

2016 MID-YEAR REPORT

Municipal Court
Judge David Juarez



Revenue

- Through June 2015 - \$600,021.73
- Through June 2016 - \$569,352.61
- 2016 revenue numbers not final



JUNE 2016 NUMBERS ARE NOT FINAL, THIS REPORT COMPLETED JULY 6

2016 THROUGH JUNE	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	YEAR TO DATE
TRAFFIC							
TRAFFIC ISSUED	680	647	556	718	742	673	4,016
PARKING ISSUED	171	147	117	108	78	86	707
REVENUE COLLECTED	\$ 69,452.00	\$ 61,402.00	\$ 62,054.00	\$ 62,628.00	\$ 57,902.00	\$ 33,599.00	\$ 347,037.00
OJ/W FEES COLLECTED	\$ 2,610.00	\$ 3,210.00	\$ 3,270.00	\$ 2,700.00	\$ 2,100.00	\$ 1,380.00	\$ 15,270.00
OJ/W FEES PAID TO STATE	\$ 1,305.00	\$ 1,605.00	\$ 1,635.00	\$ 1,350.00	\$ 1,050.00	\$ 690.00	\$ 7,635.00
CRIMINAL							
CRIMINAL ISSUED	99	130	72	145	77	81	604
ANIMAL ISSUED	7	9	7	9	1	11	44
CODE ISSUED	2	1	1	6	2	9	21
REVENUE COLLECTED	\$ 2,450.00	\$ 3,604.00	\$ 3,005.00	\$ 3,010.00	\$ 2,456.00	\$ 2,100.00	\$ 16,625.00
TOTAL TICKETS ISSUED	959	934	753	986	900	860	5,392
JUVENILES CHARGED	39	78	25	47	51	44	284
RESTITUTION COLLECTED	\$ 2,036.80	\$ 1,134.00	\$ 1,542.00	\$ 2,149.35	\$ 1,200.00	\$ 775.00	\$ 8,837.15
COURT COSTS REVENUE	\$ 12,550.50	\$ 9,049.00	\$ 8,977.11	\$ 8,016.00	\$ 8,196.00	\$ 5,066.00	\$ 51,854.61
COMMUNITY SERVICE REVENUE					\$ 60.00		\$ 60.00
BOND FEES/ADMIN	\$ 180.00	\$ 360.00	\$ 300.00	\$ 240.00	\$ 300.00	\$ 180.00	\$ 1,560.00
SURCHARGE	\$ 21,229.00	\$ 18,750.00	\$ 19,289.00	\$ 19,266.00	\$ 17,387.00	\$ 10,662.00	\$ 106,583.00
COLLECTION FEES COLLECTED	\$ 3,094.00	\$ 5,992.00	\$ 4,773.00	\$ 5,129.00	\$ 3,112.00	\$ 2,166.00	\$ 24,266.00
FUEL SURCHARGE	\$ 7,587.00	\$ 6,369.00	\$ 7,034.00	\$ 6,577.00	\$ 6,588.00	\$ 3,843.00	\$ 37,998.00
PHONE CALLS - SUSAN	81		327	375	315	298	1,396
PHONE CALLS - CARMEN	238	234	147	102	162	97	980
PHONE CALLS - NORA	209	315	186	5	219	198	1,132
PHONE CALLS - CAROL	209	252	156	107	146	104	974
PHONE CALLS - LYNN	270	204	340	227	107	215	1,363
TOTAL PHONE CALLS	1,007	1,005	1,156	816	949	912	5,845
COUNTER CUSTOMERS	1,451	1,317	1,028	1,118	1,032	1,226	7,172
TOTAL REVENUE COLLECTED	\$ 114,753.50	\$ 101,139.00	\$ 102,294.11	\$ 101,087.00	\$ 93,939.00	\$ 56,140.00	\$ 569,352.61

