2006-2007 KCDAA Board

**Ed Brancart**  
President  
Wyandotte County Deputy District Attorney  
KCDAA Board: 6 years  
KCDAA Member: 13 years

**Thomas R. Stanton**  
Vice President  
Reno County Deputy District Attorney  
KCDAA Board: 4 years  
KCDAA Member: 16 years

**David Debenham**  
Secretary/Treasurer  
Shawnee County Deputy District Attorney  
KCDAA Board: 4 years  
KCDAA Member: 25 years

**Ann Swegle**  
Director  
Sedgwick County Deputy District Attorney  
KCDAA Board: 2 years  
KCDAA Member: 26 years

**Jacqie Spradling**  
Director  
Johnson County Assistant District Attorney  
KCDAA Board: 2 years  
KCDAA Member: 15 years

**John Wheeler, Jr.**  
Director  
Finney County Attorney  
KCDAA Board: 1 year  
KCDAA Member: 14 years

**Doug Witteeman**  
Past President  
Coffey County Attorney  
KCDAA Board: 5 years  
KCDAA Member: 10 years

**Mike Jennings**  
Chair, Legislative Committee  
Assistant Sedgwick County District Attorney  
Chief, Narcotics and Vice  
KCDAA Member: 23 years

**Margaret (Maggie) McIntire**  
CLE Committee Chair  
Assistant Sedgwick County District Attorney  
KCDAA Member: 18 years

**Nola Tedesco Foulston**  
NDAA Representative  
Sedgwick County District Attorney  
KCDAA Member: 18 years
Volume IV, No. 2, Spring 2007

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About the Cover

The Linn County Courthouse in Mound City, built in 1886, is the second oldest courthouse still in use in Kansas.

The courthouse was built in the Renaissance architectural style by George Ropes, and was listed on the National Register of Historic Places in 1974.

The beautiful old structure was also used in scenes from the Gordon Parks film, “The Learning Tree.”

Photo by John D. Morrison, Prairie Vistas Gallery
President’s Page

by Ed Brancart, KCDAA President
Deputy District Attorney, Wyandotte County District Attorney’s Office

Charting a Course to the Future

From its meager beginnings in the 1930s, to the 1972 law that directed a portion of court costs to its treasury, to the Spring of 2007, the KCDAA has come a long way. The Board of Directors is working to preserve that heritage and to grow the KCDAA into a premier statewide bar association for Kansas prosecuting attorneys.

Taking Stock

The contemporary KCDAA has developed itself in the following ways:

- A clear Mission Statement that establishes the broad brush identity of the Association.
- Comprehensive goals that guide present and future management decisions.
- An active and heavily involved Board of Directors.
- Standing committees working on CLE, legislative affairs, budgets and audits.
- Day-to-day professional association management.
- The Advance Sheet published monthly.
- The Kansas Prosecutor published three times each year, with an editorial board consisting of prosecuting attorneys from our membership.
- Attorney General liaison.
- Amicus Curiae appellate litigation.
- Appointees to Kansas Sentencing Commission, Kansas Child Death Review Board, Kansas Interagency Council on Abuse, Neglect and Exploitation, Three—R Committee, and more.
- Sections for specialized issues such as homicide, juvenile, narcotics, and sex crimes.
- Coordination among law enforcement associations throughout the state.
- Peer recognition through Lifetime Achievement and Prosecutor of the Year awards.
- A great web site at www.kcdaa.org.
- Superior, relevant continuing legal education.
- High quality meeting accommodations.
- And much, much more…

Charting a Course to the Future

The Kansas County and District Attorneys Association

PURPOSE: The KCDAA is the professional bar association of Kansas prosecuting attorneys.

MISSION: To promote, improve and facilitate the administration of justice throughout the State of Kansas.

OBJECTIVES:

- Build and maintain the highest levels of professional responsibility for Prosecutors.
- Provide high quality continuing legal education.
- Promote responsible interaction with all branches and levels of government.
- Advocate for legislative, administrative, and judicial improvements that enhance public safety throughout Kansas.
- Fully develop the personal and professional attributes of its members.

The KCDAA is moving into the future with a purpose. With that in mind, the Board of Directors is proud of yet another recent accomplishment in terms of modern not-for-profit association management…The Kansas Prosecutor Foundation.

The Foundation was created to accumulate funds from alternative sources, with the expectation that such funding will be managed for growth and expended on worthwhile priorities of the KCDAA. It is a way to bridge the gap between static funding from a small portion of court costs (that has not changed since its inception) and a dynamic and evermore demanding business and legal environment and professional membership. Hopefully, KCDAA leaders in 2027 and 2057 and beyond will look back with some small measure of pride or pleasure to the Board’s decision to undertake a Foundation approach to supplemental funding of the Association.

Building a Foundation asset base will take time, but with continuing efforts and the power of compounding interest there should come a time when the KCDAA will
have the independence necessary to:

- Influence the development of the bar through scholarships and a higher profile in the law schools.
- Influence legislative affairs.
- Enjoy a fine banquet or other more formal event consistent with our profession.
- Build closer relationships among the membership through KCDAA sponsored social events…such as a golf tournament.
- As the criminal law grows more complex and specialized the need for top tier CLE speakers with relevant expertise should grow more intense, and an infusion of resources from the Foundation will permit the KCDAA to continue to provide that valuable training to its members.
- Be of assistance to the family of a prosecutor who is activated to serve our country in the military.
- Lend a hand to a prosecutor, here in Kansas or in a sister state, who suffers a Katrina-like natural disaster.
- A smartly organized public relations message that would communicate a positive image of prosecuting attorneys and the function of criminal prosecutions.

There is really no limit to the potential benefits that would be made possible by the support of an effective foundation.

The Board of Directors is giving wings to the Foundation with an upcoming fundraising effort. The KCDAA has engaged the services of Chris Keeshan Associates to conduct a statewide feasibility study and recommend strategies for an inaugural campaign. Some of you may have been part of the interview phase of the study. The membership should know that a significant amount of spirited discussion preceded the approval of a fundraising model. While revenue to the Foundation would be welcome from any source, the Board understands quite well the abilities and limitations of county-paid elected and assistant district and county attorneys, many who are repaying staggering student debt, to produce a Foundation asset base. Reliance on a professional fundraiser means that a wide variety of sources of revenue will be explored. And even then we will have fiercely expressed our intention that our professional independence be respected – meaning that fundraising has to come with no strings attached.

One of the best ways of contributing to your professional bar association is through estate planning. Most career prosecutors forgo the big bank account for other rewards. Only in death will many of us have the resources to give back to our profession. In the future you will likely see suggestions from the Foundation to designate a life insurance benefit to help fund the needs of associated prosecutors yet to come. Legacy may be among our most valuable of contributions.

**Service to the Association**

The KCDAA is a mature and expansive business now, and it will grow even more comprehensive in the years ahead. Continued and future successes will depend in large part on the active participation of its members. The Board encourages service from the membership to the Association.

It matters not whether you are a first year prosecutor or a veteran who has made our brand of public service your career, you can be involved.

- Write a technical article and submit it to the magazine for publication (many of you are writing appellate briefs – cut, paste, edit, and convert your research into a technical article to be of assistance to others).
- Volunteer to serve on a KCDAA committee.
- Attend and observe business meetings of the Board of Directors.
- Communicate your thoughts on Association business to the KCDAA office or to a board member.

The KCDAA is your statewide bar association. Your investment in the Association will produce valuable returns to the development of your professional career. Each year the Board of Directors advances with someone moving out to pasture, and someone with new ideas and energy coming in. From the membership comes the lifeblood of the Association. Get involved.

**Notes of thanks**

I want to extend my thanks to immediate past president Doug Witteman (Coffee County Attorney) for his leadership and tolerance – both are qualities that served the KCDAA well.

And a special thanks to past president Tom Drees (Ellis County Attorney). Tom remains very active in KCDAA affairs. His legislative assistance and counsel this session have been invaluable. Congrats to Tom on his appointment to the Kansas Sentencing Commission.
Imagine a CLE meeting where one speaker, maybe two, fail to show up and their presentation must be read to the attendees by a staff member pressed into service for that occurrence. How about where there are no national or even regional speakers and the bulk of the CLE is taught by members cajoled into presenting or association staff? Then ponder attendance of less than a hundred attorneys of the possible 300 and accommodations where you might question turning out the lights for fear of what might creep out from under things.

What about a conference luncheon where the hotel staff appears as the members are standing in line for lunch and open lunch meat packages onto a tray in front of you, throw down some loaves of bread and dump some chips in a bowl? Too far fetched to be even plausible right? In discussing times gone by, that precede many of us, some more senior members (longstanding, not old) lament about just such days for the KCDAA. Hard to imagine from our vantage point today with the quality CLE that the Kansas County and District Attorneys Association is and has been providing for some time now.

The KCDAA has been posting record attendance for both the Continuing Legal Education and the support staff conferences at each session for several years now. Total attendance is well over 200 not including the support staff attendees. The accommodations are now mainstream and modern, the meals are first rate by all accounts and speakers are sought after professionals with timely, relevant information.

