



CITY OF FORT LAUDERDALE

CITY ATTORNEY'S OFFICE

2015 REPORT: CITY PROSECUTOR'S OFFICE

The City Prosecutor's Office, a division of the City Attorney's Office, derives its prosecutorial authority from Section 4.12 of the Charter of the City of Fort Lauderdale, Florida, which provides, in part, as follows:

"The city attorney shall be the legal advisor to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties, and is further charged with the responsibility of prosecuting offenders against the ordinances of City of Fort Lauderdale"

The City Attorney's Office has been prosecuting offenses against the City since at least 1963. In Broward County the Cities of Hollywood, Deerfield Beach, Dania Beach, Hallandale Beach, and Pompano Beach also have municipal prosecutors. Article V, Section 34 of the Florida Constitution of 1885 provided, "The Legislature may establish in incorporated towns and cities, courts for the punishment of offenses against municipal ordinances." That provision was not included in the Constitution as revised in 1968, and Florida municipal courts were eliminated accordingly.

One of the vestiges of the municipal court was the City of Fort Lauderdale's municipal jail, which was closed *via* the City's 2003-2004 budget. The purpose of the municipal jail was threefold: first, it housed prisoners serving sentences for municipal ordinance violations, second, it housed federal criminal defendants awaiting trial (pursuant to contract with the U.S. Department of Justice), and third, it provided overflow capacity for the Broward County Jail. Currently the municipal jail serves as a remote booking facility for the Broward County Jail, and the first floor of the building is also used for temporary holding and interviewing arrestees. The second floor of the former jail is undergoing capital renovations to serve as the Police Department's evidence locker.

Among the municipal code and other violations prosecuted by the City of Fort Lauderdale's two municipal prosecutors are the following:

Chapter 5	Alcoholic Beverages
Sec. 5-3	Consumption, possession in beach area.
Sec. 5-4	Consumption, possession, on public streets and sidewalks.
Sec. 5-29	Permitted hours of sale, consumption and service.
Sec. 5-36	Patron age restrictions.
Chapter 6	Animals
Sec. 6-2	Running at large prohibited; impounding.
Sec. 6-33	Vicious dogs running at large; defined.
Sec. 6-34	Kennels.
Chapter 7	Aviation
Sec. 7-78	Parking, storage generally.
Sec. 7-84	Vehicles in operational areas.
Chapter 8	Boats, Docks, Beaches and Waterways
Sec. 8-149	Maintenance of boats.
Sec. 8-152	Garbage and waste disposal.

Sec. 8-58	Sleeping on municipal beaches in the nighttime prohibited.
Chapter 9	Buildings and Construction
Sec. 9-276	Responsibilities of owners, operators and occupants.
Sec. 9-278	Light, ventilation.
Sec. 9-279	Basic sanitary facilities, equipment.
Chapter 16	Miscellaneous Provisions and Offenses
Sec. 16-52.	Discharging Firearms.
Sec. 16-55.	Sale, offering for sale, delivery or possession of herbal incense, synthetic marijuana and bath salts.
Sec. 16-71	Disorderly conduct.
Sec. 16-72	Loitering and prowling.
Sec. 16-75	Public Indecency.
Sec. 16-76	Nude swimming or bathing.
Sec. 16-82	Panhandling, begging or solicitation.
Sec. 16-96	Obstructing justice.
Sec. 16-127	Sexual offender and sexual predator residence prohibition; penalties; exceptions.
Chapter 17	Noise Control
Sec. 17-7	Specific restrictions.
Sec. 17-10	Construction of large projects; noise management plan; exemption for time to comply.
Chapter 18	Nuisances
Sec. 18-4	Abandoned or derelict motor vehicles or vessels prohibited.
Chapter 19	Parks and Recreation
Sec. 19-51	Permit to use city facilities, public park or public beach area for private instruction.
Chapter 23	Solicitors, Peddlers, etc.
Sec. 23-68	Unlawful solicitation.
Chapter 24	Solid Waste
Sec. 24-5	Disposal of solid waste restricted.
Chapter 25	Streets and Sidewalks
Sec. 25-14	Discharging offensive fluids and matter into streets; obstructing gutters and sewers.
Chapter 27	Vehicles for Hire
Sec. 27-26	Interurban transportation.
Sec. 27-41	Required; exception.
Sec. 27-93	Obstructing traffic.
ULDR	Food Distribution
Sec. 47-18.31	Social service facility (SSF).

