

2010 ANNUAL REPORT OF THE DISTRICT ATTORNEY

Orange County District Attorney Francis D. Phillips II completed his 25th year in office in 2010. The year included an increase in overall arrests, as well as an increase in work for all prosecution units. In addition to prosecuting individuals charged with crimes, the office works diligently to both divert and rehabilitate first-time offenders by providing programs in lieu of prosecution.

The significant achievements and important successes detailed in this report are the result of a team effort. The prosecutors, investigators and support staff of the Orange County District Attorney's Office are responsible for these results. Working with the hundreds of state, city, town and village police officers in our county, we share the common mission to serve and protect our citizens, while meeting the highest standards of professional competency and integrity.

2010 SIGNIFICANT MILESTONES

- A 5% increase in a total caseload to more than 21,000 cases
- Felony conviction rate of over 95%.
- Prosecuted more than 1,600 DWI cases.
- Prosecuted 889 felony cases in Orange County Court.
- Prosecuted 35 "Leandra's Law" felony DWI cases in County Court.
- A 5% increase in Local Court trials (67).
- A 100% increase in County Court felony trials (36)
- An 8% increase in Appeals caseload (654).
- A 21% increase in participants in misdemeanor Drug Courts.
- A 9% increase in participants in the Newburgh Domestic Violence Court.
- A 10% increase in participants in the Women's Enrichment Program.
- A 41% increase in participants in the Shoplifting Prevention Program.
- A 70% increase in the number of attendees at the Teen Victim Impact Panel Program.
- A 41% increase in prosecutions for Unemployment Insurance Fraud.
- Implemented a Felony Diversion program in County Court.
- Closed the Port Jervis Drug Court.

- Obtained felony convictions of two attorneys for theft of clients funds.
- Participated with the U.S. Attorney, the FBI, the New York State and several local police to take down members of the Bloods and Latin King street gangs which operate in the City of Newburgh.

INCREASING OPERATIONAL EFFICIENCY

All branches of government must continue to provide the highest level of services in a challenging fiscal environment. In 2010, we gained additional office space in the County Government Center. The space had been vacated by Emergency Management.

We utilized the space to relocate the Appeals Bureau, consisting of four ADAs and one secretary, from Middletown Community Campus to Goshen. Members of the bureau appear in both County and New York State Supreme Court, in Goshen. They also provide technical support to felony trial Assistant District Attorneys. We have saved both time and travel expenses by this move and also increased efficiency in the operation of the office.

In addition, a hiring freeze has reduced the number of secretaries. This shortfall forced us to downsize our Newburgh Office and to relocate two ADAs. They moved to Middletown and occupy space that was vacated by the Appeals Bureau.

DISTRICT ATTORNEY INITIATIVES 1993 - 2010

- 2010: Felony Diversion program in County Court.
- 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.
- 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 a 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: Urban Task Force Initiative. Expanded the level of prosecution services to the City Courts of Middletown and Newburgh.
- 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.

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 21,000 cases before 74 Local Criminal Court Judges in 2010. 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 2010, 884 felony cases were disposed in our three County Court Parts. The felony conviction rate exceeded 95%.

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 two misdemeanor Drug Courts in the cities of Newburgh and Middletown.

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 office prosecutes appeals brought in 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, the Federal District Court for the Southern District of New York and the United States Court of Appeals for the Second Circuit.

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 2010, 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. Assistant District Attorneys also attend night court sessions throughout the county, which extends our weekday operating hours until about 11:00 p.m.

Goshen Office: At full staff, the District Attorney, 25 Assistant District Attorneys, seven investigators and 12 members of the support staff are located in the County Government Center.

Middletown Office: Fourteen ADAs, including the Chief Assistant District Attorney, two Local Court prosecution teams, and four support personnel are located at offices on the Middletown Community Campus.

Newburgh Office: A Senior Assistant District Attorney, two Assistant District Attorneys, three investigators, and one member of the support staff are located at the Newburgh Office in the Armory Building on Broadway. In 2010, due to the retirement of three secretaries, and the resulting hiring freeze, we were forced to relocate two Assistant District Attorneys, who prosecute cases in the Town of Newburgh Courts, from the Newburgh Office to Middletown. One secretary was moved from Newburgh to Goshen.

District Attorney Staffing: 73 Positions

In addition to the budgeted number of 42 Assistant District Attorneys, the office received a grant to fund a 43rd Assistant District Attorney position in 2010. This position was created to prosecute cases in Felony Judicial Diversion Court. At full strength, the staff includes the District Attorney, 43 Assistant District Attorneys, 10 staff investigators and 19 support staff.

Staff Turnover:

In 2010, six experienced Assistant District Attorneys left the staff. These positions, and the new 43rd position, were filled by recent law school graduates.

BUDGET AND REVENUE

The 2010 budget was **\$8,246,582**. The total amount of County taxation required to fund the office was **\$7,841,573**. The balance of the budget, totaling approximately **\$405,000** came from other revenue including aid received from the New York State and Federal Governments. The 2009 Budget was \$8,065,671.

VICTIMS' SERVICES

Assistant District Attorneys provide the primary support services to crime victims, witnesses, and criminal complainants throughout the county. All of the more than 20,000 cases we prosecuted required direct and multiple contacts with police officers, civilian complainants and civilian witnesses.

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 2010, 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: 5% Increase**

In 2010, the Bureau prosecuted approximately 21,000 cases, representing more than ninety percent (90%) 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: 1,600 + Prosecutions**

Prosecuting drunk drivers continues to be a high priority for the Orange County District Attorney's 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 2010.

- **Early Felony Case Assessment: 1,385 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 2,400 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 almost 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. In 2010, 1,385 cases were screened.

2009 - 2010 FSU CASELOAD BY LOCAL COURT

| LOCAL COURT | 2009 | 2010 |
|-----------------------|--------------|--------------|
| Blooming Grove | 29 | 33 |
| Village of Chester | 22 | 22 |
| Town of Chester | 26 | 12 |
| Cornwall | 22 | 23 |
| Crawford | 23 | 17 |
| Deerpark | 14 | 14 |
| Florida | 6 | 8 |
| Town of Goshen | 32 | 34 |
| Village of Goshen | 26 | 24 |
| Greenwood Lake | 4 | 8 |
| Greenville | 4 | 3 |
| Hamptonburgh | 5 | 13 |
| Harriman | 6 | 8 |
| Highlands | 17 | 17 |
| Maybrook | 8 | 4 |
| Middletown | 189 | 243 |
| Minisink | 8 | 4 |
| Town of Monroe | 30 | 51 |
| Village of Monroe | 30 | 26 |
| Village of Montgomery | 6 | 2 |
| Town of Montgomery | 35 | 30 |
| Mount Hope/Otisville | 6 | 11 |
| City of Newburgh | 236 | 228 |
| Town of Newburgh | 174 | 139 |
| New Windsor | 78 | 69 |
| Port Jervis | 61 | 41 |
| Tuxedo | 3 | 7 |
| Tuxedo Park | 0 | 0 |
| Walden | 28 | 23 |
| Wallkill | 162 | 140 |
| Town of Warwick | 21 | 21 |
| Village of Warwick | 9 | 14 |
| Unionville | 1 | 0 |
| Washingtonville | 112 | 13 |
| Wawayanda | 27 | 31 |
| Woodbury | 51 | 52 |
| TOTAL | 1,410 | 1,385 |

