

2022 Year in Review

A letter from District

Attorney Marc Bennett



In 2022, Marc Bennett received the Criminal Justice Professional of the Year Award from the Wichita Metro Crime Commission. L-R: Kansas Bureau of Investigation Director Tony Mattivi, Marc Bennett, Sedgwick County Sheriff Jeff Easter



**OFFICE OF THE DISTRICT ATTORNEY
EIGHTEENTH JUDICIAL DISTRICT**

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September 25, 2023

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 the staff of the Office of the District Attorney accomplished during the previous 12 months. This letter addresses calendar year 2022.

DOCKET MANAGEMENT AND CASES FILED

The Kansas Sentencing Commission, which tracks statewide data by *fiscal year* (FY) reported that in FY 2022 (published in June of 2023), a total of 10,813 felony sentences were held in courts across Kansas—1,796 (16%) of which were held in Sedgwick County.

Additionally, the Sedgwick County (18th Judicial District) court system keeps data as well, reporting that during the last fiscal year, a total of 2,771 criminal cases were resolved in Sedgwick County by plea. That compares to 2,303 cases resolved by plea in 2021 and 1,903 cases in 2020.

The court system also tracks the number of hearings actually held each fiscal year. Last year, we conducted 17,242 criminal case hearings, hearings (primarily preliminary hearings, probation violation hearings, pleas, sentencing hearings and motions) before the judges of the criminal department. In 2021, the number was 20,520, and in 2020, the number was 15,586. So, while the business of the court was impacted by the pandemic over the past few years, we have been able to get a great deal of work done.

Regarding the number of cases filed, in 2022 we filed 1,904 criminal cases (1748 felonies). In 2021 we filed 2,475 adult criminal cases; 2,588 in 2020; 3,714 in 2019, 3,107 in 2018; 3,551 in 2017; 3,570 in 2016; 3,475 in 2015; 3,266 in 2014; and 3,360 in 2013.

While the charging unit has held back on filing lower level, non-violent felonies and misdemeanor crimes as a result of the strain placed on the court system from the pandemic, our adult diversion program still accepted 154 criminal cases in 2022 (drug, DUI and general criminal cases), and saw 115 people successfully complete diversion (some began their diversion in 2021 and some had not yet completed at the end of 2022). The unit also distributed \$38,984.48 in restitution to victims of crime in 2022; \$71,712.73 in 2021; \$97,248.52 in 2020, \$132,583.82 in 2019; \$141,309.90 in 2018 and \$131,984.70 in 2017.

In 2022, the office handled 158 criminal cases in which a mental competency examination was required. There were 159 cases in 2021; 138 cases in 2020, 143 cases in 2019, 151 cases in 2018; 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 136 extradition cases during 2022 to bring suspects back from out-of-state. The office handled 140 in 2021.

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 ready for the judge to review. In 2022, our attorneys reviewed 994 warrants that were ultimately signed by a judge.



The trial attorneys in the criminal division also tried 66 jury trials in 2022. That compares to 54 cases tried in 2021. Looking back in time, we were able to try 26 jury trials during the pandemic in 2020. Pre-pandemic, we tried 77 jury trials in 2019; 106 in 2018; 85 in 2017; 86 in 2016; and 67 in 2015.

Three law enforcement officers from Ecuador visited the DA’s Office in 2022. They’re pictured with Wichita Police Lt. Linnehan and Off. Battista

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 interviews as well as commercial and private surveillance footage) as well as body camera video. In 2022, the staff in our discovery unit responded to 2,537 original and 4,948 supplemental requests for discovery from defense counsel for a total of 7,485. That compares to totals of 6,927 in 2021; 6,899 in 2020; 10,016 in 2019; 9,564 in 2018; 8,430 in 2017; 7,541 in 2016; and 6,489 in 2015.

In 2022, those requests for discovery led us to provide defense counsel with 595,075 pages of discovery; 549,722 videos; another 38,626 body camera videos; 107,138 audio files; and 274,258 photos for a total of 29.3 terabytes of information (not including body camera video, as that process occurs on a server outside the office). The volume has steadily increased over the past six years: in 2017, we processed 572,623 pages of discovery; 30,217 videos; 30,610 body camera videos; 35,121 audio files; 209,247 photo, with 7.85 terabytes of data.

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 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 as well as appellate responsibilities.

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 (on average, 1,500 people testify each year); drafts motions; file 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.

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. Three attorneys reviewed cases full time and a

fourth attorney split time between the charging unit and drug court. In 2022, these attorneys reviewed 6,850 adult criminal and 1,748 juvenile cases for a total of 8,598 cases reviewed. The unit reviewed 9,720 cases (adult and juvenile) in 2021; 8,000 cases in 2020; 9,500 cases in 2019; and 9,300 in 2018.

