

ANNUAL REPORT 2008

SHEBOYGAN COUNTY DISTRICT ATTORNEY'S OFFICE

DISTRICT ATTORNEY
JOE DeCECCO

MISSION STATEMENT AND SUMMARY OF RESPONSIBILITIES

The mission of the Sheboygan County Office of the District Attorney is to prosecute all crimes occurring within the County on behalf of the State of Wisconsin. In addition, this office is charged with prosecuting all non-criminal traffic and ordinance citations on behalf of the Wisconsin State Patrol, the Sheboygan County Sheriff's Department and the Department of Natural Resources [DNR] that occur in the County. Finally, the office is charged with prosecuting a variety of juvenile matters including delinquencies, Children/Juveniles In Need Of Protection or Services [CHIPS/JIPS], Truancies, Termination of Parental Rights [TPR], Guardianships, juvenile ordinance violations and inoculation violations.

In fulfilling this mission, the Office of the District Attorney has the following responsibilities:

- (1) efficient, ethical, lawful and timely prosecution of all the above case types.
- (2) compliance with all evidentiary and procedural mandates created by statute and the United States and Wisconsin Constitutions.
- (3) recognition of, and compliance with, the "Rights of Victims And Witnesses of Crime" Act [Chapter 950].
- (4) assisting all law enforcement agencies in the County in legal advice and legal training as well as providing investigative tools such as search warrants, wire "taps" and/or "traces", warrants for tracking devices, and records subpoenas.

In order to meet these responsibilities, the Office must meld a team of State and County employees. The District Attorney, Deputy District Attorney and Assistant District Attorneys are all State employees, while the Office Supervisor, support staff, Victim/Witness and Check Fraud Unit personnel are County employees. Accordingly, it is crucial that specific concerns of both State and County employees, in their respective roles, be addressed and, if necessary, reconciled so that the entire office functions smoothly as a team.

GOALS AND OBJECTIVES ACHIEVED IN 2008

The Office of the District Attorney prosecuted the following number and types of cases in 2008:

Felony [potential prison]	780	[2007: 822]
Misdemeanor [potential jail]	1778	[2007: 1845]
Criminal Traffic [potential jail]	1043	[2007: 1029]
TOTAL CRIMINAL CASES	3601	[2007: 3696]
Non-Criminal Traffic & Ordinance	1775	[2007: 1753]
Total Juvenile Cases	1249	[2007: 1053]
TOTAL NON-CRIMINAL CASES	3024	[2007: 2806]
TOTAL 2008 CASES	6625	[2007: 6502]

Our overall total caseload in 2008 increased by 123 cases. While there was a decrease of felony cases by 42 and a decrease in misdemeanor cases by 67, we experienced a slight increase in criminal traffic cases [14] and non-criminal traffic and ordinance cases [22], but a significant jump in juvenile cases [196].

In addition, we issued (with judicial approval) **196** search warrants in 2008, **94** of which were drug-related. A total of **197** search warrants were issued in 2007, **93** being drug-related.

JUVENILE PROCEEDINGS

Our office reviewed **1249** juvenile referrals in 2008, 196 more than in 2007. These referrals included children under the age of 17 committing a crime [DELINQUENT], children under the age of 18 in need of court protection or services and chronically truant children [CHIPS + JIPS], termination of parental rights [TRP], requests to transfer children to adult court for formal adult charges [WAIVER], juvenile ordinance violations and sanction/disciplinary requests for children already under a juvenile court order who have intentionally violated the order [SANCTION].

Of these 1249 referrals, **1064** resulted in formal charges or court action, **122** more than 2007. Of this number, **441** were filed for delinquency and **98** for CHIPS/JIPS. In addition, there were **16** for Termination of Parental Rights and **185** for sanctions. The remainder received a less formal disposition. There was an overall jump in the total number of juvenile cases in 2008 by 196.

CHECK FRAUD UNIT

The Check Diversion Program, established by county ordinance in 2003, allows most persons who write worthless checks to enter an agreement with the District Attorney's office to avoid criminal prosecution. The participants are required to pay an administrative fee of \$35.00 (or 20% of the total amount of checks owed, whichever is greater) and then are given time to directly pay the victims for the issued checks, including returned check fees and costs. Once repayment is verified by the victims, no further legal action is taken. Prior to implementing this program in 2004, these two investigator salaries (they do not receive benefits) and all costs associated with the operation of the Check Fraud Unit, were wholly funded by county (taxpayer) funds as part of our office's budget.

