



# 2017

## ANNUAL REPORT



**OFFICE OF THE PROSECUTING ATTORNEY**

**227 West Michigan Avenue**

**Kalamazoo, MI 49007**

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## LETTER FROM THE PROSECUTOR



To the Citizens of Kalamazoo County:

The Office of the Prosecuting Attorney (OPA) continues its exceptional service to our community. Our criminal division reviews yearly over 10,000 requests for charges and prosecutes over 6,000 cases. Our family court team represents us in hundreds of Delinquency and Abuse/Neglect Petitions and obtains court orders totaling several million dollars annually in child support for Kalamazoo's kids.

The OPA has continued its leadership role as a 21<sup>st</sup> century Prosecutor's Office. Our work in a program of focused deterrence has resulted in safer neighborhoods for our children and their families. We have collaborated with the local Courts to expand the reach and influence of our existing problem solving alternative courts to better address the underlying addictions and mental health issues of non-violent offenders. Our approach to criminal justice in Kalamazoo is reducing recidivism, increasing safety, and saving taxpayer dollars.

I have continued my commitment to strengthen the Prosecutors Office's relationship with other people and agencies. I am serving on the Prosecuting Attorneys Association Board of Directors, Legislative Committee, and Best Practices Committee. I continue to serve the community as Vice Chair of the Kalamazoo Probation Enhancement Program Board of Directors, and as Chair of Prevention Works Board of Directors. These organizations are working outside the courtroom to create a better Kalamazoo.

In summary, I respectfully present our 2017 Annual Report and welcome your input and suggestions. I remain proud to be your Prosecuting Attorney and am looking forward to continuing to serve this community for many years.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey S. Getting'. The signature is stylized with a large, sweeping 'J' and a distinct 'G'.

Jeffrey S. Getting  
Kalamazoo County Prosecuting Attorney

# CHAPTER 1

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## OVERVIEW

The Kalamazoo County Prosecuting Attorney appears on behalf of the People of the State of Michigan in criminal prosecutions of adults in Circuit Court and District Court. The Office of the Prosecuting Attorney (OPA) handles juvenile delinquency, paternity, support, and child neglect cases in the Family Court Division of Circuit Court. The People elect the Prosecuting Attorney to a four-year term of office.

## MANDATED RESPONSIBILITIES

The OPA is responsible for other legal functions including:

- Victim notification on the status of their case and informing them of their rights to participate;
- Representing custodial parents in civil proceedings for the establishment of support and paternity, through referrals from the Department of Human Services (DHS);
- Providing information about juvenile offenders to public schools in Kalamazoo County; and
- Representing law enforcement in forfeiture actions against drug dealers.

The Prosecuting Attorney is the chief law enforcement officer for Kalamazoo County. The Office was created by the Michigan Constitution. The responsibilities and authority of the Prosecutor are established by common law, statute, court rule and appellate case law. In recent years, changing attitudes in the Courts and State legislature have significantly altered the traditional role of the Prosecutor. While adult criminal matters still represent the major portion of the prosecution effort, (over 11,000 cases in 2017) a growing list of additional responsibilities has placed larger demands upon prosecution resources. The responsibilities and role of the Prosecutor are now defined in over 700 separate statutes and court rules in Michigan. Michigan appellate case law and federal case law have further expanded upon those statutes.

The following describes only the general functions of the Prosecuting Attorney's Office:

#### *CRIMINAL*

The Prosecutor's criminal jurisdiction encompasses all State statute felony and misdemeanor offenses committed within the boundaries of Kalamazoo County. Our office receives cases from 15 separate law enforcement agencies. The Prosecutor's responsibility for these criminal matters involves the determination and filing of charges and appearances in all subsequent court proceedings, including appeals. In addition, the Office prosecutes juvenile matters, both criminal and neglect. In total, adult and juvenile crimes are prosecuted in 17 individual courts throughout the County.

#### *SUPPORT*

Additional civil and criminal responsibilities are discharged by the Prosecutor in divorce and paternity matters. Under a reimbursement program with the State, the Prosecutor's Office establishes paternity and seeks out non-custodial parents of minor children to secure court orders for payment of child support and, thus, reduces the financial burden to taxpayers.

#### *OTHER*

Finally, as a matter of local policy, the Prosecutor's Office strives to be a catalyst for constructive change in the Criminal Justice System. Because of the Prosecutor's unique and pivotal position in the system, he is often able to initiate system wide improvements. This responsibility may be one of the most important functions in our local fight against crime.

