



**2011**

# ANNUAL REPORT



**OFFICE OF THE PROSECUTING ATTORNEY**

**227 West Michigan Avenue**

**Kalamazoo, MI 49007**

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## LETTER FROM THE PROSECUTOR

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To: The Citizens of Kalamazoo County

In the 1970's I attended Law School with the intent to further my education and work in the family automotive business. During law school, I interned in two separate Prosecutor's Offices and "switched gears" toward a career representing victims and the citizens of our community. It was a decision I never regretted. I joined the Kalamazoo County Prosecutor's Office in August of 1980 and practiced as an Assistant Prosecutor in District Court, Family Court, Probate Court and Circuit Court. In 2004 and again in 2008, I was elected as your Prosecuting Attorney.

Work in the office is both rewarding and challenging. In 2011, our office handled over 10,000 cases. These cases ranged from Assaults, Drunk Driving and Thefts prosecuted in District Court, to Juvenile Delinquency and Child Abuse cases prosecuted in Family Court to Home Invasions, Armed Robberies and Homicides which were prosecuted in Circuit Court. I commend the Criminal Justice Departments and other professionals in our community for working together on alternative programs such as; Drug Treatment Court, Sobriety Court, Balanced and Restorative Justice, The Kalamazoo Probation Enhancement Program and Mental Health Recovery Court. These intensive programs hold offenders accountable, improve public safety, and support rehabilitation to reduce recidivism.

I would like to close by saying that I have enjoyed working on behalf of our community. After 32 years of working in the Prosecutor's Office, I have decided not to seek re-election and will retire at the end of 2012. I will leave knowing that the office has an experienced staff dedicated to serving you. We welcome your review of our office in the attached annual report.

Sincerely,

Jeffrey R. Fink  
Prosecuting Attorney

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# CHAPTER 1

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## OVERVIEW

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

## MANDATED RESPONSIBILITIES

The OPA is responsible for other legal functions including:

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

The Prosecuting Attorney is the chief law enforcement officer for Kalamazoo County. The Office was created by the Michigan Constitution. The responsibilities and authority of the Prosecutor are established by common law, statute, court rule and appellate case law. In recent years, changing attitudes in the Courts and State legislature have significantly altered the traditional role of the Prosecutor. While adult criminal matters still represent the major portion of the prosecution effort, (almost 11,000 cases in 2011) a growing list of additional responsibilities has placed larger demands upon prosecution resources. The responsibilities and role of the Prosecutor are now defined in over 700 separate statutes and court rules in Michigan. Michigan appellate case law and federal case law have further expanded upon those statutes.

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

#### *CRIMINAL*

The Prosecutor's criminal jurisdiction encompasses all State statute felony and misdemeanor offenses committed within the boundaries of Kalamazoo County. Our office receives cases from 14 separate law enforcement agencies. The Prosecutor's responsibility for these criminal matters involves the determination and filing of charges and appearances in all subsequent court proceedings, including appeals. In addition, the Office prosecutes juvenile matters, both criminal and neglect. In total, adult and juvenile crimes are prosecuted in 17 individual courts throughout the County.

#### *SUPPORT*

Additional civil and criminal responsibilities are discharged by the Prosecutor in divorce and paternity matters. Under a reimbursement program with the State, the Prosecutor's Office establishes paternity and seeks out non-custodial parents of minor children 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 one of the most important functions in our local fight against crime.

## CHAPTER 2

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### VISION, MISSION & GUIDING PRINCIPLES

#### OUR VISION IS:

- Justice
- Protection
- Integrity

#### OUR MISSION IS TO:

- Enhance the quality of life in our community.
- Be leaders in quality prosecution.
- Aggressively advocate our cause.
- Continuously improve our service.
- Achieve our goals through teamwork.
- We will treat each other fairly and give credit to each staff member for their distinctive contributions.

