



KALAMAZOO COUNTY

Office of the Prosecuting Attorney



2006 Annual Report

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INTRODUCTION



Letter from the Prosecutor

To: The Citizens of Kalamazoo County

We are pleased to present this report of our service to you and the work accomplished during 2006.

The Prosecutor's Office handled in excess of 10,000 separate criminal cases last year. Those included misdemeanors such as Assault, Shoplifting and Drunk Driving to felonies such as Car Theft, Home Invasion, Economic Crime, Robbery and Murder. In addition to adult criminal cases, our staff prosecuted over 2,000 Juvenile Delinquency cases, 260 Child Abuse/Neglect cases and 1,000 Child Paternity and Support cases. The Prosecutor's Office handled cases from 14 separate police agencies in the County. Last year, Assistant Prosecutors put in thousands of hours of uncompensated overtime to meet the needs of crime victims.

Although the office handled a high number of criminal cases last year, we did see a decline in Methamphetamine cases. In 2004, we handled 400 Methamphetamine cases and in 2006, that number declined to 250. Methamphetamine use not only impacts upon offenders and their families, but the community through other criminal activities as well. It is hoped that recent Legislative changes, law enforcement efforts by police and our office and substance abuse treatment programs will continue to have an impact in this area.

We invite your review of our 2006 performance and renew our pledge to provide the utmost in professional service to you in the year to come.

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 juvenile delinquency, paternity/support, 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 referrals from the Department of Human Services (DHS);
- Providing information about juvenile offenders to public schools in Kalamazoo County; and
- Representing law enforcement in forfeiture actions against drug dealers.

The 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 2006) 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, reduces the financial burden to taxpayers.

OTHER

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

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 three Divisions 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 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. Jeff has been named as an advisor to both the Governor of Michigan and the President of the United States on criminal justice matters.



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 Cunningham – Administrator

Kristine has worked within Kalamazoo County's criminal justice system since 1995, joining the Kalamazoo County Prosecutor's Office in 2003. As the Administrator, she is responsible for managing the Victim/Witness Unit of the Prosecutor's Office. In addition, she provides financial planning and budget analysis, researches, writes, and manages all grant applications and contracts, and maintains the Office's computer network system. 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. Today, Kristine is an active member of the County's Anti-Racism Transformation Team (ARTT) and the Prosecuting Attorney's Association of Michigan (PAAM) Technical Services Committee.

CHAPTER 3

District Court Division

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



Scott Brower
Division Leader

MISDEMEANORS

A misdemeanor case can start from a police ticket, or from a Complaint authorized by the Prosecutor's Office.

Police often use tickets for traffic offenses such as speeding, Drunk Driving, and Driving While License Suspended. Prosecutors in the District Court Division also review police reports of other crimes, such as Assault, Malicious Destruction of Property or Retail Fraud.

If an offender contests a ticket, the Prosecutor's Office will handle the case at a formal hearing or trial.



Melissa Scott, Charging Specialist

A large percentage of cases begin with a warrant request. This is generally the first time that the Assistant Prosecutor is involved in a case, unless he/she reviewed a search warrant or visited the crime scene. At this stage, the Assistant Prosecutor determines whether a person should be charged with a crime and, if so, what the crime should be. The Assistant Prosecutor must thoroughly review all police reports and records concerning the case, including witness statements.

After a Complaint is issued by the Prosecutor's Office, the paperwork is filed with the District Court. When the judge reviews the Complaint and signs a Warrant, the police make arrangements to have those charged appear in court for arraignment where they are told the charges against them and advised of their constitutional rights. The conditions and amount of bail are determined. If they

plead guilty, the court will schedule the case for sentencing. If they plead not guilty, the case will be set for trial.

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



Carrie Klein, Chief Assistant, & Michelle Sutton, Legal Assistant

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

If the defendant is found guilty, the judge will set a date for sentencing. A pre-sentence investigation report may be prepared by the probation office. It contains information about the crime, defendant's background, and a sentence recommendation. At sentencing, the judge will consider the information in the report. Determination of the sentence is the judge's sole responsibility. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail, or a combination. The judge may also order the defendant to make restitution to any victims who have suffered physical or financial harm.

FELONIES

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

At a felony arraignment in District Court, the defendant does not plead guilty or not guilty. He is advised of his right to a preliminary examination within 14 days of the arraignment. The court reviews requests for court-appointed attorneys at the arraignment.



