



KALAMAZOO COUNTY

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# Office of the Prosecuting Attorney



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**2004 Annual Report**

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## Letter from the Prosecutor

I began my criminal justice career in 1959. Since then, I've been a Military Policeman, Wayne County Deputy Sheriff and, since 1969, an Assistant Prosecutor, Chief Assistant and, in 1976, I became the elected Prosecuting Attorney for Kalamazoo County.

When first elected in 1976, I pledged that the office would be more to me than merely a "job", it would be a career. I've now concluded my 7th consecutive four-year term of office. Today, I'm 63 years old and celebrating 35+ years in the Kalamazoo Prosecutor's office; the last 28 as the elected Prosecutor. I believe I've kept my "career" pledge to the community.

Over the years, the Kalamazoo Prosecutor's Office has earned a reputation for creativity and innovation in our profession. The U.S. Department of Justice has designated Kalamazoo as a national prosecution leadership site. The Jefferson Institute in Washington, DC selected Kalamazoo as a national mentor for other American prosecutor offices.

In addition, Kalamazoo has been a pioneer in the areas of crime victim advocacy, computer technology, career criminal, witness coordination, pre-trial diversion, neighborhood prosecution, subpoena-by-mail, drug court, domestic violence, residential treatment, child sexual assault and cold-case homicide prosecutions. As an organization, we've built a strong team-oriented workplace along with a culture of public service accountability.

However, the reputation and success of our organization is not mine. Rather, it's the direct result of the genius and hard work of the many fine colleagues with whom I've been privileged to work these past 35 years.

Long ago, at a management seminar, I learned that a primary duty of any organization's leader is to plan for your own succession. Over the past many years, I've been privileged to have worked with colleagues of outstanding personal and professional excellence. As I've thought about leadership succession, I've looked first among my past and current fine associates. When my former Chief Assistant, Bob Pangle, retired in October of 2002 (after a distinguished 32 year career), I appointed Jeff Fink as my new Chief Assistant. Bob and I believed that Jeff had the necessary leadership qualities required to take the Prosecutor's Office to the next higher level of public service.

**OFFICE OF THE PROSECUTING ATTORNEY**

Jeff has twenty-four (24) years of experience in the Kalamazoo Prosecutor's office in a wide variety of positions. He is well respected throughout the Kalamazoo community and the State of Michigan. Last November, the citizens of our community properly elected Jeff as their new Prosecuting Attorney.

I'm proud to leave this office in Jeff's hands. He has the vision, talent, work ethic, experience and dedication required to wildly succeed as the elected Prosecuting Attorney. In my opinion, Jeff has the "right stuff". He will make our community both safer and proud.

Sincerely,

James J. Gregart  
Prosecuting Attorney



## Overview

The Prosecuting Attorney appears on behalf of the People of the State of Michigan in all criminal prosecutions in Circuit Court and District Court. The Kalamazoo County Office of the Prosecuting Attorney (OPA) also handles child support, delinquency, neglect, and mental commitment hearings in both Probate Court and the Family Division of the Circuit Court.

The Prosecuting Attorney's office is responsible for other legal functions including:

- Keeping victims notified 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 Human Service Department referrals;
- Providing information about juvenile offenders to public schools in Kalamazoo County; and
- Representing the police in forfeiture actions.

The Prosecuting Attorney is elected by the People for a four-year term of office.

## ORGANIZATION OF THE OFFICE

The OPA has offices in three locations in the County – Gull Road Courthouse (1400 Gull Road), County Administration Building (201 West Kalamazoo Avenue) and the Michigan Avenue Courthouse (227 West Michigan Avenue). The Office currently consists of the Prosecutor, Chief Assistant, Office Administrator and four teams: District, Circuit, Family, and Special Services.

## MANDATED RESPONSIBILITIES

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 10,000 cases in 2004) a growing list of additional responsibilities has placed larger demands

## **OFFICE OF THE PROSECUTING ATTORNEY**

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. The Prosecutor's responsibility for these criminal matters involves determination and filing of charges and all subsequent court proceedings, including appeals. Additionally, the Prosecutor's Office is involved in juvenile matters, both criminal and neglect. In total, adult and juvenile criminals are prosecuted in 17 courts throughout the County.

### **Support**

Additional civil and quasi-criminal responsibilities are discharged by the Prosecutor in divorce and paternity matters. Under a reimbursement program with the State, the Prosecutor's Office seeks out the fathers of minor children and secures court orders to insure payment of child support and, thus, lessens the taxpayers' burden.

### **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, though not dictated by statute, may be the most important function in our local fight against crime.

## **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 team work.

**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 team member for their distinctive contributions.

**OFFICE OF THE PROSECUTING ATTORNEY**

# 2

## Management Team

The Management Team consists of the Prosecuting Attorney, Chief Assistant Prosecuting Attorney and the Prosecutor's Administrator. The Management Team provides oversight and management functions for the entire office.



### **James J. Gregart – Prosecuting Attorney**

Jim is a 1963 graduate of Michigan State University, where he received his B.S. Degree in Police Administration. In 1968, he was awarded his Juris Doctorate from the Detroit College of Law (now at Michigan State University) and was admitted to the practice of law. Before becoming an attorney, Jim was a Military Policeman in the U.S. Army and a Deputy Sheriff in the Wayne County Sheriff's Department in Detroit. In 1969, he became a Kalamazoo County Assistant Prosecuting Attorney; was appointed Chief Assistant in 1972 and was first elected Prosecuting Attorney in 1976. Jim is currently serving his 7th consecutive four-year term of office. He is past President of the Prosecuting Attorneys Association of Michigan, the Kalamazoo Criminal Justice Commission and currently serves on the Board of Directors of the National Criminal Justice Association in Washington D.C. Jim recently concluded a two-year term as the elected Chairman of the Kalamazoo Criminal Justice Council. For the past 25+ years, he's also been a visiting faculty member for the National College of District Attorneys at both the University of Houston in Texas and the University of South Carolina. Jim has and continues to serve on a wide variety of national, state and local professional and community boards, commissions, advisory groups and organizations. During his 35 years in the Prosecutor's Office, he's been honored to receive numerous awards, accolades and recognitions.