- **Local Court Litigation: 67 Trials Conducted/5% Increase**

Trial work in the Local Court Bureau continued at a high level with a total of 67 trials. There were 17 jury trials and 50 non-jury trials. This is a 5% increase from 64 total trials in 2009. 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 in 2010**

People v. Karen Craig: The defendant and her young daughter struck a van from behind while this second vehicle was stopped at a red light. The occupants of the van formed the singing group "Voices of Glory" from Highland who were finalists on the TV show "America's Got Talent". They suffered minor injuries from the incident. The defendant refused to submit to a chemical test. She was convicted by a Town of Newburgh jury of Endangering the Welfare of a Child and Driving While Ability Impaired. She was sentenced to a period of three years probation.

People v. Louis Gennaro: The defendant was involved in a traffic stop in the town of Montgomery which resulted in charges of Obstructing Governmental Administration and Resisting Arrest. The police were compelled to use physical force on the defendant in order for him to comply. The jury convicted the defendant on both charges.

People v. Mario Colandrea: A domestic incident involving the defendant and members of his family occurred at the defendant's residence located in New Windsor. The defendant was convicted after a bench trial of Resisting Arrest and Harassment in the Second Degree.

People v. Darren Frank: The defendant was charged with numerous acts of sexual touching and providing alcohol to underage girls during a ten months period of time. The defendant was found guilty of 16 misdemeanors after a bench trial in the Village of Walden. He was sentenced to 60 days incarceration, six years probation, and assessed as a Level II Sex Offender.

People v. Jeremy Monroe: The defendant was found guilty after a jury trial in Middletown Court to Assault in the Third Degree for breaking his friend's jaw after an argument. The sentence imposed was one year in the county jail.

People v. Roger Crane: After a bench trial in the Town of New Windsor Court, the defendant was found guilty of Driving in an Intoxicated Condition. The case was originally dismissed after a pre-trial hearing before a different judge. The People successfully reinstated the charges after an appeal to the Appellate Term.

People v. William Wilson: A motor vehicle crash resulted in the defendant being charged and later convicted after a bench trial in the Town of New Windsor for DWI.

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: 100 Participants/21% Increase**

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. In 2010 there were a total of 100 participants which is an increase over the 2009 total of 82 or 21%.

At the start of 2010, there were 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, 2010, 52 individuals were enrolled in the City of Newburgh Drug Court, 17 in the Drug Court in Middletown. Multiple individuals successfully completed and graduated from the City Drug Courts in 2010.

- **Closure of Port Jervis Drug Court**

In 2010, the City of Port Jervis Drug Court ceased operation and its caseload of 10 people was transferred to the City of Middletown Drug Court. There is great difficulty involved in the placement of defendants charged with minor offenses into drug treatment. Many would rather do a little time in jail than be faced with the rigors of structured drug treatment programs. Neither the District Attorney nor the courts can mandate drug treatment. To save money and consolidate operations, Middletown City Court absorbed the Port Jervis caseload.

- **City of Newburgh Domestic Violence Court: 358 Cases/9% Increase**

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.

In 2010, the Court processed 358 cases, an increase of 9% over the 328 cases in 2009. At the end of 2010 there were 76 open cases. 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: 13 Participants**

An 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.

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.

The Court, along with the District Attorney's Office, monitors the progress of each individual. As of December 31, 2010 there were 13 participants.

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 2010, 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 150 defendants have gone before group conferences. The positive feedback from victims validated the use of this important restorative practice.

- **Community Accountability Boards: 9 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.

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 nine referrals made to the Boards in 2009.

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

The City of Newburgh is plagued with a prostitution problem. 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, 14 sessions of the John School have been held. Approximately 130 defendants have successfully completed the John School. Successful completion of the program may result in a reduction or dismissal of charges. There were ten "graduates" in 2010, an increase of 25% over 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: 22 Graduates/10% Increase**

Another successful restorative justice program created by the District Attorney's Newburgh 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 2010 there was a 10% increase to a total of 22 participants.

- **Shoplifting Prevention Program: 573 Participants/41% Increase**

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. In 2010, 573 defendants participated which is an increase of 41%

Since its inception in 2005, over 1,500 participants successfully completed the program and have been diverted from prosecution.

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.**

The District Attorney, 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: 172+ Attendees/70% Increase**

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. In 2009, attendance was about one hundred (100) teenagers. In 2010, we had 172 attendees. This was an increase of about 70%.

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 County Court Bureau Unit screens 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: 901 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: 884 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 2010, the Orange County annual felony conviction rate was more than 95%.

THE COUNTY COURT BUREAU

- **Organization**

In 2010, 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 General Crimes Unit.

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

- **Operation**

Litigation in County Court includes trials and pre-trial evidentiary hearings and violation of probation hearings. ADAs also respond to hundreds of legal papers, called "motions", which require the District Attorney to respond in writing.

- **Caseload: 884 Dispositions/95% Conviction Rate**

As of December 31, 2010, 884 felony cases were disposed of. These dispositions also included indictments filed in 2009, or earlier, but disposed of in 2010.

In 2010, a total of 795 defendants pled guilty, 30 were found guilty after trial, and 40 cases resulted in acquittal or were dismissed. Seventeen (17) 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 36 felony trials in 2010 were double the number of trials completed in 2009. For statistical purposes, trials are counted by the number of defendants. Of the 34 trials that resulted in verdicts, 30 defendants were convicted and four were acquitted. One case resulted in a mistrial, and one case was dismissed by the court at the end of the People's proof. The post-trial conviction rate for defendants in cases that resulted in verdicts was 88.24%.

The overall 2010 felony conviction rate was 95%. As of January 2011, there were 235 felony cases pending in County Court.

- **Significant Felony Convictions**

People v. James Babcock: Murder in the Second Degree

On April 27, 1990, the body of Elaine Ackerman was discovered in her Town of Deerpark home. The medical examiner determined that Ms. Ackerman had been strangled and had her throat cut. During the course of the initial investigation, an individual confessed to the killing, but his case was dismissed after DNA evidence cleared him. The case remained unsolved for nearly twenty years.

