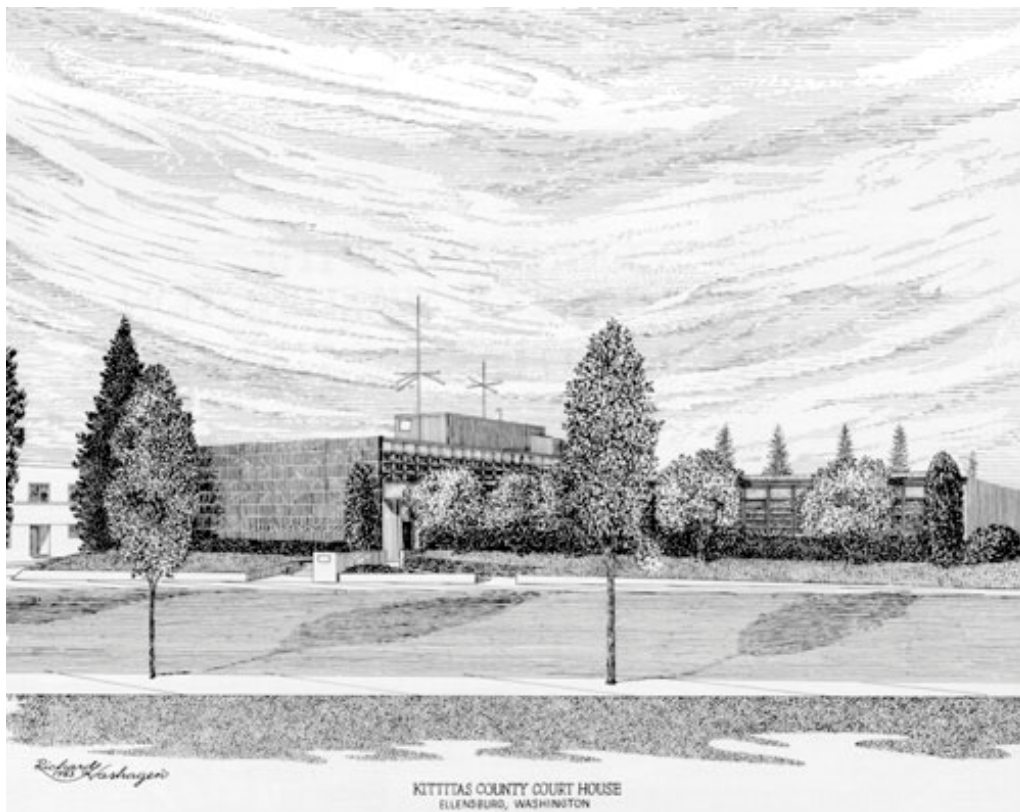


# KITTITAS COUNTY PROSECUTING ATTORNEY

GREGORY L. ZEMPEL



## 2008 ANNUAL REPORT

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KITTITAS COUNTY OFFICE OF THE PROSECUTING ATTORNEY  
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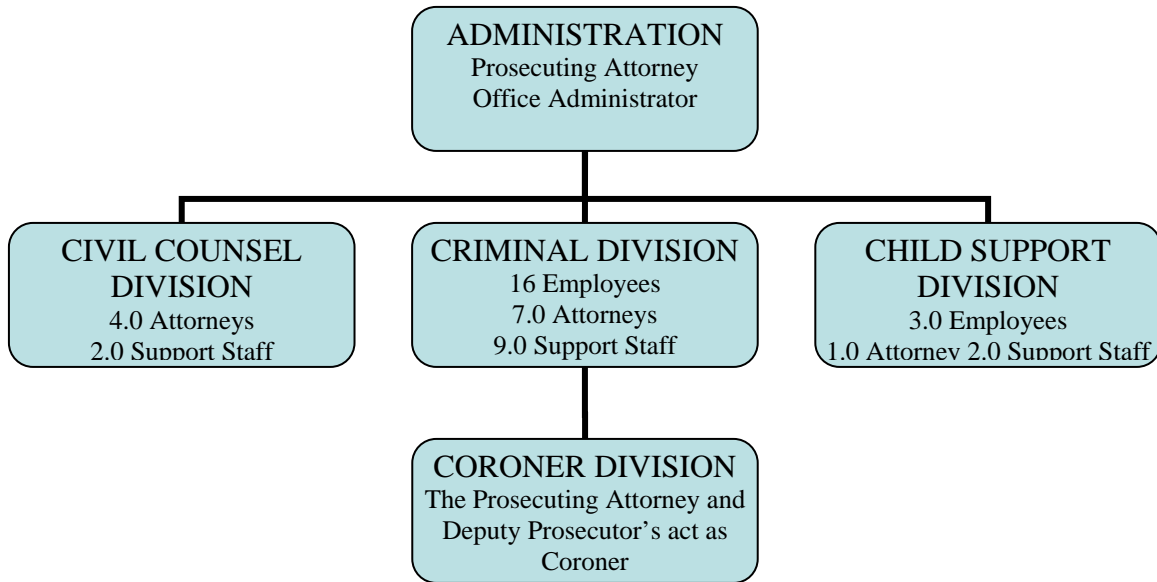
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**I. OFFICE STRUCTURE AND RESPONSIBILITES**

*Chart 1*



The Prosecutor's Office is comprised of four main divisions: civil, criminal, coroner, and the child support division. The administration of the office is responsible for the daily operation of each division and consists of the Prosecuting Attorney and Office Administrator. The civil and criminal divisions are each overseen by a chief deputy prosecutor who assists staff and co-workers and ensures compliance with all state laws, county ordinances, and county policies in the absence of the Prosecutor. The Chief Deputy Prosecutor's are also responsible for a full caseload in addition to their supervisory responsibilities. The criminal division consists of 2 felony prosecutors, 3 misdemeanor prosecutors, and 1 juvenile prosecutor. The criminal division also consists of 7 Legal Secretaries, the Victim/Witness Assistant and the Child Sexual Assault Interviewer (who is also a part-time Victim/Witness Assistant). The civil division employs 4 full-time prosecutors and is assisted by one full-time secretary and one half-time secretary who also handles all probation and infractions full-time. The Child Support Division is comprised of one full-time prosecutor who is one of the four Civil Prosecutors and 2 paralegals.

## II. MISSION STATEMENT

In order to provide for the public health, safety, and general welfare of the people of Kittitas County and the state of Washington, the primary missions of the Kittitas County Prosecuting Attorney's Office are to:

1. Provide quality legal advice to our statutory clients, as enumerated in RCW 36.27.020;
2. Provide quality legal services for the protection of our community through vigorous prosecution aimed at holding offenders accountable while supporting the rights of victims;
3. Provide necessary legal services in a timely and cost-efficient manner, realizing that the public desires to be protected from crime, but also that they desire that their public servants perform their functions in a fiscally responsible fashion. The Office of the Kittitas County Prosecuting Attorney's Office will strive to use the people's resources in a responsible fashion, while assisting the people in making sure that all expenditures of their money, by county government, is done so in a legal and responsible fashion;
4. Uphold the election and public disclosure laws in a fashion that supports public involvement in the governmental process, which involvement is based upon full disclosure of, and knowledge of, how the people's representatives run their government;
5. Support the future of our country, by vigorously pursuing the establishment of paternity and imposition of support orders for our children in need of financial assistance;
6. Provide quality investigations, in conjunction with law enforcement, into the causes of unattended deaths taking place in Kittitas County, such that we are able to ascertain a cause of death in a fashion that is respectful to the deceased and their family;
7. Seek to reform and improve the administration of the civil and criminal justice system, and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law; and
8. Serve as a model employer, dealing with all employees in a just, fair, and equitable fashion.

