

**2021
ANNUAL REPORT**

**VILLAGE OF
CAYUGA HEIGHTS COURT**



Glenn G. Galbreath
Village of Cayuga Heights Justice

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Village of Cayuga Heights Court Clerk

ANNUAL REPORT OF GLENN G. GALBREATH, VILLAGE JUSTICE

As in 2020, the Covid 19 pandemic continued to be the key issue for the court in 2021. In 2020 we had to fully close the court for a number of weeks, and then virtual proceedings were the primary way of holding court. When defendants were allowed to appear in person it was one defendant at a time until the end of 2021. Even now in early 2022 everyone must be masked, have their temperature taken, answer Covid protocol questions, and sit several feet away from each other often between plexiglass screens. Trials began again later in 2021 and I believe we were the first town or village court to attempt to have a jury trial (which was postponed at the last minute due to an upsurge in Omicron variation of Covid). Covid not only slowed the processing of cases but seems to be linked to an increase in the failure of many defendants to respond to their cases. Part of that may be due to concerns about Covid. A more cynical explanation may be that a few of the unresponsive defendants recognize that recent statutory changes have limited the court's ability to require bail, issue warrants and suspend the drivers' licenses of unresponsive defendants. Regardless of the cause, our case numbers in 2020 and 2021 have been in the 600's as compared to over 1,000 in 2016. Notwithstanding the impact of Covid and bail/collection reform limitations, the amounts collected from defendants increased to \$45,873 in 2021 from \$26,050 in 2020, but both those years' totals were well below the \$60,000-75,000 annual amounts for several years previously. Another interesting point is that the all-time cumulative amount of debt owed by defendants to the court actually dropped in 2021, i.e. \$26,050 was owed in 2020 and it dropped to \$24,125 in 2021. One would normally expect this amount to gradually increase over time. I have no idea why defendant debt to the court has decreased.

Following the summary of data immediately below is a narrative about the data and other court activities for the year. The charts at the end provide a little more detail and cover six years.

SUMMARY OF CASE ACTIVITY

<u>Case Types</u>	<u>2020</u>	<u>2021</u>
Vehicle + Traffic Law (V+TL) (including parking)	655	624
Penal/Criminal Law	7	10
Civil/Small Claims/Evictions	<u>2</u>	<u>0</u>
Total Closed Cases	664	634
<u>Total Funds Collected</u>	\$ 26,050	\$ 45,873
<u>Number of V+TL Trials</u>	1	9
<u>After-hours arraignments for other courts due to Covid restrictions</u>	10	25

Case Numbers continue to be low

Our data reflects only those cases that have closed and not the number on which we worked, but the number of closed cases for each of the last two years was in the 600's rather than over 1,000 in 2016. This probably is due to the pandemic.

Court Access

One of the Covid restrictions that has been relaxed is that in-person appearances are now the norm. Virtual appearances via Microsoft Teams is limited to less critical stages of case processing, e.g. cases conferences.

Many defendants are now using the electronic plea bargaining process through the District Attorney's website and sending a signed guilty plea to a lowered level charge than the one the police initially filed. Also, the police tend to follow the ADA's guidelines when the police engage in plea bargaining as well. The reductions offered by the District Attorney's tend to be fairly forgiving, e.g. a 4 point speeding at 19 mph over the speed limit even in a school zone could be settled by the defendant pleading guilty to a 0 point ticket for "opening a door unsafely." Plea bargains must be agreed to by the People, the defendant and the Court, so the Court is very careful to examine the appropriateness of plea bargains on an individualized basis. Therefore, notwithstanding the common practice in most courts of simply accepting any plea bargain that the prosecution and defendant agree to, the Village Court closely examines the appropriateness of each plea bargain it accepts or rejects.

Vehicle and Traffic Law (V+TL) Cases (See attached chart.)

Vehicle and traffic law matters are the majority of the court's cases, fines and surcharges collected and the court clerk's time. The total number of V+TL cases in 2021 (624) was a bit below the 665 we closed in 2020.

Alcohol related driving offenses [driving with ability impaired (DWAI), driving while intoxicated (DWI), and aggravated driving while intoxicated (ADWI)] are important cases and unfortunately their numbers increased in 2021 (from 1 in 2020 to 9 in 2021). In the past six years the numbers of these charges per year has ranged between 1 and 17, so we could interpret the 9 in 2021 as an average number.

