2017

ALLEGAN COUNTY PROSECUTING ATTORNEY

ANNUAL REPORT

RESPECTFULLY SUBMITTED TO:

THE CITIZENS OF ALLEGAN COUNTY

AND

ALLEGAN COUNTY BOARD OF COMMISSIONERS
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INTRODUCTION

We are pleased to present the 2017 Annual Report for your review. This report covers the year of Roberts Kengis’ first term as the Allegan County Prosecuting Attorney, but was prepared by current Allegan County Prosecuting Attorney, Myrene K. Koch and her staff. We would like to thank Mr. Kengis for his many years with the Allegan County Prosecuting Attorney’s Office.

The Michigan Constitution mandates that every county elect a Prosecuting Attorney whose duties are legally defined.

The Prosecuting Attorney administers public justice and is a local office. His or her duties to a large extent are local only in the sense that they are to be performed locally; for they are to be performed on behalf of the state just as much as are the duties of the judge who holds court for his or her county.

The Prosecuting Attorney is responsible for a wide array of legal functions for the County, including:

- Act as the chief law enforcement official in the County.
- Review, authorize and prosecute violations of felony and misdemeanor criminal laws of the State of Michigan and County ordinances committed inside the County.
- Authorize and prosecute felony and misdemeanor juvenile delinquency offenses.
- Represent the County in criminal matters before the District and Circuit Courts; juvenile delinquency, parental neglect and miscellaneous probate matters in the Family Court; and appeals in the Court of Appeals and Michigan Supreme Court.
- Advise the Michigan Department of Human Services on child abuse and neglect petitions, and actions to terminate parental rights.
- Attend contested mental health commitment hearings.
- Advise the County Board of Commissioners and other County departments on legal matters.
PROSECUTOR STAFF

(Front Row) Myrene K. Koch-Chief Assistant, Roberts Kengis-Prosecutor, (Back Row) Assistant Prosecutors Jason Osbourn, Emily Jipp, Jessica Winsemius, Judith Kasson, Rachel Keeley, Steve Lanting and Jon Blair.

SUPPORT STAFF

(Front Row) Paige Christman-Circuit Court, Tom Moore-District Court A (Back Row) Jewell Raab-Family Court, Nashell Miller-Warrants, Rhonda Baux-Victim Rights, Gina Shashaguay-District Court B. Not pictured: Dianne Yeaman - Irregular Part-Time Legal Secretary.

VICTIM/WITNESS SERVICES

Emelda Calanchi-Pope - Victim/Witness Coordinator. Rhonda Baux - Legal Secretary.
**Circuit Court – Felony Cases**

The Circuit Court docket includes felony cases which are crimes where punishment is incarceration in excess of one year. Felony cases require significant staff time and multiple court appearances such as pre-exam hearings and preliminary examinations in District Court. If the case is bound over to Circuit Court, the Prosecuting Attorney is responsible for all proceedings at that level including pre-trials, motion hearings, pleas, trials, and sentencing. All felony cases have strict time limits both for preliminary examinations (within 14 days) and trials (within 180 days).

Allegan County has two Circuit Court Judges, who are primarily responsible for handling the adult felony cases. The following is a breakdown of the number of felony cases authorized each year since 2008:

![Bar chart showing authorized felony cases 2008-2017](image)

Below is an overview of the number of Felony Assaults, Criminal Sexual Conduct and Felony Controlled Substance cases since 2013:

![Bar chart showing felony assaults 2013-2017](image)

![Bar chart showing felony criminal sexual conduct 2013-2017](image)

![Bar chart showing felony controlled substance 2013-2017](image)

A large portion of our felony case load consists of controlled substance violations. Methamphetamine and Marihuana cases continue to be the most common drugs, but we’ve also seen a rise in cases involving opioids (painkillers) and heroin.
DISTRICT COURT – Misdemeanor Cases

Misdemeanor cases are crimes handled in District Court where punishment results in incarceration in the county jail for up to one year. Allegan County has two District Court Judges and a Hearing Magistrate. These types of cases are large in number and include, assaults (domestic and others), drunk driving, drug use or possession, and property crimes. As a matter of policy, this office has sought and received significant jail terms for repeat drunk drivers and domestic assault defendants.