## CHAPTER 2

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### VISION, MISSION & GUIDING PRINCIPLES

#### OUR VISION IS:

- Justice
- Protection
- Integrity

#### OUR MISSION IS TO:

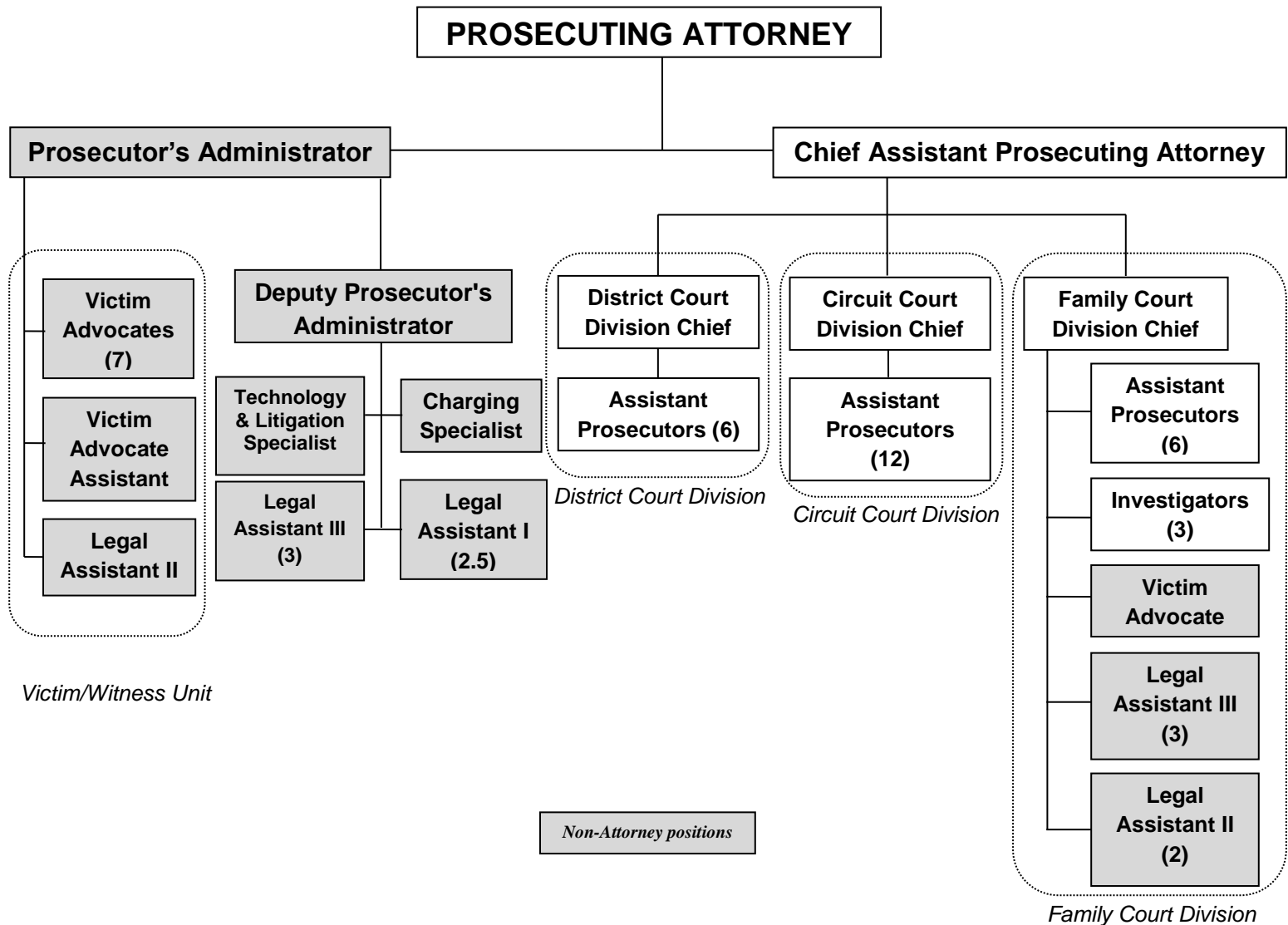
- Enhance the quality of life in our community.
- Be leaders in quality prosecution.
- Aggressively advocate our cause.
- Continuously improve our service.
- Achieve our goals through teamwork.

#### OUR GUIDING PRINCIPLES ARE:

- We will treat all people with dignity, respect, honesty and fairness.
- We will interact with all groups and organizations in a spirit of cooperation.
- We will provide all people with ethical, competent and professional service.
- We will hold all people responsible for their actions.
- We will insure that our office is a rewarding, challenging and enjoyable place to work.
- We will treat each other fairly and give credit to each division member for their distinctive contributions

# CHAPTER 3

## ORGANIZATIONAL CHART



## CHAPTER 4

### ADMINISTRATIVE TEAM

The Office of the Prosecuting Attorney consists of the Prosecuting Attorney, Chief Assistant Prosecuting Attorney, the Prosecutor's Administrator, and three Divisions of professional staff.



#### **Jeffrey S. Getting – Prosecuting Attorney**

*Jeff* has practiced law in Kalamazoo County for over 26 years. As an Assistant Prosecutor from 1990-1998, he successfully prosecuted thousands of cases, including several homicides, drug cases and sex crimes. Working primarily in Circuit Court, Jeff routinely handled the toughest, most high-profile and difficult to prosecute cases in Kalamazoo County. After being in private practice for 14 years, Jeff was elected Prosecuting Attorney in 2012. Jeff attended Western Michigan University, completing dual degrees in Criminal Justice and Sociology. Jeff earned his law degree from Indiana University School of Law - Bloomington in 1989. In the community, Jeff serves (or has served) on the Board of Directors for Guardian Advocacy and Finance Services, the Kalamazoo County Bar Association and the State Bar of Michigan's Attorney Discipline Board Hearing Panel. He is also a member of Kiwanis and coaches West Portage Little League.