### III. THE PROSECUTOR AND OFFICE ADMINISTRATOR

#### A. THE PROSECUTOR:

The Prosecutor is responsible for oversight of all functions within the office, has the final authority and responsibility for all actions taken by the office, and is responsible for setting all policies for the office, as well as administrative and budgetary oversight. The Prosecutor is also responsible for determining the training needs of staff, making certain that all deputies maintain their certifications, and assuring that all prosecutors are trained and prepared to perform their functions as coroners. The current elected Prosecutor is Greg Zempel.

#### B. THE OFFICE ADMINISTRATOR:

The Office Administrator is the Office Operations Manager. This position has responsibility for budget preparation, grant compliance, supervising non-attorney staff; acts as liaison for the prosecutor and other departments, elected officials, and agencies. The Office Administrator manages the daily operations of the office, assuring adequate resources, and as directed by the Prosecutor.

### IV. CIVIL COUNSEL DIVISION

The Civil Division of the Kittitas County Prosecuting Attorney's Office provides legal advice and representation to all county departments on all county civil legal matters. The scope of this advice and representation includes, but is not limited to, the following:

1. Evaluate county contracts and forms for legality and recommend changes to such documents, to protect the County, and ultimately our citizens from financial liability;
2. Prepare drafts of proposed resolutions and ordinances;
3. Research legal issues on behalf of the County and its various departments, boards, commissions, and agencies;
4. Represent the Prosecutor's office at public meetings and executive sessions;
5. Initiate appropriate County civil lawsuits and appeals and represent the County in all proceedings related to such lawsuits, as desired by our clients;
6. Represent and defend the County in all civil suits and appeals brought against the County;
7. Represent the County in administrative appeals;
8. Provide legal advice to the various clients on all civil matters related to county business.

The various clients served by the prosecutor's office in representing Kittitas County include the following:

***Boards and Commissions:*** Board of County Commissioners, Planning Commission, Board of Adjustment, Board of Equalization, Health Board, Weed Board, Civil Service Commission, and Boundary Review Board.

***Departments and elected officials:*** Assessor, Auditor, Clerk, Commissioners, Community Development Services, Computer Services, District Courts, Fairgrounds, Health, Human Resources, Maintenance, Probation Services, Public Works, Sheriff, Solid Waste, Superior Court, Treasurer, and Weed District.

The Prosecuting Attorney is required, pursuant to statute, to appear for and represent the County in all civil proceedings in which the Court is a party, as requested by our county clients. Additionally, the Prosecuting Attorney is the legal advisor to all County officers and the Board of County Commissioners. In essence, these duties and responsibilities comprise the function of corporation counsel to the County. It is the Civil Division of the Prosecuting Attorney's Office, in Kittitas County, that performs these duties.

The duties of the Civil Division are divided into two major categories- civil litigation and general counsel. The first function involves defending the county against legal actions commenced against the County, as well as initiating suits in the name of the County.

In the second function, the Division is intimately involved in virtually every function of County government and in this capacity advises County officials on how to solve problems that have legal ramifications. Legal opinions are requested which affect both the County or State or a single individual. The Division also prepares and/or reviews County resolutions, ordinances, contracts, leases, and other documents in which the County is a party.

State law requires the prosecuting attorney to be legal advisor to the legislative authority, giving it written opinions when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs; be legal advisor to all county officers in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers; and prosecute all civil actions and defend all suits brought against the court.

During 2008, the Civil Division represented the County in cases involving a multitude of topics, including creditor claims for bankruptcy filings, civil litigation, land use issues, employment, contract negotiations, assessment and taxation issues, and claims against the county, as well emergency management preparedness.

Attorneys in the Division attended meetings of the Board of County Commissioners, reviewed resolutions and ordinances for the County Commissioners, provided innumerable written and oral opinions for county officials, and worked on growth management issues that will affect Kittitas County over the next several years.

## V. CHILD SUPPORT DIVISION

The Child Support Division represents the interests of the children and the State of Washington in actions for paternity, enforcement of child support obligations and modifications of child support, and health insurance coverage.

