



2010 Annual Report

Fourth Judicial District Attorney

DISTRICT COURT

Our District Court prosecutes all felony crimes charged in both Teller and El Paso Counties. In 2010, there were seventeen felony divisions in the 4th Judicial District and we filed 4,123 felony cases into those courts, 3993 in El Paso County and 130 in Teller County.

We tried one hundred and sixty-five felony jury trials. This amounted to six hundred and twenty days in trial for our district court attorneys. This includes trials in our Economic Unit and Special Victim's Units. In addition, fifteen habitual criminal trials were conducted.

This year we also started a County Court/District Court Mentorship Program. The purpose of this program is to pair up new County Court Attorneys and experienced District Court Attorneys. This Mentorship Program resulted in several County Court Attorneys doing felony trials with their more experienced District Court Mentor.

Training was a priority for this year. District Court Training focused on Trial Technique Skills for the attorneys and paralegals.

HOMICIDE TEAM

Our Homicide Team consists of fourteen experienced District Court Attorneys. The Team responds to all homicides, suspicious deaths, and officer involved shootings that occur in the 4th Judicial District. The on-call attorney responds with a District Attorney Investigator to the scene. The responding attorney and investigator are then assigned to vertically prosecute the case if charges are filed. In 2010, we responded to over thirty homicide investigations.

In 2010, the Homicide Team had thirteen homicide jury trials, consisting of one hundred twenty-two days in trial. A guilty conviction was obtained in all trials. In addition, the grand jury was presented with one cold case homicide and attempted homicide investigation. A grand jury indictment was returned on this case and the case is currently being prosecuted.

COUNTY COURT

County Court is responsible for the prosecution of misdemeanor and serious traffic offenses in El Paso and Teller Counties. Chief Deputy District Attorney Kim Kitchen headed up County Court during 2010.

Jim Bentley is currently the Senior Deputy District Attorney assigned to County Court along with fourteen Deputy District Attorneys. In addition, Department Manager Joy Thompson supervises twenty employees including three paralegals, fourteen legal assistants, a receptionist and two data entry clerks. The staff and attorneys received countless hours of invaluable assistance from volunteers (who helped with tasks such as burning 911 calls onto CDs and printing police reports) and law school students who served as DDA interns not only during the summer months but also during other breaks from school.

County Court prosecuted 27,980 misdemeanor and serious traffic cases in El Paso and Teller Counties in 2010. The cases are broken down as follows:

- Total Cases: 27,980
- Misdemeanor Cases: 9,894
- Serious Traffic Cases: 18,086

One hundred fifty-two trials were held in County Court, 115 jury trials and 37 court trials.

The training of Deputy District Attorneys and staff remained a major focus in County Court. Senior Deputy District Attorney Bentley organized numerous sessions that were informative, interesting and useful for the prosecution of cases in County Court. Several trainings, with an emphasis on DUI cases, were held that incorporated police officers from various agencies as well as toxicologists from the Colorado Department of Public Health and Environment, magistrates, defense attorneys, etc. The mentoring program pairing County Court Deputy District Attorneys with District Court Deputy District Attorneys which began in 2009 continued to evolve and expand. In October, deputies

attended Intensive Introduction to Police Emergency Response Training conducted by Colorado Springs Police Department. This training enabled Deputy District Attorneys to experience both the mental and physical aspects of being a Colorado Springs Police Officer. Participants “suited up”, engaged in “shoot, don’t shoot” and viewed an interactive lecture/video.

In December, Senior DDA Shannon Gerhart was promoted to Chief Deputy District Attorney and replaced Chief DDA Kitchen, who moved to District Court. We also received a new court, Division K, which held its first docket in January. Doug Miles, a former Chief Deputy District Attorney in County Court, was selected by Gov. Bill Ritter as the newest County Court judge in Div. K. Other changes beginning in 2011 included moving the supervision of the County Court Department in Teller County to Senior DDA Deborah Pearson. This enables more hands-on training and supervision in the Cripple Creek office and contributes to a more cohesive environment between the two offices in the Fourth Judicial District.

