



**KALAMAZOO COUNTY**

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# **Office of the Prosecuting Attorney**



**2005 Annual Report**

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# Table of Contents

## INTRODUCTION

Letter from the Prosecutor	1-2
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## CHAPTER 1

Overview	3-7
• Mandated Responsibilities	3-4
o Criminal	4
o Support	4
o Other	4
• Vision, Mission, & Guiding Principles	5
• Technology	6-7
• Office Organization	7

## CHAPTER 2

Office of the Prosec. Atty.	8
-----------------------------	---

## CHAPTER 3

District Court Team	9-16
• Charging	9
• District Court	9-12
o Drunk Driving	10-11
o Domestic Violence	11-12
• Witness Unit	12-13
o Goals	12
o Activities	13
o Award	13-14
• Criminal Sexual Conduct Atty	14
• Domestic Violence Liaison	14-15

## CHAPTER 4

Circuit Court Team	16-24
• Vertical Prosecution	16-17
• Victim Assistance/Witness Coord.	17-18
• Asset Forfeitures	18-20
• Drug Enf. Authority	20-21
• Invest. Subpoena Authority	22-23
• Research/Appellate Attorneys	23-24

## CHAPTER 5

Family Court Team	25
• Juvenile Unit	25
• Child Support Unit	25-26

## CHAPTER 6

Grant Funding	27-28
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## INTRODUCTION



### Letter from the Prosecutor

We are pleased to present this report to you, the citizens of Kalamazoo County, whom we serve and represent daily in our courts. This Report is intended to provide you with an overview of our office and the work accomplished in 2005.

During the past year, we were called upon to provide services to over 10,000 victims of crime in our community. On behalf of these victims, we prosecuted all manner of criminal offenses, ranging from misdemeanors such as Assaults, Thefts, and Drunk Driving to felonies such as Home Invasion, Sexual Assault, Robbery and Murder. Unfortunately, both 2004 and 2005 marked an increase in overall caseload and a decrease in staff to meet the needs of the community. Felony cases presented to our office by the 14 separate police agencies in the County were up over 15% in just the past two years. Last year, our dedicated Assistant Prosecutors put in over 6,000 hours of uncompensated overtime to handle the caseload and meet the needs of crime victims.

Due to the difficult economy, staff reductions occurred across the county in 2004 and 2005. The Prosecutor's Office eliminated two Assistant Prosecutor positions, two Victim Advocate positions and Technical Support Staff positions. We reorganized the entire office structurally in an attempt to meet mandated statutory duties with the reduced staff.

In 2005, this Office was fortunate to receive a grant from the U.S. Department of Justice that allowed us to rejuvenate our efforts to combat domestic violence in Kalamazoo County. The Domestic Violence Liaison Prosecutor Program is a collaborative effort amongst the Prosecutor's Office and other community partners to continue our work to hold batterers accountable and assist victims in breaking the cycle of violence.

This past year also saw a positive trend developing from our efforts and the efforts of the entire criminal justice system to stem the rising tide of methamphetamine abuse within the County. Between 2001 and 2004, this County saw the number of

methamphetamine prosecutions rise sharply from 50 cases to 400 cases. The hard work and dedication of our law enforcement officers, prosecutors, courts and corrections officials has helped to slow that trend and actually resulted in a slight decrease in the number of methamphetamine cases prosecuted during 2005.

Another proactive, collaborative approach to fighting drug trafficking proved particularly effective during this past year. Property and money, earned from the trafficking of illegal drugs, may be seized and forfeited through the efforts of police and prosecutors. If the proceeds are forfeited, they are distributed to police agencies and used for the funding of future drug enforcement activities. In 2004, our assistant prosecutors worked with the police and successfully forfeited approximately \$287,000. In 2005, however, that same collaborative effort resulted in an amount more than two and a half times that of the previous year and over \$769,000 was forfeited to help fund future drug enforcement efforts by police agencies.

We invite your review of our 2005 performance and renew our pledge to continue to serve you in the year to come. We appreciate your interest and welcome suggestions to improve our services to you.

Sincerely,

Jeffrey R. Fink  
Prosecuting Attorney

## CHAPTER 1

### Overview

The Kalamazoo County Prosecuting Attorney appears on behalf of the People of the State of Michigan in criminal prosecutions in Circuit Court and District Court. The Office of the Prosecuting Attorney (OPA) handles paternity, juvenile delinquency, and child neglect cases in Family Court.

