

The Kansas Prosecutor



The official publication of the Kansas County and District Attorneys Association
Volume 18, No. 2, Summer 2021



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 County and District Attorneys Association

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Our mission:
 The purpose of the KCDAA is to promote,
 improve and facilitate the administration
 of justice in the state of Kansas.

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This magazine is dedicated to professional prosecutors across the state of Kansas for public information. The KCDAA and the members of the Editorial Board assume no responsibility for any opinion or statement of fact in the substantive legal articles published in *The Kansas Prosecutor*. We welcome your comments, suggestions, questions, information, etc. From time to time, *The Kansas Prosecutor* will publish articles dealing with controversial issues. The views expressed in *The Kansas Prosecutor* are those of the authors and may not reflect the official policy of the KCDAA. Send correspondence to: *The Kansas Prosecutor* editor, 1200 S.W. Tenth Avenue, Topeka, Kansas 66604 or e-mail Mary Napier at mary@napiercommunications.com.

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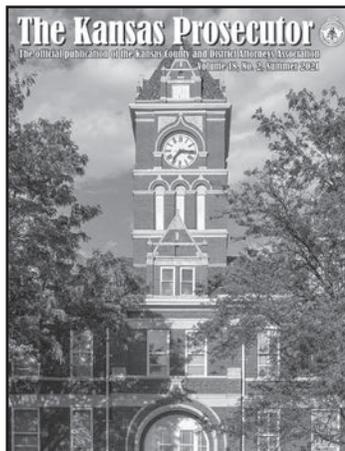
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About the Cover

The cover features the Rice County Courthouse.

The Rice County Courthouse of Lyons, Kansas is located at 101 W. Commercial St. It was listed on the National Register of Historic Places in 2002.

Designed by architects J.C. Holland and Son, it is a four-story, Richardsonian Romanesque-style brick building which is 90 by 100 feet (27 m × 30 m) in plan. It has a hipped roof with dormers and a central clock tower.

Photo by John D. Morrison, Prairie Vistas Photography



President's Column

By Brandon Jones, KCDA President
Franklin County Attorney

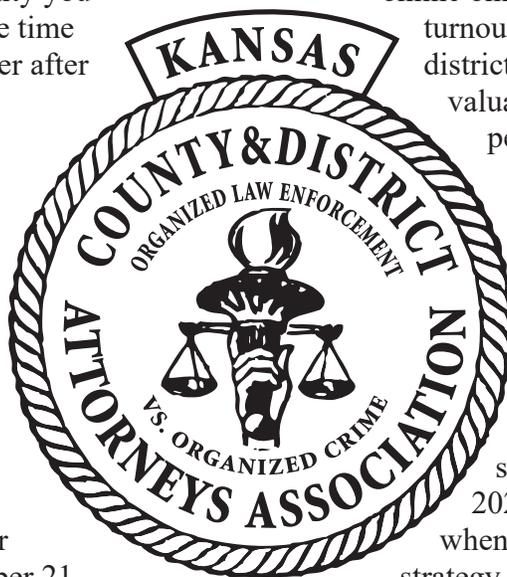
Association Activity

I hope everyone is having a great summer and your lives are starting to get back to “normal” as mask mandates are lifted, travel restrictions are reduced, and most courts across the state are starting to work toward in-person hearings and the resumption of jury trials. If you are getting the chance to travel this summer, please be safe and have a great time! Remember to take time to take care of yourself and your family so you can do your job of taking care of the community you serve. I think we all deserve some time for rest and relaxation this summer after this past year and half.

Thank you to everyone who virtually attended our Spring Conference. We had some really incredible speakers, and I found the material to be very valuable at this conference. I hope you did too. KCDA is hoping that will be our last online only conference for the foreseeable future. We are all very much looking forward to getting back together this fall in Manhattan for an in-person conference on October 21 and 22. We scheduled it for the same time as the judicial conferences with the hopes that most courts will be closed and everyone will be able to attend. We will hold our annual business meeting and awards presentations during the lunch breaks. There has been some discussion about using a hybrid conference model going forward to allow those who cannot attend in-person the option to attend virtually. Please let us know if that is something you would be interested in or feel is a good idea for future conferences.

I also wanted to mention that we did host a Newly Elected Training back in April that was well attended. Our association first did this training

back in January of 2017, in-person in Salina, and we received a lot of positive feedback afterward. The board decided it was a good idea to make this training a regular event after each new election cycle so that newly elected district and county attorneys, or not-so-new who wanted a refresher, would have a chance to get some ideas from those who have been doing the job for a while now. Although COVID caused our training to be delayed a few months and online only this time around, we had a great turnout, and I hope that our newly elected district and county attorneys felt it was valuable. I believe we will be back in person for that training in January of 2025.



Finally, in my last article I told you all about what our organization was doing in Topeka to advocate on behalf of prosecutors around the state at the Kansas Legislature this past session. The next legislative session will not begin until January 2022, but this is the time of the year when we start to plan our legislative strategy for January. If you have any ideas of laws that need amended, deleted, or new laws created, now is the time to start submitting them to the Legislative Committee of this organization, headed by Leavenworth County Attorney Todd Thompson. The legislative committee will meet in September and October to vet your proposals and formulate a legislative agenda that will be submitted to the board for their approval at their October business meeting. Please submit the form on the next page if you have any proposed legislation.

I hope you all have a fun and safe rest of your summer and a great start to your fall. I am looking forward to seeing all of you in person in Wichita in October! 



2022 KCDAAs Legislative Request for Proposals

(One Proposal per page – use additional pages as needed)

The KCDAAs Legislative Committee is soliciting Legislative Proposals for the KCDAAs legislative agenda for the 2022 Legislative Session. This input from the membership will be considered by the Committee in making its recommendations to the KCDAAs Board of Directors.

This RFP is the first step in the process by gaining the input of the membership in changes needed to the Kansas Statutes for the benefit of prosecutors. Please submit your proposals with the information below as a minimum. Feel free to provide other information, background or cases that will aid the Committee in selecting and targeting the most critical issues. Thank you for your prompt attention to this matter.

1. Statute to amend or affected: _____
2. Please describe the need for this change as it applies to the membership of the KCDAAs across the state as well as the specific concern in your jurisdiction.
3. Draft Language – Please attach an electronic copy of the statute with the change noted.
4. Are you aware of any previous legislative efforts similar to this proposal? If so, when and by whom?
5. Other organizations that might support this legislative proposal? Oppose?
6. Legislators or others already contacted about the proposal:
7. Your name and office in which you work and whether you would be willing to testify regarding the proposed legislation:

Submit proposals to: KCDAAs Office, 1200 W. 10th Ave, Topeka, KS 66604
Email: kcdaa10@gmail.com If you have any questions, please contact Steve Kearney
at steve@kearneyandassociates.com

Deadline for submission is August 31, 2021



Executive Director's Column

By Steve Kearney
KCDAA Executive Director

KCDAA Staff Introduction

Kearney and Associates proudly serves the Kansas County and District Attorneys Association as its association management firm assisting with association administration, events, membership, lobbying, and more.