In striving for maintaining and improving what are already great CLE offerings, your CLE Committee has an exciting lineup for you this June. The KCDAA is proud to bring Tom Henderson to Kansas to instruct on the aspects of Direct and Cross Examination, Handling the Media as a Prosecutor, Case Load and Time Management, Case Preparation and the Use of Themes in Trial and Meeting Mental Defenses. Tom is a lecturer for the National College of District Attorneys, National Advocacy Center and others. (See his bio in the box on the next page).

In addition to Tom Henderson’s presentations, we are fortunate to have Kansas Attorney General Paul Morrison teaching a segment on “Opening and Closing the Case” on the first day of the conference. Those of you who have not heard Paul teach are in for a treat from one of Kansas’ best prosecutors.

The sections of your Association also continue to bring you discussions regarding timely developments and concerns in each area on the second day with breakout sessions by the Drug Section, Sex Crimes Section, Homicide Section and Juvenile/CINC Section. Do not miss out on the topics of today in these areas by our own top prosecutors!

Don’t forget your Ethics hours! One from Tom Henderson and one from a panel comprised of our own Ron Paschal from Sedgwick County, Chris McMullin from Johnson County, and Tom Stanton from Reno County. You have not waited until that last minute for your ethics hours like I have….Have you?

Come to the conference for high quality CLE, great accommodations and good food, but do not forget what is often the largest take away and benefit…networking and fellowship with other prosecutors from across the state of Kansas that have chosen to dedicate their careers to the service of the citizens of Kansas just like you!

Thank you for letting us here be a small part of your service to justice! See you at the conference.
Thomas D. Henderson is an Assistant District Attorney General in Memphis, Tennessee. He graduated with a BA from Memphis State University in 1968 and a JD from Memphis State University School of Law in 1971. He has been admitted to practice law in Tennessee and the United States Supreme Court.

He has been an Assistant District Attorney General since 1976 and is currently serving as an Administrative Assistant for Homicide Screening and Training, as a Homicide Screening Assistant, and as the Advisory Commission to the Supreme Court on Rules of Practice and Procedure along with other various committees and programs.

Henderson is a lecturer at the National College of District Attorneys, National Advocacy Center, Memphis Police Academy, Shelby County Sheriff’s Department, Memphis and Shelby County Rape Crisis Center and the South Eastern Psychiatric Association. He has also presented lectures at state and local association seminars in 31 states and territories.

He has won numerous awards including the NCDA Distinguished Faculty Award, the NCDA Lecturer of Merit Award, and the Association of Government Attorneys in Capital Litigation Vice-President's Trial Award.
I define myself as a career prosecutor. For almost 30 years, I’ve worked side-by-side with great prosecutors, police, sheriffs, and KBI agents in a shared effort to make Kansas a better place to live. As the attorney general, I will continue to fight alongside law enforcement to find innovative ways to address crime in our state and keep our communities and neighborhoods safe.

To do this, the Attorney General’s Office will go back to the basics of law enforcement, focusing on assisting county and district attorneys, protecting Kansas consumers, defending the state, and helping the victims of crime. I am building a top notch, professional law office that will better assist prosecutors with violent crime, internet crime, domestic abuse, and consumer issues. My staff and I are working hard to restore Kansans’ faith in this office.

**Criminal Justice Division**

During the short time I’ve been attorney general, we have made drastic changes to the priorities of the state’s law office. We have enhanced the Criminal Justice Division by hiring several talented and experienced prosecutors. Rick Guinn, former first assistant district attorney in Johnson County, now leads the Criminal Division. He has a vast amount of experience in prosecuting major felonies and unmatched professional integrity. Guinn will be working many challenging cases, including *Kansas v. Floyd*, a bodiless murder case in Stanton County.

Another valuable addition, Barry Disney, former Crawford County Attorney and Sedgwick County Assistant District Attorney, will be working homicide cases, specifically capital murder. Disney will prosecute *Kansas v. Cheever* in the murder of Sheriff Matt Samuels, as well as the murder of Jaime Robinson in Crawford County and *Kansas v. Floyd*.

In many cases, our Criminal Division can offer assistance, expertise, and support to prosecutors across the state on numerous issues. And as the attorney general, I will offer my personal assistance in many of these cases. I also will continue to personally try cases during my time in office. It’s important in the way I chose to lead, as well as maintaining my proficiency as a prosecutor.

It has been over three decades—maybe more—since an attorney general tried a case. But the day after I was sworn in as the 42nd Kansas Attorney General, I took my first case. I will be trying *Kansas v. Thurber* with Cowley County Attorney Chris Smith. Justin Eugene Thurber is charged with aggravated kidnapping, rape, aggravated sodomy and capital murder in the death of Jodi Sanderholm, a young woman from Arkansas City.

It is my goal to split my time equally between the courtroom, the office, and traveling the state. This is absolutely possible with the professional and experienced staff I have brought together to serve the Kansas taxpayers.

Continuing the effort to make our neighborhoods safer, I pushed legislation this year that would close a loophole in Jessica’s Law. As it was drafted last year, a group of second time offenders could be let off the hook. This oversight will be fixed and second time offenders will serve a mandatory sentence of 40 years behind bars.

I also requested that the legislature increase the registration requirements for registered offenders. They will now be required to provide more identifying information to law enforcement, like e-mail addresses and online identities, and register more frequently. These steps will help law enforcement better track registered offenders’ activities online and in our communities.

Our work with prosecutors doesn’t end with criminal cases; we also offer assistance for consumer related issues.

**Consumer Protection Division**

The Consumer Protection Division has received a serious shot in the arm since I took office in January. My goal is to make it one
of the best in the nation. And to do that, we must aggressively investigate consumer complaints, mediate conflicts, and sometimes prosecute those who commit fraudulent and deceptive business acts.

We have refocused the division on protecting consumers in a fair and even-handed manner. I fully believe that the Attorney General’s Office can be business friendly and at the same time look out for Kansas consumers.

This division is full of investigators and attorneys ready to assist local prosecutors who may not have the time and resources available to handle consumer crimes, such as internet fraud, Kansas No-Call violations, or other consumer scams. We plan to devote considerable resources to fight internet fraud.

I’ve appointed Linda Sheppard, formerly of the Kansas Insurance Department, to lead this division. She brings expertise in consumer issues, as well as years of experience in litigation to the table. I am confident that she will offer every prosecutor the knowledge and assistance they desire from our office.

During this legislative session, we did several things to better protect Kansas consumers. I urged the legislature to limit interest rates for payday loan businesses. Our hope was that this legislation would protect vulnerable consumers from predatory lending practices. Some payday lenders charge nearly 400 percent annual interest rates on small loans. This is wrong.

I also testified against a bill that would create an exemption for the health care industry in the Kansas Consumer Protection Act. If this bill becomes law, it would prevent my office from investigating and prosecuting people in the health care industry who intentionally deceive consumers. I think this is a bad way to do business and is unfair to the victims of these deceptive acts.

As I said last year, it is time for the Kansas Attorney General’s Office to once again offer prosecutors in every corner of the state professionalism, experience, and expertise in the critical issues they face every day.

**Crime Victim’s Rights Division**

To better assist the victims of all crime, I’ve made it a priority to re-invigorate our Crime Victims’ Rights Division. It is time we make caring for Kansas victims a priority. I plan to offer more resources for the victims of violent crime, domestic abuse, sex crimes, child abuse, and much more.

My office will expand the training opportunities we provide on victims’ issues across the state for professionals, prosecutors, law enforcement, volunteers, and victims. As I’ve said before, the Kansas Attorney General’s Office will once again be the resource for crime victims and victims’ assistance programs across the state.

To better assist the victims of violent crime, I successfully pushed legislation to allow my Crime Victims’ Compensation Board to assist victims with the expenses associated with cleaning up crime scenes. Prior to this legislation, victims were left with the burden of cleaning up the scene on their own. Through common sense ideas like this, we can help victims in their time of need.

This is an exciting time for the Kansas Attorney General’s Office. We are taking substantial strides forward in assisting prosecutors and keeping our citizens safe. Throughout my time as attorney general, I will remain focused on the right priorities—priorities important to the people of Kansas.

Kansans elected me to use my independent judgment and legal expertise in representing the state of Kansas. We want to be your partners in fighting crime. As attorney general, I will return this office to the right priorities and work with law enforcement to keep our families safe.

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**County Courthouse Portraits**

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As I reflect back on my first session as Legislative Director for Senate President Steve Morris, I must admit a great deal was accomplished this year. Like any legislative session, there is always a laundry list of items addressed during the session. This year it included deferred maintenance for our universities, reduction in the unemployment tax, phase-out of the corporate franchise tax and reductions in the social security income tax; creation of a new technical education authority; KPERS reform; healthcare reform, and primary seat belt use for teenage drivers. But the issue most likely to go down in history as the defining issue of the 2007 legislative session is expanded gaming and the approval of casinos in Kansas.

Wednesday, March 28 began as any ordinary day. It ended, however, with what might be considered one of the most historic days in the Kansas Legislature. Senate leadership started out knowing the first action to take place when the Senate convened that morning, was to be a motion to non-concur with the House amendments, which would place Senate Bill 66 into a conference committee. This is a routine motion made several times throughout a session. On this fateful morning though, the motion was going to be anything but routine.

