

B Y T E R R I E C A S E

The LONE Ranger



Imagine sitting in the courtroom, during the final instructions to the jury in a CSC-1st case, fighting to stay attentive; since you struggled to fall asleep the night before, with visions of the upcoming budget negotiations in your head and were awakened at 2:15 that morning with a call regarding a search warrant. Just as you fear you are going to lose the battle to remain alert, someone pokes your arm and hands you a note: The sheriff is on the phone, one of your witnesses who testified the day before has been found dead in his house. The sheriff needs to talk to you about an autopsy. You quickly leave the courtroom, as the jury files out to begin deliberations, and speak with the sheriff. The news media, always on the alert, are calling for information on the other lines. While answering with the standard, "I don't have any information to relay, as of yet," you glance at a two-foot stack of files for the next morning's district court docket that you have yet to review. Such is the life of a solo prosecutor.

In December 2001, the County of Montmorency was searching for a new prosecutor, having had the two previous officials leave within the past year. At that time, I resided in Monroe and

operated my own private practice. I had been an assistant prosecutor previously, and my brother, Todd, knew that being a prosecutor was what I truly enjoyed. As he was hunting that December day, he learned from a county commissioner that the opening existed. He immediately called me from his cell phone and suggested I apply. Since we already owned a cabin in Lewiston and my husband, Dan, a retired sheriff's deputy, was ready to move up north, I anxiously faxed an application the following morning. Unfortunately, it was Christmas time and I didn't hear anything in response over the holidays. Certain that the judges were looking for someone local, I contacted the court to see if they had received my résumé. Much to my surprise, I was scheduled for an interview. I drove to Alpena to meet with Judges Kowalski and Swallow, hoping that this would finally be my break.

I was thrilled a couple of hours later when Judge Swallow called to offer me the job. Two weeks later, I became a full-time resident of Montmorency County and was sworn in as the prosecuting attorney. Not knowing anyone who was a resident of Montmorency County, I began my new venture into the world of being a solo prosecutor.

The Perspective of

Before beginning the position, I had visions of what most of us think elected prosecutor's jobs are like: meetings, press conferences, coming and going as you please, handling the highly controversial and more serious cases, while delegating the remaining work to others to handle. I was told that the office prosecuted around 500 cases a year. I thought, "I can handle this with no problem!" Was I ever in for a surprise.

I soon found out, as a solo prosecutor, you are responsible for everything: Everything that is done right, everything that goes wrong, and everything in between. I am responsible for all cases. I personally handle traffic tickets and civil infractions that go to a formal hearing. I review, authorize, and prosecute all misdemeanors, felonies, juvenile cases, abuse and neglect cases, mental hearings/petitions for hospitalization or treatment, and child support and paternity cases referred from the Family Independence Agency. Since our county is 60 percent state land, I handle many DNR violations—everything from illegal baiting to stolen bear cubs.

What I learned was that the 500 cases were those authorized that year. Currently, we have approximately 1,500 open cases in the office. While to some that might not seem like a lot, remember I am the only person who answers the officers' questions, assists them with legal concerns, reviews the police reports and warrant requests, decides what charges to authorize and does so, prepares for hearings and trial, decides which witnesses to call and what their testimony will be, prepares the witnesses for trial, handles the matters in court (every time they are on the docket), calms witnesses when they are fearful before trial or victims who change their mind about being involved in the criminal justice system, negotiates plea agreements and/or sentence agreements with defense attorneys or defendants, makes sentence recommendations, and takes responsibility for those things that some people consider were done right and responsibility for those things other people consider wrong. This occurs for each case that comes across my desk. All of this is done for less pay than most assistant prosecutors earn in larger offices around the state.

I am also responsible for the administrative duties of the office, such as the budget, supervision of employees, etc. In addition, I am the county legal advisor. While in a large community, this may entail answering questions from commissioners and attending board meetings, in a small community it means much more. Most tend to think of that role as "county attorney" for the entire county. I help answer questions from other elected officials and department heads,

attempt to solve disputes or problems they are experiencing in their offices, assist the county commissioners with dilemmas they are struggling with, and counsel the county coordinator on different aspects of the county operations and the effects that certain positions or actions may involve.

While this northern community is thought of as tranquil, we have more than our share of serious offenses, such as criminal sexual conduct, manslaughter, kidnapping, and assaults. We exceed the average number of drinking and driving cases because we are a resort community and many people have the mindset that when they are "up north" the normal rules of conduct and laws don't apply. The defense that, "I was just at my cabin and we went out drinking" is one that often is used but falls on deaf ears. We want this community to be safe and strive to uphold the law.

While the workload of being a solo prosecutor is tremendous, the benefits equally exist. I am lucky enough to get to know each of the officers who bring me requests for warrants. I know them, their families, their strengths, and their weaknesses. All of which are important in successfully executing my duties. It is common for the local officers to come into my office to discuss a case or to call me at home with a question while out on the road. I have a close enough relationship with them that they feel welcome to stop by my

house with a concern or suggestion. Yes, I do welcome suggestions from the officers. They are the ones who are at the scene, making immediate decisions, and acting upon them. I need to have the ability to look at the full picture in each case and to do justice, not just prosecute. By being the only prosecutor we have forged that bond, and while they may disagree with things I do and I don't always agree with what they have done, we must work together. We depend on each other because we are such a small organization.