Each day, the attorneys in this unit review the “hold for state warrant” arrests from the night before. In 2022, the attorneys reviewed 5,861 cases, compared to 4,793 in 2021; 5,301 in 2020; 5,560 in 2019, 4,953 in 2018 and 4,283 in 2016.

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. A staff member devoted to the processing of these cases ensured that the office completed 374 expungements in 2022, up considerably from 207 in 2021; 237 in 2020; 274 in 2019; and 241 in 2018.

ECONOMIC CRIMES UNIT AND CONSUMER PROTECTION UNIT

The creation of the Economic Crimes Unit in 2013 solidified our renewed commitment to victims of property crimes. While recent changes in the law have limited our ability to secure restitution, the unit has been able to collect over \$444,000.00 for victims since 2019. Since the COVID shutdown of 2020, the office has held off filing a great many property crimes cases to allow the court system to focus limited resources on violent and person crimes. The members of the unit were called upon to focus their efforts in a similar fashion, as 55% of the Unit’s caseload in 2022 were cases in which the lead count was a person felony, including seven homicide cases. The attorneys in the unit tried four jury trials and resolved over 296 cases, 60% of which pled at or before arraignment.

Senior Assistant DA Matt Maloney during mock trial at Wichita Collegiate School



Since 2013, the economic crime unit has ensured that more than \$1,580,000.00 has been returned in direct payments to victims.

One attorney from the unit handled the drug court responsibilities this past year, attending hearings all day each Thursday and again Friday mornings. This attorney will also handle the veteran's treatment court, scheduled to begin in 2023.

Members of the unit also volunteer at their respective churches; and speak to civic groups regarding scams and financial crimes.

The Consumer Protection Division, which consists of one attorney, five part-time investigators and one staff member, obtained 14 separate civil judgments in 2022-- wherein the Defendants were ordered to pay fees and fines as well as restitution for violations of the Kansas Consumer Protection Act (KCPA). The unit processed 440 complaints by local consumers and completed 209 formal investigations. The division filed 15 civil actions alleging violations of the KCPA, settled eight cases through consent judgments, won one judgment at trial, and obtained five default judgments in court. The top three industries generating consumer complaints in 2022 involved automobile sales, services and contractors for home improvement projects. Consumers seeking assistance regarding issues with the purchase of new and used vehicles continue to be the largest sector generating complaints.

In 2022, this division was responsible for obtaining \$1,226,486.43 in favorable dispositions for Sedgwick County, including \$251,721.90 in direct refunds to consumers. The direct refunds to consumers increased over 82% from results in 2021. Historically, the division returned \$137,999.24 directly to consumers in 2021; \$179,056.42 in 2020; \$ 130,384.05 in 2019; \$109,918.17 in 2018; \$88,007.14 in 2017; and \$70,706.98 in 2016. A highlight of the division's work included the resolution of a multiyear investigation in conjunction with the Consumer Protection Division of the Office of the Attorney General. Evergy Kansas Central, Inc., formerly Westar Energy, Inc., entered into a \$500,000 consent judgment with the Consumer Protection Divisions of both offices based on the joint investigation. Additionally, the division, with the cooperation of the Kansas Department of Revenue, recovered \$52,451.41 for consumers from dealership bonds belonging to used car dealerships that went out of business.

The division investigated over 200 cases in 2022, while examining hundreds of

additional complaints, advertisements, and reported scams. The team issues regular fraud warnings throughout the year, both through the media and by way of public speaking appearances throughout Sedgwick County.

GANG UNIT

The attorneys in the gang and violent crimes unit handled more than 16 jury trials in 2022. This includes homicides, aggravated batteries and aggravated assault and other, violent felonies. In 2022, members of the unit tried the first RICO (Racketeer, Influenced and Corrupt Organizations) case involving a group of individuals involved in gang violence (gun and drug charges).

In addition, the unit continues to actively participate in the Project Safe Neighborhoods initiative in cooperation with the Wichita Police Department, Garden City Police Department, U.S. Attorney's Office, ATF and FBI. As part of that initiative,

an attorney from this unit attends weekly meetings with the Wichita Crime Gun Intelligence Center to review firearm-related leads generated using the National Integrated Ballistic Information Network (NIBIN) technology. NIBIN leads are generated when law enforcement agencies collect firearms evidence from one scene and connect that evidence to firearms evidence collected from another scene.



Marc Bennett and Chief Attorney Shannon Wilson instruct at the Sedgwick County Child Advocacy Center.

DV/SEX CRIMES UNIT

The five attorneys in the domestic violence/sex crimes Unit tried 23 jury trials in 2022, compared to 21 in 2021, and 12 in 2020 during the shutdown.

Each attorney in the unit handles a high volume of rapes, child abuse cases—physical and sexual—human trafficking cases and a high volume of domestic violence cases.

