

# 2019

## Annual Report



*“Ever Changing . . . For the Better”*

FROM THE OFFICE OF  
ORANGE COUNTY DISTRICT ATTORNEY  
DAVID M. HOOVLER



District Attorney Hoovler, 2019-20 President of the District Attorneys Association of the State of New York (DAASNY), at the DAASNY Winter Conference

2019 has been a year of drastic change. We began the year with a criminal justice system that hadn't fundamentally changed in decades. Early in the year, though, the leadership in Albany up-ended the entire system, ushering in, through the inappropriate mechanism of the State budget process, so-called "re-forms" to the bail system, to the rules by which my office is required to disclose information to the defense, and to the rules relating to defendants' right to a speedy trial. Those changes required my office to drastically modify the way it operates, to sweep away an office struc-

ture that had served us well for nearly thirty years, a structure that had allowed assistant district attorneys to specialize, to some extent, in the cases they handled. Instead, we found ourselves forced to adopt a structure without that type of specialization, and one that would require us to take control of cases immediately after their inception, rather than wholly relying on police officers in the initial stages of a case. We determined that new system to be necessary to efficiently process the volumes of new materials that we are now required to handle, under dramatically shortened time limits, and to staff the additional courtroom proceedings that the new criminal justice system mandates. As the year closed, we had just completed implementing our new system, and the early signs are good.

Putting our new system in place did not come without its challenges. In reworking the entire criminal justice system, the State didn't provide a nickel of funding to allow us to hire new staff or to purchase the electronic equipment necessary to meet the challenges of the new laws. We were fortunate enough to receive funding for staff from our County Legislature and County Executive and were able to draw on asset forfeiture funds to purchase some of the equipment that we needed. In addition, working collaboratively with our law enforcement partners, we implemented a new system that ensured that prosecutors worked on and evaluated cases with police officers at their inception, so that the guilty can be prosecuted successfully and so that everyone's rights are upheld.

In 2019, I also got to witness the upheaval in the criminal justice system from a unique perspective: that of the president of the District Attorneys Association of the State of New York (DAASNY). I started my one-year term in that post in July 2019, right in the middle of our efforts, and the efforts of my fellow prosecutors around the State, to work our way through the implications of all of last year's changes in the law. I was privileged to be elected DAASNY president in my sixth year in office, a rare achievement in DAASNY history. As DAASNY's president, I have been able to

watch my prosecution colleagues come together to find solutions to the challenges the new laws have forced on us. Finding common ground has not always been easy, and our relationships have sometimes been strained, but, so far, we have weathered the storm, and have been able to cooperate for the good of our profession and our constituents. As DAASNY's president, I have been at the table with our elected officials in Albany, trying to reason with them to undo some of the damage that the new laws have done to the criminal justice system. As the year closed, I was hopeful that we might see some relief in the harshness that the new laws brought. All told, my year as DAASNY president is something that I will always look back on with pride.

With all of 2019's challenges, the good work of my office and my staff has continued unabated. We continue to have a conviction rate that is among the highest in the State. This year, we have brought a number of notable prosecutions, including *Operation Bread, White, and Blues*, which took down two major drug-sale conspiracies involving current and former police officers and officers in local fire departments; and the prosecution of several Goshen-area healthcare professionals who had been illegally dispensing prescription drugs. We conducted a notable grand-jury investigation of the Newburgh Enlarged City School District, exposing flaws in the district's use of student-testing products and in its use of excused absences for its student athletes. We have continued our leadership in Newburgh in the Gun-Involved Violence Elimination and the Non-Fatal Shootings Programs, trying to make a dent in the rate of gun violence in our State's most-violent city. We have continued to focus our efforts on the prosecution of drivers who are intoxicated or impaired by alcohol or drugs, and of offenders who commit acts of intimate partner violence.

And, through it all, we have continued to focus on the most important aspect of being a prosecutor: We have continued to maintain our contact with the community.

As the saying goes: "The more things change, the more they stay the same." This may have been a year of change, but one thing will never change: I and my staff will continue to work tirelessly to do what's right, to protect the public from those who would commit crime, and to be fair to everyone that we encounter in this line of work.

Thank you for allowing me the privilege of being Orange County's District Attorney.

David M. Hoovler

## COUNTY COURT BUREAU

The County Court Bureau is composed of the Grand Jury Unit and the four specialized prosecution units that handle the felony caseload of the Orange County District Attorney’s Office (OCDA).