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 Human Service Department referrals;
- Providing information about juvenile offenders to public schools in Kalamazoo County; and
- Representing law enforcement in forfeiture actions against drug dealers.

The People elect the Prosecuting Attorney to a four-year term of office.

### 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 2005) 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. 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 non-custodial parents 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 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 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 team member for their distinctive contributions.

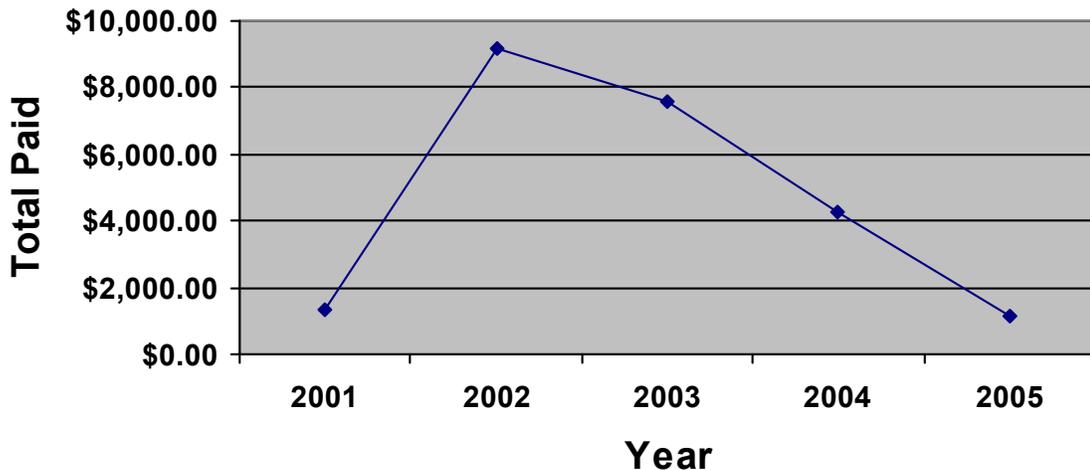
## TECHNOLOGY

In July 2001, the OPA began working with an external vendor to assist the Prosecutor’s Administrator with maintenance of the OPA Computer Network. Over the years, this vendor has provided technical assistance with addressing individual computer and printer problems, as well as, assisting with the “building” of new computers.

In the past year, Kristine Toshalis, Prosecutor’s Administrator, and Cathie Frary, Technical Trial Assistant, have made a concerted effort to learn more about current technology (hardware, software, security, etc.) and gain detailed knowledge about the computers operating in our office today. Lastly, we have examined current and future technological needs of the office so that we may anticipate upcoming expenditures and make appropriate purchasing decisions.

As a result of all these efforts, our office has been able to rely less on external vendors for service and we are able to provide in-house technical assistance to OPA staff in a more timely and cost-effective manner. This reduction in use of outside services has drastically decreased our network expenses. In 2002, the OPA paid over \$9,000 for external technological assistance. In 2005, the OPA spent less than \$1,200.

### Vendor Account History



In summary,

- Service has improved, while expenditures have decreased.
- Computer “down time” has been significantly reduced.
- Computer speed, reliability, and staff satisfaction has greatly increased.
- Computers are functioning on the most current operating systems and software applications available.

## **OFFICE ORGANIZATION**

In 2004, the OPA had 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). During 2005, the OPA restructured the organization and vacated the Administration Building as a cost saving measure for the County. In 2006, the OPA will have offices located in two locations: the Gull Road Courthouse for Family Court hearings and the Michigan Avenue Courthouse for Adult Criminal hearings.

## CHAPTER 2

# Office of the Prosecuting Attorney

The Office of the Prosecuting Attorney consists of the Prosecuting Attorney, Chief Assistant Prosecuting Attorney, the Prosecutor's Administrator, and 3 Teams of professional staff.



### Jeffrey R. Fink – 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 in all areas of the Prosecutor's Office: District, 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. His term began January 1, 2005. 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 Jail Diversion/Mental Health Task Force and the Fraternal Order of Police.



### 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 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. Carrie serves as a member of the Kalamazoo Assault Intervention Program, the Domestic Violence Fatality Review Team and the Kalamazoo Consortium Elder Abuse Task Force. Carrie became the Chief Assistant Prosecuting Attorney in January 2005.



