



## **2018 Year In Review**

### **A letter from District Attorney Marc Bennett**



*Mr. Bennett and prosecutors Jason Roach and Tom Weilert during the trial of Yesenia Sesmas who was found guilty of 1st degree murder in the death of Laura Abarca. Sesmas was also found guilty of kidnapping Ms. Abarca's six day old daughter Sophia and taking her to Texas.*

*Photo taken June 5, 2018, by Bo Rader w./permission of the Wichita Eagle*

**OFFICE OF THE DISTRICT ATTORNEY  
EIGHTEENTH JUDICIAL DISTRICT  
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March 13, 2019

At the close of each year since taking office, I have drafted and distributed a year-end update to let citizens and policy makers 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 2018:

**DOCKET MANAGEMENT AND CASES FILED**

The Office of the District Attorney remained very busy this past year. The Kansas Sentencing Commission, which tracks statewide data by fiscal year, reported that in fiscal year 2017 (July 1, 2016 to June 30, 2017), the last year reported, Sedgwick County completed 3,253 journal entries of judgment (documents that memorialize criminal sentencing hearings). This accounted for 21.6% of the felony journal entries in the state of Kansas in FY 2017.

In the 2018 calendar year, our staff completed 2,607 *original* sentencing journal entries (752 commitments and 1,855 to probation). We then completed an additional 868 journal entries for “graduated sanctions” (“soaks”) for probation violations and 857 journal entries for probation violations where probation was simply revoked and the sentence was imposed. Finally, we completed 878 probation violation journal entries where probation was reinstated and not revoked by the court.

Regarding the number of cases filed by the office, in 2018 we filed 3,453 adult criminal cases (not including traffic, juvenile offender, child in need of care, care and treatment petitions, consumer protection actions, or appeals), 3,107 of which were felonies. We filed 3,551 total cases in 2017; 3,570 in 2016; 3,475 in 2015; 3,266 in 2014; and 3,360 in 2013.

In 2018, our adult diversion program accepted 171 criminal cases (drug, DUI and adult criminal cases) and distributed \$141,309.90 in restitution to victims of crime, up from \$131,984.70 in 2017.

In 2018, the office handled 151 criminal cases in which a mental competency examination was required. This is up from 123 cases in 2017; 108 cases in 2016; 101 in 2015; 68 in 2014; 79 in 2013; and 55 cases in 2012. The office also handled 105 extradition cases during 2018.

Every day of the year, we have two attorneys “on duty” who respond to calls 24 hrs/day from law enforcement officers and review search warrant applications for probable cause and to ensure that the warrants are proper as to form. In 2018, our attorneys reviewed 1103 warrants that were ultimately signed by the court. In 2017, the number was 1068; in 2016, 1108; and in 2015, we reviewed 803 warrants.

The trial attorneys in the criminal division also tried 106 jury trials in 2018, up from 85 in 2017, 86 in 2016 and 67 in 2015.

Finally, our staff gathers restitution information from victims who have suffered monetary loss as a result of the crimes committed against them. In 2018, in adult criminal cases, district judges ordered defendants to pay \$2,949,399.67 dollars back to victims as a condition of probation or parole/post-release.

### **DATA MANAGEMENT/ DISCOVERY**

Prosecutors are required to provide the defense with full “discovery” in each case we file: i.e., the reports, transcripts, audio files, videos (typically, of interview as well as commercial and private surveillance footage) as well as body camera video. In 2018, the staff in our discovery unit responded to 9,564 requests for discovery from defense counsel, up from 8,430 in 2017; 7,541 in 2016; and 6,489 in 2015.

In 2018, those requests for discovery lead us to provide defense counsel with 677,805 pages of discovery; 38,657 videos; another 32,933 body camera videos; 56,341 audio files; and 199,851 photos for a total of 11.49 terabytes of information. In 2017, those numbers were: 572,623 pages of discovery; 30,217 videos; 30,610 body camera videos; 35,121 audio files; and 209,247 photos.