Don Smith, Assistant Prosecutor & Stella Chivikas, Victim Advocate

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

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

In 2006, there were 11,005 adult cases reviewed for possible felony or misdemeanor prosecution (3,364 felonies & 7,641 misdemeanors). A total of 2,352 felony and 5,913 misdemeanor charges were issued.

DRUNK DRIVING



A specialized and very busy area of District Court practice lies in the prosecution of drunk driving cases. Michigan law prohibits the operation of a motor vehicle if you are under the influence of alcohol, have an unlawful blood alcohol content, are operating with the presence of a controlled substance in your system or have become visibly impaired by alcohol or a controlled substance. First and second offenses are misdemeanors and a third offense can be charged as a felony, punishable by up to five years in prison. Should the offense involve a traffic crash, which results in injuries or death, 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 733 drunk driving cases were prosecuted in 2006 (73 felonies and 647 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 2006, 1,168 cases involving domestic violence were authorized (132 felonies and 1,036 misdemeanors).

VICTIM ADVOCATE SPECIALIST



In 1982, the Prosecutor's Office found that a Victim Advocate (VA) was needed to work with crime victims and their families and the Victim Assistance Program (VAP) emerged to handle these special needs. The first VA was hired in 1983 and a second was added in 1986. In 1987, a Victim Advocate Specialist was hired under a Victims of Crime Act (VOCA) grant to address the unique needs of sexual assault victims and victims of domestic violence. In 1995, another VA was added. For the past 19 years, the VOCA grant, through the Crime Victim Services Commission, has provided funding for one Victim Advocate Specialist, who focuses primarily on assisting victims of domestic and sexual assault. This Victim Advocate performs the following duties:

- 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 reduce domestic violence."

KAIP has five essential purposes:

- To assist victims of domestic violence in breaking the pattern of abuse,
- To prevent the occurrence of further violence to the victims,
- To hold all defendants accountable for their acts of violence,
- To minimize the victim's role in the prosecution of the defendant, and

- To encourage the use of education and counseling designed to change the defendant's future behavior.



KAIP membership includes judges, probation officers, counselors, and medical personnel. Visitors from other jurisdictions have attended these meetings in order to observe and research potential methods of dealing with domestic violence. KAIP members have also made presentations to community groups and written articles for local neighborhood newspapers to inform the public on domestic violence issues.

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

DOMESTIC VIOLENCE LIAISON PROJECT

In October of 2005, the Domestic Violence Liaison Prosecutor Program (DVLPP) was created to strengthen the response to domestic violence cases and improve the quality of services offered to domestic violence victims. Two Assistant Prosecuting Attorneys (funded through a grant from the Department of Justice, Office on Violence Against Women) and two Victim Advocates work specifically in the domestic violence field to coordinate the criminal justice response to these often difficult and emotional cases.

DVLPP Assistant Prosecutors review and make charging decisions on all domestic violence cases, track certain repeat and violent offenders, and prosecute all domestic related personal protection order violations. Since the DVLPP's inception, DVLPP prosecutors have trained law enforcement throughout Kalamazoo County on the latest legal updates affecting domestic cases, addressing victims with empathy, and improving methods of evidence collection for "Evidence Based Prosecution" of D.V. cases. The DVLPP has also educated doctors, nurses, and other medical personnel on the prevalence of these types of cases in the emergency room and how to report incidents to law enforcement.



FRONT: Rhonda Baxter-Todd, Victim Advocate; Karen Hayter, Asst. Pros. Atty.
BACK: Ramie Almeda, Asst. Pros. Atty.; Stella Chivikas, Victim Advocate

Personal contact with victims occurs in the majority of cases by DVLPP victim advocates or Assistant Prosecutors. Immediate referrals are made to the local YWCA Domestic Assault Program and to the Family Court Personal Protection Order Coordinator to provide further support and services to our victims. Victim advocates also keep victims informed of court proceedings, their rights as victims of domestic violence, and seek their input for sentencing.

In the first year of the DVLPP, over 1,200 victims of domestic violence have been served. There has been a marked increase in the percentage of convictions with improved evidence gathering and the use of new legal tools. Several members of the DVLPP have been recognized by the YWCA for their work in the domestic violence field. The DVLPP will continue to work towards safety for victims and accountability for batterers in Kalamazoo County.

