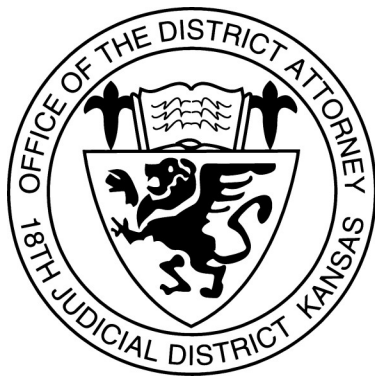


2019 Year In Review

A letter from District Attorney Marc Bennett



District Attorney Marc Bennett at a July 23, 2019, news conference after the announcement of Wichita being chosen for the U.S. Dept. of Justice's National Public Safety Partnership. (PSP)



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

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May 22, 2020

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.

As I was finishing up the 2019 year end letter in March, the Covid 19 crisis took all of my attention. While I had to set it aside for several weeks, I think it is still important both for the public and those of us who work here to finish the task. So, better late than never, what follows is the update for calendar year 2019.

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 2019 (July 1, 2018 to June 30, 2019), Sedgwick County completed 3,232 journal entries of judgment (documents that memorialize criminal sentencing hearings). This accounted for 21.4% of the 15,100 (non-DUI & non-jail) felony journal entries in the state of Kansas in FY 2019.

In the 2019 calendar year, our staff completed 2,265 *original* sentencing journal entries (747 commitments and 1,518 to probation). We also completed an additional 1,491 probation violation journal entries where probation was reinstated and not revoked by the court and 753 where probation was revoked.

Regarding the number of cases filed, in 2019 we filed 3,714 adult criminal cases, 3,442 of which were felonies. We filed 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.

In 2019, our adult diversion program accepted 167 criminal cases (drug, DUI and adult criminal cases) and distributed \$132,583.82 in restitution to victims of crime; \$141,309.90 in 2018 and \$131,984.70 in 2017.

In 2019, the office handled 143 criminal cases in which a mental competency examination was required. There were 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 193 extradition cases involving 172 defendants in 2019, up from 105 in 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 2019, our attorneys reviewed 1,222 warrants that were ultimately signed by a judge. In 2018, the number was 1,103; 1,068 in 2017; in 2016, 1,108; and in 2015, we reviewed 803 warrants.

The trial attorneys in the criminal division also 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 2019, in adult criminal cases, district judges ordered defendants to pay \$2,517,197.58 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, and videos (typically, of interview as well as commercial and private surveillance footage), as well as body camera video. In 2019, the staff in our discovery unit responded to 5,120 original and 4,896 supplemental requests for discovery from defense counsel for a total of 10,016, up from 9,564 in 2018, 8,430 in 2017; 7,541 in 2016; and 6,489 in 2015.

In 2019, those requests for discovery lead us to provide defense counsel with 882,903 pages of discovery; 32,371 videos; another 39,175 body camera videos; 61,189 audio files; and 208,287 photos for a total of 9.89 terabytes of information. In 2018, those numbers were: 677,805 pages of discovery; 38,657 videos; another 32,933 body camera videos; 56,341 audio files; and 199,851 photos. 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, 39,175 “axon” (body worn camera) videos were made accessible to the defense counsel in 2019, up from 32,933 in 2018, 30,610 in 2017 and 16,485 in 2016.



Employees gathered for the retirement party of Assistant District Attorney Tom Weilert.

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 8,283 preliminary hearings set in Sedgwick County. In 2019, the number had risen to 16,017, up from 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 16,017 settings required the attention of our staff.

In 2019, we had 33,720 *settings* for preliminary hearings, bench trials, jury trials, sentencings and probation violations in the criminal department, up from 33,287 in 2018. 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. Three attorneys reviewed cases full time and a fourth attorney split time between the charging unit and drug court. In 2019, these attorneys reviewed 7,268 adult criminal cases and charged 3,714. All told, they reviewed over 9,500 cases for charging considerations (up from 9,300 in 2018) and approved the charging of 4,723 cases (3,714 adult and 1,009 juvenile).