2015 THROUGH JUNE	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	YEAR TO DATE
TRAFFIC							
TRAFFIC ISSUED	633	434	970	773	781	834	4,425
PARKING ISSUED	186	92	107	72	47	56	560
REVENUE COLLECTED	\$ 65,857.00	\$ 55,084.00	\$ 51,631.00	\$ 70,992.00	\$ 57,762.00	\$ 60,629.48	\$ 361,955.48
OJ/W FEES COLLECTED	\$ 2,070.00	\$ 3,150.00	\$ 2,618.00	\$ 2,614.00	\$ 1,860.00	\$ 1,749.00	\$ 14,061.00
OJ/W FEES PAID TO STATE	\$ 1,035.00	\$ 1,575.00	\$ 1,309.00	\$ 1,307.00	\$ 930.00	\$ 874.50	\$ 7,030.50
CRIMINAL							
CRIMINAL ISSUED	81	94	134	132	135	85	661
ANIMAL ISSUED	4	8	13	13	7	12	57
CODE ISSUED	3	1	3	2	3	2	14
REVENUE COLLECTED	\$ 4,900.00	\$ 3,645.00	\$ 3,614.00	\$ 4,552.00	\$ 2,042.00	\$ 4,080.00	\$ 22,833.00
TOTAL TICKETS ISSUED	907	629	1,227	992	973	989	5,717
JUVENILES CHARGED	29	37	79	59	49	31	284
RESTITUTION COLLECTED	\$ 607.00	\$ 1,493.06	\$ 831.00	\$ 935.00	\$ 350.00	\$ 977.52	\$ 5,193.58
COURT COSTS REVENUE	\$ 7,734.00	\$ 9,621.00	\$ 7,957.00	\$ 9,807.00	\$ 7,937.00	\$ 8,777.00	\$ 51,833.00
COMMUNITY SERVICE REVENUE			\$ 401.00	\$ 60.00			\$ 461.00
BOND FEES/ADMIN	\$ 330.00	\$ 207.25	\$ 440.00	\$ 350.00	\$ 96.00	\$ 366.00	\$ 1,789.25
SURCHARGE	\$ 20,565.50	\$ 17,452.00	\$ 16,041.00	\$ 22,347.00	\$ 18,329.00	\$ 19,516.00	\$ 114,250.50
COLLECTION FEES COLLECTED	\$ 2,308.00	\$ 7,157.00	\$ 4,447.00	\$ 2,888.00	\$ 2,711.00	\$ 2,601.00	\$ 22,112.00
FUEL SURCHARGE	\$ 7,398.00	\$ 5,816.00	\$ 5,459.00	\$ 7,812.00	\$ 6,233.00	\$ 7,151.00	\$ 39,869.00
PHONE CALLS - SUSAN	238	188	262	204	159	256	1,307
PHONE CALLS - CARMEN	184	163	168	282	207	231	1,235
PHONE CALLS - BEVERLY	195	186	199	223	225	241	1,269
PHONE CALLS - CAROL	236	175	167	195	198	185	1,156
PHONE CALLS - LYNN	122	126	134	137	111	190	820
TOTAL PHONE CALLS	975	838	930	1,041	900	1,103	5,787
COUNTER CUSTOMERS	1,561	1,288	1,092	1,509	1,164	1,460	8,074
TOTAL REVENUE COLLECTED	\$ 107,819.50	\$ 93,400.25	\$ 86,852.00	\$ 117,227.00	\$ 93,329.00	\$ 101,393.98	\$ 600,021.73

Tickets

- 2015 – 5,717 (4,425 traffic)
- 2016 - 5,392 (4,016 traffic)
- 72 Summons and complaint issued to underage persons
- 18 violations of possession of marijuana
- 26 alcohol violations



HOUSE BILL 16-1311

- “Concerning court orders requiring payment of monetary amounts”
- Signed by the governor on 6/10/2016
- Effective immediately



An Act

HOUSE BILL 16-1311

BY REPRESENTATIVE(S) Salazar, Becker K., Danielson, Fields, Garnett, Kagan, Lee, Lontine, Melton, Moreno, Pabon, Pettersen, Primavera, Tyler, Williams, Winter, Hullinghorst;
also SENATOR(S) Carroll and Marble, Aguilar, Guzman, Heath, Kefalas, Merrifield, Newell, Steadman.

CONCERNING COURT ORDERS REQUIRING PAYMENT OF MONETARY AMOUNTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 18-1.3-702 as follows:

18-1.3-702. Monetary payments - due process required. (1) (a) When the court imposes a sentence, ENTERS A JUDGMENT, OR ISSUES AN ORDER that ~~includes~~ OBLIGATES the ~~payment of~~ DEFENDANT TO PAY a monetary amount, the court may direct as follows:

(I) That the defendant pay the entire monetary amount at the time sentence is pronounced;

(II) That the defendant pay the entire monetary amount at some later

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

date;

(III) That the defendant pay as directed by the court or the court's designated official: ~~the monetary amount:~~

(A) At a future date certain in its entirety;

(B) By periodic payments, which may include payments at intervals, referred to in this section as a "payment plan"; or

(C) By other payment arrangement as determined by the court or the court's designated official;

(IV) When the defendant is sentenced to a period of probation as well as payment of a monetary amount, that payment of the monetary amount be made a condition of probation.