In addition to the taxing work inherent in these difficult cases, members of the unit serve on the board of directors at the Wichita Area Sexual Assault Center (WASAC); the board of directors of the Kansas Attorney General's Human Trafficking Advisory Board and Batterer's Intervention Program Board; the board of directors at StepStone (a domestic violence service provider); the Board of Trustees at the Independent School; the Wichita Bar Association's Criminal Practice Committee; and the Wichita State University Campus Coordinated Community Response Team (WSUCCRT) which works to prevent and respond to domestic and sexual violence at WSU.

In 2022, the team attended trainings on stalking, domestic violence, and sex crimes investigation and prosecution in order to stay abreast on the latest technology and techniques for combatting these kinds of crimes.

GENERAL TRIAL UNITS

The attorneys who worked in the two general trial units during 2022 tried more than 21 jury trials ranging from first degree murder to DUI, along with a high volume of gun, drug, person felony and property crimes. Several attorneys in these units with prior experience as sex crimes/DV prosecutors also take on domestic violence and sex crimes cases as well.

The attorneys in these two units serve a number of roles outside the office including serving as chair of the criminal law committee for the Wichita Bar Association; serve on the Best Practices Committee for the Prosecutor's Center For Excellence; serve as chair of the Continuing legal Education (CLE) Committee for the Kansas County and District Attorney's Association; volunteer to speak at local schools and civic groups; and serve with F.A.S.T. (Financial Abuse Specialist Team), a multi-disciplinary team comprised of adult protective services, financial professionals, psychologists and others who investigate financial abuse involving elderly citizens.

TRAFFIC UNIT

17,379 traffic cases were filed in 2022 in Sedgwick County, compared to 17,541 in 2021; 20,505 in 2020; 25,424 in 2019; 20,727 in 2018; and 17,616 in 2017. Many people

pay their tickets, but the remaining cases kept the three attorneys and 1 ½ staff members assigned full-time to the traffic unit very busy. In 2022, our one traffic diversion coordinator handled 1,045 traffic cases placed into traffic diversion, compared to 1,025 in 2021; 1,436 in 2020; 2,055 in 2019 and 1,373 in 2018. Those placed on diversion in 2022 paid \$107,060.00 in court costs.

PROBATE/ CARE & TREATMENT

We have one attorney primarily responsible for the “care and treatment” cases (involuntary mental commitments for those deemed to be a threat to themselves or others by reason of mental illness) in addition to her full time responsibility with the child in need of care unit. In 2022, the office handled 346 care and treatment cases, compared to 478 in 2021; 449 in 2020; 500 in 2019; 687 in 2018 and 662 in 2017. These cases take place in the Probate Department located in the juvenile courthouse.

CHILD IN NEED OF CARE

Each year, the five attorneys and multiple staff members in the 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. Attention must be paid to each child’s case to ensure the best possible outcome, which requires multiple hearings per case. In 2022, the unit filed cases involving 669 children in Sedgwick County. By comparison, in 2021, the unit filed cases involving 619 children; the unit filed cases involving 450 children in 2020; 650 children in 2019; 590 in 2018; 578 in 2017; and 500 children in 2016.

In 2022, the five attorneys in the CINC unit handled 2,952 hearings in court, up from 2,698 hearings in 2021, and 2,083 during the pandemic year of 2020.

In addition, the attorneys in this unit are involved with their kids’ Boy Scout and Girl Scout troops; serve on boards including the Wichita Coalition for Child Abuse Prevention; the Judicial Council CINC Committee; coach their kids’ ball teams; and are involved in their respective churches.

JUVENILE OFFENDER

The juvenile offender unit handled 662 juvenile offender cases in 2022. In addition, the attorneys in the juvenile offender unit hold positions with the Kansas Judicial Council’s Advisory Committee on Sex Offenses and Registration; the Juvenile Justice Intervention Board and the Sedgwick County Child Abduction Response team. These attorneys train law

enforcement on juvenile-specific law; coach kids' cross country, basketball, track and rec. leagues; and are active in local animal rescue.

In an effort to steer kids back out of the criminal justice system, our juvenile department accepted 151 juvenile offenders into diversion in 2022, which constituted 24% of the charges juvenile offender cases in 2022. In 2021, the number was 97; 156 in 2020; 185 in 2019; 222 in 2018; 236 in 2017; 291 in 2016; 298 in 2015; 260 in 2014 and 289 in 2013.

Some juveniles placed in diversion need very little intervention, while others may need weekly meetings to help them stay on track and focused on their obligations. Diversion has the ability to provide responses tailored to the risk level and need of the youth, including several cases with high restitution amounts that were successfully closed. Diversion will not close a case until the youth has paid the restitution in full.