ECONOMIC CRIME

The Economic Crime Division is a motivated specialty section of the District Attorney’s Office consisting of four attorneys, three investigators and five support staff personnel. Unemployment, economic uncertainty and the proliferation of technology are and will continue to be factors in emerging types of fraud. The Economic Crime Division increased its filing of criminal cases in 2010. 244 criminal cases were filed in 2010, compared to the 206 criminal filings in 2009. These cases involved victims who lost approximately \$13,601,054.49, of which \$1,813,817.58 has been negotiated or ordered as restitution, to be returned to the victims. There were 226 cases finalized in 2010. Of those cases, 66 Defendants were sentenced to terms of Deferred Sentences; 67 Defendants were sentenced to terms of Probation; 25 cases were dismissed; and, 68 Defendants were sentenced to the Department of Corrections for terms from two to twelve years. The number of trials handled by Economic Division attorneys

decreased in 2010, with four defendants being tried, two resulting in guilty verdicts and two resulting in mistrials. There were nine trials in 2009.

Each year, consumer and law enforcement agencies like the Better Business Bureau and the Federal Trade Commission publish statistics about consumer complaints, and each year the vast majority of reported complaints are related to frauds and identity theft. Identity Theft filings have continued to increase in this jurisdiction each year. In 2010, members of nineteen separate identity theft rings were prosecuted and total of 91 Defendants were charged with and convicted of Identity Theft. Financial institutions and law enforcement are working together to curb threats, and we encourage consumers to join the effort, to be aware and to be cautious with their information. Personal vigilance remains the best way to avoid becoming a victim, or if victimized, to lessen the damages.

VICTIM WITNESS

The Victim/Witness Unit had a successful and busy 2010. Our department increased by 2.5 staff, 2 advocates and a part time Victim Compensation Assistant. We participated in the first local Day of Remembrance to honor those families who lost a loved one due to a violent act. The event was sponsored by MOMY (Mothers of Murdered Youth) and we hope it will become an annual event in our community. We also participated in the Annual Victim’s Rights Run in Bear Creek Park.

The advocates strive to maintain good working relationships with their designated teams and victims of crime. In 2010 the advocates carried an average caseload of 174 open or active cases and had a total of 6,238 contacts with victims of crime. This includes court accompaniment, letter and phone contact and face to face meetings.

In 2010, the Victim Notification Clerk mailed out 40,730 notification letters and 4,542 final dispositional reports and 1,076 misdemeanor violent crime Victim Impact Statements.

Victim Compensation processed 1107 claims in 2010 and paid out \$1,347,128. The highest category of payment type was for medical bills and the highest crime type was assaults.

The restitution department had a demanding 2010. The District Court restitution staff prepared 2,427 payout orders. Juvenile restitution prepared 812 payout orders and County Court restitution 675 payout orders.

A new process was implemented in Fast Track in 2010. There were 2,897 cases processed through the Division; of those cases the Fast Track Advocates made 1,905 contacts with victims of those crimes.

Lastly, 8,308 Victim Impact Statements were sent to victims of violent and non-violent crimes, traffic cases and juvenile crimes. Of those Victim Impact Statements, 1,213 were returned undeliverable and 3,209 were filled out to assist in the prosecution of those cases.

JUVENILE OFFENDER SERVICES:

The Juvenile Offender Services (JOS) program has been a part of the District Attorney's Office since 1978. Since its inception, JOS has become a nationally recognized program that has pioneered the Juvenile Diversion and Restorative Justice concepts. While keeping public safety as its core mission, the JOS program creates opportunities for first-time juvenile offenders to repair the damage they have caused to their victims, community, and families, as well as themselves. Through the JOS program, young offenders along with their parents, victims and other concerned adults create an individualized year-long program that may involve counseling, restitution, volunteer service, employment training and life skills classes. Victims and young offenders are also encouraged to come in for a separate "victim/offender dialog" where they can discuss the real impact of the juvenile's behavior.

During 2010, the Juvenile Offender Services program received a total of 1,570 referrals from our Juvenile and County Court divisions. As this is a voluntary and somewhat selective program, 1,136 of those youth actually took the opportunity to participate. Those who chose to participate completed approximately 24,480 hours of volunteer service and paid \$46,754 in restitution to their victims. Approximately 200 completed employment readiness classes, victim/impact classes and life skills training, while 287 participated in drug/alcohol or family counseling.

A highlight for the JOS program in 2010 was the addition of in-house substance abuse assessments and education classes. These were created in response to an increase in juveniles reporting drug/alcohol related issues.

