

Office of the State's Attorney



Dated May 31, 2023.

State's Attorney's Office Status Report

In an attempt to keep the Shelby County Board informed as to the operations of the State's Attorney's office the following are general issues of importance.

Labor Negotiations

On May 23, 2023, a business agent from the Illinois Council of the Fraternal Order of Police met and engaged in collective bargaining with the Sheriff's Department. The State's Attorney represented the Sheriff in that bargaining session. Those discussions were necessary because the presently negotiated Collective Bargaining Agreement ("CBA") failed to have a proper description of the bargaining unit and the CBA included negotiated terms and conditions of employment unrelated to the bargaining unit. (It's Labor Law 101 that the defined bargaining unit employees are subject to collective bargaining.) The county previously hired outside counsel to negotiate this CBA. That attorney purported to have experience and expertise in the area of labor law. The fundamental errors in the CBA are self-evident and demonstrate that the outside counsel failed to ensure the fundamental structure of the CBA was properly drafted and negotiated.

In any event, the end result is the FOP contract is filled with ambiguities and the contract document is inconsistent with the provisions of the NLRA and National Labor Relations Board opinions as well as Illinois law on joint governmental employers. Fortunately, the Sheriff has a strong enough relationship with his deputies that the errors have only produced a few problems. The fundamental error to have included terms and conditions of employment for employees outside the bargaining unit presents difficulties in managing the employees, processing payroll, as well as defining roles and responsibilities. Thus, the CBA needs to be fixed and the Sheriff was pro-active in addressing the issue before a grievance developed. Because the Sheriff has his management game plan and the contract has ambiguous language, the Treasurer is placed in a difficult position in strictly applying the CBA to time cards and previous understandings of the Sheriff's Department. To that end, it was decided that the Treasurer should participate in the drafting of the language of the document to ensure that the interplay between the Sheriff, his employees and the County produces a harmonious relationship. A meeting with the Treasurer has been scheduled.

Silly Demands

As a State's Attorney, the function of the public office mandates listening to Defense counsel make requests for case resolution. One Defense attorney actually suggested an appropriate disposition was a two-year probation sentence on a case where a drunk driver killed another motorist. The Defendant was completely wasted¹, drunk and high on cocaine. Under any circumstance, regardless of the punishment or action taken by the government, this victim's family will never see their loved one ever again. Defense counsel's suggestion was rebuffed because it shocked the conscience of a civilized society. Defense counsel's client voluntarily consumed drugs and alcohol and killed a person. It is also clear the Defendant lack's remorse over his conduct. However, because of how the case was charged and the efforts to increase the charges were denied by the court, there is virtually no option but to seek the maximum penalty as charged which is 7 years in the Illinois Department of Corrections. An offer was made which did not produce a compromise. So the case will be advanced to trial.

Preliminary Hearings

In criminal cases charged with on "Information" the criminal defendant is entitled to a preliminary hearing. Typically preliminary hearings are waived by defense counsel for a number of reasons. However, recently we conducted a few preliminary hearings to wit:

<u>Defendant Name</u>	<u>Result</u>	<u>Defense Counsel</u>
Jamie Metcalf	State prevailed	Thomas Finks
Taylor Jones	State prevailed	Thomas Finks

May Trial Week (Post Last Report)

On May 8, 2023, a jury trial commenced against Aaron Fitzgerald. Mr. Fitzgerald had a lengthy criminal history and was charged with driving on a revoked license. While apparently a straight forward case, the Defense got creative with an exception linked to farming activity. The Jury, however, did not succumb to the insanity of the defense and after the case was tendered to the jury, it convicted the Defendant within fifteen minutes. Mr. Fitzgerald still awaits trial on other cases against him. The Courts have the State select cases for trial so that the Defendant is not prejudiced by the magnitude of charges against the Defendant in a single trial. Mr. Fitzgerald will have a little time to contemplate his next choice in the rather harsh world of criminal justice. He will be sentenced by Judge Amanda Ade-Harlow in July.