#### **Carrie L. Klein – Chief Assistant**

*Carrie* has been an Assistant Prosecuting Attorney in Kalamazoo County since joining the office in 1985. She has worked in all areas of the Office, handling cases in District Court, Probate Court and in both the Trial Division and Family Division of the Circuit Court. Carrie became the Chief Assistant Prosecuting Attorney in January 2005. As the Chief Assistant, she is responsible for supervising all attorney staff. Carrie delegates, assigns and schedules attorney workload; evaluates attorney staff; resolves conflicts within the criminal justice system and with citizens; and makes decisions on the issuance, handling and disposition of criminal cases. Carrie holds a degree in Criminal Justice from Grand Valley State College. She received her law degree in 1984 from Wayne State University Law School and also graduated as a 1984 member of the Wayne State Law School Chapter of the Order of the Coif.



#### **Shellie I. Stapert – Administrator**

*Shellie* has worked with Kalamazoo County since 2001 and joined the Kalamazoo County Prosecutor's Office in 2003. As the Administrator, she is responsible for supervising all non-attorney staff and provides direct supervision of the Criminal Division Legal Assistants. In addition, she oversees the Office budget, coordinates grant applications and contracts, and co-manages the technological needs of the office. Also, she coordinates the preparation and maintenance of various office manuals, and directs the administration of legal document flow, including electronic document flow.





### **Alan Harbaugh – District Court Division Chief**

*Alan has practiced law in Kalamazoo County for over 20 years. In the 1990s, Alan served as an Assistant Prosecutor in the District Court Division, Family Division, and Appeals Division. He was also in a specialty unit concerning Domestic Violence. After being in private practice for 14 years, he returned to the Kalamazoo County Prosecutor's Office as District Court Division Chief. As the District Court Chief, some of his responsibilities include: supervising training, and evaluating Assistant Prosecuting Attorneys (APAs) in the District Court Division, reviewing and assigning motions filed by defendant(s), making decisions on the issuance, handling and disposition of criminal cases, and routinely handling preliminary examinations. Alan graduated from Michigan State University with a B.A. in psychology. He received his law degree in 1993 from Thomas M. Cooley Law School, and his L.L.M. from Pace University School of Law. While at Thomas M. Cooley, he was Editor-in-Chief of the Law Review, served on the Scholastic Review Board, and graduated Cum Laude.*



### **Greg Russell – Circuit Court Division Chief**

*Greg joined the Kalamazoo County Prosecutor's Office in 1986 as an Assistant Prosecuting Attorney. He has been assigned to the District Court Division, as well as the Trial and Family Divisions of the Circuit Court. Greg has been the Division Chief for both the District Court and Circuit Court Trial Division. He is currently the Division Chief for the Circuit Court Trial Division. In his position as the Trial Division Chief, Greg supervises and evaluates attorney staff, makes felony case assignments, serves as the OPA contact with the Adult Drug Court Treatment Programs and makes decisions on the issuance, handling and disposition of criminal cases. Greg graduated from Central Michigan University with a degree in Business Administration. He received his law degree in 1984 from Wayne State University Law School and was a member of the Order of the Barristers.*



### **Scott Brower – Family Court Division Chief**

*Scott has been an Assistant Prosecuting Attorney in Kalamazoo County since joining the office in 1993. He has worked in all areas of the Office, handling cases in District Court, Probate Court and in both the Trial Division and Family Division of the Circuit Court. Scott served for several years as the District Court Division Chief and is presently serving as the Family Court Division Chief. As the Division Chief, he is responsible for supervising the attorneys and support staff working in the Family Division. Scott delegates, assigns, and schedules attorney workload, which includes cases involving the abuse and neglect of minor children, termination of parental rights, juvenile delinquency, and child support. Scott holds a degree in Criminal Justice from Grand Valley State College. He received his law degree in 1992 from Thomas M. Cooley Law School.*

## CHAPTER 5

### DISTRICT COURT DIVISION

The District Court Division includes Assistant Prosecuting Attorneys, Victim Advocates, and Legal Assistants. This Division handles the initial stages of felony cases and all the trial and related court work of misdemeanor cases charged under State law.

In the District Court Division, Assistant Prosecutors are assigned to one of four courtrooms. They are responsible for handling all of the misdemeanor and traffic matters before that particular judge. This type of structure is called Vertical Prosecution. It enables the same attorney to remain with a case from the time it reaches District Court until its final disposition. In addition, crime victims are better able to establish a relationship with the attorney handling their case. Case preparation and presentation are improved because the attorney handling the case at a preliminary stage of the proceedings is the same attorney that will conduct the trial. In short, both services to the public and public safety are enhanced through this innovative use of Vertical Prosecution in District Court.

