

*Note: These minutes are not official until approved by the Law and Justice Committee at a subsequent meeting. Please refer to the meeting minutes when these minutes are approved to obtain any changes to these minutes.*

DeKalb County Government  
Sycamore, Illinois

**Law & Justice Committee Minutes  
September 28, 2015**

The Law and Justice Committee of the DeKalb County Board met on Monday, September 28, 2015 at 6:30 p.m. in the Administration Building's Conference Room East. Chairman Frieders called the meeting to order. Those present were Ms. Askins, Mr. Cribben, Ms. Leifheit, Ms. Little, Mr. Stoddard, Mrs. Tobias, and Chairman Frieders. All seven Committee Members were present.

Others present were Michael Douglas, Richard Schmack, Lisa Winckler, Roger Scott, Margi Gilmour, Chuck Breese, Glenna Johnson, and media.

**APPROVAL OF MINUTES**

**Moved by Mr. Stoddard, seconded by Mrs. Tobias and it was carried unanimously to approve the minutes from August 24, 2015.**

**APPROVAL OF THE AGENDA**

**It was moved by Mr. Cribben, seconded by Ms. Askins and it was carried unanimously by voice vote to approve the agenda as presented.**

**PUBLIC COMMENTS**

There were no comments made by the public.

**COMMUNICATION CENTER'S FEE ASSESSMENT PROPOSAL**

Village of Waterman Police Chief Chuck Breese joined the Committee and shared that Mayor Russ Stokes was unable to attend that evening so he would be there in his absence. Mayor Stokes was nominated as Chairman of the DeKalb County Communications Committee which was voted to be sub-committee to the Law & Justice Committee in order to investigate ways in which the expenses can be met for the communications center without being a burden on the rural police departments.

It was noted that Genoa Police Department and Sycamore Police and Fire Departments have contracts with the DeKalb County Sheriff's Department and are, therefore, not included in the calculations. Shabbona is not participating monetarily as they have no police department. No fire protections districts other than Genoa-Kingston Fire Protection District are directly contributing funds. The overall expense of what the county feels they use is subtracted and the remainder is calculated out as the rural cost.

Chief Breese shared that there is still a little bit of non-agreement between the rural police departments and the fire departments regarding the share in the burden of the cost to the communications center. Mr. Cribben echoed that it was difficult to gain consensus between the two entities.

Chief Breese also presented sheet that proposed the breakdown of shared expenses by Rural Police and Fire Departments based on number of CAD Events to satisfy request for \$188,000 to the Communication Center. The Chief noted that he thinks this is the best and fairest way that they could come up with the needed \$188,000 for the communications center for all of the non-contracted users. The CAD Event figures are from 2014.

It was clarified that this arrangement would be good for as long as the agreement that is place with the Sheriff's Department for the rural departments to pay \$188,000 in 2016, 195,000 in 2017, and \$201,000 in 2018 to cover them through April of 2019.

Sheriff Scott wanted to make a point that last year they rural police departments divided the costs by population and they small towns chose to do it that way. The only downside to using CAD Events is they can be manipulated by not calling in an event in order to save on costs, which then becomes an officer safety issue.

The question arose what would happen if a rural fire department or any department decided not to pay, what would happen then. There was so clear answer given to that question. The Sheriff clarified by law, when a 911 call comes in, they have to give it to the agency.

Mrs. Tobias asked if everyone on the recommended breakdown sheet is aware of the situation and/or has attended at least one sub-committee meeting. Chief Breese noted that no, not all fire departments were represented during the meetings.

Chairman Frieders inquired what the Sheriff thought of the proposal. Sheriff Scott shared that about a year ago he was being discouraged for being too involved with the cost allocations for the communications center so this time he is keeping his involvement very low. He added that he thinks if the Law & Justice Committee goes to the Board and it is decided to start charging rural fire departments, he will do so, but he warned for the Committee to also get ready for many complaints.

Chairman Frieders thanked Chief Breese, Sheriff Scott, and Russ Stokes for all their time regarding this issue and noted that he would give the Committee some time to think about this and they will talk about it again later on in the agenda.

