



2016 YEAR IN REVIEW
A LETTER FROM DISTRICT
ATTORNEY MARC BENNETT



District Attorneys

for the 18th Judicial District:

**(L-R) Keith Sanborn (1959-1977), Vern Miller (1977-1981),
Marc Bennett (2013—), Nola Foulston (1989-2013),
Clark Owens (1981-1989)**

At the close of each year since taking office, I have drafted and distributed a year-end update to let citizens know what we accomplished during the previous 12 months and what we expect to accomplish in the future. What follows is the update for calendar year 2016:

DOCKET MANAGEMENT AND CASES FILED

The Office of the District Attorney stayed very busy this past year. The Kansas Sentencing Commission, which tracks statewide data by fiscal year, reported that in fiscal year 2015, the most recent year available, Sedgwick County completed 3,059 journal entries of judgment (documents that memorialize criminal sentencing hearings) which accounted for 21.2% of the entire state's felony sentences. The next closest district, Johnson County, completed 1,705.

As stated in previous year-end letters, efficient management of our dockets remains a priority. Working with the courts and defense counsel, we have increased the efficiencies by which we resolve low level, non-violent offenses at an earlier stage. From a high of 1,246 cases on the jury trial calendar in July 2012, we have seen reductions each year in the number of cases pending for jury trial, despite having filed more cases each subsequent year than we did in 2012. Currently, the number stands at 669 cases, 47% fewer than in 2012.

Regarding the number of cases filed by the office: in 2012 we filed 2,961 adult criminal cases (not including traffic, juvenile offender, child in need of care, care and treatment petitions, consumer protection actions, or appeals); 3,360 cases in 2013; 3,266 cases in 2014; and 3,475 cases in 2015. In 2016, our three charging attorneys, responsible for reviewing and evaluating each case presented by a detective, filed 3,570 criminal cases (3,220 felonies and 350 misdemeanors).

In 2016, our adult diversion program accepted 201 criminal cases and distributed \$126,952.53 in restitution to victims of crime. In addition to restitution, the adult diversion program collected \$148,837.00 in fees, court costs and fines.

In 2016, the office handled 108 cases in which a mental competency examination was required. This is up from 55 cases in 2012; 79 in 2013, 68 in 2014 and 101 in 2015.

DATA MANAGEMENT

Prosecutors are required to provide the defense with full "discovery" in each case we file, i.e., the reports, transcripts and videos that document the evidence in the case. In 2016, the office responded to 7,541 requests for discovery from defense counsel, up from 6,489 such requests in 2015.

As part of the discovery process, we must now include videos recorded by law enforcement officers' body worn cameras. In 2016, the Wichita Police Department, which investigates, on average, more than 70% of the adult cases filed in our office each year, deployed over 400 body worn cameras to the officers in that department. As a result, the Office of the District Attorney provided 16,485 "axon" (body worn camera) videos to defense counsel in



DA Marc Bennett spoke to the news media after the Hassan Wright hearing. Wright admitted to the stabbing of his niece and her daughters, one of whom died as a result.

2016. Note too, that in addition to managing the dissemination of that data, the prosecutors in the office must review the videos associated with each of their assigned cases.

The attorneys in our office are in court every day. In the criminal department alone, preliminary hearings are held three days per week and probation violations and sentencing hearings are held in multiple courtrooms each morning and afternoon. These are in addition to jury trials that occur each week and may last anywhere from a few days to a week or more. Our attorneys also cover all the dockets related to child in need of care, juvenile offender, traffic, and care and treatment.

In 2009, there were 8,283 preliminary hearings set in Sedgwick County. In 2016, the number had risen to 11,255. That is not to say that each setting led to an actual contested hearing, but each of the 11,255 settings required the attention of our staff. In 2015, we had 29,971 *settings* for preliminary hearings, bench trials, jury trials, sentencings and probation violations in the criminal department. In 2016, the number was 27,574. Again, not every setting leads to an appearance in court—continuances do play a significant role—but each hearing does require the attention of staff and at least one attorney to ensure we are prepared.

ECONOMIC CRIMES UNIT AND CONSUMER PROTECTION

The creation of the Economic Crimes Unit in 2013 solidified our renewed commitment to victims of property crimes. In 2013, this unit resolved 175 cases prior to the first evidentiary hearing; 231 in 2014; 302 in 2015 and 289 in 2016. This means the cases pled and, where applicable, restitution was ordered prior to any witnesses being called or inconvenienced. Additionally, in 2016, \$430,029.13 was returned directly to victims of crime at or before the time of plea—up from \$73,000 paid in 2015. This money was in addition to restitution that judges ordered defendants to pay as a condition of probation. Since 2013, \$706,229.00 has now been returned in direct payments to victims at the time of sentencing. The attorneys in this unit also tried 10 jury trials in 2016, including a murder case.