(b) A court's designated official shall report to the court on any failure to pay.

(c) As used in this section, "court's designated official" includes, but is not limited to, a "collections investigator" as defined in section 18-1.3-602 (1).

(2) When the court imposes a sentence, ~~that includes payment of~~ ENTERS A JUDGMENT, OR ISSUES AN ORDER THAT OBLIGATES A DEFENDANT TO PAY any monetary amount, the court shall instruct the defendant as follows:

(a) If at any time the defendant is unable to pay the monetary amount due, the defendant must contact the court's designated official or appear before the court to explain why he or she is unable to pay the monetary amount; ~~and~~

(b) IF THE DEFENDANT LACKS THE PRESENT ABILITY TO PAY THE MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANT'S DEPENDENTS, THE COURT SHALL NOT JAIL THE DEFENDANT FOR FAILURE TO PAY; AND

~~(b)~~ (c) If the defendant has the ability to pay the monetary amount

as directed by the court or the court's designee but willfully fails to pay, the defendant may be imprisoned for failure to comply with the court's lawful order to pay pursuant to the terms of this section.

(3) Incarceration for failure to pay is prohibited absent provision of the following procedural protections:

(a) When a defendant is unable to pay a monetary amount due without undue hardship to himself or herself or his or her dependents, the court shall not imprison the defendant for his or her failure to pay;

(b) Except in the case of a corporation, if the defendant failed to pay a monetary amount due AND THE RECORD INDICATES THAT THE DEFENDANT HAS WILLFULLY FAILED TO PAY THAT MONETARY AMOUNT, the court, when appropriate, may consider a motion to impose part or all of a suspended sentence, may consider a motion to revoke probation, or may institute proceedings for contempt of court. When instituting contempt of court proceedings, the court, including a municipal court, shall provide all procedural protections mandated in rule 107 of THE Colorado rules of civil procedure or rule 407 of THE Colorado rules of county court civil procedure.

(c) The court shall not find the defendant in contempt of court, nor impose a suspended sentence, nor revoke probation, nor order the defendant to jail for failure to pay unless the court has made findings on the record, after providing notice to the defendant and a hearing, that the defendant has the ability to comply with the court's order to pay a monetary amount due without undue hardship to the defendant or the defendant's dependents and that the defendant has not made a good-faith effort to comply with the order. If the defendant fails to appear at the hearing referenced in this paragraph (c) after receiving notice, the court may issue a warrant for his or her arrest for failure to appear. ~~In no event shall the court issue a warrant for failure to pay money.~~

(d) THE COURT SHALL NOT ACCEPT A DEFENDANT'S GUILTY PLEA FOR CONTEMPT OF COURT FOR FAILURE TO PAY OR FAILURE TO COMPLY WITH THE COURT'S ORDER TO PAY A MONETARY AMOUNT UNLESS THE COURT HAS MADE FINDINGS ON THE RECORD THAT THE DEFENDANT HAS THE ABILITY TO COMPLY WITH THE COURT'S ORDER TO PAY A MONETARY AMOUNT DUE WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANT'S

DEPENDENTS AND THAT THE DEFENDANT HAS NOT MADE A GOOD-FAITH EFFORT TO COMPLY WITH THE ORDER; AND

(e) THE COURT SHALL NOT ISSUE A WARRANT FOR FAILURE TO PAY MONEY, FAILURE TO APPEAR TO PAY MONEY, OR FAILURE TO APPEAR AT ANY POST-SENTENCING COURT APPEARANCE WHEREIN THE DEFENDANT WAS REQUIRED TO APPEAR IF HE OR SHE FAILED TO PAY A MONETARY AMOUNT; HOWEVER, A COURT MAY ISSUE AN ARREST WARRANT OR INCARCERATE A DEFENDANT RELATED TO HIS OR HER FAILURE TO PAY A MONETARY AMOUNT ONLY THROUGH THE PROCEDURES DESCRIBED IN PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (3).