#### **PUBLIC DEFENDER'S REPORT**

Public Defender Mr. Tom McCulloch was not present, but the Committee briefly reviewed the monthly report amongst themselves.

#### **COURT SERVICES REPORT**

Ms. Gilmour noted that the Committee has her reports and unless there are any questions regarding them, she has one announcement to make and then they can move to the next item on the agenda. She shared that her Juvenile Supervisor Alice Elliot, who has worked with the Court Services Department since 2007, just took a position as a Director for Stephenson/Carroll Counties. Ms. Gilmour noted that she will begin interviewing for another Supervisor to replace her this week.

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### **KANE COUNTY JUVENILE JUSTICE CENTER IGA**

Ms. Gilmour reviewed a proposed intergovernmental agreement resolution with the Committee that would guarantee housing for seven DeKalb County juveniles in need of secure detention at its Juvenile Justice Center with a per diem charge of \$110.00 per day, per juvenile effective for two years December 1, 2015 – December 1, 2017. She added that since 1997 the Counties of Kane and DeKalb have, through written agreements, shared juvenile detention facilities to their mutual benefit and to the benefit of their citizens and taxpayers.

**It was moved by Ms. Leifheit, seconded by Ms. Little and approved unanimously to forward the resolution to the full County Board recommending its approval.**

### **STATE'S ATTORNEY'S ANNUAL REPORT**

DeKalb County State's Attorney Richard Schmack joined the Committee to review his Annual Report. Mr. Schmack also reviewed a couple of corrections that he wanted to make due to legislature changes. He also noted that due to similar legislature changes, there are now no limits of how many times a person can be accepted into a Drug Court Program.

Mr. Schmack also explained to that because there are newer Board Members on the Committee, he wanted to present a report that went into what his office does/doesn't do and outline what their powers and limitations are.

Ms. Leifheit inquired about the Mental Health Court timeline. Mr. Douglas shared that he wished that he had a better idea of when they could begin Mental Health Court, but the status is currently pending on the Illinois State Budget.

The Committee and Mr. Schmack also briefly discussed staffing within his office. Mr. Schmack noted that the office is working well and thinks if they can move some additional diversion programs into effect sooner, he feels that they can possibly move cases through faster as well, which would help with any staffing issues.

### **SOBER LIVING HOME UPDATE**

DeKalb County Drug/DUI Court Coordinator Michael Douglas joined the Committee to provide an update regarding the Sober Living Home located at 491 E. State Street in Sycamore. Mr. Douglas noted that they are currently waiting on the plans from the architect in order to start the bidding process to bring contractors in to make the ADA compliance modifications. He continued that there are essentially three projects that are required to update the residence. The major project being the ADA compliance updates, the secondary project being electrical updating, and third project is updating the hvac systems with one high efficiency unit. Mr. Douglas noted that they are anxious to open the facility and estimated that they may be able to begin operation in 4 to 6 weeks.

### **METHODS TO REDUCE JAIL POPULATION**

Chairman Frieders noted that since the Jail Solutions Committee is not meeting further at this time, he would like to the Law & Justice Committee to continue to come up with ways and review various ideas for reducing the County's Jail population.

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After brief discussions, the Committee agreed that they would like to continue the talks of ways to reduce the jail population and if any Member had anything new, it was agreed that they would bring it up with the Chairman and talk about it in Committee and invite the proper stakeholders to come and review the idea.

**COMMUNICATION CENTER'S FEE ASSESSMENT PROPOSAL - CONTINUED**

The Committee Member's shared their viewed and opinion on the fee assessment proposals that was brought to them by Chief Breese. They also touched on what would need to be done if the situation arose where an entity decided not to pay or if it even comes to the Committee.

The Committee came to the agreement that it would be best to form a resolution to support to the fee assessment proposal, as opposed to a directive.

