

ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

2009 ANNUAL REPORT



Prepared by:

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DISTRICT ATTORNEY

DEPARTMENT MISSION STATEMENT

The District Attorney is an independently elected public official whose powers and duties are set forth in §700 of the County Law. Prosecutorial authority is delegated, by law, to a staff of Assistant District Attorneys. By law, all 62 elected District Attorneys in New York State are accountable to the electorate, not any other governmental body.

The Office has the responsibility for the prosecution of all crimes and offenses that occur within the geographic confines of Orange County. The District Attorney has absolute discretion to determine the scope, manner, and method of prosecution. Assistant District Attorneys are appointed pursuant to the County Law and serve at the pleasure of the District Attorney. Assistant District Attorneys exercise their own prosecutorial discretion within policy guidelines established by the District Attorney.

SERVICES PROVIDED/POPULATION SERVED

Prosecution in Seventy-Four Local Criminal Courts

The District Attorney's Office prosecuted approximately 20,000 cases before 74 Local Criminal Court Judges in 2009. These cases are prosecuted in three City Courts, 20 Town Courts, and 14 Village Courts. Each of these courts has two judges. Three of the City Court Judges, 40 of the Town Court Judges, and 14 of the Village Court Judges are elected. Three Acting City Court Judges and 14 Acting Village Judges are appointed by their municipal boards. These courts regularly meet during the day and at night, Monday through Friday.

Felony Prosecutions in County Court

In 2009, 903 felony cases were disposed in our three County Court Parts. The felony conviction rate exceeded 96%.

Drug Treatment Courts

The District Attorney's Office prosecutes cases in specialized courts established by the Office of Court Administration. These include a felony-level Drug Treatment Court in Goshen and three misdemeanor Drug Courts in the cities of Newburgh, Middletown and Port Jervis.

Domestic Violence Courts

The Integrated Domestic Violence Court is collocated with the Orange County Family Court in Goshen and a specialized misdemeanor Domestic Violence Court collocated with the City Court in Newburgh.

Prosecution of Appeals

The unit prosecutes appeals brought in either the Appellate Term of the Ninth and Tenth Judicial Districts, the Appellate Division of the Second Department of New York State Supreme Court, the New York State Court of Appeals, Federal District Court for the Southern District of New York, the Second Circuit Court of Appeals and the United States Supreme Court.

Twenty-Four Hour Services: Major Crimes Response Team

On-call ADAs and Investigators are available 24 hours a day, 365 days each year, to provide response to police agencies, courts, and citizens. They can provide assistance in preparing

search warrants, drafting legal documents, providing judges with bail recommendations and providing in-person response when necessary.

Serving Thirty-Six Police Agencies

The District Attorney is required by law to prosecute criminal cases that result in arrests made by all police agencies in Orange County. In 2009, these agencies consisted of three City Police Departments, 15 Town Police Departments, and 13 Village Police Departments. Additionally, the District Attorney also prosecutes arrests made by New York State Police Troop F and Troop T, the Orange County Sheriff's Department, the New York State Department of Environmental Conservation Police, the Palisades Interstate Park Police, the Metropolitan Transit Authority Police, as well as cases brought to us by other state and federal law enforcement agencies that conduct investigations in Orange County.

Locations/Hours

The District Attorney's Office operates three separate office sites. All offices are open from 8:00 a.m. – 5:15 p.m. daily. At full staff, the District Attorney, 21 Assistant District Attorneys, seven investigators and 12 members of the support staff are located in the County Government Center. Sixteen ADAs, including the Chief Assistant District Attorney, two Local Court prosecution teams, the Appeals Unit, and five support personnel are located at offices on the Middletown Community Campus. Five Assistant District Attorneys, three investigators, and two members of the support staff are located at the Newburgh Office in the Armory Building on Broadway.

District Attorney Staffing: 72 Positions

In 2009 we were able to fill a 42nd ADA position created in the 2008 Budget. This position was subject to the hiring freeze in 2008 and not filled in 2009. At full strength, the staff includes the District Attorney, 42 Assistant District Attorneys, 10 Staff Investigators and 19 support staff. This totals 72 positions.

Staff Turnover:

From January 1, 2008, through January 2009, ten (10) experienced ADAs left the staff. One joined another District Attorney's Office and the remainder entered private practice. This was 25% of the legal staff.

In 2009 only one ADA left the staff. That position, the new 42nd position and an additional 2008 vacancy were filled by three recent law school graduates.

BUDGET AND REVENUE

The 2009 budget was **\$8,065,671**. The total amount of County taxation required to fund the office was **\$7,631,901**. The balance of the budget, totaling approximately **\$426,000**, came from other revenue including aid received from the New York State and Federal Governments. This was a decrease from the original 2008 budget of \$8,783,894.

2009 SIGNIFICANT ACCOMPLISHMENTS

- Prosecuted a total caseload of more than 20,000 cases.
- Prosecuted 903 felony cases in Orange County Court resulting in a felony conviction rate of over 96%.
- 64 trials were conducted in Local Court.
- 18 trials were conducted in County Court.
- The Appeals Unit handled 615 cases. This was a 6% increase over the 2008 caseload.
- Diverted over 1,000 defendants to specialized courts or programs.
- **Walmart Theft-Ring Investigation nets three corrupt cops.** This investigation was initiated and conducted by the District Attorney's Office.
- Implemented a Mental Health Court in the City of Middletown.
- DA Investigators investigated 458 complaints, processed 124 fugitives for extradition from Orange County to other states, and returned 10 fugitives for prosecution in Orange County.
- Obtained a sentence of 15 years-to-life for a felony DWI of a defendant. The defendant was a Persistent Felony Offender who killed a Cornwall Police officer in a 1989 crash.

DISTRICT ATTORNEY INITIATIVES

- 2009: City of Middletown Mental Health Court
- 2008: Medical Examiner's Office created.
- 2007: Computer Crimes Unit created.
- 2006: Creation of the Joint Crimes Unit.
- 2005: Operation Impact/Project Ceasefire implemented in Newburgh.
- 2004: Community Prosecution Initiative. This program includes various components directed at "quality of life" crimes.
- 2003: Special Victims Unit created.
- 2002: Orange County Felony Drug Court opened.
- 2001: District Attorney's Gang Task Force established.
- 2000: Sexual Assault Nurse Examiner Program. This program was created in partnership between Horton Hospital and the Mental Health Association in Orange County, Inc. The results are outstanding.
- 1999: School Safety Initiative. A cooperative effort with Orange-Ulster BOCES, and all Orange County School Superintendents, to formulate safety policies. This initiative involved cooperation with the New York State Police and the Orange County Chiefs of Police Association.

- 1998: Police Training Program. Provides County funds to enhance police training through educational programs. This is an continuing program.
- 1997: Domestic Violence Prosecution Unit. Expanded services to victims of domestic violence included an Assistant District Attorney, Victim Advocate and specialized Probation Officer.
- 1996: Expanded the level of prosecution services to the City Courts of Middletown and Newburgh. This was part of the Urban Task Force Initiative.
- 1995: Domestic Violence Prosecutor position created.
- 1994: Major Crimes Response Team. This expanded the existing 24-hour on-call system. Anytime there is a major crime, the District Attorney's Office responds with a minimum of two Assistant District Attorneys and two Investigators to assist police and coordinate efforts.
- 1993: Child Sex Crimes Prosecution and Investigative Unit. Created as a result of a grant program to include prosecutors, police, and social services case workers. The unit continues to produce significant results.

VICTIMS' SERVICES

Assistant District Attorneys provide the primary support services to crime victims, witnesses, and criminal complainants throughout the county. More than 10,000 of the cases we prosecuted required direct contact with civilian complainants. In addition, we provide access to support services from other agencies.

Rape Crisis Advocates. In partnership with the Mental Health Association in Orange County, Inc., advocates and counselors are provided to victims of sex crimes at the earliest possible stages of a criminal case. Advocates are called in by SANE nurses to assist victims of sexual assault in the hospital and services continue through all phases of the prosecution. Substantial county funding is provided to this program through the District Attorney's Office.

Sexual Assault Nurse Examiner Program. The District Attorney's Office, in partnership with the Mental Health Association in Orange County, Inc., Orange Regional Medical Center, and the United Way, provides substantial funding for services provided by the SANE Program. Specially trained SANE personnel are available, on-call, 24 hours a day. They conduct forensic examinations of rape victims in the hospital. The SANE Program also provides rape counselors through the Mental Health Association, who respond during the earliest stages of the investigation to provide the victim with support services.

Domestic Violence Survivors Advocate. In partnership with Safe Homes of Orange County, Inc., the District Attorney's Office funds the services of an advocate who provides specialized services to survivors of Domestic Violence. The advocate works closely with the Special Victims Unit to provide both in-court and out-of-court support.

Crime Victim Impact Panels/Teen Victim Panels (TIPS). Working with the Orange County Department of Mental Health, STOP DWI Program and Orange County Mothers against Drunk Driving, the District Attorney mandates that offenders convicted of alcohol-related crimes attend impact panel meetings. This requirement is in addition to any other sentence that a Court may impose. MADD and the Department of Mental Health provide panel members. This

provides victims, or members of their family, with the opportunity to speak to the offenders about the impact of alcohol-related crimes which have caused injury or death.

Crime Victims Counselors. Working with the Orange County Department of Probation, the District Attorney directs selected crime victims to the counselors. These counselors, in turn, provide support services to victims who are either physically or economically injured as a result of criminal conduct. This includes in-court support for witnesses.