(4) (a) FOR PURPOSES OF THIS SECTION, A DEFENDANT OR A DEFENDANT'S DEPENDENTS ARE CONSIDERED TO SUFFER UNDUE HARDSHIP IF HE, SHE, OR THEY WOULD BE DEPRIVED OF MONEY NEEDED FOR BASIC LIVING NECESSITIES, SUCH AS FOOD, SHELTER, CLOTHING, NECESSARY MEDICAL EXPENSES, OR CHILD SUPPORT. IN DETERMINING WHETHER A DEFENDANT IS ABLE TO COMPLY WITH AN ORDER TO PAY A MONETARY AMOUNT WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANT'S DEPENDENTS, THE COURT SHALL CONSIDER:

(I) WHETHER THE DEFENDANT IS EXPERIENCING HOMELESSNESS;

(II) THE DEFENDANT'S PRESENT EMPLOYMENT, INCOME, AND EXPENSES;

(III) THE DEFENDANT'S OUTSTANDING DEBTS AND LIABILITIES, BOTH SECURED AND UNSECURED;

(IV) WHETHER THE DEFENDANT HAS QUALIFIED FOR AND IS RECEIVING ANY FORM OF PUBLIC ASSISTANCE, INCLUDING FOOD STAMPS, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, MEDICAID, OR SUPPLEMENTAL SECURITY INCOME BENEFITS;

(V) THE AVAILABILITY AND CONVERTIBILITY, WITHOUT UNDUE HARDSHIP TO THE DEFENDANT OR THE DEFENDANT'S DEPENDENTS, OF ANY REAL OR PERSONAL PROPERTY OWNED BY THE DEFENDANT;

(VI) WHETHER THE DEFENDANT RESIDES IN PUBLIC HOUSING;

(VII) WHETHER THE DEFENDANT'S FAMILY INCOME IS LESS THAN TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE; AND

(VIII) ANY OTHER CIRCUMSTANCES THAT WOULD IMPAIR THE DEFENDANT'S ABILITY TO PAY.

~~(4)~~ (5) If the court finds a defendant in contempt of court for willful failure to pay, the court may direct that the defendant be imprisoned until the monetary payment ordered by the court is made, but the court shall specify a maximum period of imprisonment subject to the following limits:

(a) When the monetary amount was imposed for a felony, the period shall not exceed one year;

(b) When the monetary amount was imposed for a misdemeanor, the period shall not exceed one-third of the maximum term of imprisonment authorized for the misdemeanor;

(c) When the monetary amount was imposed for a petty offense, a traffic violation, or a violation of a municipal ordinance, any of which is punishable by a possible jail sentence, the period shall not exceed fifteen days;

(d) There shall be no imprisonment in those cases when no imprisonment is provided for in the possible sentence; and


(e) When a sentence of imprisonment and a monetary amount was imposed, the aggregate of the period and the term of the sentence shall not exceed the maximum term of imprisonment authorized for the offense.

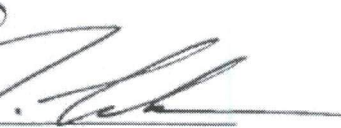
~~(5)~~ (6) This section applies to all courts of record in Colorado, including but not limited to municipal courts.

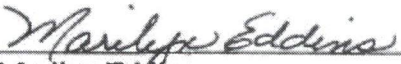
~~(6)~~ (7) Nothing in this section prevents the collection of a monetary amount in the same manner as a judgment in a civil action.


SECTION 2. Applicability. This act applies to sentences entered and to hearings for failure to make monetary payments conducted on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

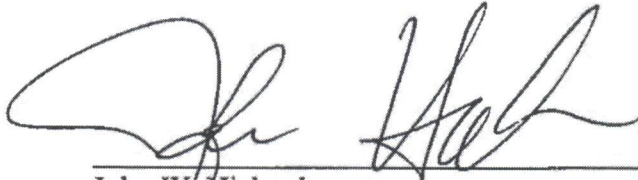

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Bill L. Cadman
PRESIDENT OF
THE SENATE


Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES


Effie Ameen
SECRETARY OF
THE SENATE

APPROVED 9:21 am 6/10/16


John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

- Restricts issuing a warrant for a defendant that fails to pay assessed fines, costs or restitution



- Prohibits the court from sentencing a defendant to jail for failing to pay any assessed fines and costs – unless we can prove that the defendant had the ability but willfully refused to pay the assessed amount and that jail will not create an undue hardship on the defendant or their dependents.



House Bill 16-1311 Compliance Options

- Update the current process to provide for the setting of a hearing on a motion to impose a suspended sentence and only issue a warrant if the Defendant fails to appear at the hearing. The court can impose jail if the court finds that the Defendant had the ability to pay the fine and willfully failed to pay and the jail sentence would not pose an undue hardship on the Defendant or their Dependents.



- Refer the delinquent balances to a collection agency and take no further action.
- Utilize the contempt process contained in the statute, have each defendant individually served and proceed with a contempt hearing. Warrants can be issued for the failure to appear and jail sentences can be imposed if the court finds that the Defendant had the ability to pay the fine and willfully failed to pay and the jail sentence would not pose an undue hardship on the Defendant or their Dependents.