Over time, benefits and services have continued to grow and evolve to meet the needs of the KCDAA membership, but the association's mission remains the same. *The Kansas County & District Attorneys Association is the professional organization for prosecutors in the state of Kansas. The purpose of the Association is to promote, improve, and facilitate the administration of justice in the State of Kansas.*

Kearney and Associates staff serving KCDAA include:

Steve Kearney – executive director, in-house counsel, and chief lobbyist

Steve is an attorney and founder of Kearney and Associates, Inc. a full-service consulting firm representing clients in all aspects of governmental interactions, including but not limited to lobbying, procurement matters, and administrative relations with state agencies.



He has a lifelong relationship with the justice system as he was raised at the knee of law enforcement officers including his father, a career TPD officer who retired as Chief of Detectives. Steve also served as a TPD officer as he worked his way through college and then served as a Special Agent with the FBI following law school. As an adjunct professor at Washburn, he taught courses in the law of criminal justice, investigations, and others. Steve's public service career also includes service as Chief of Staff to the Kansas Senate Majority Leader. Since 1990, he has been engaged as Government

Affairs and Legal Counsel to various professional associations and corporations. The 2021 legislative session was his 32nd year under the dome.

Rob Mealy – lobbyist

Rob has more than 30 years of experience in Kansas politics and public policy starting with his legislative experience when he became the first full-time, year-round staff person for the Speaker Pro Tem of the Kansas House. He later served the Senate Majority Leader and Senate President of the Kansas Legislature in various roles including reapportionment. Rob earned his Bachelor of Science degree from Kansas State University where he majored in Political Science. Throughout his career he has also volunteered for many local and statewide candidates' campaigns. He has been a lobbyist for Kearney and Associates, Inc. for more than a decade and is considered the firm's elections, reapportionment, political, and home/microbrew specialist. His combined tenure as a legislative staffer and as a lobbyist also means that the 2021 legislative session was his 32nd under the dome.



Jeff Wagaman – lobbyist

Jeff has worked in the Kansas Statehouse in various capacities since 1990. Wagaman recently retired as the Kansas Securities Commissioner. During his public service career, he has worked for four Kansas statewide elected officials: governor, state treasurer, attorney general, and Kansas insurance commissioner. He formerly served as the chief of staff to the Senate President and Senate Majority Leader. Wagaman also brings



nonprofit management experience to Kearney and Associates as the former Chief Professional Officer of a nonprofit organization. He also has an appreciation for law enforcement serving his community as a Reserve Sheriff's Deputy for four years. Jeff has a BA from Washburn University and a master's degree in Public Administration from the University of Kansas. He is a fifth generation Kansan and native of Topeka. He has served on numerous boards and volunteered for many local organizations and charities.

Melissa Munoz - event planning, membership & financial manager

Melissa is a native of Topeka. After high school, she attended Washburn University for two years before transferring to the University of the Pacific in Stockton, Calif. on a speech and debate scholarship. She graduated in May 2018 with a B.A. in Communications. Melissa holds a second-degree black belt in Southwind Shorin-Ryu Martial Arts, and enjoys writing, graphic design, and playing with



her cat, Pancake. Melissa has enjoyed working with KCDAА over the past year and is excited to start connecting more with the members now that we will be meeting back in person this fall.

Samantha Myatt - office assistant

Sam assists with membership coordinating and event planning. She worked as a part-time legislative assistant for Kearney and Associates during the 2020 Legislative Session before moving into a full-time position. Samantha is a recent graduate from the University of Kansas and has a bachelor's degree in Political Science with a minor in Global and International Studies. Prior to the University of Kansas, Samantha attended Cowley County Community College where she earned her associate degree in Anthropology. She resides in Lawrence and enjoys spending time with family, friends, and her two cats. Samantha looks forward to further engagement with KCDAА members and is happy to join the team.

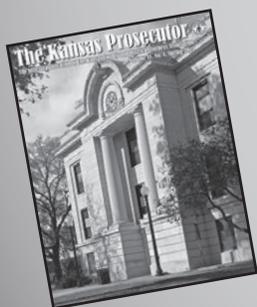


You can reach any of our team members by calling the KCDAА office at 785-232-5822. 📞

Do you have an article idea you would like to know more about? We can try to find a writer, if you have an idea.

Or do you want to submit an article?

Send your idea/submissions to Editor Mary Napier at mary@napiercommunications.com.



**Upcoming 2021
Kansas Prosecutor Deadlines**

Fall/Winter - November 1



Kansas Prosecutors Foundation Gives Scholarships

The KCDA Board of Directors established the Kansas Prosecutors Foundation to further the administration of justice in the best interests of the public. In 2013, the KPF gave out its first law school student scholarships to a law school student from each regent law school. Recipients of KPF scholarships shall meet the following criteria:

- a Kansas resident;
- a 2L or 3L enrolled in a law school in Kansas;
- demonstrate a desire to become a prosecutor;
- exhibit previous or ongoing activities of public service;
- either be pursuing a career in prosecution or the administration of justice; and
- may not be a member within the first degree of relationship to either a member of the scholarship committee or the KPF board.

The \$1,000 scholarships have been awarded since 2013 and the winners are recognized at the KCDA Spring Conference. Read more about the 2021 recipients below.



2021 KPF KANSAS LAW SCHOOL SCHOLARSHIP WINNERS

Brandon Apperson

Brandon Apperson grew up in Kansas City, Kan., where he graduated from Piper High School in 2015. He received a Bachelor of Science in Political Science from the University of Kansas in 2018. Brandon recently graduated with Dean's Honors from Washburn University School of Law. At Washburn, he received a Certificate in Advocacy and graduated with Distinguished Pro Bono Honors, which is awarded to students who complete 100 hours of pro bono service. Brandon was a member of Criminal Law Society and Phi Alpha Delta while at Washburn.

During his third year of law school, Brandon served as an intern at the Johnson County District Attorney's Office in the Child in Need of Care and Juvenile unit. Brandon prosecuted in Child in Need of Care proceedings seeking to remedy parental neglect, abuse, and lack of control over the child. Brandon will be joining the Johnson County District Attorney's office as an Assistant District Attorney after taking the July 2021 bar exam.



Amy Medeiros

Amy Medeiros graduated with summa cum laude honors from Washburn University with a Bachelor's in Criminal Justice. She is currently in her second year at Washburn University School of Law. Prior to starting law school, she worked for two years as a legal assistant at the Shawnee County District Attorney's Office. It was there she realized her passion for law and obtaining justice for individuals and their families. This summer, she will be a legal intern for the United States Attorney's Office for the District of Kansas. Following graduation, she plans to pursue a career as a prosecutor, with the hopes to eventually serve as a federal prosecutor in the U.S. Attorney's Office.



Jade Morgan

Jade Morgan is a 3L at Washburn University School of Law. She is from Atlanta, Ga. She was raised in a loving blended family consisting of her mom, sister, stepfather, and two stepbrothers. Though her family was blended, they all shared a

bond and so much love for each other that no one would ever guess. Jade is a doggy mom to a wonderful pup named Xander, and he has taught her the true meaning of selflessness and patience. Her hobbies are taking walks through different nature trails, swimming, traveling, and exploring the cuisine of different cultures. Outside of her hobbies, she loves to take long drives to nowhere but ending up somewhere on days that she just needs to focus on herself. She believes that self-care is one of the most important forms of love and appreciation for yourself!