### Kristine 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 the Victim/Witness Unit of the Prosecutor's Office, provide financial planning and analysis, manage all grant applications and contracts, and maintain the office's computer network system. Kristine graduated cum laude from Western Michigan University (WMU) with a Bachelor's Degree in Psychology and Sociology. She also obtained her Master's Degree in Public Administration from WMU. She has served on the Prevention Works Board of Directors (Vice President 2002 and 2003), Kalamazoo Assault Intervention Program Committee, Jail Population Management Committee, Kalamazoo Justice Integrated Information Management Systems (K-JIIMS) and the Domestic Violence Fatality Review Team.

## CHAPTER 3

# 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.



Joseph S. Skocelas  
Team Leader

## 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. All police agencies submit their police reports, and supporting materials, to the Charging Specialist. Each report is entered into the database and then assigned to an Assistant Prosecuting Attorney to determine if a factual and legal basis exists to initiate prosecution. If the charges are authorized, the Charging Specialist produces a warrant for signature by the Assistant Prosecuting Attorney.

## DISTRICT COURT

The prosecution of a misdemeanor case begins one of two ways. A law enforcement officer can issue a ticket, called an Appearance Citation, or an Assistant Prosecuting Attorney (APA) can authorize a Complaint after reviewing an investigative report. In either instance, if a person contests a misdemeanor charge at their first appearance before the Court, which is called an Arraignment, the case is then scheduled for a Pre-Trial Conference. An APA appears at all Pre-Trial Conferences to review the facts of the case and any legal issues with the Defendant or their attorney. If the case is not resolved at the Pre-Trial Conference, it is set for trial before either a jury or a judge. All of these trials are also handled by an APA.



Kathy Lawton  
Assistant Prosecutor

The prosecution of all felony cases begins with the careful review of 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 in the District Court. An APA appears at every Preliminary Examination representing the People of the State of Michigan.



Ken Barnard,  
Asst. Prosecutor and  
Michelle Sutton,  
Legal Asst.

At the Preliminary Examination, the APA presents the testimony of witnesses and provides the court with physical evidence, in many respects conducting a mini-trial. After the presentation of evidence, the judge decides whether the case will proceed to trial. When a case is "bound over", that means it is moved from the District Court to the Circuit Court for trial. The Defendant is then arraigned on the felony charge before a Circuit Court judge and the case proceeds as a Circuit Court case from that point on. The District Court Team has the responsibility of prosecuting cases that pass through the seven District courtrooms of Kalamazoo County.

In 2005, there were 10,597 adult cases reviewed for possible felony or misdemeanor prosecution (3,347 felonies & 7,250 misdemeanors). A total of 2,500 felony and 4,411 misdemeanor charges were issued.

## **DRUNK DRIVING**

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 five 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 498 drunk driving cases were prosecuted in 2005 (88 felonies and 410 misdemeanors).



**DOMESTIC VIOLENCE** 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. 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 2005, 1,210 cases involving domestic violence were authorized (151 felonies and 1,059 misdemeanors).

In 1982, the Prosecutor’s Office found that a Victim Advocate (VA) was needed to work with crime victims & their families & the Victim Assistance Program (VAP) emerged from the Witness Unit to handle these special needs. The first VA was hired in 1983 & a second was added in 1986. In 1987, a Victim Advocate Specialist was hired under a VOCA grant to address the unique needs of sexual assault victims & victims of domestic violence. In 1995, another VA was added. For the past 18 years, the Crime Victim Services Commission, through the Victims of Crime Act (VOCA) has provided funding for one Victim Advocate Specialist, whom focuses primarily on assisting victims of domestic and sexual assault. This Victim Advocate performs the following:



Stella Chivikas, Victim Advocate Specialist

- Initial contact and support to victims of domestic and sexual assault crimes
- Advocacy services with regards to financial assistance and the legal needs of victims
- Provide information to and assist victims with safety options and procedures, including but not limited to, Personal Protection Orders.