#### 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.

## CHAPTER 3

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### MANAGEMENT TEAM

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

#### Jeffrey 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. Jeff was elected Kalamazoo County's Prosecuting Attorney in 2004. He was re-elected in 2008. 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, the Kalamazoo Consortium Elder Abuse Task Force and as the Liaison with the Mental Healthy Recovery Court. 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 and has served as the Administrator of the Prosecutor's Office since 2004. In this position, she is responsible for managing all non-legal staff of the Prosecutor's Office. She also coordinates all grant applications and contracts; oversees the Office's budget; manages the office technology hardware/software; and performs other administrative duties. Previously, she served as the Coordinator for the Kalamazoo Criminal Justice Council (KCJC) and as the Program Assistant of the Kalamazoo County Adult Drug Treatment Court. In 1995, Kristine graduated cum laude from Western Michigan University (WMU) with a Bachelor's Degree in Psychology and Sociology. In 2004, she obtained her Master's Degree in Public Administration from WMU. Kristine serves as an active member of the Prosecuting Attorney's Association of Michigan (PAAM) Technical Services Subcommittee and Victim Rights Subcommittee.

## CHAPTER 4

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### DISTRICT COURT DIVISION

The District Court Division includes Assistant Prosecuting Attorneys, Victim Advocates, Witness Coordinators, 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 W. Brower**  
(Division Chief)

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

### MISDEMEANORS



**Melissa Scott**  
(Charging Specialist)

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

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

The trial can be by judge or jury. During the trial, the judge or jury will determine whether the defendant has committed a crime, and if so, 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 any combination of those consequences. The judge may also order the defendant to make restitution to any victims who have suffered physical or financial harm.



## FELONIES

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

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



**Erin Tonda** (Assistant Prosecutor) & **Michelle Sutton** (Legal Assistant)

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

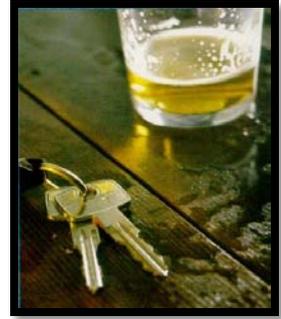
If probable cause is proven, the defendant is bound over (i.e., sent) to Circuit Court for trial. If probable cause is not proven, the felony charge can be dismissed or reduced to a misdemeanor for trial in District Court. A defendant and Prosecutor can decide not to have a Preliminary Examination and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

In 2011, there were approximately 10,956 adult cases reviewed for possible felony or misdemeanor prosecution (2,921 felonies and 8,035 misdemeanors). A total of 8,346 cases were authorized (1,982 felonies and 6,364 misdemeanors).

## DRUNK DRIVING

A specialized and very busy area of District Court practice lies in the prosecution of drunk driving cases. Michigan law prohibits the operation of a motor vehicle if you are under the influence of alcohol, have an unlawful blood alcohol content, are operating with the presence of a controlled substance in your system or have become visibly impaired by alcohol or a controlled substance. First and second offenses are

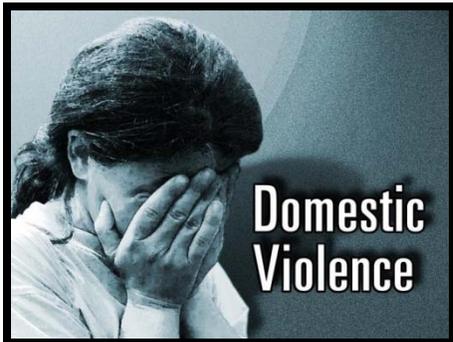
misdemeanors and a third offense can be charged as a felony, punishable by up to five years in prison. Should the offense involve a traffic crash which results in injuries or death, the sentence can range up to 15 years in prison. All such convictions, whether misdemeanor or felony, carry an array of additional fines, costs and license sanctions. A total of 811 drunk driving cases were prosecuted in 2011 (113 felonies, 698 misdemeanors).



## DOMESTIC VIOLENCE

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

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



As local police aggressively investigate domestic violence cases, they present them to the Prosecutor’s Office for the initiation of criminal charges. These cases range in severity from assault and battery to first-degree murder. Offenders may be charged with their crime even when the victim refuses to cooperate, as long as witnesses or other evidence is available. The OPA’s goal is to bring the offender under the jurisdiction of the court and hold them accountable for their behavior. This helps protect the victim and other family members and helps to change the course of future personal interactions. In 2011, 1,000 cases involving domestic violence were authorized (54 felonies and 946 misdemeanors).