Domestic Violence Classes for Men. The District Attorney, in partnership with the Orange County Domestic Violence Classes for Men Program, mandates that individuals convicted of crimes or violations involving domestic violence attend special classes. This attendance is in addition to any sentence that the court might otherwise impose. The purpose of the classes is to prevent future incidents of domestic violence and to hold offenders accountable.

THE LOCAL CRIMINAL COURT BUREAU

- **Organization**

Chief Assistant District Attorney Richard E. Ruggeri is in charge of the Local Court Bureau. There are 16 ADAs assigned to the Local Court Bureau with offices located at the Orange County Community Campus in Middletown, and on Broadway in the City of Newburgh. In 2009, the Local Court Bureau was staffed by thirteen line ADAs who were divided into three teams; each team was supervised by a Senior ADA.

- **Operation**

The Local Court Bureau prosecutes cases in 20 towns, 14 villages and three cities which total 74 separate Local Criminal Courts. These courts meet both in the daytime and at night. ADAs receive no additional compensation in the form of overtime or compensatory time for these extra hours. The Local Court Bureau prosecutes more than 90% of our total caseload. Many of the cases involve petty offenses that can be dealt with by diversion of the offenders from the Criminal Justice System. Prosecution services are provided to 36 separate police agencies.

- **Caseload**

In 2009, the Bureau prosecuted approximately 19,000 cases, representing about ninety-five percent (95%) of the Office's total caseload. ADAs in the Local Court Unit are responsible for all aspects of the prosecution of misdemeanor cases in their courts. Each Local Court Unit ADA had a caseload of approximately fifteen hundred (1,500) cases. These cases include all Penal law misdemeanors and violations as well as all misdemeanors in the Vehicle and Traffic Law.

- **Total DWI Cases: 1,700 + Prosecutions**

Prosecuting drunk drivers continues to be a high priority for the Orange County District Attorneys Office. The Driving While Intoxicated caseload remains at an average of 1,700 cases per year. The District Attorney has a firm policy in dealing with first offenders, as well as repeat offenders. The DA's Office works closely with groups such as MADD and STOP DWI not only to prosecute drunk drivers, but also to educate the public in the dangers of such actions.

- **DWI Victim Impact Panel: 1,000 +Attendees**

All individuals convicted of DWI or DWAI are mandated to attend a session of the Victim Impact Panel. Sponsored by the STOP DWI Program and MADD, attendees hear from panelists who have had family members killed or injured by drunk drivers, or drivers themselves who have killed or injured others by driving while intoxicated. Over one thousand (1,000) individuals were ordered to attend these panels in 2009.

- **Early Felony Case Assessment: 1,410 Cases Screened**

The Chief ADA and the three Team Leaders are responsible for preliminary case screening and evaluation of all felony arrests which are not immediately referred to one of the specialized felony prosecution units. Almost all of the more than 2,200 felony arrests made in Orange County result in charges directly filed in our 74 Local Criminal Courts. Most of these felony arrests are not immediately assigned to specialized Felony Prosecution Units. Preliminary evaluation of these cases is made by members of the Felony Screening Unit.

Felony Screening Unit ADA's perform early case assessment duties by evaluating over 1,400 felony cases in order to determine whether or not these cases warrant prosecution in County Court as felonies or should be prosecuted in Local Criminal Court as misdemeanors. This important function requires a high level of experience and allows Local Court Unit ADAs, with less experience, to concentrate on their non-felony caseloads.

2009 FSU CASELOAD BY LOCAL COURT

LOCAL COURT	EVALUATED BY FSU
Blooming Grove	29
Chester Village	22
Town of Chester	26
Cornwall	22
Crawford	23
Deerpark	14
Florida Village	6
Village of Goshen	26
Town of Goshen	32
Greenwood Lake Village	4
Greenville	4
Hamptonburgh	5
Harriman Village	6
Highlands	17
Maybrook Village	8
Middletown	189
Minisink	8
Town of Monroe	30
Village of Monroe	30
Montgomery Village	6
Town of Montgomery	35
Mount Hope	5
Otisville Village	1
City of Newburgh	236
Town of Newburgh	174
New Windsor	78
Port Jervis	61
Tuxedo	3

Tuxedo Park Village	0
Walden Village	28
Walkkill	162
Town of Warwick	21
Warwick Village	9
Unionville Village	1
Washingtonville Village	11
Wawayanda	27
Woodbury	51
Total	1,410 Felonies

- **Local Court Litigation: 64 Trials Conducted**

Trial work in the Local Court Bureau continued at a high level with a total of 64 trials. There were 25 jury trials and 39 non-jury trials. This is a decrease from 86 total trials in 2008. Trial work included the crimes of Driving While Intoxicated, charges of Assault, Menacing, Petit Larceny, Criminal Possession of a Weapon, Sexual Abuse and Animal Cruelty.

- **Significant Local Court Trials**

People v. Amy Meyer:

The defendant, a medical doctor, was convicted after a jury trial in the Town of Tuxedo Court of Driving While Ability Impaired by Drugs and Criminal Possession of a Controlled Substance in the Seventh Degree. She was arrested by police after being observed weaving and cutting off other motorists on State Route 17 on August 5, 2007. Under the influence of drugs while operating her vehicle, the defendant also possessed various controlled substances at the time of the stop. She was sentenced to three years probation. Upon arrest, her medical license was temporarily surrendered. The ultimate status of her license will be determined by the New York State Department of Health Bureau of Professional Medical Conduct.

People v. Carol Rich:

After four years of appellate litigation of the multiple pre-trial errors committed by a now-retired judge, our prosecution resulted in a DWI conviction after a jury trial in the Town of New Windsor Court. On May 21, 2005, the defendant was found by police stopped in the middle of a roadway. She was under the influence of alcohol as shown by her breathalyzer reading of .21, over twice the legal limit. The passage of time and judicial bias failed to prevent justice from being done. The jury deliberated for less than ten minutes.

People v. Hommy Colon:

The defendant was convicted after a City of Middletown Court jury trial of Criminal Possession of a Controlled Substance in the Seventh Degree and Attempted Tampering with Physical Evidence. On November 27, 2008, the defendant was placed under arrest after the execution of an outstanding arrest warrant on an unrelated matter. Upon arrest, police found cocaine on the defendant. He attempted to destroy the evidence by blowing away the powdery substance. A jury convicted him of the charges.

People v. Scott Elkins:

On July 26, 2008, the defendant was caught with stolen clothing and jewelry from two Woodbury Commons Stores. Video from one store showed him concealing items on his person. The defense contended that he was experiencing a “euphoric entitlement” to the items as a “side effect” of the prescription medication he was taking. Expert testimony by two doctors was presented by the defendant in a futile attempt in support of his contention. The defendant was convicted after a jury trial in the Town of Woodbury Justice Court.

SPECIALIZED MISDEMEANOR COURTS

Many defendants who appear in our Local Criminal Courts have committed petty offenses and/or are first time offenders. The District Attorney recognizes the value of, and need for, diversion programs. The District Attorney oversees and/or provides programs to offenders in order to seek alternatives to the traditional processes of the criminal justice system. These important, and labor intensive, courts are unfunded mandates imposed by the Office of Court Administration.

- **Three City Drug Courts: 82 Participants**

The primary mission of Drug Court is to improve the quality of life for communities by providing an alternative to traditional criminal prosecution for non-violent drug defendants. Before entering into Drug Court, defendants must plead guilty to the crime charged. Participants are afforded the opportunity to receive treatment, counseling, training and education in order to break the cycle of drug addiction. Many eligible offenders opt for jail time rather than face the rigors of intensive treatment programs.

There are three active misdemeanor-level Drug Treatment Courts in Orange County. The City of Newburgh Drug Court opened in 2003. The City of Port Jervis Drug Court began in 2004, as did the Drug Court in the City of Middletown. Each of these Courts is a “hub” Court accepting transfer cases from surrounding jurisdictions.

Low-level offenders who successfully complete drug rehabilitation, through judicial intervention, return to communities as more productive citizens who are free from drug addiction. Defendants who are charged with misdemeanors related to their substance abuse, and who are genuinely addicted to narcotics, are afforded an opportunity to change their lives by having their cases referred to a Drug Court.

Successful completion of the Drug Court enables a defendant to have his or her original charge reduced or dismissed. The community benefits because individuals who have graduated from Drug Court are less likely to continue in a life of crime. Defendants cannot be compelled to enter Drug Court.

As of December 31, 2009, 36 individuals were enrolled in the City of Newburgh Drug Court, nine in Port Jervis and 37 in the Drug Court in Middletown. Multiple individuals successfully completed and graduated from the three City Drug Courts in 2009.

- **City of Newburgh Domestic Violence Court: 328 Cases**

This specialized court was created in 2006. The Domestic Violence Court in the City of Newburgh handles misdemeanor crimes of domestic violence. Professionals who are specially trained to understand the particulars of domestic violence are assigned to this Court provide victims services to address this community problem. Priority is placed on offender accountability and victim safety. The Court processed 328 cases in 2009 and there were 205 open cases on the court calendar as of January 1, 2010. The Office works in conjunction with victims' support groups such as Safe Homes and the Probation Department to insure victims' rights are protected and their concerns heard and addressed.