AWARD

In 2006, former Division Leader Joseph Skocelas received recognition for his advocacy efforts on behalf of victims of domestic and sexual violence at the YWCA first annual "Victim Advocate Recognition Luncheon."



Joseph S. Skocelas
Former Division
Leader

WITNESS UNIT



Gay Colby,
Witness Coordinator

In the past, a significant amount of each law enforcement agency's time was consumed with officers waiting to appear in court as a witness for a criminal case. Oftentimes, considerable amounts of overtime was paid, even when the officer was no longer needed for the case and not required to appear in court. This process not only took officers away from their patrol areas for potentially long periods of time, it also took detectives away from investigating other serious crimes.

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 dispositions.
- Provide "check-in" service for witnesses on trial days.
- Make necessary travel arrangements for out-of-area witnesses.

In 2006, 5,017 cases were handled by the Witness Coordinators, with a total of 14,577 witnesses. Because of the efforts by Witness Coordinators, a total of 5,602 witnesses (3,213 lay, 159 expert and 2,230 law enforcement) were excused from court, with a cost savings of approximately \$150,000 in 2006. Every police agency, their funding source, and the public safety of the community, benefit from the efforts of the Witness Coordination Unit.

CRIMINAL SEXUAL ASSAULT ATTORNEY



Chris Ann Johnson,
CSA Assistant
Prosecutor

The Criminal Sexual Assault (CSA) Attorney handles all cases involving the criminal sexual assault of children under the age of 13. In addition, this Assistant Prosecutor handles other sexual assault or child abuse cases that require special attention.

Sexual abuse is one of the most traumatizing events that can occur to anyone. If the abuse is directed toward a child, the episode is especially devastating, both to the child, the family and ultimately the community. Recognizing the exceptional needs of these special victims, this Office developed a specialist position to work with the child from the onset of his or her contact with the criminal justice system and to follow the case through the court process.

The CSA attorney often makes psychological referrals for the child and the family, coordinates further police investigations, develops rapport with the child and guides the child and family through the entire prosecution. Practical experience has proven that this personal contact significantly reduces the trauma to the child, and when coupled with professional counseling, has been shown to have a positive therapeutic value.

CHAPTER 4

Circuit Court Division

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



Gregory W. Russell
Division Leader

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

VERTICAL PROSECUTION

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



Each case requires large amounts of attorney and support staff time from beginning to end. The Kalamazoo Prosecutor’s Office philosophy of holding criminals strictly accountable for their conduct was again successful in 2006. In our baseline year of 1974, felony pleas to the original charge were only 13%. In 2006, 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.



Mike Kanaby, Assistant
Prosecutor & Patty Maxwell,
Legal Assistant

In 2006, 1,438 criminal cases were set for trial in Circuit Court. In order to make efficient use of the number of available trial weeks in each of the four Trial Division Courts and to accommodate an increasing felony caseload, it is necessary to schedule 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 2006, 47 trials were held. In 72% of the cases, defendants either plead guilty to the original felony charge or were found guilty of the original felony charge placed against them.

The year 2006 was remarkable for not only the number of cases that were tried, but most especially for their length and complexity. Five (5) complex homicide trials were held with Guilty verdicts in three of those cases. Of the remaining two homicide trials, one resulted in a plea to Second Degree Murder after three days of testimony and one resulted in a jury verdict of Manslaughter. In addition, there were four trials where the charged offense was assaultive in nature, ranging from Assault with Intent to Murder to Resisting and Obstructing a Police Officer. Additionally, there were four Robbery trials, five Home Invasion trials, twelve Drug trials, and five Criminal Sexual Conduct trials.

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.
- Providing mandated State Law 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. These advocates provide services that are required by both the Michigan Constitution and State Law.

In 2006, our Victim Advocate Program served victims of crime that were associated with 4,255 new cases that included felony, misdemeanor and juvenile crime. Additionally, an estimated 20,210 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.



Gayle Somers &
Gloria Swinsick, Victim
Advocates

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 Joseph Taylor. KVET Officers are deputized by the Kalamazoo County Sheriff and have jurisdiction to enforce State laws throughout Kalamazoo County. In 2006, KVET investigations resulted in criminal charges in 511 cases. A specialized Assistant Prosecuting Attorney, known as the KVET Attorney, handles these KVET criminal cases. 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.