Emma Staats

Emma Staats is a rising 2L at Washburn University School of Law. She is from El Dorado, Kan. and graduated from Washburn University in May 2020 with a Bachelor of Liberal Arts in Integrated Studies. She decided to go to law school to one day pursue a career combatting human trafficking. This summer, she is working as an intern for the U.S. Attorney’s Office.



Scholarship application forms may be submitted each year by April 30th to the KPF. For more information, visit <http://kcdaa.org/Scholarships>. 



Endowing the Kansas County & District Attorneys Association

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Learn more at [www.kcdaa.org/
foundation](http://www.kcdaa.org/foundation)



Legislative Update

by Steve Kearney, KCDA Executive Director

Kansas Takes a Step Forward in the Protection of Victims of Sexual Offenses; Governor Signs SB 60

When Governor Kelly signed Senate Bill 60 into law it reversed decades of antiquated and misogynistic precedent and practices in Kansas. Until July 1 of this year, the 21st year of the 21st century, Kansas law still defined the crime of sexual battery as a crime committed against a victim “who is not the spouse of the offender.” Kansas no longer will embrace the idea that a spouse that finds themselves in an abusive marriage has less right to prosecute the crime of sexual battery than anyone else. This is a big win for married victims of sexual battery and another tool for prosecutors and advocates against domestic violence.

The signing of SB 60 also marked the culmination of a four-year initiative on the part of the Kansas County and District Attorneys Association pursuit of what we euphemistically tagged the “*Gregg* fix.” The practice of allowing defense counsel to request the trial court order the mental, psychiatric, or psychological testing of a victim of sexual abuse is no longer. This archaic and misogynistic practice has been the law of the land in Kansas since the Kansas Supreme Court decision in *State v. Gregg*, 226 Kan. 481, 602 P.2d 85 (1979).

That any modern legal system would still rely on and embrace the practice allowed by *Gregg* is beyond today’s understanding. The faulty line of reasoning and series of cases that gave rise to our efforts reach back at least as far as the 1940s with Third Edition of John Henry Wigmore’s “A Treatise on the System of Evidence in Trials.” Wigmore in an often-quoted passage stated that “No judge should ever let a sex offense charge go to the jury unless the female complainant’s social history and mental makeup have been examined and testified to by a qualified physician.”

Our past president and current legislative chair,

Leavenworth County Attorney Todd Thompson put it this way in his remarks at the bill signing ceremony of Senate Bill 60:

“The Supreme Court called it a fishing expedition. Famed prosecutor Kim Parker, called it archaic. I testified it was misogynistic. Which it is. Based in the roots of a treatise (Wigmore) that said, ‘a woman or girl may falsely accuse a person of a sex crime because of a mental condition that transforms into fantasy, a wishful biological urge. Also, that a sexual assault accusation may flow from an aggressive tendency directed to the person accused or from a childish desire for notoriety.’ This law based in pure misogyny and idiocy lasted over 70 years. There are cases, including some of my own, that today still have orders to do these examinations.

To imagine any victim of a crime, especially a young child... that gets the courage to come forward to admit a crime has been perpetrated on them, and for many the perpetrator is someone they love and trusted ... and when they come forward they are forced to have a psychological evaluation...not the perpetrator, not the suspect... but them.... Well no more!”

Senate Vice President Rick Wilborn, formerly Chair of Senate Judiciary when this effort began, now Vice Chair, had the following to say at the bill signing:

“With the passage of SB 60, the Legislature enacted meaningful reforms to our legal system, and I want to highlight one of the most significant. It is an artifact of a Kansas Supreme

Court case dating back to the late 70s which allowed for the defense to require a psychiatric test as a requirement to bring a case of sexual assault. This unfair requirement was used to call into question the standing of some of the most vulnerable folks in our state, most often women. The State of Kansas is moving past this unfair and unjust practice, which will promote confidence in our judicial process and remove a little more rust from the scales of justice.”

These important components of SB 60, along with the other notable reforms it contains, would not have been possible without the bipartisan

support of courageous legislators pursuing equity and fairness in Kansas law. Special thanks to Representatives Fred Patton, Brad Ralph, Stephen Owens, and Brett Parker as well as Senators Rick Wilborn and Kellie Warren who all worked tirelessly to send SB 60 to the Governor, and to Governor Kelly, not just for signing it into law, but having a public ceremony to bring into the light the importance of these changes.

Thanks to all of you who aided in this effort that are too numerous to mention within the confines of this article, but rest assured we can all be proud that “a little more rust was removed from the scales of justice.”

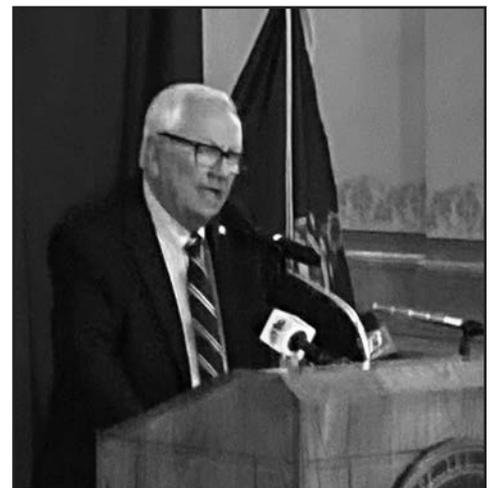


Above: Governor Kelly making her remarks.

Below: Senator Rick Wilborn making his remarks.

Above: Governor Kelly holding the signed bill in foreground. Left to right behind her – Rep. Stephen Owens, Rep. Brad Ralph, Senator Rick Wilborn, KCDAA legislative chair Todd Thompson, KHP Major Dean (in back), and Rep. Brett Parker.

Right: KCDAA past president and current legislative chair, Leavenworth County Attorney Todd Thompson making his remarks.





Guest Article

By Senator Jerry Moran
R-Kansas

Veteran Treatment Courts

The Vietnam War was an ever-present reality during my teenage years. While I was too young to qualify for service at the time, many of my friends, neighbors, and classmates were thrust into the war.

I still vividly remember the way veterans were treated after returning home. Many veterans were protested, mocked, and ridiculed. I witnessed the psychological impact serving in combat had on many Vietnam veterans and how their service was often treated with scorn rather than gratitude.

Those memories impact how I carry out my role as a public servant in Washington and as the lead Republican on the Senate Veterans' Affairs Committee. It's one of the reasons why I have made improving the quality of life for veterans in Kansas and across the country one of my top priorities. There is no group of people I hold in higher regard than those who serve our nation.

During my time in Congress, as both a member of the House and Senate Committees on Veterans' Affairs, I have seen how the wounds of war can impact the daily lives of those who have raised their right hand to serve this country. Research continues to draw a link between military service and both substance use disorder and mental health conditions. When left untreated, mental illness and substance use disorder, common among veterans, can directly lead to involvement in the criminal justice system.

The world has changed significantly since the end of the Vietnam War, but veterans still face challenges when returning home. The men and women who fought for our freedoms are among our greatest civic assets, strengthened by their experiences and skills from the military. Still, many of those deployed to Iraq and Afghanistan return with severe physical or mental health conditions, or far too often both.

According to the Department of Veterans Affairs (VA), the term 'justice-involved veterans' is used to describe former service members who have been

detained by or are under the supervision of the criminal justice system. Their involvement can range from arrest, to court involvement, to incarceration. More than half of justice-involved veterans have either mental health conditions—namely PTSD, depression, or anxiety—or substance use disorders, such as alcohol, opioid, or cocaine addiction.