**Mr. Stoddard moved to forward a resolution to the full county board recommending that the DeKalb County Board supports of the fee structure for the DeKalb County Communication Center, to be paid by non-contract rural Police and Fire Departments based on number of CAD Events to satisfy the total amount of \$188,000 presented to them by the DeKalb County Communications Committee. Mr. Cribben seconded by motion and it was moved unanimously.**

**ADJOURNMENT**

**It was moved by Mr. Stoddard, seconded by Mr. Cribben, and it was carried unanimously to adjourn the meeting.**

Respectfully submitted,

  
Tasha Sims, Recording Secretary

  
Chairman John Frieders

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Breakdown of shared expense by Rural Police and Fire Departments.  
Based on number of CAD Events  
To satisfy request for \$188,000

<u>AGENCY</u>	<u>NUMBER</u>	<u>% OF TOTAL</u>	<u>AMOUNT</u>
Cortland Fire Department	381	2.9	\$5452
Cortland Police Department	4159	31.7	\$59,596
Hinckley Fire Department	205	1.6	\$3008
Hinckley Police Department	1599	12.2	\$22,936
Kingston Police Department	414	3.2	\$6016
Kirkland Fire Department	276	2.1	\$3948
Kirkland Police Department	1343	10.2	\$19,176
Lee Fire Department	34	0.2	\$376
Leland Fire Department	112	0.9	\$1692
Malta Fire Department	209	1.6	\$3008
Malta Police Department	506	3.8	\$7144
Paw Paw Fire Department	12	0.1	\$188
Shabbona Fire Department	116	0.9	\$1692
Somonauk Fire Department	497	3.8	\$7144
Somonauk Police Department	1973	15.0	\$28,200
Waterman Fire Department	211	1.6	\$3008
Waterman Police Department	1085	8.2	\$15,418
<b><u>TOTAL</u></b>	<b><u>13,132</u></b>	<b><u>100%</u></b>	<b><u>\$188,000</u></b>

Amount per CAD Event: \$14.32

TO: LAW AND JUSTICE COMMITTEE  
DEKALB COUNTY BOARD  
DEKALB COUNTY, ILLINOIS

**REPORT OF PUBLIC DEFENDER  
MONTH OF AUG 2015**

The Undersigned Public Defender for DeKalb County, Illinois, pursuant to statute in such cases made and provided, hereby files the report of services performed by him and his assistants for the above stated month listing the number of cases at the start of the month as indicated by category listing, and the number of cases closed at the end of the month, which are as follows:

	MCCULLOCH	MCGUIRE	CRISWELL	CARLSON	STAUFFENBERG	OLSON	AL-HENAY	LYNCH	TOTAL
CRIMINAL FELONY	39	96	144	62	108	137	1		587
CRIMINAL MISDEME	6	21	34	13	21	53	71	110	329
TRAFFIC OFFENSES	1	23	46	20	34	136	30	134	424
JUVENILE					68		237		305
OTHER	0	0	1	3	1				5
TOTAL OPEN	46	140	225	98	232	326	339	244	1650
Total Open Aug 15	0	21	13	19	20	75	32	75	255
Total Closed Aug 15	3	12	17	20	24	63	26	83	248
TTL YTD Opened									2123
TTL YTD Closed									2927

**DEKALB COUNTY ADULT COURT SERVICES**  
**MONTHLY REPORT**  
**FISCAL YEAR 2015**

**PROBATION**

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	Total
PSI's Ordered	4	0	1	3	1	2	3	1					
PSI's Completed	3	2	2	1	3	1	2	2					
New Active Cases	33	23	46	37	23	28	42	29					
Felony	332	333	340	351	356	345	355	358					
Misdemeanor	135	135	138	139	139	148	152	146					
DUI	0	0	0	0	0	0	0	0					
Traffic	0	0	0	0	0	0	0	0					
Active Caseload	467	468	478	490	495	493	507	504					
Pending Intakes	146	143	145	137	125	120	112	109					
Total Active Caseload	613	611	623	627	620	613	619	613					
Administrative Cases	923	922	941	963	959	960	959	973					
Transfer In Cases	12	9	11	15	6	6	11	9					
Transfer Out Cases	11	6	14	16	9	14	11	16					
Tech Viol. Reported	17	25	38	33	29	28	35	27					
Crim. Viol. Reported	13	14	9	17	13	19	18	17					
Tech. - No Violation	0	0	0	0	0	0	0	0					
Tech. - Finding Viol.	5	12	7	4	6	9	5	4					
Crim. - No Violation	0	0	0	0	0	0	0	0					
Crim. - Finding Viol.	2	3	6	0	4	7	2	3					
Successful Terminations	14	14	22	19	9	25	16	7					