### MISDEMEANORS

A misdemeanor case can start from a police ticket or from a Complaint authorized by the Prosecutor's Office. Police often use tickets for traffic offenses such as Drunk Driving and Driving While License Suspended. Prosecutors in the District Court Division also review police reports and make charging decisions on other crimes, such as Assault, Domestic Violence, Malicious Destruction of Property or Retail Fraud.

A large percentage of cases begin with a warrant request. This is generally the first time that the Assistant Prosecutor is involved in a case, unless he/she reviewed a search warrant or visited the crime scene. At this stage, the Assistant Prosecutor determines whether a person should be charged with a crime and, if so, what the crime should be.



**Missy Houldsworth & Melissa Scott**  
(Legal Asst. & Charging Specialist)

The Assistant Prosecutor must thoroughly review all police reports and records concerning the case, including witness statements.

After a Complaint is issued by the Prosecutor's Office, the paperwork is filed with the District Court. When the judge reviews the Complaint and signs a Warrant, the police make arrangements to have those charged appear in court for arraignment where they are told the charges against them and advised of their constitutional rights. The conditions and amount of bail are determined. If they plead guilty, the court will schedule the case for sentencing. If they plead not guilty, the case will be set for trial.



**Brandie Whitford & Chelsea Huber**  
(Legal Assistant & Assistant Prosecutor)

Many events can occur prior to trial. The Assistant Prosecutor and defense attorney will often meet at a Pretrial Conference to discuss possible legal issues or to determine whether the defendant will plead guilty to the crime charged or some other offense. The court may also hear motions to determine whether evidence can be used at trial or whether there is some legal reason why the defendant should not be tried.

The trial can be by judge or jury. During the trial, the judge or jury will determine whether the defendant has committed a crime, and if so, which crime has been committed. At trial, the prosecution must present evidence to prove the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his or her innocence or to present any evidence.

If the defendant is found guilty, the judge will set a date for sentencing. A pre-sentence investigation report may be prepared by the probation office. It contains information about the crime, defendant's background and a sentence recommendation. At sentencing, the judge will consider the information in the report. Determination of the sentence is the judge's



sole responsibility. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail, or any combination of those consequences. The judge may also order the defendant to make restitution to any victims who have suffered physical or financial harm.

## **FELONIES**

Felony cases always begin with a warrant request. Once the Assistant Prosecutor reviews the police report and issues a Felony Complaint, the paperwork will be brought to one of the District Court Judges for his or her signature. The police will then bring the defendant to the court for arraignment.

At a felony arraignment in District Court, the defendant does not enter a plea. Instead, the defendant is advised of their right to a preliminary examination within 14 days of the arraignment. The court reviews requests for a court-appointed attorney at the arraignment.

A felony Preliminary Examination, sometimes called a probable cause hearing, is a contested hearing before a District Court Judge. The Assistant Prosecutor presents witnesses and the Judge determines whether there is probable cause to believe that a crime was committed and that the defendant committed the crime. Because the burden of proof is much less than at a trial, the Assistant Prosecutor does not call all potential witnesses to testify; generally, only the victim and some of the police witnesses testify. Through their attorney, the defendant can cross-examine the witnesses and present their own evidence, including witnesses.

If probable cause is proven, the defendant is bound over (i.e., sent) to Circuit Court for trial. If probable cause is not proven, the felony charge can be dismissed or reduced to a misdemeanor for trial in District Court. A defendant and Prosecutor can decide not to have a Preliminary Examination and waive the hearing.

In 2017, there were approximately 11,118 adult cases reviewed for possible felony or misdemeanor prosecution (3,331 felonies and 7,787 misdemeanors). A total of 7,384 cases were authorized (2,037 felonies and 5,347 misdemeanors).

## DRUNK DRIVING

A specialized and very busy area of District Court practice lies in the prosecution of drunk driving cases. Michigan law prohibits the operation of a motor vehicle if you are under the influence of alcohol, have an unlawful blood alcohol content, are operating with the presence of a controlled substance in your system or have become visibly impaired by alcohol or a controlled substance. First and second offenses are misdemeanors and a third offense can be charged as a felony, punishable by up to five years in prison. Should the offense involve a traffic crash which results in injuries or death, the sentence can range up to 15 years in prison. All such convictions, whether misdemeanor or felony, carry an array of additional fines, costs and license sanctions. A total of 558 drunk driving cases were prosecuted in 2017 (95 felonies, 463 misdemeanors).



## DOMESTIC VIOLENCE

Another specialized and demanding area of District Court lies in the disposition of domestic violence cases. The Batterer Intervention Standards for the State of Michigan define “domestic violence” as follows:

“Domestic violence is a pattern of controlling behaviors, some of which are criminal, that includes but is not limited to physical assaults, sexual assaults, emotional abuse, isolation, economic coercion, threats, stalking and intimidation. These behaviors are used by the batterer in an effort to control the intimate partner. The behavior may be directed at others with the effect of controlling the intimate partner.” Batterer Intervention Standards for the State of Michigan, §4.1 (January 20, 1999).”