The medical community has made impressive strides to treat these conditions, but these challenges continue to wreak havoc on the lives of veterans.

One means to proactively assist veterans in need is through Veteran Treatment Courts (VTCs), which are established at the local and state levels. Specialists, some of whom come from the VA, work with veterans who have been convicted of non-violent offenses. As part of a justice team in a VTC setting, experts understand that a veteran's experience is different than a civilian's experience. Participants who go before a VTC judge are regularly provided counseling, mentorship opportunities, substance use disorder services, as well as supervision by specialized probation officers, and support from the VA as they re-acclimate into the community. This is all in a highly structured, veteran-centric environment, comfortable to those who served in the military, and designed to reduce recidivism.

We have two VTCs here in Kansas. Johnson County established its VTC in 2016 and Wyandotte County just established one in June. More than 40 veterans have graduated from the program that serves veterans in the Kansas City area, and zero have re-offended. VTCs are tangible investments in those who served our country, and the results that we've seen across the country speak for themselves. One national study found that from program admission to exit, 10 percent more veterans were in their own housing and 12 percent more were receiving VA benefits. Notably, only 14 percent experienced a new incarceration. I have heard from

other jurisdictions across Kansas that are interested in becoming affiliated with veteran-focused courts, and I hope to see more veterans in our state have this option available to them in the future.

Last year, while I was chair of the Senate Appropriations Subcommittee with jurisdiction over funding for VTCs, Congress increased grant funding to establish these courts by 8 percent, totaling \$25 million. Local jurisdictions will use these funds to establish VTCs across the country, and I hope to see these investments increase in future years. I challenge veterans, public servants, and advocates to look into these grants to support veterans living in your community.

VTCs provide the type of support that veterans affected by mental health conditions or substance use disorders require. They offer counseling services, mentorship opportunities, and substance use disorder treatment to support veterans rather than write them off.

Caring for those who have seen the horrors of war remains a civic duty that we must never abandon. 🇺🇸

County Courthouse Portraits



Rice County Courthouse

John D Morrison

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2021 KCDAA AWARD NOMINATIONS

KCDAA Awards are to recognize individuals who make a positive impact on prosecution in our state. Awards may be presented during the KCDAA Annual Meeting each year. Please take time to nominate a member of the KCDAA whom you believe to be deserving of an award. This is the opportunity to recognize the accomplishments of the hard-working prosecutors who make up the membership of the KCDAA and a policymaker, outside the organization, who has helped with interests of the KCDAA.

FOUR categories of awards considered each year include: Prosecutor of the Year, Lifetime Achievement Award, Associate Member Prosecutor of the Year, and Policymaker of the Year. The award winners are chosen by the KCDAA Board of Directors.

Award Qualifications:

The Prosecutor of the Year Award is presented to a prosecutor for outstanding prosecution of a case or cases throughout the year. Nominations may be made by either the prosecutor himself/herself or by a colleague. The nominee must be a regular member of KCDAA.

The Lifetime Achievement Award is presented to a regular KCDAA member for his/her longevity as a prosecutor. The nominee must have served no less than 25 years in a prosecutor position, and not previously received this award. Nominations may be made by either the prosecutor himself/herself or by a colleague.

The Associate Member Prosecutor of the Year Award is presented to a prosecutor for outstanding prosecution of a case or cases throughout the year from an office other than a County or District Attorney's office. Nominations may be made by either the prosecutor himself/herself or by a colleague. The nominee must be an associate member of KCDAA.

The Policymaker of the Year Award is presented to an individual who is determined to have made the most significant impact on policy related to county and district attorneys either during the past year or over an extended career of public service. The award is open to individuals having public policy making authority as evidenced by legislative support of the KCDAA.

The awards will be presented during the Fall Conference taking place October 21-22, 2021 in Manhattan, Kansas.

To nominate yourself or one of your colleagues, please use the nomination form found at www.kcdaa.org/Awards. You may send your nominations to:

KCDAA
1200 SW 10th Avenue
Topeka, Kansas 66604
Fax: (785) 234-2433
E-mail: kcdaa10@gmail.com

**All nominations MUST BE received by 5 p.m. on
September 30, 2021.**

For questions, please contact Melissa Munoz
at (785) 232-5822 or via e-mail to
kcdaa10@gmail.com.

Download the form at kcdaa.org/awards and mail it, fax it, or e-mail it by Sept. 30!

KCDAA Highlights: Newly Elected Prosecutors

In the Spring 2021 *Kansas Prosecutor* magazine, we introduced you to some of the new county and district attorneys who joined our ranks. We were able to get information on a few more not featured in the last issue, so we wanted to introduce them to you even if you may already know them. To help you learn more about them, we sent out a short questionnaire for them to fill out. If you are an experienced prosecutor, please reach out to a newly elected prosecutor and offer them your guidance and support or make sure to introduce yourself at an upcoming KCDAA event.

Ness County Attorney - Jacob T. Gayer

Education: Washburn University School of Law

Previous employment experience: Law enforcement since 2008

Why did you decide to run for a county/district attorney position? After being a Law Enforcement Officer for approximately 10 years, I knew I wanted to stay working in the Criminal Justice Community and joining a prosecutor's office was the logical decision. In western Kansas, your options are very limited so running for election was about the only way to become a prosecutor.

What are your goals as the newly elected prosecutor? I want to implement new available technologies to assist with timely and organized prosecution and justice for the community.

Reno County District Attorney - Thomas R. Stanton

Education: BS in Business Administration from the University of Kansas School of Business; Juris Doctorate from the University of Kansas School of Law

Previous employment experience: Assistant County Attorney/ First Assistant County Attorney - Saline County Attorney's Office – May 1991 to January 2001



Why did you decide to run for a county/district attorney position? I had been the Deputy District Attorney in Reno County for 19 ½ years before my predecessor, Keith Schroeder, decided to retire. Becoming the District Attorney was a logical next step in my career, and I had Keith's support in that move. Plus, I believe I am in a unique position to serve the citizens of Reno County as DA based on my experience as a former police officer and 30 years as a Kansas prosecutor.

What are your goals as the newly elected prosecutor? To serve the citizens of Reno County, to seek justice in all cases we handle, and to ensure professionalism in the Reno County District Attorney's Office. I also want to continue to serve victims of criminal activity in our community.

Anything else you want to tell the Kansas County & District Attorneys Association members? I have been blessed to be part of the KCDAA for nearly 30 years. I highly recommend becoming involved with the Association because it will broaden a prosecutor's experience beyond his or her local office and will make a career in prosecution more meaningful and fulfilling. I also invite all prosecutors in Kansas to support the Kansas Prosecutors Foundation, which is dedicated to enhancing the prosecution profession by financially aiding KU and Washburn Law students who have an interest in becoming a Kansas prosecutor.

If we missed recognizing any newly elected prosecutors in this issue or the last one, please email *Kansas Prosecutor* Editor Mary Napier at mary@napiercommunications.com.

**Upcoming 2021
Kansas Prosecutor
Deadline**

**Fall/Winter 2021 -
November 1**

Send your idea/submissions to Editor
Mary Napier at
mary@napiercommunications.com.