In addition, the Victim Advocate Specialist participates in the Kalamazoo Assault Intervention Project (KAIP). In 1990, this group was formed by committed criminal justice professionals and service providers “to cooperate, coordinate, and collaborate on all community efforts to eliminate domestic violence.” KAIP has five essential purposes to:

- assist victims of domestic violence in breaking the pattern of abuse,

- prevent the occurrence of further violence to the victims,
- hold all defendants accountable for their acts of violence,
- minimize the victim's role in the prosecution of the defendant, and
- encourage the use of education and counseling designed to change the defendant's future behavior.



In addition to KAIP, this office chairs the Domestic Violence Fatality Review Team, which is responsible for reviewing domestic violence fatality cases to determine whether the criminal justice system and/or victim services could have prevented the fatality.

## **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.



Kerrie LeClercq  
Witness Coordinator

In 2005, 5,374 cases were handled by the Witness Coordinators, with a total of 15,758 witnesses. As a result of the efforts by Witness Coordinators, approximately \$386,438 was saved in 2005. Every police agency (and their funding sources) that works with the OPA benefits from these cost savings.

## AWARD

Each year, OPA staff and other criminal justice agencies are given an opportunity to nominate an OPA staff member (Team Leaders and Management are excluded) for the "Robert L. Pangle Excellence in Public Service" Award. 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 submissions, the Management Team selects the awardee. In 2005, Rhonda Baxter-Todd, Witness Coordinator/Victim Advocate, received this award.



Rhonda Baxter-Todd  
RLP Award Recipient

Rhonda has worked in various positions within the Kalamazoo County Prosecutor's Office and Kalamazoo Circuit Court. She began in our office in 1998 as a Witness Coordinator under a grant pertaining to OUIL cases. She designed the program format for that position and researched case law. The following year, she became a Witness Coordinator and worked as a liaison between assistant prosecuting attorneys and victims/witnesses in our Witness Unit. In 1992-1997, she took a position with the Ninth Judicial Circuit Court as an Enforcement Officer with the Friend of the Court. In this position, she represented FOC at bench warrant arraignments, monitored case activities for support payments and initiated orders for show cause hearings. She returned to the Prosecutor's Office in July 1997 as a Victim Advocate where she interviews victims during the screening process, addresses the needs of victims by providing support, case information and court escort. Rhonda graduated from

Western Michigan University with a Bachelor of Science/Criminal Justice Degree and completed the Michigan Victim Assistance Academy. Rhonda is a member of the Kalamazoo Assault Intervention Program, the Kalamazoo County Workplace Diversity Team and has served as a member of the Michigan VOCA Council of Advocates. Rhonda's extensive history serving victims and her dedication, caring, and professionalism all contributed to her being chosen as the recipient of this award.

## **CRIMINAL SEXUAL ASSAULT ATTORNEY**

The Criminal Sexual Assault (CSA) 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 toward 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.



Chris Ann Johnson  
Crim. Sexual Assault  
Asst. Prosecutor

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.

## **DOMESTIC VIOLENCE LIAISON PROJECT**

Kalamazoo was the first county in Michigan to create a Neighborhood Prosecuting Attorney Program. Community prosecution, as this concept is called, is an innovative method of crime prevention that includes grass-root approaches and proactive partnerships to help strengthen a neighborhood. After 5 years as a National Leadership Site, designated by the U. S. Department of Justice, the program has shifted its focus to Domestic Violence. The Domestic Violence Liaison Prosecutor Program (DVLPP) was created in 2005.

Two Assistant Prosecuting Attorneys (100% funded by the grant) and 2 Victim Advocates work specifically to strengthen and coordinate the criminal justice response to domestic violence to encourage arrest policies, enforce personal

protection orders, and improve victim safety. DVLPP prosecutors track repeat and violent offenders and work with the District Court CEIS (Court Enforced Intensive Supervision) to hold batterers accountable while under the court's jurisdiction. The DVLPP also works to create a support network for victims of abuse, to keep them abreast of court proceedings and their rights. The DVLPP works closely with victim advocacy agencies, including the YWCA, in training law enforcement and neighborhood residents in developing strategies to address violence against women. Future plans include providing updated training for law enforcement officers.



Pros. Atty.; Stella Chivikas,

The attorneys review and charge all incoming cases. Since its inception in October, the program has served 276 victims. The lawyers also handle all the Domestic Violence Personal Protections Order violation hearings. A column called, "Legal Lines," is written about a different topic of domestic violence each month and published in seven neighborhood newsletters. The gathering and reviewing of statistics has improved. A volunteer college student intern is on staff to assist with data collection and review. Presentations were developed and presented to medical staff and local residents.