## VICTIM ADVOCACY – District Court

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

**NOTE:** The Victims of Violence Project is supported by Crime Victim Assistance Grant Award CVA #ARRA 20081-15R09 awarded to the Kalamazoo County Office of the Prosecuting Attorney by the Michigan Crime Victim Services Commission, Michigan Department of Community Health. The grant award of \$74,241 (80% of the project), comes from the Federal Crime Victims Fund, established by the Victims of Crime Act of 1984. The County of Kalamazoo provides the required match by an in-kind match of one Victim Advocate on staff. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Justice or the Michigan Department of Community Health.



Kerrie LeClercq, Diane Klauer & Vylissa Tyus  
(Victim Advocates)

In addition to the Victim Advocate Specialist, our office has two Victim Advocates assigned to District Court. These Victim Advocates manage and expedite the processing of witnesses on statute criminal cases in seven District Courtrooms throughout the county. In 2011, District Court Victim Advocates served victims of assaultive misdemeanor crimes that were associated with 1,576 new cases. Additionally, an estimated 7,880 case status letters were generated and mailed to the victims of these cases.

In 2011, 4,895 cases were handled by the District Court Victim Advocates, involving a total of 13,803 witnesses. Because of the efforts by the Victim Advocates, a total of 7,100 witnesses (3,532 lay, 57 expert and 3,511 law enforcement) were excused from court, with a cost savings of approximately \$358,794 in 2011. Every police agency, their funding source and the public safety of the community benefits from the efforts of the Victim/Witness Unit.

## 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, 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.

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



**Chris Bourgeois**  
(Assistant Prosecutor)

## CHAPTER 5

### CIRCUIT COURT DIVISION

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



**Gregory W. Russell**  
(Division Chief)

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

### VERTICAL PROSECUTION

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



**Kate Hemingway**  
(Assistant Prosecutor)  
& **Liz Randall** (Legal  
Assistant)

Each case requires large amounts of attorney and support staff time from beginning to end. In our baseline year of 1974, felony pleas to the original charge were only 13%. In 2011, defendants plead guilty to the original felony charge placed against them in 82% 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.

In 2011, approximately 1,125 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 13 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.



Those that are not resolved through either trial or plea are rescheduled for trial. In 2011, 61 trials were held. In 83% of those trials, defendants either plead guilty at some point during the trial or were found guilty of the charge or a lesser charge.

The year 2011 was remarkable for not only the number of cases that were tried, but most especially for their length and complexity. Two (2) complex homicide trials were held with Guilty verdicts. In addition, the following trials were held:

- Home Invasion (4)
- Robberies (3)
- Assaults (9)
- Criminal Sexual Conduct (12)
- Delivery of Controlled Substances, Operating/Maintaining Methamphetamine Labs and/or Possession of Controlled Substances (14)
- Resisting and Obstructing Police Officers or Fleeing and Eluding Police (4)
- Manslaughter (2)
- Larceny/Car Theft/Other Economic Crimes (5)
- Weapons Offenses (3)
- Operating While Intoxicated 3<sup>rd</sup> Offense (3)
- Manslaughter (1)

## AWARDS

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



In 2011, Cathie Hybel received this award. Cathie started working in our office in 1994 as a member of the support staff. In her current position as the Technical Assistant, she provides technical support to keep our computers running and our software applications functioning properly and provides coverage for various other support staff positions. Perhaps her most visible duty includes her work with our Assistant Prosecutors to prepare and present their trial exhibits, opening statements and closing arguments. Her expertise in this area has allowed this office to clearly present evidence in difficult, complicated cases. Cathie works hand-in-hand with the Assistant Prosecutors in designing and preparing the presentations, and is present in the courtroom to make sure they can be published to the jury quickly and professionally. Congratulations, Cathie!