KCDAA Milestones - News from Across the State

Attorney General's Office

In 2021, Adam Zentner is celebrating his 10th year as an attorney and as a prosecutor. Adam is currently working as an Assistant Attorney General for Derek Schmidt in Topeka. Adam enjoys spending time with his wife and two children, paddle boarding at the lake, binge watching TV shows, and practicing archery.



Crawford County

John Gutierrez is happy to announce that after 23 years of prosecution, he is retiring from the Crawford County Attorney's office July 28, 2021. He has worked for this office for 20 years, and the Cherokee County Attorney's office for 3 years. Barry Disney called him back in August 1995 to make a career as a prosecutor, and he is glad he accepted the challenge. John said, "As with any career, there are highs and lows, and you will certainly go through the emotional trials of this career. Adios and Happy Trails. P.S.- After I get back from Sturgis I am available as a special prosecutor."

Douglas County

The Douglas County District Attorney's Office is pleased to announce the hiring of several new employees. Samantha Wagner is an assistant district attorney handling domestic crimes in the special victims unit. Samantha earned her bachelor's degree in American Studies and Religious Studies and her law degree, both from the University of Kansas as part of the Legal Education Accelerated Degree program. She joined the DA's office from Joseph, Hollander & Craft LLC in Topeka, where she focused on domestic law.

Nicholas Vrana is a senior assistant district attorney. Nicholas earned his bachelor's degree in 2006 from Buena Vista University and his law degree in 2014 from the University of Missouri – Kansas City. He joined the Douglas County DA from Case Linden, P.C. and had also been a prosecutor with the Finney County Attorney's Office.

David W. Greenwald is an assistant district attorney. David earned his bachelor's degree in

political science and history at the University of Kansas and his law degree from the University of Miami. After a two-year stint in private practice, David began his prosecution career at the Topeka City Attorney's Office. David then became an ADA in Wyandotte County and later in Johnson County. David handled a caseload of over 100 cases in Johnson County District Court from first appearance through sentencing and acted as both lead and second chair prosecutor in multiple trials.

Seth Brackman is a senior assistant district attorney with the office. Seth earned his bachelor's degree in legal studies from Missouri Western State University and his law degree from Washburn University. He is adjunct faculty at the Washburn School of Law. He had previously been a prosecutor in Neosho County, Shawnee County, and the City of Topeka. Most recently, Seth worked at the Board of Indigents' Defense Services handling a wide-range of criminal offenses including Jessica Law cases, murder, rape, and other felony charges in Shawnee County, Riley County, and Morris County. Seth will be assigned to Division 3.

William Larchar is an assistant district attorney. William earned his associate degree from Brevard Community College, his bachelor's degree in psychology from the University of South Florida, and his law degree from the University of Kansas. He joined the DA's office from the Topeka City Attorney's office where he was an assistant city attorney where he represented the city in more than 100 bench trials.

Christen Secrest is an assistant district attorney. Christen earned bachelor's degrees in Spanish and criminal justice and her law degree, all from Washburn University. She began her legal career handling immigration casework in private practice. Christen then moved on to public defender work at the Northeast Kansas Conflicts Office. Christen has experience handling felony cases and is bilingual in Spanish.

Ford County

The Ford County Attorney's Office in Dodge City is pleased to welcome Eliza Kassebaum as the office's newest assistant county attorney. Eliza was born and raised in Charleston, S.C. She earned her undergraduate degree in psychology from

the College of Charleston. She then attended the University of Kansas School of Law. She earned her juris doctorate in 2020 and after passing the July 2020 Kansas bar exam, began her employment with the Ford County Attorney's Office in September 2020.

Kansas Bureau of Investigation

Effective June 2021, David Melton, previously Deputy District Attorney in Douglas County, has joined the Kansas Bureau of Investigation Legal Division as an Assistant Attorney General / Assistant General Counsel.

Leavenworth County

Christopher Lyon, Trego County Attorney has resigned, and is now full-time with the Leavenworth County Attorney's office.

Lyon County

Assistant Lyon County Attorney Ashley McGee and her husband, Shawn, welcomed son Noah Thomas Lee McGee into the world on May 3, 2021. Ashley, a 2018 graduate of Washburn University School of Law, started with an internship in the Lyon County Attorney's Office in 2017. In 2019, she joined the Lyon County Attorney's Office as an assistant county attorney. Ashley's caseload covers a wide variety of areas with a main emphasis in traffic and misdemeanor cases, but also includes felony casework and county government issues.

Reno County

Reno County would like to announce some personnel changes in its office. Natasha Esau left the Reno County District Attorney's Office on June 11 to take a position as a trial prosecutor for the Sedgwick County District Attorney's Office. Andy Davidson has been promoted to Deputy District Attorney in Reno County. Sierra Logan has joined the Reno County District Attorney's Office as an Assistant District Attorney. Brian Koch has joined the Reno County District Attorney's Office as an Assistant District Attorney. In other news, Tom Stanton, Reno County Attorney, is celebrating a milestone as he has been prosecuting in Kansas for 30 years as of May 13, 2021.

In Memory

Former Kiowa County Attorney Douglas Brunson died December 24, 2020. He served as the Kiowa County Attorney from 1973-1986. Doug was quite proud that his first jury trial was the successful prosecution of the 1971 homicide of Goldie Millar by her son Michael Pyle. It was the first murder conviction in the State of Kansas where no physical body was ever recovered.



Former Pawnee County Attorney Terry Gross died May 1, 2021. He served as the Pawnee County Attorney from 1982-1995. Terry was a former President of the KCDA. He left his county attorney position to go to work for the Attorney General's Office under Carla Stovall where he handled Violent Sexual Predator civil commitments. He was part of the legal team that presented Kansas v. Hendricks to the U.S. Supreme Court, which found the Kansas SPTP program constitutional. He later worked for the Missouri Attorney General's office setting up their Sexual Predator Treatment program. 🇺🇸



We want to share your news!

If you have something you would like to share with the KCDA membership, please

keep us informed. We'd like to publish baby announcements, new attorneys, anniversaries, retirements, awards won, office moves, if you've been published or anything else worth sharing with the KCDA! Information submitted is subject to space availability and the editorial board reserves the right to edit material.

Send your information and photos to:

Editor Mary Napier

mary@napiercommunications.com

Next Deadline: Fall/Winter 2021: Nov. 1



Faking in Competency to Stand Trial Evaluations: Professionals' Practices and Detecting Bias in Examiners' Reports

By Steve Rubenzer, Ph.D., American Board of Professional Psychology (NC)

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“There may be great fraud in this matter ... (the judge) may do well to inquire ... whether it (incompetence) be real or counterfeit.” (Hale, 1736)¹

A national survey of competency examiners estimated that 24% of defendants were feigning, and a further 10% were not presenting validly in other ways.² *Feigning* is a general term that means “faking bad” without specifying a motive. *Malingering* is the intentional production or gross exaggeration of symptoms for a tangible benefit. There are several other conditions (*Factitious disorder*, *Somatoform disorders*, *Conversion disorder*) that also imply invalid responding. Lack of *full* cooperation, without a clear motive and deliberate intent to perform badly, is also a major concern because tests and procedures psychologists use assume full engagement and effort on the part of the test-taker.