**COMMUNITY RESTITUTION SERVICE**

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL
# Adults Referred	87	81	118	96	82	100	72	67					
# Hours Ordered	9,190	10,600	11,720	13,330	8,960	11,660	8,295	7,765					
# Hours Completed	5,016	4,854	5,204	7,374	6,497	5,756	5,204	5,372					

# Juveniles Referred	12	5	8	14	5	6	5	6					
# Hours Ordered	385	210	290	585	125	360	190	180					
# Hours Completed	160	106	121	85	161	118	81	127					

## JUVENILE PLACEMENT/DETENTION REPORT

### PLACEMENT

	<u>Jan. 15</u>	<u>Feb. 15</u>	<u>Mar. 15</u>	<u>Apr. 15</u>	<u>May 15</u>	<u>June 15</u>	<u>July 15</u>	<u>Aug. 15</u>	<u>Sept. 15</u>	<u>Oct. 15</u>	<u>Nov. 15</u>	<u>Dec. 15</u>
Residential placements at beginning of mo.	1	1	1	2	2	2	2	2				
Minors placed during the month	0	0	1	0	0	0	0	0				
Minors released during the month	0	0	0	0	0	0	0	0				
Minors in residential placement at end of mo.	1	1	2	2	2	2	2	2				

### DETENTION

	<u>Jan. 15</u>	<u>Feb. 15</u>	<u>Mar. 15</u>	<u>Apr. 15</u>	<u>May 15</u>	<u>June 15</u>	<u>July 15</u>	<u>Aug. 15</u>	<u>Sept. 15</u>	<u>Oct. 15</u>	<u>Nov. 15</u>	<u>Dec. 15</u>
Minors in detention at beginning of month	4	3	0	3	1	1	1	2				
Minors detained during the month	1	0	6	0	3	4	6	6				
Minors released during the month	2	3	3	2	3	4	5	3				
Minors in detention at end of month	3	0	3	1	1	1	2	5				
Average daily population for mo. admissions	0.5	na	2	na	<1	<1	1	2				
Average length of stay for mo. admissions	17 days	na	12 days	na	3 days	3.5 days	5.5 days	9.5 days				



## 2015 Pretrial YTD Information

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Bond Investigations Completed</b>												
Felony	41	28	32	37	42	37	44	34				
Misdemeanor	10	5	7	7	17	15	7	11				
<b>Released on Pre-Trial Supervision</b>												
Felony	13	6	18	13	18	10	20	9				
Misdemeanor	0	0	0	0	0	0	3	2				
<b>Released with no Pre-trial Supervision (Including those who posted)</b>												
Felony	34	24	20	30	31	30	30	23				
Misdemeanor	9	5	4	5	12	12	6	10				
<b>Active Pre-Trial Supervision Cases</b>												
Felony	55	60	72	79	84	82	95	96				
Misdemeanor	4	6	5	5	5	3	6	7				
<b>Violations Reported</b>												
Rules Violation	2	2	3	0	3	2	0	1				
Failure to Appear	0	0	0	0	0	0	0	0				
New Offense	0	0	3	3	3	3	3	2				
<b>Violations Revoked</b>												
Rules Violation	0	0	0	0	1	1	0	2				
Failure to Appear	1	0	0	0	5	2	2	1				
New Offense	0	1	2	1	0	3	1	0				
<b>Successful Terminations</b>	5	1	4	6	6	9	4	5				

### Cost Avoidance

The Pre-Trial program was operational as of June 9, 2014.