Each day, the attorneys in this unit review the “hold for state warrant” arrests from the night before. In 2019, the attorneys reviewed 5,560 cases, up from 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 274 expungements in 2019 up from 241 in 2018.

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.

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 2019, the unit resolved 251 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 2019, \$199,017.34 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, which included three separate cases investigated by this office where \$10,000, \$140,000 and \$600,000 in restitution was ordered. Since 2013, \$1,335,444.10 has now been returned in direct payments to victims. The four attorneys in this unit also tried 10 jury trials in 2019. Members of the unit also volunteer at their respective churches; engage in wood-working projects; speak to civic groups and co-authored the recent edition of the Kansas DUI Law handbook.

The Consumer Protection Division, which consists of one attorney, four part-time investigators and one staff member, obtained 14 separate civil judgments 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). In one judgment, Proctor & Gamble Dist., Walmart and Kroger were the Defendants.

In 2019, this division was responsible for obtaining restitution orders and/or refunds to consumers totaling \$130,384.05; \$109,918.17 in 2018; \$88,007.14 in 2017; and \$70,706.98 in 2016. The division provided a separate \$121,237.21 in relief from voided contracts in 2019; \$79,549.95 in 2018, up from \$60,880.98 in 2016. In 2019, the unit also collected \$92,285.17 in fees and fines for the county.

The unit investigates about 150 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.

GANG UNIT

The attorneys in the Gang Unit, which handles various crimes committed by gang members in our community, tried 16 jury trials in 2019. The trials consisted of a wide variety of violent crimes including three 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. An attorney from this unit attends Crime Gun Intelligence Center meetings where gun crimes are identified for investigation and prosecution.

Last summer, this unit worked with the agencies responsible for the “Triple Beam” operation, which was a coordinated effort between the Wichita Police Department, the Sedgwick County Sheriff and the U.S. Marshall’s Service to identify and arrest felons with active warrants.

Additionally, in an effort to combat violent crime, the Wichita Police Department expanded their gang unit this past year from a four-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.



Senior Attorney Avery Elofsson (right) was interviewed on radio about scams that target the elderly.

DV/SEX CRIMES UNIT

The six attorneys in the DV/Sex Crimes Unit tried 24 jury trials in 2019 including three homicide cases and four “off-grid” Jessica’s law cases (that each carry a life term). The Brandon Evans first degree, nightclub murder and the multiple-victim Hallacy sex crimes case were particularly noteworthy. 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, and regularly spoke at public events.

GENERAL TRIAL UNITS

The 14 attorneys who worked in one of the two General Trial Units during 2019 handled 27 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 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, from which over 300 cases were resolved last year.

The attorneys in these two units serve the Wichita Bar Association as secretary and as chair of the mentoring committee; serve as scoutmaster with boy scouts; volunteered to judge a high school regional mock trial; volunteered at an organization to create safe and inclusive schools; and spoke to various civic groups. The attorneys also serve on the Best Practices Committee (which promulgates best practices model policies and protocol) for the Kansas County and District Attorney’s Association; and conducted training for various law enforcement agencies, for 911 operators/call takers, for sexual assault nurse examiners and on behalf of the “Childfirst” child abuse training.

TRAFFIC UNIT

25,424 traffic cases were filed in 2019 in Sedgwick County, up from 20,727 in 2018; and 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 2,055 traffic cases placed into traffic diversion, up from 1373 in 2018.

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 2019, the office handled 500 care and treatment cases, 687 in 2018 and 662 in 2017. These cases are proceedings undertaken in the probate department.

Assistant District Attorney Kari Burks spoke to Clearwater 8th Grade students about the office and careers in law enforcement.



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 2019, the unit filed cases involving 650 children (348 were 5 years of age or younger) from 372 families. By comparison, in 2018, the unit filed cases involving 590 children from 343 families, which was 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 2019, the five attorneys in the CINC unit handled 3,278 hearings, down slightly from 2018 when they handled 3,416 hearings; but up significantly 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 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' athletic teams; and are involved in their respective churches.