Senior Assistant District Attorney in Consumer Protection, Avery Eloffsson

Consumer Protection, which consists of one attorney, one investigator and one staff member, took 1,693 “intakes” (complaints from consumers) in 2016. Of that number, 769 were reports of scam calls. The unit closed 217 cases in 2016, up from 150 cases in 2015. In 2016, the unit was responsible for \$46,657.46 returned to consumers in refunds and \$68,880.98 in contract rescission/relief for consumers. Additionally, \$130,808.50 was collected in consent judgments filed with the district court in actions filed on behalf of consumers. The unit continues to issue regular fraud warnings throughout the year, both through the media and by way of public speaking appearances throughout the jurisdiction.

GANG UNIT, DV/SEX CRIMES UNIT, GENERAL TRIAL UNITS AND TRAFFIC UNIT

The four attorneys in the Gang Unit, which handles various crimes committed by gang members in our community including drive-by shootings, aggravated assaults, robberies and gun crimes, tried 19 jury trials in 2016.

The seven attorneys in the DV/Sex Crimes Unit tried 34 jury trials including three murder cases and nine “off grid” cases (cases that carry a life term). This unit also handled a high volume of rapes, child sex abuse and human trafficking cases.

The nine attorneys in the two General Trial Units handled 25 jury trials ranging from first degree murder to DUI, along with a high volume of gun, drug, person felony and property crimes.

Finally, there were 19,797 traffic cases filed in Sedgwick County in 2016, which is up from 18,480 in 2015. Many people simply pay their tickets, but the remaining cases kept the three attorneys and one and a half staff members assigned full-time to our Traffic Unit very busy. Also, 1,440 traffic cases were placed into diversion, up from 1,316 in 2015.

JUVENILE OFFENDER AND CHILD IN NEED OF CARE

Each year, the five attorneys and multiple staff members in our Child In Need of Care Division handle some of the most taxing and emotionally draining cases in the judicial system. In 2016, the unit filed cases involving 500 children alleged to have been abused or neglected from 318 families, up from 449 children in 2015. Attention must be paid to each child’s case to ensure the best possible outcome. In 2016, the attorneys attended approximately 2,719 hearings, up from 1,577 hearings in 2015.

Our Juvenile Offender Division handled 1,165 juvenile offender cases (310 felony and 855 misdemeanors) including one jury trial in 2016 compared to 1,227 in 2015. In addition to their regular tasks, attorneys at the Juvenile Division also covered truancy cases as well as 669 care and treatment cases (involuntary mental commitments) involving adult mental health patients. Finally, the implementation of SB 367 (re: Juvenile Justice Reform), intended to roll out many changes to the juvenile offender system in Kansas, has required a great deal of additional work and training for our staff.

In an effort to steer kids away from the criminal justice system, our juvenile department accepted 289 juveniles into diversion programs in 2013; 260 in 2014; 298 in 2015 and 291 in 2016.



Attorneys and staff from the Juvenile Division dressed in blue to support injured WPD Officer Brian Arterburn

INVESTIGATIONS UNIT

In 2016, the Investigations Unit personally served 579 subpoenas, assisted in 78 criminal investigations and 159 consumer protection investigations, and conducted 8,796 pre-charging background checks and 266 background checks for applicants for expungement (100 related to the continuing work on last year’s “Clean Slate Day”.) In addition, 135 inquisitions (pre-charging investigations sworn to before a judge granting subpoena power) were opened.

APPELLATE UNIT

In 2013, the five attorneys in our Appellate Division filed 195 briefs, 215 motions and responses, and seven State’s appeals. In 2014, they filed 222 briefs, 263 motions and 13 State’s appeals. In 2015, the number had risen to 322 briefs (100 more than 2014), 277 motions and 19 State’s appeals. In 2016, the unit filed 253 briefs, 292 motions and two State’s appeals.

CASES PROSECUTED BY THE DISTRICT ATTORNEY

In July, Robert Short, Chief of the Economic Crimes Unit, and I successfully tried Kasey Nesbitt for the rape and death of a 100 year old woman in Wichita in September of 2014. The victim, who still lived in her own home with

daily care from family, was attacked by an intruder in the night. DNA led law enforcement to the defendant. The injuries she suffered as a result of her attack ultimately led to her death three weeks after the attack. The defendant was convicted of multiple counts including rape and first degree felony murder. He was sentenced to life plus 26 years and will not be eligible for parole until his 86th birthday, when he will be 14 years younger than the victim was at the time of the attack.

