

ANNUAL REPORT 2009

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 2009

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

Felony [potential prison]	801	[2008: 780]
Misdemeanor [potential jail]	1679	[2008: 1778]
Criminal Traffic [potential jail]	802	[2008: 1043]
TOTAL CRIMINAL CASES	3282	[2008: 3601]
Non-Criminal Traffic & Ordinance	1845	[2008: 1775]
Total Juvenile Cases	1309	[2008: 1249]
TOTAL NON-CRIMINAL CASES	3154	[2007: 3024]

TOTAL 2009 CASES	6436	[2007: 6625]

Our overall total caseload in 2009 decreased by 189 cases. Felony cases increased by 21, non-criminal and ordinance cases increased by 75 and juvenile cases/referrals increased by 60. Misdemeanor cases decreased by 129 and criminal traffic cases decreased by 242.

Our office issued (with judicial approval) **209** search warrants in 2009, **94** of which were drug-related. A total of **196** search warrants were issued in 2008, **94** being drug-related.

In addition, our office issued **24** various types of electronic tracking warrants, almost all drug related, as well as two drug wire tap warrants. I am adding these type of warrant numbers to my annual report due not only to the increased number we experienced in 2009 and that most are based on federal requirements mandating our office using significantly more time to draft them, but these numbers also reflect the growing drug problem in this County and our and law enforcement's increased efforts to root it out.

JUVENILE PROCEEDINGS

Our office reviewed **1309** juvenile referrals in 2009, 61 more than in 2008. 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 [TPR], 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 1309 referrals, **380** were filed for delinquency and **89** for CHIPS/JIPS. In addition, there were **16** for Termination of Parental Rights and **232** for sanctions. The remainder received a less formal disposition.

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 2009, the Check Fraud Unit processed a total of **534** checks, issued **103** criminal complaints (of which **98** were resolved through the Check Diversion Program prior to trial), returned **\$86,698.77** to victims, mostly area merchants. In addition, **81** people completed the Check Diversion Program prior to any court action. Finally, the Check Diversion Program generated **\$10,508.00** as revenue for the County from the program's administrative fee.

BUDGET

A) 2009 Performance

We experienced an overall negative variance of **\$1,065.77** for 2009. With all the unpredictable variables in our budget, we are very pleased we came so close to meeting our budget. As most people are aware, 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.

B) 2010 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 have perfected 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 cannot help but focus on our severe prosecutor shortage in the County and the looming threat of permanent lay-offs of prosecutors by the State. While the infrastructure and support staff of all District Attorney's office are supplied by the County of the particular office, all prosecutors' salaries and benefits are paid by the State. In 2008, the non-partisan Legislative Audit Bureau issued its most recent 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. Another LAB analysis is due out in 2010, and I shudder to think what those numbers might be. To add insult to injury, prosecutors have already taken five (5) days off without pay, and the State is looking at permanent layoffs to make up what the State claims is a 1.3 million deficit in the prosecutor budget (made up of *only* salaries and benefits), although refusing, to date, to provide specific information on this "deficit".

The loss of even one of our prosecutors would seriously compromise our ability to prosecute criminal law violations as we would be at 52% full capacity. As I have publicly announced, some 1200 non domestic-related misdemeanors would not be prosecuted each year so we could concentrate on the more serious crimes.

While I realize that the prosecutor shortage is a state, not county, problem, I recognize that such a shortage would have an extreme detrimental effect on our County residents and the quality of life in this county.

GOAL AND OBJECTIVES FOR 2010

Aside from my normal duties as District Attorney, circumstances will force me to intensely focus on the prosecutor shortage crisis. Unfortunately, not only do I have to worry about trying to get relief in the form of one additional prosecutor (which I've been trying to accomplish since I was first elected in 2002), but now must work not to have any of my present prosecutor positions eliminated.

DATED THIS 12th DAY OF FEBRUARY, 2010.

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

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