<b>County Court Statistics</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Felony Conviction Rate (%)	94	96	98	96	94	94
Felony Filings	811	804	761	880	839	683
Dispositions	914	763	866	906	900	863
Guilty Pleas	839	719	799	843	834	804
Felony Trials	23	8	15	12	12	8
Guilty Verdicts	18	8	12	6	11	6
Acquittals/Dismissals	36	29	26	17	33	34
Other Dispositions	22	7	27	37	23	31
Cases Pending at Year-End	124	209	140	156	160	83

## INVESTIGATIONS AND NARCOTICS UNIT

In 2018, OCDA’s Special Investigations Unit and its Narcotics and Gun Unit were merged, to



District Attorney Hoovler at the Cornerstone Family Healthcare  
Opioid Prevention Forum

form the Investigations and Narcotics Unit. That merger was the result of a determination that combining the two units would take better advantage of the OCDA’s resources. That sentiment rang true in 2019, when the unit assisted in a grand jury investigation of the Newburgh Enlarged City School District, which resulted in the issuance of an 87-page grand jury report; and handled the complex prosecution of two notable operations: Operation Bread,

White and Blues; and the Goshen Medical Practice Drug Trafficking case. Those operations, as detailed below, held accountable members of a local fire department, law enforcement officers, and employees of a medical establishment, for their roles in trafficking narcotics. As a result of those labor-intensive investigations, multi-count indictments were filed, forfeiture seizures were

made that exceeded \$500,000 in cash and several motor vehicles, and 87 illegal guns were taken off the street.

**DRUG PROSECUTIONS**

The Investigations and Narcotics Unit is, in part, responsible for prosecuting felony drug sale cases, as well as felony possession of drugs with intent to sell. In addition, the unit prosecutes gun cases that are tied to drug and gang activity. Special emphasis is placed on drug dealers who sell narcotics on school grounds. The Unit has participated with the Orange County Drug Task Force and local police agencies to conduct several narcotics enforcement actions, known as “sweeps,” targeting drug sellers throughout the County. The Unit also staffed the Judicial Diversion Court. Although OCDA continues to seek strict prison sentences for drug dealers, the office continues to attempt to divert drug users into appropriate treatment programs.

<b>Drug and Gun Prosecution Statistics</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Approximate % change 2018-2019</b>
Felony Narcotics Indictments and Superior Court Informations	286	303	307	408	226	-45
Prosecution: Sale of Illegal Drugs	102	74	78	140	136	-3
Guns Recovered	95	35	10	32	87	+172
Value of Drugs Seized in Sweeps by Orange County Drug Task Force	\$163,000	\$168,000	\$260,000	\$204,975	\$302,160	+47
Cases Presented to Grand Juries	239	250	210	212	153	-28
Superior Court Informations	47	53	107	86	73	-15

**Orange County Drug Task Force**

In 2014, the Orange County District Attorney’s Office, the Orange County Sheriff’s Office, and the Police Chiefs’ Association of Orange County created the Orange County Drug Task Force. The Task Force is supervised by a senior criminal investigator from the District Attorney’s Office and a lieutenant from the Sheriff’s Office, and is composed of personnel from those agencies and other Orange County police departments. Currently the police departments for the Towns of Montgomery, Wallkill, and Highlands have assigned police officers to work on the Task Force.

<b>Orange County Drug Task Force Statistics</b>	<b>2014-2017</b>	<b>2018</b>	<b>2019</b>
Number of Cases	696	383	322
Number of Drug Purchases	155	171	145
Number of Search Warrants Executed	79	16	8
Number of Targets Arrested	540	125	50

In 2019, the Orange County Drug Task Force seized the following:

<b>Drug</b>	<b>Amount</b>	<b>Approximate Street Value</b>
Cocaine	2.148 kg	\$ 210,000
Crack cocaine	63 g	\$ 6,300
Fentanyl	272 Dosage Units	\$ 5,440
Heroin	1350 Dosage Units	\$ 27,000
Marihuana	49.13 lbs.	\$ 53,000
Xanax	14 Dosage Units	\$ 210
Adderall	21 Dosage Units	\$ 210
	<b>TOTAL :</b>	<b>\$302,160</b>

### **SIGNIFICANT CASES**

***Operation Bread, White and Blues*** – On February 5, 2019, members of the New York State Police Community Narcotics Enforcement Team aided by the State Police Special Operations Response Team and the Federal Bureau of Investigation, executed multiple search warrants and arrested twenty-six individuals in Orange and Rockland Counties. The arrests and warrants were a result of a six-month-long narcotics investigation that involved hundreds of hours, and a multitude of applications and court orders for electronic surveillance and wiretaps.

Indictments arising from the enforcement action outlined two separate conspiracies, one that primarily involved members and associates of self-professed “outlaw” motorcycle clubs that were trafficking cocaine; and another that involved the sale of narcotic pills that were represented to contain oxycodone, but which contained fentanyl, a highly addictive and frequently lethal synthetic opiate. The name of the operation referred to the co-conspirators use of the term “bread” to mean money they obtained through the sale of narcotics, “white” to represent the cocaine that was sold, and “blues” to represent the blue colored pills that were being trafficked. Arrested members of the two drug-trafficking organizations included former police officers and active members of local fire departments. All defendants charged in the investigation have pled guilty, with the following notable convictions.