With the proliferation of video recorded by law enforcement officers’ body-worn cameras, we worked with the police department and defense counsel to find a system that effectively and efficiently provides access to the videos utilizing the vendor’s platform. As set forth above, 32,933 “axon” (body worn camera) videos were made accessible to the defense counsel in 2018, up from 30,610 in 2017 and 16,485 in 2016.

The attorneys in our office are in court every day. In the criminal department alone, preliminary hearings, probation violation hearings and sentencing hearings are held in multiple courtrooms throughout each day. These are in addition to jury trials that occur



*(above) Ruben Acosta speaks to the news media after the successful prosecution of the man who tried to rob Mr. Acosta’s restaurant and critically wounded him. Reginald Kane was found guilty on all charges and sentenced to more than 62 years in prison.*

each week and may last anywhere from a few days to a week or more. Our attorneys also cover a multitude of dockets related to child in need of care proceedings, juvenile offender, traffic, and care and treatment.

To ensure our attorneys go to court prepared for each of these hearings, our staff drafts charging documents; drafts, issues and sometimes personally serves subpoenas; drafts motions; files documents; makes contact with victims and witnesses to advise them of hearings; makes travel arrangements for out-of-town witnesses; gathers and disseminates discovery; gathers restitution paperwork; prepares exhibits for court; examines phone records including cell tower information and call-log information; and prepares journal entries to memorialize what occurred in court.

### **CRIMINAL COURT HEARINGS**

In 2009, there were 8,283 preliminary hearings set in Sedgwick County. In 2018, the number had risen to 13,261 up from 12,874 in 2017 and 11,255 in 2016. That is not to say that each setting led to an actual contested hearing, but each of the 13,261 settings required the attention of our staff.

In 2018, we had 30,603 *settings* for preliminary hearings, bench trials, jury trials, sentencings and probation violations in the criminal department. 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 this office was prepared.

### **CHARGING UNIT**

Before a case is charged in District Court, an attorney must review the case to ensure the case is supported by admissible evidence sufficient to establish all the elements of the charged crime beyond a reasonable doubt. In 2018, three attorneys reviewed cases full time and a fourth attorney spent approximately ½ her time specifically reviewing cases investigated at the Child Advocacy Center. In 2018, these attorneys reviewed over 9,000 cases for charging considerations and approved the charging of 4,469 cases (3,453 adult and 1,016 juvenile).

*(below) While at work, Kansas Dept. of Revenue employee Cortney Holloway was critically wounded when Ricky Wirths barged into Mr. Holloway's Wichita office and shot him. A jury found Wirths guilty of attempted first degree murder. He was sentenced to nearly 14 years in prison.*

Under Kansas law, a number of years after a person completes their term of supervision (probation or parole), they can apply for “expungement,” which allows the applicant to have a conviction removed from their record. The charging unit handled 170 expungement applications in 2018, with 150 being expunged in full or in part.

Members of the charging unit also serve as an adjunct professor at WSU; as a judge of Ford’s Oratory Competition at a local high school; coach youth volleyball; organize a team in the Walk MS fundraiser each year; and sit on a board that manages scholastic scholarships for deserving kids.



The creation of the Economic Crimes Unit in 2013 solidified our renewed commitment to victims of property crimes. In 2018, the unit resolved 136 cases prior to the first witness being called to an evidentiary hearing. This means the cases pled and, where applicable, restitution was ordered prior to any witnesses being called or inconvenienced.

Additionally, in 2018, \$87,301 in cash and property was returned directly to victims of crime at or before the time of plea. This money was in addition to restitution that judges ordered defendants to pay as a condition of probation or parole. Since 2013, \$1,136,426.76 has now been returned in direct payments to victims at the time of sentencing. The 4 attorneys in this unit also tried 13 jury trials in 2018. Members of the unit also volunteer at their respective churches; engage in wood-working projects; speak to civic groups and co-authored several recent editions of the Kansas DUI Law handbook.



