood | \$100 | \$75 | \$115 | \$150 | \$100 | \$75 | School = \$50 Construction = double |
| Lenexa | \$120 | \$135 | \$160 | \$215 | \$120 | \$95 | School = \$50 Construction = double |
| Merriam | \$125 | \$145 | \$170 | \$195 | \$125 | \$150 | None |
| Salina | \$100 | \$80 | \$90 | \$100 | \$100 | \$75 | School = \$20 Construction = double |
| Hutchinson | Court required | \$90 | \$100 | \$110 | \$95 | \$90 | School = \$10 Construction = double |
| Prairie Village | \$110 | \$114.50 | \$174.50 | \$249.50 | \$239.50 | \$89.50 | School = \$30 |
| Manhattan | \$105 | \$71.50 | \$101.50 | \$131.50 | \$113.50 | \$73.50 | School = \$10 Construction = double |
| Roeland Park | \$110 | \$80.50 | \$100.50 | \$129.50 | \$79.50 | \$79.50 | Both = double |
| Fairway | \$100 | \$100 | \$125 | \$155 | \$175 | \$100 | School = \$25 Construction = double |
| Gardner | \$95 | \$85 | \$115 | \$145 | \$95 | \$110 | School = \$20 Construction = double |
| Westwood | \$110 | \$100 | \$125 | \$150 | \$100 | \$100 | Both = \$50 |
| DeSoto | \$100 | \$70 | \$100 | \$130 | \$100 | \$90 | None |
| Spring Hill | \$110 | \$95 | \$130 | \$160 | \$115 | \$140 | Both = double |
| Lake Quivira | \$75 | \$70 | \$90 | \$110 | \$75 | \$65 | None |
| Edgerton | \$89.50 | \$69.50 | \$99.50 | \$129.50 | \$89.50 | \$89.50 | School = double |

* The amounts listed include court costs. The question posed to each jurisdiction was “What is the total amount of money an offender would have to pay if he or she pled guilty to the offense?”

When the up charge is listed as “double” it does not mean the fine is double the amount listed on this survey, since the survey is inclusive of court costs. It is a doubling of the fine only. For example, a general moving violation in the district court is \$135, the construction zone fine and costs would be \$195, because the underlying fine is only \$60.

| CITY | 2008 TOTAL DUI'S | 2008 TOTAL CASES |
|----------------------|---------------------|------------------|
| Wichita | 1380 | 77,954 |
| Overland Park | 876 | 46,355 |
| Kansas City, KS | 729 | 42,926 |
| Olathe | 728 | 30,882 |
| Lawrence | 505 | 23,004 |
| Merriam | 125 | 21,685 |
| Topeka | 458 | 19,235 |
| Mission | 294 | 16,838 |
| Johnson County | 984* | 15,818 |
| Lenexa | 479 | 15,283 |
| Shawnee | 392 | 14,006 |
| Leawood | 197 | 13,598 |
| Prairie Village | 183 | 10,000 |
| Salina | 438 | 9,655 |
| Manhattan | 476 | 8,492 |
| Hutchinson | 122 | 7,518 |
| Roeland Park | 30 | 3,877 |
| Gardner | 180 | 3,582 |
| Mission Hills | 40 | 3,300 |
| Fairway | 59 | 2,456 |
| DeSoto | 16 | 1,852 |
| Spring Hill | 33 | 1,184 |
| Mission Woods | 23 | 1,161 |
| Westwood | 25 | 1,112 |
| Lake Quivira | 0 | 559 |
| Westwood Hills | 1 | 361 |
| Edgerton | 1 | 110 |

* 429 Felonies; 555 Misdemeanors

CITY OF OVERLAND PARK MUNICIPAL COURT

Intra-City Communication

January 7, 2009

TO: TERRY GOODMAN, CHAIR, FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT COMMITTEE

FROM: KAREN ARNOLD-BURGER, PRESIDING JUDGE

RE: YEAR END TOTALS - 2008

The following are the Court's year-end totals for 2008 along with a comparison of prior years.

| CHARGE | 2008 | 2007 | 2006 | 2005 | 2004 |
|-----------------------|---------------|---------------|---------------|---------------|---------------|
| Hazardous Traffic | 24,280 | 20,287 | 21,833 | 22,122 | 20,084 |
| Non-Haz. Traffic | 16,805 | 14,604 | 15,007 | 13,919 | 12,789 |
| DUI | 876 | 802 | 841 | 989 | 917 |
| Parking | 1,162 | 1,688 | 1,686 | 1,868 | 2,060 |
| Theft | 412 | 495 | 553 | 599 | 637 |
| Drugs | 309 | 267 | 208 | 165 | 154 |
| Animals | 765 | 707 | 510 | 220 | 183 |
| Code Enforcement | 300 | 226 | 221 | 281 | 194 |
| Other | 1,446 | 1,444 | 1,514 | 1,509 | 1,256 |
| TOTAL | 46,355 | 40,520 | 42,373 | 41,672 | 38,274 |
| PERCENTAGE DIFFERENCE | +14% | -4% | +2% | +9% | -2% |

| JANUARY- DEC. | 2008 | 2007 | 2006 | 2005 | 2004 |
|----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| FINES COLLECTED* | 4,243,201 | 3,571,386 | 3,779,587 | 3,470,908 | 3,229,205 |
| *Excluding fees | | | | | |
| MONITORING FEES | 482,852 | 487,237 | 527,196 | 514,410 | 441,028 |
| ADSAP FEES | 136,831 | 140,167 | 152,954 | 149,757 | 122,471 |
| VICTIM FEES | 42,282 | 35,671 | 39,711 | 38,988 | 80,442 |
| LEGAL FEES | 28,560 | 30,132 | 28,149 | 23,967 | 19,350 |
| JAIL FEES | 126,138 | 144,710 | 135,791 | 95,067 | 70,222 |
| FINGERPRINT FEE | 42,425 | 40,424 | 43,511 | 34,358 | 30,900 |
| TRAFFIC SCHOOL | 10,500 | 10,725 | 11,250 | 12,850 | 11,350 |
| WARRANT FEES | 80,836 | 63,476 | 64,680 | 52,113 | 30,264 |
| DID NOT APPEAR FEES | 3,070 | 0 | 0 | 0 | 0 |
| TOTAL TO CITY | \$ 5,196,695 | \$ 4,523,928 | \$ 4,782,829 | \$ 4,392,418 | \$ 4,035,232 |
| PERCENT DIFFERENCE | +15% | -5% | +9% | +9% | +2% |

| Additional Fees Collected | 2008 | 2007 | 2006 | 2005 | 2004 |
|---------------------------------|---------|---------|---------|---------|---------|
| Crime Victim Restitution | 48,871 | 47,805 | 48,865 | 27,554 | 27,293 |
| KBI Lab Fee | 8,312 | 13,889 | 10,664 | 5,200 | 6,400 |
| Johnson Co. Lab Fee | 54,412 | 40,145 | 40,539 | 34,135 | 28,017 |
| Kansas Court Costs | 361,874 | 305,673 | 243,285 | 202,686 | 182,971 |
| Reinstatement Fees | 68,657 | 59,925 | 55,350 | 55,876 | 57,168 |