Jim retired as Prosecutor on December 31, 2004.



### **Jeffrey R. Fink – Chief Assistant Prosecuting Attorney**

Jeff is a graduate of Western Michigan University (WMU) and received his law degree from the University of Toledo School of Law. Jeff was honored with the National Order of Barristers Award for courtroom advocacy while at law school. In August of 1980, Jeff joined the Kalamazoo County Prosecutor's Office as an Assistant Prosecuting Attorney. Jeff has served as an Assistant Prosecutor on all four of the Prosecutor's Office Teams: District, Special, Family and Circuit. In 2002, Jeff was appointed the Chief Assistant Prosecuting Attorney. On November 2, 2004, Jeff was elected Prosecuting Attorney for Kalamazoo County and his term of office began in 2005. Jeff is a graduate of the National College of District Attorneys Executive Course and Leadership Kalamazoo. As a lecturer in the criminal justice field, Jeff has taught at KVCC, WMU, Davenport, the Prosecuting Attorneys Association of Michigan (PAAM) and for other organizations throughout Michigan. He was presented the PAAM Distinguished Faculty Award in 1998. Jeff has served with distinction in various capacities with the following organizations: The Child Abuse and Neglect Council, the Kalamazoo Coalition for Youth Violence Prevention, the Kalamazoo County Bar Association, the Prosecuting Attorney's Association of Michigan, the Community Corrections Advisory Board, the Child Death Review Team, the Domestic Violence Fatality Review Team, the Jail Diversion/Mental Health Task Force and the Fraternal Order of Police.



### **Kristine D. Toshalis – Prosecutor's Administrator**

Kristine has worked within Kalamazoo County's criminal justice system since 1995. She joined the Kalamazoo County Prosecutor's Office as the Administrator in December 2003. As the Administrator, she is responsible for managing all non-legal functions of the Prosecutor's Office, including financial planning and analysis and computer network administration. Previously, she served as the Coordinator for the Kalamazoo Criminal Justice Council (KCJC), a local multi-disciplinary collaborative organization created to encourage local planning activities, enhance interagency cooperation, efficiency, effectiveness, and innovation. Kristine also served as the Program Assistant of the Kalamazoo County Adult Drug Treatment Court. In 1995, Kristine graduated cum laude from Western Michigan University (WMU) with a Bachelor's Degree in Psychology and Sociology. In 2004, she obtained her Master's Degree in Public Administration from WMU. Kristine is a member of the County's Anti-Racism Task Force and the Kalamazoo Justice Integrated Information Management System (K-JIIMS) Operations and Project Teams. She has also served on the Prevention Works Board of Directors (Vice President 2002 & 2003), Kalamazoo Assault Intervention Program, Criminal Process Committee, Jail Population Management Committee, and the Domestic Violence Fatality Review Team.

## District Court Team

The primary duties of the District Court Team are to determine if charges of criminal behavior should be brought against adults and to handle criminal matters that are heard in the District Court. This team includes lawyers, victim advocates, witness coordinators and legal assistants. In addition to charging, this Team handles most of the trials and related court work on misdemeanor prosecutions.

### CHARGING DUTY



Melissa Scott, Charging Specialist

Under Michigan law, it is the duty of the Prosecuting Attorney to decide “if” someone will be charged with a crime and the precise nature of that criminal prosecution. Police agencies submit their investigations which are reviewed to determine if a factual and legal basis exists to initiate prosecution.

In 2004, there were 10,377 adult cases reviewed for possible felony or misdemeanor prosecution (3,192 felonies & 7,131 misdemeanors). A total of 2,283 felony and 5,235 misdemeanor charges were issued.

### DISTRICT COURT

Misdemeanor Cases: The prosecution of a misdemeanor case begins with a police officer issuing a ticket or an Assistant Prosecuting Attorney (APA) reviewing a police report and authorizing a complaint. If a person contests it, the ticket and a police report are submitted to the Office of the Prosecuting Attorney (OPA) for handling.

Felony Cases: The prosecution of all felony cases begins with the careful review of police investigative reports. After making certain that a provable and thoroughly investigated case exists, a complaint is authorized for presentation to the District Court. After the complaint is reviewed for sufficiency by the court, an arrest warrant is issued.

After a defendant has been apprehended and arraigned, a preliminary examination (probable cause hearing) is conducted by the District Court. An APA appears at every exam representing the People of the State of Michigan.



Michelle Sutton, District Court Legal Assistant and Assistant Prosecutor  
Marla Gilreath researching a court case.

At the preliminary examination, the Prosecutor presents testimony of witnesses and in many respects conducts a mini-trial. After the presentation of evidence the Judge decides whether or not the case will proceed to trial.

When a case is “bound over”, it is moved from District Court to Circuit Court and the defendant is arraigned on the felony charges before a trial judge. The District Court Team has the responsibility of prosecuting cases that pass through the seven District Courtrooms of Kalamazoo County.

**DRUNK DRIVING DISPOSITIONS** – A specialized and very busy area of District Court practice lies in the prosecution of drunken driving cases. Michigan law prohibits the operation 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 within 10 years is a felony, punishable by up to 5 years in prison. Should the offense involve a traffic crash which results in injuries or death, penalties 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 722 cases of drunk driving were prosecuted in 2004 (102 felonies and 620 misdemeanors).