As local police aggressively investigate domestic violence cases, they present them to the Prosecutor’s Office for the initiation of criminal charges. These cases range in severity from assault and battery to first-degree murder. Offenders may be charged with their crime even when the victim refuses to cooperate, as long as witnesses or other evidence is available. The OPA’s goal is to bring the offender under the



jurisdiction of the court and hold them accountable for their behavior. This helps protect the victim and other family members and helps to change the course of future personal interactions. In 2017, 975 cases involving domestic violence were authorized (182 felonies and 793 misdemeanors).

## **CRIMINAL SEXUAL ASSAULT ATTORNEY**

The Criminal Sexual Assault (CSA) Attorney handles all cases involving the criminal sexual assault of children under the age of 16, as well as Child Abuse 1<sup>st</sup> and 2<sup>nd</sup> Degree cases. In addition, this Assistant Prosecutor handles other sexual assault or child abuse cases that require special attention.

Sexual abuse is one of the most traumatizing events that can occur to anyone. If the abuse is directed toward a child, the episode is especially devastating, to the child, the family and ultimately the community. Recognizing the exceptional needs of these special victims, this Office developed a specialist position to work with the child from the onset of his or her contact with the criminal justice system and to follow the case through the court process. The CSA attorney often makes psychological referrals for the child and the family, coordinates further police investigations, develops rapport with the child and guides the child and family through the entire prosecution. Practical experience has proven that this personal contact significantly reduces the trauma to the child, and when coupled with professional counseling, has been shown to have a positive therapeutic value.

In addition, the CSA attorney is involved in the implementation of the Kalamazoo Comprehensive Approach to the Management of Sex Offenders program (KCASOM). This program is focused on management of sex offenders in the community. A grant secured by the Kalamazoo County Sheriff's Department in 2006 provides funding for intensive supervision of sex offenders being reintegrated into the community following their release from jail or prison. Smaller caseloads for probation and parole agents permit closer scrutiny of offenders. A myriad of options are now employed for offender supervision, such as global positioning devices to monitor their movement within the community. A multi-disciplinary team meets monthly to review sex offender cases and gather input from treatment providers, polygraphers, supervising agents and victim advocates. The goal of the program is to increase public safety and reduce victimization.

## CHAPTER 6

### CIRCUIT COURT DIVISION

The Circuit Court Division handles the prosecution of felony cases. Felonies are crimes punishable by imprisonment in excess of one year, and can range in seriousness from retail fraud, bad checks, narcotics violations, criminal sexual conduct, home invasion, robbery, to murder.

A felony case originates with the charging function. It begins with a careful review of all investigative reports prepared by the police or investigative agency. Once a case is accepted for prosecution, it then passes through the District Court system before it is bound over to the Circuit Court of Kalamazoo County where ultimate disposition will take place.

#### VERTICAL PROSECUTION

Assistant Prosecutors assigned to the Circuit Court Division may be assigned to a particular Circuit Court Judge. When a case is set for trial, an Assistant Prosecutor is assigned to the case and will be responsible for handling all court events associated with that case. This system of “vertical prosecution” was begun in 1985. One of the many benefits of this type of prosecution is the same attorney works with the victim and witnesses throughout the Circuit Court process.



**Jeff Williams & Michelle Sutton**  
(Assistant Prosecutor & Legal Assistant)

Each case requires large amounts of attorney and support staff time from beginning to end. In our baseline year of 1974, felony pleas to the original charge were only 13%. In 2017, 1,337 defendants plead guilty to the original felony charge placed against them in 81.8% of the cases. This performance measure is consistent with our overall objective of plea dispositions to the original felony charge of not less than 80% per year. This overall dispositional rate demonstrates an effective and efficient use of the limited resources available to the criminal justice system. Furthermore, when criminal defendants are being held accountable for the charges brought against them at this

high rate, it illustrates a staff of Assistant Prosecutors that are well trained at making the decisions that impact the lives of victims and defendants.

In 2017, approximately 655 criminal cases were set for trial in Circuit Court. In order to make efficient use of the number of available trial weeks in each of the four Trial Division Courts and to accommodate an increasing felony caseload, it is necessary to schedule on average 8 trials in each Court for each week. Typically, although only one case can be tried in each Court per week, many of the other cases set for trial in any given week are resolved through settlement negotiations. Those that are not resolved through either trial or plea are rescheduled for trial. In 2017, 29 trials were held. In 69% of those trials, defendants either plead guilty at some point during the trial or were found guilty of the charge or a lesser charge.