NEIGHBORHOOD JUSTICE CENTER

Mediation and Victim/Offender dialog have recently been in the national spotlight as new and innovative ways to successfully resolve disputes and reduce courtroom logjams. The Neighborhood Justice Center (NJC) has been doing both in the District Attorney's Office since 1980. During 2010, the NJC received 1,148 referrals, conducted 814 mediations and were successful in obtaining written agreements in 732 of those cases. This overwhelming task was done with one full-time mediator and a core group of 10 trained community mediators. The NJC has shown that once disputing parties can come together at the mediation table, they can successfully resolve their own disputes 90% of time, saving taxpayers thousands of dollars and leaving the courtroom open for other issues. Community mediator Cheryl Henderson states "The NJC gives people the opportunity to take responsibility for poor judgment as well as allow forgiveness to be extended. This process is one of healing and learning and has enormous impact upon our community. I have been mediating for the NJC for the past eight years and am impressed by the staff and their knowledge and compassion. Our community is greatly enhanced by the NJC." While restitution frequently is an issue between parties, the NJC mediators have been vigilant about

ensuring that agreed upon amounts actually get paid to the victims. In 2010, the NJC collected \$22,927 which is an all-time record.

ADULT OFFENDER SERVICES

The Adult Offender Services program was created as a pilot program in 2006 with the hope of replicating the success of our Juvenile Offender Services program. Adult offenders referred to this program are screened with public safety being the central priority. Violent or habitual offenders are not considered for this program. Adult offenders who are chosen to participate in this program must take responsibility for their actions and be willing to repair any harm caused to their victim or community. This includes paying full restitution to their victims as well as creating or participating in a project that will benefit our community. During 2010, the AOS program has received 80 referrals with 66 taking advantage of the opportunity.

JUVENILE PROSECUTION UNIT:

The Juvenile Prosecution Unit is committed to honoring its three-fold mission of keeping public safety a #1 priority, protecting victims' rights, while also ensuring that the best interest of the juvenile is considered at every step from filing to prosecution. During 2010, this unit was responsible for reviewing 2,149 cases. Upon this review, 1,539 cases were filed into the Juvenile District Court. An additional 873 cases involving first-time offenders were referred to the Juvenile Offender Services Program. Thirty-seven cases involved sexual offenses and there were 195 cases in which weapons were involved. The Juvenile Prosecution Unit also direct filed 12 juveniles into the adult court system. Juveniles are charged as adults based on a number of legal factors, including the seriousness of the case and the criminal history of the offender. In 2010, three of the juvenile cases filed in the adult court system involved homicides. While juvenile crime is always a concern for the District Attorney Office, we believe it is critical to intervene in a

young offender's life in the most appropriate way to ensure that a first-time offender does not become a chronic adult offender.

VOLUNTEERS

The 4th Judicial District Attorney's Office is often flooded with requests and interest to volunteer. The volunteers who serve in our office are some of the finest students, retirees, and individuals who have more than enough to do and still carve out time to add their skills, experience, education, and knowledge in each valuable position they fill, making preventative, restorative, and criminal justice in our community a reality.

In 2010, Marshall Tuttle, our Information Technology volunteer, received the 2010 Pikes Peak Region Adult Volunteer of the Year award for his work creating and deploying an outstanding intranet which is invaluable to conducting business at the District Attorney's Office each day. Marshall also received the 2010 Presidential Service Award recognizing his more than 500 hours of volunteer service.

At the 4th Judicial District Attorney's Office, 78 volunteers received the prestigious Points of Light Presidential Service Award to include: 11 Gold Presidential Service Awards presented to youth who have given more than 250 hours and adults who gave 500 or more hours of volunteer service, 25 Silver Presidential Service Awards presented to youth who gave between 175-249 hours and to adults who gave between 250-499 hours of volunteer service, as well as 42 Bronze Presidential Service Awards to youth who gave between 100-174 hours and to adults who gave between 100-249 hours of volunteer service in the community over the course of one year.

In 2010, 150 volunteers at the 4th Judicial District Attorney's Office gave 18,925 hours which provided support to our community valued at \$406,319.75. In 2009 our volunteers gave 16,291 hours, valued at \$339,504.44. This is an increase of 2,634 hours of time given, and the value of their time up \$66,815.31 from the previous year.

Our volunteers serve in 17 unique areas each week to include: Administration, County Court, District Court, Media, Economic Crime, Fast Track, Kids Against Crime, Information Technology, Investigations, Juvenile Offender Services, Veteran's Court, Intensive Supervised Probation Drug Court, Neighborhood Justice, Special Victim's Unit, the District Attorney Response Team, Victim Restitution, and the Volunteer Department.