Teejay Foltz was convicted of burglary and sentenced to 6 years IDOC;

Paul Merriman was convicted on Methamphetamine Distribution (Class X) and sent to prison on a 7-year IDOC sentence;

Amy Coats convicted of Retail Theft and placed on 2 years probation;

¹ A highly technical and legal term.

Trial Setting.

Several trials are scheduled for June and it appears two or three will be tried this month. The Deven Barger murder case is proceeding forward and trial is scheduled for January 8, 2024. Upon being sworn in, I immediately reviewed the file and met with the family of the murder victim. According to the family of the victim, the three prior prosecutors, Gina Vonderheide, an Appellate Prosecutor, and Nicole Kroncke did not meet with the victim's family.

Scheduled Trials.

<u>Name</u>	<u>Charge</u>	<u>Date Scheduled</u>	<u>Defendant's Counsel</u>
Gage M. Betts	Violating OP	6/12/23	Brad Rau
Kevin Mars	Armed Violence/Meth	6/12/23	Thomas Finks
Erik Taniges	DUI/ Drive Revoked	6/12/23	Brad Rau
Amy M. Coats	Retail Theft (Convicted 5/31/23)		
Paul Merriman	Methamphetamine Delivery (Convicted 5/31/23) (Sentenced to seven (7) years I.D.O.C on a Class X Felony)		
Kelsey Agney	Methamphetamine	7/10/23	Mike Frasier
Amanda Brooks	Meth Delivery	7/10/23	Brad Rau
Dantee Brown	Mfg & Del Cannabis	7/10/23	McWard Monroe
Steven Decker	Driving Revoked	7/10/23	Thomas Finks
Seth Hahn	Vio. O.P.	7/10/23	Thomas Finks
Taylor Jones	Agg. Fleeing/Auto Theft	7/10/23	Thomas Finks
Christopher Wood	Agg. DUI/Death	7/10/23	Thomas Finks
Brian Gray	Firearms	8/14/23	Walt Lookofsky
James Peterson	Agg DUI	8/14/23	Walt Lookofsky
Laura Shaw	Bad Checks	8/14/23	Brad Rau
Steven Cobb	Predatory Crim Sex Assault	9/11/23	Todd Reardon
Deven Barger	Murder	1/8/24	Aaron Calvert

Although not scheduled it is anticipated that the following cases will be scheduled for trial at next setting:

Chad Hammond	Meth & more	TBD	Thomas Finks (requested Drug Ct)
Steven Decker	Grave Desecration	TBD	Thomas Finks
Keegan Betts	Bd Ck/Felon in possession firearms (12 counts) A. Calvert		

Jail Occupancy

At the time I was sworn in, the Jail had 39 individuals in custody. Historically, the jail has had an occupancy of around 35 people. The Jail is now down to 15 Defendants. This reduction is mostly due to IDOC sentences and moving cases as they come in. Often there may be people added to the jail for lesser crimes and bond out. Housing people in the jail costs the taxpayers significant money. When individuals are sentenced, the State of Illinois pays money to the County until they arrive at an IDOC facility. Once sentenced they can be moved to the Illinois Department of Corrections. Substantial cost savings occurs when cases are advanced as opposed to continued repeatedly this also reduces the need for overtime at the Jail. As noted above, Mr. Paul Merriman was sentenced on May 31, 2023 after spending 226 days in the county jail. Defendants awaiting trial over 200 days include the following:

Deven Barger (over 1100 days)	Murder
Brent Musser (Over 1yr)	Agg Batt/Drv Revk/Drv Revk/Theft
Keegan Betts (250 days)	Bd Ck/Felon in possession firearms (12 counts)
Christopher Ingram (241 days)	Agg Batt on a Peace Officer

As the other trials are advanced these cases take a greater priority it is highly unlikely that these cases will plead out before trial.

Investigations.