The following trials were held:

- Murder (1)
- Involuntary Manslaughter (1)
- Armed Robbery/Assault Rob While Armed (3)
- Criminal Sexual Conduct (1)
- Delivery of Controlled Substances, Operating/Maintaining Methamphetamine Labs and/or Possession of Controlled Substance (5)
- Resisting and Obstructing Police Officers (3)
- Possession of Burglar Tools (1)
- Felonious Assault (5)
- Assault with Intent to Commit Great Bodily Harm (1)
- OWI 3<sup>rd</sup> (2)
- Fleeing and Eluding Police 3<sup>rd</sup> or 4<sup>th</sup> Degree (1)
- Weapons Offenses (3)
- Firearm Discharge at a Building (2)



### **ASSET FORFEITURES – KVET**

The Kalamazoo Valley Enforcement Team (KVET) is a drug enforcement task force comprised of 11 police officers from the Kalamazoo Department of Public Safety (KDPS) under command of Capt. David Boysen of the Kalamazoo Department of Public Safety. KVET Officers are deputized by the Kalamazoo County Sheriff and have jurisdiction to enforce State laws throughout Kalamazoo County.

In 2017, KVET investigations resulted in criminal charges in 113 cases. A specialized Assistant Prosecuting Attorney, known as the KVET Attorney, handles many of these KVET criminal cases. The Prosecutor's Office and the Kalamazoo Valley Enforcement Team have continued an aggressive campaign of prosecuting and forfeiting the property of persons who traffic in illegal controlled substances. In order to take away the financial incentive to commit drug offenses, our State Legislature has given law enforcement agencies the ability to seize and forfeit money, vehicles, or other property involved in the possession, manufacture or trafficking of illegal controlled substances. When property is seized under this forfeiture statute, a notice is given to the owner of the property, alerting them that the police are seeking the forfeiture of the property. The owner of seized property has 20 days to file a claim to contest the forfeiture of the property. If the owner fails to file a claim with the seizing agency within the 20 days, that property becomes the property of the seizing agency by operation of law. Property forfeited to the police in this manner is called an "administrative forfeiture." If the owner does contest the seizure, the case is then forwarded to the Prosecutor's Office for court action.

The KVET Attorney handles all asset forfeiture cases initiated countywide by KVET and KDPS, as well as handling select criminal cases in his capacity as an Assistant Prosecuting Attorney. When Officers from KVET or KDPS seize property and the forfeiture of the property is contested, the case is sent to the Prosecutor's Office for review by the KVET Attorney. If the seizure is determined to be legally appropriate, the case is settled out of court or a complaint is filed with the Circuit Court seeking the forfeiture of the seized property. The KVET attorney prepares the legal pleadings and the case proceeds to a non-jury trial. Pursuant to State law, property forfeited to the police under the drug forfeiture statute is either used by the police, sold at a public sale or destroyed. Proceeds from the sale of forfeited property must be used to enhance law enforcement efforts. Before

administratively forfeited property is used, sold or destroyed by the seizing agency, as provided by statute, the KVET Attorney reviews the facts of the case and determines what is to become of the forfeited property. This procedure is required by statute to insure that the police have complied with the forfeiture procedure and to preserve the integrity of evidence that may later be needed by the Prosecutor's Office in a related criminal case.

#### **CRIMINAL CASE DISPOSITION**

- Number of Convictions obtained by KVET Attorney: 77
  - Felony Charges: 77
  - Misdemeanor Charges: 0 from District Court

## RESEARCH/APPELLATE ATTORNEYS

The Prosecuting Attorney has statutory obligations to represent the People of the State of Michigan in all statute criminal cases. Specialized attorneys handle the appellate function of the Prosecutor's Office. Their primary responsibilities involve legal research assignments, responding to requests for public records, processing extradition paperwork, and handling appeals from criminal convictions, orders terminating parental rights, and actions taken by the Secretary of State restricting or revoking driving privileges.



Heather Bergmann & Mark Holsomback  
(Assistant Prosecutors)

The Prosecutor's Office routinely responds to criminal defendants' first appeals of their convictions. However, when first appeals are not successful, the defendants may file more motions and appeals. The Office responds to those filings too. In 2017, the appellate division successfully handled interlocutory and post-conviction appeals in the high-profile cases involving the mass shooting of eight individuals in Kalamazoo County in February 2016 and the vehicular crash resulting in the severe injury or death of nine bicyclers in June 2016. In addition to responding to appeals or challenges from recent judgments or orders entered by the trial court, the appellate division also successfully handled numerous motions and appeals from convictions dating back to 1991, 1996, 2002, 2010, 2012, 2013, and 2014. Many of those cases involved capital felony convictions, including murder and criminal sexual conduct. All "delayed" requests for relief were denied.

The appellate division also began working this year on several cases involving defendants currently serving a life-without-parole sentence for a murder committed while they were a juvenile. Such cases require resentencing pursuant to decisions rendered by the United States Supreme Court.

Responding to such old cases is challenging because statutes, case law, and procedures change. The appellate attorneys research the changes and write responsive pleadings.