We owe a debt of gratitude to each and every volunteer who has invested their time and talent in the work of supporting justice to victims, educating youth on how to say no to crime, and helping individuals who are breaking the cycle of negative lifestyles.

INVESTIGATIONS DIVISION

There are 23 sworn investigators working in this specialized unit of the Office. Their primary responsibilities are to develop criminal cases for prosecution. We receive cases from 22 law enforcement agencies in our judicial district. Investigation duties include re-interviewing witnesses, interviewing witnesses who may not have been known when the case was originally filed, locating witnesses who have moved from the area, and developing and following up on leads that become known as the case develops.

Our Investigations Unit is also responsible for investigating alleged crimes that are reported directly to the District Attorney's office. These cases include, but are not limited to, allegations of political corruption, election fraud, official misconduct, criminal impersonation, identity theft, securities fraud, mortgage fraud, and theft. In 2010, our investigations unit opened 402 of these Special Investigations.

In addition to these special investigations, we conducted 62 Habitual Criminal Investigations and provided law enforcement support on 24 Homicide Call Outs.

The Investigations Division is also charged with the responsibility of conducting an independent investigation any time a police officer uses deadly

force that results in bodily injury, serious bodily injury, or death. In 2010, this Unit investigated 2 officer involved shootings.

In 2010, 54 felons were arrested as a result of the District Attorney's Fugitive Apprehension Program. Since this program started in 2007, 222 outstanding warrants have been served.

Process servers are an important part of this unit. In 2010, 8,093 subpoenas were personally served.

2010 APPELLATE STATISTICS

Notices of Appeal:

In 2010 the appeals section filed twenty-three appeals with three different courts:

- Ten with the Colorado Supreme Court (including three petitions for relief under CAR 21)
- Five with the Colorado Court of Appeals
- Eight with the District Court

Appellate Briefs:

- In 2010 the appeals section filed eighty-five full-length appellate briefs:
- Twenty-nine briefs were filed with the Colorado Supreme Court
- Eight were filed with the Colorado Court of Appeals
- Forty-eight briefs were filed with the District Court

Other Filings:

- Sixty-two pleadings in other cases
- Six responses to motions for Crim. P. 35(c) relief

Research Memos:

- Forty-two, prepared on a variety of topics

Appellate Decisions:

Wins and losses for 2010 are broken down as follows:

WINS: 74

- Twenty-two convictions affirmed in defense appeals
- Ten reversals of rulings in D.A. appeals (including two court reversals in CAR 21 proceedings)

- Seven defense appeals dismissed on our motion
- Two defense appeals dismissed on defendants' motions
- Four defense appeals dismissed by the appellate court
- Twelve defense cert. petitions denied
- Twelve driver's license revocations affirmed in DMV appeals
- Four DMV appeals dismissed on our motion
- One DMV appeal closed without a ruling on the merits (revocation of driving privileges remained in effect)

LOSSES: 7

- Two rulings affirmed in D.A. appeals
- One D.A. appeal dismissed by court
- One conviction reversed in a defense appeal
- One defense cert. petition granted
- Two driver's license revocations reversed in DMV appeals

DRUG COURT

Drug Court is a diversion court for first time offenders who are charged with crimes involving a small quantity of drugs. Before Drug Court existed, the standard small time user received the minimal amount of supervision or probation. In this program the defendant gets intensive supervision and is directed to resources that will assist them in being successful in turning their lives around. Methamphetamine is the involved drug in 54% of the cases that enter Drug Court; marijuana is the second most popular drug with 31%. In 2010 we accepted 974 cases in Drug Court out of 2244 referred cases. 637 (65%) of these defendants successfully completed the program and graduated.

VETERANS COURT

Veteran's Court completed its first full year in 2010. It was signed into law with House Bill 10-1104 on April 16, 2010, by then Governor Bill Ritter. Veteran's Court provides an alternative to incarceration for U.S. military veterans with trauma

spectrum disorders who have been charged with a lower level felony. With the permission of the 4th Judicial District Attorney's office, eligible veterans are moved from the traditional courtroom environment into one more treatment focused. Program participants agree to actively engage in counseling, make regular court appearances, and are carefully supervised. Program staff assists participating veterans in accessing mental health and or substance abuse treatment and can connect them to educational, housing, and employment resources. Peers support is also available. In 2010, approximately 100 veterans went through this program.