In 2011 this office was instrumental in development and implementation of the Mental Health Court. Involvement in this District Court program requires assigning an assistant Prosecuting Attorney to attend hearings.

In 2017 78.34% (510) of the 651 individuals who were charged with Drunk Driving were convicted of either Operating While Intoxicated (OWI) or Impaired Driving. The pie graph on the right shows what the final disposition was on individuals charged with OWI. The graph below it shows the total number of Drunk Driving Case Dispositions from 2008 to 2017.

MISDEMEANOR FINES, COSTS & RESTITUTION

District Court has ordered the following fines, costs, and restitution where this office has actively been involved:

<table>
<thead>
<tr>
<th>Year</th>
<th>Fines &amp; Costs</th>
<th>Restitution</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1,083,828</td>
<td>190,971</td>
</tr>
<tr>
<td>2009</td>
<td>974,115</td>
<td>172,264</td>
</tr>
<tr>
<td>2010</td>
<td>1,191,469</td>
<td>183,020</td>
</tr>
<tr>
<td>2011</td>
<td>1,328,126</td>
<td>166,256</td>
</tr>
<tr>
<td>2012</td>
<td>1,352,082</td>
<td>212,136</td>
</tr>
<tr>
<td>2013</td>
<td>1,572,133</td>
<td>97,707</td>
</tr>
<tr>
<td>2014</td>
<td>1,867,859</td>
<td>174,329</td>
</tr>
<tr>
<td>2015</td>
<td>2,109,713</td>
<td>261,589</td>
</tr>
<tr>
<td>2016</td>
<td>2,091,702</td>
<td>245,067</td>
</tr>
<tr>
<td>2017</td>
<td>136,958</td>
<td></td>
</tr>
</tbody>
</table>
DOMESTIC VIOLENCE

Domestic Violence is abuse perpetrated by one or both partners involved within an intimate or family relationship. Domestic Violence is considered to be fairly expansive in nature, due to the fact that it may include a wide range of victims, activities, and vary in severity. The term “Domestic Violence” can include physical assault, property damage, arson, home invasion, weapons charges, telephone misuse, interfering with electronic communication (interrupting a phone call for help), stalking, emotional abuse, unlawful imprisonment, sexual abuse, and homicide.

Domestic Violence can take place within a variety of intimate relationships, including married couples, individuals who are cohabitating, or individuals considered to be intimately involved. Domestic violence is not specific to sexual orientation or economic group.

When children are subjected to domestic violence it can often result in the perpetuation of violence.

Despite the existence of institutions providing resources, shelter, and assistance through the legal system, it is estimated that only about 50% of Domestic Violence cases are reported.

The above graph outlines the number of requests we receive each year for charges relating to Domestic Violence.

In 1998, the 57th District Court, at the request of this office and the Allegan County Domestic Violence Task Force, implemented a Domestic Violence Diversion Program where first-time offenders are given the opportunity to receive counseling and avoid criminal convictions. The pre-requisites for acceptance into the program are specific, and one cannot qualify if there is aggravated physical injury or a history of domestic violence. The goal of the program is to stop the cycle of violence. The statistics from the 57th District Courts Annual Report are extremely encouraging for successful results from this program.

CIRCUIT COURT – FAMILY DIVISION

The Circuit Court – Family Division are those cases where the Prosecuting Attorney is charged with the responsibility of bringing cases of child neglect or abuse to the court. In addition, the Prosecuting Attorney handles cases of juvenile delinquency and involuntary commitments pursuant to the Mental Health Code in Probate Court. Allegan County has one Family Court/Probate Judge, and two Hearing Referees. In 2017 this office reviewed 431 requests for delinquency petitions.
Below is a break-down of juvenile delinquency petitions authorized, juveniles placed on diversion and Abuse and Neglect petitions authorized since 2008:

**Criminal Case Charging Duty**

Under Michigan Law, it is the duty of the Prosecuting Attorney to decide “if” someone will be charged with a crime and the precise nature of that criminal prosecution. Police agencies submit their investigative reports to the Prosecuting Attorney to determine if a factual and legal basis exists to initiate prosecution. As can be seen from the previous statistics, the Office of the Prosecuting Attorney has a great responsibility to properly review reports and properly charge criminals. Each investigative report, if it results in a charged crime, could result in a jury trial in District Court, Circuit Court, or Family Court/Probate Court; and a jury trial could cost Allegan County between $300.00 and $800.00 per day of trial. In 2017 this office reviewed 4827 adult criminal warrant requests, which is 519 more than in 2016.