Counsel to the District Attorney Robert Conflitti, second from right, at the Heroin and Opioid Epidemic Roundtable, sponsored by District Attorney Hoovler and Assemblyman Colin Schmitt, Woodbury Senior Center, December 2019

Arrested members of the two drug-trafficking organizations included former police officers and active members of local fire departments. All defendants charged in the investigation have pled guilty, with the following notable convictions.

On April 8, 2019, Paul Smith, a lieutenant with the Middletown Fire Department, pled guilty to Operating as a Major Trafficker and Conspiracy in the Second Degree, for his role in leading the cocaine trafficking conspiracy. Smith is awaiting a sentence that will not be less than 10 to 25 years in prison and that can be up to 25 years to life.

On November 14, 2019, Garry Michel pled guilty to Conspiracy in the Second Degree for his role in leading the narcotic pill trafficking conspiracy. He has no promised minimum sentence, and when sentenced, the Orange County District Attorney’s Office will recommend a sentence of 12 ½ to 25 years in prison.

On April 25, 2019, Robert Dunham pled guilty to Criminal Sale of a Controlled Substance in the First Degree and Conspiracy in the Second Degree, for his role in both the cocaine and narcotic pill conspiracies. Dunham is awaiting a sentence that will not be less than 8 to 25 years in prison and can be up to 20 to 25 years in prison.

On October 10, 2019, Marquis Gamble was sentenced to 10 to 15 years in prison after his guilty pleas to Attempted Operating as a Major Trafficker, Criminal Sale of a Controlled Substance in the Second Degree, and Conspiracy in the Second Degree, in connection with his role in supplying cocaine to the conspirators.

Along with the convictions, the Orange County District Attorney's Office negotiated numerous forfeiture settlements that totaled more than \$500,000, four vehicles, and a motorcycle.

The investigation also led to the arrest, prosecution, and conviction of Gregg Marinelli, a sergeant with the New York City Department of Environmental Protection Police, who was manufacturing and supplying guns without serial numbers, known as "ghost" guns, to Paul Smith, who, in turn, supplied the guns to other members of self-professed "outlaw" motorcycle gangs. Marinelli also alerted Smith about the investigation. On December 2, 2019, Marinelli pled guilty to Criminal Possession of a Weapon in the Second Degree and Hindering Prosecution in the Second Degree, and is pending sentence. When Marinelli is sentenced, the Orange County District Attorney will recommend an aggregate sentence of 10 years in prison.

**Goshen Medical Practice Drug Trafficking Case** – After receiving a complaint from a medical practice in Goshen, the Orange County District Attorney's Office, together with the Orange County Drug Task Force, began a months-long investigation using undercover officers to purchase heroin, cocaine, and prescription medications. On May 30, 2019, the investigation led to the arrest of eighteen defendants charged with crimes pertaining to the trafficking of heroin, cocaine, and prescription medications throughout Orange County. In addition to narcotic purchases made by the undercover police officers, the Orange County District Attorney's Office initiated an investigation into a group of individuals involved in a conspiracy to obtain the highly addictive narcotic drug, oxycodone. As a result, six defendants were charged with felony conspiracy charges, and two defendants, Jodee O'Dell and Vanessa Hinkley, were also charged with Operating as a Major Trafficker, for their roles in causing 51,375 oxycodone pills, having a street value of over \$625,000, to be illegally dispensed.

On June 18, 2019, O'Dell, pled guilty to Attempted Operating as a Major Trafficker. Her plea involved a scheme to obtain oxycodone pills to sell by creating false prescriptions from the Goshen medical practice where she worked as the office manager, and having accomplices who were not patients of the practice fill the prescriptions and give the majority of the pills to O'Dell and others. O'Dell admitted that during the six-month period between January 1, 2018 and June 28, 2018, the group caused 11, 803 pills containing oxycodone, having a street value in excess of \$182,000, to be illegally dispensed through false prescriptions. O'Dell was sentenced to three years in prison and two years of post-release supervision.

On June 24, 2019, Hinkley pled guilty to Attempted Operating as a Major Trafficker and has been sentenced to three years in prison and two years of post-release supervision.

