

COUNTY ATTORNEY'S OFFICE

James M. Reams, County Attorney

Rockingham County Attorney James Reams is pleased to submit the 2008 Annual Report for the Rockingham County Attorney's Office. The office continuously strives to seek justice and improve the quality and efficiency of processing cases within the confines of a delicate balance of resources. The County Attorney wishes to thank the County Delegation for their continued support of the mission of the Office and looks forward to continuing to improve justice for the citizens of this County.

"The mission of the Rockingham County Attorney's Office is to improve the quality of life for the citizens of Rockingham County by seeking justice professionally, effectively and efficiently."

The County Attorney is a constitutional officer whose duties and responsibilities have been defined by the common law and various statutes. The County Attorney is the chief law enforcement official in Rockingham County. In the absence of the Attorney General, the County Attorney performs all the duties of the Attorney General's office for the County. He has the responsibility for and exercises general supervisory control over the enforcement and prosecution of the criminal laws of the State.

The County continues to grow at a rate that is well above the rate at which the rest of the State is growing. The threats to our communities are likewise increasing. The laws regarding criminal law, criminal procedure, search and seizure and permissible investigative techniques is increasingly complex. The County Attorney has an important responsibility to provide general oversight, guidance and training to the 38 law enforcement agencies in the County. The responsibility is not only to ensure that the community is protected from criminals and that cases are successfully prosecuted, but also to ensure that all of our citizens' rights are scrupulously protected.

The year 2008 was a challenging one for the County Attorney's Office. We prosecuted and obtained convictions in some very significant cases.

State vs. Montour: Leonard Montour of Manchester was sentenced to 15 to 30 years in the NH State Prison. Montour was convicted in November, 2008 on two counts of Aggravated Felonious Sexual Assault, four counts of Felonious Sexual Assault and two counts of Sexual Assault. The above charges stem from incidents that occurred in Auburn, Manchester, Litchfield and Hooksett, NH. The Rockingham County, Merrimack County, as well as the Hillsborough County charges were all consolidated for trial in Rockingham County. The victim in this case was 14 at the time the assaults started in the summer of 2005 and continued through the holidays of 2006-2007. The defendant was given a significant prison term.

State vs. Mendola: In January, 2008, Katherine Mendola of New Ipswich was convicted and sentenced to 10-20 years at the NH State Prison on one felony charge of Criminal Solicitation to Commit Murder. Mendola solicited an undercover agent of the State Police to cause the death of another person, specifically her former attorney's spouse with whom she was obsessed with and wanted the wife out of the picture. The defendant was videotaped by the undercover agent while she was driving to a remote location in Northwood. During their conversation, Mendola makes it clear that she wants the spouse killed and that she wants it to look like a hunting accident. Additionally, she provides US currency to the agent as payment for the murder and if the "hit" goes well, she has other people she would like the hit man to kill for her. Defense counsel filed a Notice of Defense of Entrapment alleging that the defendant was encouraged to do so by a person acting in cooperation with law enforcement officials. At the same time, defense counsel filed a Notice of Defense of Insanity but months later withdrew the notice.

In addition, for the tenth straight year, the County Attorney's Office set a record for the number of new cases Indicted. We reviewed, prepared and presented 2651 cases for review by the Grand Jury.

Since 1999, when County Attorney Reams first took office, the number of cases handled by the County Attorney's office has dramatically increased. A strict comparison of the actual number of True Bills returned by the Grand Jury reveals a leap from 1254 in 1998 to 2615 in the year 2008, an increase of 209%. Simply comparing these numbers cannot accurately reflect the increased workload handled by this office. Some might suggest that the numbers could be skewed by "overcharging" certain types of cases. This is not done in Rockingham County. The County Attorney exercises great restraint and consideration when making charging decisions. The County Attorney prefers to track the workload by comparing the number of "case files" opened. A file may have numerous charges, but will involve one investigation and one defendant.