The Kittitas County Prosecuting Attorney entered into a contract with the Washington State Attorney General's Office to provide representation to the Office of Support Enforcement, pursuant to Title IV of the Social Security Act, Part D. Under those contracts, all direct costs incurred by the Prosecuting Attorney are reimbursed by the State. Kittitas County also receives additional reimbursements for the indirect costs of this program. This relationship has been in place for several decades.

The Prosecuting Attorney is required by the contract to initiate proceedings under the Uniform Parentage Act in order to determine paternity, establish child support, and establish health coverage for all children born outside of a marriage. The Prosecuting Attorney must act in the best interest of the child, and therefore, must ensure an accurate determination of paternity for the child.

They must also represent the financial interests of the citizens of the State, as the majority of the children in both paternity and enforcement actions are receiving public assistance. They must perform this dual representational role within the time lines for case processing established by the federal government for paternity and support cases.

One full-time deputy prosecuting attorney, with the assistance of 2 paralegals received 147 new cases in 2008, including 60 paternities, 35 modifications of child support orders, 11 cases of contempt, 8 UIFSA (Uniform Interstate Family Support Act), and 33 Division of Child Support Defense cases.

## VI. CRIMINAL DIVISION

### Adult Felony Prosecution

The Adult Felony Section of the Kittitas County Prosecutor’s Office is responsible for charging and prosecuting adult felony offenders. The Section is comprised of 3 adult felony prosecutors, 2 legal secretaries, a Child Sexual Assault Interviewer, and Victim/Witness Assistant.

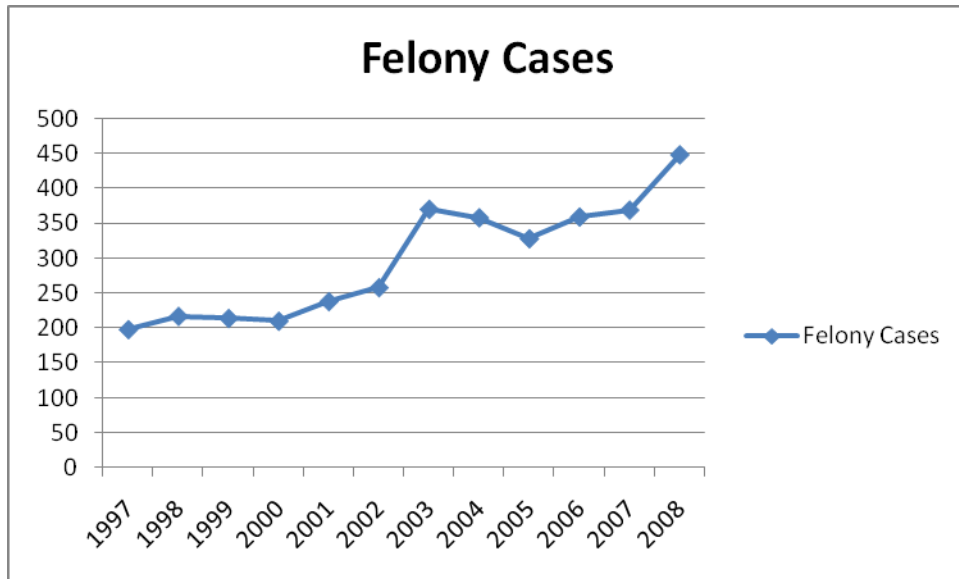
There were a total of 421 adult felony cases referred to the Prosecutor’s Office in 2008 and of those, 300 were prosecuted. The Adult Felony Division took 5 cases to trial; they received 2 guilty verdicts and 3 not guilty verdicts in 2008.

Table 1 outlines the number of felony cases we received by the type of crime in 2008; Chart 2 shows the trend of criminal case filings from 1997 to 2008.