You see, opponents to SB 66 were opposed to allowing the motion to non-concur because at that time, no one was sure there were 21 votes to pass the bill. In the Senate, only one motion to concur on a bill can be offered; and if the vote fails, the bill is dead. So the opponents, believing there were not 21 votes in favor, wanted to make the procedural motion to concur, to force a vote that day. As many people have stated throughout history, “Timing is everything.” -- and the time had come in the 2007 legislative session to vote on expanded gaming in the Senate.

The procedural maneuvering all occurred before noon yet the final vote was not cast until almost 11:30 p.m. that evening. You ask why? Well, the Democrats, led by Senate Minority Leader Anthony Hensley, decided to place a filibuster on the bill until they had time to talk to everyone about their votes. Everyone understood at the beginning of the day, the vote was very close, and maybe a little additional time could rally the votes necessary to finally pass the gaming bill.

As you might have guessed, the final vote on gaming was cast and on a 21-19 vote, the legislature approved expanded gaming and casinos in Kansas in four gaming zones: Wyandotte County, Greenwood County, Ford County, and either Sedgwick or Sumner Counties. No casino can be built in Kansas without the consent of the people in that county. Ford County and Sedgwick County will vote this summer; Wyandotte, Greenwood and Sumner counties have already held elections to approve building casinos in their communities.

Thankfully, the 2007 Legislature did much more work than just the gaming bill. It was a somewhat slow year for criminal law changes, but there were a few items of interest to prosecutors. HB 2062 was coined the Omnibus crime bill since several pieces of legislation were amended into the bill throughout the legislative process. The original bill related to the criminal use of explosives, a subject matter that was a perfect fit for the potentially explosive issues that were amended into the bill.

In addition to the original provisions amending the statute on criminal use of explosives, HB 2062:

- Creates a special application in sentencing for a third or subsequent conviction of burglary (SB 97);
- Enacts Alexa’s Law dealing with crimes against unborn children (HB 2006);
- Authorizes new criminal provisions regarding controlled substances and paraphernalia including the creation of the Controlled Substances Monitoring Task Force (HB 2359);
- Expands the law regarding battery against a mental health employee (HB 2001); and
- Amends KSA 21-3219 related to the use of force.

In 2006, KSA 21-3219 was amended through SB 366, commonly referred to as the “stand and defend” bill. Compromise language was agreed to by the National Rifle Association, Senate Majority Leader
Derek Schmidt, and Senator Phil Journey. Even though the KCDAA Board did not feel the language went far enough and therefore did not endorse it, the amendment was ultimately added as a new section (c) to KSA 21-3219 authorizing a prosecutor to commence a criminal prosecution upon a determination of probable cause that the use of force was not justified.

House Sub. For SB 31 amends the municipal courts’ subject matter jurisdiction on certain felonies and authorizes the municipal court to enter into contracts for collection services for debts owed to municipal courts or for restitution. The bill clarifies the subject matter jurisdiction of municipal courts to allow the municipal court to hear and determine cases involving violations of city ordinances and specified violations that could be charged as felonies in district court. The felonies in which the municipal court and the district court would have concurrent jurisdiction are limited to crimes contained in:

- KSA 2006 Supp. 8-1567, driving under the influence of alcohol or drugs;
- KSA 21-3412a, domestic battery;
- KSA 21-3701, theft; KSA 21-3707, worthless checks; or
- KSA 65-4162, possession of marijuana

This gives jurisdiction to a municipal court for violations of an ordinance, which is concurrent with the jurisdiction of a district court, for violations of these statutes that are punishable as felonies. These provisions will be retroactive for ordinance violations committed on or after July 1, 2006.

SB 204 amends the Kansas Offender Registration Act by expanding the list of offenders required to register pursuant to the Act and amending the requirements for registration. It adds the crime of attempt, conspiracy or solicitation to commit the new crime of aggravated trafficking to the list of crimes that require registration on the Kansas Offender Registry. It expands the definition of “offender” to include a person convicted of aggravated trafficking and clarifies that jurisdiction for the prosecution of an offender’s failure to register or report would lie with the offender’s county of residence or the county where the non-resident offender is required to register. There are several other provisions included in the bill that you will want to review.

One of the last bills to pass during the 2007 Legislative session was House Substitute for Senate Bill 14. The bill passed with the assumption it would help with the current prison space problems the Kansas Department of Corrections is currently experiencing. Most of the research and testimony presented to the Judiciary committees indicated that some of the concepts and ideas included in House substitute for Senate bill 14 would help reduce recidivism rates and reduce the need for additional bed space.

House Substitute for Senate bill 14:
- Enacts a new grant program to encourage community corrections programs to reduce revocation rates by at least 20 percent;
- Gives eligible inmates the ability to earn a one-time 60 days of good time credit upon program completion;
- Provides good time credits for inmates convicted of a drug severity level 3 or 4 crime or a non-drug severity level 7 through 10 crime to be increased from the current 15 percent to 20 percent;
- Allows the Kansas Department of Corrections (KDOC) to grant financial aid to counties to defray all or part of the expenses of corrections advisory board members in carrying out official duties;
- Grants the Secretary of Corrections authority to disburse a reasonable amount of money earned by an inmate to pay restitution, costs, fines, and fees; and
- Establishes the Kansas Criminal Code Recodification Commission.

Like most sessions, the 2007 legislative session really took on a life of its own. This was the first year in quite some time the Legislature wasn’t embroiled in a fight over funding K-12 education. This gave the Legislature the opportunity to address other needs, which were lower on the priority list in previous sessions. Deferred maintenance has become a huge issue for the state to grapple with and address. The 2007 Legislature took the first steps to help maintain and repair our university campuses.

Certainly, as we wrap up and write the 2007 session into the Kansas history books, healthcare reform, Kansas Public Employees Retirement System (KPERS) reform, technical education reform and the reductions made to the tax code will all take their rightful place next to SB66 and the expansion of gaming.
Computer forensic evidence allows law enforcement a gold mine of information for investigation and prosecution of criminals, but the legal concepts of search and seizure for computers and other electronic media must be understood and honored.

In addition to Fourth Amendment restrictions, prosecutors are accustomed to addressing certain specialized laws which govern the execution of searches of computerized data. Search warrants also have some specialized requirements to be certain that the warrant issued by the judge authorizes the seizure of the evidence sought.

Before law enforcement sets off to compose an application for a search warrant, a few special issues should be addressed.

First, if law enforcement seeks to intercept the content of a communication as it is being delivered to the recipient, this is considered a wiretap, and both 18 U.S.C. § 2510 et. seq. and K.S.A. 22-2514 et. seq. govern the application to allow intrusion into that information. Unless federal investigators are conducting the search, the Kansas statute applies. K.S.A. 22-2515 allows a prosecutor or investigator to apply to a “court of competent jurisdiction” for an order allowing interception of communication when “interception may provide evidence of any of the following offenses: (1) Any crime directly and immediately affecting the safety of a human life which is a felony; (2) murder; (3) kidnapping; (4) treason; (5) sedition; (6) racketeering; (7) commercial bribery; (8) robbery; (9) theft, if the offense would constitute a felony; (10) bribery; (11) any violation of the uniform controlled substances act, if the offense would constitute a felony; (12) commercial gambling; (13) sports bribery; (14) tampering with a sports contest; (15) aggravated escape; (16) aggravated failure to appear; (17) arson; (18) terrorism; (19) illegal use of weapons of mass destruction; or (20) conspiracy to commit any of the foregoing offenses. There are very specific requirements described in K.S.A. 22-2516 that must be satisfied before a warrant authorizing a wire tap will be allowed.¹

Second, if law enforcement seeks to obtain non-content information in real-time, this constitutes a pen register or trap and trace. An example of a computer trap/trace would be a log of e-mails between the suspect and others as it is received, without the content of those emails. Authority for this search will be governed by 18 U.S.C. § 3121 et. seq. and K.S.A. 22-2526. The list of specific procedures to seek and obtain such an order is set forth in K.S.A. 22-2527.

Application must be made to a court of competent jurisdiction (not a magistrate) in writing and under oath. There must be a showing of relevance to an ongoing criminal investigation that the applying agency is engaged with.

Third, if neither of these laws applies to the sought information, the information may still be protected by the Electronic Communications Privacy Act (ECPA) 18 U.S.C. § 2701 et. seq. The ECPA applies to information sought from an internet service provider (ISP).² There are three levels of information identified in the ECPA, and each increased level of intrusion requires an increased showing of legal authority. Subscriber information can be obtained with a subpoena. Use patterns and the identities of

Footnotes

1. In addition to the requirements that must be satisfied to obtain a wiretap warrant, there are also certain reports that must be made after the conclusion of the wiretap period. 18 U.S.C. § 2519

2. While violation of the ECPA does not trigger suppression of the evidence seized, the accountholder will have a potential cause of action against the ISP or the ISP could be criminally punished for the violation. 18 U.S.C. 2707, 2701(b)
people with whom the subscriber has contact, such as “buddy lists,” can be obtained with an order from a judge pursuant to 18 U.S.C. § 2703(d). To access the content of e-mail that has not yet been delivered, a search warrant is required.