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.



Mark Holsomback,
KVET Assistant
Prosecutor

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 2006, forfeiture cases resolved by the KVET Attorney resulted in the forfeiture of over \$104,555.00 to KVET. In the last 5 years, the KVET Attorney has resolved a total of 367 forfeiture cases, resulting in the forfeiture of over \$529,893.00 to KVET. Statistics relating to the KVET Attorney’s activities in 2006 are highlighted below:

CIVIL FORFEITURE

- Number of Forfeiture Cases Resolved by KVET Attorney: 79
- Amount of Money Forfeited to KVET: \$104,555.19

CRIMINAL CASE DISPOSITION

- Number of Convictions obtained by KVET Attorney: 148
Felony Charges: 132, Misdemeanor Charges: 16

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 2005-2006 was the eleventh 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.

One hundred arrest warrant requests were received and reviewed by this attorney during this fiscal year. Those requests resulted in the issuance of criminal charges against 91 individuals, totaling 138 charges.

During this year, 69 defendants were adjudicated and convicted of 70 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, 61 defendants were convicted of the most serious charge against them, six defendants pled to reduced charges due to co-operation with the Southwest Enforcement Team, and two defendant pled to reduced charges for other reasons. They received sentences including prison, jail, and probation. In

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

- \$5,258.53 ordered in restitution to SWET
- \$27,285.60 oversight fees for probation supervision
- \$1,320.00 for DNA laboratory fees
- \$20,400.00 in court cost reimbursement
- \$22,442.00 in attorney cost reimbursement
- \$1,100.00 in forensic fund laboratory reimbursement.
- Driver's licenses were suspended.
- Substance abuse treatment and or counseling were ordered.

The Southwest Enforcement Team collected \$381,181.50 from forfeited property in 2006. This money was forfeited in one of two ways: administrative forfeiture or contested forfeiture. An administrative forfeiture occurs where personal property worth less than \$50,000.00 is seized. In these cases, the claimant, or person the property is taken from, must file a written notice of his or her intent to contest the forfeiture and post a bond with SWET. If the claimant fails to file the written notice and post the bond within twenty days of being notified of the forfeiture, the property is forfeited to the agency automatically. In 2006, the Southwest Enforcement Team collected \$148,599.50 from administrative forfeitures.



Steve McLaughlin,
SWET Assistant
Prosecutor

The second way an agency can forfeit property is through a contested forfeiture. Contested forfeitures are initiated when a summons and complaint are filed in circuit court. There are three kinds of contested cases: cases involving real property (land), cases involving personal property worth more than \$50,000.00, and cases where claimants file the required written notice and post the necessary bond. In 2006, the Southwest Enforcement Team requested the initiation of 38 contested forfeiture cases. During 2006, the Southwest Enforcement Team resolved or settled 21 contested forfeiture cases from cases started in 2005 and 2006. Of the 21 cases resolved in 2006, eleven cases were settled through negotiations after SWET requested the initiation of a contested case but before the summons and complaint was actually

filed. Ten cases were resolved through negotiations after the summons and complaint was filed in circuit court. In 2006, the Southwest Enforcement Team collected \$232,582.00 from contested forfeitures.

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." After police investigation, 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 homicide cases, which previously could not have even been charged.

In 2006, Investigative Subpoenas were authorized in several cases, including:

- An aggravated assault, which occurred on California St. near WMU
 - One person has been charged with Assault with Intent to Commit Great Bodily Harm and is awaiting trial.
- An unsolved homicide case from 2005
- An arson case, in which an occupant of the home died and another occupant was injured.
 - Six people have been charged with crimes stemming from that incident, including four for Felony Murder and Arson of a Dwelling. Two have been charged with Perjury at an Investigative Subpoena Proceeding. All await trial.

Each of the cases involves the issuance of investigative subpoenas and an order compelling witnesses to produce documents or other evidence, or to give a statement under oath. The investigations are ongoing.

In addition to the above, the investigation into an unsolved multiple-homicide from 2000 is ongoing. Investigative Subpoenas were originally authorized in 2005 in that case.