The truancy program was also re-established during the 2019-2020 academic year. We started by notifying all Sedgwick County (and surrounding area) schools of the restart and supplied updated forms and reporting/program guidelines. During the 2022-2023 school year, the Juvenile Truancy program received 2740 referrals from area schools. The program provided a personal response to each referral, with the majority receiving a corrective action letter tailored to personal attendance criteria. Our Truancy Coordinator also served 296 youth through case management or through attendance at our newly developed three-hour truancy workshop. The truancy program will continue to serve youth during the 2023-2024 school year.

APPELLATE UNIT & POST-CONVICTION UNIT

In 2022, the five attorneys in our Appellate Division filed 134 briefs for the state; 107 motions, orders and responses and conducted 30 oral arguments before the Kansas Court of Appeals or Kansas Supreme Court.

By comparison, in 2021, the unit filed 164 briefs for the state, 138 motions, orders and responses and conducted 20 oral arguments before Kansas Appellate courts. In 2020, the unit filed 193 briefs for the state, 110 motions/orders and responses and conducted 25 oral arguments. In 2019, the unit filed 229 briefs, 132 motions, orders and responses and conducted 33 oral arguments. In 2018, the unit filed 219 briefs; 155 motions, orders and responses and conducted 39 oral arguments. In 2017, the unit filed 286 briefs, 113 motions, orders and responses, and again conducted 39 oral arguments.

Our appellate attorneys serve the community as coaches for League 42 (little league baseball for underserved youth); serve on the Community Leadership Council for the Kansas Children's Service league; volunteer with Girl Scouts; raise money for Partners For Wichita, participate in Meals On Wheels, volunteer with the Wichita Children's Home – Opportunity Zone, raise money for the Ronald McDonald House Charities Red Shoe Society, KS K-9 Rescue, serve as the Wichita Collegiate School alumni board president, and are active in their churches.

At the District Court (local) level, two attorneys contributed to post-conviction matters like motions filed pursuant to KSA 60-1507, when a defendant's pleading alleges ineffective assistance of counsel. There are a myriad of other motions filed in this context. In 2022, the unit filed 40 responses to KSA 60-1507 filings, as well as 174 responses to other pro se motions. In 2021, the unit filed 45 KSA 60-1507 responses and 213 responses to other types of pro se motions. In 2020 the unit filed 28 KSA 60-1507 responses, as well as 116 responses to other types of pro se motions. The attorneys in this unit also serve the community in a number of ways outside of the office, including volunteering at an organization to create safe and inclusive schools in our community.

INVESTIGATIONS UNIT

In 2022, the seven members of the Investigations Unit assisted outside agencies in 123 criminal investigations (up from 81 in 2021 and 58 in 2020), with emphasis on cell phone tracking/assessment and financial investigations with significant loss. The unit also conducted 213 consumer protection investigations (up from 185 in 2021 and 138 in 2020) and served 755 subpoenas (up from 701 in 2021 and 303 in 2020). The unit also opened 212 inquisitions in 2022 (up from 205 in 2021), 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 the summer of 2022, I co-chaired the capital murder trial of Cornell McNeal, the man who raped and



set fire to his victim in Fairmont Park in 2014.

He was sentenced to life without the possibility of parole. Later that fall, I tried *State v. Seymour*, a case involving a man who abducted a teenage girl off the street and sexually assaulted her in his car. He was sentenced to 47.5 years in the penitentiary.

As promised during my election campaign, I have stayed active in the courtroom, having tried at least 16 cases to jury since being sworn-in, while personally handling dozens more cases that resulted in guilty pleas.

CONCLUSION AND FUTURE GOALS

In addition to the many responsibilities set forth above, the members of this office successfully handled multiple high profile cases that affected the community including the prosecution of a near record number of homicides committed in Wichita in 2022.

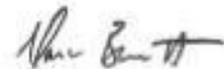
I am often asked about the “backlog” of cases left unresolved as a result of the shut-down that occurred during COVID. At the end of 2022, 99% of cases filed in 2018 in Sedgwick County had been resolved; 97.63% of cases filed in 2019 had been resolved; 90.3401% of cases filed in 2020 had been resolved; and 78.11% of cases filed in 2021, had been resolved. So while we still had work to do, the amount of work that we put in, despite the issues associated with coming to court during the pandemic, prevented this community from suffering the types of insurmountable backlogs seen in other jurisdictions.

In 2023, the court system has rolled out an entirely new records management system for the collection and storage of all data flowing through the courts statewide. Our office has been actively engaged with the Office of Judicial Administration in Topeka to identify issues to ensure we are able to interact with the system and maintain long-standing efficiencies.

As always, running one of the busiest offices in the state is a daily challenge. I am proud of the excellent team of lawyers and staff who work diligently to seek justice on behalf of Sedgwick County residents. The citizens of this county would be impressed by the amount of work we have accomplished.

Thank you again for this opportunity.

Sincerely,



Marc Bennett
District Attorney