Numbers stored in a cellular telephone indicating incoming and outgoing calls are not covered by the ECPA. The phone numbers are not communication, and therefore officers looking at the numbers do not implicate the ECPA. Retrieval of voicemail or a text message (a communication) is a different issue, however.

When seeking a search warrant, the principles of a good search warrant writing are universal. It is important to offer the reviewing court a complete recitation of the probable cause that supports the search. The probable cause cited in the warrant must justify not only the location to be searched, i.e., the computer, but also the types of files that are sought, e.g., image files, document files, internet history, e-mail.

The affidavit should also contain reference to relevant technical information to explain and describe to the court why certain types of information are sought and why the probable cause recited in the warrant justifies the technical procedures to be used. For this portion of the warrant, the affiant should be an officer with technical training and knowledge of the facts of the case to knit together these important pieces of the affidavit.

The search warrant should contain reference to the contents of the electronic media if a computer forensic analysis is sought. While courts have held it not necessary to set forth the exact methodology of the search, it is important that the request for authority to use computer forensic tools to search the contents of the hard drive be articulated in the warrant.

In addition, the warrant should seek permission for “off-site sorting,” and the assistance of non-law enforcement involvement in the forensic computer examination. It is also suggested that the warrant specify that the evidence be allowed to be transported to an appropriate location outside of Kansas for the analysis if the Heart of America Regional Computer Forensic Laboratory is to be the physical location for the analysis to be performed.

In Kansas, suggested language for the warrant is as follows:

- particular description of evidence

   All computers, computer software, and computer systems as defined in K.S.A. 21-3755(a)(2), (3), and (6), and all electronic and magnetic media stored therein, together with all storage devices, internal or external to the computer or computer system, including but not limited to floppy disks, diskettes, hard disks, magnetic tapes, removable media drives, optical media such as CD-ROM, printers, modems, fax machines, digital scanners, digital cameras, system servers, video displays, and any other electronic or magnetic devices used as a peripheral to the computer or computer system.

3. 18 U.S.C. § 2703(d): REQUIREMENTS FOR COURT ORDER. – A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3127(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the content of a wire or electronic communication, or the records of other information sought, are relevant and material to an ongoing criminal investigation. In the case of a State governmental authority such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

system, all electronic and magnetic media stored within such devices, photographs, digital images, video tapes, optical images, digital video discs, video equipment, digital cameras and equipment, photographic equipment, optical storage, printed images and materials, periodicals, and indicia of ownership.

• request to allow forensic examiner to conduct analysis

Based on the type of computer, computer software and computer systems, floppy disks, diskettes, hard disks, magnetic tapes, removable media drives, optical media such as CD-ROM, printers, modems, fax machines, digital scanners, digital cameras, system servers, video displays, and any other electronic or magnetic devices used as a peripheral to the computer or computer system, all electronic and magnetic media stored within such devices, photographs, digital images, video tapes, optical images, digital video discs, video equipment, digital cameras and equipment, photographic equipment, optical storage, printed images and materials, periodicals expected to be found by this search warrant your affiant requests that a computer specialist from the Heart of America Regional Computer Forensic Laboratory located in Kansas City, Missouri, be allowed to assist and identify the pertinent computer equipment, peripherals, digital/optical storage media and other related computer equipment during the service of this search warrant.

Your affiant requests permission for [seizing agent or agency] be authorized to transport the seized computer, computer software and computer systems, floppy disks, diskettes, hard disks, magnetic tapes, removable media drives, optical media such as CD-ROM, printers, modems, fax machines, digital scanners, digital cameras, system servers, video displays, and any other electronic or magnetic devices used as a peripheral to the computer or computer system, all electronic and magnetic media stored within such devices, photographs, digital images, video tapes, optical images, digital video discs, video equipment, digital cameras and equipment, photographic equipment, optical storage, printed images and materials, periodicals to be transported to the laboratory located at [address].

A district court judge should sign computer search warrants when possible. When a district magistrate signs a warrant, the Kansas Supreme Court has held that the computer may not be transported out of the magistrate’s jurisdiction for analysis. The ECPA provides that a “judge of competent jurisdiction” includes a state judge who is authorized by statute “to enter orders authorizing interception of wire, oral or electronic communications.” This does not include district magistrate judges.

Each office should develop the language that the judges in its district are comfortable signing. The items sought in the warrant should be co-extensive with the probable cause recited in the affidavit. The request for offsite “sorting” is sometimes unnecessary according to some federal circuits when the contents of the computer are the crime itself, such as possession of child pornography, but when the computer simply holds evidence of the crime, such as a bank fraud case with transactional data on the computer, then the special language is necessary. This emerging area of law is constantly evolving, and any practitioner of this area of law must stay aware of the latest changes that may have occurred.

For agencies who would like assistance from the services of the Heart of America Regional Computer Forensic Laboratory in Kansas City in the drafting and execution of their search warrant the contact information for the RCFL is available online at www.harcfl.org or via telephone at 816-584-4300. The RCFL can also provide contact information for attorneys who may be able to answer prosecutor questions on drafting and defending search warrants in high tech crime cases.

An extensive guide to search and seizure of computer evidence is available from the United States Department of Justice at www.cybercrime.gov.

6. 18 U.S.C. §§ 2510(9), 3127(2)(A)
Presenting Computer Evidence in Court

by Angela Wilson, Deputy Douglas County Attorney and Advisory Council Chair of The Kansas Prosecutor

After electronic evidence is seized and analyzed, the prosecutor must be able to lay adequate foundation for the admission of the evidence in court. This foundation can be established in a number of ways, depending on the type of evidence sought to be admitted. All possible challenges to admission of electronic evidence is well beyond the scope of this article, however this article will attempt to address some of the more common foundational requirements for evidence seized from computers.

Foundation for presentation

The foundational legal basis for admission of any computer forensic analysis will require an understanding of the basic process of computer forensic evidence retrieval. The forensic examiner should be capable of educating the prosecutor about the steps taken in an exam, and what reliability safeguards are used. This step-by-step explanation should be sufficient to lay the foundation for the admission of the evidence collected from the computer.

Authentication simply requires that the proponent of evidence provide evidence that the item offered is what it is purported to be: that the e-mail introduced was sent by the defendant, that the contraband images were located on the hard drive, that a phone call was received by the defendant’s cellular phone, etc. Things properly authenticated may still contain hearsay that will bar their admission, so the proponent of the evidence must also address any hearsay concerns in addition to authentication.

Common ways to authenticate e-mail include:

- Header information from e-mail following the trail of the message, together with evidence that the purported sender had primary access to the computer where the message originated.
- Content of the e-mail refers to information about which only the writer would be aware
- The e-mail is a “reply” e-mail that retains the sender’s original message.
- After receiving the e-mail, the sender takes action consistent with the information in the content of the e-mail.

Authentication of the files, file structure, and content of the files contained on a computer can be established by other evidence such as testimony from other users of the computer, or a law enforcement officer who has specific knowledge of facts giving rise to the conclusion that the evidence is what it is purported to be. For example, if the undercover officer makes controlled buys of drugs from the drug dealer suspect, and his undercover name, date of sale, and quantity are contained in the database found on the dealer’s computer, evidence is provided to authenticate the content of the records. Thus, the computer-stored records are authenticated the same way other records are authenticated.

A witness who viewed the page, then made an image of that page through a program designed to save graphic files, can authenticate the appearance

Footnotes

1. Information for this article was provided in large part by National Institute of Justice publication NCJ 211314 “Digital Evidence in the Courtroom: A Guide for Law Enforcement and Prosecutors” and is available online at no charge at www.ojp.usdoj.gov/ncj

2. Digital evidence in the courtroom, 2007, p. 31

3. Digital evidence in the courtroom, 2007, p. 30
of a certain web page on a certain date. When paired with the Internet history report from the computer’s web browser, these graphic web pages can demonstrate the user’s cyber footsteps.

**Method of presentation**

When presenting evidence seized from a computer, it is necessary to make a plan not only for the legal theory to support admission, but also for the method of presentation.

When presenting technological evidence, preparation is the key to insuring the jury can adequately understand the evidence and how it supports the case. If analogies will help illustrate concepts in computer forensics, the prosecutor and the forensic examiner should discuss these analogies and their limitations.

If computer files are to be introduced, the prosecutor must decide whether to present the file as a printout or in digital format or both. In some cases all files related to an issue will need to be presented, while other times only a representative sample will be used. If the evidence is to be presented as part of a PowerPoint presentation, the images or items presented in the PowerPoint should be admitted separate from the presentation itself. This will allow the jury to view the evidence when it does not have a computer to view the presentation.

Other suggestions to prepare for a presentation using computers include:

- The format of the presentation should be clear and simple.
- Make sure someone who knows how to set up the equipment is available.
- Be sure all screen savers on the computer are disabled.
- Be certain every juror and the judge can see and hear the presentation.
- If an item is shown in the presentation, make sure it is available to the jury in another format.
- Create a record by preserving the presentation on CD or DVD to add to the record on appeal if needed.

In cases involving child pornography or other images of a potentially harmful nature, some prosecutors will provide an evidentiary notebook for each juror that contains the evidentiary photos but will not project those photos for spectators’ view.