From 6/9/14 - 9/11/15, 180 individuals were released from custody and placed on pre-trial supervision for a total of 24,863 days. We can't definitively say the pre-trial program is the only element responsible for the release of those individuals, as other factors may be involved. However, prior to the implementation of the pre-trial program the court did not have the benefit of the bond investigation reports with verified information to include a risk assessment or the ability to order individuals released to report to the Pre-Trial Officers for supervision while out on bond.



**THE DEKALB COUNTY STATE'S ATTORNEY'S  
2014-15 INFORMATIONAL  
REVIEW FOR THE LAW & JUSTICE  
COMMITTEE  
OF THE DEKALB COUNTY BOARD**



## **The Office of State's Attorney**

A State's Attorney is not an officer of the county for which he or she is elected, but is rather a constitutional officer of the State, elected to act as public prosecutor for crimes and county ordinance violations committed within the county from which the State's Attorney is elected, and to act as legal counsel for county government and for all other public officials elected or appointed on a countywide basis. As a result, a State's Attorney does not report to the County Board, but rather acts as its legal advisor. In the interest of open and regular communication, however, it is the practice of the DeKalb County State's Attorney to appear regularly at meetings of the Law and Justice Committee, as the Committee's legal counsel, and to provide to the Committee periodic written informational updates on the activities of the State's Attorney's Office as well as changes in criminal law and procedure.

## **Staff**

All of the attorneys in the office aspire to maintain the high ethical standards required of all Illinois Attorneys. The State's Attorney and his or her assistants maintain their first loyalty not to the office, or the county, but to those standards. In that regard, it would be helpful to anyone wanting to understand the function of a public prosecutor to remember this quote from the United States Supreme Court

"The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." *Berger v. United States*, 295 U.S. 78, 88, 79 L. Ed. 1314, 1321, 55 S. Ct. 629, 633 (1935).

The Illinois Rules of Professional Conduct contain specific rules for prosecutors to follow in all cases in order to bring this lofty ideal into everyday practice. Those rules are as follows:

### **3.8: SPECIAL RESPONSIBILITIES OF A PROSECUTOR**

The duty of a public prosecutor is to seek justice, not merely to convict. The prosecutor in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- (b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
- (c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;
- (d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;
- (e) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:
  - (1) the information sought is not protected from disclosure by any applicable privilege;
  - (2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and
  - (3) there is no other feasible alternative to obtain the information;
- (f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that pose a serious and imminent threat of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

These rules, in most respects, mirror the Model Rules of the American Bar Association, striving for uniformity around the country, and in both Federal and State. Owing to the continuing and vexing problem of wrongful convictions, the Illinois Supreme Court has proposed adding ABA Model Rules 3.8 (g), 3.8(h), and 3.8(i) to our Rules of Professional Conduct. These changes will add the following obligations to the above list:

- (g) When a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall:
  - (1) promptly disclose that evidence to an appropriate court or authority, and

- (2) if the conviction was obtained in the prosecutor's jurisdiction,
  - (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and
  - (ii) undertake further reasonable investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit.

(h) When a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction.

(i) A prosecutor's judgment, made in good faith, that evidence does not rise to the standards stated in paragraphs (g) or (h), though subsequently determined to have been erroneous, does not constitute a violation of this rule.

A public hearing was held on July 22, 2015 concerning these rules, and these changes were endorsed by the Illinois State's Attorney's Association, among many others. The Attorney Staff of the DeKalb County State's Attorney has been advised to conduct themselves as if these rule changes were already in effect.