Florida Building Code	Florida Building Code
Sec. 105.1	Permits

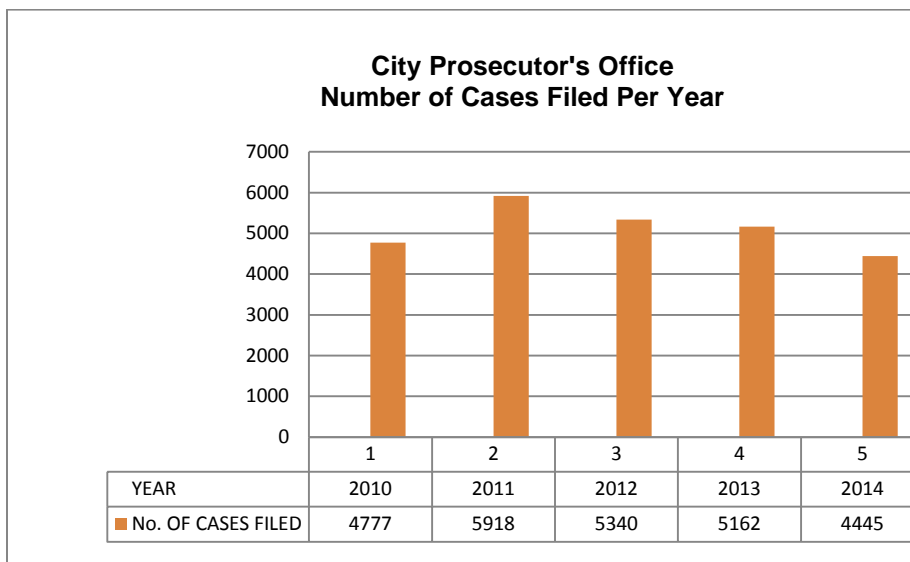
In addition, pursuant to Section 16-1 of the Code of Ordinances of the City of Fort Lauderdale, Florida, it is a municipal code violation to commit any felony or misdemeanor within the City's corporate limits. Once an arrest is completed, the arresting officer indicates in the report the legal basis for the criminal violation. If the officer cites a state statute the case is thereafter assigned to the State Attorney's Office. If the Officer includes the municipal code citation Section 16-1, the case is assigned to the City Prosecutor's Office. As a result, the City Prosecutor's Office routinely prosecutes misdemeanor offenses committed within the City of Fort Lauderdale. The most commonly charged offenses are possession of marijuana, possession of drug paraphernalia, trespass, petty theft, and open container.

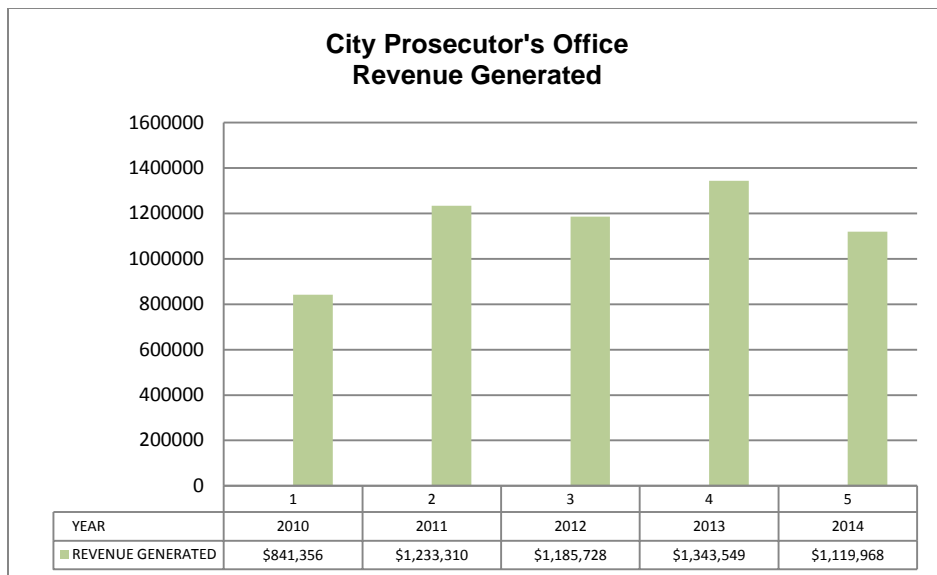
The City Prosecutor's Office also performs the following:

- Gives legal advice to police officers in municipal investigations
- Reviews and make filing decisions on all municipal ordinance arrests
- Reviews case filing and intake from citizens and victims requesting municipal cases to be filed on alleged violations of the law not occurring in a police officer's presence
- Reviews and make filing decisions on all State misdemeanor and County ordinance violations presented to the office to be filed by the City
- Represents the City before all Magistrate Judges at all first appearance hearings on municipal ordinance arrests
- Represents the City in all County Court arraignments on all City prosecutions
- Represents the City at all Calendar Call hearings and plea negotiations
- Trial attorney for all criminal prosecutions in County Court on cases filed by the City
- Represents the City on all traffic court and municipal appeals
- Represents the City on all municipal violations of probation hearings
- Seeks to recover costs of prosecutions through jail-time sentences, fines, court costs, bond estreatures and community service buyouts
- Assists in the confiscation of evidence and destruction of contraband
- Recovers restitution on behalf of victims in municipal prosecutions
- Assists in regulating and ensuring compliance in community service work program
- Represents the City at Mental Health Court proceedings
- Represents the City at all misdemeanor drug court proceedings
- Supervises and assists certified legal interns as part of the local law schools clinical programs
- Represents the City at the Nuisance Abatement Board
- Files conflict counsel lien forms on City Public Defender's cases.
- Assists in collection efforts to recoup Public Defender fees.
- Meets with witnesses; prepare for and represent the City on all prosecutions before the Nuisance Abatement Board
- Responsible for all appeals from Nuisance Abatement Board decisions
- Responsible for all legal research requests from the Nuisance Abatement Board

- Responsible for all lien filings in cases of non-compliance with Nuisance Abatement Board orders
- Responsible for recovering costs of prosecution and obtaining compliance from nuisance violators

During the past five years the City Prosecutor's Office has generated \$5,723,911 in revenue for the City's general fund, which corresponds to an average of \$1,144,782 per year during the five-year period. These amounts reflect fines, court costs, bail bond forfeitures, and payments in lieu of community service. Pursuant to Section 1-6, Code of Ordinances of the City of Fort Lauderdale, Florida, court-ordered community service can be exchanged for a cost of \$10 per hour, upon court approval. A cost-benefit analysis of calendar year 2013 shows that the City Prosecutor's Office cost the City approximately \$465,235 in payroll for two attorneys and three support staff, rent, electrical service, janitorial service, copy machine, and office supplies, as compared to the \$1,343,548.50 in revenue that the Office generated.





The state attorney's role, with regard to municipal ordinance violation prosecution, is as follows:

The state attorney shall appear in the circuit and county courts within his or her judicial circuit for the purpose of prosecuting violations of special laws and county or municipal ordinances punishable by incarceration if the prosecution is ancillary to a state prosecution or if the state attorney has contracted with the county or municipality for reimbursement for services rendered in accordance with s. 27.34(1).

§27.02(1), Fla. Stat. (2014). Subsection 27.34(1) provides for an hourly reimbursement rate of \$50, to wit:

(a) A contract for reimbursement on an hourly basis shall require counties and municipalities to reimburse the state attorney for services rendered at a rate of \$50 per hour. If an hourly rate is specified in the General Appropriations Act, that rate shall control.

(b) A contract for assigning one or more full-time equivalent attorney positions to perform work on behalf of a county or municipality shall assign one or more full-time equivalent positions based on estimates by the state attorney of the number of hours required to handle the projected workload. The full cost of each full-time equivalent attorney position on an annual basis shall be \$50, or the amount specified in the General Appropriations Act, multiplied by the legislative budget request standard for available work hours for one full-time equivalent attorney position, or, in the absence of that standard, 1,854 hours. The contract may provide for funding full-time equivalent positions in one-quarter increments.

With either model there is a constant expense for a special public defender for indigent defendants. However, based on the \$50 per hour rate, if the City entered into an agreement with the State Attorney for the Seventeenth Judicial Circuit whereby the State Attorney would prosecute municipal code violations, the cost to the City would be about \$92,700 per full-time prosecutor per year, or about \$185,400 for two prosecutors. However, the assistant state attorneys assigned to the City's cases would report to the

State Attorney, and their client would be the State of Florida rather than the City of Fort Lauderdale. In addition, they may or may not be as zealous as the City's prosecutors in securing case dispositions as favorable to the City and generating as much revenue for the City as the City's own employee-prosecutors.