It is important that the Office of Prosecuting Attorney have a sufficient staff of attorneys to not only be available to staff the eight courtrooms with their Judges and Referees but to have attorneys available to review arrest warrant requests and prepare search warrants. Due to the serious nature of criminal cases and county civil liability, it is necessary for Assistant Prosecutors to have a sufficient amount of time to review investigative reports and prepare cases.
OTHER CASE DUTIES

The Prosecuting Attorney is responsible for a variety of other duties. It is necessary to regularly appear for involuntary commitment of the mentally ill. These cases include many people that are a serious threat to the public or themselves. The Prosecuting Attorney also is responsible for enforcement of approximately 200 statutorily created duties from advising various county departments and agencies to making sure the annual county real estate tax sale is completed correctly. This office is a part of the West Michigan Enforcement Team (WEMET) which involves Allegan, Ottawa, and Muskegon counties in drug enforcement. In 2002 this office was a key component of a Methamphetamine Task Force, which initiated an aggressive campaign against the use, production and delivery of Methamphetamine in Allegan County. The Task Force was extremely successful and has been used as a model for drug enforcement practices in other Michigan counties.

As the Chief Law Enforcement Officer it is an important part of our duties to respond to concerns of the community. Examples include this office being instrumental in developing the Allegan County Mental Health Court in 2011; the Drug Treatment Court in 2012; and the Regional Veterans Court in 2013.

The Allegan County Prosecutors Office participates in the Allegan County Child Abuse Multi-Disciplinary Team as a part of a memorandum of understanding with 10 other agencies pursuant to the Child Abuse Investigation Protocol mandated by the State of Michigan. The team reviews all cases of suspected child sexual abuse and severe physical abuse. The reviews include monitoring child forensic interviews and a monthly case review process of those interviews. On average, this team reviews approximately 95 cases of child abuse, criminal sexual conduct and child sexually abusive material every month. An interview of a child typically takes one hour to complete, and assistant prosecutors are present for that part of the investigation. Interviews are conducted by a trained forensic specialist, while the remainder of the team views the interview over closed circuit video at the Safe Harbor Children’s Advocacy Center or through the use of poly-com technology from the Prosecutor’s Office. This system was made possible by a grant through Safe Harbor and allows Assistant Prosecutors to be present for the interviews while not leaving the office.

The graph above details the number of forensic interviews since 2008.

ON CALL DUTIES

A Prosecuting Attorney is on call twenty-four hours a day. The Prosecutor is required to consult with police agencies, issue arrest warrants evenings and on weekends, and be available to prepare search warrants (which are usually needed at the most inconvenient times).
OTHER ACTIVITIES

The current staff of Assistant Prosecuting Attorneys continues to be as active as their caseload allows in several different areas related to criminal justice. The involvement includes membership and participation in the leadership of Safe Harbor Child Advocacy Center, leadership in the Allegan County Coordinating Council on Domestic Violence, Allegan County Substance Abuse Prevention Counsel, Prosecuting Attorney Association of Michigan, Allegan County Law Enforcement Council, Allegan County Safe Schools Committee, Child Death Review Committee, as well as numerous civic groups.

CRIME VICTIM ASSISTANCE

Most crime victims experience physical suffering, financial loss, and emotional distress. Physical injuries occur in nearly one-third of all violent crimes. Our Victim Assistance Program provides an extensive notification service to victims to advise them of each court proceeding as their case moves through the court system. In 2017 the Victim Assistance Program provided over 8794 contacts with victims throughout the year. This is a very important function of this office. During 2017 our office provided services by way of letter, telephone contact and email, providing support to victims in court and providing appointments with victims of various crimes. The Victim/Witness Coordinator serves as the primary contact for victims of Domestic Violence, Criminal Sexual Conduct, Drunk Driving or Driving Under the Influence of Controlled Substance Causing Death or Serious Injury. This contact includes explaining of rights, court procedures, services, shelter alternative and assistance. Our Victim Assistance Program is funded by an award of $121,561.00 from the Michigan Crime Victim Services Commission. This fund is used to employ both a full time Victim Rights Coordinator and Secretary.