## CHAPTER 4

# Circuit Court Team

The 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.



Gregory W. Russell  
Team Leader

## 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 Circuit Court process.



Marla Gilreath,  
Asst. Prosecutor  
and Patty Maxwell,  
Legal Asst.

In 2005, 1,365 trials were set in the Trial Division of the 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 approximately 10 cases in each Court for trial 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, and those that are not resolved either through trial or plea, will be rescheduled for trial. In 2005, 48 trials were held. In 84% of the cases, defendants either plead guilty to the original felony charge or were found guilty at trial of the original felony charge placed against them.

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 2005. In our baseline year of 1974, felony pleas to the original charge were only 13%. In 2005, defendants plead guilty to the original felony charge placed against them in 84% 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 to answer to the charges brought against them at this high rate, charging practices by the OPA illustrate a staff of assistant prosecutors well trained at making the decisions that impact upon the lives of victims and defendants.



John Anderegg  
Assistant Prosecutor

The year 2005 was remarkable for not only the number of cases that were tried, but most especially for their length and complexity. Eight (8) complex homicide trials were held with Guilty verdicts in five of those cases. Of the remaining three homicide trials, two resulted in mistrials where the jury could not reach a unanimous verdict. Those two cases will be retried in 2006. The final homicide trial did result in a not guilty verdict. In addition, there were nine trials where the charged offense was assaultive in nature, ranging from Assault with Intent to Murder to Child Abuse 3<sup>rd</sup> Degree. Additionally, there were five Robbery trials, three Home Invasion trials, five Drug trials, and one Criminal Sexual Conduct trial.

## **VICTIM ASSISTANCE/WITNESS COORDINATION**

The Victim Advocate Program provides critical services to victims. They 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 their 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.

The Prosecutor's Office hired its first Victim Advocate in 1983. Today, we have six VAs within our office. One VA is assigned to the Family Division, two VAs work with victims of misdemeanor crimes, and three VAs are assigned to the four Circuit Courtrooms to work with victims of felony crimes. More than half of the VAs are funded by grant dollars and require no County funding.

In 2005, our Victim Advocate Program served victims of crime that were associated with 4,537 new cases that included felony, misdemeanor and juvenile crime. Additionally, an estimate of 20,000 case status letters were generated and mailed to the victims of these cases. Probably the most critical service provided is that victims are kept apprized of their case status from the time a warrant is authorized until a sentencing or some other form of disposition takes place.



Sigrid Carpenter  
Circuit Court  
Victim Advocate

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.). In addition, they provide education and prevention services to schools throughout Kalamazoo County. Each year, Victim Advocates attempt to meet with students to discuss crime prevention. Some of the areas of focus have been date rape, sexual assault, and the impact of crime victimization on the individuals, family and friends.

## **ASSET FORFEITURES - KVET**



The Kalamazoo Valley Enforcement Team (KVET) is a drug enforcement task force comprised of 18 police officers from the Kalamazoo Department of Public Safety (KDPS), 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. In 2005, KVET investigations resulted in criminal charges in 534 cases. These KVET criminal cases are handled by a staff that includes a specialized Assistant Prosecuting Attorney known as the KVET Attorney. The 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 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.



Mark Holsomback,  
KVET Assistant  
Prosecutor

The KVET Attorney is funded by the City of Kalamazoo and 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 pursuant to 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 drug 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 and is to assure 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.

In 2005, forfeiture cases resolved by the KVET Attorney resulted in the forfeiture of over \$213,728 to KVET. This is an increase of \$106,762 over last year’s total. Statistics relating to the KVET Attorney are highlighted below:

**CIVIL FORFEITURE**

Number of Forfeiture Cases Resolved by KVET Attorney:	86
Amount of Money Forfeited to KVET:	\$213,728.74

**CRIMINAL CASE DISPOSITION**

Number of Convictions obtained by KVET Attorney:	165
• Felony Charges	145
• Misdemeanor Charges	20
Conviction on the Most Serious Charge	143

**DRUG ENFORCEMENT AUTHORITY - SWET**



The Southwest Enforcement Team (SWET) is a regional cooperative of State, County, and Local Narcotics units. The team continues its aggressive campaign of investigating, prosecuting, and forfeiting the property of persons who traffic in illegal controlled substances. As part of 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 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 can become involved in both criminal and civil cases during the investigative stage, providing legal information, attending arraignments to ensure high bonds, and performing other legal functions not normally handled by assistant prosecutors.