In 2009, James Babcock was convicted of DWI in Orange County and his DNA profile was entered into the New York DNA database. Babcock's DNA appeared to match unknown DNA originally seized at the crime scene, and further investigation resulted in both a DNA match and admissions by Babcock. After being indicted for Murder in the Second Degree, Babcock entered a guilty plea to Manslaughter in the First Degree and received a state prison sentence of 8 1/3 – 25 years in state prison.

People v. Jose Bonilla and Jose Guadalupe: Murder in the Second Degree

On August 30, 2008, two men approached Robert "Bobby" Unterman, Antonio "Tone" Ramos, and Gerald Bien-Ame as they were walking on Prince Street in the City of Middletown. The two men displayed pistols and demanded that Bobby, Tone, and Gerald give them their money. Tone, mistakenly believing that the guns were fake, confronted the two men and refused to comply. One of the robbers, later identified as Jose Guadalupe, shot Tone twice, once in the chest and once in the abdomen. Tone, Bobby, and Gerald fled in separate directions from the robbers as they each let off a barrage of gun fire. During his flight, Bobby was struck two times with the robbers' bullets, one piercing his heart and causing his death.

The murder of Bobby Unterman remained a cold case until detectives from the City of Middletown Police Department and investigators from the New York State Police uncovered a burglary ring orchestrated by Jose Guadalupe. The investigation into the burglary ring yielded the arrests of Jose Guadalupe, Jose Bonilla, and their criminal associates Jeffrey McIlroy, Melissa Kotkin, Jose Colon, Jose Davlia and Desiree Nieves.

New evidence in the murder of Bobby Unterman was developed as a result of the burglary arrests and enhancement by the Orange County District Attorney's Office, which lead to the indictment of Jose Guadalupe and Jose Bonilla for Bobby's murder. The defendants both pled guilty to Manslaughter in the First Degree. Both of the defendants were sentenced to 25 years in state prison.

People v. Brian Reinhardt: Murder in the Second Degree

On January 8, 2010, the body of Ardis Alaqarbeh was found at her residence on Jersey Avenue in the Town of Warwick. The medical examiner determined that she had been severely beaten, strangled and sustained eight stab wounds in the neck. The investigation revealed that her tenant, Brian Reinhardt, had taken a cab from the house at the night of the murder and sold the victim's laptop computer in the City of Middletown. The police arrested Reinhart, who admitted that he had struck the victim with a space heater, strangled her with a computer cord, and stabbed her in the neck. Reinhardt pled guilty to Murder in the Second Degree, and was sentenced to 19 years to life in prison.

People v. Kim Gore: Aggravated Vehicular Homicide

On June 23, 2009, at about 6:15 a.m., witnesses observed the defendant Kim Gore driving a vehicle erratically on Route 209 in the Town of Deerpark. A witness observed a young child, later learned to be Kim Gore's three year-old daughter Sierra, standing on the front seat of the passenger side of the vehicle with her hands pressed against the glass of the window and tears streaming down her face. The witness offered help to the defendant, who appeared incoherent and unresponsive to his offers of help. The defendant drove away and continued to drive erratically north bound on Route 209, crossing the double yellow line several times, and nearly colliding with two vehicles and four pedestrians. The defendant crossed the double yellow line for the last time, crossing over the southbound lane of travel and into an earthen embankment situated on the south bound side of Route 209.

Sierra, still unrestrained, suffered severe blunt force injuries to her brain and spinal column causing almost immediate death. Chemical tests performed on the defendant's blood taken following the crash revealed cocaine and a mixture of prescription medications. Additionally, the defendant had twice been convicted of the crime of Driving while Ability Impaired by Drugs in 2004.

Gore was charged by the Grand Jury with Aggravated Vehicular Homicide, and related crimes, and was convicted after a jury trial of Aggravated Vehicular Homicide, a B felony, Manslaughter in the Second Degree, a C felony, and other related charges. On July 16, 2010, Gore was sentenced to the maximum permissible sentence of 8 and 1/3 to 25 years in state prison.

People v. Edgardo Perez, Lucio Ramirez, Alex Flores, Emmanuel Flores, Benigno Aguilar, Anselmo Leonel Bravo and Christian Vaquero: Gang Assault in the First Degree

On September 6, 2009, at approximately 1:00 a.m., the victim Freddy G. was walking in the City of Newburgh near the intersection of Hasbrouck Street and Mill Street. A large group of youths, including the named defendants and other unnamed individuals, surrounded Freddy G. and began punching, kicking, hitting, and striking Freddy G. all over the body with knives, bats and machetes. As a result of the attack, Freddy G. suffered serious physical injury including, but not limited to, 11 stab wounds on his body which required treatment at the Westchester Medical Center in the Critical Care Unit.

The Orange County Grand Jury charged all of the defendants with Gang Assault in the First Degree, including Bravo and Vaquero who were 15 years old. Bravo and Vaquero pled guilty to Assault in the First Degree and were sentenced to 2 1/3 to 7 years in state prison. Edgardo Perez pled guilty prior to trial and received a sentence of 10 years in state prison. The remaining four defendants were convicted in the Orange County Court after a jury trial. Alex Flores, Lucio Ramires and Emmanuel Flores were sentenced to 18 years in state prison. Judge De Rosa sentenced Benigno Aguilar, the apparent leader of the group, to 20 years in state prison.

THE GRAND JURY UNIT

- **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 four days per week. One term of the Grand Jury meets Mondays and Wednesdays and the other term meets Tuesdays and Thursdays. The Chief Trial Assistant District Attorney supervises the Grand Jury Unit. All felony cases handled by the various felony prosecution units are processed through this unit.

- **Caseload: 901 Case Filings**

In 2010, the total felony caseload decreased by 3.5% from 2009. The actual number of cases presented decreased to the Grand Jury only by two (2) cases from 681 in 2009 to 679 in 2010. This is statistically insignificant.

GRAND JURY CASELOAD 1990 – 2010

| 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% |
| 2010 | 901 | 9 | 1 | 911 | -3.5% |

- **2010 WAIVERS OF INDICTMENT: 232 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 2010, 232 defendants waived indictment and entered guilty pleas to Superior Court Informations. These 232 defendants constituted 25.7% of all felony defendants prosecuted in the Orange County Court, which was a 0.8% decrease in percentage of Superior Court Informations from 2009.

| YEAR | TOTAL SCI DISPOSITIONS | TOTAL FELONIES FILED | SCI'S AS % OF FELONY CASES |
|-------------|-------------------------------|-----------------------------|-----------------------------------|
| 2010 | 232 | 901 | 25.7% |
| 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 GENERAL CRIMES UNIT

- **Organization**

At full staff there are six Assistant District Attorneys assigned to this unit. They work under the supervision of the Chief Trial Assistant District Attorney. ADAs in the unit are expected to develop the ability to investigate and prosecute felony cases of increasing complexity. They are given a substantial caseload to evaluate and then present to the Grand Jury to prepare them for future assignment to other specialized units. During 2010 members of the unit conducted eight felony trials in Orange County Court.