**Grand Jury Report: Regarding the Newburgh Enlarged City School District** – In 2017, an investigation began after a former teacher and varsity athletics coach at Newburgh Free Academy complained to both the New York State Education Department and the Orange County District



Attorney's Office regarding manipulation of attendance records of Newburgh Free Academy student-athletes, and on a larger scale, chronic student absenteeism. The investigation led to the empanelment of a special Orange County grand jury. Beginning January 10, 2019, for six weeks the grand jury heard testimony from fifteen witnesses and considered thirty-one exhibits. Those exhibits included documents obtained by search warrants executed at school district offices, tens of thousands of data entries from Infinite Campus, Inc., and APEX Online Learning, and hundreds of pages of attendance records. The testimony produced over 900 pages of transcripts.

At the end of the presentation, the grand jury found "systematic failure" in the school district's policies, and made several recommendations that are contained in the 87-paged grand jury report that was published and is available for viewing on the Orange County District Attorney's website.

***People v. Alban Rowe*** – On July 18, 2018, Alban Rowe sold drugs to a man inside a residence in the Village of Montgomery. That man later died as a result of a heroin overdose. Members of the Orange County District Attorney's Investigations and Narcotics Unit assisted the New York State Police, Village of Montgomery Police, Town of Montgomery Police, and Walden Police with the investigation of the man's death. On June 21, 2019, Rowe, pled guilty to Criminal Sale of a Controlled Substance in the Third Degree for selling the heroin that led to the man's death. Rowe was sentenced to four years in prison and two years of post-release supervision. Rowe also pled guilty to Criminal Sale of a Controlled Substance in the Third Degree for selling drugs on May 24, 2018, to an undercover police officer assigned to the Orange County Drug Task Force. The defendant was sentenced on that charge to four years in prison and two years of post-release supervision.

***People v. Joseph Krenicky*** – On August 29, 2019, Joseph Krenicky pled guilty to Unlawful Surveillance in the Second Degree, for installing a hidden video recording device in the bathroom of a woman who hired him to perform electrical work on her home in the Town of Chester. During his plea allocution, Krenicky admitted that for his own sexual gratification he had installed the hidden camera without the woman's knowledge and kept video files of the woman stepping into and out of the shower. Krenicky was sentenced to an indeterminate term of 1 to 3 years in prison and is required to register as a sex offender.

## **VIOLENT CRIMES UNIT**

The Violent Crimes Unit prosecutes all violent felonies, including felonious assaults, robberies, residential burglaries, possession and use of loaded guns, and making terroristic threats.

In 2019, the OCDA continued its anti-violence efforts in the City of Newburgh. An Executive Assistant District Attorney coordinated investigations and prosecutions against the most-violent offenders as well as those involved in activities that ultimately result in violent acts. That ADA is directly responsible for day-to-day administration of the Gun-Involved Violence Elimination (GIVE) grant and the Newburgh Non-Fatal Shooting Task Force grant, described below. Those

efforts were in addition to those made by the four Assistant District Attorneys assigned to the Violent Crimes Unit, who specialized in the prosecution of violent felonies.



District Attorney Hoovler at a rally on behalf of the City of Newburgh Police Department

In 2015, OCDA became the first and only District Attorney's Office in New York to take the lead in administering the GIVE initiative. OCDA's GIVE partners include the City of Newburgh Police Department, the Orange County Sheriff's Office, the Orange County Department of Probation, the United States Attorney's Office for the Southern District of New York, and parole authorities with the New York State Department of Corrections and Community Supervision. In 2015, OCDA hired a project manager to administer the Group Violence Intervention (GVI)

component of the GIVE strategy. Furthermore, beginning in October 2015, OCDA, in conjunction with its GIVE partners, began holding Newburgh GVI call-ins, at which members of the City of Newburgh's most-violent groups appear and listen to presentations designed to help reduce gun violence in the City, and to offer services to group members and their families. To date, there have been ten call-ins, and several members of Newburgh's violent groups have contacted social services representatives to seek assistance.

In March 2017, the OCDA and the City of Newburgh Police Department secured funding for the Non-Fatal Shooting Task Force. OCDA and one other District Attorney's Office in New York State were selected as pilot jurisdictions to enhance enforcement of cases involving non-fatal shootings with uncooperative victims and witnesses. The City of Newburgh PD and OCDA each provide one investigator, who work with a crime analyst and an ADA to investigate non-fatal shootings in which witnesses or victims are uncooperative. The Task Force investigates the cases using non-traditional means to gather evidence to prosecute a legally sufficient case. In 2019, those teams coordinated on approximately fifty investigations, including recent offenses and cases that had previously gone cold. The team investigated 18 shooting incidents with 23 shooting victims. All 18 of those incidents occurred off-hours and required the team to be ready to be called for duty twenty-four hours a day. In addition to non-fatal shootings, crimes investigated included armed robberies and home invasions. Multiple prosecutions were undertaken as a result of their work, including several for incidents that occurred in earlier years.