*Table 1*

2007 Adult Felony Cases	Number of Counts
Homicide	0
Rape	13
Rape of a Child	6
Child Molestation	6
Malicious Mischief	36
Assault	69
Controlled Substance	116
Firearms	12
Forgery	10
Eluding the Police	33
Theft of Motor Vehicle	15
Residential Burglary	15
Burglary	18
Theft/ Possession of Stolen Property	92
Robbery	4
Failure to Register as a Sex Offender	3
Vehicular Offense	0
<b>TOTAL</b>	<b>448</b>

Chart 2



### Adult Felony Probation Violations

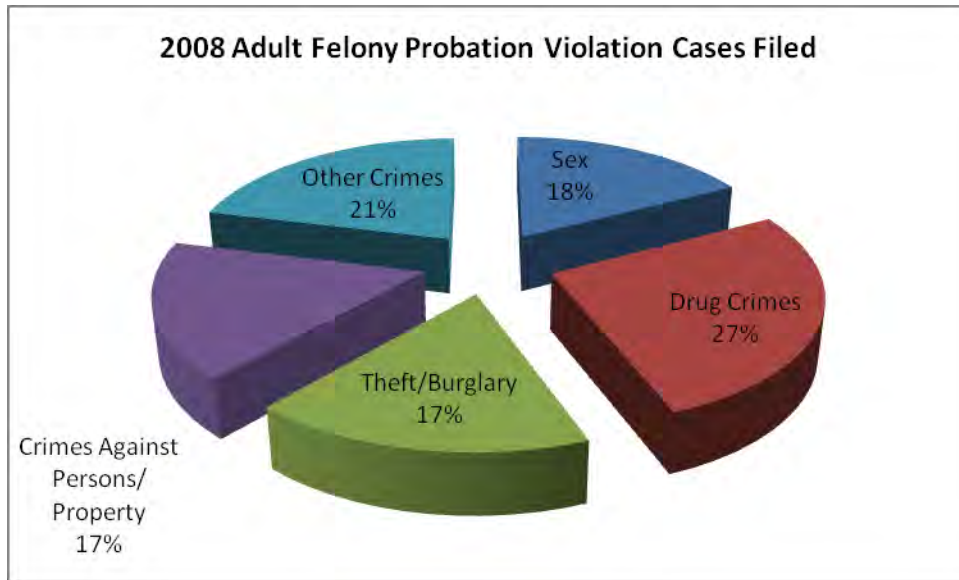
Adult felony probation violations are referred from both the Department of Corrections and Kittitas County Misdemeanant Probation. In 2000 the State of Washington limited funding to the Department of Corrections reducing the number of defendants on supervision for felony judgments. This has drastically reduced the number of adult felony probation violations that are referred to our office from Department of Corrections. This change is shown below in Chart 3. Now the majority of all adult felony probation violations are referred by Kittitas County Misdemeanant Probation for misdemeanor judgments out of Superior Court.

Table 2 outlines the number of felony probation violation cases filed by type of crime and the number of counts filed in 2008.

Table 2

Charges Filed	Number of Probation Violations by Defendant
Homicide	0
Rape	3
Rape of a Child	2
Child Molestation	1
Malicious Mischief	3
Assault	6
Controlled Substance	14
Indecent Liberties	3
Firearms	2
Forgery	0
Eluding the Police	1
Theft of Motor Vehicle	0
Residential Burglary	0
Burglary	2
Theft/ Possession of Stolen Property	7
Robbery	0
Failure to Register as a Sex Offender	0
Vehicular Offense	8
<b>TOTAL</b>	<b>52</b>

Chart 3



### District Court Prosecution

Kittitas County is divided into two district court jurisdictions: Lower Kittitas County and Upper Kittitas County. Upper Kittitas County consists of Cle Elum, Easton, Lake Cle Elum, Ronald, Roslyn, Snoqualmie Pass, and South Cle Elum and covers the area from Snoqualmie Pass to milepost 93 on Interstate 90. Lower Kittitas County consists of Ellensburg, Kittitas, and Thorp and extends to the Columbia River at Vantage. Upper District Court is located in Cle Elum and the Prosecutor's Office has a full-time Prosecutor and full-time Legal Secretary that work all Upper County misdemeanor referrals. Lower District Court is located in the Courthouse in Ellensburg and the Prosecutor's Office has two full-time Prosecutors and one Legal Secretary that handle all misdemeanor referrals for Lower County. Table 3 and Table 4 below show the number of cases filed by type of offense since 1997; Chart 4 puts the information from Table 3 and 4 on a graph.