*(above) Carlo Brewer, the father of three year old Evan Brewer, is interviewed after the man who murdered his son was found guilty of first degree murder. Stephen Bodine is serving a life sentence.*

The Consumer Protection Unit, which consists of one attorney, one full-time investigator and one staff member, obtained 16 separate civil judgments in 2018. Of the 16 judgments, 13 of them were resolved by an agreed court order wherein the businesses paid fees, fines and restitution for violations of the Kansas Consumer Protection Act (KCPA). The civil judgments totaled \$1,009,915.72 in 2018; \$228,379.42 in 2017; and \$131,669.50 in 2016.

In 2018, this division was responsible for obtaining restitution orders and/or refunds to consumers totaling \$109,918.72; up from \$88,007.14 in 2017; and \$70,706.98 in 2016. The division also provided a separate \$89,549.95 in relief from voided contracts in 2018; up from \$60,880.98 in 2016.

The unit investigates an average of 135 cases a year, filters hundreds of additional complaints, advertisements, and reported scams, and continues to issue regular fraud warnings throughout the year, both through the media and by way of public speaking appearances throughout Sedgwick County. The unit also successfully tried a bench trial resulting in \$6,350 in restitution, and \$16,000 in fines.

**GANG UNIT**

The five attorneys in the Gang Unit, which handles various crimes committed by gang members in our community, tried 22 jury trials in 2018. The trials consisted of a wide variety of violent crimes including 8 homicides and a number of other offenses involving shootings.

The unit is actively involved in Project Safe Neighborhoods, an initiative from the Department of Justice to coordinate local, state and federal efforts to reduce violent crime. The unit contributed to the Wichita Police Department's production of a gang-awareness video to be shared throughout the community, including local high schools. Additionally, in an effort to combat violent crime, the Wichita Police Department expanded their gang unit this past year from a 4 person unit to a 20 person team now referred to as the Violent Crime Community Response Team. Our attorneys assist the newly-formed unit on a daily basis with search warrants, charging assessments and other legal questions that may arise during investigations.

**DOMESTIC VIOLENCE/SEX CRIMES UNIT**

The seven attorneys in the DV/Sex Crimes Unit tried 40 jury trials in 2018 including 14 homicide cases and five “off-grid” Jessica’s law cases (that each carry a life term) and an Aggravated Human Trafficking case. Each attorney in the unit handles a high volume of rapes, child abuse—physical and sexual—domestic violence and human trafficking cases. In addition to the taxing work inherent in these difficult cases, the members of the unit worked with Catholic Charities Harbor House (domestic violence shelter), served on the board of the Wichita Area Sexual Assault Center (WASAC), served on the Wichita Bar Association’s Criminal Practice Committee, helped to organize the United Way fundraiser within the office, provided training to WASAC volunteers and 911 call-takers, spoke at public events on a regular basis and served on the Domestic Violence Audit Team in 2018 which assessed the system-wide response to domestic violence in Sedgwick County.

**GENERAL TRIAL UNITS**

The 14 attorneys who worked in one of the two General Trial Units during 2018 handled 40 jury trials ranging from first degree murder to DUI, along with a high volume of gun, drug, person felony and property crimes. One attorney from the unit handled the drug court responsibilities as well, attending hearings all day each Thursday as well as Friday mornings. Tom Weilert, who leads one of the trial divisions, was recognized in 2018 with the Lifetime Achievement Award from the Kansas County and District Attorney’s Association for his distinguished career. Other members of the unit volunteered to judge a high school regional mock trial; volunteer at an organization to create safe and inclusive schools; and spoke to various civic groups. One attorney is a performing member of the Ballet Wichita.