- **Mental Health Connection at the Middletown City Court: 12 Participants**

A new initiative began in the City of Middletown Court in August 2009 and the District Attorney's Office has become a partner. The "Mental Health Connection at the Middletown City Court" handles cases in which defendants have legitimate mental or psychological problems. After a plea of guilty, a defendant is assigned to a mental health professional who works with the defendant to address their specific issues. The Court, along with the District Attorney's Office, monitors the progress of each individual. Since its inception, 12 defendants have entered this program.

This program allows the judge, a defense attorney, or ADA to "flag" a case with a defendant who has a mental health issue or problem. Some defendants in Middletown already are being treated by the Rockland Outpatient Forensic Support Team at the Middletown Campus. If a defendant is in need of mental health treatment, but they are not already being seen by the Rockland team, the Orange County Mental Health provides screening.

When the court, defense attorney and ADA agree that mental health treatment is advised, the defendant must waive any medical privileges and plead to the charge. The sentence is a Conditional Discharge and mental health treatment is the primary condition of the CD. The judge will direct that the defendant be treated by the Rockland outpatient program or similar program such as Occupations, Inc. Other sentencing conditions such as restitution and/or community service might also be imposed.

The defendants who are enrolled in the Mental Health Connection periodically appear before the judge with a letter from their provider stating whether or not the defendant is complying with the court's mental health treatment directives. If not, the case is placed back on a regular court calendar.

DIVERSION OF OFFENDERS FROM PROSECUTION

Each year hundreds of criminal defendants have their cases removed or diverted from criminal court to special programs. These programs provide a framework for responding to crime, and view crime as harm against both the victim and the communities in which they live. In 2009, a continuing goal of the District Attorney's Office was to expand the use of restorative justice practices in Orange County.

- **Group Conferencing: 65 Referrals**

The District Attorney's Office, working with the Probation Department, increased its use of accountability group counseling. In these settings, a victim and a defendant, along with a trained facilitator, meet in a group setting. During the meeting, a victim details the damage the defendant inflicted and how it adversely affected the victim's life. The defendant, in turn, acknowledges the criminal conduct and apologizes. An agreement is reached wherein the defendant makes reparations to the victim. Through the use of group counseling, the victim is able to directly participate in the criminal justice process. Types of crimes that are handled through group conferencing are Criminal Mischief, Harassment, Larceny or Trespass.

Since 2008, approximately 65 defendants have gone before group conferences. The positive feedback from victims validated the use of this important restorative practice.

- **Community Accountability Boards: 23 Referrals**

Community Accountability Boards are currently established in the cities of Newburgh and Middletown. They are a community led initiative rooted in restorative justice principles. Young offenders referred by the County Probation Department and their victims go before a volunteer community board to discuss the harm caused and to come to an agreement to repair the damage caused. District Attorney Phillips has been a proponent of the boards since their inception and is working towards expansion in 2010. The Community Accountability Boards are a joint venture of Orange County Social Services, the Probation Department, New York State Office of Children and Family Services, and the Dispute Resolution Center. There were 23 referrals made to the Boards in 2009.

- **Orange County John School: Eight Graduates**

The Orange County John School was created by the District Attorney's Office in 2003. The John School is a countywide court-referral program designed for non-violent offenders who have been arrested for soliciting prostitutes. This one-day program is a collaborative effort by the Department of Health, Newburgh Family Health Center, Inc., the City of Newburgh Police Department and the District Attorney's Office.

The program provides a holistic approach to this crime that is often misperceived to be a victimless crime. The victims impacted by these crimes include the neighborhoods and families who live where prostitution and related criminal activities were conducted.

Since its inception, 13 sessions of the John School have been held. Approximately 120 defendants have successfully completed the John School. Successful completion of the program may result in a reduction or dismissal of charges. There were eight "graduates" in 2009.

The Orange County John School is funded entirely by the enrollment fees paid by the participants who attend the program. The John School is presented at the Newburgh Family Health Center, Inc. at Three Washington Center in the City of Newburgh.

- **Women's Enrichment Program: 20 Graduates/100% Increase**

Another successful restorative justice program created by the District Attorney's Office is the Orange County Women's Enrichment Program. The countywide program is designed for "at-risk" women and the program is available for all female offenders. It is funded, in major part, by the fees collected from participants in the "John School". As another multi-agency collaborative effort, the Women's Enrichment Program is facilitated by the following agencies: Orange County Department of Health, Orange County Probation Department, Newburgh Family Health Center, Inc., Best Resource Center, Newburgh Ministries and Catholic Charities. The Program is held at the Safe Harbors' Cornerstone Building on Broadway in Newburgh.

Participants attend five sessions designed to educate and enhance self-esteem. The class seeks to empower women to choose productive and healthy lifestyles. Upon successful completion of the program, the criminal charges may be reduced or dismissed. The Women's Enrichment Program also accepts interested applicants who have no criminal charges pending but are nonetheless "at-risk" women in the need of help and guidance. In 2009, a total of 20 women attended the Orange County Women's Enrichment Program. This was a 100% increase in participation from the previous year.

- **Shoplifting Prevention Program: 420 Participants**

Each year there are hundreds of arrests for shoplifting. The Orange County Shoplifting Prevention Program, begun in 2005, is a response to the need to combat the problem of shoplifting in Orange County. Shoplifting not only affects local merchants but also impacts citizens who must defray the losses due to shoplifting by paying higher prices for consumer products. Research has shown that many defendants start their criminal careers by shoplifting at an early age.

Shoplifting behavior is a symptom of a problem. The Orange County Shoplifting Prevention Program recognizes this problem through education in order to change shoplifters' behavior to decrease the likelihood of recidivism. Defendants of any age who are arrested for shoplifting are eligible for the program. After admitting their guilt in court, the offender's case is adjourned in order to take and complete a six (6) hours correspondence course administered by the National Association for Shoplifting Prevention. The course helps offenders understand, among other things, the underlying reason for shoplifting.

The program is entirely funded by the participants. Upon completion of the program, and upon restitution being made, the defendants may have their cases reduced or dismissed. In 2009, 420 defendants participated in the program.

Since its inception in 2005, over 900 participants successfully completed the program.

DETERRING UNDERAGE DRINKING

The District Attorney's Office recognizes the continued and widespread problem of underage drinking. To address this problem, in partnership with others, we take a preventive and punitive approach. Prevention entails education for both the underage drinkers and licensees who sell alcoholic beverages.

- **TIPS Program**

The Training For Intervention Procedures (TIPS) began in 2006 as an alternative sentencing program used by the District Attorney's Office that focuses on providing information and training to prevent underage drinking, drunk driving, and other hazards that serving or selling alcoholic beverages to minors may pose. The three (3) hour program administered by the City of Newburgh Police Department focuses on establishments and their employees who are arrested and charged with selling alcohol to minors. Vendors also voluntarily send their employees to the program for the education benefits.

- **Operation I.D.**

In 2009, District Attorney Phillips, in conjunction with Dana Distributors, Inc., of Goshen, and the Orange County Chiefs of Police continued our collaboration on Operation I.D. to combat underage drinking. Operation I.D. is an effort to curb the disturbing problem of underage drinking in Orange County by reaching out to the over six hundred fifty (650) licensed premises serviced by Dana Distributors, Inc., an Anheuser Busch wholesaler, by educating and reinforcing to them the importance of not selling and providing alcohol to underage persons.

Dana Distributors, Inc. provided informational packages, including Security Laminate Verifiers, to their Orange County on and off premises alcohol retailers. The verifiers allow proprietors the ability to identify the authenticity of a New York State driver's license by revealing the laminate security feature. The package also includes information urging licensees to abide by their legal obligation to check the age of the customer and turn over any fraudulent licenses to law enforcement. Operation I.D. proved very successful, and is an ongoing commitment by the District Attorney's Office.

- **Teen Victim Impact Panel: 100+ Attendees**

Substance abuse by teenagers is a major problem and District Attorney Phillips implemented a program in 2003 to address the issue. With the assistance of the Orange County STOP DWI Program, Teen Victim Impact Panels are regularly held throughout the year. The Teen Victim Impact Panel targets underage offenders who have been charged with alcohol and drug related offenses.

Teen offenders who attend sessions are educated to the hazards and harm of these offenses to deter them from committing similar acts in the future. Teen Victim Impact Panels held in 2009 provided speakers who were victims or past offenders to tell their stories to the attending teens. Attendance exceeded one hundred (100) teenagers.

OVERVIEW OF FELONY PROSECUTIONS

Organization of Felony Units

Felonies are the most serious types of crime in New York State. After careful screening by Assistant District Attorneys, these cases are prosecuted as felonies in County Court. These cases require more significant resources than do cases prosecuted in Local Court. The County Court Bureau consists of seven sub-units, which are responsible for specialized prosecutions. These are the County Court, Grand Jury, General Crimes, Special Victims, Violent Felony, Narcotics and Investigations Units.

At full staff, twenty-one (21) Assistant District Attorneys are assigned to the Bureau located at the County Government Center in Goshen. The Bureau is responsible for prosecuting all felony cases filed in County Court.

The Units of the County Court Bureau screen approximately 15% of the caseload and prosecutes approximately 10% of the total caseload. Due to the complex and serious nature of these cases, more than 50% of the staff is assigned to the units responsible for prosecuting felonies. The work is very labor intensive and generally requires the work of staff investigators to enhance police investigations, secure evidence, and to locate and transport witnesses.