Additional resources and suggestions for preparing to present computer forensic evidence is available from the United States Department of Justice online at www.cybercrime.gov; from the National White Collar Crime Center (NW3C) at www.nw3c.org; and from International Association of Computer Investigative Specialists (IACIS) at www.iacis.info.

A witness who viewed the page, then made an image of that page...can authenticate the appearance of a certain web page on a certain date. When paired with the Internet History report from the computer’s web browser, these web pages can demonstrate the user’s cyber footsteps.
Case Management Systems

*Editor’s Note: The Kansas Prosecutor Editorial Board wanted to give KCDAA members an overview of case management systems available in Kansas along with some personal insight from current users of the systems. Each case management software company was invited to submit answers to the same questions. The questions and answers are published below. Therefore, the following case management system articles are not an endorsement of any product by the KCDAA. It is merely to allow all KCDAA members information regarding case management system opportunities in Kansas, and they are listed in alphabetical order.

Criminal Case Management
by Software Unlimited Corporation

We have a suite of five different software products which can be purchased individually and will work in concert together. The products are Criminal Case Management, Hot and Worthless Checks, Civil Case Management, Pretrial / Restitution Accounting, and Child Support. Under our suite of products we have sub-modules such as Victim/Witness and the Calendaring and Event Tracking.

How widespread is your software?
We have a state wide system in Nebraska and cover approximately 15 states total.

Please describe how the system works.
Our Criminal Case Management system is the result of 20 years of development in consultation with prosecutors across the country. We’ve created a full-service case management package that keeps track of your data in the most efficient, easy to use manner. With Criminal Case Management System, it’s easy to instantly see the most pertinent information to your case. With a few clicks, you can see every conceivable detail about that case; every document produced, every witness contacted, the outcome of every event pertaining to the case and the actions that still need to be taken. We have made the data entered accessible to both WordPerfect and MS Word, thus making that information available for any document needed. Print subpoenas, warrants, indictments, letters to witnesses….the possibilities are limitless. And you’ll never have to re-enter any information that’s already been keyed in. You can virtually create any data report needed on specific prosecutors, defense attorneys, police agencies, judges, and courts. The reports are also customizable and can be done in a snap.

What was the process like to get it up and working efficiently?
Software Unlimited converts any data you have. The next step is installation. Training is either done online or onsite depending on the size of the office.

What are the major advantages of the software?
To enable the Prosecutor and the staff to have the most efficient office possible, even a paperless office with all their information and documents is just a click away. We have installed for both small and large customers. Our software is very scalable. No matter the size of your office, our software is not only expandable, but is adaptable to the individual prosecutor’s office. Our merging capability is equal to none. The customer can create all his documents using our system. It is easy to use, efficient and comprehensive. We have not found a customer we could not more than meet their needs.

What are the disadvantages?
There are none.

What is the best capability that your software has?
Our ability to merge any information entered into the case directly from the case to any Word or WordPerfect document without an additional software package. The customer will now be able to have their information from a case flow seamlessly into their own documents they create. They do not have to pay high priced software professionals to create these documents.

Is it compatible with the court system?
We have sophisticated interface tools that can be
used to interface to any system. One of the ways we interface is through the nationally accepted format of GJXDM.

**Does it allow for the sharing of documents among counties?**

Since the documents are created by the individual county, it is up to the discretion of the individual attorney whether or not they want to share their documents. Software Unlimited does not prohibit the sharing of documents. We encourage the individual to share. We have both counties that share their information and those counties that prefer to have complete confidentiality.

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**Please discuss anything else about the system that would inform Kansas County and District Attorneys about your software.**

Our software is a one time entry system, which is easy to use and easy to train your staff on. The system was designed by and for Prosecutors. Though our system is easy to use, it is comprehensive and complete. It will cover the needs of any size prosecutor’s office to the smallest detail. Our highly trained staff is there to assist your needs.

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**Editor’s Note:** Software Unlimited Corporation is currently trying to expand into Kansas. There are currently no users in Kansas who could provide us personal insight into their experiences with the system. To learn more about this system, visit www.softwareunlimitedcorp.com.
Case Management Systems

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**FullCase® KPS**
by Justice Systems

**How widespread is your software?**

FullCase has been implemented in approximately 25 prosecutor offices in less than 18 months in the state of Kansas. There are also a few other offices installed with FullCase around the country using FullCase. There is interest nationally with this new product, as it integrates seamlessly with our court case management product FullCourt. Our priority has been implementing FullCase in Kansas.

**Please describe how the system works.**

If FullCase is being used in the same jurisdiction where FullCourt is, a backload of the court data is first brought into the attorney’s copy of FullCase to pre-populate tables, parties, and active cases into their system. This is an immense time saving benefit to minimize the time to set-up as well as avoiding manual data entry of information the court already has after the new system is in place.

FullCase uses an Oracle client server with a windows front end, which makes it very user friendly. It is a party-based system, so once a person’s or company’s information is entered into the database, the person’s information, such as DOB, SSN, addresses, driver’s license information, case history, criminal history score, etc., is available through a single search.

Cases are usually generated three different ways; from a law enforcement report, from a citation, or from another source. FullCase uses three major case types, which are criminal, including adult traffic cases; juvenile, including offender, traffic, and CINC cases; and civil cases, including mental health commitments, forfeiture cases, or any other civil case types involving the prosecuting attorney’s office. Usually this data entry is done manually, however, if a law enforce-
nance. FullCase contains close to 200 different reports that extract the information from the database for financial, statistical, and reporting purposes. FullCase is compatible with Crystal Reports for those users who wish to create their own reports.

What was the process like to get it up and working efficiently?

Justice Systems staff worked in conjunction with a team of prosecutors and office administrators from across the state of Kansas who represented diverse sizes of environments. Additionally, the rollout continues to receive the support and cooperation of the Office of Judicial Administration and courts. While FullCase KPS is a standalone product, its use can be highly integrated with court functionality.

Implementation at individual prosecutor offices has proven to be extremely simple and free of complexities that face many vendors. Training is efficient and further simplified by the highly intuitive graphical interface designed by end users working together with our staff of technical professionals experienced in the day-to-day operations of law offices, courts, and law enforcement agencies.

What are the major advantages of the software?

As the manufacturer of both FullCase and FullCourt, we can have a greater, more reliable and seamless integration than any other vendor. The electronic interface with the FullCourt court case management system makes the filing of instruments, scheduling of court appearances, and other communications between court and prosecutor timely and efficient.

The fact that the FullCase KPS system has been designed by and specifically for prosecutors and their needs within the state of Kansas gives it particular value. Lastly, and perhaps of singular importance, is the fact that the software and system is supported by a team of Justice Systems personnel who are not only skilled in the products provided, but who have for years maintained an exclusive relationship and working understanding with the courts and prosecutorial offices throughout the state of Kansas. The experience can reduce by untold days and hours the efforts necessary for overall support and enhancements to FullCase KPS.

Additionally, FullCase allows for tracking and retrieving information from law enforcement reports. Document generation is a great advantage. FullCase gives the customer the ability to generate almost any form used within a Prosecutor’s Office with a click of a button, using information that has been entered into the system. The users of FullCase, as a part of training, learn how to create any document they may need in the future with data from FullCase populating the document in the appropriate place. The financial and accounting feature, that comes standard with the system, has been tested and proved many times by state level auditing personnel. And report generation is easily done using data already in the database.

Low system cost is another particularly evident aspect of product advantage.

What are the disadvantages?

New technology and the business process changes are always an issue with any new technology. This can be a challenge in any sized office depending on their current environment. Knowing this, the fact that FullCase was designed with Kansas prosecutors in mind, our training helps to address these challenges and share best practices from around the state along with our knowledge of working with the court. The system was designed for use in the smallest to the largest of prosecutor offices to accommodate any sized practice in the state.

What is the best capability that your software has?

Generally speaking, the most time saving capability is the generation of all the different documents that go into a case. Our document generation feature provides the user with the ability to generate any document or batches of documents by using information stored within FullCase. The generation of complaints, subpoena, summons, journal entries are all accomplished within a few minutes. The unmatched integration with the court and the advantages that brings to the prosecutor certainly has a significant positive impact in the day to day operations.

Is it compatible with the court system?

As already mentioned, the same team of Justice Systems staff involved in the design, development and support of FullCase KPS has been responsible for much of the effort that has gone into FullCourt. Both systems are under the direct management of Justice Systems.
Systems’ administrative staff. The interface between the software components is managed in a cooperative effort with court and prosecutor offices alike.

**Does it allow for the sharing of documents among counties?**

Documents, charging language, and nearly every aspect of the FullCase KPS can be shared amongst counties. Knowing what other offices are doing around the state, we can provide meaningful insight during the set-up and training of the system to the benefit of a new office. Functional enhancements are provided under the direction and upon request of a team of prosecutors from throughout the state and in cooperation with KCJIS.