**TRAFFIC UNIT**

20,727 traffic cases were filed in 2018 in Sedgwick County, up from 17,616 in 2017. Many people pay their tickets, but the remaining cases kept the three attorneys and two staff members assigned full-time to our Traffic Unit very busy. Our one traffic diversion coordinator handled 1,373 traffic cases placed into traffic diversion. The attorneys in this unit also serve the Wichita Bar Association (chair of the mentoring committee); past National Board President of

*(below) Former Wichita Police Officer Brian Arterburn and his wife Claudale with reporters after the man who ran over Brian, Justin Terrazas, was sentenced to over 28 years in prison.*

the Arthritis Foundation; and serve as scoutmaster with Boy Scouts.



**PROBATE/ CARE & TREATMENT**

Given the steady case load in “care and treatment cases” (involuntary mental commitments for those deemed to be a threat to themselves or others by reason of mental illness) over the past several years, we hired an attorney to handle those cases exclusively. In 2018, the office handled 687 care and treatment cases, up from 662 in 2017. These cases are proceedings undertaken in the probate department.

**CHILD IN NEED OF CARE**

Each year, the five attorneys and multiple staff members in our Child In Need of Care (CINC) Unit handle

some of the most taxing and emotionally draining cases in the judicial system, bringing cases on behalf of children who have been sexually or physically abused or neglected. In 2018, the unit filed cases involving 590 children from 343 families, up from 578 children in 2017 and 500 children in 2016. Attention must be paid to each child's case to ensure the best possible outcome, which requires multiple hearings per case. In 2018, the five attorneys in the CINC unit handled 3,416 hearings; up from 2,891 hearings in 2017; 2,548 hearings in 2016 and 1,469 hearings in 2015. In addition, the attorneys in this unit are involved with Boy Scout and Girl Scout troops with their children; serve on boards including the Kansas Alliance for Drug Endangered Children; the WSU Social Work Advisory Board; the Wichita Coalition for Child Abuse Prevention; the Judicial Council CINC Committee; the Wesley Brown Inn of Court; PTO; coach sports; and are involved in their respective churches. This year one member of the unit, Amanda Marino, is "Committee Chair" of the 19<sup>th</sup> Amendment Centennial Celebration, marking the passage of women's suffrage.

### **JUVENILE OFFENDER**

Our Juvenile Offender Division handled 1,016 juvenile offender cases (348 felonies) including 3 off-grid crimes (murder) and 57 severity level 3 or higher crimes (for example, Rape, Kidnapping and Aggravated Robbery). In addition, the juvenile division successfully prosecuted a second degree murder to a jury. As was referenced last year, the implementation of Senate Bill 367 (the Juvenile Justice Reform Act) which passed into law in 2017, has also required a great deal of time and effort on the part of our staff and attorneys. In addition, the attorneys in the unit are on the Kansas Judicial Council's Advisory Committee on Sex Offenses and Registration; the Detention Alternatives Utilization Committee; the Sedgwick County Child Abduction Response team and train law enforcement on juvenile-specific law; coach kids' cross country, basketball, track and recreation leagues; and are active in local animal rescue. One attorney is a Major in the Air Force Reserve, having served in two military branches for 27 years, currently as a Deputy Staff Judge Advocate.

In an effort to steer kids back out of the criminal justice system, our juvenile division accepted 222 juvenile offenders into diversion in 2018. In 2017, the number was 236; 291 in 2016; 298 in 2015; 260 in 2014 and 289 in 2013. The staff of our juvenile diversion unit also conducts biannual food drives to benefit the food bank and the "Partners Filling the Gap" lunch program.

### **APPELLATE UNIT & POST-CONVICTION UNIT**

In 2018, the five attorneys in our Appellate Division filed 219 briefs for the state; 155 motions, orders and responses, and conducted 39 oral arguments before the Kansas Court of Appeals or Kansas Supreme Court.

By comparison, in 2017, the unit filed 286 briefs, 113 motions, orders and responses, and conducted an equal number of oral arguments, 39. In 2016 the unit filed 244 briefs, 196 motions, order and responses, and conducted 57 oral arguments.