That staff presently consists of the following individuals:

Duke C. Harris	.....	First Assistant/Felony Prosecutor
Stephanie Klein	.....	Chief - Civil Division
Rachael McIntyre	.....	Chief - Misdemeanor/Juvenile Department And Misdemeanor/Felony Domestic Violence Prosecutor
Sarah Gallagher-Chami	.....	Felony Prosecutor
Jessica Finley	.....	Felony Prosecutor
Megan Brannon	.....	Felony Prosecutor
David Weichel	.....	Felony Prosecutor
Alicia Caplan	.....	Chief Juvenile Assistant

Howard Oestry	..... Misdemeanor/Felony Domestic Violence Prosecutor
Carrie Thompson	..... Misdemeanor/ Felony DUI Prosecutor
James Walsh	..... Misdemeanor/ Felony DUI Prosecutor
Kristin Good	..... Misdemeanor/Traffic Prosecutor
Timothy Mandel	..... Misdemeanor/Traffic Prosecutor

One attorney position was added in Fiscal Year 2014, in recognition of the addition of a second felony courtroom and the increase in the judiciary to six full-time judicial positions. Another attorney position was proposed in FY 2015, in anticipation of the addition of a fourth Circuit Judge, increasing the total of occupied courtrooms to seven. Although the arguments for this position were deemed compelling by County Administration, it was rejected due to budgetary constraints. The State's Attorney, in recognition of those constraints, did not seek the position for Fiscal Year 2016, although the need does remain.

## **Staff Duties**

Aside from the day-to-day in court work of charging, prosecuting, and trying criminal cases, ASAs in the criminal and juvenile courts are responsible for a host of out-of-court responsibilities. In each traffic and criminal case they are required to disclose every piece of evidence which will be used against the defendants, as well as every piece of information which is known to the police or prosecutors which might be of benefit to the defense in rebutting our evidence, or in arguing for a more lenient sentence. They are also responsible for making sure that items which can be obtained from the defense are requested, because the defendant generally is only obligated to disclose upon request. Beyond discovery, the ASAs must make a plea offer in each case, because the appellate courts have been increasingly moving in the direction of the idea that each defendant has a due process right to receive such an offer. As a result there are generally plea negotiations in most cases, although the State's Attorney's Office does strive to make a just and appropriate offer in each case based on the totality of the circumstances. With the assistance of a highly skilled

and experienced support staff, our attorneys meet those obligations with a high degree of accuracy and professionalism.

Additionally, with the help of our non-attorney Victim/Witness Coordinator, the ASAs strive to make sure that we remain in full compliance with our obligations under the Crime Victim's Bill of Rights in the Illinois Constitution, and the State Violent Crime Victims Act. These provisions require regular contact with the victims of violent crime, updates on each new court date, consultation throughout plea negotiations, assistance in preparing victim impact statements, and seeking appropriate restitution orders in all cases where the victim has provable out-of-pocket expenses. In cases where the perpetrator is a family member, the Victim/Witness Coordinator also assists, frequently in conjunction with Safe Passage, in obtaining Orders of Protection. The Coordinator's salary is partially supported by an Illinois Attorney General grant, from the Violent Crime Victim's Fund, but many other support personnel become involved in meeting the SAs obligations in this area, as the statutory duties are simply too much for one person in a county of 105,000 people.

Beyond direct work on cases, an on-call ASA is available 24 hours a day, 7 days a week to provide assistance to law enforcement in obtaining arrest and search warrants, and in making initial charging decisions on those arrested without a warrant, if requested. This duty rotates daily during regular business hours, and weekly for overnight or weekend calls, between all of the assistants in the criminal division. The attorneys are, of course, required to keep themselves and law enforcement abreast of changes in the law, both statutory and judicially mandated. Among recent changes are statutory standardized line-up rules, expansion of video and audio recording requirements for investigatory interviews, comprehensive body-cam legislation just signed by the governor, and changes in cannabis penalties expected to become law in the next few weeks.

The State's Attorney's Office also participates actively with the Children's Advocacy Center and with the Family Violence Coordinating Council for the 16<sup>th</sup> and 23rd Circuit. The SA and ASAs remain constantly involved with the on-going revisions of the Victim Sensitive Interview Protocol used for interviews of child abuse victims at the CAC, ASAs participate in most interviews as members of the Multi-Disciplinary Team, and the SA serves as chair of the Children's Advocacy

Advisory Board. ASAs are also working with the FVCC on the new protocols for investigation of reports of abuse of the elderly and at-risk adults.

