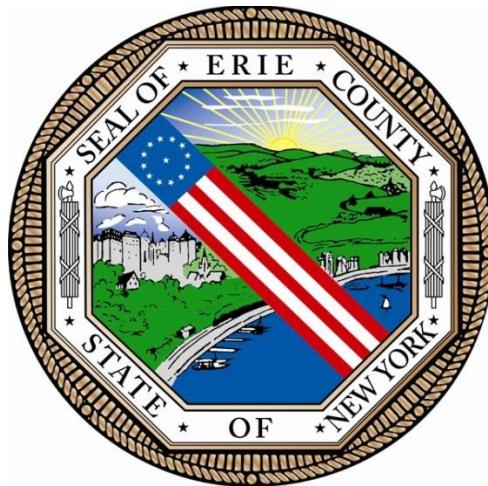


October 2021

**A Report on Revenue from Town and Village Courts
for Erie County Programs**



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Erie County Legislature
92 Franklin Street 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a report on certain New York State mandated fines for certain vehicle and traffic offenses, as well as certain bail fees, for the half ending June 30, 2021.

Our objectives were to:

- Determine the revenue received from these fines.
- Compare the amount collected with the amount anticipated to be collected in the budget.

To accomplish these objectives, we reviewed the quarterly statement from New York State regarding the collection of these fines and fees. We then compared the receipts with the anticipated receipts as outlined in the budget. We did not determine the seasonal fluctuations that may or may not exist in the amount of receipts and how such fluctuations may impact the budget.

As a result of our examination, we have made observations regarding the ability to provide certain programs within the parameters of the budget.

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DWI Fines

Vehicle and Traffic Law section 1197 allows counties, with the approval of the New York State Commissioner of Motor Vehicles, to create a special traffic options program for driving while intoxicated. If created, fines and forfeitures collected by any court, judge, magistrate or other officer for certain offences within that county will be deposited in that county's account to fund such a program. The account should be entitled "special traffic options program for driving while intoxicated" and is under the exclusive care, custody and control of the chief fiscal officer of the county.

Offenses for which fines are deposited into the special traffic options for driving while intoxicated include:

Vehicle and Traffic Law section 1192, which discusses operating a motor vehicle while under the influence of alcohol or drugs;

Vehicle and Traffic Law section 511(2)(a)(ii), aggravated unlicensed operation of a motor vehicle in the second degree, which refers to an individual who operates a vehicle while his or her license is suspended or revoked and the suspension or revocation is based on a refusal to submit to a chemical test for alcohol or drugs or that the driver was under the age of twenty-one and under the influence of alcohol;

Vehicle and Traffic Law section 511(2)(a)(iii), aggravated unlicensed operation of a motor vehicle in the second degree, which refers to an individual who operates a vehicle while his or her license is mandatorily suspended due to a pending prosecution for driving while under the influence;

Vehicle and Traffic Law section 511(3)(a)(i), aggravated unlicensed operation of a motor vehicle in the third degree, which refers to an individual who commits aggravated operation of a motor vehicle in the second degree while under the influence of drugs or alcohol.

Erie County participates in the special traffic options program for driving while intoxicated. In 1982, Erie County established the STOP-DWI Office. The office employs 2.5 full time positions and falls under the Commissioner of Central Police Services.

According to information provided during the budget process, 65% of annual DWI fine collections are paid back to the police agency that made the arrest, thus providing resources to further enforce DWI laws, as well as incentivize continued DWI enforcement. The remaining 35% is used to create a comprehensive campaign to inform the public about the risks of DWI, supervise chronic offenders through probation, investigate DWI crashes, encourage strict prosecution of DWI cases, supplies DWI Victim Services and properly administers the program within state guidelines.

Below is a list of fines collected in municipalities which were deposited into Erie County's special traffic options for driving while intoxicated fund:

| <u>Municipality</u> | <u>Incidences</u> | <u>Amount</u> |
|-------------------------|-------------------|---------------|
| Alden | 4 | \$1,493 |
| Amherst | 75 | \$15,030 |
| Angola (Village) | 25 | \$3,900 |
| Aurora | 7 | \$900 |
| Blasdell (Village) | 12 | \$2,424 |
| Boston | 107 | \$22,111 |
| Brant | 36 | \$6,796 |
| Cheektowaga | 2 | \$500 |
| Clarence | 9 | \$1,370 |
| Concord | 20 | \$2,795 |
| Depew (Village) | 4 | \$1,200 |
| Eden | 6 | \$1,500 |
| Elma | 74 | \$13,110 |
| Evans | 2 | \$300 |
| Grand Island | 32 | \$5,350 |
| Hamburg | 10 | \$1,200 |
| Hamburg (Village) | 12 | \$2,640 |
| Holland | 1 | \$500 |
| Kenmore (Village) | 52 | \$5,420 |
| Lancaster | 1 | \$300 |
| Lancaster (Village) | 54 | \$10,635 |
| Marilla | 39 | \$6,700 |
| Newstead | 2 | \$500 |
| North Collins | 8 | \$1,160 |
| Orchard Park | 12 | \$2,700 |
| Orchard Park (Village) | 5 | \$1,340 |
| Sardinia | 12 | \$1,500 |
| Springville (Village) | 15 | \$2,325 |
| Tonawanda | 8 | \$900 |
| West Seneca | 8 | \$1,490 |
| Williamsville (Village) | 6 | \$800 |

Based on 660 incidents in the local court system, a total of \$118,889 was distributed to Erie County.