## VICTIM ADVOCACY – Circuit Court

Three Victim Advocates (VAs) are assigned to the Circuit Court Division to provide advocacy services to victims of felony crimes. One and a half of the Circuit Court VAs are funded by a Crime Victim Rights grant, which requires no County match.



**Kelly Horsfall** (Legal Assistant) & **Rhonda Baxter-Todd** (Victim Advocate)

The Circuit Court Victim Advocates provide constitutionally mandated and critical services to victims of felony crimes (i.e., notices of court hearings, escort to court, referrals for counseling, etc). In 2011, our Circuit Court Victim Advocates served victims of crime that were associated with approximately 1,384 new felony cases. Additionally, an estimated 8,304 case status letters were generated and mailed to the victims of these cases.

**NOTE:** The Crime Victim Rights Project is supported by Crime Victim Assistance Grant Award CVA #20120605 awarded to the Kalamazoo County Office of the Prosecuting Attorney by the Michigan Crime Victim Services Commission, Michigan Department of Community Health. The grant award is \$173,357 and funds 2.5 FTE Victim Advocates. The focus of the program is to: Implement the requirements of the William Van Regenmorter Crime Victim Rights Act, P.A. 87 of 1985. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Justice or the Michigan Department of Community Health.

## 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), Portage Police Department, Kalamazoo Valley Community College Police Department, and the Kalamazoo County Sheriff's Office, under command of Lt. Roberto Zuniga of the Kalamazoo Department of Public Safety. KVET Officers are deputized by the Kalamazoo County Sheriff and have jurisdiction to enforce State laws throughout Kalamazoo County. In 2011, KVET investigations resulted in criminal charges in 486 cases. A specialized Assistant Prosecuting Attorney, known as the KVET Attorney, handles these KVET criminal cases. The Prosecutor's Office and the Kalamazoo Valley Enforcement Team have continued an aggressive campaign of prosecuting and forfeiting the property of persons who traffic in illegal controlled substances.

In order to take away the financial incentive to commit drug offenses, our State Legislature has given law enforcement agencies the ability to seize and forfeit money, vehicles, or other property involved in the possession, manufacture or trafficking of illegal controlled substances. When property is seized under this forfeiture statute, a notice is given to the owner of the property, alerting them that the police are seeking the forfeiture of the property. The owner of seized property has 20 days to file a claim to contest the forfeiture of the property. If the owner fails to file a claim with the seizing agency within the 20 days, that property becomes the property of the seizing agency by operation of law. Property forfeited to the police in this manner is called an "administrative forfeiture." If the owner does contest the seizure, the case is then forwarded to the Prosecutor's Office for court action.



**Mark Holsomback**  
(Assistant Prosecutor)

The KVET Attorney handles all asset forfeiture cases initiated countywide by KVET and KDPS, as well as handling select criminal cases in his capacity as an Assistant

Prosecuting Attorney. When Officers from KVET or KDPS seize property and the forfeiture of the property is contested, the case is sent to the Prosecutor's Office for review by the KVET Attorney. If the seizure is determined to be legally appropriate, the case is settled out of court or a complaint is filed with the Circuit Court seeking the forfeiture of the seized property. The KVET attorney prepares the legal pleadings and the case proceeds to a non-jury trial.



Pursuant to State law, property forfeited to the police under the drug forfeiture statute is either used by the police, sold at a public sale or destroyed. Proceeds from the sale of forfeited property must be used to enhance 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 insure that the police have complied with the forfeiture procedure and to preserve the integrity of evidence that may later be needed by the Prosecutor's Office in a related criminal case.