I also have the unique experience of handling a variety of cases. I am not channeled into handling only drunk driving cases, or only felonies. My day varies in the type and seriousness of each of the cases I handle. I have the ability to explore unique resolutions to certain situations and don't have to get permission or justify my actions to another. This makes me accept challenges that I may wish to shy away from and allows me to be compassionate when the situation calls for it and unbendable when it is appropriate.

The one thing that sets this position apart from other solo practitioners is that my day does not end when I walk out the door at night. With no one else to help cover, I am on call at all times. That means there are times when I walk in the door at home that I have

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a Solo Prosecutor

to return to Atlanta, and even times I haven't made it that far. Getting called in the evening or on weekends is common place. One cannot schedule when a crime occurs or an arrest is made like you can schedule appointments and court hearings.

As a solo prosecutor even having your office to yourself so that you can work uninterrupted can be a challenge. Since the law library is in my office, other court or county personnel and even the public needing to use books for research require access to my office. There is no other place to meet in private or work on cases without distraction. Our office is not equipped with a conference room since every available space is utilized in such a small courthouse.

Indispensable to my being able to handle the tremendous workload is my staff. The county commissioners do not feel that the prosecutor's office "produces revenue" so we are the first on the totem pole to lose staff (such as the part-time assistant prosecutor that I had previously for eight hours a *month* to help out). However, I have an office manager who also serves as my professional assistant. While she doesn't have a paralegal degree, she has the knowledge of ten paralegals with degrees and has the ability to put that information to use. She reviews my files and offers suggested resolutions, answers phone calls from attorneys wanting to adjourn matters, and is a great sounding board when I need to bounce ideas off someone. Bear in mind, this is something truly missed by a solo practitioner, whether in private practice or as a prosecutor. There is no one to ask for advice, ask for assistance, or even just vent to. Fortunately for me (and probably not so fortunately for her!), I have Sherrie to fill that void. She also assists with the everyday budget concerns, billings, and helps with the paperwork of running an office.

I also have a victim advocate, Gail, who assists with those persons who have been the target of a crime. She meets with victims, counsels them over the phone, and informs them of court dates and their rights throughout the legal process. While I meet with victims to discuss their testimony for a preliminary examination or trial, Gail has the wonderful ability to show compassion to each and every person, regardless of their age, race, social status, or even if they are the victim in one case and the defendant in another. Everyone equally leaves our office feeling like someone cares. She is instrumental in enforcing that positive attitude from victims who find themselves in an uncomfortable and disturbing situation. We live in a small community and treating people with respect is of utmost importance.

I am also fortunate enough to have a child support specialist. This is someone who is able to interview the custodial parent to obtain the basic information, draft the necessary complaints and judgments with my supervision, and handle calls regarding the process from both parties. She also assists with subpoenas, creating warrants, computer skills, etc., and taking messages when I am too swamped to answer a call. You would be amazed by the number of

people who won't take no for an answer when they drop by to see me without an appointment and I am in the middle of something quite important. Usually, I will stop what I am doing to talk to people who have questions or concerns, but sometimes I just cannot be interrupted. Not even the county coordinator gets past Diane when I tell her that I am not available. This is critical to time management, which is so important in this job. Without her tenaciousness, I have no ability to control my workday.

The best part about being a solo prosecutor is interacting with people. I am involved with the DARE program, and have spoken to school children about safety and teenagers about underage drinking and what constitutes a criminal sexual matter. Gail and I have met with senior citizens to address their concerns and I have produced a safety brochure for seniors. In a small community, many of the citizens know who the prosecutor is and I have the ability to interact one on one with people. They are able to express

their concerns and I am able to answer their questions. I also have had the opportunity to ride in a helicopter looking for marijuana plants in the wooded areas of the county and was present at the search of a couple suspected drug houses. These hands-on experiences give me an advantage when questioning officers about how a growth operation can be spotted from the air or the procedures followed in the execution of a search warrant during trial.

While this job may seem overwhelming at times—the pay is low, I am on call every day, 24 hours a day (I have no one to take over if I am unavailable), I have to handle every case, of every type, and deal with every victim, every defense attorney who appears, every defendant who is acting in pro per, and be all for anyone who has a need—I wouldn't give up this job for the world. A little help (such as an assistant) wouldn't hurt, but we all have our crosses to bear and our dreams of better things yet to come. Being a prosecutor, solo or in a large office, is the most rewarding type of legal work one can be called upon to perform. I have the reputation of being a "tough" prosecutor while being a "friendly" person. When you are acting alone in your role as prosecutor, you depend on those around you to help make the system run smoothly. Keeping this balance is the key to being a successful solo practitioner.

By the way, the situation described in the beginning of this article was an actual occurrence. The defendant is serving 56 years in prison for the home invasion and rape of a 96-year-old woman. The witness was, of course, dead, but it was the result of too many drugs and alcohol. The media hounds were eventually given enough tidbits to chew on for a while. And I slept well that night, satisfied with a job well done and ready to begin anew the next day. ♦

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