Fiscal Year 2004-2005 was the tenth year that the Department of Drug Control Policy, under the Anti-Drug Abuse Act, has funded the Drug Enforcement Attorney position, and the Michigan Department of State Police provides the match. There is no required match from the County of Kalamazoo.

In the criminal area, 117 arrest warrant requests were received and reviewed by this attorney during this fiscal year. Those requests resulted in the issuance of criminal

charges against 97 individuals, totaling 193 charges. During this fiscal year, 69 defendants were adjudicated and convicted of 97 charges. This number represents defendants from this year and defendants from prior years whose cases had not yet been resolved in the criminal justice system.

Of the 69 defendants convicted:

- 66 defendants were convicted of the most serious charge against them
- 13 were incarcerated in jail or prison.
- 7 received significant prison sentences

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

- \$24,684 ordered in restitution to SWET
- \$29,033 oversight fees for probation supervision
- \$2,700 for DNA laboratory fees
- \$20,635 in court cost reimbursement
- \$20,938 in attorney cost reimbursement
- \$6,750 in forensic fund laboratory reimbursement



Steve McLaughlin,  
SWET Assistant  
Prosecutor

In addition, driver's licenses were suspended in all convictions, 13 individuals were ordered into substance abuse counseling and/or treatment, and defendants were sentenced to over 67 years of probation collectively.

The civil forfeiture area included 43 requests to file Complaints of Forfeiture to forfeit property involved in drug trafficking this year. Forty-three (43) cases were resolved this year including cases that carried over from last year. Of the 43 cases resolved, approximately \$555,859 was recovered by SWET in forfeiture proceeds. Nineteen (19) of the 43 cases were resolved by pre-filing settlements resulting in approximately \$157,125 in forfeiture proceeds. Twenty (20) of the cases were resolved post-filing (after a Summons and Complaint had been filed in Circuit Court) resulting in approximately \$390,122 in forfeiture proceeds. Four (4) of the 43 were resolved by Default Judgments, resulting in approximately \$8,612 in forfeiture proceeds.

## 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.

This 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 Patrick Mishall. Mr. Mishall was charged with the murder of Christine Dimmick in 1991. In June 2004, the first trial ended with a hung jury. In February of 2005, the jury in the second trial found him guilty of First Degree Murder, Armed Robbery, and Felony Firearm.
- People v Hyland Sterling. Mr. Sterling is charged with the murder of Robert O'Keefe, which occurred in 1995. In July 2005, the first trial ended with a hung jury. In April of 2006, the defendant was convicted of first-degree murder and felony firearm.
- People v Coral Eugene Watts. In December 2004, Mr. Watts was charged with the murder of Gloria Steele in 1974. In February 2005, a preliminary examination was held in District Court. The case was bound over to Circuit Court for trial. In May 2005, the Circuit Court ruled that the evidence admitted



Scott Brower,  
Investigative  
Subpoena  
Asst. Prosecutor

at the preliminary examination should have been suppressed. The judge remanded the case to the District Court, directing the judge to determine if there was sufficient admissible evidence remaining to support a bind over.

The Circuit Court decision suppressing the evidence has been appealed. The Court of Appeals initially refused to accept the appeal. On appeal to the Michigan Supreme Court, however, the Court remanded the case back to the Court of Appeals, directing that court to review the case. We are now waiting for the Court of Appeal's decision.

- People v Robert Corteway. In April 2005, Mr. Corteway was charged with aiding and abetting the murder of Brad Farrer in 1991. Robert Corteway's brother is serving life without parole for the same murder. In June 2005, Mr. Corteway pled guilty to Second Degree Murder.
- Involvement in the investigations of several death cases, including:
  1. a suspicious death case from 1991
  2. a multiple homicide case from 2000

Each of the cases involves the issuance of investigative subpoenas, compelling witnesses to give a statement under oath. The investigations are ongoing.