In 2021, the Erie County budget anticipated \$700,007 in total revenue for the DWI program, of which these fees are a component. The estimated revenue from fines received from justice courts has recently approximated \$400,000. As such, the current revenues appear to be trending lower than estimates. Possible seasonal fluctuations are not accounted for in this observation.

It is indeterminable as a result of analyzing these statistics whether the decrease in revenue is indicative of fewer actual DWI incidents, or whether drivers are using technology to avoid travelling on patrolled roads, or a combination of both or other factors. While a decrease in revenue may indicate fewer DWI related offenses, which is a positive, the significant decrease in revenue warrants careful monitoring to ensure that the program remains within budgetary constraints.

Bail Fees

In addition to DWI fines, Erie County also receives bail fees collected pursuant to General Municipal Law section 99-m. That section of law allows the county to collect a fee of two percent of bail money deposited, and an additional one percent to be deposited as an additional credit to an alternatives to incarceration service plan approved by the New York State Office of Probation and Correctional Alternatives.

Similarly, towns and villages may also collect a two percent fee with an additional one percent fee to be deposited for alternatives to incarceration. The additional one percent will ultimately be forwarded to the county in which the town or village is situated to be used to fund alternatives to incarceration programs.

Below are the amounts collected by towns and villages and forwarded to Erie County to be used to fund alternatives to incarceration programs:

| <u>Municipality</u> | <u>Amount</u> |
|---------------------|---------------|
| Alden | \$44 |
| Amherst | \$99 |
| Brant | \$53 |
| Cheektowaga | \$73 |
| Grand Island | \$5 |
| Hamburg | \$1 |
| Tonawanda | \$19 |
| Depew (Village) | \$33 |
| Collins | \$5 |
| Hamburg (Village) | \$10 |
| Newstead | \$5 |
| Orchard Park | \$10 |

For the first half this year, Erie County collected \$356 from bail fees to be used to fund alternatives to incarceration programs.

In 2020, the Erie County budget anticipated \$20,000 in total revenue for bail fees, alternatives to incarceration, of which these fees are a component. The Erie County 2021 budget reduced the anticipated fees to \$5,000.

As of the end of the first half of the year, \$356 has been collected. As the year progresses, Erie County may realize higher fees in the remaining quarters to eliminate this shortfall. Conversely, bail fees may also be lower in subsequent quarters. Regardless, the significant decrease in revenue warrants careful monitoring to ensure that the program remains within budgetary constraints.

Handicapped Parking

In addition to revenue to help fund STOP-DWI and alternatives to incarceration programs, Erie County also receives revenue from certain violations to help fund its Handicapped Parking Education Program.

Vehicle and Traffic Law section 1809-B mandates a surcharge of thirty dollars for violations of the following sections of law:

Vehicle and Traffic Law section 1203-A, parking permits for handicapped persons;

Vehicle and Traffic Law section 1203-B, parking permits, handicapped;

Vehicle and Traffic Law section 1203-C, off street parking spaces for the handicapped;

Any other statute, local law, ordinance or rule involving the parking, stopping or standing of motor vehicles registered pursuant to Vehicle and Traffic Law section 404-A or those possessing a special vehicle identification parking permit issued in accordance with Vehicle and Traffic Law section 1203-A.

Of the thirty dollars collected, fifteen of those dollars are forwarded to the county in which the town or village is situated to be used for its handicapped parking education program. Such a program is mandated by Vehicle and Traffic Law section 1203-G. The purpose of the program is to provide education, advocacy and increased awareness of handicapped parking laws. Every county that establishes such a program must establish a separate handicapped parking education fund in the custody of the chief fiscal officer of the county.

Below are the amounts collected by towns and villages and forwarded to Erie County to be used to fund handicapped parking education programs:

| <u>Municipality</u> | <u>Amount</u> |
|----------------------------|----------------------|
| Alden | \$165 |
| Amherst | \$390 |
| Aurora | \$15 |
| Brant | \$78 |
| Cheektowaga | \$1,235 |

| | |
|--------------|-------|
| Clarence | \$25 |
| Hamburg | \$165 |
| Lancaster | \$122 |
| Orchard Park | \$13 |
| Tonawanda | \$75 |
| West Seneca | \$169 |

In total, Erie County received \$2,450 from towns and villages via New York State for these surcharges in the first half of 2021. In addition to the amounts received from the towns and villages via New York State listed above, Erie County also received surcharges from the City of Buffalo for the first half in the amount of \$4,335. Therefore, a total of \$6,785 was distributed to Erie County to be used to fund its Handicapped Parking Education Program. The Erie County 2021 budget anticipates handicapped parking surcharge revenues of \$25,500. As such, Erie County has collected 26.6% of its anticipated revenue through the first half of the year. As such, it warrants continued monitoring is warranted and adjustments be made to ensure that the Handicapped Parking Education Program is properly funded.

Conclusion

New York State allows Erie County to fund certain programs with fees related to certain offenses. Among these programs are STOP-DWI, alternatives to incarceration and handicapped education. As such these programs are in whole or in part funded by revenue other than tax dollars. Given the nature of the fees resulting from the commission of illegal acts, it can be difficult to accurately predict the amount of fees that will be received to fund these programs when preparing the annual budget. As such, it is advisable to carefully monitor revenues from these fees in order to determine if the program can be administered within budget.

To date, revenues from towns and villages via New York State which fund the STOP-DWI may be below budgeted forecasts and should be monitored carefully. As revenues continue to be deposited with Erie County, adjustments to the budget may be necessary.

To date, revenues from towns and villages via New York State which fund alternatives to incarceration may be below budgeted forecasts and should be monitored carefully. As revenues continue to be deposited with Erie County, adjustments to the budget may be necessary.

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