**Please discuss anything else about the system that would inform Kansas County and District Attorneys about your software.**

FullCase KPS (Kansas Prosecutor System), as the name suggests, was written, designed and developed in cooperation with and specifically for the County and District Attorneys in the state. It is tightly integrated with the court case management system that has been the center of court functional productivity for more than five years and continues to be an integral part of the overall KCJIS project. Presently, work in progress includes the development of electronic interfaces to the state KBI, the Department of Corrections, and the Sentencing Commission, with a goal toward making the process of case data communication and interchange completely via electronic means from the point of arrest, through trial and ultimately to disposition and/or final release. Celebrating our 25th year in the business of providing case management systems to the legal community, Justice Systems has been and continues to partner with the agencies of the state of Kansas in promoting the uniformity and consistency of technology across the agencies of the criminal justice environment. FullCase KPS is but a single element of the effort.

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**Case Management Systems - FullCase® KPS**

**Personal Experience of Roger Marrs, Deputy County Attorney, Leavenworth County Attorney’s Office**

The Leavenworth County Attorney’s Office currently has 17 employees who use the FullCase KPS system from Justice Systems. Roger Marrs is a Deputy County Attorney in Leavenworth County, and he shared his personal experiences with us regarding the case management system.

According to Marrs, the startup process for his office was very straightforward as far as the setup and integration of the system. Justice Systems provided on-site training for both FullCase system administrators and for the rest of the staff, stated Marrs. Existing cases, along with many tables, including setup tables, agency tables, and name tables were imported to FullCase from the court’s FullCourt database.

As a result, as soon as staff completed their training, they could return to their desk and use the new system to take care of their existing workload. One of the main functions of a case management system is to assist in the generation of documents (complaints, motions, journal entries, etc.). Marrs explained that they invested some time before and during training to make sure that the majority of the documents that they frequently create were in the system and ready to be used by the staff. He believes the ability to generate the necessary documents for a case as soon as they completed training really helped the staff make the transition to FullCase go smoothly. A couple other factors that he thought helped ease the transition to FullCase were: prior exposure to FullCourt; and experience using another case management system. Many members of the staff had been accessing FullCourt to look up information, so they were instantly familiar with the FullCase user interface because it is so similar to FullCourt. In Marrs’ opinion, the transition from a more or less manual system to a CMS approach takes some time to adjust to, regardless of the CMS involved. His office first made the transition to a CMS in 1999, so the staff was already used to entering data into, creating documents with, and looking up information about cases in a CMS.
Marrs also described the features that he used the most. “I use CaseMail during the review of KSORs and the ‘Create Case’ feature to get a new case on file. I have found the system extremely helpful in managing the review of KSORs that are submitted to our office by law enforcement. I can enter notes about my review, such as what additional investigation or information is needed, or my reasons for declining to file charges based on the information contained in a KSOR,” said Marrs.

FullCase has a feature called CaseMail, which launches your default email client (in our office, that’s Outlook). Marrs uses CaseMail to send an e-mail to the submitting agency advising them as to the charging decision that was reached. The e-mail sent by CaseMail is then automatically added as a note to the KSOR so the communication is documented right in the database. CaseMail has virtually eliminated the use of paper in keeping law enforcement advised as to the status of reports they have submitted to his office.

Also, most of the prosecutors in his office do their own charging, so they personally use the CMS to create cases within the CMS and produce the charging documents. Others simply decide what they want to charge and pass it on to support staff to actually create the case in FullCase and produce the paperwork.

I also use the Reports section of the system on a regular basis to help keep the County Attorney aware of the overall flow of cases and the review of KSORs by the attorneys, explained Marrs.

There are parts of the system that do currently present difficulties, however. According to Marrs, one area of difficulty is in producing a Sentencing Journal Entry that complies with what is required by the Kansas Sentencing Commission. Part of the difficulty is inherent in the fact that the information that is to be reported on the SJE changes from year to year. I imagine it’s hard for any database driven CMS to keep up with a moving target like that; however, I also think FullCase could do a better job of producing a compliant SJE than is currently the case, stated Marrs.

Justice Systems is actively addressing this shortcoming. Another area of difficulty is simply in dealing with the integration with court. Since, in all but two Kansas counties, integration with the court means integration with FullCourt, that’s probably a factor for most offices. Before using FullCase, his office and the Court worked together pretty well, but they didn’t really have any reason to be interested in each other’s daily data entry processes. Integration means sharing data, and sharing data means that those who are receiving that data have legitimate concerns about the quality and format of the data. Working through those concerns takes some time and patience. Fortunately, the Clerk of the Court, Darla Farnsworth, recognized early on the benefits integration would produce for her staff and has been willing to invest the time and patience needed to work through the new challenges created by integration.

Marrs thinks that the best capability that the system has is flexibility. He describes: A CMS should assist a prosecutor’s office in managing cases. Sometimes a prosecutor has the option of either filing multiple cases involving one or two counts or a single multiple count complaint based upon multiple KSORs, involving multiple victims and witnesses. The CMS should be able to handle either situation with ease. In other words, the CMS should allow the office to prosecute cases the way the prosecutor sees fit, without running into difficulties in getting the paperwork created or managing the case(s) within the CMS. FullCase does and we’ve been extremely pleased with the level of flexibility that the software affords.

Overall, the Leavenworth County experience with FullCase has been very good. “Like any office, we have a broad range of computer skills among the staff, but everyone seems pleased with FullCase,” said Marrs. “An example of the impact FullCase has had on our office is the experience of Deda Williams, our secretary who handles the CINC docket. She was perpetually buried in paperwork that needed to get done, which resulted in her constantly being stressed about her job. Shortly after installing FullCase, she was able to get caught up and stay caught up with the volumes of documents generated by the CINC docket. So whenever anyone asks me whether our staff likes FullCase I tell them, ‘just ask Deda.’”
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Case Management Systems

JustWare | Prosecutor
by New Dawn Technologies

New Dawn Technologies provides the JustWare case management solution to thousands of justice professionals. New Dawn’s supplementary products enhance JustWare to further your office’s goals: JusticeBroker for data sharing, JusticeWebview for data viewing, mobilelync for data mobility, and BriefLink for document accessibility.

How widespread is your software?
JustWare is installed in nearly 200 agencies in 26 states, including the Shawnee County and Wyandotte County District Attorney’s Office, Ford County, and Anderson County in Kansas.

What was the process like to get it up and working efficiently?
New Dawn Technologies recognizes that a quality implementation requires a solid implementation team both at New Dawn Technologies and at the customer site. All new customers are assigned a dedicated project manager that will coordinate all implementation activities, including data conversions, data sharing adapters, automated documents, reports, JustWare database setup, business rules, etc.

Each project starts with a Project Kickoff Meeting conference call between all New Dawn and customer project stakeholders. This meeting includes a discussion on the scope of the project and expectations of all stakeholders.

After the Kickoff meeting, your New Dawn project manager will provide three plans to further define and help manage your implementation:
1. A Communication Management Plan that presents a clear line of authority for decisions and communication for both New Dawn and your agency, including details and responsibilities for the recurring status meetings and status reports.
2. A final Project Plan that includes timelines and responsibilities for all involved resources. This Project Plan will include any identified implementation tasks, priorities, interdependencies, and other requirements needed to complete the implementation successfully.
3. A Change Management Plan that outlines the procedures necessary to submit and approve any changes to the Project Plan. Change requests can be submitted by either New Dawn Technologies or you at any time.

What are the major advantages of the software?
JustWare | Prosecutor is a powerful & user-friendly solution designed to manage the workflow, case management, financial collection and tracking, document automation and reporting needs for all your prosecution case types. The major advantages of JustWare | Prosecutor includes:

- Central name & party database: Plaintiffs, defendants, respondents, gang names, public defenders, victims, witnesses, organizations, law enforcement personnel, aliases, businesses and even your own prosecutors are all entered into JustWare once; then linked to cases, other names, financials obligations, events and more. This powerful design provides a global view of how a name or party record is involved in your office.
- Unified case management system: Each case type your prosecutor’s office handles is processed uniquely, often with a specific
workflow that requires customized documents and reports, statistical reports, accounting functions, and calendaring. JustWare is an integrated solution that can be configured, according to your specifications, to anticipate and automate your workflow for all your case types, including adult, civil, misdemeanor, mental health, consumer affairs, juvenile, and all others.

JustWare even supports detailed security roles that allow or restrict access to these case types.

You need not purchase additional case specific modules. A powerful, unified case management system provides a flexible tool for any of your agency-defined case types, today and in the future!

- Business rules management: Using JustWare's EventEngine, it is a snap to define your offices rules for case workflow without knowing any programming languages. The EventEngine allows case statuses, events, reports, and notifications to be linked to and triggered by each other and timed events.

Your office defines the frequency of all the ticklers, alerts, and prompts for any agency-defined business rules—including automated event and calendar entries, case close procedures, intake processes and speedy trial rules—all in a single business rule management tool.

- Multi-agency & division designed: JustWare helps you share your case management data with multiple agencies, divisions, sub-agencies, courts, and jurisdictions. The multi-agency and multi-division design of JustWare provides the security and reporting requirements to share and report central name records among any agency defined case types among those authorized users. You define data-sharing policies and maintain the local autonomy that is required for daily operation.

- Document & form generation: JustWare manages and automatically generates complex charging documents, multi-page document packets, batch documents, payment notices, warrants, simple letters, intake sheets, and more—using your agency’s templates. These documents automatically populate with the information stored in JustWare, reducing data entry time and error.