## **RESEARCH/APPELLATE ATTORNEYS**

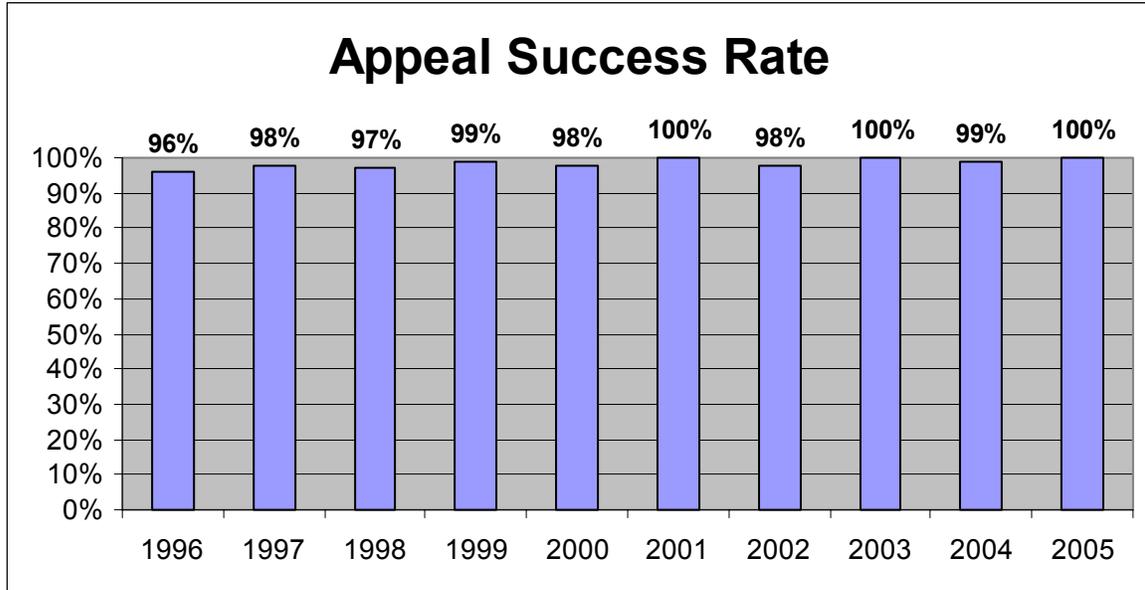
The Prosecuting Attorney has a statutory obligation to represent the People of the State of Michigan in all statute criminal appeals filed by convicted defendants. Two specialized attorneys handle the appellate function of the Prosecutor's office, whose primary responsibility is to handle all of the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



Heather Bergmann &  
Judith Ketchum  
Appellate Attorneys

The Prosecutors Office routinely responds to criminal defendants' first appeals of their convictions. However, when first appeals are unsuccessful, defendants often file more motions and then appeal again. The OPA responds to these subsequent motions and appeals too. In 2005, defendants convicted in 1969, 1975, 1976, 1991, 1997, and 2001 of murder, kidnapping, rape, or other serious crimes asked the courts to re-review their trials, pleas, or sentences and release them from prison. 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 2005, 100% of the Criminal Appeals and Parental Terminations were affirmed. This continues the highly successful appeals rate for the OPA office.



## CHAPTER 5

# Family Court Services 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.



Nancy Skocelas  
Family Court  
Team Leader

The Family Court Services Team is responsible for the review and prosecution of crimes committed by juveniles (those under the age of 17), 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 2,537 requests to charge a juvenile with a criminal offense in 2005. Of those, 2,139 were referred to the Ninth Circuit Court – Family Division



Scott Pierangeli, Asst.  
Prosecutor; Chris Vliek, Victim  
Advocate; and Nancy Skocelas,  
Team Leader

for further action, formal petitions charging a juvenile with an offense were filed in 982 cases. Our office appeared at 662 pre-trial hearings, 113 trials and 64 other delinquency hearings.

The number of neglect cases being brought to the Family Division did not slow down in 2005. Our office appeared with the Department of Human Services on 339 neglect petitions. We appeared at 321 pre-trial hearings, 104 neglect trials and 419 other related hearings. To secure permanency for children, our office filed 66 petitions to terminate parental rights. As a result, many children are now living permanently in safe, loving and nurturing homes.

## CHILD SUPPORT UNIT

The child support unit receives referrals from the Department of Human Services to initiate legal action to establish paternity and child support obligations for non-

custodial parents. The mandatory implementation of the statewide MiCSES computer system continues to reduce the number of cases being received and continues to increase the amount of time we need to successfully conclude the proceedings. As system-wide improvements continue, 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. In 2005, the Child Support Unit filed 426 paternity cases, 440 civil non-support cases and 64 cases through the Uniform Interstate Family Support Act. They also intervened on behalf of children in eight divorce cases to ensure establishment of support.