- **Operation**

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

- **Caseload**

Members of the General Crimes Unit screened over 727 felony cases for Grand Jury presentation in 2010. Of those 727 cases we obtained 262 indictments, accounting for 45.8% of all the indictments returned by the Grand Jury in 2010. The remainder of the cases were either reduced to misdemeanors and prosecuted in the Local Criminal Courts, or prosecuted as felonies by way of Superior Court Informations.

- **Leandra's Law Cases: 35 Felony Prosecutions**

2010 was the first full year in which Leandra's Law was in effect. Leandra's Law makes it an automatic felony to operate a motor vehicle, while under the influence of alcohol or drugs with a child 15 years of age or less, as a passenger in the vehicle. All such cases were prosecuted by members of the General Crimes Unit.

The Orange County District Attorney's Office has maintained a zero tolerance in regard to these cases, and this policy has lead to 35 felony prosecutions with 27 individuals being indicted by the Grand Jury and eight other defendants being prosecuted by way of Superior Court Informations.

THE SPECIAL INVESTIGATIONS UNIT

- **Organization**

A Senior Assistant District Attorney 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 crimes and vehicular homicides. These complex crimes include white-collar crimes, public corruption, police misconduct and arson. The unit also is responsible for prosecuting 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.

Due to the complex nature of the cases assigned, the members of the unit work extensively with police agencies on pre-arrest investigations.

- **Caseload**

In 2010, the unit investigated 248 new cases. These investigations resulted in 68 indictments and 19 SCI felony pleas. The remaining 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 2010, the unit prosecuted 52 cases of Unemployment Fraud. This marked a 41% increase in the number of Unemployment Fraud cases prosecuted in 2009. The unit also prosecuted cases of Welfare Fraud and Workers Compensation Fraud. The Orange County District Attorney's Office ranked 7th of 62 counties in the prosecution of and recovery for, restitution for Unemployment Insurance Fraud.

- **Significant Cases**

People v. Patrick Asaro: Mount Hope Vehicular Manslaughter, Teenager Killed

Driving at speeds in excess of 108 miles per hour on Guymard Turnpike in the Town of Mount Hope, the defendant crashed his car head on into a car in the opposite lane of travel. The defendant was driving his 2008 Mitsubishi Lancer, with friends, to a house party. Apparently showing off for others, the defendant sped dangerously, failed to negotiate a left hand turn, and crossed over. His reckless actions caused the death of the driver, and the serious injury to the passenger, of the oncoming car. Four passengers in the defendant's car all suffered injury. After a jury trial, the defendant was convicted of Manslaughter in the Second Degree and Assault in the Second Degree, among other charges. He was sentenced to 3 to 10 years in state prison.

People v. Rafael Rosario: Highlands/Woodbury Aggravated Vehicular Assault

Driving while both drunk and high on drugs the defendant sideswiped another motorist. After regaining control of his vehicle, that motorist caught up to the defendant who had sped away. The motorist managed to have the defendant pull over and get out of his vehicle. He observed that the defendant was unsteady on his feet and appeared incoherent. The defendant then fled and continued driving. Driving on Route 6 in the Town of Woodbury, the defendant crossed over the double yellow line and collided with another car head on. Both vehicles were destroyed. The occupants of the other car were severely injured and both required multiple surgeries. Both were forced to leave their respective college programs while they attended physical therapy. The defendant refused to submit to chemical testing of his blood for the detection of drugs and/or alcohol. After a jury trial, he was convicted of Aggravated Vehicular Assault and other charges. He was sentenced to 5 to 15 years in state prison.

People v. Joseph Fontana: Residential Real Estate Fraud

The defendant assumed the identity of real estate appraisers and forged real estate appraisals on numerous properties. He falsified appraisals by misrepresenting the true value of homes that he appraised or the true value of the comparable values of other homes. Pursuant to his scheme, he wrongfully obtained approximately \$2,700,000 in loans to purchase four properties. He pled guilty to multiple counts of Forgery in the Second Degree. He was sentenced to 2 to 6 years in state prison and was ordered to pay restitution.

People v. Keum and Chong Lee: Walkill Animal Abuse

The defendants 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. During a bench trial, witnesses testified to seeing the horses in a severely emaciated state on the defendants' property. The court found the defendants guilty of two counts each of Animal Cruelty and sentenced them to restitution for the rehabilitation of the horses and community service.

People v. Justin Lynn: Walden Animal Abuse

The defendant strangled his girlfriend's dog and caused the dog's eyes to pop out of its sockets. Dog feces and blood were observed strewn throughout the apartment. The defendant pled guilty to one count of Aggravated Cruelty to Animals and was sentenced to six months in jail and five years probation. The court also issued restitution for medical bills.

People v. Kermit Parker: Walkkill Burglary

Entering through a kitchen window, the defendant broke into his female neighbor's home in the middle of the night, assaulted her and fled. A police canine tracked him back to his house. After a jury trial he was convicted of Burglary in the First Degree. He was sentenced to 20 years in state prison.

People v. David Flores: Port Jervis Arson and Burglary

The defendant illegally entered and set fire to an abandoned house. He claimed that the house was a community eye sore. He pled guilty to Arson in the Third Degree and was sentenced to 1 1/3 to 4 years in state prison.

People v. Stacey Swinkunas: New Windsor Employee Embezzlement

The defendant was employed as the Center Director for Tutor Time, a child care center in Vails Gate. Over the course of about a year she stole approximately \$57,000 from the business by falsifying business records and improperly converting customer receipts to her own use. She pled guilty to Grand Larceny in the Third Degree and to Falsifying Business Records in the First Degree and was sentenced to five years probation. She was also ordered to pay restitution to her former employer.

People v. Raymond Mock: Home Improvement Contractor Fraud

The defendant was hired by four different homeowners to do various home improvement projects. He received funds from the homeowners but converted the funds to his own use. He was charged with violating the Lien Law. He pled guilty to Grand Larceny in the Third Degree and was sentenced to pay approximately \$30,000 in restitution pursuant to a Conditional Discharge.