**DOMESTIC VIOLENCE DISPOSITIONS** – Another specialized and demanding area of District Court lies in the disposition of domestic violence cases. 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. Batterers 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 batterer under the jurisdiction of the court and hold the defendant accountable for their behavior, which helps protect the victim and other family members, and hopefully, change the course of future personal interactions. In 2004, a total of 1,142 cases involving domestic violence were authorized (144 felonies and 998 misdemeanors).

## **WITNESS UNIT**

In 1997, through a Local Law Enforcement Block Grant, this office was able to staff a District Court Witness Unit to coordinate witnesses and manage cases in the District Courts in Kalamazoo County. The Witness Coordinators manage and expedite the processing of witnesses on statute criminal cases in seven District Courtrooms throughout the county.

### **GOALS:**

- To reduce the amount of overtime dollars needed to bring officers to court.
- To decrease, or eliminate, the number of adjourned and dismissed cases due to a lack of necessary witnesses.

- To reduce the inconvenience to District Court witnesses and establish witness cooperation while efficiently utilizing court time, police court time, police agency resources, and prosecutor's preparation time.

**MAJOR ACTIVITIES:** The District Court Witness Coordinators:

- Operate a telephone alert system for contacting both police and lay witnesses.
- Follow-up on subpoena service, both mail and personal service.
- Work with the Court and Assistant Prosecutor on any witness problems.
- Notify lay and police witnesses of adjournments and pleas.
- Provide "check-in" service for witnesses on trial days.
- Make necessary travel arrangements for out-of-area witnesses.
- Keep statistics and records to demonstrate cost savings for all involved units of government.



Stella Chivikas, Witness Coordinator, contacting witnesses for court.

In 2004, 4,986 cases were handled by the Witness Coordinators, with a total of 15,222 witnesses. As a result of the efforts by Witness Coordinators, approximately \$370,520 was saved in 2004. Every police agency (and their funding sources) that works with the OPA benefits from these cost savings.

## K-JIIMS

In 2004, the first phase of the Kalamazoo Justice Integrated Information Management System (K-JIIMS) Project became “live”. The purpose of the first phase of K-JIIMS implementation, also referred to as the Proof of Concept (POC), is to test the basic connectivity and electronic transfer of information between agency systems, including two Law Enforcement Agencies, the



Laurie Smith, K-JIIMS Project Manager and Kristine Toshalis, Prosecutor's Administrator working on K-JIIMS connectivity.

County Jail, the Office of the Prosecuting Attorney, the District Court and the Circuit Court. When completed, K-JIIMS will establish connectivity to additional justice agencies and expand the scope of data exchanged to achieve complete integration of Kalamazoo's justice information systems.

The primary goals of K-JIIMS are to eliminate redundant data entry, thus increasing accuracy and availability of data; minimize the need for paper transfer to process a case throughout the justice system; and enhance public and officer safety by electronically sharing critical justice information to the justice community and other authorized users in a timely manner.

As of December 31, 2004, the OPA was sharing charging request data electronically with the Portage Police Department and the District Court. Specifically, the OPA electronically receives basic information on a defendant and charging information from Portage PD, reducing the need for OPA staff's data entry of that information. Upon an Assistant Prosecutor's decision to

approve or deny charges, basic defendant and approved charge information is electronically transferred from the OPA to District Court's case management system.

On December 10, 2004, Congressman Fred Upton (R-St. Joseph) announced that he was successful in securing an additional \$250,000 for the K-JIIMS Project. Rep. Upton's provision was included in the *Commerce, Justice and State Appropriations Act of 2005*, which the House passed as part of the omnibus appropriations package. Rep. Upton also secured just under \$300,000 for the project last year. "This funding is a big win for our local justice folks," said Rep. Upton. "I appreciate the efforts of outgoing Prosecutor Jim Gregart, Prosecutor-elect Jeff Fink and Sheriff Mike Anderson and all of their colleagues in the world of justice for their terrific work in keeping our community safe. The K-JIIMS project is a revolutionary concept that will provide a tremendous boost to our local justice agencies. Specifically, all our agencies will have access to the critical information necessary to make the best public safety decisions and thus create a safer, more secure community. The K-JIIMS project is a model for communities all across the country to follow."

"The Kalamazoo Justice Integration Project will link separate police agencies, the Prosecutor's Office and the Courts together to share criminal justice information," said Jeffrey R. Fink, Chief Assistant Prosecutor and Prosecutor-elect. "The project will create staff efficiency, improve the quality of shared information and improve public safety."

# **DISTRICT COURT TEAM ROSTER**

## **CHIEF DISTRICT COURT ATTORNEY**

**Carrie L. Klein** - Team Leader

## **DISTRICT COURT ATTORNEYS**

**Kathleen M. Lawton** - Assistant Prosecuting Attorney  
**G. Scott Pierangeli** - Assistant Prosecuting Attorney  
**Jessica A. Sutherland** - Assistant Prosecuting Attorney  
**Daniel M. Zomer** - Assistant Prosecuting Attorney

## **PROFESSIONAL/TECHNICAL SUPPORT**

**Rhonda Baxter-Todd** - Victim Advocate  
**Michelle Koerth** - Victim Advocate  
**Jessica A. Pillars** - Legal Assistant  
**Melissa A. Scott** - Charging Specialist  
**Shellie I. Stapert** - Cross Trained Legal Technician  
**Michelle L. Sutton** - Legal Assistant  
**Ashley A. Whitney** - Receptionist

## **WITNESS UNIT.**

**Stella J. Chivikas** - Witness Coordinator/Unit Leader  
**Kerrie L. Cochran** - Witness Coordinator  
**Gay A. Colby** - Witness Coordinator  
**Jane C. Wykert** - Witness Coordinator



## Circuit Court Team

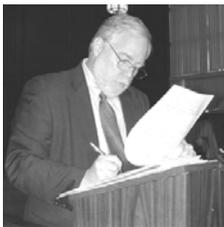
**T**he Circuit Court Team handles the prosecution of felony cases. Felonies are crimes punishable by imprisonment in excess of one year, and can range in seriousness from retail fraud, bad checks, narcotics violations, criminal sexual conduct, domestic violence, home invasion, robbery, to murder.