The Allegan County Victim/Witness Coordinator has a Bachelors Degree in Psychology with over twenty-seven years’ experience working with child and adult victims.

APPEALS

Each person who is convicted of a crime in Michigan is entitled to appeal his or her conviction. The Prosecuting Attorney has the obligation to represent Allegan County in opposing each appeal. Appellate cases require meticulous research in the preparation of lengthy legal briefs, as well as appearances in the various appellate courts. These are vitally important areas of endeavor. If we are not successful in the appeals in the higher courts of the state, the efforts of our office as well as the police departments are futile.

In 2017, our office filed 24 post-conviction pleadings with, as well as attended 2 oral arguments at the Michigan Court of Appeals in Grand Rapids. During this same time 41 pleadings and correspondences were received and reviewed for cases pending in the Court of Appeals. Our office filed 3 pleadings with the Michigan Supreme Court while receiving 10 pleadings and correspondences. Our office also filed 4 post-conviction pleadings on appeals in the Circuit Court, either as appeals from the District Court, remands from the Court of Appeals, or in post-conviction matters. From those, 4 hearings were attended in the Circuit Court.
**LAW ENFORCEMENT AGENCIES**

This office services all the law enforcement agencies in Allegan County including the Sheriff’s Office, the State Police, DNR, and the Cities of Plainwell, Otsego, Wayland, Holland, Allegan, Saugatuck/Douglas, Fennville and Gun Lake Tribal Police Department. As the gatekeeper of all criminal activity from the policing agencies to the court system it is critical to our criminal justice system to adequately staff the Office of the Prosecuting Attorney and not compromise the public safety of the citizens of Allegan County. On the right is a summary of the warrants requested by agency for adult criminal cases.

**CONCLUSION**

Allegan County is one of the fastest growing counties in this state by population having increased from 90,509 in 1990 to 105,665 in 2000 and 111,408 in 2010. The U.S. Census Bureau estimates Allegan County’s population at 116,447 in 2017. As a result, we have and will continue to experience the inevitable result of an increased workload with a limited staff.

The types of crimes being committed in Allegan County shifts somewhat over the years. The two graphs on the following page help illustrate that point. Although Controlled Substances, Assaults and Larceny/Theft/Fraud held as the top three most charged crimes respectively, the
fourth most charged moved from Criminal Sexual Conduct crimes to Crimes against Police (Resisting and Obstructing). Since 2010, Authorized Controlled Substance counts increased by 60.89%. Larceny/Fraud/Identity Theft cases increased by 15%, and Obstruction of Justice (Fleeing, Absconding, Witness Intimidation, etc.) increased by 115%. The total amount of felony counts charged increased by 43.37% since 2010.

The Prosecuting Attorney and staff have a tremendous impact on how the criminal element is handled in Allegan County. Economic pressures and constraints have been placed upon every segment of our governmental system. However, law enforcement (as well as our educational system) continues to be a vital link in our civilized society and must be protected. I point out to the Board of Commissioners that the Office of the Prosecuting Attorney is a constitutionally mandated office in Michigan County Government and the County must fund the office at a serviceable level.

I look forward to working with other members of the law enforcement community to help make Allegan County a safe place in which to work, live, and raise a family.

Respectfully submitted,

Myrene K. Koch
Prosecuting Attorney
The 2017 Office of the Prosecuting Attorney

Middle Row: Emily Jipp, Rhonda Baux, Rachel Keeley, Nashell Miller, Tom Moore, Jewell Raab.
Back Row: Jason Osbourn, Jessica Winsemius, Gina Shashaguay, Judy Kasson, Steve Lanting and Jon Blair.
Not pictured: Dianne Yeaman