With JustWare’s EventEngine, you can set up JustWare to follow your workflow—automated documents and forms can be triggered by events or case status changes.

- File storage & access: Store all name-related and case files in JustWare's Virtual Filing Cabinet. These files are then accessible from any computer through JustWare. Documents generated in JustWare, scanned documents, and audio and video files are all stored in a shared location; you will never need to search individual computers for documents and other key files.

- Ad-hoc searching & reporting: JustWare's searching and exporting functionalities provide for one of the most flexible and powerful solutions on the market. Search on every table, every field, and in every combination and then export your results for printing or to other programs for further analysis.

What are the disadvantages?

JustWare | Prosecutor is capable of storing an immense amount of data. This data is vital to any office wanting statistical data for community reporting, grant reporting, recognizing crime trends, and basic office administration. Because the data that can be gathered and reported is immeasurable, administrators and elected officials tend to require more information be put in the new system by data entry staff. Data entry usually increases as a result, making initial case entry more time intensive.

What is the best capability that your software has?

JustWare | Prosecutor gives you all the advantages of an off-the-shelf program—regular releases, a rapid-response support team, and a nationwide user base of your peers—with all the flexibility, and none of the costs and time commitment, of a custom-developed application. Rename system fields, screens and icons; re-order or hide screens; add additional icons linked to external programs and websites; completely control code tables; and add an unlimited number of name, case/matter and charge fields.
Is it compatible with the court system?

JustWare is capable of interfacing with any court system, including FullCourt. A JusticeBroker adapter, utilizing GJXDM and NIEM standards, can create a uni- or bi-directional interface, exchanging all data defined by each agency. With more than 30 successful JusticeBroker adapters sharing data nationwide, New Dawn Technologies has proven that integrated justice is a reality now, not sometime in the future.

Does it allow for the sharing of documents among counties?

Absolutely. Agencies utilizing JustWare | Prosecutor in their office can easily share documents. All agencies who want to share documents must define and use a common code table and document templates.

Please discuss anything else about the system that would inform Kansas County and District Attorneys about your software.

Flexible payment plans are another important part of JustWare. New Dawn’s Public Finance program provides affordable monthly, quarterly or multi-year payment plans for your entire automation purchase; including support, services, software for even up to a five-year period. Our Public Finance program is even available in those states and jurisdictions where non-appropriation clauses exist.

Editor’s Note: To learn more about this system, visit www.newdawntech.com.

Case Management Systems - JustWare | Prosecutor

Personal Experience of Barbara McGinnis, Office Administrator, Shawnee County DA’s Office

The Shawnee County District Attorney’s Office went live with the JustWare Case Management System in August 2004. After more than two years with the system, the office now feels confident that the staff is efficiently using the system with confidence and ease, while still learning more about what the system is capable of that they have not yet explored. The office has approximately 60 part-time and full-time staff, and about 50 of them use the system in varying levels.

Barbara McGinnis is the Office Administrator and described in her own words how the system works.

Justware is primarily a name-driven system, stated McGinnis. There are a variety of ways to search the system numerically as well. Justware is set up to require name search prior to data entry (staff must remain diligent in confirming the identity of each name prior to entering a new name). Cases are input using name search first, matching identifiers such as date of birth, social security number, etc. and then new data entry as required. The case is loaded with persons involved also via name search. The system holds our complete list of Kansas Statutes for charging and the statutes can be easily selected.

We also have utilized the capability of the system to automatically trigger notices to law enforcement and the victim(s) due to changes in case status, said McGinnis. The Filing Cabinet of Justware contains our own District Attorney approved documents for selection in any case. All documents are set up to pull in all pertinent information that each particular document requires. All case status headings, documents and triggering mechanisms and other areas and descriptors in the system have been personally tailored by our own staff to meet our specific needs. Attorneys can download their own personal calendar settings directly from Justware to their Outlook. We are currently working toward automated transmission of the Kansas Disposition Reports from the Justware system to the State of Kansas reporting required sentencing information upon closing of a case.

Management reports and statistical data are also available by essentially any criteria that have been used to input the case if proper queries are given in an appropriate manner.

While the system is working, it did take some time to get it up and running. McGinnis described the process for us. “This office chose to merge prior system information into the new Justware system,”
said McGinnis. “We spent a great deal of time and energy cleaning up information from the previous system. With the help of our County IT Department and consultants, information from the previous system was filtered into fields that Justware would recognize in the conversion of data. This process was quite involved, but we now have ONE system, and a complete tracking of history of involved persons and case histories. We have a very strong, cooperative IT department in our county and full resources were devoted by the IT Director to making our project a success. Their help was essential.”

McGinnis also stated that the beginning was somewhat slow. We were learning as we went along, said McGinnis. We are still defining exactly what we want the system to do for us, and then work to figure out how to make it do what we want. I do believe at this point, while we have a well developed system that operates smoothly, we have only just begun to fully utilize all of the tools of Justware. We believe that as one of the first users of Justware in the area, with the assistance of our strong IT Department, we have customized our Justware case management system expanding the original product sold to us. We search daily for ways to utilize the system to make our jobs more efficient.

A few challenges did come with the new system according to McGinnis. The biggest challenge is to keep name data clean. Cooperation from all clerical staff is required to prevent duplication of names in the system. Another challenge was that the training from the system provider was less than desired and probably provided more of a challenge to the trainers than anticipated with the complexity of the expectations for training. We are generally self-taught described McGinnis. Development of our system would have been very difficult if we had not had access to a cooperative IT Department who worked tirelessly to learn and understand how our office functions and what features would make our jobs function with the most efficiency. Another challenge according to McGinnis was that some glitches in the system that they identified in the past could not be “fixed” until the next “update” from the system provider, which caused delays.

While there are challenges, the best capabilities of the system according to McGinnis are that it holds a lot of information, links names with cases from which to build upon for years to come; document automation; calendaring can be downloaded to Outlook for attorney calendars; and it is fairly flexible in customizing to fit specific needs. One of the biggest advantages is that it is customizable if you are fortunate enough to have an IT staff that has studied and learned the details of its functioning and know how to apply it to obtain the desired result. We have experienced that luxury and assistance, said McGinnis. Attributes defined for cases have been a huge help when gathering statistical data about the functioning of the office and office management as a whole as well.

After more than two years with the system, McGinnis gave us her final opinion. “A lot of time and research were devoted to exploring what software was available before the decision was made,” said McGinnis. “Having now used the program for more than two years, we are quite satisfied that it is a good system and the best choice for us and a prosecutor’s office in general. We would encourage any one considering such an investment to not rush into a decision and to be sure that you have available to you IT support that is dedicated to assisting you in making your project a success. Without the technical knowledge and skills of our IT staff, we could not have the product we have today.”

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**Major Advantages of the JustWare System according to Barbara McGinnis**

- System provider “updates” the software and provides technical support.
- Capable of handling large, ever-expanding amounts of linkable data.
- Instant update of information available for immediate viewing by any number of staff - easy to identify who did the input or update of information by system user ID.
- Capability to automate many daily functions/documents.
- Document automation - able to have uniform documents office-wide.
New Faces

Kathryn Marsh accepted a position on April 20, 2007 as an Assistant District Attorney for Douglas County District Attorney Charles Branson. She previously was an assistant district attorney in Johnson County. Prior to her work in Johnson County, Marsh worked in the same capacity in Jackson County, Mo. A 2001 graduate of KU Law School, she brings six years of experience in prosecuting criminal cases.

Kristiane Gray is a new Assistant District Attorney in the Wyandotte County District Attorney’s Office. She started in February 2007. Gray graduated from Kansas University School of Law. She was previously employed by the Johnson County District Attorney’s office.

Robbin Wasson, returns to the Wyandotte County District Attorney’s office as of March 2007 for a second stint. She has also been previously employed at Shook, Hardy & Bacon LLP, the Kansas Attorney General’s office, and the Johnson County District Courts. She graduated from the University of Denver College of Law.

Laura Fleming is a new Assistant District Attorney in the Wyandotte County District Attorney’s Office. She started in February 2007. She also graduated from Kansas University School of Law. She was previously employed by The Smith Law Group and The Johnson County Public Defender’s Office.

On January 22, 2007, Norah L. Clark joined the Miami County Attorney’s Office as Assistant Miami County Attorney. Norah is a 2006 graduate of the University of Kansas School of Law. Her Bachelor’s degree is in Organizational Studies from the University of Michigan. Clark will be handling a variety of cases for the office.

Brandon Jones was appointed as Osage County Attorney April 23, 2007 to fill the vacancy created by Eric Godderz who was appointed judge. He left his position as an Assistant District Attorney for Douglas County District Attorney Charles Branson to accept the appointment. Prior to coming to Douglas County, Jones worked as an assistant county attorney in Franklin County from 2000-2003. He and his wife Heather (Franklin County Attorney) will reside in Ottawa with daughter Sydney.

Vanessa Riebli left the Johnson County District Attorney’s Office after nine years to join the new law firm of Bradshaw Herrington PC. The firm will specialize in complex civil litigation and white collar criminal defense.