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. If 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

Each attorney assigned to the Circuit Court Team is assigned to a particular Circuit Court Judge. When a case is set for trial, it is assigned to an Assistant Prosecutor and it is the responsibility of that attorney to handle 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 throughout the process.

In 2004, 1,116 trials were set in Circuit Court. Fifty (50) trials were held. Each case requires large amounts of attorney and support staff time from its beginning to end. The Kalamazoo Prosecutor’s Office philosophy of holding criminals “strictly” accountable for their conduct was again successful in 2004. In our baseline year of 1974, felony pleas to the original charge were only 13%. In 2004, defendants plead guilty to the original felony charge placed against them in 86% 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.



APA Mike Robie in Circuit Court.

2004 was remarkable for not only the number of cases that were tried, but most especially their length and complexity. Four (4) complex homicide cases went to trial. Other examples of complex cases tried in 2004 include 3 Assault with Intent to Murder cases, 8 Robbery cases, 7 Criminal Sexual Conduct cases, and 1 OUIL Causing Death case.



APA Stuart Fenton in Circuit Court.

## **VICTIM ASSISTANCE/WITNESS COORDINATION**

Being a victim of a crime can be a very difficult time for most people. The Kalamazoo County Prosecutor's Office provides the opportunity for crime victims to express their concerns and problems. Victim/Witness Assistance may be contacted at (269) 383-8677.

### **Our services include:**

- Special advocates for victims of domestic violence.
- Providing information and help in filing for Michigan Crime Victim Compensation.
- Helping with emergency services such as food, shelter and clothing.
- Making referrals to other community agencies.
- Giving information on how the court works and case status.
- Accompanying a victim to court, upon their request.
- Providing and assisting with Victim Impact Statements.
- Helping with the return of the victim's personal property.
- Providing information and assistance in obtaining restitution.
- Informing the community about victim's rights.



Gayle Somers, Victim Advocate & APA  
Diane Hungerford preparing for court.

Circuit Court Victim Advocates wear two hats, serving as both advocates for victims of crime and coordinating witnesses for Circuit Court Trials (subpoena process, travel arrangements, etc.).

# **CIRCUIT COURT TEAM ROSTER**

## **CHIEF CIRCUIT COURT ATTORNEY**

**Gregory W. Russell** - Team Leader

## **COURT A**

**Michael T. Kanaby** - Assistant Prosecuting Attorney

**Michael E. Robie** - Assistant Prosecuting Attorney

**Sigrid M. Carpenter** - Victim Advocate

## **COURT B**

**Marla T. Gilreath** - Assistant Prosecuting Attorney

**Chris Ann Johnson** - Assistant Prosecuting Attorney

**Melia Phelps** - Victim Advocate

## **COURT C**

**Stuart L. Fenton** - Assistant Prosecuting Attorney

**Steven M. McLaughlin** - Assistant Prosecuting Attorney

**Gloria K. Swinsick** - Victim Advocate

## **COURT D**

**John J. Anderegg** - Assistant Prosecuting Attorney

**Diane L. Hungerford** - Assistant Prosecuting Attorney

**Gayle D. Somers** - Victim Advocate

## **TECHNICAL SUPPORT**

**Rachel M. Payne** - Legal Secretary

**Patty A. Maxwell** - Legal Assistant

**Shellie I. Stapert** – Cross Trained Legal Assistant



## Family Court Team

Each year thousands of families in Michigan become the victims of crimes at the hands of juvenile offenders. These acts are just as devastating to the victims as those perpetrated by an adult. Equally shocking are the number of children who are neglected or abused by their adult caretakers. Many of these families live at or below the poverty level due to the lack of financial support from a non-custodial parent.

The Family Court Services Team is responsible for the review and prosecution of crimes committed by juveniles, the civil proceedings for children who have been abused or neglected, and the civil proceedings to establish the child support obligations of non-custodial parents.

### JUVENILE UNIT

The Juvenile Unit reviewed 2,880 requests to charge a child with a criminal offense in 2004. Of those, 2,438 were referred to the 9<sup>th</sup> Circuit Court – Family Division for further action. During the past decade, legislative changes have provided different options for the prosecutor’s office when dealing with a child accused of committing a very serious crime or a juvenile who repeatedly engages in criminal behavior. While very useful when dealing with recalcitrant or dangerous offenders, each of these tools requires additional time and effort from our office. In 2004, five juveniles were charged as adults by the prosecutor’s office for the offenses of Armed Robbery, Assault with Intent to Murder, or Assault with Intent to Commit Armed Robbery. All but one of the juveniles were 16 years old at the time the crimes were committed. The other was a 14 year old working with a 16 year old to commit a very violent crime. One of the cases has been concluded and the defendant is serving a prison sentence for Assault with Intent to Commit Murder. The other four cases remain pending.



Juvenile Unit Team Meeting – January 2005

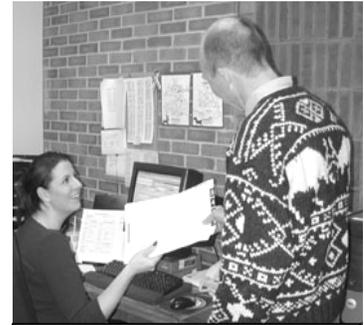
Of the 2,438 cases referred to the court, formal petitions charging a juvenile with an offense were filed in 1,009 cases. Our office appeared at 622 pre-trial hearings, 95 trials and 147 other delinquency hearings.