People v. Richard Ostner, et al.: New Windsor, Newburgh, Goshen, and Cornwall Theft Ring Involving Over \$300,000 in Heavy Construction Vehicles

This investigation involved the Orange County District Attorney's Office, the Town of New Windsor Police Department, the New York State Police, and the City of Newburgh Police Department. It began with the arrest of Richard Ostner during a traffic stop in the City of Newburgh. He was in possession of a stolen Caterpillar backhoe. The execution of a search warrant on his father's property led to the recovery of over twelve pieces of heavy construction equipment and a construction trailer.

The execution of a search warrant led to the recovery of more stolen construction equipment and a stolen motorcycle. Further investigations expanded to include four additional cohorts: Adam Potocki, Tyler Cox, Michael Harbster, and Bryant Defreest. The theft ring impacted the Towns of Newburgh and New Windsor, as well as Goshen and Cornwall. Additional search warrants were executed and cooperators were utilized to further the investigation resulting in the recovery of stolen construction equipment and motorcycles. The value of the equipment was over \$300,000. Richard Ostner pled guilty to Criminal Possession of Stolen Property in the Second Degree and was sentenced to 2 to 6 Years in state prison. Adam Potocki pled guilty to Criminal Possession of Stolen Property in the Third Degree and was sentenced to six months in jail and five years probation. They both were ordered to pay \$50,000 in restitution. The remaining defendants pled to theft related misdemeanors.

People v. J. Bennett Farrell: Monroe Attorney Embezzlement

The defendant abandoned his law practice and stole approximately \$66,000 of client funds from an escrow account. He pled guilty to Grand Larceny in the Third Degree. He was sentenced to five years probation and restitution.

People v. F. Daniel Blizzard: Middletown Attorney Embezzlement

Acting as an attorney, the defendant received money from a buyer in a pending real estate deal and deposited it into his escrow account. Thereafter, he illegally converted approximately \$10,000 of the funds to his own use. He pled guilty and was sentenced to five years probation, community service, and restitution.

THE NARCOTICS UNIT

- **Organization**

The Narcotics Unit consists of a Supervisory Assistant District Attorney and two Assistant District Attorneys. It is responsible for prosecuting all felony level drug cases, including marijuana.

- **Operation**

The Narcotics Unit handles a variety of felony narcotics cases. These cases include street encounters, search warrants, and vehicle stops. Orange County's major highways present a convenient means for drug dealers to travel throughout the state. The Narcotics Unit prosecutes 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 properly caught 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: 288 Felony Prosecutions**

The Narcotics Unit reviewed 350 felony cases, involving 425 defendants in 2010. Approximately 85% of the cases resulted in felony dispositions in County Court. The Narcotics Unit presented 85 cases to the Grand Jury in 2010. Approximately 60 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 twenty (20) defendants were prosecuted on felony marijuana charges.

Felony Drug Treatment Court: 30 Defendants/7 Graduates

Narcotics Unit ADAs deal with the vicious cycle of drug crime. We are also cognizant that drug treatment may work as an alternative to incarceration for certain non-violent drug addicted offenders. The Drug Court provides enhanced oversight of the 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 the 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 Wide 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 2010, there were 30 defendants in Felony Drug Court. The charges against the participants include the following: Possession of Controlled Substances; Forged Documents; Possession of Stolen Property; Grand Larceny and Burglary. In 2010, seven defendants graduated from the program.

Two defendants failed and were sentenced to incarceration.

Judicial Diversion: 45 Defendants/0 Graduates

The Judicial Diversion Program allows for various non-violent offenders to have their criminal prosecutions deferred in lieu of court-ordered drug treatment, regardless of the position or consent of the District Attorney. The Judicial Diversion Court provides enhanced oversight of the enrolled defendants to ensure that they achieve certain educational, occupational, and substance-free goals. Upon successful completion of the program, defendants may have their cases, and felony convictions, "diverted" into misdemeanor convictions or can be dismissed entirely. Failure from the program can result in the defendant's felony conviction standing, as well as incarceration in the local jail or state prison.

The enrollees in the Judicial Diversion Program must attend regularly scheduled court calendars with a judge, an Assistant District Attorney, and defense counsel present. As the enrollee advances within the program, he or she reports to these calendar appearances less frequently. In 2010, 49 cases were placed on the Judicial Diversion calendar in total. Of those 49 cases, three cases were ultimately removed from the Judicial Diversion Program and one enrollee has two cases pending, leaving a total of 45 separate defendants enrolled in the program at the end of 2010. Three other defendants attempted to enter the program but were ultimately deemed ineligible. Additionally, one defendant was denied entrance into the program after the District Attorney successfully contested the defendant's placement into Judicial Diversion.

The charges against the participants include the following: Possession of Controlled Substances and Marihuana (35), Forged Documents (1); Possession of Stolen Property (1); Grand Larceny (6); Conspiracy (1); and Burglary in the Third Degree (1). In 2010, no one advanced far enough into the program to have their case completely "judicially diverted."

- **Significant Narcotics Prosecutions**

Operation "Blood Drive"

On May 13, 2010 there was a "sweep" in the City of Newburgh which resulted in the arrest of 68 defendants on federal felony narcotics charges. The Orange County District Attorney's Office worked in conjunction with the FBI and the United States Attorney's Office on this long investigation. The Orange County District Attorney's Office strongly supported the federal case as our office supplied documentation, court transcripts, evidence, and assisted the FBI Gang Task Force, which included local law enforcement from the City of Newburgh Police Department, New York State Police and Orange County Sheriff's Office in every possible manner. The "sweep" in the City of Newburgh targeted two (2) main gangs – the Bloods and the Latin Kings.

In addition, during 2010 the Narcotics Unit presented cases against over a dozen gang members to the Orange County Grand Jury. This prosecution on state charges allows a wider attack upon over the gang problem in the Newburgh area because most of these cases could not be prosecuted on a federal level.

Numerous search warrants were executed by the City of Newburgh Police Department throughout the year which targeted mid-level narcotics dealers. Some of these felony arrests were tied in with the individuals who were arrested in the "sweep."

The City of Middletown Police Department was actively engaged in working with The New York State Police Community Narcotics Enforcement Team (CNET). Together they targeted known dealers by making undercover buys into them which ultimately resulted in felony arrests.

The City of Port Jervis Police Department along with the Town of Deerpark Police Department formed a drug joint task force which conducted numerous drug buys. Said buys led to twelve search warrants being conducted, all of which resulted in felony convictions in the Port Jervis/Deerpark area.

THE SPECIAL VICTIMS UNIT - 2010

- **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 also includes the Victims' Advocate from Safe Homes and the Domestic Violence probation officer. 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.

In 2005, the Coalition began the Domestic Violence Pilot Project in the City of Port Jervis. The Pilot Project is a collaborative effort of the District Attorney's Office, the Port Jervis Police Department, Orange County Probation, Orange County Safe Homes, and the Domestic Violence Classes for Men aimed at encouraging cooperation with each agency to provide an intensive community response to the issue of domestic violence.