In 2008, the Check Fraud Unit processed a total of **751** checks, issued **163** criminal complaints (of which **145** were resolved through the Check Diversion Program prior to trial), returned **\$62,139.81** to victims, mostly area merchants. In addition, **172** people completed the Check Diversion Program prior to any court action. Finally, the Check Diversion Program generated **\$13,378.00** as revenue for the County from the program's administrative fee.

On the five year anniversary of the Check Diversion Program, our office notes an annual average of **\$58,754.15** returned to merchants and **\$14,787.79** revenue to the County generated by the diversion fee. To date, that program has returned in excess of a total of **\$358,800** to area merchants, and has collected county revenue through its fees in the total amount of more than **\$74,000**.

BUDGET

A) 2008 Performance

We experienced an overall negative variance of **\$9,940.06** for 2008. While this is obviously an improvement over our 2007 negative variance of some \$26,600, it is disappointing as we are always striving to meet our budget goals.

Unfortunately, most of our cost overages are due to the unpredictable nature of costs associated with the cases we prosecute. For example, in cases involving suspicious deaths, we need a forensic pathologist to perform an autopsy, prepare a report and testify. The average cost for these services is \$2000 to \$3000 per case. If a defendant is asserting a mental health defense to charges, we need a forensic psychologist to examine the defendant, prepare a report and testify. Again, the average cost for these services is \$2000 to \$3000 per case. These type of necessary services are not provided by the State.

In addition, we sometimes experience above normal costs to produce witnesses at trials if they reside a distance away from Sheboygan County or out of the state entirely. In 2008, for one child sexual assault case alone, we had transportation fees from Texas for the child and a parent in excess of \$4000.

While we apply for a court order for reimbursement of all these expenses, we rarely see the money because the defendant simply doesn't have the money and, if sent to prison or a mental health institution, will not have the means to pay it.

While we have no way of accurately estimating what experts we will need for cases that have yet to be issued, or what special witness costs may be needed to prosecute a case as yet unknown to us, we do try to make our best estimate for those costs based on similar expenses incurred over the last several years. The only other option would be to submit a comfortable "cushion" for those unpredictable expenses by requesting high operating

expenses amounts, but I believe that is fiscally irresponsible and does not reflect an attempt to present a reasonable budget.

B) 2009 Budget

As noted above, we have a difficult task in predicting many of our costs involved in the prosecution of cases for crimes that haven't yet happened. These unpredictable costs can skewer our budget in any one year. We're encouraged by the fact that, over the last several years, we're getting better at estimating these costs as reflected in less of a negative variance at year's end. I'm not quite ready to claim we are perfecting a system of unflinching predictability as I'm certain that luck plays a role. I'm also keenly aware that any one year could produce a "perfect storm" of complicated cases that blows our budget out of the water. At any rate, we'll continue to do the best job we can in accurately predicting costs.

ISSUES, CONCERNS OR CONSTRAINTS

I have two major concerns to discuss: severe prosecutor understaffing and alternative sources of revenue for the County.

While our backlog of cases had been my major concern over the last several years, it has now taken a backseat to our severe prosecutor shortage. In 2008, the non-partisan Legislative Audit Bureau issued its most comprehensive analysis of the 71 District Attorney offices in the state, listing Sheboygan County as the 9th most needy county based on percentage of full staffing [60.0%], and indicating a need of an additional five (5) fulltime prosecutors to address our case load [*chart attached*].

I realize that the prosecutor shortage is a state, not county, problem, but that shortage is extremely detrimental to the efficient operation of our office which can affect our County residents and the quality of life in this county. Since 2002, the total number of our cases has increased dramatically from 5,984 cases in 2002 to 6,625 in 2008, an increase of 641 cases overall, with our prosecutor staff number of 7.5 prosecutors remaining unchanged. My top priority in 2009 and the years to come will be to secure at least one additional full time prosecutor position. Just one additional full time position will result in a substantial easing of the enormous stress on our current staff.