During the past ten years, we have seen a tremendous increase in the number of child abuse and neglect cases being filed in Family Court. The enactment of the “Binsfield legislation” has dramatically increased the number of new cases being filed and has also decreased the amount of time a parent is allowed to rectify the conditions that brought the children before the court in the first place. During 2004, our office acted on 386 neglect petitions. We appeared at 387 pre-trial hearings, 215 neglect trials and 338 other related hearings. To secure permanency for children, our office filed 59 petitions to terminate parental rights in 2004 and for 89 children, those petitions were granted and most are now in permanent and nurturing homes.

## **CHILD SUPPORT UNIT**

The child support unit receives referrals from the Family Independence Agency to initiate legal action to establish paternity and child support obligations for non-custodial parents. The mandatory implementation of the statewide MiCSES computer system has significantly reduced the number of cases being received and vastly increased the amount of time needed to successfully conclude the proceedings. As system-wide improvements are made, it is our hope that we will see a return to former case levels.

There is a direct correlation between growing up in poverty, neglect, abuse and criminal behavior. Many of the children who are deprived of the economic support of both of their parents live on the verge of disaster. To help alleviate this problem, the child support unit works cooperatively with the Kalamazoo Friend of the Court and reviews cases for possible criminal prosecution. While our office does not supersede the civil efforts of the Friend of the Court, when those efforts fail, we will step in and act. In 2004, the office charged 30 non-custodial parents with criminal charges for not paying child support and over \$118,000 in restitution for back child support was ordered to be paid.



Tom Baarda, Investigator and  
Monica Sherfield, Legal Assistant  
reviewing a Child Support file.

# **FAMILY COURT TEAM ROSTER**

## **CHIEF FAMILY COURT ATTORNEY**

**Nancy G. Skocelas** - Team Leader

## **FAMILY COURT ASSISTANT PROSECUTORS**

**Christine M. Bourgeois** - Assistant Prosecuting Attorney

**Jennifer M. Granzow** - Assistant Prosecuting Attorney

**Denise N. Massey** - Assistant Prosecuting Attorney

**Kathryn M. Periso** - Assistant Prosecuting Attorney

**Dennis J. Phenev, Jr.** - Assistant Prosecuting Attorney

## **FAMILY COURT INVESTIGATION UNIT**

**Thomas A. Baarda** - Investigator

**Michael K. Gates** - Investigator

**Roger L. Klok** - Investigator

## **PROFESSIONAL/TECHNICAL SUPPORT**

**Connie E. Barker** - Legal Assistant

**Marcy B. Cheatham** - Legal Assistant

**Kathie S. Howland** - Legal Assistant

**Eriz E. Hughey** - Legal Assistant

**Diane S. Klauer** - Legal Assistant

**Monica J. Sherfield** - Legal Assistant

**Chris C. Vliek** - Victim Advocate



## Special Services Team

The Special Services Team is made up of experienced trial attorneys and support staff, who specialize in unique areas of criminal law. The team combines the proven advocacy abilities of these professionals with the expertise that comes with specialization rarely found elsewhere. The selection of specialty areas and the specialist assigned is designed to meet the current specific needs within the law enforcement community and the community at large.

### ASSET FORFEITURES - KVET

In order to take away the financial incentive to commit drug offenses, our State Legislature has given police agencies the ability to seize and forfeit money, vehicles, or other property which is the direct result of trafficking in drugs. This procedure involves the police seizing the property upon the probable cause belief that it is the illegal proceeds of drug trafficking. If the owner does not contest this police seizure within 20 days, the property by law is automatically deemed forfeited to the seizing police agency. If the owner does contest the seizure, the case is then forwarded to the Prosecutor's Office for potential court action.



This office and the Kalamazoo Valley Enforcement Team (KVET) have a continued aggressive campaign of prosecuting and forfeiting the property of persons who traffic in controlled substances. KVET is a drug enforcement task force comprised of 18 police officers from the Kalamazoo Department of Public Safety, the Kalamazoo County Sheriff's Department, and City of Portage Police Department. They operate out of an office at a clandestine location under the command of Kalamazoo Department of Public Safety Captain Larry Belen. KVET Officers are deputized by the Kalamazoo County Sheriff and have jurisdiction to enforce State laws throughout Kalamazoo County. KVET also handles their own asset forfeiture cases as well as those of the Kalamazoo Department of Public Safety.

For the KVET effort, an Assistant Prosecutor handles all drug cases initiated county-wide by KVET. When these cases are received for review, a decision must first be made as to whether or not the police action is proper under the law. If a case is initiated, by statute it must be filed as a civil case in Circuit

Court. All rules of civil procedure apply to these cases, and civil discovery tools such as Interrogatories, Requests to Admit, and witness or records depositions are available. If the case cannot be settled, the trial is conducted by statute as a non-jury trial in the Circuit Court.

In 2004, 94 civil forfeiture cases were settled resulting in the forfeiture of \$106,967 to KVET. This is an increase of 55 cases and \$80,572 over last year. Additional KVET statistics are listed below:

### **CRIMINAL CASE CHARGING**

Warrant Requests Reviewed	216
Warrants Authorized	185

### **CRIMINAL CASE DISPOSITION**

Cases Closed by Conviction:	106
• By Guilty or No Contest Plea	102
• Found Guilty at Trial	4
• Guilty of Most Serious Charge	95
• Felony Charges	94
• Misdemeanor Charges	12

### **CIVIL FORFEITURE**

Civil Forfeiture Cases Filed	8
Civil Forfeiture Cases resolved	94
Amount of Money forfeited to KVET	\$106,967.00
Disposition of Property forms reviewed	249

## **CRIMINAL SEXUAL ASSAULT ATTORNEY**

The Criminal Sexual Assault Attorney handles all cases involving the criminal sexual assault of children under the age of 13. In addition, the APA 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 towards a child, the episode is especially devastating, both to the child and 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.