Table 3  
Lower District Court

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
*DUI	289	289	342	407	384	526	487	413	395	294	393	298
*OCT	665	747	697	607	589	636	654	385	282	785	692	631
*CNT	1085	1121	1119	1416	1310	1461	1355	1338	1199	871	1395	814
<b>TOTAL</b>	<b>2039</b>	<b>2158</b>	<b>2158</b>	<b>2430</b>	<b>2283</b>	<b>2623</b>	<b>2496</b>	<b>2136</b>	<b>1876</b>	<b>1950</b>	<b>2480</b>	<b>1743</b>

Table 4  
Upper District Court

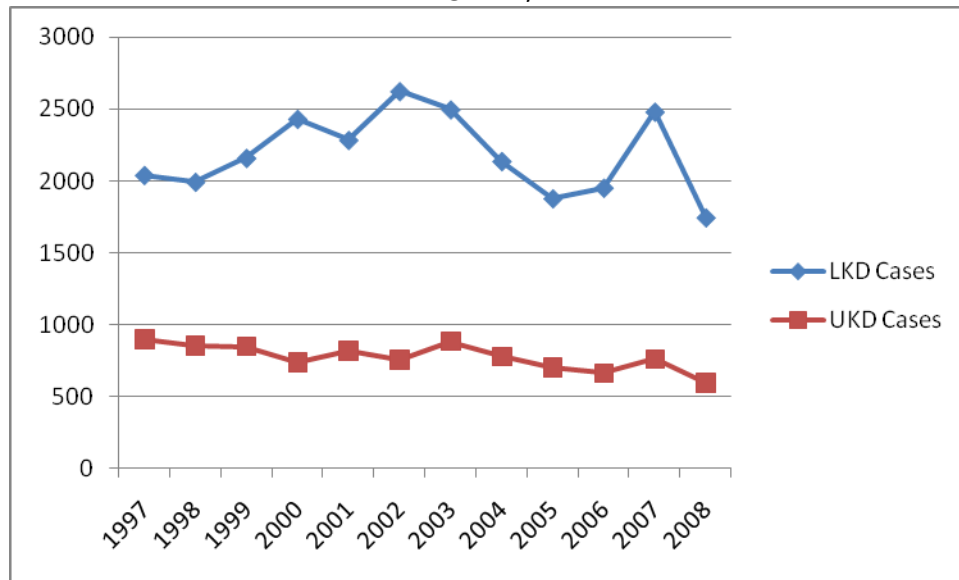
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
*DUI	142	57	128	127	154	164	235	218	146	101	106	128
*OCT	494	545	248	184	248	294	327	285	237	332	354	288
*CNT	266	254	476	429	416	299	325	278	320	231	302	177
<b>TOTAL</b>	<b>902</b>	<b>856</b>	<b>852</b>	<b>740</b>	<b>818</b>	<b>757</b>	<b>887</b>	<b>781</b>	<b>703</b>	<b>664</b>	<b>762</b>	<b>593</b>

\*DUI - Driving Under the Influence

\*OCT - Other Criminal Traffic (including: Driving While License Suspended, Reckless Driving, Driving without License, etc.)

\*CNT - Criminal Non-traffic (including: Game, Alcohol/Drugs, Assault, Theft, Trespass, etc.)