- **Caseload: 72 Felony Prosecutions**

In 2010, the unit screened 410 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 72. Of these, 56 resulted from indictments and in 16 cases the defendant waived indictment. The unit also conducted 24 SORA hearings which determine the risk level used to categorize sex offenders.

- **Integrated Domestic Violence Court: 118 Cases Prosecuted**

In October of 2005 the Integrated Domestic Violence Court opened in Orange County Family Court. IDV is a branch of the 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. In 2010, 118 cases were prosecuted in IDV Court.

- **Significant Cases**

People v. Robert Williams: Convicted after a jury trial of Manslaughter in the First Degree and other crimes for the stabbing death of his girlfriend. He was sentenced to 25 years in state prison.

People v Dwayne Brown: Convicted after a bench trial of Course of Sexual Conduct in the First Degree, for the sexual assault of a minor female. He was sentenced to 25 years in state prison.

People v Raheem Fenty: Convicted after a plea of guilty to Criminal Sexual Act in the First Degree, for the sexual assault home invasion of a stranger. He was sentenced to 18 years in state prison.

People v. Kelly Santos: Convicted after a jury trial of Burglary in the First Degree and other crimes related to a domestic incident, where the defendant broke into his ex-girlfriend's house and physically assaulted her. He was sentenced to 15 years in state prison.

People v. Humberto Cruz: Convicted after a jury trial of Course of Sexual Conduct in the First Degree and Sexual Abuse in the Second Degree, for the repeated abuse of several children. He was sentenced to 15 years in state prison.

People v Desiree Miranda: Convicted after a jury trial of Assault in the Second Degree, for the physical abuse of her 10 month old child. She was sentenced to 7 years in state prison.

People v. Walter Warner: Convicted after a jury trial of Rape in the Second Degree, Aggravated Criminal Contempt and other crimes involving the sexual assault of a minor female. He was sentenced to 14 years in state prison.

People v Robert Lewis: Convicted after a plea of guilty to Rape in the First Degree, for the sexual assault of two minor females. He was sentenced to 15 years in state prison.

THE VIOLENT FELONY UNIT

- **Organization**

The Violent Felony Unit consists of a Senior Assistant District Attorney and three Assistant District Attorneys. VFU prosecutes Violent Felony Offenses, as defined in Penal Law §70.02.

- **Caseload: 132 Felony Prosecutions**

The VFU caseload includes felonious assaults, robberies, home burglaries, possession and use of loaded guns, and making terroristic threats. VFU attorneys also assist local police agencies during the investigation of these cases.

In 2010, VFU screened 330 cases involving a total of 403 defendants. The unit was responsible for 132 felony prosecutions including 95 indictments and 37 waivers of indictment. The remainder of the cases were turned over to other units for prosecution.

- **Operation**

The VFU continues to work with police agencies on criminal investigations and has expanded the areas of assistance to police agencies. The Violent Felony Unit ADAs assisted in writing search warrants, orders to show cause to obtain the DNA of suspects, orders to show cause for corporeal line-ups, and orders to identify the location of suspect's cell-phones in an effort to locate the suspect.

VFU also continues to coordinate 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 home burglaries, and tracking gang activity.

- **Significant VFU Cases**

People v. Wesleigh Ayres, Charles Kruger and Andrew Saccone: On July 29, 2009, these three defendants were arrested after a rash of burglaries of homes in and around the Town of Deerpark. They were indicted for Burglary in the Second Degree and related charges. All three defendants pled guilty to two counts of Burglary in the Second Degree. On March 1, 2010, defendant Ayres was sentenced to 8 years in state prison, Kruger was sentenced to 7 years in state prison, and Saccone was sentenced to 5 years in state prison. All were sentenced to post-release supervision as well.

People v. Francisco Carrasco, Arturo Marquez and Juan Carlos Marquez: On August 29, 2009, two male victims were approached by a group of other men who attempted to rob them on a City of Newburgh street. The victims ran home, followed by the robbers. Once home, two other men who lived in the victims' house came out to assist the victims. The victims were brutally beaten and stabbed with machetes as the attackers attempted to force their way into the home. All three defendants were indicted for Gang Assault in the First Degree, Attempted Burglary in the Second Degree, Attempted Robbery in the Second Degree, and related charges. Defendants Arturo Marquez and Francisco Carrasco pled guilty to Gang Assault in the First Degree. Defendant Juan Carlos Marquez pled guilty to both Attempted Robbery in the Second Degree and Attempted Robbery in the Second Degree and his sentencing is pending. On March 9, 2010, defendant Arturo Marquez was sentenced to 7 years

in state prison plus 5 years of post-release supervision. Defendant Carrasco was sentenced on June 15, 2010, to 8 years in state prison.

People v. Keith Marma: The defendant was arrested for robbing the Bank of America branch in the Town of Warwick on October 15, 2009. He displayed a gun to the teller and stole approximately \$9,000 in cash. He pled guilty to Robbery in the First Degree and was sentenced on April 2, 2010, to 9 years in state prison.

People v. James Cotto and Jimel Porter: Both defendants were arrested in May of 2010 for the gun-point robbery of a cab driver in the City of Middletown which occurred on February 6, 2010. One defendant allegedly held a gun to the cab-driver's head, while the other allegedly stole approximately \$150.00 from him. Both were indicted for Robbery in the First Degree and related charges. On October 25, 2010, defendant Porter pled guilty to Robbery in the First Degree, as did defendant Cotto on October 27, 2010. Both defendants were sentenced on November 29, 2010. Cotto was sentenced to 7 ½ years in state prison. Porter received 6 years in state prison.

People v. Jermaine Davis, Devon Jones and Brandon Battle: On May 27, 2009, a Town of Deerpark man was shot and seriously injured during a home-invasion robbery of his home. His wife, young daughter, and baby were also home. Masked men forced their way into the home. The defendants were arrested on November 10, 2009, after months of police work. All were indicted for multiple counts including Burglary in the First Degree and Assault in the First Degree. On September 23, 2010, Davis pled guilty to Burglary in the First Degree. Battle, whose participation was minimal, and who never entered the home, pled guilty to a misdemeanor. On October 15, 2010, Jones was convicted, after a jury trial, of ten counts in the indictment including Burglary in the First Degree and Assault in the First Degree. On January 7, 2011, he was sentenced to 20 years in state prison.