In 2011, forfeiture cases resolved by the KVET Attorney resulted in the forfeiture of over \$436,080 to KVET. This represents an increase of \$299,520 over last year's total. Since 2001, the KVET Attorney has resolved a total of 808 forfeiture cases, resulting in the forfeiture of over \$1,455,011 to KVET. Statistics relating to the KVET Attorney's activities in 2011 are highlighted below:

#### **CIVIL FORFEITURE**

- Number of Forfeiture Cases Resolved by KVET Attorney: 124
- Amount of Money Forfeited to KVET: \$436,080

#### **CRIMINAL CASE DISPOSITION**

- Number of Convictions obtained by KVET Attorney: 63
  - Felony Charges: 50
  - Misdemeanor Charges: 13

## 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 area. 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 2010-2011 was the seventeenth 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 FY 2010-2011, officers from SWET submitted 53 arrest warrant requests for review by the attorney assigned to SWET. These warrant requests resulted in the issuance of approximately 64 criminal charges against 34 individuals.

During this year, 32 defendants were adjudicated and all of them were convicted. Thirteen (13) defendants were convicted of all the charges issued against them and 26 were convicted of the most serious charge issued against them. Six defendants pled guilty to reduced charges due to their cooperation with SWET and for other reasons.

Defendants sentenced in 2011 were ordered by the Court to pay:

- \$4,815 in restitution
- \$360 in probation oversight fees
- \$5,890 in court costs
- \$733 in state costs
- \$5,945 in attorney fees
- \$1,496 in crime victim rights fees.



**Steven McLaughlin**  
(Assistant Prosecutor)

The Southwest Enforcement Team received \$447,768 from cash seized and property sold in FY 2010-2011. This property 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.

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.

During 2011, SWET requested the initiation of 31 contested forfeiture cases. The team resolved, or settled, 35 contested forfeiture cases in this time. Eleven (11) cases were settled by settlement agreement prior to the filing of a complaint or summons. Several pieces of property forfeited in FY 2010-2011 were not yet sold in FY 2010-2011. Of the 35 cases settled:

- 11 cases were settled by settlement agreement prior to the filing of a complaint or summons,

- 18 cases were settled by consent judgment after the complaint and summons had been filed, and
- 6 cases were settled by default judgment.

In fiscal year 2010-2011, SWET forfeited additional property valued at \$304,491 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 person grand jury." During a police investigation, the Investigative Subpoena Prosecutor participates in the 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 maximum penalty of 15 years or Life, depending on 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, as well as on cases involving other serious crimes, which previously could not have even been charged.

In 2011, Investigative Subpoena investigations were authorized in four (4) cases involving unsolved murders or suspicious deaths, one (1) from Kalamazoo Township and three (3) from the City of Kalamazoo. In addition, investigations continued in two cases authorized in previous years.

## 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 criminal cases and parental rights termination cases and legal research assignments.



**Cheri Bruinsma &  
Heather Bergmann**  
(Assistant Prosecutors)

The Prosecutor's Office routinely responds to criminal defendants' first appeals of their convictions. However, when first appeals are not successful, the defendants file more motions and appeals. The Office responds to those filings too. In 2011, defendants convicted of murder, armed robbery, criminal sexual conduct or larceny in 1979, 1992, 1994 and 2007 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.

Statistics relating to the Appellate Division's activities in 2011 are highlighted below:

- Filed 83 briefs on behalf of the Prosecutor. Of these, three (3) appeals involved the Prosecutor's Office challenging a court's grant of relief to a defendant.
- Appeared in the Court of Appeals for Oral Argument seven (7) times and conducted 15 evidentiary hearings in Circuit Courts.
- 97% of criminal convictions and 100% of termination of parental rights cases were affirmed.

## CHAPTER 6

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### FAMILY COURT DIVISION

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



**Karen M. Hayter**  
(Division Chief)

### CHILD SUPPORT UNIT

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



In 2011, the Child Support Unit received 1,215 referrals from the Michigan Department of Human Services (DHS) for children and families who needed paternity or child support established. After screening the referrals for factual and legal viability, 1,001 legal proceedings were initiated under the Paternity Act, Family Support Act, and Uniform Interstate Family Support Act.

The court must consider a number of factors when establishing the amount of child support to be paid by the non-custodial parent. That information is researched and provided by the staff of the Child Support Unit. Although not all of the cases have been completed thus far, by the close of 2011, 1,220 orders for child support were obtained, equaling \$147,275 in monthly child support. If annualized, the orders equal \$1,767,300 in support.