JUVENILE OFFENDER

Our Juvenile Offender Division handled 1,009 juvenile offender cases (346 felonies), including three off-grid crimes (murder), and 57 severity level 3 or higher crimes (for example, Rape, Kidnapping and Aggravated Robbery). The juvenile division also successfully prosecuted a second degree murder to a jury. In addition, the attorneys in the juvenile 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. In addition, these attorneys 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 29 years, currently as a Deputy Staff Judge Advocate.

In an effort to steer kids back out of the criminal justice system, our juvenile department accepted 185 juvenile offenders into diversion in 2019. In 2018, the number was 222; 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 2,000 referrals (1,600 from USD 259). We responded in some way to each referral, with the majority receiving written communication. We placed approximately 98 kids on either a formal or informal contract for supervision and received feedback from the schools and district offices that was very positive. 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.

Employees in the Juvenile Offender Division gathered to say goodbye to Assistant District Attorney Amanda Marino who left for a position in the private sector.



APPELLATE UNIT & POST-CONVICTION UNIT

In 2019, the five attorneys in our Appellate Division filed 229 briefs for the state; 132 motions, orders and responses, and conducted 33 oral arguments before the Kansas Court of Appeals or Kansas Supreme Court. In over 94% of the cases handled by this unit, the state was successful in whole (88% of the time) or in part.

By comparison, in 2018, the unit filed 219 briefs; 155 motions, order and responses, and conducted 39 oral arguments. 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 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 girls 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, we had one attorney who handled appellate matters like KSA 60-1507 pleadings made by defendants alleging ineffective assistance of counsel and a myriad of additional post-trial motions.

INVESTIGATIONS UNIT

In 2019, the seven members of the Investigations Unit personally served 855 subpoenas. Additionally, the unit assisted outside agencies in 83 criminal investigations, with emphasis on cell phone tracking/assessment and financial investigations with significant loss. The unit also conducted 156 consumer protection investigations. The unit opened 154 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 2019, I was part of the trial team that successfully prosecuted the 9-count complaint against a man responsible for the sexual assault of three separate underage girls, the two youngest having been under 10 years of age at the time they were each assaulted.

I was one of two attorneys handling the case against the man who murdered first- year KU medical student, MacKenzie Payne, in 2018. He pled guilty as charged in February to first degree murder and was later sentenced to 50 years to life.



Robert Short, Chief Attorney in the Economic Crimes Division, was interviewed for local television.

I was one of two attorneys handling the case against the man responsible for the death of three year old Anthony “Tony” Bunn, in 2018. He pled guilty in 2019 and received a 586 month (48.8 year) sentence.

Just after the first of this year, I was one of two attorneys who successfully tried a woman for the first degree, decapitation murder of Micki Davis.

As promised during my election campaign in 2012, I have stayed active in the courtroom, having now successfully tried 12 separate cases to jury since being sworn-in and personally handled over a dozen 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 murders of Tyran Carter, Justin Gaston, Isaac Lewis, Antonio Guzman, and D’Shaun Smith, to recognize just a few.

The office will face additional challenges during the balance of 2020 as we work through the best way to re-open after the COVID shutdown, from emphasizing the timely resolution of trials, to finding adequate jurors when so many people have been out of work, to limiting the foot traffic in the courthouse hallways and elevators while still managing large traffic dockets.

Additionally, the state’s court system is rolling 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 to identify issues with the system to ensure we are able to interact with the system and maintain long-standing efficiencies.

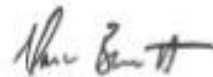
We are still getting used to the de-centralization of our dockets from the way they had been run since the 1960s the new silo/vertical approach implemented in 2018.

Finally, the board of county commissioners has recognized the need to expand the downtown office space for the office. Later this summer, we will be expanding in two areas within the courthouse. In short, the challenges will be many in the next 12 to 18 months.

This past month, I filed to run again for the Office of District Attorney this election cycle. As always, running one of the busiest offices in the state is a daily challenge. We have an excellent team of lawyers and staff who work diligently to seek justice on behalf of Sedgwick County residents.

Thank you again for this opportunity.

Sincerely,



Marc Bennett
District Attorney