People v. David Williams and Jordan Mabee: On October 17, 2009, these defendants robbed a man at gunpoint on a City of Middletown street. One defendant fired a warning shot in the air when the victim took too long to hand over his wallet. The victim immediately ran to a house and called 911. The defendants were apprehended within minutes and each was holding proceeds of the robbery. The gun was recovered. Both defendants were indicted for Robbery in the First Degree and related charges. On April 23, 2010, both defendants pled guilty to Robbery in the First Degree. On June 6, 2010 defendant Williams was sentenced to 10 years in state prison. On June 30, 2010, Mabee was also sentenced to 10 years in state prison.

People v. Marcus Johnson: The defendant was arrested on December 3, 2009 in the City of Newburgh for a knife-point robbery of a female cab driver. After pleading guilty to Robbery in the First Degree, the defendant was sentenced on August 13, 2010 to 8 years in state prison.

People v. Simeon Delesline and Bryan Robinson: On November 1, 2009, the desk clerk at the Howard Johnson Motel in the Town of Wallkill was robbed and beaten with a baseball bat. As he bled profusely from his head, he managed to call 911. Both defendants were arrested within 24 hours of the incident. On October 12, 2010 both defendants pled guilty to Robbery in the First Degree. On December 13, 2010, defendant Robinson was sentenced to 14 years in state prison. Defendant Delesline will be sentenced in 2011.

People v. Tavares Stackhouse: On April 30, 2010, the defendant was arrested for the April 11, 2010 stabbing of a man in the City of Newburgh. The victim, who was an acquaintance of the defendant, was stabbed fourteen times. The defendant pled guilty to Robbery in the First Degree on October 21, 2010. On November 22, 2010, he was sentenced to 8 years in state prison.

THE APPEALS BUREAU

- **Organization**

In 2010, 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 provides assistance to the Task Force in the Senior Assistant's absence.

In 2010, the Appeals Bureau relocated to the District Attorney's main Office in Goshen. Previously, the Appeals Bureau shared office space with members of the Local Criminal Court Bureau at the District Attorney's Office at the Middletown Campus.

- **Operation**

Members of the Appeals Bureau litigate cases in the New York State Court of Appeals, the Appellate Division, Second Department; the New York State Supreme Court; the Appellate Term for the Ninth and Tenth Judicial Districts; the Orange County Court and the New York State Supreme Court on state habeas corpus and Article 78 proceedings.

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 advice to 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, environmental prosecutions, CPL 730 examinations, the prosecution of animal cruelty cases, and criminal procedure. All appeals assistants are assigned to provide training as part of the Local Criminal Court's monthly training program.

- **Caseload: 8% increase.**

In 2010, the bureau handled a total of 654 matters that included 85 state appeals, 5 federal habeas corpus responses, and 439 motion responses in the State and Federal Courts. The members of the bureau also prepared 11 search warrant applications and were responsible for 15 training sessions.

In 2010, appeals to the Appellate Division, Second Judicial Department, resulted in 60 reported decisions, including 59 appellate victories and only 1 loss. The total workload represented an 8% increase over the number of assignments that were completed in 2009. The number of reported decisions in the Appellate Division is slightly less than the 68 reported decisions in 2009.

By way of comparison, in 2010, the Westchester County District Attorney's Office had 104 reported Appellate Division decisions with approximately four times the number of appellate attorneys, and Rockland County had 28 reported decisions.

In 2010, the office had 12 decisions that were issued by the Appellate Term, including 10 appellate victories and 2 losses. The office had a 100% success rate in 6 People's appeals in misdemeanor DWI prosecutions, including an appeal from an order that set aside a jury verdict, an appeal from an order that dismissed the accusatory instruments, and 4 appeals from orders that granted defendants' motions to suppress. The office takes a particular interest in these cases, and the defendants in all 6 matters had blood alcohol content levels that were well over the state's legal limit of .08%.

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 2010.

The United States District Court for the Southern District of New York issued a total of 10 decisions in federal habeas corpus matters handled by the Orange County District Attorney's Office. In 2 decisions, the District Court denied the federal habeas corpus challenges to the Orange County convictions, and in 8 Reports and Recommendations, the assigned United States Magistrate Judge recommended the dismissal of the respective federal habeas petitions.

- **Significant Appellate Cases:**

People v James McRae: Village of Unionville Robbery

The New York State Court of Appeals affirmed defendant's conviction for Robbery in the First Degree, Robbery in the Second Degree, Criminal Possession of a Weapon in the Fourth Degree, and Menacing in the Second Degree. The defendant is serving an aggregate sentence of fifteen years imprisonment and a five-year period of post-release supervision. The defendant, co-defendant Samuel Spradley, and two females committed an armed robbery in the Village of Unionville. Following the robbery, the group fled to Pennsylvania. Several days later, one of the females reported the robbery to the New York State Police, and she and the second female later testified against the defendant at his trial. The Court of Appeals held that the accomplice testimony was sufficiently corroborated by independent evidence.

(People v McRae, 15 NY3d 761, re-argument denied, 15 NY3d 902 [2010]).

People v Melvin Green: City of Middletown Murder

The Appellate Division affirmed defendant's convictions for Murder in the First Degree, Robbery in the First Degree, Criminal Possession of a Weapon in the Second Degree, and Conspiracy in the Second Degree. On December 30, 2006, as part of a murder-for-hire scheme, defendant staged an armed robbery at a hair salon in the City of Middletown and intentionally shot and killed co-defendant Patrick Bowie's estranged girlfriend. The defendant is serving concurrent sentences of life without parole and significant state prison sentences on the remaining convictions.

(People v Green, 73 AD3d 805 [2010]).

People v Dwayne Brooks: Town of Warwick Manslaughter

The Appellate Division affirmed the defendant's convictions for Manslaughter in the First Degree and Criminal Possession of a Weapon in the Third Degree. Brooks was sentenced as a Second Violent Felony Offender to a determinate term of imprisonment of 25 years and to a five year period of post-release supervision.

(People v Brooks, 71 AD3d 1043 [2010]).

People v Pasquale Verrilli: Village of Greenwood Lake Rape

Defendant was convicted of Rape in the First Degree and was sentenced as a Second Violent Felony Offender to a determinate term of imprisonment of 12 years and to a 10 year period of post-release supervision. The Appellate Division affirmed defendant's conviction and sentence.

(People v Verrilli, 69 AD3d 963 [2010]).

People v James Stalter: Town of Walkill Rape

The Appellate Division affirmed defendant's convictions for Rape in the First Degree, Sexual Abuse in the First Degree, Sexual Abuse in the Second Degree, and Endangering the Welfare of a Child. The court sentenced defendant as a Persistent Violent Felony Offender to consecutive indeterminate terms of imprisonment of 25 years to life and 12 years to life and to a one-year sentence on the misdemeanor.

(People v Stalter, 77 AD3d 776 [2010]).