CRIME STATISTICS FOR MATTERS FILED IN SUPERIOR COURT: There is no totally accurate way to measure how "busy" a prosecution office is. However, there are a number of statistics that I measure to give indicators of the volume of work:

- Indictments have increased from 1254 in 1998 to 2615 in 2008.
- 1050 cases were scheduled for trial by the Superior Court in 2008, down from 1116 in 2003 due to the Court not scheduling jury trials for 11 weeks throughout 2008.
- 582 defendant's closed files were reopened in 2008 covering approximately 1306 reopened charges. The County Attorney's prosecution database was also upgraded in early 2006 enabling us to keep better statistics pertaining to reopened cases. These cases are not counted in the "active" cases. Reopened cases generally require prosecutors to respond to post conviction motions for a variety of requests and to appear at related hearings (Probation Violations). The Court has adopted a liberal policy with regard to accepting and scheduling hearings for these types of pleadings which is increasingly time consuming for the staff.
- Duty calls from police departments after hours were 320 in 2008, which means each night the attorneys handled police calls.
- Victim/Advocates had 10,571 contacts with the victims and witnesses during 2008, which is down from 2007. But, two Advocates took maternity leave in 2008.
- Our two part-time investigators handled 322 cases.
- The Attorney General has mandated that County Attorneys handle many of the Petitions for Writ of Habeas Corpus filed by prisoners require our prosecutors to attend hearings at the prison in Concord and at the Coos County Court for matters involving prisoners held in the Berlin facility.
- Under the new Act that became effective January 1, 2007, prosecutors may file a civil commitment petition for recommitment when a sex offender's prison sentence ends and the offender is believed to be a threat to public safety. Pursuant to RSA 135-E:1, an offender can potentially qualify for a five-year minimum civil commitment in a secure psychiatric facility. The County Attorney's prosecutors reviewed 16 Sexually Violent Predator Notifications received from the Department of Corrections in 2008.

PROSECUTORS: The County Attorney and his Deputy oversee a staff of 34 in the Superior Court office, including 18 Assistant County Attorneys. The Assistant County Attorneys are divided into teams covering three geographic regions of the county, created by the County Attorney.

The County Attorney continues to be proactive in providing assistance during the earliest stages of a case. Prosecutors are available to answer questions from law enforcement regarding investigations and charging decisions 24 hours a day (320 Duty Calls were handled in 2008). All prosecutors are periodically scheduled to be "on-call" at night and on weekends. Prosecutors are "exempt" employees who do not receive overtime or other consideration for this added duty. The prosecutors recognize that this is an important function that results in better investigations, better prosecutions, and protection of the rights of the citizens of the county. On an average of every night, prosecutors answer calls from police departments.

In addition to these duties, and as noted above, the prosecutors carry an average of over 125 felony cases at all times. By way of contrast, please note that the Public Defenders have a contract with the State that provides for a maximum *weighted* caseload of 55 cases, including misdemeanors and other duties. Our heavy workload places significant stress on the entire staff.

DISTRICT COURT: While the County Attorney is responsible for criminal prosecution in his County, police departments have traditionally prosecuted their own cases at the District Court level in New Hampshire. The County Attorney's Office provides assistance to departments when requested and occasionally for short periods when departments have been without personnel. The County Attorney has assumed complete responsibility for District Court prosecution under circumstances where the individual department or municipality reimburses the county for the associated cost of providing that service. This is done because the County Attorney does not provide district court prosecutors for all of the towns in Rockingham County.

The Plaistow District Court prosecutor position was created in 2003 with 6 towns having entered a contract with the County Attorney's Office to provide a Prosecutor for the towns. In 2004, the County Attorney's Office was given the authority to hire an administrative employee to assist in the prosecutorial duties of the Plaistow District Court and this position was filled. In 2008, 1932 complaints were handled by the prosecutor which represents 1225 cases.

Additionally, in 2007, the Exeter District Court prosecutor position was created with 2 towns having entered the contract, Exeter and Fremont. Thus far, the departments are very happy and the contract appears to be a success.

The County Attorney provides prosecution for certain towns in the Candia District Court area including Nottingham and Candia. This office handled a total of 428 misdemeanor cases filed in the Candia District Court. The County Attorney previously prosecuted cases for Epping and Northwood. Those towns have opted to hire attorneys on a part time basis to act as their prosecutors.

VICTIM/WITNESS COORDINATORS: The County Attorney's Office has three full-time Victim/Witness Coordinators. The Coordinators work primarily on victim cases. They provide information and assistance to people affected by crimes with compassion and professionalism. Coordinators guide victims through the criminal justice process and work to ensure that the victim's rights are protected in accordance with RSA 21-m:8. Each of the Victim/Witness Coordinators averaged over 402 telephone conferences and more than 57 office conferences with victims and witnesses of crime each month.