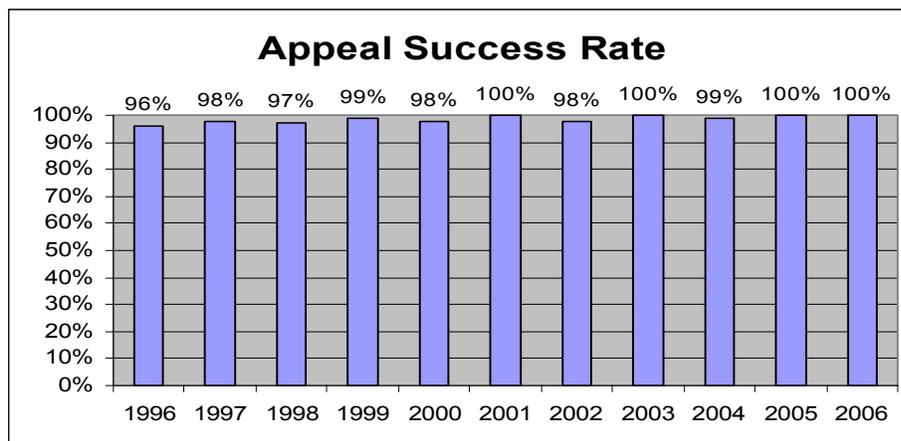
RESEARCH/APPELLATE ATTORNEYS

The Prosecuting Attorney has statutory obligations to represent the People of the State of Michigan in all statute criminal cases. Specialized attorneys handle the appellate function of the Prosecutor's Office. Their primary responsibilities involve appeals from statute criminal cases and parental rights termination cases, and legal research assignments.



Mary Breier, Senior Administrative Assistant and Judith Ketchum, Assistant Prosecutor

The Prosecutor's Office routinely responds to criminal defendants' first appeals of their convictions. However, when first appeals are not successful, the defendants file more motions and appeals. The Office responds to those filings too. In 2006, defendants convicted in 1975, 1979, 1989, 1991, and 1993 of murder, rape, and other serious crimes asked the courts to review their trials, pleas, or sentences and release them from prison. Responding to such old cases is challenging because statutes, case law, and procedures change. The appellate attorneys research the changes and write responsive pleadings. In 2006, 100% of the criminal convictions and parental rights termination cases were affirmed. This success rate is important. It assures the public that the Office provides quality legal services, and treats defendants fairly.



CHAPTER 5

Family Court Division



Nancy Skocelas
Family Court
Division Leader

The Family Court Services Division is actually comprised of two different units; the juvenile unit and the child support unit. Both units have a direct impact on the quality of life for Kalamazoo's children and their families, but the work they do is very different.

CHILD SUPPORT UNIT

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



Roger Klok, Child
Support Investigator &
Julie Clark, Child
Support Legal Assistant

In 2006 the Child Support Unit received 1,175 referrals from the Michigan Department of Human Services (DHS) for children who needed child support. After screening the referrals for factual and legal viability, legal proceedings were initiated (paternity, non-support, and the Uniform Interstate Family Support Act) and 804 orders of support were obtained.

The court must consider a number of factors when establishing the amount of child support to be paid by the non-custodial parent. That information is researched and provided by the staff of the Child Support Unit. In 2006, after considering all of the factors as they applied to all of the cases, the 804 orders for child support equal \$168,897.00 in monthly child support. If annualized, the orders equal \$2,026,764.00.

The Friend of the Court Office has the primary responsibility for collecting and dispersing child support payments and enforcing child support orders. However, when the Friend of the Court exhausts all of the civil remedies that are reasonably available, the case is referred back to the Prosecutor's Office for criminal investigation and prosecution.



Joe O'Connor,
Child Support
Investigator

Kalamazoo is very fortunate to have an investigator who spends his time aggressively seeking out the non-custodial parents who have failed to support their children and their hidden financial assets. During 2006, 45 criminal investigations for failure to pay child support were commenced. Of those 45 referrals, 34 investigations were submitted to the adult criminal units for review and felony non-support complaints were filed with the court. The 45 cases under investigation involved nearly \$1 million dollars in unpaid child support.

Of the 34 complaints issued, 27 defendants have been arrested and although not all of the cases have been completed so far, the court has entered orders of restitution for unpaid child support equaling \$431,853.52.