Felony Charging Decisions: 927 Filings

Felony cases are prosecuted in County Court in two separate and distinct ways. The first is by way of an Indictment. An indictment results when the District Attorney's Office presents evidence to a Grand Jury in order for them to return a formal legal accusation, charging one or more defendants with one or more felonies.

A second means of prosecuting felony cases is by way of a Waiver of Indictment. In these cases defendants agree to waive their rights to have their cases presented to the Grand Jury and are prosecuted by way of a Superior Court Information. The Waiver of Indictment/Superior Court Information disposes of felony cases, at arraignment, by having the defendant plead to an agreed upon felony charge to receive an agreed upon sentence.

Felony Case Disposition: 903 Dispositions

Felony cases are disposed of in several ways. A defendant may dispose of his case by pleading guilty to a charge or charges contained in the Indictment or SCI. If a defendant does not admit guilt, they may exercise their right to a trial. Trials are either by jury or before a judge without a jury. Only the defendant can determine whether or not he/she will waive the right to a jury trial. The District Attorney has no input into this decision and must abide by the decision of the defendant. In 2009, the Orange County the annual felony conviction rate was more than 96%.

THE COUNTY COURT BUREAU

- **Organization**

In 2009, the Executive Assistant District Attorney oversaw the daily operations of the County Court Parts. The Supervisor is responsible for assigning ADAs to cover daily court calendars and directs litigation. In the course of these duties, the Supervisor may direct the work of all of five felony litigation teams assigned to the Government Center. These include the individual members of the Special Victims, Violent Felony, Narcotics, Investigations, and Grand Jury Units.

The Supervisor is also responsible for overseeing the County Court motion calendar.

- **Operation**

Litigation in County Court includes trials and pre-trial hearings to determine the admissibility of evidence and violation of probation hearings. ADA's also respond to hundreds of legal papers, called "motions", which require the District Attorney to respond in writing. These motions are very labor-intensive. The Bureau is responsible for all trial work.

- **Caseload: 903 Dispositions/96% Conviction Rate**

As of January 1, 2010, 903 felony defendants had their cases disposed of in the year 2009. These dispositions also included indictments filed in 2008 or earlier but disposed of in 2009.

In 2009, a total of 846 defendants pled guilty, 12 were found guilty after trial, and 29 cases resulted in acquittal or were dismissed. Fifteen cases were disposed of in "other" manners including defendants who were found not guilty by reason of mental disease or defect and committed to psychiatric institutions. Dismissals included cases in which evidence was suppressed or co-defendants "took the weight" and exculpated a co-defendant.

The 18 felony trials in 2009 represented a significant decrease from the 28 trials completed in 2008. For statistical purposes, trials are counted by the number of defendants. Twelve defendants were convicted and six were acquitted. The post-trial conviction rate for defendants was 66.67%.

The overall 2009 felony conviction rate was 96%. As of January 2010, there were 202 felony cases pending in County Court.

- **Significant Felony Convictions**

People v. Daniel Correa: Murder Second Degree

On May 6, 2008 at approximately 10:20 p.m. in the vicinity of 27 Dubois Street in the City of Newburgh, Orange County, New York, defendant Daniel Correa killed the victim Jeffrey Zachary by shooting him with a handgun in what is commonly referred to as a "drive by" shooting. An Orange County jury convicted Correa of the murder, and Orange County Court Judge Nicholas De Rosa sentenced the defendant to 25 years to life imprisonment.

People v. Stephon Johnson: 21 Years in Prison for Criminal Possession of a Weapon in the Second Degree

In the early morning hours of October 5, 2008, the defendant Stephon Rumell Johnson, became involved in an altercation with Ezra Brown in an apartment on Renwick Street in the City of Newburgh. Less than an hour later, in the vicinity of Benkard and South Lander in the City of Newburgh, the defendant fired several shots at the victim, Ezra Brown, who later died as a result of the injuries inflicted by the gunshot wound. An Orange County jury acquitted Johnson of Murder in the Second Degree, but convicted him of Criminal Possession of a Weapon in the Second Degree. Judge Jeffrey Berry later sentenced Johnson to state prison terms totaling 21 years.

People v. Alphonso Kirksey: 23 Years-to-Life in Prison for First Degree Attempted Murder

On March 11, 2005, at approximately 2:00 a.m., the defendant Alfonso Kirksey became involved in an argument with his girlfriend, Connie Sackett at their apartment in the City of Newburgh. At one point during the argument, Kirksey took out a loaded .38 caliber revolver and fired at least five shots at Sackett, striking her in the back, her shoulder, her side, her forearm and her upper arm. Kirksey then reloaded his weapon and fled the apartment. Approximately twenty minutes later, Police Officer Erik Eltz encountered the defendant in the vicinity of 6 Memorial Drive in the City of Newburgh. The defendant aimed the gun at Officer Eltz and fired the weapon at him. The police later arrested the defendant and recovered the revolver. An Orange County jury convicted Kirksey of Assault in the First Degree for his shooting of Connie Sackett, and also convicted Kirksey of Attempted Murder in the First Degree for firing his weapon at Officer Eltz. County Court Judge Nicholas De Rosa later sentenced Kirksey to 23 years to life imprisonment.

People v. Christian Lujan: Criminally Negligent Homicide

On April 23, 2009 the defendant Christian Lujan was at 428 Liberty Street, in the City of Newburgh with Desiree Miranda and her 11-month old daughter, Anany Sanchez Miranda. At one point the defendant was left alone with the child for a period of time. During this time, the infant suffered severe blunt force trauma which ultimately resulted in her death. The defendant was originally charged with reckless Manslaughter, but an Orange County Jury later convicted him of Criminally Negligent Homicide. As a result of a separate investigation, the Orange County grand jury charged Anany's mother, Desiree Miranda, with Assault in the First Degree, arising out of her alleged abuse of the child on a different occasion.

People v. Willie Thompson: 15 Years-to-Life in Prison for Operating a Motor Vehicle While Under the Influence of Alcohol, as a Felony

On March 1, 2009, at approximately 11:20 PM, City of Newburgh Police Officers stopped Willie Thompson as he operated his motor vehicle in the vicinity of Dickson Street, Mill Street, and Walsh Street in City of Newburgh. The officers observed that the defendant appeared to be intoxicated, and a later breath test showed Thompson had a blood alcohol level of .24. Thompson had eight prior convictions for drunken driving offenses, including a felony DWI within the past ten years. Most significantly, Thompson had been convicted in 1990 of vehicular manslaughter, arising out of his operation of a motor vehicle while intoxicated and causing the death of Town of Cornwall Police Officer John Machuca. Thompson had also been convicted of a robbery in 1973 in Florida. Thompson pled guilty to the Class "E" felony of Operating a Motor Vehicle While Under the Influence of Alcohol, which normally carried a maximum prison term of four years. However, on October 9, 2009, upon motion of the District

Attorney, County Court Judge Robert Freehill adjudicated Thompson a persistent felony offender, and sentenced Thompson to fifteen years to life in state prison.

• **Felony Trials: 2003 - 2009**

Felony Trials By Crime	2009	2008	2007	2006	2005	2004	2003
Murder/Homicide	6	6	6	3	4	5	4
Sex Crimes	2	3	6	4	4	12	6
Drugs	2	2	3	2	3	5	1
Robbery	2	3	4	4	5	3	4
Assault	2	4	8	4	1	9	4
Burglary	1	4	1	2	2	3	2
DWI	1	0	3	7	4	2	3
Other	2	6	4	6	12	13	11
Total	18	28	35	32	35	52	35

• **2009 WAIVERS OF INDICTMENT: 246 CASES**

In certain felony cases, a defendant may decide to give up his right to have felony charges presented to a Grand Jury. The defendant does so in return for an agreed upon plea and sentence. In these cases, defendants “waive indictment” and are prosecuted based upon a legal document called a Superior Court Information. In 2009, 246 defendants waived indictment and entered guilty pleas to Superior Court Informations. These 246 defendants constituted 26.5% of all felony defendants prosecuted in the Orange County Court, which was a 1.5% increase in Superior Court Informations over 2008.

In 2009 there were 681 Grand Jury presentations compared to 678 in 2008. This represented an increase of 4 Grand Jury presentations or .4%.

YEAR	TOTAL SCI DISPOSITIONS	TOTAL FELONIES FILED	SCI'S AS % OF FELONY CASES
2009	246	927	26.5%
2008	240	961	25%
2007	365	1,031	35.4%
2006	387	890	43.5%
2005	347	948	36.6%
2004	332	953	34.8%
2003	356	970	36.7%
2002	411	1024	40.1%
2001	282	818	35%
2000	272	803	33.9%
1999	274	783	34.6%
1998	263	695	37.8%
1997	290	736	34.8%

1996	270	655	41.2%
1995	260	602	39.9%

THE GRAND JURY BUREAU

- **Organization**

All Assistant District Attorneys at the Government Center are assigned to felony prosecutions and present cases to the Grand Jury. They work under the supervision of the Chief Trial Assistant District Attorney who serves as the Grand Jury Supervisor.

The Grand Jury supervisor, in addition to the oversight of all Grand Jury operations, supervises a prosecution team called the General Crimes Unit.

- **Operation**

The Orange County Grand Jury operates 4 days per week. One term of the Grand Jury meets Mondays and Wednesdays and the other term meets Tuesdays and Thursdays. All felony cases handled by the various felony prosecution units are processed through the Grand Jury Bureau.