OPTIONS	DESCRIPTION	FINANCIAL IMPACT
Status Quo	The City will request Councils blessing to continue to do business as is with some minor changes	No new Financial impact
Collection	The City will stop issuing warrants and report unpaid criminal, code and animal fines, costs & restitution to collections	The collection rate- Not guaranteed 100% collection.
Contempt approach	The City will issue contempt citations	Prosecutor + Staff time to prepare notices AC Sheriff – minimum \$47.00 for each notice served \$16.00 for each notice they are unable to serve Private – average \$60.00 per notice



QUESTIONS?

- The court is seeking direction going forward concerning HB 16-1311



HOUSE BILL 16-1309

- “Concerning a defendant’s right to counsel in certain cases in Municipal Court”
- Allowed to become law without governors signature on 6/11/2016
- Effective date May 1, 2017



An Act

HOUSE BILL 16-1309

BY REPRESENTATIVE(S) Lontine, Becker K., Kagan, Kraft-Tharp, Lee, Melton, Moreno, Pabon, Pettersen, Rosenthal, Ryden, Saine, Salazar, Hullinghorst, Duran, Priola, Williams;
also SENATOR(S) Marble, Carroll, Crowder, Garcia, Guzman, Heath, Jahn, Kefalas, Lambert, Lundberg, Merrifield, Neville T., Newell, Steadman, Todd, Ulibarri.

CONCERNING A DEFENDANT'S RIGHT TO COUNSEL IN CERTAIN CASES
CONSIDERED BY MUNICIPAL COURTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the both the United States and Colorado constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at government expense for indigent persons in all cases in which incarceration is a possible penalty, unless there is a knowing, intelligent, and voluntary waiver of the right to counsel.

SECTION 2. In Colorado Revised Statutes, **add** 13-10-114.5 as follows:

13-10-114.5. Representation by counsel. (1) AT THE TIME OF FIRST APPEARANCE ON A MUNICIPAL CHARGE, IF THE DEFENDANT IS IN CUSTODY AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF INCARCERATION, THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE DEFENDANT FOR PURPOSES OF THE INITIAL APPEARANCE UNLESS, AFTER A FULL ADVISEMENT PURSUANT TO C.M.C.R. 210 AND SECTION 16-7-207, C.R.S., THE DEFENDANT MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL.

(2) IF THE DEFENDANT REMAINS IN CUSTODY, THE APPOINTMENT OF COUNSEL CONTINUES UNTIL THE DEFENDANT IS RELEASED FROM CUSTODY. IF THE DEFENDANT IS RELEASED FROM CUSTODY, HE OR SHE MAY APPLY FOR COURT-APPOINTED COUNSEL, AND THE COURT SHALL APPOINT COUNSEL IF THE COURT DETERMINES THAT THE DEFENDANT IS INDIGENT AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF INCARCERATION.

SECTION 3. In Colorado Revised Statutes, 16-7-207, **add** (3) as follows:

16-7-207. Court's duty to inform on first appearance in court and on pleas of guilty. (3) THIS SECTION APPLIES TO PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL CHARTERS AND PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL ORDINANCES.

SECTION 4. Act subject to petition - effective date. This act takes effect May 1, 2017; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general

election to be held in November 2016 and, in such case, will take effect on May 1, 2017, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

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APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

- Requires Municipal Court to provide court appointed attorneys “at the time of the first appearance, if the defendant is in custody and the charged offense includes a possible sentence of incarceration”
- “The appointment of counsel continues until the defendant is released from custody”



House Bill 16-1309 Compliance Options

- Prepare an RFP to secure the services of an attorney or firm to meet the specific demands of the statute
- Prepare an RFQ to secure the services of qualified attorneys to meet the specific demands of the statute on a rotating basis
- Hire an attorney to serve as a part-time employee to undertake the services of a public defender for the city



OPTIONS	DESCRIPTION	FINANCIAL IMPACT
RFP	Contract with a Firm to handle all court appointed cases	Effectuated on case load
RFQ	Contract with multiple firms to handle court appointed cases on a rotating basis	Effectuated on case load
Full time/Part time	Hire a city employee	70k for Fulltime employee/Part time : Attorney <u>hourly</u> rate: \$65.00 per hour, Maximum fee for <u>disposition without Trial</u> - \$400.00, Maximum fee for <u>Trial to court</u> - \$800.00, Maximum fee for <u>Trial by Jury</u> - \$1,000.00

QUESTIONS?

- Request sufficient funding to comply with the court ordered mandate for HB 16-1309