AWARD

Each year, OPA staff and other criminal justice agencies are given an opportunity to nominate an OPA staff member (Division Leaders and Management are excluded) for the "Robert L. Pangle Excellence in Public Service" Award. Robert Pangle was employed by the Prosecutor's Office for over 32 years, retiring as Chief Assistant in 2002.

The RLP Award reads, in part, "This Excellence in Public Service Award is presented annually to a member of the Prosecutor's Office who has demonstrated service to the public in the highest traditions as established by Robert L. Pangle." After reviewing all submissions, Management selects the awardee. In 2006, Jennifer M. Granzow received this award.



Jennifer Granzow,
Asst. Prosecutor
and recipient of the
2006 Robert L.
Pangle Award.

Jennifer joined the Kalamazoo County Prosecutor's Office in 1997. She has continually demonstrated her dedication to our mission by working in our District Court, Circuit Court and Family Court Divisions. For the past six years, Jennifer has been the leader of our Child Support Unit in the Family Court Division. Since assuming this leadership role, Jennifer has become a recognized expert across the State of Michigan in the area of child support enforcement. She has worked

tirelessly for the last several years to help create and implement a workable version of the Michigan Child Support Enforcement computer system and was recognized for this effort with the 2002 Outstanding Assistant Prosecuting Attorney of the Year award from the Michigan Family Support Council. Jennifer's expertise, dedication, and professionalism all contributed to her being chosen as the recipient of this award.

JUVENILE UNIT

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

After a crime is committed and investigated by the police, if the suspect is under 17 years of age, police send a charging request along with their investigative reports to the Juvenile Unit. In 2006, 2,514 criminal investigations were reviewed by the Juvenile Unit for legal and factual sufficiency. Of those, 2,096 petitions were authorized and sent to the court's Intake Department for further action.



Chris Bourgeois, Assistant
Prosecutor &
Marcy Cheatham, Legal
Assistant

Not all children need formal court intervention. Sometimes a forthright conversation with the parents and child, and possibly some community service or other informal sanction, is all that is needed to help the child make better choices in the future. However, in those situations where the child requires more intensive intervention, the Intake Department returns the case to the Juvenile Unit for formal prosecution. In 2006, the Intake Department returned 973 petitions to the Juvenile Unit to initiate formal court intervention.

Before a case is scheduled for trial, a pre-trial conference is held to determine whether the case can be resolved. In 2006, 715 pre-trial conferences were held. Cases that cannot be resolved go to trial. In 2006, 111 trials were scheduled and an additional 121 hearings on delinquency cases were attended by the Assistant Prosecutors in the Juvenile Unit.

The Kalamazoo County Prosecutor provides legal assistance to the Michigan Department of Human Services (DHS) on abuse and neglect cases. In 1983, the four attorneys assigned to the Juvenile Unit handled 62 abuse and neglect cases.

During 2006, the same number of attorneys handled 262 cases. This increase has been gradual, but has certainly stretched our resources. In 2006, Kalamazoo County contracted with the State of Michigan to access funds from the federal government to assist the Prosecutor's Office with these types of cases. As a result, in 2006 the State reimbursed the County \$60,541.80 for time spent by the four Assistant Prosecutors working on abuse and neglect cases.

The goal of a child protective proceeding is usually to reunite children with their parents after the problems that brought the family to court have been resolved; unless, there is serious physical or sexual abuse. Before the court accepts a child as a temporary ward and implements a treatment plan, several hearings are held in each case. This past year, Assistant Prosecutors attended 311 pretrial conferences and 127 neglect trials. Once a court has decided the children should be temporary wards, many services are made available to the families through DHS. Periodically, hearings are held to determine the progress of the family. In 2006, Assistant Prosecutors attended 365 additional hearings to address the needs of children.



Dennis Phoney,
Assistant Prosecutor

When the barriers to reunification cannot be resolved, the Prosecutor's Office files a petition requesting termination of parental rights. While not the first choice in most cases, there are some situations that are simply too dangerous or otherwise unfit for children. Terminating parental rights provides these children with permanency and the opportunity to live in a supportive and loving home. When all else fails, this provides the best opportunity for these children to have a healthy future. During 2006, 57 termination petitions concerning 87 children were filed with the court. It is our sincere hope that the children, whose parental rights were terminated in 2006, will be able to recover from the neglect and abuse they suffered and thrive in their new homes.

KALAMAZOO COUNTY

Office of the Prosecuting Attorney



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