- **Caseload: 927 Case Filings**

In 2009, the total felony caseload decreased by 3.6% from 2008. The actual number of cases presented increased by .4% from 678 in 2008 to 681 in 2009.

GRAND JURY CASELOAD 1990 – 2009

YEAR	FELONY FILINGS	NO BILLS	SENT BACK LOCAL COURT	TOTAL CASES	COMPARED TO PRIOR YEAR
1990	609	17	3	629	-8.4%
1991	623	6	1	630	0%
1992	703	6	3	712	+13.0%
1993	622	17	6	645	-9.4%
1994	758	18	4	780	+20.9%
1995	602	17	0	619	-20.6%
1996	655	14	0	669	+8.1%
1997	736	18	3	757	+13.2%
1998	695	9	3	707	-5.6%
1999	783	14	5	802	+14.8%

2000	803	13	2	828	+2.5%
2001	818	14	5	837	+1%
2002	1024	10	8	1042	+24.9%
2003	970	8	7	985	-5.47%
2004	953	13	8	974	-1.1%
2005	948	13	11	972	0%
2006	890	11	7	908	-15.8%
2007	1,014	14	3	1,031	+15.8%
2008	961	13	5	979	-2.7%
2009	927	14	3	944	-3.6%

THE GENERAL CRIMES UNIT

- **Organization**

Six Assistant District Attorneys are assigned to this unit and work under the supervision of the Chief Trial Assistant District Attorney.

- **Operation**

The members of the unit prosecute the most diverse caseload of any of the felony prosecution units. Cases include all DWI and other felonies in the Vehicle and Traffic Law, Commercial Burglaries, Grand Larceny, Forgeries, Identity Theft and many other crimes.

- **Caseload**

The unit screened and/or prosecuted over 300 felony cases.

THE INVESTIGATIONS UNIT

- **Organization**

A Senior ADA and three Assistant District Attorneys are assigned to this unit. The unit is responsible for investigating and prosecuting a wide variety of criminal conduct and for making appropriate referrals to other agencies when criminal prosecution is inappropriate.

- **Operation**

The Investigations Unit prosecutes complex non-violent crimes and vehicular homicides. These complex crimes include white-collar crimes, public corruption, police misconduct, arson and crimes requiring the use of court-ordered eavesdropping warrants, commonly known as wiretaps. The prosecution responsibilities of this unit overlap those of other prosecution units within the office. The Unit continues to take referrals from government agencies involving the theft of public monies.

Members of the Unit work extensively with police agencies on pre-arrest investigations due to the complex nature of the cases assigned.

- **Caseload**

In 2009, the unit investigated or prosecuted 202 new cases. Investigations resulted in 40 Indictments and 25 SCI felony pleas. The remainder of the cases were referred to other units or agencies for prosecution, were deemed non-criminal in nature, or remain under investigation.

The Unit investigates and prosecutes cases of welfare fraud and, working with Orange County Department of Social Services, pursues civil compromises in welfare fraud cases involving smaller sums of money.

The New York State Department of Labor works with the District Attorney to investigate and prosecute cases of unemployment insurance fraud. These cases generally involve defendants who collect benefits while failing to report that they actually are gainfully employed. The unit's prosecution of these cases has resulted in the repayment of tens of thousands of dollars from the defendants.

- **Frauds Involving Theft of Public Money**

In 2009 the unit prosecuted 37 cases of Unemployment Fraud, two cases of Welfare Fraud, two cases of Workers Compensation Fraud and one case of New York State Tax Fraud.

- **Significant Unit Cases**

People v. Clifford Barber, et. al.: Wal-Mart Theft Ring/Police Officers Convicted

The defendants were engaged in a scheme to steal vast amounts of merchandise from Wal-Mart by distracting workers, then reselling the goods on internet markets such as EBay and to prearranged customers. The theft ring involved over a million dollars in merchandise. **Three of the defendants were local police officers.** The defendants also failed to claim their ill gotten income on their personal income tax returns. Except for one remaining defendant, the defendants pled guilty to Conspiracy in the Fourth Degree. Barber received a state prison sentence.

People v. Kathleen Murphy: Woodbury Aggravated Vehicular Homicide

The defendant was driving while intoxicated and speeding on Route 6 in the Town of Woodbury, crossed over the center road marking and slammed into an oncoming car, killing

that car's front seat passenger and seriously injuring that car's driver. She pled guilty to Aggravated Vehicular Homicide, Aggravated Vehicular Assault, and Driving While Intoxicated and was sentenced to 2 1/3 to 7 Years in State Prison.

People v. Angela Burnett: Crawford Vehicular Hit and Run

Driving her car along Route 52 in Pine Bush, the defendant swerved into the path of two teenagers as they walked along the side of the road. One teenager suffered serious head and internal injuries, and the other suffered bodily injury. The defendant fled the scene. She failed to report the crash or to turn herself in. She was arrested hours later. She pled guilty to Leaving Scene of an Incident Without Reporting, as a Felony, and awaits sentencing.

People v. Dorothy Horvath: Montgomery Employee Embezzlement

The defendant was employed as a bookkeeper for Chambers Tractor Sales in the Village of Montgomery. Over the course of 2½ Years, she stole over \$240,000 by depositing company funds into her personal account. She pled guilty to Grand Larceny in the Second Degree and was sentenced to 3 to 6 Years in State Prison, as a Second Felony Offender. She was also ordered to pay \$241,000 in restitution to her former employer.

People v. Patricia Hughes: Monroe Employee Embezzlement

The defendant was employed as a billing clerk for a doctor's office in Monroe. Over the course of about 6 months, she stole over \$200,000 by depositing checks payable to the office into her personal account. She pled guilty to Grand Larceny in the Second Degree and was sentenced to 3 to 6 Years in State Prison, as a Second Felony Offender. She was also ordered to pay \$201,000 in restitution to her former employer.

People v. Keum and Chong Lee: Walkkill Animal Abuse

The defendants allegedly neglected and seriously injured two horses that they owned. One horse was found outside its stable and displayed evidence of malnutrition, sores, and other injury. The defendants were indicted for Aggravated Cruelty to Animals.

People v. Michele Margarum: Port Jervis Children's Sports League Larceny

The defendant was the treasurer for the City of Port Jervis Pop Warner Football League. She stole approximately \$13,500 from the league by converting funds to her own use. She pled guilty to Grand Larceny in the Fourth Degree. She made full restitution and was sentenced to 5 Years Probation.

People v Dominick Forte: Cornwall Election Law Fraud

The defendant forged the names of numerous purported signees to nominating petitions in a county legislative primary election. He pled guilty to Forgery in the Second Degree and was sentenced to a Conditional Discharge.

People v. David Lee: Town of Newburgh Arson

While his parents slept, David Lee set fire to the kitchen of their apartment in an apparent attempt to kill them and himself. Alerted by an upstairs neighbor, all of the occupants of the building were able to escape. The defendant pled guilty to Arson in the Second Degree. He was sentenced to 5 Years in State Prison and was ordered to pay restitution.

THE SPECIAL VICTIMS UNIT – 2009

- **Organization**

The Special Victims Unit, established in August 2003, consists of a Senior ADA and two Assistant District Attorneys. Cases involve sexual abuse, domestic violence, elder abuse, child victims of violence, and victims with emotional or mental special needs. This unit provides a coordinated response to these designated cases to more effectively prosecute these cases and to lessen the trauma a victim suffers.

- **Operation**

In order to more effectively serve these victims, and to work towards the goals of offender accountability and victim safety, the Special Victims Unit works closely with numerous other agencies that are available to victims. This includes the Orange County Safe Homes Project, the Sexual Assault Nurse Examiners' Unit, Orange County Child Abuse Investigations Unit, The Mental Health Association, YWCA, Child Protective Services, and Adult Protective Services. The Unit provides information to crime victims regarding services, facilitates contact between government agencies available to provide services to crime victims and informs victims regarding their rights as crime victims.

The Special Victims Unit includes both a Domestic Violence prosecutor and a Child Sex Crimes Prosecutor. The Special Victims Unit now includes the Victim's Advocate from Safe Homes and the Domestic Violence Probation Officer, both formerly included in the Domestic Violence Unit. The victims advocate position is funded by Orange County.

The Special Victims Unit works closely with the Orange County Coalition Against Domestic Violence, which is a multi-disciplinary group consisting of numerous representatives from County agencies, dedicated to providing a coordinated community response to domestic violence. The Special Victims Unit Supervisor also participates in several subcommittees of the Coalition. Specifically, there is a sub-committee dedicated to data gathering, compiling information relating to domestic violence from Domestic Incident Reports, police reports, misdemeanor complaints and Indictments. Additionally, there is a police training subcommittee which sponsored three seminars in 2009, with police supervisors from many county police departments in attendance.

Also, in 2009, the Special Victims Unit received the Community Service Award from The Mental Health Association for our work in prosecuting Sexual Assault cases.

- **Caseload**

In 2009 the unit screened 435 felony complaints. The majority of the caseload involved allegations of criminal contempt resulting from the violation of Court Orders of Protection. The total number of felonies prosecuted was 75. Of these, 64 resulted from Indictments and in 11 cases the defendants waived indictment and pled guilty to felonies charged in Superior Court Informations.