In the last two and ½ months, multiple felony investigations with various law enforcement agencies have been commenced. One investigation recently concluded resulted in felony forgery charges having been filed in connection with the purchase of unleaded gasoline via the Stewardson Fire Protection District's credit. Other investigations remain ongoing and until charges are filed, no information will be provided. On February 8, 2023, I promised this board that I would act without preference or with prejudice. These investigations and decisions concerning prosecutions reflect my commitment to that standard.

Special Prosecutor

Ms. Dobson will be staying on as a part time Special Assistant State's Attorney to finish up on various cases that she started as a Special Prosecutor. Under the Statute for Assistant State's Attorneys a Special Assistant State's Attorney functions nearly the same as a Special Prosecutor. However, the statutes that authorize each are slightly different. Most notable of them is that the State's Attorney is vested with the power to appoint a Special Assistant State's

Attorney and a Special Prosecutor is appointed by the court for a limited time period. During the period of appointment as a Special Prosecutor, the Special Prosecutor works somewhat independent of the State's Attorney because the statute envisions the absence of a State's Attorney. A Special Assistant State's Attorney is subject to the direction of the State's Attorney. Ms. Dobson has only recorded her time in the courthouse until the close of business during working days. It is not unusual for Ms. Dobson to work as late as 10:00pm and often spends time on the weekends. Thus, the time submitted for her is a fraction of the time expended. Importantly, Ms. Dobson is an exceptional prosecutor with a strong sense of justice and her focus is on doing the right thing.

The appointment of Mrs. Weaver as a Special Prosecutor ended. The appointment of the temporary Victim Witness Coordinator has also come to an end. Advertisements for the VWC and administrative staff have yielded several unqualified candidates and one qualified candidate and the State's Attorney will pursuing that hire. I believe a correct hire is better than a bad hire. Currently, the attorneys have assumed the duties of the VWC until this position is filled. If any member of the Board knows of a person interested please feel free to contact me.

Scanning and Data Entry

We have scanned about 55% of the files in the State's Attorney's Office. Mrs. Jandernoa is not merely scanning the documents. She is performing a much needed task of incorporating the scanned data and coupling that with data entry so that the scanned documents are identified and easily retrieved electronically for use in the courtroom. Mrs. Jandernoa is highly skilled paralegal and is exceptionally efficient with her time. In my experience with her, she gets more done in a day than some would in a week. In the last county board meeting a suggestion was made the budget for the process could purchase a high speed scanner. The State's Attorney personally owns that kind of equipment and his own equipment is being used for the task. The issues is really the need for human processing and organizing each of the respective files. Once scanned the files are loaded into an encrypted secure computer for which only the State's Attorney has access until uploaded into the State's Attorney's office's computers.

Backlog

With the three prosecutors we are completing slightly more cases than are opened. I estimate that the office will be "caught up" in about 2 years.

Dismissal of a Few Actions

With the significant volume of cases, my office cannot spend time on matters that either lack evidentiary support or have no promise of obtaining the necessary evidentiary support. Many cases exist that were started long ago and have languished with continuance after continuance. As part of my initial review of all cases, each file was reviewed to see if there was evidentiary support for the charges. Several of those cases resulted in additional investigative work by our law enforcement partners to develop the necessary factual support or foreclose out defenses. To the extent that the evidence showed innocence or that our burden could not be met, we determined which cases ought to be dismissed in the interest of justice. It is a sad thing that

an individual is charged with a crime that lacks evidentiary support to prevail at trial. This is an ongoing process. Also, there have been several cases requiring a legal review to ascertain if the State had a lawful basis to continue with various charges. As mentioned above every person charged with a crime carries with them the presumption of innocence. If we cannot prove a case at trial or there is a legal impediment to advancing a case, we should not be continuing with the prosecution. These are fairly limited in number and when facts and circumstances dictate otherwise, my office will take appropriate action.

/s/Robert T. Hanlon

Shelby County State's Attorney