

2018 ANNUAL REPORT

DISTRICT ATTORNEY

WASHINGTON COUNTY

2018 Annual Report presented in March 2019

FUNCTIONS AND RESPONSIBILITIES

The primary function of the Office of the District Attorney is to prosecute all violations of State criminal law occurring within Washington County. Additionally, the District Attorney's Office prosecutes all violations of County ordinances, all State and County violations of the traffic code and all criminal traffic offenses within the County. The District Attorney's Office also represents certain State agencies in local actions, including the Department of Natural Resources and the Department of Corrections.

The District Attorney's Office continues to handle most juvenile matters, including delinquency petitions and petitions for children in need of protection or services, but excluding termination of parental rights cases.

STRUCTURE AND FUNDING

The Office of the District Attorney consists of the District Attorney, a Deputy District Attorney, three Assistant District Attorneys, a part time Special Prosecuting Attorney, an Office Supervisor, five Legal Secretaries, an Account Clerk, a Victim-Witness Coordinator and a Victim-Witness Specialist, for a total staff of 15 people. The State of Wisconsin assumed responsibility for District Attorney, Deputy District Attorney, and Assistant District Attorney salaries effective January 1, 1990. The County pays the balance of operating expenses, although about fifty percent of Victim-Witness program expenses are normally reimbursed by the State. The reimbursement amount from the State has decreased in the past several years. The County is also paying the salary of the part time Special Prosecuting Attorney.

Washington County continues to be involved with the DA NET Project, which is intended to streamline the criminal justice system. The case management system PROTECT (Prosecutor Technology for Case Tracking) is currently being used to enter and track people and cases within the District Attorney's Office, to produce documents and to schedule events. The system also allows us to share data from the Clerk of Courts Office through an interface with the Clerk of

Courts Office. An application called eReferral allows contested citation case filing to be sent electronically from the Court's system (CCAP), to PROTECT. When the contested citation is accepted into PROTECT, the case receives all court events and charge disposition data, eliminating duplicate data entry. The eReferral also allows electronic transfer of information from police agencies. The District Attorney's Office is currently working with a police agency and DAIT for eReferral of police reports to the District Attorney's PROTECT system, allowing electronic transfer of information into PROTECT, as well as submission of the police reports, again eliminating duplicate entry of data. The CCH Interface (Computerized Criminal History) continues to be used to allow the District Attorney's office to electronically update the Wisconsin Department of Justice database of no-prosecution decisions on arrests. This interface increases the speed with which no-prosecution decisions are received within the Department of Justice database, thus providing more accurate and up-to-date information upon inquiry from law enforcement and other authorized users of the database.

In December of 2005, DA IT launched the Inter-County Query. An updated version of PROTECT now includes the Inter-County Query allowing prosecutors and staff in any DA Network office the ability to search for people and cases from PROTECT databases throughout Wisconsin. Only general information is taken from the PROTECT database giving defendant demographic and general case information. The Inter-County Query allows prosecutor offices to determine if other counties have pending uncharged matters, as well as giving information on pending charged cases.

The PROTECT case management system continues to be upgraded and updated. A new version of PROTECT was installed in March, 2014. This new version provides the ability to move faster through the case management system and provides easier access and viewing of information.

ELECTRONIC FILING

Starting March 1, 2017 the Washington County Clerk of Court's office required that all criminal cases be filed electronically, sometimes referred to as "e-filing". This change required changes in how the District Attorney's office filed criminal complaints (which begins the criminal prosecution) with the Clerk of Court's office. It also required changes in how the District Attorney's office met with law enforcement agencies to "swear" criminal complaints. This change has not lessened the amount of time it takes to start a criminal prosecution, but it has resulted in some time savings to law enforcement agencies because complaints can be sworn via telephone rather than in person.

CASELOAD

The majority of the work of the District Attorney's Office involves the handling of criminal and traffic cases. In 2018, the office received 3505 referrals regarding charges as compared to 3555 from 2017. Notably the number of defendants charged in 2018 as compared to 2017 was about the same -- 2,207 defendants were charged in 2018 as compared to 2,223 defendants in 2017. Those numbers are significantly higher than the number of defendants charged in 2015 (1,665 defendants charged) and 2016 (1,842 defendants charged). In addition the number of felony counts charged increased 10% -- 902 felony counts were charged in 2018 as compared to 819 in 2017. Misdemeanor counts charged also increased in 2018 by 8.4% -- 1,750 misdemeanor counts charged in 2018 as compared to 1,614 misdemeanor counts charged in 2017. A comparison of this year with past years is included as follows:

Charges issued by the District Attorney (counts)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Number of defendants charged	1,889	1,665	1,842	2,223	2,207
Felony counts	777	668	778	819	902
Misdemeanor counts	2,200	1,412	1,483	1,614	1,750

Criminal traffic counts	722	646	640	745	928
Traffic pretrials	568	451	495	723	586

Cases filed with the Court

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Felony	571	518	471	628	560
Misdemeanor*	1,351	1,332	1,256	1418	1632

*Criminal traffic combined as misdemeanor cases.