- **Integrated Domestic Violence Court: 157 Cases**

In October of 2005 the Integrated Domestic Violence Court (IDV) opened in Orange County Supreme Court. IDV is a branch of New York Supreme Court dedicated to dealing with domestic violence issues in criminal cases, family court cases and matrimonial cases. If there is a criminal case and a family court case, or a criminal case and a matrimonial case, they are automatically transferred to IDV court. While each case retains its own separate identity, the cases are handled in the same court to promote judicial economy, victim convenience and information sharing. The Special Victims Unit participated in the planning stages of IDV during the entire year of 2005. In 2009 there were 157 cases transferred to IDV Court.

- **Significant Special Victim Unit Cases**

People v Michael Malone: Rape First Degree

The defendant was convicted after plea of guilty to Rape in the Second Degree, for the statutory Rape of a female acquaintance. He was sentenced to 10 years in State Prison.

People v. Santiago Alvarez: Burglary First Degree

The defendant was convicted after jury trial of Burglary in the First Degree and other crimes related to a domestic incident, where the defendant chased the mother of his child across the street to a neighbors house, broke into the neighbor's house and physically assaulted her. He was sentenced to 12 years in State Prison.

People v. Brandi Decker: Course of Sexual Conduct

The defendant, a female, was convicted after plea of guilty to Course of Sexual Conduct in the First Degree, for the repeated abuse of 9 year old child. She was sentenced to eight years in State Prison.

People v Ronald Pelligrini: Rape First Degree

The defendant was convicted after plea of guilty to Rape in the First Degree, for the sexual abuse of a child. He was sentenced to eight years in State Prison.

People v. John Weaver:

The defendant was convicted after plea of guilty to Disseminating Indecent Material to a Child. The defendant was a Westchester County High School Debate Team Coach who engaged in sexually explicit conversations with a female student. He was sentenced to six months in the Orange County Jail and 10 years of probation.

THE VIOLENT FELONY UNIT

- **Organization**

The Violent Felony Unit (VFU) consists of a Senior ADA and two Assistant District Attorneys. VFU prosecutes Violent Felony Offenses, as defined pursuant to Penal Law Section 70.02, excluding those felonies that are handled by the Special Victims' Unit. The VFU was partially funded by a DCJS grant of approximately \$98,000.

- **Operation**

The VFU works with police agencies on pre-arrest investigations of cases. This work includes assistance in writing search warrants, preparing orders to show cause to obtain the DNA of suspects and case assessment. VFU also coordinates the sharing of information between police agencies of different jurisdictions in an effort to identify and apprehend perpetrators who commit crimes in multiple jurisdictions. This has proven particularly useful with respect to investigating home burglaries, and tracking gang activity.

- **Caseload**

In 2009, the VFU screened 349 cases involving a total of 491 defendants. The Unit was responsible for 97 Indictments and 46 Waivers of Indictment. The remainder of the cases are either awaiting Grand Jury presentment or were turned over to other units for prosecution.

- **Significant VFU Cases**

People v. James Williams and John Williams: Newburgh Homicide

In January of 2009 these co-defendants were indicted for the January 1, 2008 shooting death of a man on the streets of Newburgh after a New Year's celebration. The defendants together were charged with Attempted Murder in the Second Degree and Menacing in the Second Degree for threatening the man with a gun earlier in the day. John Williams was charged with Murder in the Second Degree, and Criminal Possession of a Weapon in the Second and Third Degrees for shooting him a few hours after the first incident and killing him. After a jury trial ending on September 11, 2009, John Williams was convicted of Criminal Possession of a Weapon in the Second Degree and Third Degree, and both defendants were convicted of Menacing in the Second Degree. James Williams was sentenced to one year, and John Williams was sentenced to the maximum term of 15 years in prison plus post-release supervision.

People v. Jahad Fitzgerald: Middletown Robbery

On August 8, 2009 Middletown police were flagged down in the street by victims of a home-invasion robbery. After supplying police with a brief description of the masked man, the defendant was located a few blocks away, arrested, and charged with Robbery in the First Degree. The defendant was a stranger to the victims, kicked in their front door, then held them at gunpoint while he robbed them. After a jury trial, the defendant was convicted of all counts against him including Robbery in the First Degree. The District Attorney's Office recommended he be sentenced to the maximum sentence available of 25 years plus post-release supervision. Ultimately the court sentenced him to 16 years in prison plus post-release supervision.

People v. Ronald Brown: Newburgh Stabbing

This defendant was arrested on March 22, 2009 shortly after stabbing a man in the neck in the City of Newburgh. The dispute stemmed over the defendant's belief that the victim, who is his aunt's boyfriend, stole his personal belongings. On August 19, 2009 the defendant plead guilty to Assault in the First Degree, and on September 16, 2009 he was sentenced to 8 years in prison plus post-release supervision.

People v. Anthony Sorino: Port Jervis Robbery

On April 27, 2009, the defendant was arrested for Robbery in the First Degree for robbing a City of Port Jervis pharmacy. He first held a knife to the clerk's throat, then displayed what appeared to be a hand gun to the clerk and the pharmacist and demanded Oxycotin. After he ran from the scene, the employees had the presence of mind to watch the direction the defendant fled and assisted police in apprehending him within minutes of the robbery. He pled guilty to Robbery in the First Degree. At the time of sentence, the District Attorney's Office recommended a sentence of 15 years plus post-release supervision. He was sentenced to 11 years in state prison plus post-release supervision.

People v. Eddie Young: Middletown Bank Robbery

This defendant was arrested for robbing the same bank in the City of Middletown two times in three weeks; first on April 25, 2009, then again on May 16, 2009. Both times he handed the teller a threatening note demanding money. He temporarily made off with a total of \$13,400, but was apprehended within minutes of the second robbery. He pled guilty to two counts of Robbery in the Third Degree and was sentenced to 3 ½ years to 7 years on both cases to run consecutively, for a total of 7 years to 14 years in state prison.

People v. Adam Watson: New Windsor Burglary

On May 21, 2009 this defendant was arrested in the Town of New Windsor for Burglary in the Second Degree. A 14 year old girl who was home alone heard the defendant, a stranger to the family, enter her home. He entered her bedroom but he fled before taking anything. The terrified girl called police and provided enough information that he was apprehended a short time later. He pled guilty to Burglary in the Second Degree and was sentenced to 8 years in state prison plus post-release supervision.

THE NARCOTICS UNIT

- **Organization**

The Narcotics Unit consists of a Senior Assistant District Attorney and two Assistant District Attorneys. It is responsible for all felony level "A" and "B" drug possession offenses, as well as all cases involving the sale of controlled substances or marihuana. All other lesser felonies involving the Criminal Possession of Controlled Substances or Marihuana are prosecuted by members of the General Crimes Unit.

- **Operation**

The Narcotics Unit handles a variety of felony cases in which the police seize illegal controlled substances from individuals. These include street encounters, search warrants, and vehicle stops. Orange County's many major highways present a convenient means for drug dealers to travel throughout the state. The Narcotics Unit works to resist this criminal commerce by prosecuting those found in possession of drugs on our highways. Additionally, various police agencies employ undercover officers who pose as drug purchasers so that neighborhood drug dealers may be arrested and prosecuted. By firmly and fairly prosecuting those engaged in the selling and transporting of narcotics, the Unit seeks to ultimately enhance the quality of life of our county's citizens by ebbing the destructive influence of drug activity on our communities.

- **Caseload**

The Narcotics Unit reviewed 200 felony cases, involving 450 defendants, in 2009. Approximately 85% of the cases resulted in felony dispositions in County Court. The majority of the felony cases involved the sale of narcotics or other controlled substances. Most of the defendants charged with selling drugs were sentenced to state prison. The Narcotics Unit presented 77 cases to the Grand Jury in 2009. Approximately 50 cases were handled by way of Superior Court Information.

Two hundred sixty-eight (268) defendants were prosecuted on felony charges involving the possession or sale of controlled substances. An additional ten (10) defendants were prosecuted on felony marihuana charges.

- **Felony Drug Treatment Court: 34 Defendants/7 Graduates**

Narcotics Unit ADAs prosecute people involved with the vicious cycle of drug crime. We are also cognizant that drug treatment may work as an alternative to incarceration for certain nonviolent drug addicted offenders. The Drug Treatment Court provides enhanced oversight of eligible defendants who enroll to ensure that they achieve certain educational, occupational, and substance free goals. Failure from the program results in a felony conviction as well as incarceration in local jail or state prison.

An ADA from the Unit was present for all of the Drug Court Team meetings and calendar conferences. The County Drug Court Team, consisting of members of the various City Court and Hub Drug Courts, met on a quarterly basis throughout the year to share and consider drug court operational issues. The procedure for entry into the program has been streamlined and the eligibility criteria have been further sharpened.

In 2009, there were 34 defendants in Felony Drug Court. The charges against the participants include the following: Possession of Controlled Substances (16); Forged Documents (7); Possession of Stolen Property (2); Grand Larceny (7) and Burglary (2). In 2009, 7 defendants graduated from the program.

Three defendants failed the program and were sentenced to incarceration.

- **Significant Narcotics Prosecutions**

An investigation in the Town of Newburgh involved an ongoing narcotics operation in a bar on Route 32 where drugs were being sold. The investigation was fueled by community complaints in the Town of Newburgh. Four defendants were arrested, prosecuted and convicted. As a result of the arrests, the bar was shut down for a period of time by the State Liquor Authority.

Another ongoing investigation involved a bar in the City of Newburgh where narcotics were being sold by various targets, a few of whom were involved in the ownership of the bar. This investigation also spread into the Town of Newburgh. Search warrants were executed in the

Town of Newburgh at two (2) different locations and the targets were arrested, convicted and sentenced to state prison. The bar was shut down.