Speeding cases dropped from 65 in 2020 to 42 in 2021. My best guess is that this is most likely the result of the new plea bargaining process which frequently resulted in defendants pleading guilty to the charge of failure to obey a traffic control device (which increased by almost 30 cases during the same period: 87 in 2020 and 115 in 2021).

One figure is unique. The number of scofflaw cases was zero in 2021. In past years it was as high as 206 (2017). A scofflaw case is one where a defendant fails to appear or pay his/her fines/surcharges. After repeated attempts to get a defendant's attention to his/her non-appearance or non-payment, I would have the Court Clerk report this to the NY Department of Motor Vehicles and then DMV would warn the defendant that his/her license will be suspended or revoked unless the defendant appears and pays what defendant owes to the court. But during the height of the pandemic the legislature limited this remedy to only situations where the defendant failed to ever appear, but stopped the use of scofflawing for a defendant who failed to pay. In an abundance of caution and pursuant to administrative directives from the Sixth

Judicial District, our Court stopped using the scofflaw process in 2021. Now, in 2022 we have begun to re-institute the scofflaw process for defendants who never appear in court. For the defendants who appeared but failed to pay, we will probably start issuing civil judgments against them.

Parking (See attached chart.)

The number of parking tickets in 2021 (29) is down from 2020 (37). Although parking tickets are part of the V+TL statistics, we identify them separately in the attached chart. The administrative processing frequently is done by the Police Department and the Court Clerk without the need of my intervention because most people plead guilty and pay the set fine. Only occasionally do I need to arraign a defendant or hold a trial for a parking ticket. Nevertheless, the Court Clerk must always process the paperwork and occasionally arrange for payment of the fine.

Penal/Criminal Cases (See attached chart.)

The Penal/Criminal Law category includes local and state law infractions, misdemeanors and felonies. Generally, these are more serious than most V+TL matters and take more time. Infractions are the lowest level of criminal cases, and the penalty is rarely more than a small fine. Misdemeanors and felonies are more serious and create a formal and permanent criminal record for a defendant. Not counted in the Penal/Criminal Cases statistics, even though many are also misdemeanors or felonies, are some of the more serious V+TL offenses, e.g. DWI, ADWI, reckless driving, aggravated unlicensed operation (AUO), leaving the scene of an injury accident, etc. Those misdemeanor V+TL cases appear only in the V+TL statistics chart. The most serious charges, felonies, do not appear in any of our statistics at all. That is because the computer program only identifies cases that are closed with a conviction or dismissal in our court. Felony cases that arise in our court do not ultimately remain here, nor are they “closed or dismissed” here. They eventually get transferred to the Tompkins County Court and, thus, never show up in our computer statistics, unless the prosecution decides to prosecute the case as a misdemeanor and the case is returned to our court. In 2021 the number of our criminal law cases (10) was about the same we had in 2020 (8) and a bit below our average number of 14 per year over the past six years.

Vehicle and Traffic Trials (See attached chart.)

The number of traffic offense trials (9) is about average for 2021, but a jump from 2020 (1) when the pandemic restricted trials. These numbers reflect only the trials for V+TL offenses. The data does not include criminal trials or civil trials. Again this is due to a limitation in our computer program’s data collection. Often trials are scheduled but then the defendant changes her/his mind at the last minute and pleads guilty, thus mooted the need for a trial. The number of trials in recent years continues to be very low relative to what the court has done in the past, e.g. in 1995 I had 124 V+TL trials.

Civil, Small Claims and Eviction Cases (See attached chart.)

Both the Civil and the Small Claims case categories concern non-criminal and non-V+TL matters. They involve private disputes between people or organizations. They are not actions brought by the government against a person for violation of the law. And the "Civil Docket" is technically different from “Small Claims.” Both have the same maximum monetary jurisdiction of \$3,000, but Small Claims cases use an expedited procedure that is simpler, less expensive and more accessible, especially for people without attorneys. Civil and Small Claims cases make up

the smallest number of cases - none in 2021 (as compared to no more than 5 in a year since 2016). These cases tend to be time consuming and often result in longer trials and written opinions. The court routinely refers the parties to the Community Dispute Resolution Center for mediation as soon as the case is filed with the court, but does not delay the court proceedings while mediation is being considered or used unless the parties agree to a delay.