Pleas taken (counts)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Felony	336	368	316	374	396
Felony amended to misdemeanor	99	83	73	69	55
Misdemeanor	637	710	595	664	1105
Criminal traffic	412	422	350	396	441

Dispositions-sentences imposed

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Probation	494	537	400	578	988
Prison	120	134	87	110	133
Extended supervision	116	134	87	110	133
Jail	530	526	482	468	482

The State of Wisconsin enacted a mandatory arrest provision for domestic abuse cases effective April 1, 1989. As a result of this provision, Washington County has a special program wherein the alleged offender and the victim are ordered into the District Attorney's Office on the next working day following the incident to determine what, if any, formal action should be taken. It is the intent of this procedure to try to deal with these volatile and serious cases as quickly as possible to provide maximum protection to the victim as well as to impress upon the offender the seriousness of this behavior. While this procedure is time consuming and does cause difficulty in

having staff available to deal with these charging conferences, we believe that because of the seriousness of domestic abuse and the problems it poses for society that prompt handling of these cases is in the public interest.

Heroin use and heroin overdoses continue to be a problem in Southeast Wisconsin and Washington County. It was our hope that heroin use had reached its peak. We saw a decrease in heroin possession cases in 2015 as compared to 2014. However, heroin possession cases increased in 2016 and 2017 compared to 2015. Fortunately heroin cases decreased in 2018 (as compared to 2017). Hopefully, cases will continue to decrease in 2019 and future years. Below is a table regarding referrals to the Washington County District Attorney's Office for possession of heroin.

<u>Year</u>	<u>Number of criminal cases referred to DA's office for Possession of Heroin</u>
2010	91
2011	105
2012	108
2013	110
2014	191
2015	129
2016	143
2017	164
2018	130

In July 2017, in response to the increased heroin and opiate use by individuals in Washington County, the District Attorney's Office, in conjunction with the Judges in Washington County, the defense bar, and other Washington County Stakeholders, started a Treatment Alternatives and Diversion Program ("TAD"). This program allows individuals who are charged with possession of opiates (usually heroin) to get into treatment and if the person successfully completes the program, to have their felony drug charge dismissed. While technically not a "drug treatment court", this program has many aspects to it that are similar to drug treatment courts in the State of Wisconsin – most notably it requires judicial involvement and continued hearings before a circuit judge to monitor an individual's progress. It is our hope that this program will get

individuals the help they need for their drug addiction issues, and thereby lessen the crime rate. Since the start of the Opiate TAD program in July 2017 through 2018, there were 77 total referral to the program and 56 persons entered the program (the others were deemed ineligible or chose not to enter the program). 21 persons were discharged from the program (including one very sad case in which an individual in the program relapsed and unfortunately died as a result of a drug overdose). On a positive note there were 9 individuals (otherwise known as “graduates”) who successfully completed the program in a 2018.

The Judges of Washington County recently indicated that they would unanimously support a drug treatment court. Our office is currently working the Washington County Judges and other stakeholders to establish a drug treatment court which hopefully will start sometime in 2019.

Our office was also involved in numerous serious criminal cases. Our office handled a Hit and Run homicide case in which an individual who was walking home was struck and killed by a motorist as he walked on the road. There were various legal challengers brought by the defense in this matter. Ultimately the defendant pled guilty to a charge of Homicide by Negligent Operation of a Motor Vehicle and he received a prison sentence of 5 years followed by 5 years of extended supervision by the department of corrections.

Our office was also involved in the successful prosecution of a teacher who was convicted of sexually assaulting one of his students. This case was extremely complex and involved a delayed report of sexual contact of over ten years. The matter was hotly contested and our office obtained a guilty verdict after a three day jury trial. The defendant received a prison sentence of 5 years followed by 5 years of extended supervision by the department of corrections.

In addition our office was involved in the prosecution of several child pornography and numerous felony operating while intoxicated (OWI) cases which resulted in prison sentences for the defendants.