## **Projects and Initiatives**

In the last eighteen months the Office of the State's Attorney has been heavily involved in several internal or joint initiatives:

### **Transition to Seven Judge Courthouse -**

In late 2014 the General Assembly passed a bill converting an existing, but unfilled, Associate Judge position in DeKalb County to a full Circuit Judge position, to be up for election in 2016. The legislation left the Illinois Supreme Court with option of filling the vacancy immediately with a short term appointment, or leaving the seat open until the election. Justice Robert Thomas selected Associate Judge Brad Waller as Circuit Judge shortly after the legislation was signed.

Judge Waller's vacated Associate Judgeship then came up for appointment, and the judges of the 23<sup>rd</sup> Circuit chose to fill the vacancy with one of the fine assistants in the DeKalb County State's Attorney's Office, Phil Montgomery, Chief of the Criminal Bureau. Judge Montgomery was assigned to Yorkville, due to the many conflicts of interest which would have made it difficult for him to immediately take a seat in DeKalb County. His return is anticipated in early 2016. In the meantime, his place in DeKalb County is being filled by Circuit Judge Robert Pilmer, from Yorkville.

The Judiciary, in conjunction with The State's Attorney, the Public Defender, the private bar, the Circuit Clerk, the sheriff, and others, re-designed the existing court calendar from the ground up to fully accommodate the shift from five to seven judges in only two years. Effective utilization of personnel and space necessitated these changes, but the net result was an approximate 25% increase in the number of court calls which require the presence of at least one State's Attorneys each week, with no increase in the number of Assistant State's Attorneys.

State's Attorneys presently appear each week at a total 39 court calls, before all seven judges, as well as Sandwich Branch Court once each month, and truancy court twice each month. The transition has gone well, but does place a serious strain



on State's Attorney personnel. Among other changes, DeKalb County now has dedicated DUI/Major Traffic and Domestic Violence courtrooms which handle both felony and misdemeanor cases.

### **Juvenile Justice Council -**

In 2013, the State's Attorney's Office assisted in the drafting of the new by-laws for the Juvenile Justice Council as well as the preparation of the revised enabling resolution. State's Attorney Richard Schmack and then Chief Juvenile Assistant Rachel McIntyre actively participated in the Strategic Planning sessions for the JJC. Ultimately that Strategic Plan was adopted, and the JJC has continued to meet on a monthly basis either in committee or as a group. The Council has received grants for the last two years to facilitate implementation of the ERAP program for early stage assessment of youth for diversion of low risk individuals entirely out of the system and for assignment of medium-risk to selected programs. This is an evidence-based project utilizing an internationally recognized and proven assessment tool. Juvenile Court Services, the State's Attorney's Juvenile Division, local law enforcement, and local not-for-profit agencies have all been cooperating in this effort.

### **Treatment Court -**

The State's Attorney acts as his office's full time member on the DeKalb County Drug/DUI Court Team. The Drug Court was designated as a Mentor Court by the National Drug Court Institute in 2013. As a result, at least through 2016, our Drug Court will serve as a model of best, evidence-based practice, for new, or troubled, Drug Courts around the nation. Through funding provided by the National Association of Drug Court professionals, representatives of those courts are able to travel to Sycamore to observe our practices.

The major initiative of the Drug Court over the past 18 months was the establishment of the Sober Living house for male participants, and the State's Attorney's Office was instrumental in that process as both a member of the team, and as the legal counsel for the County.

Should the Governor sign House Bill 1 (the Heroin Crisis Bill), which the legislature sent to him on June 26, 2015, eligibility for Drug Court will be vastly expanded by

the elimination of the existing prohibition upon admitting anyone who had once previously entered a Drug Court anywhere. Moreover, the veto power on admission previously vested in State's Attorney's is being removed except for drug dealers and those who have received three previous drug court sentences. The bill did pass with veto-proof majorities in both houses and would seem to be in line with the Governor's stated desire to expand diversion of non-violent, addicted defendants from prison. If signed, the bill will become effective immediately.