Statistics relating to the Appellate Division's activities in 2017 are highlighted below:

- Filed 67 briefs and 44 motions or answers on behalf of the Prosecutor, 8 of which involved the Prosecutor's Office challenging a court's grant of relief to a defendant.
- Appeared 15 times in the Court of Appeals for oral argument and made 40 Circuit Court appearances.
- Prepared 73 responses to requests for public records under the Freedom of Information Act.
- Processed 4 out-of-state fugitive extraditions.
- Of the total number of cases handled,
  - 1 District Court misdemeanor conviction (motor vehicle violation causing serious impairment of a body function) was reversed on appeal to the Circuit Court.
  - 4 murder convictions were reversed by the Court of Appeals—one based on a finding of insufficient evidence, 2 based on findings that the defendant's trial attorney was ineffective for failing to present an expert, and the fourth because of insufficient findings of the trial court. Three of the cases have been appealed to the Michigan Supreme Court, and the fourth was remanded to the trial court for additional findings and re-entry of the verdict.
  - 1 order terminating parental rights was *conditionally* reversed and remanded for compliance with the Indian Child Welfare Act. That order was later affirmed.
  - All remaining matters were either affirmed or resolved pursuant to stipulation of the parties.

## CHAPTER 7

### FAMILY COURT DIVISION

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The Family Court Services Division is comprised of two different units; the Juvenile Unit and the Child Support Unit. Both units have a direct impact on the quality of life for Kalamazoo's children & their families, but the work they do is very different.

#### CHILD SUPPORT UNIT

The Child Support Unit is funded by the federal government, through the State of Michigan, to provide the necessary legal services to establish child support for children living with only one parent. When the custodial parent is receiving financial assistance from the State, they must cooperate with the legal processes necessary to establish a legally enforceable obligation to pay child support. Since studies have found that there is a direct correlation between growing up in poverty and neglect, delinquency and adult criminal acts, the child support unit is truly a front line crime prevention program.

In 2017, the Child Support Unit received 1,610 referrals from the Michigan Department of Health and Human Services (DHHS) for children and families who needed paternity or child support established. After screening the referrals for factual and legal viability, 952 legal proceedings were initiated under the Paternity Act, Family Support Act, and Uniform Interstate Family Support Act.

The court must consider a number of factors when establishing the amount of child support to be paid by the non-custodial parent. That information is researched and provided by the staff of the Child Support Unit. Although not all of the cases have been completed thus far, by the close of 2017, 1,106 orders for child support were obtained, equaling \$203,748.40 in monthly child support. If annualized, the orders equal \$2,444,980.80 in support.

The Friend of the Court Office has the primary responsibility for collecting and dispersing child support payments and enforcing child support orders. However, when the Friend of the Court exhausts all of the civil remedies that are reasonably

available, the case is referred back to the Prosecutor's Office for criminal investigation and prosecution.



Kalamazoo is very fortunate to have an investigator who spends his time aggressively seeking out the non-custodial parents who have failed to support their children and have hidden their financial assets. During 2017, 20 persons involving 28 child support cases were referred for criminal investigations for failure to pay child support. Of those referrals, 45 felony counts were authorized and moved into the court system. Two referrals from prior years remain under investigation. In 2017, the Court entered criminal orders of restitution for unpaid child support equaling \$564,35686.

## JUVENILE UNIT

The attorneys and support staff of the Juvenile Unit work collectively to represent the People of the State of Michigan in delinquency proceedings and the Michigan Department of Human Services in child protective proceedings. They see firsthand the connection between children living in poverty, delinquent behavior and child abuse. Many of the same families served by the Child Support Unit are also involved with the court through the Juvenile Unit.

After a crime is committed and investigated by the police, if the suspect is under 17 years of age, police send a charging request along with their investigative reports to the Juvenile Unit. In 2017, the Juvenile Unit reviewed 1,696 criminal investigations for legal and factual sufficiency. Of those, 1,266 petitions were authorized and sent to the Family Court Intake Department for further action.

Not all children need formal court intervention. Sometimes a conversation with the parents, the minor, and the victim, or community service or other informal sanction, is all that is needed to help the child make better choices in the future. However, in those situations where the minor requires more intensive intervention, the Intake Department returns the case to the Juvenile Unit for formal prosecution. In 2017, Assistant Prosecutors in the Juvenile Unit prosecuted more than 117 delinquency trials and handled approximately 254 child protective trials.

In addition, some cases are referred because of neglect or abuse of minors by parents. The goal of a child protective proceeding is usually to reunite children with their parents after the problems that brought the family to court have been resolved; unless, there is serious physical or sexual abuse. An Assistant Prosecutor works with agencies to provide services to ensure that children are not abused or neglected by their parents. If the Court takes jurisdiction of the minor child, the Assistant Prosecutor attends court hearings to help ensure that parents are given plans to correct abusive or neglectful behaviors. If progress is not made, the Assistant Prosecutors, in the best interests of the child, may file termination petitions, and attend court hearings to terminate the parental rights of the parents who have abused or neglected their children.