Due to numerous community complaints which stemmed from a fatal heroin overdose, the City of Port Jervis Police Department launched a long term narcotics investigation concentrating on heroin sales. The investigation led to the arrest and conviction of seven people.

In 2009, the City of Middletown Police received a number of complaints regarding unusual foot traffic in and out of certain buildings. The Department conducted a number of undercover narcotics investigations into various people selling drugs out of those locations. The City of Middletown Police executed search warrants, recovered drugs, and arrested the targets of the investigation. The targets were ultimately convicted of possession of drugs.

THE APPEALS BUREAU

- **Organization**

In 2009, a Senior Assistant District Attorney and three Assistant District Attorneys were assigned to the Appeals Bureau. The Senior Assistant is also assigned to the Orange County Animal Cruelty Task Force. A second Appeals Assistant also provides assistance to the Task Force in the Senior Assistant's absence.

- **Operation**

The Appeals assistants regularly appear in the New York State Supreme Court, Appellate Division, and Appellate Term for the Ninth and Tenth Judicial Districts, the Orange County Court, and the New York State Court of Appeals. The District Attorney's Office also responds to all federal habeas corpus petitions in the United States District court and appeals in the United States Court of Appeals for the Second Circuit and the United States Supreme Court arising from criminal convictions prosecuted by the Orange County District Attorney's Office.

In addition to the appellate and other legal work, the assistants assigned to the Appeals Bureau provide legal guidance to the various police departments in Orange County, assist in the drafting of search warrants, and provide legal assistance to all of the prosecution units in the Orange County District Attorney's Office. The members of the Bureau provided training in such areas as search warrants, search and seizure, local criminal court accusatory instruments, cross-examination, sealed files, the prosecution of animal cruelty cases, and appellate error.

- **Caseload: 6% Increase**

In 2009, the Bureau prosecuted a total of 615 matters, including 90 state appeals, 14 Federal habeas corpus responses, including a brief in opposition to a petition for a Writ of Certiorari before the United States Supreme Court. The unit submitted 398 motion responses in the state appellate courts, the County and Supreme Courts, and in the Local Criminal Courts. The members of the Bureau also prepared 15 search warrant applications.

In 2009, appeals to the Appellate Division, Second Department resulted in 68 reported decisions, including 60 appellate victories and eight losses. The appellate victories also included one successful People's appeal. The number of appellate decisions is about the same as in 2008, where there were 74 reported decisions.

By way of comparison, the Westchester County District Attorney's Office had 93 reported decisions with approximately four times the number of appellate assistants. Over the same time, the Rockland County District Attorney's Office had fewer than 25 reported Appellate Division decisions.

In 2009, there were 12 decisions by the Appellate Term, including 9 appellate victories and 3 losses. The New York State Court of Appeals affirmed the defendant's conviction in the sole Orange County appeal that was before the Court of Appeals in 2009.

The United States District Court for the Southern District of New York issued 4 decisions in federal habeas corpus matters handled by the Orange County District Attorney's Office, all denying federal habeas corpus challenges to Orange County convictions, and the United States Court of Appeals for the Second Circuit issued one decision affirming the denial of a federal habeas corpus petition. The United States Supreme Court also denied a petition for a writ of certiorari filed by Robert Gibbons following the Second Circuit's affirmance of the denial of Gibbon's habeas corpus challenge to his rape conviction.

- **Significant Appellate Cases:**

People v Robert Gibbons: Washingtonville Rape

The United States Court of Appeals for the Second Circuit affirmed the United States District Court's dismissal of the defendant's federal habeas corpus challenge to his conviction of Rape in the Third Degree. Defendant was convicted and was sentenced, as a second felony offender to concurrent terms of imprisonment of two to four years. In 2009, the United States Supreme Court denied Gibbons' petition for a writ of certiorari (Gibbons v Savage, 555 F3d 112 [2d Cir. 2009], cert denied, ___ US ___, 130 SCt 61 [2009]).

People v Jesus Cano: Middletown Attempted Use of a Child in a Sexual Performance

The New York State Court of Appeals affirmed the Appellate Division's order which upheld the defendant's conviction for Attempted Use of a Child in a Sexual Performance, Attempted Promoting a Sexual Performance by a Child, Attempted Criminal Sexual Act in the Third Degree, and two counts of Endangering the Welfare of a Child. Defendant gave two teenage boys a packet that contained a naked picture of himself and a note that solicited the boys to contact him to have sex. A detective, posing as one of the underage teenage boys, then contacted defendant and arranged to meet defendant in Middletown. The defendant was arrested after he arrived at the location of what he thought would be a sexual rendezvous with the underage boy and was found to be in possession of condoms, vaseline, and a camera that he intended to use to take pictures of the naked boy. (People v Cano, 12 NY3d 876 [2009]).

People v Daniel Mooney: Chester Assault in the First Degree

The Appellate Division affirmed the defendant's convictions for Assault in the First Degree, Assault in the Second Degree, Reckless Endangerment in the First Degree, Vehicular Assault in the Second Degree (two counts), Aggravated Unlicensed Operation of a Motor Vehicle, Criminal Mischief in the Fourth Degree, and Operating a Motor Vehicle While Under the Influence of Alcohol (two counts). While intoxicated and without a valid driver's license, defendant, who was on parole, engaged police officers from the Town of Chester and the Village of Chester in a high speed chase at speeds of 70 to 75 miles per hour. The defendant drove through a residential area, crossed over a median, made an illegal u-turn into oncoming traffic, and nearly collided with three other cars. He ran through stop signs and turned off his headlights before he sped around a curve and collided head-on with a police car, causing severe injuries to the responding police officer. The court sentenced defendant to a determinate term of imprisonment of twenty-five years and to a five-year period of post-release supervision upon the First Degree Assault conviction and to lesser concurrent sentences on the remaining convictions. (People v Mooney, 62 AD3d 725 [2009]).

People v Frederick Travis: City of Newburgh Driving While Intoxicated

Defendant was arrested in the City of Newburgh and charged with Driving While Intoxicated as a Felony after the police received a report of an erratic driver. This conviction constituted the defendant's eighth conviction for Driving While Intoxicated, including five prior felony convictions and two misdemeanors. The court sentenced defendant as a persistent felony offender to an indeterminate term of imprisonment of fifteen years to life. The Appellate Division affirmed defendant's judgment, including his sentence. (People v Travis, 67 AD3d 1034 [2009]).

People v Maria Zurita: New Windsor Endangering the Welfare of a Child

The Appellate Division affirmed defendant's conviction for Endangering the Welfare of a Child. Over a holiday weekend, defendant, who was a teacher's assistant, and co-defendant, Rebecca Becker, a teacher at the McQuade School, had two underage boys who attended the McQuade School over at the defendant's home. Becker admitted to having intercourse with one of the boys and pleaded guilty to rape in the third degree and testified against defendant at her trial. Defendant was sentenced to a one-year term of imprisonment. (People v Zurita, 64 AD3d 800 [2009]).

THE ANIMAL CRUELTY TASK FORCE

- **Organization**

The Orange County animal Cruelty Task Force is comprised of Assistant District Attorneys from the Appeals Bureau of the District Attorney's Office and members from the Orange County Sheriff's Department. The Task Force provides local police with assistance in drafting search warrants, answering legal questions, drafting local criminal court accusatory instruments, and crime scene investigation of animal cruelty cases. The members of the Task Force also provide training in the investigation and prosecution of animal cruelty cases to members of local police departments and assistant district attorneys.

- **Operation**

Prosecutors work with citizens, police agencies, animal control officers and members of local organizations, such as local branches of the Humane Society, to investigate animal cruelty complaints and to save abused domestic animals and place them in shelters. After the investigation is complete and the offender is arrested, misdemeanor cases are prosecuted by the Local Criminal Court Bureau. The Investigations Unit handles felony animal abuse prosecutions.

- **Caseload**

In 2009, the Task Force investigated 14 new matters, which resulted in criminal charges being filed. Four matters were referred to the Investigations Unit for felony prosecution.

- **Significant Cases**

People v Keum Lee and Chong Lee: Town of Walkill

Defendants were indicted on two counts of Aggravated Cruelty. It is alleged that after two horses were removed from the defendants' property in the Town of Walkill, one horse was found to be approximately 500 pounds underweight and in a severely emaciated condition. The second horse was found to be approximately 200 pounds underweight. Both defendants cases were pending in 2010.

People v Justin Lynn: Village of Walden

Defendant was indicted by the Grand Jury with one count of Aggravated Cruelty alleging that he blinded his former girlfriend's cat. The charge against defendant is pending.

People v Erick Rivera: Village of Goshen

Defendant burglarized the facility at the historic race track in Goshen and sexually abused a horse that was maintained at the track's stable. Defendant pleaded guilty in the County Court to the felony charge of Burglary in the Third Degree.

People v Roseanne Lowy: Town of Chester

Defendant was charged with animal cruelty after defendant left a dog tied up to a leash beneath the rear deck of her residence while defendant was out-of-state. The dog was found to be dehydrated and with open sores and wounds, swollen feet, and a severe case of démodé tic mange. Defendant was found guilty after a jury trial and was sentenced to a fine and \$1426.00 in restitution. The local criminal court also issued a no pet order barring defendant from owning or having domestic animals as pets.