**Harold West**  
(Child Support Investigator) &  
**Kathy Howland**  
(Legal Assistant)

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

Kalamazoo is very fortunate to have an investigator who spends his time aggressively seeking out the non-custodial parents who have failed to support their children and have hidden their financial assets. During 2011, 27 persons involving 39 child support cases were referred for criminal investigations for failure to pay child support. Of those referrals, 13 felony warrants were authorized and moved into the court system. Eleven (11) are still being investigated and the balance of the cases are in various stages of the criminal process. In 2011, the Court entered criminal orders of restitution for unpaid child support equaling \$702,565.

## AWARDS

In September 2011, Manda Evans was selected as the recipient of this year's Prosecuting Attorneys Association of Michigan (PAAM) Prosecutor's Staff Award. This award recognizes experienced individuals in the Michigan Child Support Program who have made significant contributions to Michigan's children and families. Congratulations Manda!



In March 2011, Jennifer Granzow received a "Certificate of Excellence for Outstanding Contribution to the Child Support Program" from the Prosecuting Attorneys Association of Michigan (PAAM).

## JUVENILE UNIT

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

After a crime is committed and investigated by the police, if the suspect is under 17 years of age, police send a charging request along with their investigative reports to the Juvenile Unit. In 2011, the Juvenile Unit reviewed 1,666 criminal investigations for legal and factual sufficiency. Of those, 1,354 petitions were authorized and sent to the Family Court Intake Department for further action.

Not all children need formal court intervention. Sometimes a conversation with the parents, the minor, and the victim, or community service or other informal sanction, is all that is needed to help the child make better choices in the future. However, in those situations where the minor requires more intensive intervention, the Intake Department returns the case to the Juvenile Unit for formal prosecution. In 2011, Assistant Prosecutors in the Juvenile Unit conducted more than 112 delinquency trials and 181 child protective trials.



**Myra Delaney** (Legal Assistant) &  
**Kate Procnier**  
(Assistant Prosecutor)

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



Once a court has decided the children should be temporary wards, many services are made available to the families through the Department of Human Services. After the parents have complied with all offered services, the case is closed. If there is non-compliance, a last option to provide stable and permanent family life for some children is to terminate parental rights. Children then become available for adoption to family members or to other people who can help them recover from the abuse and neglect they suffered. In 2011, Assistant Prosecutors in the Juvenile Unit handled 255 new neglect/abuse cases and continued a caseload of 111 families. They also conducted 87 Termination Hearings involving more than 90 children.

Because the Kalamazoo County Prosecutor provides legal assistance to the Michigan Department of Human Services (DHS) on abuse and neglect cases, a reimbursement is received from the State of Michigan. In 2011, the State reimbursed the County more than \$73,000 for time spent by the four Assistant Prosecutors working on abuse and neglect cases.

#### AWARDS

In April 2011, Karen Hayter received the Professional Excellence Award from the Kalamazoo Child Abuse and Neglect Council for “defending the rights of abused and neglected children.”



#### VICTIM ADVOCACY – Family Court

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



**Stella Chivikas**  
(Victim Advocate)

Critical victim advocacy services include escorting the victim to court, referrals for counseling and assistance with completing Crime Victim Compensation paperwork. In 2011, the Family Court Victim Advocate served victims of crime that were associated with approximately 565 new juvenile cases.

## CHAPTER 7

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### OUTREACH ACTIVITIES

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



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



middle and high schools. Also, staff volunteered for community organizations like Cancer Walk, Greater Kalamazoo Girls on the Run, Women of Today, SibShops Training, Parent to Parent Support Groups, scouting programs, sports teams, Habitat for Humanity, the Annual Holiday Food Drive. Lastly, many staff donate their time at various local faith based organizations.

Each year, staff participate in "Casual for a Cause" by donating one dollar for the privilege of wearing casual attire to the office. In 2011, almost \$200 was raised and donated to the YWCA Domestic Assault Shelter. In addition, each year staff organize a winter mitten and hat drive. In 2011, staff collected more than 600 warm items for the homeless in our community.



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