GIVE and the Non-Fatal Shooting Task Force represent only two of the innovative strategies that OCDA, the City of Newburgh Police Department, and other partners have been using to reduce violent crime in the City.

<b>Violent Crimes Unit Statistics</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019*</b>	<b>Approximate % Change (2018 to 2019)</b>
Cases/Defendants Screened	313/374	289/351	272/300	259/304	254/300	-1/-1
Indictments Filed	78	59	59	71	78	+10
Superior Court Informations Filed	43	54	59	16	34	+113

### **SIGNIFICANT CASES**

*People v. Jesus Cruz* – On September 22, 2017, Jesus Cruz intentionally set fire to a bodega that he owned at 435 Broadway in the City of Newburgh, by igniting firewood that he had doused with gasoline inside the building, setting the building ablaze and causing an upstairs tenant to flee the building. The fire caused serious damage to the building, displaced that tenant, and shut down the store. Within days, Cruz made attempts to collect on an insurance policy on the building that had been issued only weeks before. Cruz was convicted after a jury trial of Arson in the Second Degree and Reckless Endangerment in the First Degree, and on January 15, 2019, received an aggregate prison sentence of seventeen years, along with five years of post-release supervision.



District Attorney Hoovler, speaking about record crime reductions in the City of Newburgh, at a conference sponsored by the New York State Division of Criminal Justice Services

*People v. Christian Castelan* – On January 30, 2019, Christian Castelan stabbed another man during a robbery that was occurring inside Castelan’s car, which was parked on Heidt Avenue in Middletown. Castelan stabbed the victim multiple times, including in his neck, chest, arm, and hand. The victim rolled out of the defendant’s car to get help, as the defendant drove away. Neighbors provided emergency medical attention to stop the bleeding to the victim’s neck and chest until police arrived. The defendant pled guilty to Assault in the First Degree and was sentenced to twelve years in prison and five years of post-release supervision.

***People v. Christopher Perrella*** – On November 4, 2017, Christopher Perrella was driving on Glenwood Road in the Town of Warwick while he was intoxicated, after visiting potential wedding venues for two of his passengers earlier in the day. Perrella lost control of his vehicle and crashed into a building, ejecting and killing two of his passengers and injuring another. Perrella pled guilty to Aggravated Vehicular Homicide and on January 24, 2019, was sentenced to five to fifteen years in prison.

***People v. Denise Carrero*** – On March 4, 2019, Denise Carrero entered the lobby of the Port Jervis City Court and attempted to circumvent security to gain access to the courtroom before court was in session. When she was stopped by a uniformed court officer, she began to fight with him and made several attempts to take the officer’s loaded firearm. Eventually other court officers and City of Port Jervis police officers subdued Carrero and prevented her from taking the gun. Carrero pled guilty to Attempted Criminal Possession of a Weapon in the Second Degree and was sentenced to two years in prison and two years of post-release supervision.

***People v. Teresa Smith*** – On November 1, 2018, Teresa Smith gave birth to a child in a toilet bowl in a hotel room in the Town of Newburgh. After verifying that the child was alive, Smith called for a taxi to take her to the City of Newburgh, leaving the newborn alone in the toilet without telling anyone that the child was alive in the room. Hotel staff discovered the baby, and then notified the Town of Newburgh Police and emergency medical professionals, who were able to save the child. On April 25, 2019, Smith pled guilty to Assault in the First Degree, and was later sentenced to ten years in prison and five years of post-release supervision.

## **SPECIAL VICTIMS UNIT**

The Special Victims Unit (SVU) handles cases involving sexual abuse, domestic violence, elder abuse, child victims of violence, victims with emotional or special mental needs, and all felonies between family members or current or former intimate partners. The Unit provides a coordinated response to those designated cases, to more effectively prosecute those cases and to lessen the trauma that victims suffer. The SVU also oversees Sex Offender Registration Act hearings, which are held to determine the sexual offense registry level of a convicted sex offender. In order to more effectively serve victims, and to work toward the goals of offender accountability and victim safety, the SVU works closely with numerous other agencies that are available to victims, including: the Orange County Safe Homes Project, the Sexual Assault Nurse Examiners’ Unit, the Orange County Child Abuse Investigations Unit, the Mental Health Association in Orange County, the YWCA, Child Protective Services, and Adult Protective Services. Attorneys in the SVU are also responsible for proceedings in Orange County’s Integrated Domestic Violence Court.

<b>Special Victims Unit Statistics</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Cases Screened	397	476	436	518	472	425
Indictments Filed	41	39	26	71	60	74
SCIs Filed	17	17	14	10	20	13

## **SIGNIFICANT CASES**

*People v. Lionel Williams* – The defendant attacked a woman after following her from a Port Jervis bowling alley. After pushing the woman down a hill, the defendant unsuccessfully tried to rape her three times, before he ran away. The defendant was convicted after a jury trial of Attempted Rape in the First Degree and two counts of Tampering with Physical Evidence. He received a sentence of fifteen years in prison for the attempted rape charge, consecutive to 1 ½ to 3 years on each of the tampering charges.