Chart 4



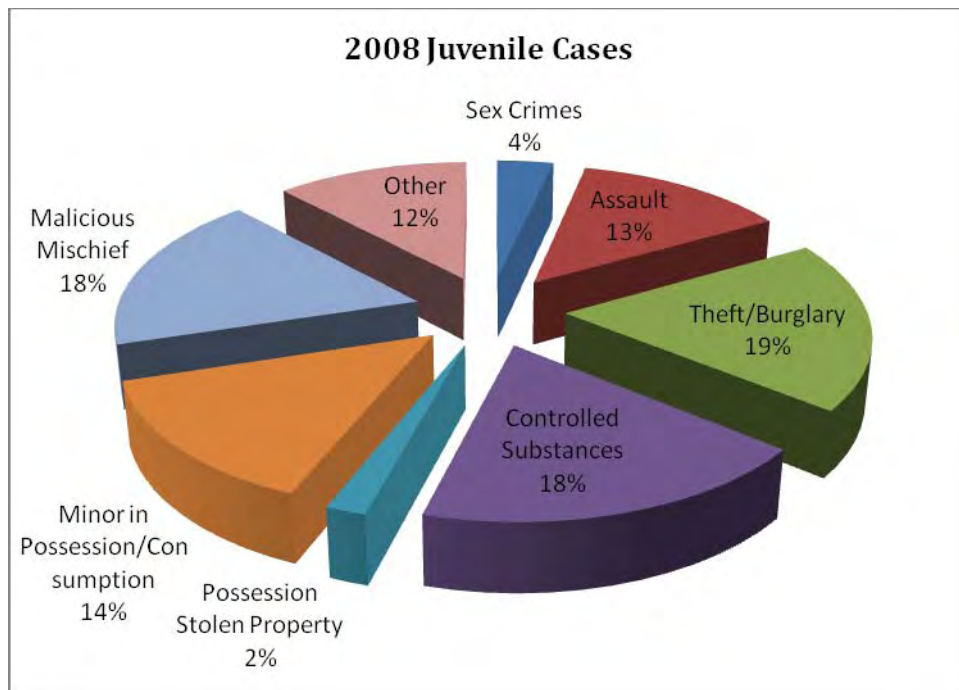
## Juvenile Court Prosecution

The Juvenile Prosecution Division receives and prosecutes juvenile offense referrals. The Division employs a full-time Prosecutor and Legal Secretary and is assisted by the Victim/Witness Unit. The unit received a total of 482 cases for 2008. Table 5 outlines the number of juvenile cases for 2008 by type of crime.

Table 5

Charges Filed by Crime	Number of Cases Filed
Sex Crimes	17
Assault	64
Theft/Burglary	92
Controlled Substances	89
Possession Stolen Property	9
Minor in Possession/Consumption	68
Malicious Mischief	86
Other	58
<b>TOTAL</b>	<b>482</b>

Chart 5



## **Victim/Witness Assistance Division**

The purpose of the Victim/Witness Assistance Division is to provide support and information to crime victims and see that the Criminal Justice System does not cause a “second injury” to the victim. The Victim/Witness Assistance Division provides the following services to the victim and/or witnesses of cases:

- Information regarding the Criminal Justice process and status of a criminal case.
- Referral to community resources and agencies.
- Assistance with Washington State Crime Victims Compensation claim forms.
- Assistance in determination of financial loss for court ordered restitution, such as medical bills and property damage.
- Assistance in delivering the impact statement to the judge, deputy prosecuting attorney, and defense attorney.
- The Victim/Witness Assistance Division is also available to answer questions and escort the victim to attorney interviews and court appearances throughout the duration of the case.

The Prosecutor’s Office employs two full-time Victim/Witness Assistants; one for felony cases and one for misdemeanor and juvenile cases. The Victim/Witness Unit received 186 victim-involved juvenile and misdemeanor cases. There were a total of 165 victim-involved felony cases.