The State's Attorney will also be a part of the Mental Health Court Team, as the judiciary implements this new Problem Solving Court, under a grant from the Illinois Criminal Justice Information Authority as part of the Redeploy Illinois program. Judge Robbin Stuckert and Mental Health Board Executive Director Deanna Cada, are spearheading an effort to establish a Mental Health Council, similar to JJC, and the State's Attorney's Office expects to actively participate in its efforts to better coordinate access to mental health care, whether for Mental Health Court clients, or for the community at large.

## **HOPE -**

Hawaii's Opportunity Probation with Enforcement, introduced in Honolulu County (O'ahu) in 2004 has been highly successful in vastly improving compliance levels in community-based (probationary) sentencing, and is now being emulated in numerous communities around the county, including the entire State of Michigan and in Cook County. The State's Attorney's Office is partnering with the 23<sup>rd</sup> Circuit and Adult Court Service to institute a local version of this program here in DeKalb County. The program aims to target a probation-eligible, essentially non-violent and non-addicted population, which has nonetheless failed at complying with the technical terms of current or prior probation orders. As an alternative to prison, these offenders would be able to voluntarily enter a program designed to institute an immediate, intermediate sanction for each violation. These sanctions could include immediate fines, public service, electronic monitoring, or stints in the County Jail. Because the target population is generally charged with Class 2, 3, or 4 felonies and prison bound due to prior convictions, it falls squarely within the demographic targeted for diversion from IDOC by the Redeploy Illinois program. In light of this, HOPE should be eligible for grants from ICJIA in future years, as Redeploy attempts

to meet the goal of a 25% reduction in prison populations as outlined by the Governor Rauner.

### **SART (Sexual Assault Response Team) -**

The State's Attorney will be partnering with Safe Passage, in its role as the local sexual assault/abuse advocacy agency, and local law enforcement in an application for a STOP Violence Against Women grant from the ICJIA, using federal funding from the Department of Justice. This grant will assist in creating a team approach to among prosecution, law enforcement, education, and health care, for sexual assaults on victims, of either sex, aged 13 and above, by establishing a post of coordinator for a Sexual Assault Response Team. A similar team approach has been very successful elsewhere, including Champaign County. Once the team is established, one ASA will be formally designated as the primary prosecutor for all adult sexual assault and abuse cases, and will participate in all activities of the SART on behalf of the office.

### **DIVERSION -**

The DeKalb County State's Attorney currently operates a diversion program for first-time misdemeanor defendants, which has been in place under the last four administrations. This program enables appropriate candidates to avoid ever having a criminal conviction, in recognition of the many disabilities that now seem to follow conviction for even relatively minor infractions. Court Supervision, a disposition largely peculiar to Illinois, was originally aimed at serving this purpose, in that the guilty plea is ultimately vacated and the case dismissed, but other states, and the federal government, treat it the same as a conviction.

Consistent with the current trend legislatively nationwide, and in Illinois, recognizing the fact that criminal records, by foreclosing employment opportunities, actually tend to exacerbate criminality, Illinois recently (January 1, 2013) adopted a program called the Offender Initiative Program, which would provide the opportunity for first offenders charged with certain non-violent felonies to be diverted from prosecution. Currently operating in Cook County, this program appears to be working well, and requires involvement from both the State's Attorney and the Judiciary. Another similar program, with somewhat less involvement from the Judiciary has been operating for many years in Kane County.

It is the goal of the State's Attorney's Office to institute a similar felony diversion program within the next six months in DeKalb County.

### **Pre-Trial Services -**

The State's Attorney's Office has been intimately involved with the implementation of the Pre-Trial Services Program. The program has been working well, and all those involved believe that it is beginning to bear fruit in the effort to assure the prompt release of low-risk defendants from the County Jail during the pre-trial phases of their case. With the movement of bond call to the afternoon, it is to be hoped that it will soon be possible to present completed pre-trial reports prior to first appearance, which is considered to be the best practice.