Collection of fines and surcharges (See attached chart.)

Notwithstanding only 624 V+TL cases and 10 criminal cases, we collected \$45,873 in 2021, which was almost \$20,000 more than in 2020. But both years were low compared to prior years when our case numbers were higher. Again Covid had to play a significant role in the low case numbers. Interestingly though, the cumulative amount owed by all defendants actually dropped a bit, which is somewhat surprising because this figure would normally be expected to rise every year. In 2020 all defendants still owed the court \$26,050 and in 2021 that debt dropped to \$24,125.

Central Arraignment Part (C.A.P.) - The new variation on judges' covering after-hours arraignments for courts across the county

When it became clear that the pandemic was going to require courts to have as little face-to-face contact as possible in order to reduce the risk of the virus's transmission, the New York Court system arranged to do virtual arraignments for in-custody defendants during the times when courts were not actually in session. This is basically all hours of the day or night other than 8:30 AM to 4:30 PM Monday through Friday. While all town, village court judges are used to being pulled out occasionally in the middle of the night to arraign defendants or to issue orders of protection in our home jurisdictions, we had always done it in-person at our own courts. When the pandemic hit, the New York Court system sought volunteer judges to do that process virtually on a scheduled basis. Along with about half of the town/village judges in Tompkins County I agreed to cover the after-hours arraignments for all the town and village courts in Tompkins County in one week shifts. I did shifts every 5-6 weeks in 2020 and did the same in 2021. I did twenty-five after-hours arraignments and/or orders of protection for the other courts throughout the County in 2021.

As of 2022 the system is being changed as this report is being drafted. Instead of being called out in the middle of the night, the Central Arraignment Part (CAP) will cover these after-hours arraignments by having two court sessions a day (8:00 AM and 8:00 PM) at the Tompkins County Jail in a courtroom for this purpose. Again the town and village justices serve as the CAP judges. We are still working out what a fair share of the coverage is required of each judge. At this point I am scheduled for about 10 sessions a month and this has cut deeply into my schedule flexibility. The big advantage of this system is that judges, defense attorneys and Assistant District Attorneys do not get called out in the middle of the night. Maybe more important, arresting officers simply drop off the defendant at the jail and the jail holds the defendant until the next 8:00 court session, and the police officers return to the street. The disadvantage is that depending on when the defendant is arrested, s/he may sit for as much as 12 hours until the next 8:00 AM or PM court session. This is effectively the system they have used downstate and the City of Ithaca for decades.

Other activities

Other activities that do not appear in our data reports include: review of search and arrest/bench warrants, pretrial hearings, status conferences, motion hearings/arguments, orders of protection,

declarations of delinquency and re-sentencings, preliminary felony hearings, non-V+TL trials, hearings on violations of probation, fugitive warrants, legal research, drafting opinions, sentencings, and the above-mentioned county-wide after-hours arraignments and orders of protection. All are time consuming and important activities, but collecting the data on them is not automatic with our computer program. Also, not included in the data are the dozens of hours Court Clerk, other Village staff and I expended on preparations for the jury trial that ended up getting postponed. Some of that work will have to be repeated when we finally get the trial done in June, 2021.

Patricia Kannus, the Court Clerk, attended her mandated clerkship training for 2021. I also finished my required two days of Advanced Continuing Judicial Education Program for town and village justices in 2021.

I continue to be a member of the New York State Advisory Committee for Judicial Ethics and attend seven meetings in New York City each year where we produce the 100-200 ethics opinions the Committee issues annually. These opinions are published in response to inquiries from New York judges before they act on matters which raise ethical concerns. If the judge follows the written opinion, s/he is presumptively protected from prosecution for a violation of the Rules for Judicial Ethics.

We just finished the 2020-2021 financial audit and expect the auditors' report to be presented to the Trustees any time now.

Shredding paper records

After many years, we finally were given permission to shred old court records that we had electronically scanned several years ago. I cannot explain why it took the State so long to give us approval, but we expect that the shredding will create more storage space in the Village Hall's basement and maybe we can make progress on scanning later case files from the Court office and get rid of the unsightly boxes of files that litter the court office.

Conclusion

Should you have any questions or comments, please contact me or the court clerk. Further, I remind everyone that the court sessions are held every Tuesday evening starting at 5:00 PM (not 6:00 PM) and the first Thursday of every month starting at 5:00 PM. The public in general, and you in particular, are invited to observe these sessions.