*People v. Joshua Vitek* – The defendant engaged in multiple instances of sexual contact with a child who was less than thirteen years old. He pled guilty to Course of Sexual Conduct Against a Child in the First Degree and received a fifteen-year sentence in prison.

*People v. Douglas Castro* – From 2012 through 2014, the defendant sexually abused a child who was less than thirteen years old. In 2019, the defendant pled guilty to Course of Sexual Conduct Against a Child in the First Degree, and received a sentence of twelve years in prison, together with a twenty-year sentence of post-release supervision.

## **MISDEMEANORS MATTER DOMESTIC VIOLENCE INITIATIVE**

During 2019, OCDA continued to emphasize misdemeanor domestic violence cases, through the Misdemeanors Matter Program, a part of the SVU. OCDA created the program in 2014 to ensure that misdemeanor domestic violence cases are handled with the special attention and expertise that those serious cases deserve. For 2019, the Misdemeanors Matter Program continued to receive funding through a grant from the federal Violence Against Women Act Formula Grant Program. That grant partially funded the ADA responsible for work under the Program. One ADA was specifically assigned to handle a misdemeanor domestic violence caseload, with special emphasis and training placed on prosecuting cases without the victims’ testimony, a strategy known as “evidence-based prosecution.” In addition, in 2018, OCDA continued to further enhance offender accountability by mandating that defendants attend and successfully complete the program of Domestic Violence Classes for Men. That program consists of either 26 or 52 weeks of classes that provide offenders with an opportunity to learn about the harmfulness of behaviors that they have perpetrated against their partners.

## GENERAL CRIMES UNIT

The General Crimes Unit prosecutes felonies that are not assigned to other specialized prosecution units, where defendants are held in jail after arraignment, or where the cases are screened and sent to the Unit by the Local Criminal Court Bureau supervisors. Cases that the Unit handles include felony charges of driving while intoxicated, commercial burglaries, grand larcenies, forgeries, identity theft, promoting prison contraband, and many other crimes. In 2019, three ADAs were assigned to the General Crimes Unit, working under the supervision of an Assistant District Attorney and the Grand Jury Supervisor.

<b>General Crimes Unit Statistics</b>	<b>2018</b>	<b>2019</b>	<b>Approximate % Change (2018 to 2019)</b>
Cases Screened	760	799	+5
Cases Indicted	141	152	+8
Superior Court Informations Filed	141	126	-11
Leandra's Law Cases Filed	22	33	+50

### **Leandra's Law Cases**

2019 was the tenth year in which Leandra's Law was in effect. That law makes it a felony to operate a motor vehicle while intoxicated by alcohol or impaired by drugs while a child fifteen years old or younger is in the vehicle, regardless of the existence of prior convictions. All Leandra's Law cases were prosecuted by members of the General Crimes Unit. The Orange County District Attorney's Office maintains a zero-tolerance policy in those cases. In 2019, that policy resulted in 33 individuals being charged with Leandra's Law violations, either by way of indictment or superior court information.

### **SIGNIFICANT CASES**

***People v. Donald Potter*** – Defendant and two others broke into the Sprint store in the Town of Wallkill and stole \$40,000 worth of iPhones. Defendant was found guilty after a jury trial of Burglary in the Third Degree and other offenses. Defendant was sentenced to three-and-one-half to seven years in prison, to be served consecutively to a two- to four-year prison sentence that he received in Westchester County.

***People v. Ashley Parker*** – Defendant sold heroin and fentanyl to another individual, and that individual overdosed and died. Defendant pled guilty to Criminal Sale of a Controlled Substance in the Third Degree and Criminally Negligent Homicide. On the criminal sale charge, the defendant was sentenced to four years in prison with three years of post-release supervision, and on the homicide charge, the defendant was sentenced to one to three years in prison.

*People v. Ashlee Richards* – Defendant defrauded a couple out of over \$8000, in a fraudulent adoption scam. Defendant told the couple that she was pregnant with twins and that she would allow the couple to adopt the twins. Defendant was never pregnant. The couple paid the medical expenses that were associated with the fake pregnancy. Defendant pled guilty to Grand Larceny in the Third Degree and was sentenced to two to four years in prison.