This 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.

## **DRUG ENFORCEMENT AUTHORITY - SWET**



The Southwest Enforcement Team (SWET), a regional cooperative of State, County, and Local Narcotics units, has a continued aggressive campaign of prosecuting and forfeiting the property of persons who traffic in illegal controlled substances. For this effort, an Assistant Prosecutor is assigned to handle SWET drug prosecutions wherever they occur in this region. The attorney is on 24-hour on-call status, available by telephone or pager. The attorney also maintains a computer in his home in order to review and prepare documents as needed 24 hours a day. The attorney also has an office at the Central/East Office of the Southwest Enforcement Team headquarters, and is available on a daily basis for legal questions.

Due to the nature of the position, the Drug Enforcement Attorney is able to become involved in both criminal and civil cases during the investigative stage, providing legal information concerning the drafting of search warrants, attending arraignments to ensure high bonds, and other legal functions not normally performed by assistant prosecutors.

FY 2003-2004 was the ninth year that the Drug Enforcement Attorney position has been funded by the Byrne Memorial Fund grant and the Southwest Enforcement Team (SWET). In the criminal area, arrest warrant requests for 62 individual defendants totaling 132 charges were received and reviewed by this attorney during this fiscal year. Those requests resulted in the issuance of criminal charges against 58 individuals totaling 133 charges. This fiscal year saw 74 defendants totaling 141 charges with their cases adjudicated and convicted. This number represents defendants from this year and from prior years whose cases had not yet been resolved in the criminal justice system.

Of the 74 defendants convicted:

- 39 of those convicted were convicted of all charges against them
- 67 defendants were convicted of the most serious charge against them
- 31 were incarcerated in jail or prison.
- 12 received significant prison sentences

In addition to incarceration, defendants' sentences included probation and approximately:

- \$38,000 ordered in restitution to SWET
- \$20,000 oversight fees for probation supervision
- \$2,000 for DNA laboratory fees
- \$12,000 in court cost reimbursement
- \$104,000 in attorney cost reimbursement
- \$11,100 in forensic fund laboratory reimbursement

In addition, drivers licenses were suspended in all convictions, 14 individuals were sent for substance abuse counseling and/or treatment, and eight individuals were sent to the Kalamazoo Probation Enhancement Program (K-PEP), a residential training facility, for six months.

The civil forfeiture area included 48 requests to file Complaints of Forfeiture to forfeit property involved in drug trafficking this year. Fifty-two (52) cases were resolved this year because of cases that carried over from last year. Of the 52 cases resolved, approximately \$180,000 was recovered by SWET in forfeiture proceeds. Sixteen (16) of the 52 cases were resolved by pre-filing settlements resulting in approximately \$58,000 in forfeiture proceeds. Thirty-six (36) of the cases were resolved post-filing (after a Summons and Complaint had been filed in Circuit Court) resulting in approximately \$122,000 in forfeiture proceeds. Twelve (12) of those 36 were resolved by Default Judgments.

## **INVESTIGATIVE SUBPOENAS AND COLD CASES**

In 1995 the Legislature enacted legislation giving prosecutors "investigative subpoena" power. This law empowers prosecutors to essentially act as a "one man grand jury." The investigative subpoena prosecutor participates in the police investigation by utilizing this law to subpoena witnesses to a crime, and question them under oath about their knowledge of the particular crime under investigation. The attorney prepares court petitions authorizing the use of investigative subpoenas, prepares the subpoenas, questions the witnesses under oath, handles any legal issues in connection with these cases and then makes the final charging decision. If the witness ignores the subpoena, the witness could be found in contempt of court. If the witness lies under oath, the witness is subject to perjury charges with a penalty equal to that of the crime being investigated. Once a case is charged, the attorney remains on the case throughout the court process.



Scott Brower, awarded  
Prosecutor of the Year –  
Michigan Chapter,  
International Association of  
Arson Investigators

This new law is a powerful tool for law enforcement. It enables police to solve cases that otherwise would not be due to hostile or uncooperative witnesses. Before this law, police had no way to compel these types of witnesses to tell them what they knew about particular crimes. Since the law's enactment, the investigative subpoena attorney has obtained several convictions on cases which previously could not have even been charged.

In addition, the Prosecutor's Office worked with detectives to bring several older homicide cases into the courtroom to achieve justice for the victim's families. The following are highlights for some of these cases:

- People v Robert D'Avanzo. Mr. D'Avanzo was charged with First Degree Premeditated Murder of Patricia Lang in 1980. He was found guilty.
- People v Patrick Mishall. Mr. Mishall was charged with Open Murder, Felony Murder, Armed Robbery and Felony Firearm resulting in the death of Christine Dimmick in 1991. The jury was unable to reach a unanimous verdict after deliberating over 5 days.

- Involvement in the ongoing investigations of two unsolved homicides; one from the early 1980s, one from the mid 1990s. Both cases involved the issuance of investigative subpoenas, compelling witnesses to give a statement under oath. The investigations are ongoing.
- Involvement in an ongoing investigation into the murder of Gloria Steele in 1974. Charged Coral Eugene Watts with First Degree Premeditated Murder. Proceedings are ongoing.

## **NEIGHBORHOOD PROSECUTING ATTORNEY**

Kalamazoo was the first county in Michigan to create a Neighborhood Prosecuting Attorney Program. Community prosecution, as it is also called, is an innovative method of *crime prevention*. The program concentrates on **quality of life** issues to help strengthen a neighborhood.

The Kalamazoo County Neighborhood Prosecuting Attorney Program (NPAP) is a *grassroots* approach to crime prevention. It focuses on a target area and involves a long-term, *proactive partnership* among the Prosecutor's Office, law enforcement, public and private organizations, and residents.