Kate Procnier, Asst.  
Prosecutor

The Child Support Unit also handles criminal investigations of non-custodial parents who have been ordered to pay support, but have failed to do so. The Friend of the Court (FOC) handles the administration and enforcement requirements of child support orders. However, when the civil enforcement options have been exhausted, the FOC refers the matter to the Child Support Unit and a criminal investigation is conducted. In 2005, 29 non-custodial parents were charged with a felony offense for not providing financial support for their children. Through criminal prosecutions and subsequent criminal convictions, over \$476,659.80 in restitution for back child support was ordered to be paid in 2005.



Jennifer Granzow, Asst.  
Prosecutor and Connie  
Barker, Legal Asst.

In 2005, Connie Barker and Jennifer Granzow each received an award for “Outstanding Contributions to the Child Support Program.” They were nominated for their dedication and service to the constituents of Kalamazoo County and the State of Michigan for their efforts to establish paternity and child support. The award was presented at the 2005 Spring Conference held by the Prosecuting Attorney’s Coordinating Council/Prosecuting Attorney’s Association of Michigan.

## Grant Funding

The Kalamazoo Foundation awarded the Crime Victim Recovery Services (CVRS) program \$20,000 over two years to assist with funding counseling services for victims of crime. Most often, victims who seek private therapy, but are not insured or are otherwise not able to pay for counseling, are placed on waiting lists for “sliding scale” or “pro-bono” services. These lists are usually long and the victim’s healing is further hampered by lack of services. The Crime Victim Recovery Services program allows victims of crime almost immediate access to counseling. Because the experience of victimization tends to be isolating, the offer of little or no cost, specialized services is an important step toward recovery. It is a symbolic gesture that reminds the victim of the goodness that exists in the world, reducing the sense of estrangement and fear. This service also puts victims in touch with each other, allowing them the experience of hearing each other’s stories and helping one another.

The therapists paid by these grant dollars work with victims referred by the Prosecutor’s Office and other community resources. They meet with victims as many times as is necessary to offer the opportunity to heal in the context of a safe, private & supportive environment.

### Goals:

- To provide individualized counseling and education to crime victims and their families.
- To operate group sessions upon recommendation/request of victim and/or therapist to further the healing process by group support.
- To provide outreach by expanding community awareness with educational materials distributed to physicians offices, businesses, schools, and law enforcement.
- To make transportation available by taxicab or other public means when the victim has no other available transportation.
- To provide services to those victims whose cases may never see an arrest and criminal prosecution.

Through this program, many victims in need are served as quickly and effectively

as possible. The result has been that many families and individuals have been able to overcome the ravages of violence and return to productive, meaningful lives.

In 2005, the Prosecutor's Office was also awarded a grant from the Department of Justice, Office on Violence Against Women. This grant provided 100% of the funding needed to create a Domestic Violence Liaison Prosecutor Program (DVLPP). Two full-time, experienced assistant prosecutors were assigned. Their responsibilities include the coordination and improvement of police enforcement, prosecution, and judicial responsibilities related to domestic violence cases. An increased focus has been placed on coordination of delivery of service to victims. The Domestic Violence Liaison Prosecutors (DVLPP) also assumed a leadership role in charging cases, vertical handling of habitual offenders, coordination of personal protection orders with domestic violence cases, developing team training for law enforcement and neighborhood residents and improving coordination of existing victim services. Victim advocates and volunteers provide legally mandated services to victims and provide support throughout the criminal justice process.

A team composed of the DVLPP, a victim advocate and a YWCA Domestic Assault Program staff member plan to train neighborhood residents to identify and report domestic violence and will update, organize, and conduct training for law enforcement countywide. The attorneys for the project will also work with the bench to open a dialogue about a specialized domestic violence court docket.

The total grant award is \$399,179, which fully funds two Assistant Prosecutors (APA II level) and mandatory training.

KALAMAZOO COUNTY

# Office of the Prosecuting Attorney

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227 West Michigan Avenue  
Kalamazoo, MI 49007  
Phone 269.383.8900 • Fax 269.383.0475