One of the 3 advocates continues to be partially grant funded through the Violence Against Women Act. This grant limits the types of cases that this advocate may work on. The County has been fortunate to keep this grant for so many years. However, it is now a decreasing amount. It is important to maintain the level of services demanded by the Victims Bill of Rights. With the increasing caseload, it will be necessary to add an additional full time advocate in the near future.

INVESTIGATORS: The investigators reviewed approximately 322 cases during 2008. In addition, the investigators handled 13 complaints against individual Police Departments, performed background checks for prospective employees, and also fielded numerous walk-in contacts during 2008.

The investigators review all cases involving victims. Other duties of the investigators include but are not limited to assisting law enforcement agencies in follow-up investigations, locating missing witnesses and conducting some interviews.

SUPPORT STAFF: The support staff at the County Attorney's Office consists of an Office Administrator, File Intake Manager, Receptionist, five Administrative Legal Assistants, four Legal Assistants and one Paralegal. The support staff is responsible for duties such as transcribing, drafting, filing and mailing various legal correspondence and pleadings, coordinating and scheduling monthly Grand Jury proceedings, as well as assembling all felony files for review by the Prosecutors.

- The support staff generated approximately 6,475 trial subpoenas in 2008 and processed approximately 678 cases involving multiple items of trial evidence.
- Additionally, the office received 25 requests for Interstate Agreement on Detainers (IAD's), 9 requests for Governor's Warrants and the County Attorney approved 79 Out-of-State Arrest transports.
- The Reception Office averaged an astounding 32,178 incoming telephone calls this year.

MEDICAL EXAMINERS: In every case of a medicolegal death, the Medical Examiner, or an Assistant Deputy Medical Examiner is required to respond and conduct an examination. Assistant Deputy Medical Examiners (ADME) conducted 183 scene investigations and 265 phone consults this year. We rely on local funeral homes to provide removal and transportation services. It is anticipated that these expenses may continue to rise slightly. However, legislation is centralizing the Medical Examiners Office and administering the ADME's. This relieves the county of the burden and creates a superior system.

CHILD ADVOCACY CENTER OF ROCKINGHAM COUNTY: Our Child Advocacy Center is the first established in New Hampshire. The Child Advocacy Center now provides child friendly forums for multidisciplinary interviews at sites in both Portsmouth and Derry. The Child Advocacy Center was Rockingham County's response to the legislature's mandate that agencies investigating child abuse work cooperatively to minimize the impact on the child. A second Child Advocacy Center site located in Derry was opened in 2003.

The Child Advocacy Center is a non-profit entity that is staffed and funded through grants and fundraising efforts. The County Attorney is on the board of directors and has representatives on the advisory board of the Child Advocacy Center. The model has been so successful that a legislative committee has recommended that our model be implemented statewide. The Governor and Attorney General have supported this model and have made matching funds available to enable the other counties to establish Child Advocacy Centers of their own.

Prosecutors attended 134 interviews at the Child Advocacy Center in 2008. The process is time consuming for the attorneys, but is critical to successful resolutions to these types of cases. As the Court docket becomes more demanding, it will be difficult to keep pace with covering these interviews. In many of the jurisdictions across the country, prosecutors are rotated through full time assignments at their Child Advocacy Centers. Proper coverage for the Child Advocacy Center will be essential for continued success.

FUTURE CHALLENGES AND OPPORTUNITIES

The budget of the court system presents the most significant challenges to the efficient management of our caseload. As the court reduces jury trials and reduces or does not replace staff, it has a tremendous burden on both the County Attorney's Office and the jail.

Legislators looking to cut prison costs ask about the use of alternative sentencing as a cheaper way to accomplish the goals of the Criminal Justice system. However, the cuts over the years have made it difficult for courts and others to provide basic service and the alternative sentences are very labor intensive. Thus the cuts limit our ability to do the alternatives.

In closing, I want to commend the entire staff of the Rockingham County Attorney's Office. They are dedicated and compassionate professionals who are committed to the mission of this office. They have and will continue to do what it takes to get the job done. The citizens of this county can be assured that the staff of this office serves them well.

I would also like to thank the Commissioners as well as the entire legislative delegation sitting as the County Convention for their support in equipping the Rockingham County Attorney's Office with the staff and tools necessary to handle the continuing challenges that crime presents to Rockingham County.