## THE APPEALS BUREAU

The Appeals Bureau handles all matters pending in the New York State appellate courts, including the New York Court of Appeals; the Supreme Court, Appellate Division, Second Department; and the Supreme Court, Appellate Term for the Ninth and Tenth Judicial Districts. ADAs assigned to the Appeals Bureau also respond to federal habeas corpus challenges filed in the United States District Court for the Southern District of New York that involve cases prosecuted by the Orange County District Attorney's Office, as well as related appeals to the United States Court of Appeals for the Second Circuit and the United States Supreme Court. Bureau attorneys also provide legal assistance to other OCDA attorneys in both the Orange County Court and in various local criminal courts, assist with the Orange County Animal Abuse Task Force, provide assistance with the drafting of search warrants, and provide legal advice and training to members of the District Attorney's staff and to various police agencies in Orange County. Finally, the Appeals Bureau Chief is designated as the OCDA's Records Access Officer, and, together with other attorneys from the Appeals Bureau, is responsible for responses to Freedom of Information Law (FOIL) requests.

In 2019, New York State appellate courts issued 48 decisions involving appeals handled by the Orange County District Attorney's Office. The District Attorney's Office was victorious in 31 of the 35 cases decided by the Appellate Division, Second Department, with one sentence modified under the drug resentencing laws, one appeal dismissed as academic, and one appeal reassigned to a different appellate counsel; and in thirteen of the fifteen cases decided by the Appellate Term for the Ninth and Tenth Judicial Districts, including three successful People's appeals. In addition, the United States District Court for the Southern District of New York denied petitions for writs of habeas corpus in seven cases involving claims that defendants brought following the conclusion of their direct appeals in the state appellate courts, where the defendants challenged state court convictions in cases that were prosecuted by the Orange County District Attorney's Office. Assistants assigned to the Appeals Bureau also continued to assist with the investigation and prosecution of animal cruelty complaints brought under the Agriculture and Markets Law and environmental crimes committed in violation of the Environmental Conservation Law.

## **SIGNIFICANT CASES**

***People v. Dennis McBee*** – Defendant was convicted after a jury trial of Murder in the Second Degree and other offenses. On November 7, 2017, defendant entered 77-year-old Joseph Kucher's shoe repair shop that in Port Jervis, brutally beat him, and stole money from the cash register. Kucher died as a result of the injuries that he sustained during the crime. McBee is serving an aggregate sentence of twenty-six and one-third years to life. The Appellate Division affirmed defendant's convictions and sentences.

***People v. JMin Ward*** – In April 2017, members of the Middletown Police Department, assisted by members of the Orange County Sheriff's Office's Special Operations Group, executed a search warrant at defendant's residence in Middletown. The police recovered several quantities of drugs and \$3,186.00 in cash. County Court denied defendant's motion to suppress the physical evidence that was recovered, and defendant entered a guilty plea to Criminal Possession of a Controlled Substance in the First Degree. Defendant was sentenced to a twelve-year determinate term of imprisonment and a five-year period of post-release supervision. The Appellate Division affirmed the denial of defendant's motion to suppress, holding that the inclusion of the Special Operations Group, which included both sworn sheriff's deputies and corrections officers, did not invalidate the warrant, because it was properly addressed to Middletown police officers and members of the New York State Police, and that the members of the Special Operations Group played a limited role in the execution of the warrant by securing the premises for the police officers who actually conducted the search and recovered the evidence.

### **Federal Habeas Corpus Litigation**

***Abner Alvarez*** – Defendant was convicted of Murder in the Second Degree and other offenses, following the fatal shooting of Brian Triminio on January 9, 2008, in the City of Newburgh, and is serving an aggregate sentence of twenty-five years to life. The Appellate Division affirmed defendant's conviction and sentence in 2011. The United States District Court denied defendant's petition for a writ of habeas corpus, in which he sought to attack his conviction on federal constitutional grounds.

***Eric Sanabria*** – Following a jury trial, defendant was convicted of Burglary in the First Degree and other offenses and was sentenced to an eight-year term of imprisonment and a period of post-release supervision. The charges stemmed from the attempted break-in of a residence in the Town of Warwick. During a car chase, police observed a gun thrown out of a rear passenger window. Defendant was apprehended after the driver pulled over and defendant got out of the vehicle and attempted to flee. The Appellate Division had previously affirmed defendant's conviction and sentence. The United States District Court denied defendant's petition for a writ of habeas corpus.