An Assistant Prosecuting Attorney is assigned to work in a specially-selected area with the Neighborhood Liaison Officers and other neighborhood leaders. This team designs and implements crime prevention initiatives. Currently, the NPAP covers eight neighborhoods in the City of Kalamazoo and four neighborhoods in the Township of Kalamazoo.

Neighborhood Prosecution evolved from the idea of Community Policing, which has been in place in this community and many other communities around the nation. A prosecutor is specifically assigned a neighborhood, just as a community police officer would be.



The NPAP concept accepts the theory that prosecution can no longer only react to crime, but must concern itself with crime prevention and community involvement. This community prosecution project has focused on preventing crimes of domestic violence, substance abuse and juvenile violence, with the goal of gaining a greater and more lasting leverage over disorder and crime. It has offered the Office of the Prosecuting Attorney a way to become more than a case processor; they have become a problem solver, a strategic investor and an institution builder.

The assigned APA to the project acts as liaison with neighborhood organizations and community centers, responds to community concerns, assists with the creation of crime prevention strategies, gives presentations, publishes a column ("Legal Lines") in neighborhood newsletters, and attends Neighborhood Watch meetings. The prosecutor works with schools, businesses, religious organizations and other governmental agencies to pursue ways to enhance the sense of safety in the community.

The sociological theory called "Broken Windows" states that if a window in a building is broken and left unrepaired, all the rest of the windows will soon be broken. An unrepaired window is a signal that no one cares. It is suggested that "untended" behavior also leads to the breakdown of community controls. Community prosecution has as its premise that if residents can feel more secure in their neighborhoods, they will tend to feel that crime is reduced and will gain a more favorable opinion of police and prosecutors. The concept of this program is an effort to reweave the fabric of a

neighborhood by creating partnerships between local government entities, the private sector, and community groups. It is an opportunity to offer a safer, healthier community to future generations.

In the future, the Neighborhood Prosecuting Attorney program will focus on the following performance measures:

1. Implementation Status
2. Strategies
3. Partnerships
4. Community Meetings
5. Community Assessment
6. Law Enforcement Activities
7. Leadership Activities

In addition to being recognized for the 4<sup>th</sup> year as a National Community Prosecution Leadership site, we have been noted in a number of publications, including Best Practices. Kalamazoo County Neighborhood Assistant Prosecuting Attorneys (NAPAs) currently serve as faculty at national trainings.

In 2004, the Neighborhood Prosecuting Attorney program was involved in several special projects.

MPRI (Michigan Prisoner Re-entry Initiative): State group through the Department of Corrections and Governor's office working on re-entry. The NAPA is part of the Governor's Advisory Council and local Steering Committee.

RETURN (Re-entry of Ex-offenders Thru Unique Resource Networking): a local network working with reentry of prisoners into our community.



NAPA Ramie Almeda, Emilie Schada, Weed & Seed Coordinator, and Dan DeCamp, City Housing Inspector

Operation NEAT: This program was developed/initiated by the NPA Program. Operation NEAT is a joint effort by numerous organizations to help reduce crime in neighborhoods and provide assistance to residents for a variety of needs. NEAT stands for Neighborhood Enforcement and Assistance Team. The Team consists of officers from adult parole, adult probation, family court probation, KDPS and the CPO unit, neighborhood prosecutors, neighborhood associations and city services. The team makes random visits to parolee and probationer houses - to make sure the parolees/probationers are abiding by their court rules, but also, more importantly, to find out what problems or needs the parolee/probationer are having - whether it's a problem with a tenant or landlord, needing help getting a job or job training, help finishing high school or getting a GED - or assistance with childcare, healthcare, or substance abuse problems. The NEAT Team currently has a listing of over 50 programs/organizations to assist persons in these and other areas. NEAT also visits neighborhood "hot spots" - areas that residents have noted concerns about, whether it be noise, garbage, quality of life issues, or drugs, assaults, or other more serious crime issues.

PACK (Prostitution Alternatives Coalition of Kalamazoo): A group formed to address a recurrent prostitution problem. Initial results include the YWCA dedicating funds for a prostitution outreach worker.

NPAP Regional Community Prosecution Conference: The NPAP hosted a conference here in Kalamazoo in spring 2004 to provide training for other communities interested in Community Prosecution.

J-BARJ: The Juvenile Balanced and Restorative Justice (J-BARJ) project successfully concluded in 2004. Over 200 youth from 11 neighborhoods participated in performing community service at nearly a dozen non-profit agencies. 3,849 hours of service were performed.



NAPA Ken Barnard, TKPD  
Community Policing Officer Darien  
Smith, Atlanta Falcons running-back  
T.J. Duckett, and TKPD Community  
Policing Sergeant Bryan Ergang

SAFE SUMMER: The Neighborhood Prosecution team worked with community members such as residents, businesses, law enforcement, community and faith-based organizations to develop Safe Summer. Safe Summer seeks to provide teens in Kalamazoo County low-budget, wholesome alternatives to “just hanging out”. Safe Summer does not run programming. Instead, it asks organizations to “adopt” even a single date during the summer to hold additional programming, especially early-evening programming, that will appeal to youth who otherwise “just hang out”. The result of this pooled effort is a calendar, which is also available online, of things to do all summer long. The calendar includes such things as parties, recreation center hours, educational programs, and sports programs. A Safe Summer kick-off party is held the last day of school. In 2004, 2000 youths participated, with 18,000 website hits during the summer.

## **PROJECT SAFE NEIGHBORHOODS**

The Project Safe Neighborhood (PSN) Project is a nation-wide commitment to reduce gun crime in America by networking existing local programs that target gun crime and providing those programs with additional tools to be successful. Under Project Safe Neighborhoods, each United States Attorney will establish strategic partnerships between federal, state and local law enforcement agencies in an intensive offensive against gun crime. In 2002, the County of Kalamazoo was awarded a three-year \$240,000 grant to fund two Assistant Prosecuting Attorneys to try cases involving guns.