## **Child Sexual Assault Division**

The Child Sexual Assault Division employs one half-time child interviewer who also is a half-time victim witness specialist and serves as the chairperson for the Community Sexual Assault Interagency Coalition (CSAIC). One of our Deputy Prosecutors is responsible for making charging decisions and prosecuting the child (and adult) sexual assault crimes. In 2008 the Child Sexual Assault Interviewer conducted 55 interviews in 38 sexual assault cases for five countywide law enforcement agencies. Of the 38 child sexual assault cases, 19 were closed, unfounded with law enforcement, 2 remain open with law enforcement, and 17 were sent to the Prosecutor’s Office for review and charging. Of these 17 cases, 5 are pending charging; 2 were convicted; 5 are pending sentencing; 2 were not charged.

## **Drug Court**

Drug Court is an opportunity for drug-addicted offenders to address their addiction and enter recovery as an alternative to traditional prosecution for low-level felony crimes. It gives drug-addicted offenders a chance to regain their life and mend relationships while giving them a chance to become a productive member of society.

The program is a very structured program. The participants of drug court remain in the program for a minimum of 16 months and must have 6 months of abstinence prior to graduation. Other requirements involve frequent random drug screens, self-help support groups, such as AA and NA and active participation in outpatient activities, as well as job requirements, community service, MRT and attainment of a GED or high school diploma.

Drug Court is a voluntary program. If a participant succeeds his or her felony charge is dismissed; however if a participant should fail, the participant is found guilty without a jury trial and is sentenced for the original felony crime.

In 2008, 12 defendants were accepted into Drug Court; 6 participants graduated and 3 were terminated.

## **VII. OTHER PROGRAMS**

### **Check Enforcement Program**

This program was implemented in 2002 to deter individuals from writing bad checks to Merchants in Kittitas County. This program is a pre-charging diversion program which gives check writers the opportunity to make the Merchant whole for their losses, obtain education about the law and basic accounting principles to avoid future instances of bad checks. The program was instituted to reduce the burden upon law enforcement and the courts while seeking to maintain offender accountability. Merchants are provided information and materials to help reduce the impact of bad checks upon their businesses and agree to follow certain criteria when accepting checks to aid in the deterrence of NSF or fraudulent checks.

The check writer is required to pay full restitution, which includes the face value of the check, plus any bank fees incurred by the Merchant. The program is funded entirely by the check writers and no cost is incurred by the Merchant or Taxpayers of Kittitas County. In 2008, \$18,849.41 was submitted to the Check Enforcement Program, also known as Bounce Back; as of December 31, 2008, \$4,063.07 of that was recovered for the victims of bad checks in Kittitas County.

## Restitution Specialist

In August of 2006 Kittitas County Prosecutor's Office received a state funded grant for a Restitution Specialist. The grant awarded is for a two year, .5 FTE position.

The Restitution Specialist duties include but are not limited to the following:

- Locate accounts with court ordered restitution and monitor payments on those accounts to ensure regular consistent payments to victims.
- Contact defendants by mail or in person to discuss payment agreements and encourage regular monthly payments.
- Counsel defendants as needed regarding financial arrangements on delinquent accounts and set new financial agreements as required.
- Counsel victims as needed regarding delinquent payments and procedures for delinquent payment collection.
- Organize and manage an enforcement hearing once per month to give defendants who have delinquent accounts the opportunity to discuss their account and enter into new financial agreements.
- Summon defendants to court, by certified mail, to hearings regarding their delinquent legal financial obligations.
- Issue warrants as ordered by the judge for non compliant defendants.
- Track payments on restitution from the Clerk's office daily reports. Be able to provide on demand daily, monthly or yearly totals.
- Track all duties connected with the restitution specialist. Be able to provide daily, monthly or yearly accountability information.
- Organize and manage checks received from the Bounce Back program to proceed with prosecution on the items unable to be collected by Bounce Back.

The following totals are from January 1, 2008 through December 31, 2008.  
Payments collected for Restitution: **\$135,894.64** (current and delinquent payment total).