

## 2021 Year In Review

### A letter from District Attorney Marc Bennett



District Attorney Marc Bennett at a September 29, 2021, news conference on Operation Triple Beam, a collaboration among local, state, and federal agencies to reduce violent crime.



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

**MARC BENNETT**  
*District Attorney*

**AARON BREITENBACH**  
*Deputy District Attorney, Administration*

**RON PASCHAL**  
*Deputy District Attorney, Juvenile  
Division and Ethics Coordinator*

October 6, 2022

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 has accomplished during the previous 12 months and what we expect to accomplish in the future. This year, the letter is a little later than I'd like which I can only attribute to the business of the past 12-18 months.

As we continue to move toward a pre-pandemic normal, we continue to benefit from the fact that, despite the obvious limitations that COVID protocol imposed on our ability to seat jurors and conduct jury trials, the Sedgwick County court system remained largely open for business.

**DOCKET MANAGEMENT AND CASES FILED**

The Office of the District Attorney remained exceptionally busy in 2021. The Kansas Sentencing Commission, which tracks statewide data by *fiscal year* (FY) reported that in FY 2021 (ending in June 2021), a total of 10,321 felony sentences were held in courts across Kansas--2,126 (20%) of which were held in Sedgwick County.

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

The court system also tracks the number of hearings actually held each fiscal year. In FY 2021, we conducted 20,520 actual hearings (primarily preliminary hearings, probation violation hearings, pleas, sentencing hearings and motions) before the judges of the criminal department. 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 2021 we filed 2,475 adult criminal cases (2,342 felonies). We filed 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 116 criminal cases in 2021 (drug, DUI and general criminal cases), and saw 118 people successfully complete diversion (some began their diversion in 2020). The unit also distributed \$71,712.73 in restitution to victims of crime in 2021; \$97,248.52 in 2020, \$132,583.82 in 2019; \$141,309.90 in 2018 and \$131,984.70 in 2017.

In 2021, the office handled 159 criminal cases in which a mental competency examination was required. There were 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 140 extradition cases during 2021 involving 172 persons (some were extradited on multiple cases) to bring suspects back from out-of-state.

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 2021, our attorneys reviewed 1441 warrants that were ultimately signed by a judge. In 2020, the number was 1388; 1222 in 2020; 1103 in 2018; 1068 in 2017; in 2016, 1108; and in 2015, we reviewed 803 warrants.

The trial attorneys in the criminal division also tried 54 cases in 2021 (primarily from May of 2021 when the courtrooms were all opened back up). We had been able to try 26 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.

Finally, our staff gathers restitution information from victims who have suffered monetary loss as a result of the crimes committed against them. In 2021, in adult criminal cases, district judges ordered defendants to pay \$2,910,568.97 back to victims as a condition of probation or parole/post-release. In 2020, the number was \$2,595,968.74; and \$2,517,197.58 in 2019.

## **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 2021, the staff in our discovery unit responded to 3,205 original and 3,722 supplemental requests for discovery from defense counsel for a total of 6,927. That compares to totals of 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 2021, those requests for discovery led us to provide defense counsel with 548,127 pages of discovery; 84,399 videos; another 41,992 body camera videos; 85,283 audio files; and 256,468 photos for a total of 14.5 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 five years: in 2017, we processed 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, 41,992 Axon (body worn camera) videos were made accessible to the defense counsel in 2021, up from 40,173 in 2020; 39,175 in 2019; 32,933 in 2018, 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 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; 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.

## **CRIMINAL COURT HEARINGS**

In 2009, there were 8,314 preliminary hearings set in Sedgwick County. In 2021, the number was 14,789. In 2020, the number was 16,123; 16,017 in 2019; 13,261 in 2018; 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 14,789 settings required the attention of our staff.

In 2021, we had 30,792 total *settings* for preliminary hearings, arraignments, bench trials, jury trials, sentencings and probation violations in the criminal department--down slightly from 32,503 in 2020; 33,720 in 2019, and 33,287 in 2018. Again, not every setting leads to an appearance in court—continuances and pleas do play a significant role—but each hearing does require the attention of staff and at least one attorney to ensure this office is 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. Three attorneys reviewed cases full time and a fourth attorney split time between the charging unit and drug court. In 2021, these attorneys reviewed 8,405 adult criminal cases and charged 2,475. All told, in 2021 they reviewed 9,720 cases (juvenile and adult) for charging considerations despite the limitations of the pandemic. The unit reviewed nearly 8,000 cases in 2020; 9,500 cases total 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 2021, the attorneys reviewed 4,793 cases, compared to 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. The charging unit approved 207 expungements in 2020; 237 in 2020; 274 in 2019; 241 in 2018.

One attorney from the unit handled the drug court responsibilities as well, attending hearings all day each Thursday and again Friday mornings. This attorney also handled the IAD cases (the “initial assessment docket”) which are low level cases targeted for plea negotiations at the point the case is filed. Since the IAD program was implemented in 2013, 2,080 cases have been resolved by plea off of that docket.

## **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. In 2021, \$33,485.50 in cash and property was returned directly to victims of crime at or before the time of plea; down from \$206,620.94 in 2020; and \$199,017.34 in 2019. The lower number is due largely to the fact that the office held off filing a great many property crimes cases while the courts were struggling with the pandemic (those cases are slowly being filed into the system now). That said, the unit also obtained a \$300,000 inheritance disclaimer in an estate fraud case; a relinquishment of a business worth \$250,000 in an embezzlement case; and a dissolution of a partnership worth \$150,000 to the victims of a theft case.