People v Corey Latimer: Town of Newburgh Robbery

The Appellate Division affirmed defendant's convictions for Robbery in the First Degree, Robbery in the Second Degree, Criminal Possession of a Weapon in the Second Degree and Criminal Possession of a Weapon in the Third Degree. Defendant committed an armed robbery of a gas station and shot the clerk twice in the leg. The court sentenced defendant to concurrent, determinate terms of imprisonment of 25 years, 15 years, and seven years respectively, and to a five year period of post-release supervision.

(People v Latimer, 75 AD3d 562 [2010]).

People v David Small: Village of Chester Burglary

The Appellate Division affirmed defendant's convictions for Burglary in the Second Degree and Unlawful Imprisonment in the Second Degree. During the early morning hours in May, 2005, defendant burglarized a residence with the intent to engage in nonconsensual sexual contact with a female resident. During the course of incident, defendant also forcibly prevented the victim from fleeing. More than a year later, the victim identified defendant as a suspect during a random encounter in parking lot when the victim recognized defendant's voice as the assailant's voice. Defendant was sentenced as a Violent Felony Offender to a determinate term of imprisonment of 12 years and to a five year period of post-release supervision and to a one-year term of incarceration on the misdemeanor.

(People v Small, 74 AD3d 843 [2010]).

People v Michael Mele: Town of Walkill Criminal Possession of Stolen Property

As part of the investigation into the disappearance of Laura Garza, members of the New York State Police executed a search warrant at defendant's apartment and, in addition to other evidence, recovered a stolen credit card and a stolen bank debit card that belonged to a different female. The People successfully appealed an order of the Orange County Court that granted the defendant's motion to suppress the credit card and the debit card without holding a

suppression hearing. Following the Appellate Division's decision, defendant pleaded guilty to Criminal Possession of Stolen Property in the Fourth Degree and received a one-year sentence. (People v Mele, 74 AD3d 1095 [2010]).

DISTRICT ATTORNEY'S INVESTIGATORS

- **Operation**

Orange County District Attorney's Criminal Investigators are sworn police officers, all of whom have extensive law enforcement experience. District Attorney'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 proliferation of personal electronic devices and the continuing evolution of search and seizure doctrine, dictate more than ever the early involvement of District Attorney's Investigators and Assistant District Attorneys in 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.

- **Organization**

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.

- **Caseload**

In 2010, District Attorney's Investigators adopted 439 investigative cases. They also located and personally served 1,252 individuals with subpoenas to appear as witnesses in Grand Jury or other criminal proceedings. Approximately fifteen percent of these witnesses were personally transported to and from their court appearances by Investigators.

District Attorney's Investigators were asked to assist in the investigation of 28 deaths in 2010. Sixteen deaths were determined to be homicides. Additionally, two cases resulted in prosecutions for deaths resulting from automobile crashes. Investigations revealed that the remainder of the deaths were the result of natural or accidental causes.

District Attorney's Investigators are increasingly being called upon to ensure the safety of witnesses who will be, or have testified in high profile criminal cases. In 2010, Investigators arranged for the physical relocation of witnesses connected to four homicide cases. In some instances witnesses were moved to temporary housing during the trial, other times they were permanently relocated to a different state upon conclusion of the trial. Housing, meal and travel expenses incurred as a result of witness protection are reimbursed by the State of New York.

District Attorney's Investigators also conduct investigations involving allegations of illegal conduct by law enforcement personnel or government employees. In 2010, an extensive investigation into allegations of larceny by employees of an Orange County township revealed no evidence of theft, but did result in recommendations by the District Attorney to the town supervisor which would improve administrative oversight.

- **Computer Crimes**

In 2010, the Computer Crime Unit conducted over 25 forensic examinations/forensic previews of digital media recovering an assortment of evidence. The unit has assisted local law enforcement with the recovery of hours of surveillance video for crime such as grand larceny, criminal mischief, missing persons and murder.

| Year | Total Number of Forensic Cases | Data Processed |
|------|--------------------------------|----------------|
| 2010 | 19 | 9 terabytes |

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 H 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 |

Personnel assigned to the unit continually train on the newest technologies and techniques in computer and digital media forensics. Investigator Reinle achieved recertification as a forensic computer examiner with The International Association of Computer Investigative Specialist and Accessdata and also received advanced certification as a Forensic Computer Examiner from the International Society of Forensic Computer Examiners.

- **Significant Forensic Computer Case:**

PEOPLE vs. KENNETH OBOYSKI:

Kenneth Oboyski was a suspect in child abuse. The Village of Chester Police Department and the Orange County District Attorney's Computer Crime Unit conducted a search warrant on Mr. Oboyski's residence after it was learned that images/video of the abuse may have been made. Several computers, as well as other digital media, were recovered from the residence. Two deleted videos were recovered from a digital camera which showed Oboyski abusing the children. Mr. Oboyski entered a guilty plea to the charge of Sexual abuse and was sentenced to sixty days confinement and required to register as a sex offender.

- **Cold Cases**

During the year, a number of open cases of various types 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 District Attorney's Investigators continued to review "Cold Case" homicides with law enforcement agencies and forensic laboratory personnel to develop new leads.

- **Extraditions/Renditions**

District Attorney's Investigators also facilitate the extradition and rendition of fugitives from justice. In 2010, 96 fugitives were extradited to other states and seven fugitives were returned from other states for prosecution. DA Investigators also arrange for the return of probation violators, wanted by the Orange County Probation Department, who have been apprehended in other states.

2010 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

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Senior ADA Maryellen B. Albanese: Local Court Unit

Senior ADA Neal Haberman: Local Court Unit

Senior ADA Lynda J. Mitchell: Local Court Unit

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 Unit

Chief Criminal Investigator James M. Rielly: Newburgh Unit

COUNTYWIDE POLICE AGENCIES (5)

| | |
|-------------------------------|-------------|
| New York State Police Troop F | Port Jervis |
| New York State Police Troop T | Middletown |
| New York State DEC Police | Newburgh |
| New York State Park Police | |
| Orange County Sheriff | |
| M.T.A. Police | |

CITY POLICE (3)**TOWN POLICE (15)**

| | |
|----------------|--------------------|
| Blooming Grove | Chester |
| Chester | Cornwall-on-Hudson |
| Cornwall | Florida |
| Crawford | Goshen |
| Deerpark | Greenwood Lake |
| Goshen | Harriman |
| Highlands | Highland Falls |
| Montgomery | Maybrook |
| Mount Hope | Monroe |
| Newburgh | Montgomery |
| New Windsor | Tuxedo Park |
| Tuxedo | Walden |
| Walkill | Washingtonville |
| Warwick | |
| Woodbury | |

VILLAGE POLICE (13)