Dated: February 15, 2022

Respectfully submitted,



Glenn G. Galbreath
Village Justice

VEHICLE + TRAFFIC CASES (V+TL - most are not criminal misdemeanors or felonies)

<u>OFFENSE (generally infractions)</u>	<u>CONVICTIONS</u>					
	2016	2017	2018	2019	2020	2021
speeding	69	60	42	108	65	42
speeding in school zone	1	5	4	20	4	4
stop sign	4	4	2	7	3	2
fail to obey traff. control device	257	191	164	169	87	115
DWAI (driv. with ability impaired)	13	10	3	2	0	3
DWI (driv. while intox. - misd. or felony)	4	5	0	0	1	3
ADWI (aggravated DWI - misd. or felony)	0	1	0	0	0	3
fail to keep right	10	1	8	7	3	5
no passing zone/follow to closely	2	1	0	4	1	0
AUO (aggrav. unlicens. oper. - misd.)	5	2	2	2	3	4
unlicensed operation	13	13	6	22	10	14
unregistered vehicle	10	5	4	16	4	9
uninspected vehicle	8	11	5	5	3	4
equipment violation	10	4	9	5	1	2
seatbelt	7	10	3	8	5	7
commercial traffic law (new in 2019)	0	0	0	6	9	5
cell phone	14	13	3	11	11	7
opening door unsafely	0	0	0	0	0	7
other	23	22	14	25	25	49
TOTAL V+TL CONVICTIONS	450	358	269	417	235	285
ACD (see below)	11	10	4	6	9	7
TOTAL DISMISSED	555	429	381	466	384	303
PARKING TICKET CONV.	59	101	49	26	37	29
TOTAL V+TL/PRKG. CASES	1017	788	651	883	665	624
SCOFFLAWED CASES (see below)	164	206	133	162	22	0
LIFTED LIC. SUSPENSION (see below)	1	5	1	10	3	1
V+TL TRIALS	16	5	6	8	1	9

"ACD" is an adjournment in contemplation of dismissal. It is used when the defendant and prosecutor agree that the penalty imposed by a conviction is disproportionate to the actual offense, and they agree to conditions which if met by the defendant would warrant later dismissal of the charge. The defendant and prosecutor then must secure the judge's agreement before it can be issued.

"Scofflawed cases" are those where a defendant failed to appear. The Court Clerk notifies the Dep't of Motor Vehicles which in turn suspends the defendant's driver's license until the case is fully resolved. In serious cases, the Court may also issue a bench warrant for the defendant's arrest.

"Lifted License Suspension" is a fee (\$70) the State requires when a license is restored after suspension.

PENAL LAW CONVICTIONS (misdemeanors and infractions, state + local)

OFFENSE	2016	2017	2018	2019	2020	2021
alcohol		1				
alcohol in the park	1					
assault					1	
aggravated harassment						
bad check						
burglary						
crim. contempt						
crim. impersonation	1					
crim. mischief					1	
crim. poss. forged instrument						1
crim. poss. stolen property						
crim. possession of weapon						
crim. tampering	1					
dog ordinance	2	1	2			
disorderly conduct		1	4	1	1	
fireworks						
fugitive						
grand larceny						1
harassment						
illegal dumping						
menacing						
open burning						
noise ordinance	1	4	3			1
park - after hours	3	2	4	4		
park - lawn		1		1		1
petite larceny			1			
poss. of a controlled substance	7	5	4	5	2	2
public lewdness						
rape - attempted						
reckless endangerment					1	
resisting arrest			1			
scheme to defraud						
selling controlled substance						
trespass						
unlawful imprisonment						
unlawful contact with a minor						
zoning violation						
other criminal		2	2		2	4
TOTAL PENAL LAW CASES	16	17	21	11	8	10

CIVIL CASES

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
SMALL CLAIMS + REGULAR CIVIL + EVICTIONS	0	4	5	1	2	0

ALL FINES, FEES + SURCHARGES (CIVIL + CRIMINAL)

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
COLLECTED	\$75,223	\$62,614	\$46,408	\$69,626	\$36,812	\$45,873
OWED BY DEFENDANTS	\$39,455	\$33,150	\$26,425	\$25,135	\$26,050	\$24,125