

Public Safety  
4-22-14

14-642

March 27, 2014

Steve Olson  
Manitowoc Municipal Judge  
900 Quay Street  
Manitowoc WI 54220

Mr. Eric Sitkiewicz, Chair  
PUBLIC SAFETY COMMITTEE  
City of Manitowoc  
900 Quay Street  
Manitowoc WI 54220

RE: Municipal Court Staffing

RECEIVED  
APR - 9 2014  
CITY CLERKS OFFICE

Dear Mr. Sitkiewicz:

Your Committee heard from me March 11, 2014 about what I perceive is a significant, looming problem with Municipal Court Staffing. I explained how the Municipal Court Clerk, formerly a full time Court employee, has effectively been reduced to 93.75% time year-round, and 68.75% for a projected 1/3 of the year, despite the Court Clerk having been full-time since the late 1980's and a rising case load in recent years. I projected significant revenue reductions as a result, although anticipating that would take 1-1.5 years to fully occur. I also informed the Committee that, anecdotally, I had already been hearing from other Municipal Judges around the State that the effectiveness of the Tax Refund Intercept Program (TRIP) has been fading. I explained that had not yet happened in Manitowoc, speculating that the reason was because Manitowoc had been late in utilizing TRIP fully, not being able to use TRIP's full potential until the new software system was authorized, purchased and went on-line in 2010. Additionally, with an improving economy and more defendants with unpaid forfeitures now working, there were new defendants who have, only just now, been experiencing the reach of TRIP.

The Committee asked for statistical data on the Revenue reduction I anticipated. I explained this would be a long-term trend and that the Actions - or Inactions - taken today would not be realized for a year or more. However, after our meeting, I have followed up and am able to present some concrete 'hints' of what is to come.

Court procedure, when the Court Clerk was a full-time employee, was to generate 'past due' letters on a monthly basis. Past due letters are a necessary predicate to beginning collection action, whether it be a Drivers License Suspension, Tax Intercept, or Jail Commitment. The last batch the Clerk generated was January 13, 2014. We are behind about 30 days. Prior to sending someone to Jail for non-payment, I must hold Indigency Hearings. Normally they are scheduled monthly. None have been scheduled for April due to this backlog - this is the first month we have not held Indigency hearings in the 6 years I've been Judge. As the Committee was informed, one of the most effective ways of enforcing payments is the defendant being picked up on a Jail Commitment. Suddenly, as an officer prepares to handcuff them, they have the money.

At an Indigency hearing, most often as a last ditch effort to avoid incarceration, defendants will agree to a final monthly payment plan. I am generally quite lenient in granting those payment plans rather than immediately jailing them, since my goal is punishment & I do not wish to jail so many persons that Manitowoc County begins to charge the City for incarcerations. Once a defendant enters into a final payment plan, and fails, then they are jailed. The Clerk must manually check the status of outstanding payment plans - is the defendant keeping up? On a monthly basis, Clerk Heyduk checks the status. She has not had the time to do that since late January. Accordingly, Commitments which should already have been issued have not been.

About 5 years ago Milwaukee Municipal Court experimented with the effectiveness of Jail Commitments as opposed to lesser sanctions. Milwaukee has 3 Municipal Court Branches. Their 'experiment' was that 2 branches would continue normally issuing Commitments, while the third would stop issuing Jail Commitments and only TRIP, suspend drivers licenses, etc. The goal was to determine how forfeiture payments flowed under the 'experiment'. Collection collapsed for the branch which no longer ordered defendants jailed for non-payment.

Also of interest is that the Green Bay Municipal Court budget for committing defendants who have not paid forfeitures is \$120,000/yr. Although Green Bay is much larger than Manitowoc, that 'Commitment' budget exceeds the entire Manitowoc Municipal Court budget. Brown County charges the City of Green Bay \$40 per day to hold City non-payment inmates. **Manitowoc County does not charge - and is the only County I am aware of that does not.** Dane County charges \$80. Manitowoc's Municipal Judge has exclusive authority to determine whether someone is incarcerated for non-payment of ordinance violations. I jealously guard that authority, not wanting a Manitowoc officer @ 3 a.m. to have someone they're dealing with 'laughing off' the threat of a citation because the person had no consequences from previous citations. Such a scenario would have dire consequences for the Justice System & officers.

I reported to you in March that I expected the effectiveness of TRIP in collections will begin to fade. Other Municipal Judges had told me that occurred in their Courts after some time, as defendants began to 'get wise' to TRIP & simply increased claimed exemptions so they had no tax refund to intercept. Although I explained it had not yet started in Manitowoc, unfortunately, I was wrong. As of this year, we are starting to see a dip in TRIP collections. TRIP collections Year to Date as of 3/21/13 were \$69,606.66. YTD as of 3/21/14 they were \$52,682.55. YTD in 2013 TRIP collected on 423 judgments - 2014 is 309.

Finance Director Steve Corbeille informed the Committee there is currently \$1.3 million in unpaid Municipal Court judgments outstanding. There was some discussion about referring them to a collection agency, however, Steve expressed concern about whether the City would have to pay the entire collection agency fee on its portion of any judgment collected, with the State & County receiving their full 'due' without deduction for the agency fee. I have researched the issue & found that all entities entitled to receive a portion of the judgment are required to pay the collection agency fee pro-rata, per §755.21, Wisconsin Statutes.

If the reduced Court Clerk staffing continues, it may be that we end up shifting to a collection agency, although I understand that has not gone well for other City departments. Either the City or the Municipal Judge has exclusive authority to make that decision under §755.21. That would allow the City to continue with the less than full-time Court Clerk it now has given the Court. It would still satisfy the Municipal Court's goals of ensuring punishment flows from a conviction. If a convicted defendant is not punished for violating a City ordinance, then there is no incentive for a miscreant to conform their conduct to society's requirement in the future. However, from the perspective of the Municipal Court, it makes no difference whether the penalty

of forfeiture payment flows to City coffers, or is in part flowing to the collection agency as a fee. I recognize, however, the City may have a different view from a revenue standpoint.

The Committee should be aware of what I believe are the Court's priorities. Obviously, statutory duties must be carried out. They will be, even with the current reduced Clerk time. Jail Commitments on quasi-criminal matters, although not required by statutes, are a priority I will continue. I feel that is critical, as without continuing Commitments, officers will have increasing problems dealing with miscreants. The areas which become less important are collection actions on traffic matters, the bulk of the Court's cases. I am taking a 'wait and see' attitude to whether the Clerk has the ability to continue in-house collections for traffic matters. If, given the substandard staffing the Court now has we continue to slip in required duties, or duties I place a high priority on (Jail Commitments), §755.21 does authorize me to farm out collections to an agency. I anticipate doing that, if that proves necessary.

I know this issue is on the Public Safety Committee's agenda for the April 15<sup>th</sup> meeting. As we parted company after the March 11<sup>th</sup> meeting, it was left open whether I should appear before the Committee in April. This letter contains the best information I can present to the Committee at this time. The Committee was made aware in March of the substandard staffing in Manitowoc's Municipal Court as compared to other similarly sized Courts. The Committee also indicated it believed the substandard staffing should continue. The revenue reduction trends I predict will take 1-1.5 years to come to fully come to fruition. How far this revenue reduction goes is impossible to predict. Only time will tell.

If you wish me to appear before your Committee April 15<sup>th</sup>, I ask that you let me know.

Sincerely,

/s/

Steve Olson  
Municipal Judge

pc: Mr. Tyler Martell  
Mr. Dave Soeldner  
Mr. Scott McMeans  
Mr. Al Schema  
Mayor Justin Nickels  
Mr. Steve Corbeille