On a weekly basis, the District Attorney's Office assists law enforcement in the investigation of criminal cases by preparing Search Warrants and Subpoenas for documents which aid law enforcement in their investigations. In 2018, our office was involved in the preparation of over 282 Search Warrants and Subpoenas.

JUVENILE

The juvenile statistics for the County over the last five years are as follows:

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Delinquency petitions	203	202	161	143	106
Child in need of protection or services	78	60	80	59	91
Immunization petitions	36	20	0*	0*	0*
Informal referrals	184	179	165	173	149
Decline to prosecute	88	78	71	51	52
Petitions - waived to adult court	0	1	2	3	1
Total Juvenile Referrals	589	540	479	429	399

*As of 2016, we no longer monitor immunizations.

In addition, in 2011 the Washington County District Attorney's office instituted an Underage Alcohol diversion program which allows an underage offender to have an underage alcohol ticket dismissed if the offender successfully completes an education or treatment program. In 2017, eleven (11) underage offenders took part in this program, all successfully completed it.

WORTHLESS CHECKS/CRIMINAL RESTITUTION

The District Attorney's Office continues to process worthless check complaints, maintaining a trust account for restitution received for checks received by our office. Many municipalities now handle checks issued in their jurisdiction. A comparison of worthless check restitution as well as other restitution collected in criminal cases for the last four years follows:

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Check restitution received	\$5,331.58	\$830.22	\$453.56	0
Criminal restitution received	\$244,159.74	\$132,878.68	\$86,813.34	\$100,586.62

VICTIM-WITNESS PROGRAM

Victim/Witness Services continues to render services to the victims and witnesses of crime in Washington County. In 2018, 1307 victims were served. 292 victims requested to be kept informed of the status of their case. Therefore, we notify these victims of the status of their case after every court appearance. Approximately 2005 contacts were made to victims either by phone, email or in writing to notify them of the status of their case and/or to answer general questions. Approximately 160 personal contacts were made with victims for court escort, trial preparation, meeting with the prosecutor or just coming to the office with general questions. 343 victims requested assistance in obtaining the restitution owed to them. 600 disposition letters were sent notifying victims of the outcome of their case and 226 letters were sent to victims informing them their case would not be prosecuted.

The amount of domestic violence charging conferences increased slightly in 2018. There were 451 in 2017 and 460 in 2018. Charging conferences are time consuming and keep us busy but are extremely important for domestic violence cases. Incidents continue to be much more serious involving more strangulations, substantial batteries and stalking. In addition to domestic violence charging conferences, we met with approximately 25 sexual assault victims for sexual assault charging conferences. We assisted 12 victims in preparing restraining order paperwork for domestic violence, harassment or child abuse.

The above statistics do not include the numerous contacts our office had with witnesses and law enforcement when preparing for the jury trials held last year. Approximately 886 cancellations were made to civilian witnesses, law enforcement and expert witnesses when numerous court hearings were cancelled.

Our office continues participate for numerous victim related community committees/teams/task forces. Victim/Witness is a member of the Coordinated Community

Response Team for Domestic Violence and the Sexual Assault Response Team. We are involved in the planning of events to raise awareness for Domestic Violence Awareness Month, Sexual Assault Awareness Month, and Crime Victims' Rights Week. The second "Walk a Mile In Her Shoes" event was held in April. This event was held to spread awareness of Sexual Assault, Domestic Violence and Human Trafficking. Men walk a mile in red high heel shoes. The event attracted approximately 50 participants, including various law enforcement officers walking in uniform. We continue to spread the awareness of the devastating effects of the opiate epidemic and work to fight the epidemic. Representatives of our office continue to be a members of the Washington County Heroin Task Force and serve on several sub-committees. Numerous events continue to be held including an Anti-drug Competition in the high schools, Community Forums, Anti-Heroin Rallies and Candle Light Vigils.

CONCLUSION

The annual statistics for 2018 indicate a continuation of high volume in the number of defendants charged, criminal charges issued and the number of guilty pleas taken in misdemeanor and criminal traffic cases in Washington County. Washington County Courts continued to send offenders to State Prison at a record rate, which reflects an increase in serious criminal violations. As District Attorney, I (and all the members of our office) have tried to prosecute these cases efficiently and fairly, treating all people who come here with respect and decency.

Whatever happens with the rate of crime in Washington County, this office remains ready, willing, and able to prosecute violators of the law.

Dated this 15th day of March, 2019.


Mark D. Bensen
District Attorney
Washington County, Wisconsin