Twice this year, cases I handled pled within weeks of the crimes. In August, Larry Andres pled guilty to first degree felony murder roughly three weeks after stabbing his wife to death in Wichita. He was sentenced in October to life in prison.

Then, in November, 11 days after committing the crimes, Hassan Wright pled guilty as charged to murder arising from the stabbing death of his own six year old great-niece as well as the attempted murder of the child's mother and four year old sister and multiple counts of rape and robbery. He was sentenced in December to 50 years to life, consecutive to prior convictions from his past meaning he will not be eligible for parole until well after his 97th birthday.

As promised during my election campaign in 2012, I have stayed active in the courtroom, having now tried six separate cases to jury since being sworn-in and handling many more that resulted in guilty pleas.

CONCLUSION AND FUTURE GOALS

We have many tasks ahead of us over the next few years. Among the priorities will be continuing the transition to electronic filing of all pleadings and legal documents through the “e-filing” system implemented across the state at the direction of the Kansas Supreme Court.

We are also taking part in discussions with the local bench and bar to address the directive from the Kansas Supreme Court to transition from the current “central assignment” system in place since the 1960s to a “permanent assignment” system wherein each judge will be assigned a case and keep it from at or near its inception. Though many improvements may be realized from this move, changing the way we’ve done things for more than 40 years will take a concerted effort from all parties.

Additionally, as referenced above, the management of more and more data continues to be a top priority for the office. Long-standing case law from the United States Supreme Court makes it clear that prosecutors have an obligation to provide “discovery” (the documentary evidence) to the defense. With surveillance tapes in most businesses (and many houses) now, body cameras on over 420 officers with the Wichita Police Department alone, videotaped interviews, cellphone records and on and on, the sheer volume of discovery has grown exponentially over the past several years. A dedicated team of 4½ staff members and one senior level attorney are working full time—with the assistance of several additional staff members and attorneys—to spearhead our effort to more efficiently process, review, maintain and disseminate mountains of information. For instance, in 2016, the office processed and dis-



Executive Director Diana Schunn and DA Marc Bennett join others to cut the ribbon for the new Child Advocacy Center of Sedgwick County

seminated 7,845.22 GB of information. On average, one GB of data holds 15,000 documents.[1] Obviously, video, audio, photos and other types of media require more space than a printed page--but, on balance, this office processed and delivered to defense counsel the equivalent of roughly 117,678,300 documents in 2016. I expect that number to go up as pole cameras in Old Town go live and body cameras for other law enforcement agencies become the new norm.

In June, the Child Advocacy Center officially opened its doors to the abused and neglected children of this community. The renovated Lincoln Elementary School houses detectives and social workers from the Exploited and Missing Child Unit, therapists, medical professionals and other stakeholders including one attorney from this office. As a member of the board of the board of directors for many years, I was very pleased to take part in the ceremony.



Kim Parker received the KCDAA Lifetime Achievement Award from outgoing KCDAA President Marc Bennett

In December, the office saw the retirement of Kim Parker, Chief Deputy District Attorney, who served the citizens of Sedgwick County for 34 years. In her remarkable career, Kim prosecuted the Carr Brothers, Scott Roeder, Dennis Rader and let me tag along in 2015 for the prosecution of Daniel Perez (leader of the “Angel’s Landing” compound north of Wichita which was later profiled by NBC’s Date-line). Justin Edwards, who took over for me as Chief of the Sex Crimes unit when I was sworn in as District Attorney in 2013, was promoted in January of 2017 to Deputy District Attorney of the Trial Division.

I concluded my term as President of the Kansas County and District Attorney’s Association in 2016. I considered it an honor to serve my fellow prosecutors in that role and will continue to stay active in the organization.

Finally, I ran unopposed for my second term as District Attorney this past fall. That none of the many qualified attorneys from this jurisdiction ran against me is a testament to the great staff we have working in this office and the work they do each day.

As always, running one of the busiest offices in the state is a daily challenge. We have a great team of lawyers and staff who work diligently to seek justice on behalf of Sedgwick County residents.

Thank you for this opportunity.

Sincerely,

Marc Bennett

District Attorney

[1] “Accounting for the Costs of Electronic Discovery,” by David Degnan. Minnesota Journal of Law, Science and Technology (Vol.12, Issue1) 2011