In the Oxford *Best Practices* series book on assessing competency to stand trial (CST), the author states, “Malingering must always be considered by any evaluator working within the forensic context” (p. 124).³ This statement remains in force for defendants who have a legitimate mental condition, because even examinees with schizophrenia,⁴

serious head injury,⁵ and intellectual disability⁶ can exaggerate their disabilities. There are only a few diagnoses that strongly imply impairment to the point of incompetence, such as delirium and moderate to severe dementia or intellectual disability.

Feigning can take many forms, some of which have not been previously emphasized in the professional literature.⁷ These are shown in Table 1.

Unsophisticated defendants often fake multiple issues and conditions, including psychosis, amnesia for the crime, intellectual limitations, and ignorance of the court system. More sophisticated malingerers will often portray a more specific condition, such as dementia or severe depression, and often have medical records that are superficially supportive. There is a myth among less sophisticated examiners that malingerers are easy to identify. This may be true of the feigners they have caught, but this may be a small fraction of those they encountered. As in most endeavors, it is a mistake to underestimate one's opponent.

Footnotes

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6. Everington, C., Notario-Smull, H., & Horton, M. L. (2007). Can defendants with mental retardation successfully fake their performance on a test of competence to stand trial? *Behavioral Sciences & the Law*, 25(4), 545-560. DOI: 10.1002/bsl.735
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Table 1*Types of Invalid Responding in CST Evaluations*

Feigned Presentation	Mean
Feigned ignorance of the court system	17.2%
Feigned amnesia for offense	14.6%
Feigned or exaggerated intellectual limitations	14.5%
Feigned memory problems (NOT amnesia for offense)	12.8%
Feigned hallucinations	10.5%
Feigned depression	10.2%
Feigned anxiety or PTSD	8.2%
Feigned demeanor ^a	7.5%
Feigned paranoia	6.7%
Feigned/exaggerated medical issues ^b	4.3%
Feigned agitation/mania	2.3%
Feigned disorganized speech	1.7%
Other feigned presentation (not listed above)	1.6%
ANY kind of feigning (all previous styles)	24.1%
Factitious disorder	1.2%
Somatoform or conversion disorder	1.9%
Lack of cooperation WITHOUT malingering, factitious or somatoform d/o	8.7%

^aE.g., helplessness, vulnerability, child-like demeanor, speech impediment.^bE.g., unneeded cane, wheelchair, oxygen tank, etc.

8. Butcher, J. N., Graham, J. R., Ben-Porath, Y. S., Tellegen, A., & Dahlstrom, W. G. (2001). *Minnesota Multiphasic Personality Inventory-2 (MMPI-2): Manual for administration and scoring* (Rev. ed.). Minneapolis: University of Minnesota Press.
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MEANS OF ASSESSING NEGATIVE RESPONSE BIAS**Validity Testing**

Validity testing refers to instruments and procedures designed to assess whether the examinee is presenting in a reliable, valid manner. There are two basic types of validity tests: Those that rely on the examinee's answers when asked about symptoms and problems, and those that rely on the examinee's *performance* on motor, cognitive or knowledge tasks.

Symptom Report Tests

Many readers may already be familiar with the *Minnesota Multiphasic Personality Inventory-2 (MMPI-2)*,⁸ which is a 567-item true-false questionnaire about psychiatric symptoms. There are now two newer versions, the *MMPI-2-Restructured Form (MMPI-2-RF)*⁹ and *MMPI-3*, both of which are over 200 items shorter and contain other changes from the prior version. All the MMPI variants are bristling with excellent response style scales that detect inconsistent responding, over-reporting, exaggeration, and defensiveness, and these scores are often not presented in reports. Scores on scales indicating exaggeration may be ignored or glossed over by unscrupulous experts. They should be more agreeable to releasing them to a psychologist designated by the prosecutor.

Structured interviews resemble tests like the *MMPI-2*, but the items are read to the examinee and the examiner records and scores each response, and some observations are also recorded and scored. The *Structured Interview of Reported Symptoms (SIRS)*¹⁰ can identify about half of feigners with a low false positive rate (about 5%).¹¹ It was recently updated and revised¹² after findings that it was prone

Structured Interview of Reported Symptoms (SIRS) and professional manual. Lutz, FL: Psychological Assessment Resources, Inc.

11. Green, D., & Rosenfeld, B. (2011). Evaluating the gold standard: A review and meta-analysis of the Structured Interview of Reported Symptoms. *Psychological Assessment*, 23(1), 95-107. <http://dx.doi.org/10.1037/a0021149>
12. Rogers, R., Sewell, K. W., & Gilliard, N. (2010). *Structured Interview of Reported Symptoms-2 and professional manual*. Odessa, FL: Psychological Assessment Resources.

to false positive errors in some patient groups. New interpretive rules and categories were added, *but these significantly reduced sensitivity* so that only about one third of feigners are identified.¹³ The *Miller Forensic Assessment of Symptom Test* (M-FAST)¹⁴ is marketed as a screening test, but simply using a higher cutoff score (e.g., >11), the M-FAST can provide substantial evidence of over-reporting/exaggeration.¹⁵

Performance Validity Tests (PVTs)

These tests require the examinee to “do” something, such as remember pictures or words, then provide answers that are objectively right or wrong. Memory testing is a common approach. One of the earliest, quickest, and most used performance validity tests (PVT) is the *Rey 15 Item Test*. It takes about one minute and is presented a memory task. It is quite easy, so most examinees can correctly recall at least 8 of the 15 items. Because of its low sensitivity in some groups, passing it is not strong evidence that the person performed to the best of their ability.

The *Test of Memory Malingering* is probably

the most widely used PVT in CST exams at the present.¹⁶ It consists of several booklets of line drawings, all common objects. The examinee is shown the pictures and then tested for their memory. Because it is so widely used, there is a risk that it has been compromised through internet articles and frequent exposure to defendants, who may recognize it as a trap.

The Inventory of Legal Knowledge (ILK)¹⁷ is a widely-used validity test that assesses if the examinee is falsely portraying ignorance of the court system – a common strategy. The ILK consists of 61 true-false question about the court system, and it is reported to correlate substantially with other PVTs such as the TOMM.¹⁸

Collateral Data

The range of potential collateral sources is broad, and might include family members, treatment providers, jail staff, the arresting officer, probation or parole officers, and prior evaluations. If a defendant is in custody, it is often desirable to speak to jail security staff, as they observe the defendants over many hours and occasions. In *US v.*

13. Brand, B. L., Tursich, M., Tzall, D., Loewenstein, R. J. (2014). Utility of the SIRS-2 in distinguishing genuine from simulated dissociative identity disorder. *Psychological Trauma: Theory, Research, Practice, and Policy*, 6(4), 308-317. <http://dx.doi.org/10.1037/a0036064>
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18. Otto, R. K., Musick, J. E., & Sherrod, C. B. (2010).

Gigante,¹⁹ observations by a corrections officer and nurse were more credible to the judge than some very respected psychiatrists' opinions.

Prior evaluations, particularly by government agencies like the Social Security Administration and Veterans Administration, may be given substantial credibility. Often, they should not: The Social Security Administration has resisted the use of validity measures, usually does not pay for examiners to administer them, and has described their use "not programmatically useful,"²⁰ despite evidence of frequent feigning in their clients.²¹ Veterans Administration evaluations are "uniquely pro-claimant"²² and pressures discouraging validity assessment among disability claimants have been published,²³ despite high failure rates on validity tests and evidence of malingering.²⁴ Thus, representation or even proof that a defendant is considered disabled by the SSA or VA is not compelling proof of incompetency.