Finally, as I stated in the four previous Annual Reports, this office cannot sustain further across-the-board budget cuts. We have slashed our predictable operating costs to the bone (an approximate 40% reduction in budgeted operating costs in 2004 alone) and I simply don't know from where any further cuts can come.

I believe that Sheboygan County (as an entity) must find new sources of revenue to maintain its current high standard of excellence and service to its residents. While everyone has an initial negative reaction to perceived "new" taxes, a county-wide ½ percent sales tax would provide additional county revenue to provide direct property tax relief to residents. We have some major events in our county and we're becoming a tourist destination and appreciable revenue could be obtained by implementing this tax which would draw on visitors to our County instead of only property owners. Currently, 61 out of 72 Wisconsin counties have a ½ percent sales tax. I've attached a chart based on figures provided by the Department Of Revenue showing monies distributed in 2007 to those counties who enacted that tax.

GOAL AND OBJECTIVES FOR 2009

Work-related stress continues to be a major concern. Our large case load and the work required to effectively deal with it continues to generate stress on the County staff and our State prosecutors. My main goal for 2009 will be to have at least one additional prosecutor added to our attorney staff. Quite frankly, I don't know how we can effectively continue to do our sworn duty as our case numbers rise and the Legislature continues to ignore not only our plight but the severe shortage of prosecutors around the state.

DATED THIS 11th DAY OF FEBRUARY, 2009.

Joe DeCecco
District Attorney

2008 LEGISLATIVE AUDIT BUREAU ANALYSIS
Top 15 Most Needy Counties by Staffing Percent

COUNTY	CURRENT PROSECUTOR STAFF NUMBER	CURRENT FULL STAFFING PERCENTAGE	LAB RECOMMENDED ADDITIONAL PROSECUTOR NUMBER
1. Wood	4.00	49.5 %	4.07
2. Monroe	3.00	49.7 %	3.03
3. Burnett	1.25	54.3 %	1.51
4. Grant	2.00	57.4 %	1.48
5. Langlade	1.50	58.1 %	1.08
6. Lincoln	2.00	58.6 %	1.41
7. Adams	1.20	59.4 %	0.82
8. Shawano/ Menominee	3.00	59.7 %	2.02
9. Sheboygan	7.50	60.0 %	5.00
10. Marquette	1.00	60.2 %	0.38
11. Brown	12.00	61.4 %	7.61
12. Forest	1.00	62.1%	0.61
13. Oconto	1.50	63.2 %	0.87
14. Eau Claire	8.00	63.4 %	4.61
15. Barron	3.00	63.6 %	1.71

Wisconsin Department of Revenue
2007 County Sales Tax Distribution

County	Tax Received	County	Tax Received	County	Tax Received
Adams	\$ 1,259,615	Iowa	\$ 1,449,966	Polk	\$ 2,327,040
Ashland	1,154,627	Iron	433,701	Portage	4,958,596
Barron	3,330,602	Jackson	1,160,946	Price	787,981
Bayfield	895,207	Jefferson	5,046,900	Richland	898,370
Buffalo	598,089	Juneau	1,320,603	Rock	6,030,192
Burnett	825,939	Kenosha	9,991,029	Rusk	1,102,006
Chippewa	3,616,309	La Crosse	9,562,276	St Croix	5,095,251
Columbia	3,446,084	Lafayette	648,151	Sauk	7,000,667
Crawford	1,275,966	Langlade	1,312,015	Sawyer	1,538,945
Dane	43,021,991	Lincoln	1,514,389	Shawano	2,177,224
Dodge	4,866,844	Marathon	10,646,319	Taylor	944,208
Door	3,108,417	Marinette	2,694,222	Trempealeau	1,370,667
Douglas	3,367,699	Marquette	753,971	Vernon	1,254,345
Dunn	2,187,089	Milwaukee	64,448,566	Vilas	2,025,779
Eau Claire	7,993,786	Monroe	2,555,868	Walworth	7,561,567
Florence	208,568	Oconto	1,502,513	Washburn	1,242,702
Forest	437,898	Oneida	3,649,333	Washington	9,007,091
Grant	2,407,314	Ozaukee	6,045,165	Waupaca	2,811,154
Green	1,975,085	Pepin	370,726	Waushara	1,040,012
Green Lake	1,051,024	Pierce	1,533,697	Wood	5,014,804

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