Robert “Bob” Claus retired April 20, 2007 as the Chief Assistant District Attorney of Douglas County D.A. Charles Branson’s office. He left a position with the Insurance Commissioner’s Office in 2005 where he prosecuted insurance fraud cases to join Branson’s staff. Prior to his work at the Insurance Commissioner’s Office, he was the head of the Criminal Litigation Division for Attorney General Carla Stovall. He served as the Montgomery County Attorney from 1997-2001 and practiced law privately in Independence, Kan. from 1974-1996.

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 KCDAA!

Next Deadline: August 15, 2007

Information submitted is subject to space availability and the editorial board reserves the right to edit material. Send your information to: mary@napiercommunications.com

Feel free to submit digital photos with your announcement if you have one!
It’s been a whirlwind year at headquarters of the National District Attorneys Association in Alexandria, Va. In 2006, our association took steps to improve services to prosecutors by consolidating all units of the organization under the umbrella of the National District Attorneys Association. In the past, the National College of District Attorneys, the National Advocacy Center at Columbia, S.C., and the American Prosecutor’s Research Institute were separate entities. The consolidation brings more cohesiveness to the organization, and is also an effort to cut management expenses while maximizing service to the nation’s prosecutors. The process has streamlined the organization, and seems to be working well from a management standpoint. Several positions were cut in the process, adding needed reserves to our financial picture. All in all, this is a good move for the Association.

With the retirement of Dean Robert Fertitta from the National College, the association was able to place all education under the umbrella of the National Advocacy Center. The new Dean, Mary Galvin (former District Attorney of Hartford, Conn.), has been able to consolidate all training, improve programming and to continue working for funding of this resource.

The first months of 2007 brought our representatives to Capital Hill in an effort to lobby on legislative issues that are of great importance to prosecutors in Kansas and around the nation.

**Student Loan Forgiveness**

In a continuing effort to enact legislation to encourage young attorneys to choose a career path in prosecution, we lobbied Congress again this year on the re-titled Senate Bill 442, “The John R. Justice Prosecutors and Defenders Incentive Act of 2007.” It is nice to note that this senate bill was re-titled by Senator Durbin for Prosecutor John Justice who served as the solicitor for the 6th Judicial Circuit in Chester, S.C. and on the National District Attorneys Association Board of Directors until his death last year. Justice was the president of the association from 1998-1999, and it was during this time that he began inquiring about ways to assist young prosecutors with the burden of law school student loan debt in an effort to shore up the criminal justice system.

In late February, Paul Logli (Winnebago County Illinois prosecutor and Chairman of the Board of NDAA) testified before Congress on the importance of this legislation, advising Congress that “there are about 2,344 state court prosecutor offices in the United States employing approximately 26,500 criminal attorneys. These attorneys are responsible for handling about 95 percent of the crime in this nation. In order to ensure that these crimes are handled competently, it is imperative that prosecutor offices are able to recruit the best and brightest attorneys and retain those qualified and experienced prosecutors in their offices.”

It is the firm belief of the NDAA that the “John R. Justice Prosecutors and Defenders Incentive Act” will provide appropriate incentives to continue a history and tradition of prosecutors who are educated professionals in this highly demanding field. It is also important to note that prosecutors and public defenders are united in this effort to ensure that their offices are fully staffed with trained and experienced attorneys; that undesirable case outcomes are minimized; and that the public’s confidence in the criminal justice system is at least maintained and hopefully raised to a much higher level.

Logli’s testimony also presented information to Congress at this hearing on a survey regarding the nation’s prosecutor’s student loan debts, which was prepared in 2005 by the National District Attorneys Association’s Office of Research and Evaluation and the National Association of Prosecutor Coordinators. Researchers received 2,119 responses from prosecutors all over the country, most of who graduated from law school between the years 1998 and 2003 and had worked as prosecutors for an average of four years.

Analysis of the survey results revealed that more
than 50 percent of the responding chief prosecutors and supervisors had between one and five prosecutors leave their offices in 2005. This may seem like an insignificant number, however, it becomes quite significant when you learn that 64 percent of prosecutors’ offices that responded to the survey were comprised of ten or fewer assistant prosecutors. The end result is that attrition was 50 percent or higher in the responding small offices.

In addition, 53 percent of the chief prosecutors reported in the survey that law school student loan debt was a very significant factor in their ability to retain staff and 62 percent of the chief prosecutors reported that student loan debt is a very significant factor in their ability to recruit staff. Chief prosecutors reported on average that low salaries and student loan payments were the causes for nearly a third of the prosecutors who left their offices. Two-thirds of the responding prosecutors advised that law school student loan debt is an important consideration in deciding to become a career prosecutor. More than 55 percent of the respondents reported that they would continue prosecuting for 20 to 30 years if law schools loans were forgiven.

Logli pointed to a recent article in the Sun-Sentinel in south Florida stating that “reported starting salaries for prosecutors and public defenders are around $38,000; the median housing costs are close to $400,000; and, not surprising, the attrition rate in prosecutor and public defender offices is about 30 percent annually. Beyond recruitment and retention difficulties caused by the high cost of attending law school and the low salaries paid to local prosecutors, chief prosecutors and supervisors cited other effects in their offices such as increased caseloads per prosecutor, increased costs for training, decreased morale, and increased risk of prosecutorial error.”

We are all painfully aware of the financial issues faced by our newest attorneys when they arrive on our doorsteps with talent and a heavy debt from their education. Hopefully, Congress will again review this critical issue in an effort to give necessary recompense to our nation’s prosecutors and public defenders and to encourage their full participation and longevity as a career choice in the criminal justice system.

Lobbying for Grants and Funding

You need to put this in perspective. Think of how difficult it is as an organization to get a minor change in a bill before the Kansas House or Senate… now, magnify that by fifty states and the District of Columbia to realize the challenge it is to run a bill through Congress!!

In addition to the John Justice Bill, the National District Attorneys Association continues to lobby for funding on a myriad of issues. With 95 percent of local prosecutors handling all criminal cases in the United States, the NDAA continues to urge Congress to provide adequate and appropriate funding to clear our DNA backlogs authorized by Section 624 of the “Adam Walsh Child Protection and Safety Act of 2006.”

We continue to monitor the progress of Congress in these efforts and to support the legislative efforts of the National District Attorneys Association.

Note: There are many bills out there dealing with funding of special programs, such as the Violence Against Women’s Act, State and local Law Enforcement Grants, the Byrne Grants, etc. If you need specific information on one of these bills, please let me know and I will get you a status update. Contact me at foulston@sedgwick.gov.

National Cold Hit Reporting Program

With an initial conclave in Washington, DC sponsored by the National Institute of Justice and the National District Attorneys Association, a defining program has commenced for a proposed national initiative to develop and implement a web based system designed to track DNA cold hits from forensic lab notification to final outcome. Chief Deputy District Attorney Ann Swegle was tapped for her expertise in DNA science as a member of the inaugural meeting of the thirty prosecutors and scientists. It is our hope that by this joint effort of science and prosecution, that consensus can be reached on developing national policies to aide law enforcement in these efforts.

We will keep you posted on this significant initiative.
The National Advocacy Center

The center at Columbia, S.C. continues to put forth the most incredible educational programs on site. If you have not applied for a scholarship for attorneys in your office, you should do so. This is a great educational institute with training provided at no cost to local prosecutors. Those staff members who have attended programs there come back invigorated and well studied...ready for any challenge.

The Advocacy Center is also home to NDAA-TV that is launching programs that can be viewed by prosecutors nationwide by distribution of DVDs. Tom Weilert, former ADA in Wichita, is now at the Center and together, we filmed a presentation on “Great Prosecutions.” Topics like this will become available on DVD soon. It’s a project still in its genesis. Stay tuned!

Upcoming Educational Programs and Meetings

The National District Attorney’s summer conference will be held this year in Portland, Ore. July 29-August 1. Get yourself to Portland for a cool summer break for the you and your and family. The events are always “family friendly,” and Portland is a great venue for a summer meeting.

The National College has introduced some new programs. This past March, I taught at the first edition of a new program entitled “Transition to Management.” The College has also introduced a course on “Experts” that will be held in San Antonio May 6-10. Take a look at the NDAA web site for further information on available courses both at the Advocacy Center and from the National College.

Local Training

The office of the District Attorney for the 18th Judicial District is now in the planning phase of presenting a day-long seminar on “Jessica’s Law and its Kansas Application.”

The training will be held in Wichita and will be of minimal cost (material costs only). We will have 100 spaces for this anticipated conference and will be notifying you soon about the proposed arrangements. Chief Attorney Marc Bennett of our office is heading the program with Sally Salguero, our training guru. We would love to have you attend.

Any questions or comments about the foregoing information can be addressed to District Attorney Nola Tedesco Foulston at her email address: foulston@sedgwick.gov.

Easy way to register:

- Go to www.kcdaa.org
- Download the conference registration form
- Fill it out and mail to the KCDAA office with the registration fee
- Or register on-site at the conference.

No faxed registration forms will be accepted.
KCDAA 2007 Fall Conference

October 21-23, 2007
Capitol Plaza Hotel
Topeka, Kansas

Mark Your Calendars for the next KCDAA Conference.