In 2004, the PSN Assistant Prosecutors screened over 80 gun related incidents. The PSN Assistant Prosecutors referred 72 cases to the U. S. Attorney’s Office for potential Federal prosecution, 18 referrals were accepted for disposition in the Federal Court system. The remaining 54 cases were vertically prosecuted by the PSN Assistant Prosecutors, along with the other gun related cases which were not referred to the U.S. Attorney’s office. PSN Assistant Prosecutors tried nine of these cases in Circuit Court and received guilty verdicts in all cases.

Dave DeBack received an Award of Excellence from Chief Dan Weston of the Kalamazoo Department of Public Safety for his role in the investigation, arrest, and successful prosecution of Raymond Clark for First Degree Murder. The reward was in recognition of extra effort and distinguished performance of duty. This case represented the implementation of the local Project Safe Neighborhood effort i.e., the coordination of law enforcement efforts to insure maximum effort in the prosecution of proven dangerous individuals.

The following are highlights for the Project Safe Neighborhood Assistant Prosecuting Attorney:

- People v Raymond Clark. Mr. Clark was charged with First Degree Murder of Aarin Fultz. Mr. Clark was the founder of the Eastside 100 gang.
- People v Jeremy Russell. Mr. Russell was convicted with First Degree Murder of Travis Lane. Mr. Russell beheaded his victim after killing him.

The by-product of the PSN grant has been the development of closer working relationships with area detectives. A team review and approach to trial preparation and presentation has improved the ability to try factually and legally difficult cases. This collaboration has also educated the PSN attorneys on the criminal gun related subculture.

## **RESEARCH/APPELLATE ATTORNEYS**

The Prosecuting Attorney has a statutory obligation to represent the People of the State of Michigan in all statute criminal appeals filed by convicted defendants. The appellate function of the Prosecutor's office is handled by two specialized attorneys whose primary responsibility is to handle all of the appeals in statute criminal cases.



APAs Heather Bergmann and Judith Ketchum research a case.

The Prosecutors Office routinely responds to criminal defendants' first appeals of their convictions. But when first appeals are unsuccessful, defendants often file more motions and then appeal again. The OPA responds to these subsequent motions and appeals too. This year, defendants convicted in 1976, 1979, 1989, 1993, 1996 and 1997 of murder, kidnapping, rape and serious drug crimes asked the courts to re-review their trials, pleas or sentences and release them from prison. One defendant in a paternity case actually wanted to re-open the paternity issue that was resolved in 1989. Responding to old cases is challenging because statutes, case law, and procedures have often changed since these defendants were convicted. The Office's appellate attorneys identify the changes and evaluate whether they are retroactive and

benefit defendants now on appeal.

In 2004, 99% of the Criminal Appeals and Parental Terminations were affirmed. This continues the highly successful appeals rate for the OPA office.

## HONORS & AWARDS

### INVESTIGATIVE SUBPOENA ATTORNEY – Scott Brower

- *2004 Prosecutor of the Year* – Awarded from the Michigan Chapter, International Association of Arson Investigators
- *2004 Robert L. Pangle Excellence in Public Service Award* – Kalamazoo County Office of the Prosecuting Attorney
- *Award for Professional Excellence* – from the Michigan State Police for his work on the Tracy Schlotterback case

### NEIGHBORHOOD PROSECUTING ATTORNEY

- *National Community Leadership Site* – 5<sup>th</sup> consecutive year – Awarded from the Department of Justice
- *Best Practices in Gun Prosecutions* – From the American Prosecutor’s Research Institute
- *Project Evaluation* – Conducted and published by Michigan State University, Dr. Timothy Bynum and Mr. John McCluskey
- *Community Policing Partnership Top Award* - MetLife-LISC.

### PROJECT SAFE NEIGHBORHOOD

- *Award of Excellence* - to Dave DeBack from Chief Dan Weston of the Kalamazoo Department of Public Safety for his role in the investigation, arrest, and successful prosecution of Raymond Clark for First Degree Murder.

# **SPECIAL SERVICES TEAM ROSTER**

## **OF COUNSEL**

**Robert L. Pangle**

## **CHIEF SPECIAL ATTORNEY**

**Joseph S. Skocelas** - Team Leader

## **CRIMINAL SEXUAL ASSAULT ATTORNEY**

**Cheri L. Bruinsma** - Assistant Prosecuting Attorney

## **DRUG ENFORCEMENT ATTORNEYS**

**Mark A. Holmsomback** – KVET Assistant Prosecuting Attorney

**Frank J. Machnik** – SWET Assistant Prosecuting Attorney

## **INVESTIGATIVE SUBPOENA ATTORNEY**

**Scott W. Brower** - Assistant Prosecuting Attorney

## **NEIGHBORHOOD PROSECUTION ATTORNEYS**

**Ramie A. Almeda** - Assistant Prosecuting Attorney

**Kenneth N. Barnard** - Assistant Prosecuting Attorney

**David W. DeBack** - Assistant Prosecuting Attorney

**Karen M. Hayter** - Assistant Prosecuting Attorney

## **RESEARCH/APPELLATE ATTORNEYS**

**Heather S. Bergmann** - Assistant Prosecuting Attorney

**Judith B. Ketchum** - Assistant Prosecuting Attorney

## **PROFESSIONAL/TECHNICAL SUPPORT**

**Mary A. Breier** - Administrative Assistant

**Cathie A. Frary** - Technical Trial Assistant

**Pat Nicholson** - Information Services

KALAMAZOO COUNTY

# Office of the Prosecuting Attorney

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