**Chris Ann Johnson & Ramie Almeda**  
(Assistant Prosecutors)

Once a court has decided the children should be temporary wards, many services are made available to the families through the Department of Human Services. After the parents have complied with all offered services, the case is closed. If there is non-compliance, a last option to provide stable and permanent family life for some children is to terminate parental rights. In 2017, Assistant Prosecutors in the Juvenile Unit handled 391 new neglect/abuse cases. Assistant Prosecutors also managed 219 Termination Hearings involving more than 684 children.



## CHAPTER 8

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### VICTIM/WITNESS UNIT

Our office is committed to serving crime victims through the provision of the legally mandated rights and services provided for in the Michigan Crime Victims' Rights Law. Moreover, and more importantly, we are committed to offering services above and beyond the letter of the law, striving towards the spirit of the law. Victims' rights are the highest priority of our prosecution efforts.

In 2017, our office mailed over 19,030 letters to victims of crime. These letters included case updates, a summary of the criminal justice process, and important information about community resources available to victims. In addition, Victim Advocates had over 1,840 in-person contact with victims, 6,388 phone contacts with victims and escorted 1,033 victims to court. Victim Advocates are assigned to each Division.

#### VICTIM ADVOCACY – District Court

Since 1987, a Victim Advocate Specialist has been funded by a Victims of Crime Act (VOCA) grant. This Victim Advocate Specialist focuses primarily on supporting victims of domestic violence, including making referrals to community agencies, providing assistance with Personal Protection Orders, and assisting with completing Crime Victim Compensation paperwork.

**NOTE:** The Victims of Violence Project is supported by Crime Victim Assistance Grant awarded to the Kalamazoo County Office of the Prosecuting Attorney by the Michigan Crime Victim Services Commission, Michigan Department of Community Health. The grant award comes from the Federal Crime Victims Fund, established by the Victims of Crime Act of 1984. The County of Kalamazoo provides the required match by an in-kind match of one Victim Advocate on staff. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Justice or the Michigan Department of Community Health.

In addition to the Victim Advocate Specialist, our office has two Victim Advocates assigned to the District Court. These Victim Advocates manage and expedite the processing of witnesses on statute criminal cases in five District Courtrooms throughout the county.



**VICTIM ADVOCACY – Circuit Court**

Three Victim Advocates (VAs) are assigned to the Circuit Court Division to provide advocacy services to victims of felony crimes. One and a half of the Circuit Court VAs are funded by a Crime Victim Rights grant, which requires no County match. The Circuit Court Victim Advocates provide constitutionally mandated and critical services to victims of felony crimes (i.e., notices of court hearings, escort to court, referrals for counseling, etc).

**NOTE:** The Crime Victim Rights Project is supported by Crime Victim Assistance Grant awarded to the Kalamazoo County Office of the Prosecuting Attorney by the Michigan Crime Victim Services Commission, Michigan Department of Community Health. The grant award funds 2.5 FTE Victim Advocates. The focus of the program is to: Implement the requirements of the William Van Regenmorter Crime Victim Rights Act, P.A. 87 of 1985. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Justice or the Michigan Department of Community Health.

**VICTIM ADVOCACY – Family Court**

A Victim Advocate is assigned to the Family Court Division to provide advocacy services to victims of crimes committed by juveniles. This Victim Advocate is funded by a Crime Victim Rights grant, which requires no County match.

Critical victim advocacy services include escorting the victim to court, referrals for counseling and assistance with completing Crime Victim Compensation paperwork.

## AWARDS

Each year, OPA staff and other criminal justice agencies are given an opportunity to nominate an OPA staff member (Division Leaders and Management are excluded) for the "Robert L. Pangle Excellence in Public Service" Award. Robert Pangle was employed by the Prosecutor's Office for over 32 years, retiring as Chief Assistant in 2002. The RLP Award reads, in part, "This Excellence in Public Service Award is presented annually to a member of the Prosecutor's Office who has demonstrated service to the public in the highest traditions as established by Robert L. Pangle." After reviewing all of the submissions, Management selects the recipient.

Congratulations to Samantha Smith, Legal Assistant! Thank you, Samantha, for all that you do every day!



**Samantha Smith**  
(Legal Assistant)

## CHAPTER 9

### OUTREACH ACTIVITIES

Prosecutor's Office staff participate in a number of outreach activities, whose purpose is to improve healthy living and reduce violence through education.



Staff are board members of groups like the Child Abuse and Neglect Council (CAN), Attorney Disciplinary Board for the State of Michigan Bar Association, Michigan Family Support Council, Kalamazoo County Bar Association, VOICES against Sexual Violence, Children's Healing Center, Young Lawyers Section of the Kalamazoo County Bar Association, the Family Drug Treatment Court, and the Drug Court Policy Council. In addition, staff have taught (or served as guest lecturer) in classes for the Kalamazoo Law Enforcement Academy, Kalamazoo College, Western Michigan University, Department of Human Services, local preschool, elementary,



middle and high schools. Also, staff volunteer for community organizations like Cancer Walk, Women of Today, SibShops Training, Parent to Parent Support Groups, scouting programs, sports teams, Habitat for Humanity, etc. Lastly, many staff donate their time at various local faith based organizations.



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