Our appellate attorneys serve the community as coaches for League 42 (a little-league baseball

*Mr. Bennett speaks to the news media after Stephen Bodine is sentenced to life in prison for the death of Evan Brewer.*



league for underserved youth); serve on the Community Leadership Council for the Kansas Children's Service league; as an Advisor for Community Projects with Junior League; volunteer with Girl Scouts; and raise money for Partners For Wichita.

At the District Court (local) level, we have one attorney who handles appellate matters like KSA 60-1507 pleadings made by defendants alleging ineffective assistance of counsel and a myriad of additional post-trial motions. In 2018, he researched, drafted and submitted 182 written legal responses to such matters. He also appears in court, calls witnesses and argues cases as necessary.

### **INVESTIGATIONS UNIT**

In 2018, the Investigations Unit personally served 805 subpoenas, assisted outside agencies in 83 criminal investigations, with emphasis on cell phone tracking/assessment and financial investigations with significant loss. The unit took part in 161 consumer protection investigations, conducted 6,200 pre-charging background checks (up from 5,477 in 2017), and ran 340 background checks for applicants for expungement. The unit also opened 117 inquisitions, which are proceedings under Kansas law to allow for pre-charging investigations sworn to before a judge to authorize subpoena power.

### **CASES PROSECUTED BY THE DISTRICT ATTORNEY**

In 2018, I was part of the trial team that successfully prosecuted the first-degree murder/kidnapping case against the woman who murdered Laura Abarca-Noguera and kidnapped her infant child, later located in Texas in November of 2016. I tried the Attempted Capital Murder and sexual assault case against the individual responsible for the rape of a seven year old girl in June of 2017. I was one of two prosecutors who tried the case against the man responsible for the murder of Wichita State Student, Rowena Irani in October of 2016.

In addition, I was part of the trial team in the prosecution of the man responsible for the Aggravated Battery of Wichita Police Officer Brian Arterburn in February of 2017. This past November, the defendant pled guilty and was sentenced in January of 2019 to 28 years in the penitentiary consecutive to another 10 years from an unrelated crime in another county.

I was also honored to receive the Kansas Prosecutor of the Year award for 2018 from the Kansas County and District Attorney's Association.

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



*Mr. Bennett accepts the 2018 Kansas Prosecutor of the Year Award at the KCDAA fall banquet in Manhattan.*



## CONCLUSION AND FUTURE GOALS

In addition to the many responsibilities set forth above, the members of this office successfully handled several very high profile cases that affected this community including the 2017 death of three-year-old, Evan Brewer; the individuals responsible for the brutal 2016 torture/hanging/murder in Valley Center of Scottie Goodpaster over a \$185 drug debt; and the four defendants responsible for the 2015 killings of Betty Ann Holloman and Brenton Oliver, to recognize just a few.

In 2016, the Kansas Supreme Court ordered the courts in Sedgwick County to transition from the “central assignment” system we have utilized since the 1960s to a “permanent assignment” system wherein each judge is assigned a case which he or she then

keeps from the point it is filed to its completion. This transition took place last summer, which necessitated substantial changes in the manner in which our adult criminal trial units are run, how cases are assigned internally, and the manner in which our attorneys and support staff are assigned case-specific tasks. The office continues to work with the court and defense counsel to adapt to this new system.

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 to the defense in each case. With surveillance tapes in most businesses (and many houses) now, body cameras on over 420 officers with the Wichita Police Department alone, dash cameras in the patrol cars of Sheriff’s deputies—and body cameras being implemented for Sedgwick County Sheriff’s Deputies in 2019—video-taped interviews, cellphone records and on and on, the sheer volume of discovery has grown exponentially over the past several years. For instance, in 2018, the office processed and disseminated 11.49 terabytes of information, up from 7.85 terabytes in 2016. With the WPD adding more officers to patrol divisions in the next three years and body cameras for all law enforcement agencies becoming the new norm, the amount of discovery will only increase.

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