People v Asher Trinkler: Town of Warwick

Defendant is charged with three counts of animal cruelty and with illegally taking wildlife in violation of the State's Environmental Conservation Law. It is alleged that the defendant intentionally drove a vehicle through a flock of geese and killed three geese.

DISTRICT ATTORNEY'S INVESTIGATORS - GOSHEN

- **Organization**

Orange County District Attorney's Criminal Investigators are sworn police officers, all of whom have extensive prior law enforcement experience. D.A.'s investigators conduct criminal investigations, assist other law enforcement agencies with investigations, evaluate prosecution cases, provide trial assistance for assistant district attorneys and maintain security and continuity of evidence.

The Orange County District Attorney's Office employs two chief investigators and eight investigators. A Chief Investigator in Goshen supervises the six investigators assigned to the Goshen and Middletown Offices and the Newburgh Office is staffed by a Chief Investigator and two investigators

- **Operation**

District Attorney's Investigators assist police in all major criminal investigations. Crime scene search warrants, subpoenas duces tecum and court orders are often required before the first forensic investigator can set foot in the crime scene or the first detective can begin developing leads.

District Attorney's Investigators are responsible for the support of litigation by locating, transporting and providing security to witnesses. They also maintain evidence secured for trial.

In addition, investigators respond to numerous inquiries from citizens and police agencies. Complaints may result in referrals to outside agencies or the initiation of an investigation directly by the District Attorney's Office.

During the year, a number of open cases of various types, including a fifteen year old open homicide, were solved by the association of DNA recovered during the initial crime scene examination with DNA obtained from offenders following their conviction for other crimes.

Assistant District Attorneys and D. A.'s Investigators continued to review "Cold Case" homicides with law enforcement agencies and forensic laboratory personnel to develop new leads.

- **Caseload**

In 2009, D.A.'s investigators adopted 458 investigative cases.

D. A.'s Investigators were asked to assist in the investigation of twenty-six deaths in 2009. One case, involving the use of deadly physical force by a police officer, was determined by a grand jury to be justified. Nine deaths were determined to be homicides. Six of these cases resulted in arrests and one was closed when the perpetrator committed suicide. Additionally, five cases resulted in prosecutions for deaths caused by automobile accidents. Investigations revealed that the remainder of the deaths were the result of natural or accidental causes.

Investigators also assisted state and local law enforcement agencies with the investigation of 68 identity theft crimes. Some of these crimes began with the theft of personal documents or the use of illegally obtained credit card and bank information. However a substantial number of these crimes, as well as lottery scams and bogus internet sales, were determined to have been perpetrated by criminal enterprises operating from foreign countries.

- **Extraditions and Renditions**

District Attorney's Investigators also facilitate the rendition and extradition of fugitives from justice. In 2009, 124 fugitives were extradited to other states and 10 fugitives were returned from other states for prosecution or for violations of probation. Beginning in late 2009, the responsibility of returning fugitives to Orange County who are wanted for violating probation has been assumed by the Orange County Probation Department. DA Investigators have been working with probation department personnel to facilitate these violators.

- **Computer Crime Unit**

The Computer Crime Unit conducted over 50 forensic examinations of Digital media recovering an assortment of evidence to include hundreds of video and still images of child pornography. The unit has assisted local law enforcement with the recovery of hours of surveillance video for crimes such as grand larceny, criminal mischief and missing persons.

Year	Total # of Forensic Cases	Data Processed
2009	11	7.4 TB

How Much Data is That?

Data Unit	# of Bytes	Example
Byte	1	A single character
Kilobyte (KB)	1,000	A short letter
Megabyte (MB)	1,000,000	A typical book volume in text format (500 pages x 2000 characters)
Gigabyte (GB)	1,000,000,000	The amount of paper needed to fill the bed of a pickup truck, or about 1,000 books
Terabyte (TB)	1,000,000,000,000	Over 1,000,000 books

The unit has expanded the ability to perform cell phone data acquisitions with the acquiring of the Cellbrite suite of tools. Personnel assigned to the unit continually train on the newest technologies and techniques in computer and digital media forensics. Investigator Reinle has recertified as a forensic computer examiner. Has also received further certification as a forensic computer examiner from the International Society of Forensic Computer Examiners.

- **Significant Cases:**

Walmart Investigation: Corrupt Cops Convicted

During 2009, D. A.'s Investigators wrapped up an investigation initiated in 2008 into the theft of approximately \$1,000,000 in merchandise from area businesses. A total of seven defendants, including three police officers, were arrested, five of whom entered guilty pleas during 2009. While several of the defendants have not yet been sentenced, it is anticipated that asset forfeitures by the defendants will exceed \$300,000 plus state tax penalties, in addition to other sanctions imposed by the courts. This investigation was carried out by the District Attorney's Investigators as the lead agency with support from Troop F and several local police departments.

People v John Weaver: Child Pornography

John Weaver was arrested by the Town of New Windsor Police Department for possession of child pornography. Investigators from the Orange County District Attorney's Computer Crime Unit assisted with the search warrant of Weavers apartment where they seized digital media. Upon the examination of the seized items child pornography was located and turned over to the ADA prosecuting the case. Weaver received 6 months in jail.

People v Timothy Wilson: Incriminating Text Messages

Timothy Wilson was arrested for rape of his girlfriend's 13 year old daughter. The 13 year old daughter denied a relationship with Wilson. A search warrant was obtained for Wilson cell phone. An examination resulted in producing several text message between the 13 year old and Wilson which talked about there relationship.

People v Robert Hulse: Child Pornography

Robert Hulse of New Windsor was arrested by the Town of New Windsor Police for possession of Child Pornography after sanitation worker found 13 printed images of child pornography in his recycle bin in front of his residence. The Orange County District Attorney's Computer Crime Unit responded to New Windsor and assisted with a search warrant to secure digital media from the residence. An examination of the seized media found over two hundred child porn images and fifteen videos depicting sexual acts by children. Robert Hulse plead to an SCI and was sentenced to six month in OCJ and 10 years probation, he is also required to register as a sex offender.

DISTRICT ATTORNEY'S INVESTIGATORS - NEWBURGH

- **Organization**

A Chief Investigator and two Investigators are assigned to the Newburgh Office. These Investigators continued to support Assistant District Attorney's with case enhancement for the jurisdictions in Eastern Orange Count including the City and Town of Newburgh and the Town of New Windsor. This support involves the serving of subpoenas, locating witnesses, taking photographs and securing evidence.

- **Operation**

The Newburgh Investigators assisted in investigations which included seven homicides and three suspicious death cases. Investigators assisted in the apprehension of suspects in various major cases. In addition, District Attorney Investigators provided immediate response subpoenas to facilitate investigative leads that helped the city detectives to quickly build a case and apprehend a suspect.

One District Attorney Investigator was assigned to the Operation Impact Project. The focus of the project for 2009 was to remove illegal guns and dangerous offenders from the impact area and end the prevalence of "open air drug markets" in the City of Newburgh. The assigned investigator worked closely with the impact agencies coordinating plans and strategies to help alleviate the high crime areas of eastern Orange County. Assistance was provided to agencies about area gangs.

One District Attorney Investigator is fluent in Spanish. This valuable assist enables the Newburgh unit to serve subpoenas and conduct interviews without having to locate a person who can translate. A significant number of the citizens in the City of Newburgh speak Spanish and there are numerous Latino gangs in the Newburgh area. The ability of the Newburgh investigators to have a person who can speak Spanish help keeps us safe when we encounter a hostile atmosphere when serving subpoenas or conducting interviews when there is a language barrier.

- **Caseload**

In 2009 the two Investigators and one Chief Investigator served 479 Grand Jury and County Court subpoenas in the Eastern Orange County area. Over 100 transports were provided to witnesses whom either had no transportation or sometimes were reluctant to testify in a criminal proceeding. Investigators in Newburgh adopted 121 Grand Jury cases requested by Police agencies. From those requests over 300 subpoenas were generated.

Investigators also assisted local agencies with the investigation of 16 robberies, 18 identity theft cases and eleven criminal possession of controlled substance cases. Our focus in these cases is providing subpoenas for phone records, background information from our databases and general case support.

- **Significant Cases**

Newburgh investigators were called upon by prosecutors to assist in the investigation of an election fraud allegation in the Town of Cornwall. The complaint was regarding the alleged forgery of signatures on nominating petitions in a race for a seat representing the county Legislature's 12th District. The subsequent investigation led to the arrest and conviction of the Chairman of the Town of Cornwall's Conservative Party.

2009 DISTRICT ATTORNEY'S SUPERVISORY STAFF

Chief ADA Richard R. Ruggeri:	Local Court Bureau
Executive ADA David R. Huey:	County Court Bureau
Chief Trial ADA John M. Geidel:	Grand Jury Bureau
Senior ADA Andrew R. Kass:	Appeals Bureau
Senior ADA Maryellen B. Albanese:	Local Court Unit Team 2
Senior ADA Neal Haberman:	Local Court Unit Team 1
Senior ADA Lynda J. Mitchell:	Local Court Unit Team 3
Senior ADA David J. Byrne:	Investigations Unit
Senior ADA Lorri B. Goldberg:	Narcotics Unit
Senior ADA Kelle K. Grimmer:	Violent Crimes Unit
Senior ADA Michael E. Milza:	Special Victims Unit
Chief Criminal Investigator Daniel M. Scribner:	Goshen
Chief Criminal Investigator James M. Rielly:	Newburgh