Most mental health treatment providers cannot be relied on to distinguish real from exaggerated presentations. This is simply not their role and most lack adequate training or motivation to do so. One recent study found 42.4% of mental health patients reported having agendas for their MH treatment beyond getting better, while only 9.5% informed

their providers of these issues.²⁵

BIAS

Bias in expert witnesses has long been recognized by legal professionals and more recently, investigators of forensic practice.²⁶ Different examiners find widely differing proportion of their examinees incompetent, from 0 to 62%!²⁷ While the *Specialty Guideline for Forensic Psychologists* are a bit oblique on the need to assess for feigning, they are clearer regarding issues of bias and distinguishing between facts, inferences, and conclusions:

1.02 Impartiality and Fairness

Forensic practitioners strive for accuracy, impartiality, fairness, and independence. Forensic practitioners ... strive to ... weigh all data, opinions, and rival hypotheses impartially.

9.01 Use of Appropriate Methods

Forensic practitioners seek to maintain integrity by *examining the issue or problem at hand from all reasonable perspectives and seek information that will differentially test plausible rival hypotheses*. ("Rival hypotheses" means alternative ways of perceiving or interpreting the evidence, such as a defendant reporting he hears voices. Several hypotheses might be considered:

19. *United States v. Gigante*, 982 F. Supp. 140 (E.D.N.Y. 1997).

20. Chafetz, M. D. (2008). Malingering on the social security disability consultative examination: Predictors and base rates. *The Clinical Neuropsychologist*, 22(3), 529-546. <http://dx.doi.org/10.1080/13854040701346104>.

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22. *Hodge v. West*, 153 F. 3d 1356 (Fed. Cir. 1998).

23. Poyner, G. (2010). Psychological evaluations of veterans claiming PTSD disability with the Department of Veterans Affairs: A clinician's viewpoint. *Psychological Injury and Law*, 3(2), 130-132. <http://dx.doi.org/10.1007/>

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25. Van Egmond, J., Kummeling, I., & Balkom, T. (2005). Secondary gain as hidden motive for getting psychiatric treatment. *European Psychiatry*, 20(5-6), 416-421. <http://dx.doi.org/10.1016/j.eurpsy.2004.11.012>.

1) That the person is schizophrenic, 2) that the person is withdrawing from alcohol or drugs, or 3) the person is feigning.)

9.02 Use of Multiple Sources of Information

Forensic practitioners ordinarily avoid relying solely on one source of data and corroborate important data whenever feasible ...

11.02: Differentiating Observations, Inferences, and Conclusions

In their communications, forensic practitioners strive to distinguish observations, inferences, and conclusions ...

Because they are presented as aspirational guidelines, not minimal standards of practice, cross examination may wish to first establish that the expert regards him/herself as a well-credentialed forensic psychologist that practices at the highest level of the profession.

Reports often contain many clues about examiner bias. Some of these include:

- **Reporting the defendant's (or other friendly sources') answers about personal history, perceptions, and feelings as if they are facts.**
- **Failure to comment on and fairly consider contradictions between the defendant's accounts and other sources.**
- **Accepting and reporting the defendant's demeanor and performance at face value and as representative.**
- **Relying on subjective assessments of truthfulness or good effort.**
- **Failure to seek or obtain collateral data, such as offense reports, psychiatric records, or speak with persons familiar with the defendant, or relying on those supplied by the defense attorney.**
- **Use of weak or inappropriate validity tests or discounting the significance of those that are failed, including in previous exams.**
- **Misrepresenting the meaning of a passed**

validity test. Passing a validity test with low sensitivity is not meaningful, and much less informative than failing the same test.

- **Equating the presence of a legitimate mental condition with genuine presentation during the exam.** These are two, entirely separate issues. A person with a mental condition can present genuinely²⁸ or not, just as can someone without a mental condition.
- **Allowing the defense attorney or others to remain in the room during testing.**
- **Offering facile and unsupported explanations for apparent malingering.**

SUMMARY

Forensic mental health professionals are expected to assess for possible poor effort or feigning during competency exams. Recent data suggest that approximately half of defendants who present as impaired during a CST exam are not presenting genuinely, and my experience in multiple states suggest the actual ratio might be more like 3:1 or even 4:1 in some jurisdictions. Examiners who report impairment but don't assess whether such presentations are legitimate are potentially misleading the Court and should be vigorously challenged. Without such accountability, defendants can falsely claim psychiatric or cognitive impairment and have a good chance of seeing justice delayed or thwarted altogether. 🕒

Steve Rubenzer, Ph.D., ABPP is board-certified in Forensic Psychology and has conducted nearly 4100 CST exams on cases ranging from trespassing to the highest profile capital murder. He is author of the 2018 book *Assessing Negative Response Style in Competency to Stand Trial Evaluations* by Oxford University Press, the only book of its type. He offers evaluations and reviews, consultation, second opinions, and testimony regarding CST evaluations, particularly whether issues of feigning or poor effort have been adequately addressed. He can be reached at rubenzer.steve@att.net, or 281-814-7743.

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NDAAs Report

by Marc Bennett, Sedgwick County District Attorney & NDAA Representative

The last weekend in April, the Board of Directors of the National District Attorneys Association met in person for the first time since the pandemic started. The discussion was, as one might expect, focused on the national implications of the tumult of the last year. Between rising backlogs created by the pandemic, protests in communities across the nation in the wake of the killing of George Floyd and the subsequent trial, and the steps being taken to safely reopen courthouses across the country, it has been a wholly unique year in prosecution offices around the nation. I took some solace from the discussion as it was clear that no one has figured out the “right” way to handle these various issues. We are all doing our best to represent our respective communities within the framework of our own unique systems of justice.

Highlights of the weekend included several presentations. The first was a presentation from the District Attorney of Buffalo, New York regarding the proliferation of untraceable “ghost guns,” the name given to firearms with no serial number or identifiable make, model, or manufacturer. Typically, people buy parts online from various sources, assemble the parts into a functioning weapon for personal use only, and then sell the now untraceable firearm to individuals who would otherwise be unable to pass the background check necessary to purchase a firearm legally.

The elected Commonwealth’s Attorney for Charlottesville, Virginia discussed the upset he encountered following his decision to proceed on charges related to three protesters who were alleged to have separately committed misdemeanor crimes during the protests of the Unite the Right rally in August of 2017. While there was wide-ranging public support for the prosecution of any number of alt-right attendees at both the state and federal level, his discussion centered on how to deal with the scrutiny that comes with prosecuting someone for whom your community has great sympathy.

During the meeting, the well-being task force emphasized the importance of paying attention to the emotional well-being of our attorneys and staff. We risk loss of productivity, burn-out, and turnover if we are not attentive to these issues and make time for our staff to access programs designed to enhance

well-being.

The diversity, equity, and inclusion committee discussed the importance of diversity in the ranks of prosecution offices. The experiences of people of a different racial or ethnic background can have a significant impact on the “culture of an office,” how we assess charging decisions, parameters for plea agreements, as well as the manner in which our offices interact with our communities.