Since 2013, \$1,575,550.54 has now been returned in direct payments to victims. 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, four part-time investigators and one staff member obtained 15 separate civil judgements in 2021; 18 in 2020; and 14 in 2019--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 373 complaints by local consumers and completed 152 formal investigations. The division settled 9 civil actions and obtained 3 summary judgements in court. The top three industries generating consumer complaints in 2021 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. Based on supply chain issues still lingering from the COVID-19 pandemic that limited the availability for parts needed for manufacturing new vehicles, the continued high volume of complaints regarding the purchase of used cars is likely to continue into 2022.

In 2021, this division was responsible for obtaining restitution orders and/or refunds to consumers totaling 1,007,777.28 in favorable dispositions for Sedgwick County consumers, including \$137,999.24 in direct refunds to consumers. \$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. The unit obtained the single largest consent judgment in division history in 2021.

The unit investigates roughly 150 cases each year, examines 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.

### **GANG UNIT**

The attorneys in the gang and violent crimes unit handled more than 12 jury trials in 2021. This includes homicides, aggravated batteries and aggravated assault and other, violent felonies.

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, US 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.

### **DV/SEX CRIMES UNIT**

The five attorneys in the domestic violence/sex crimes Unit tried 21 jury trials in 2021, compared to 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, consistent with what jurisdictions around the country experienced during the pandemic, 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 Step Stone (a domestic violence service provider); the Board of Trustees at the Independent School; the Wichita Bar Association's Criminal Practice Committee; trained the Kansas Highway Patrol's recruit class on Human Trafficking; and serve on



*In December, the DA's Office donated two full trunk loads of supplies and gas cards to the Wichita Family Crisis Center*

the Wichita State University Campus Coordinated Community Response Team (WSUCCCRT) which works to prevent and respond to domestic and sexual violence at WSU. In 2021, the entire 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 one of the two general trial units during 2021 tried more than 25 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 on the criminal law committee for the Wichita Bar Association; chair of the mentoring committee; teach criminal law at a local university; have volunteered to judge high school regional mock trials; and have spoken to various civic groups; and serve as a Scoutmaster with the Boy Scouts.

The attorneys in this unit also serve on the Best Practices Committee (which promulgates best practices model policies and protocol) for the Kansas County and District Attorney's Association; conduct training for various law enforcement agencies, including 911 operators/call takers as well as sexual assault nurse examiners and on behalf of the "Child-first" child abuse training.

### **TRAFFIC UNIT**

17,541 traffic cases were filed in 2021 in Sedgwick County, compared to 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 1/2 staff members assigned full-time to the traffic unit very busy. In 2021, our one traffic diversion coordinator handled 1,025 traffic cases placed into traffic diversion, compared to 1,436 in 2020; 2,055 in 2019 and 1,373 in 2018. Those placed on diversion in 2021 paid \$107,060.00 in court costs.



*In September, Judge Jeffrey Goering swore in new attorneys Bailey Schmiedeler, Dan Wells, and Jack Mitchell*



## **PROBATE/ CARE & TREATMENT**

We have two attorneys who share the responsibility of handling “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 their full time responsibility with the child in need of care unit. In 2021, the office handled 478 care and treatment cases, compared to 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 2021, the unit filed cases involving 619 children in Sedgwick County. By comparison, in 2020, 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 2020, the five attorneys in the CINC unit handled 2,698 hearings in court, up from 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 531 juvenile offender cases in 2021. 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 97 juvenile offenders into diversion in 2021. In 2020, the number was 156; 185 in 2019; 222 in 2018; 236 in 2017; 291 in 2016; 298 in 2015; 260 in 2014 and 289 in 2013. The Truancy program was also re-established for 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. We received approximately 2,800 referrals. We responded in some way to each referral, with the majority receiving written communication. We placed approximately 93 kids on either a formal or informal contract for supervision and received positive feedback from the schools and district offices. 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 2021, the five attorneys in our Appellate Division filed 164 briefs for the state; 138 motions, orders and responses and conducted 20 oral arguments before the Kansas Court of Appeals or Kansas Supreme Court. In over 87% of the cases handled by this unit, the state was successful in whole or in part.

By comparison, in 2020, the unit filed 193 briefs for the state, 110 motions, orders and responses and conducted 25 oral arguments before Kansas Appellate courts. 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 (a little-league baseball league 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, which is when a defendant's pleading alleges ineffective assistance of counsel. There are a myriad of other motions filed in this context. In 2021 the unit filed 45 KSA 60-1507 responses, as well as 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 2021, the seven members of Investigations Unit assisted outside agencies in 81 criminal investigations (up from 58 in 2020), with emphasis on cell phone tracking/assessment and financial investigations with significant loss. The unit also conducted 185 consumer protection investigations (up from 138 in 2020) and served 701 subpoenas (up from 303 in 2020). The unit also opened 205 inquisitions 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**



By May of 2021, jury trials in Sedgwick County were being conducted at pre-pandemic levels. In October of 2021, I tried the case of State v. Pepper, involving the death of an elderly woman who died during a sexual assault that took place in her home. The defendant was convicted of (Felony) Murder in the first degree, and Aggravated Criminal Sodomy and sentenced to life in prison.

As promised during my election campaign, I have stayed active in the courtroom, having tried 14 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 2021, and cases involving public employees.

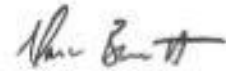
In the coming year, the office will continue to work with the court system to efficiently seek justice in the aftermath of the pandemic, including the new preliminary hearing docket that went into effect using COVID ("ARPA") dollars granted to the courts to hire retired judges to run the docket.

For the past several years, the state's court system continues to roll out an entirely new records management system for the collection and storage of all data flowing through the courts statewide. Our office continues to be 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. 2020 through 2022 has been a challenge, but the citizens of this county would be impressed by the amount of work accomplished this past year.

Thank you again for this opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Bennett".

Marc Bennett  
District Attorney