The role of virtual CLE was the subject of much discussion. While everyone enjoys in person meetings far more than staring at a screen, there is a recognition that zoom style meetings present a viable option for access to high quality CLE from national level speakers. I made the point in the discussion that many prosecutors in Kansas have little to no budget for out of state training, have difficulty finding coverage for dockets if and when they do leave the state, and rely heavily on the state association’s annual CLE that takes place during the Judge’s conference to get their full allotment of CLE each year. For folks like this, zoom access may be the only viable option for access to national-level continuing education. Several members from other rural states agreed.

To that end, the NDAA has rolled out a trial advocacy “bundle” including the following topics: (1) prosecutors as storytellers: developing and communicating your case theme; (2) Jury selection: theory and practice; (3) Putting your best foot forward: The outstanding opening statement; (4) Dynamic Direct: Examination; (5) Cross examination: The approach point method; (6) The persuasive visual closing argument. The entire package is \$199 or \$259 for non-NDAA members. Depending on the success of this effort, I expect to see additional CLE bundles offered by the association in the future.

Also during the weekend, the Association’s Executive Director Nelson Bunn updated members on various pieces of pending federal legislation, including grant opportunities that the NDAA is keeping tabs on. Membership in the NDAA offers many opportunities and resources.

If I can ever be of assistance in connecting you to the NDAA, let me know. You can contact me at marc.bennett@sedgwick.gov. 

Association Updates

2021 KCDA A Conferences

By Chris McMullin, CLE Committee Chair

Greetings! Hopefully most of you were able to attend our second “virtual” KCDA A Conference, which was held June 17-18 on the airwaves. Once again, over 150 Kansas prosecutors tuned in to learn and maintain licensure.

Day one started out with ethics—and despite a communication hiccup, everyone who watched will get their annual requirement of 2.0 ethics hours awarded. From the teacher’s perspective, it is kind of weird to talk for 100 minutes and try to maintain rapport with my co-presenter 185 miles away while talking to a small camera. But we marched on.

Attendees heard about legislation from Representative Fred Patton, who helped shepherd key bills through the 2021 session. We are grateful for his support and his informative presentation.

One of the most important pieces of new legislation was the speedy trial fix—and Sedgwick County DA Marc Bennett guided attendees through it step-by-step.

We were also treated to a visual tour of COVID jury trials in several jurisdictions—*see photos on the next few pages*. Lots of jurisdictions increased their Plexiglas budgets in 2020.

Presentations from ICE and the Secretary of State’s office rounded out a well-attended day one.

Day two started with a combination CLE/

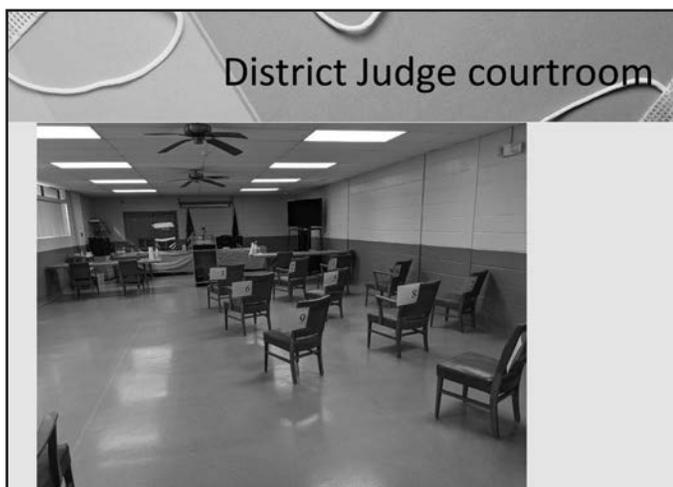
murder mystery as the FBI detailed its decades-long search for a California serial killer that was solved by obtaining DNA from ancestral research companies. Both the narrative of the case and the legal implications were discussed.

The day closed with a five-hour presentation on trauma-informed prosecution led by national expert Tom Tremblay and Johnson County DA Steve Howe. An indicator of how compelling this presentation was is the fact that there were well over 100 viewers at the close of the conference—Friday afternoon. I have been to a lot of KCDA A conferences and cannot remember the last time we had such high attendance at the close of the conference. This is perhaps one of the benefits of a remote conference.

The CLE Committee and the Board are happy to announce that the KCDA A Fall Conference will be an in-person event. Stay tuned for details, but mark your calendars for October 21-22, 2021.

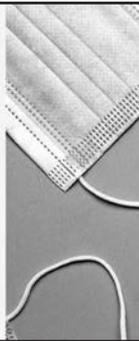
As always, thanks to our presenters for taking the time and effort to provide quality content for our organization. Thank you to the CLE Committee for working hard to put this conference together. And thank you to the membership. A great deal of our content is always the product of a member suggesting a speaker or a topic. This event was no different. Keep em’ coming! 🙏

Dickinson County

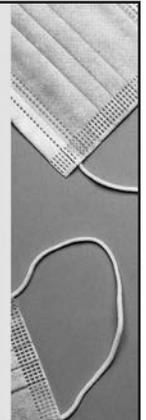


Johnson County

Jury Box



Jury Deliberation Room



Jury Assembly Room



Reno County

A Juror's View of the Courtroom



- A less than ideal view from the front row of the new jury box. The podium in the foreground is often difficult to place without obstructing a view of the witness stand.

View from the Witness Stand



- From here, you can see how far away the jury is from the witness stand.
- The glare from the plexiglass often obstructs the view even further.
- Counsel tables sit facing each other, presumably to allow the attorneys to see both witnesses and jury.

Sedgwick County

COURTROOM GALLERY



THE BENCH & WITNESS STAND



JURY BOX

Front row jury view



Back row of jury view



JURY BOX CONTIUED



A QUICK LOOK AT COVID CHANGES IN LEAVENWORTH COUNTY

While not part of the presentation at the conference, we wanted to give you a snapshot of how COVID changed things in Leavenworth County as well. All counties, large and small, were affected and had to do their best with the resources available. How does your office compare to the photos shown and the information provided here?

From Leavenworth County Attorney Todd Thompson

How did the pandemic affect operations at your office? We shut down from March until June 2020. After that, there was a regulated mask mandate within the office for anyone entering and for staff walking around the office. Diversion meetings were set up through our front office glass or taken by phone calls. Our courts were a hybrid of in-person and by Zoom with no trials.

What do things look like now? Trials began again in June 2021. We are still using a hybrid of Zoom and in-person, but our criminal judge does not like Zoom, so we are mostly back to normal.

Are you back to business as usual or how are you trying to get back to normal? We are almost back to normal.

How big is your backlog of cases? Fairly extensive.

How soon do you anticipate it will take to get caught up from the delays from the pandemic? A year and a half, if not more, for trials. Hopefully if we get extra assistance, we can get through the backlog in six months.

Lessons Learned - what worked and what didn't work? Zoom is a valuable tool. It assists with assuring defendants can get to court without missing much work. Defense attorneys can appear in multiple jurisdictions with little issues. There will always be technical difficulties, and all must be patient. We also must remember even with the annoyances of these technical difficulties, we would have the same issues waiting for an attorney to come to court, finding a person who was supposed to be there, etc. I hope we can find a way to handle a hybrid version of court. I do think there still needs to be an attire and decorum policy for those who use Zoom. 🙏



*Fall Conference
Save The Date*

October 21 - 22, 2021

Hyatt Regency | Wichita, KS

Event Registration will open at the end of August at KCDAA.org



**Kansas County and District
Attorneys Association**

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