<b>Appeals Bureau Statistics</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Approximate % Change (2018 to 2019)</b>
Total Matters Handled	626	624	675	629	-7
State Appeals	57	82	46	68	+48
Federal Habeas Responses	2	8	7	5	-29
Appellate Arguments	12	6	18	12	-33
Post-Judgment Hearings	1	1	3	2	-33
FOIL Responses	101	154	171	126	-26
Animal Cruelty Cases Reviewed	9	10	7	7	No Change
Search Warrants Drafted	3	6	3	5	+66
Training Sessions Conducted	41	11	19	7	-63

## SPECIAL PROJECTS AND COMMUNITY AFFAIRS BUREAU

The Special Projects and Community Affairs Bureau continued to reach out to Orange County’s communities, and to administer other special initiatives of the District Attorney’s Office. In 2019, Bureau members:

- **Continued to run the District Attorney’s Regional Community Advisory Boards.** The Regional Community Advisory Boards are made up of community leaders and representatives and are designed to provide the District Attorney with advice on how a community prosecution program might work in Orange County. The regional boards are divided into seven geographic divisions and are composed of a cross-section of community representatives in those regions. The boards discuss issues of crime and crime-prevention strategies in a setting where community issues may be addressed on a regional level.



Community Affairs Coordinator Darlene DeJesus, left, hosting the District Attorney’s Region VI Community Advisory Board, at the Warwick Valley Community Center

- **Sponsored *The Uncommon Athlete* program.** *The Uncommon Athlete* is a program developed jointly by Rachel’s Challenge and the Cal Ripken, Sr. Foundation. It is designed

to impress on young athletes the values that will make them better athletes and better adults – Perseverance, Relationships, Integrity, Courage, and Empathy – values represented in the acronym PRICE. Through those values, the program seeks to help young athletes to better themselves, and to become adults who can lead and improve their communities. The District Attorney’s Office sponsored four presentations in the Spring and subsequently three presentations in the Fall. To date over 5,200 students have participated in the program. The program is part of District Attorney Hoover’s effort to reduce bullying and hazing in Orange County schools.

- **Hosted the Hunter Safety Program.** The Hunter Safety Program is a ten-hour course designed to encourage interaction between law enforcement and the youth of Orange County, and to stress the importance of gun safety. The course is taught by Detective Michael Decker of the Port Jervis Police Department and Sergeant Ray Cirulli of the Deerpark Police Department, with assistance from assistant district attorneys. To date, over 300 Orange County citizens have participated in the program.
- **Hosted Gun Buy-Back Program.** The District Attorney’s Office hosted a gun buy-back program in conjunction with the City of Newburgh Police Department and the New York State Police. The program is designed to allow people to safely surrender guns and receive a Walmart gift card valued at up to \$150.00, depending on the type of gun surrendered. No identification is required to surrender any weapon, and no questions are asked of the person dropping off the firearm. Under the New York State Penal Law, a person who voluntarily surrenders a weapon to the police at the program, in accordance with the terms and conditions, receives immunity for the unlawful possession of the weapon, although not for other crimes which they may have committed using the weapon. The program resulted in twenty-eight handguns and ten long-guns, including three illegally modified sawed-off shotguns, being turned into the police.
- **Hosted Community Youth Gym Program.** The District Attorney’s Office hosted the Community Youth Gym Program in conjunction with the Wallkill Police Department and the Orange County Sheriff’s Office. The program is designed to give high-school-age teenagers an alternative to spending their summer on the streets, and includes instruction on nutrition, character building, the importance of crime prevention, and avoiding drugs. The program is designed to provide youth, particularly disadvantaged youth, with alternatives to engaging in criminal activity, as well as life skills, including a compelling anti-drug message, and to foster a more positive relationship with law enforcement. The program stresses to youth the importance of abstaining from drugs, “vaping,” and tobacco, as well as staying in school. The program is also designed to promote leadership skills.

- **Hosted Movies in the Park Series.** The District Attorney’s Office hosted Friday Night Flix Movies in conjunction with Assemblyman Colin Schmitt and the Town of New Windsor. The Friday Night Flix Movies in the Park series featured six family-friendly movies at no cost to residents. The series is designed to provide a fun night out for families at no cost, as a free alternative to engaging in criminal activity, while also providing an opportunity for residents to learn about crime prevention and office programming.
- **Continued to promote the “Connect 2 Disconnect” heroin and opioid awareness campaign.** District Attorney Hoovler designed the “Connect 2 Disconnect” program to provide education to the public to keep young people away from prescription drugs and heroin. “Connect 2 Disconnect” is designed to educate parents and peers about how they can connect with their children and contemporaries to break the connection between prescription drugs and heroin. The campaign features posters, written materials, and a powerful public service announcement intended to drive home the severity of prescription opiate abuse, and its link to later addiction to heroin and other opiates.
- **Continued assisting Orange County’s immigrants in dealing with the criminal justice system.** As a member of the New York State District Attorney’s League of Immigrant Affairs (DALIA), the District Attorney’s Office continues to attend meetings with representatives from New York State district attorney’s offices in Queens, Manhattan, Brooklyn, Bronx, Nassau, Westchester, Rockland, and Richmond Counties. In addition, the District Attorney’s Office has continued its membership in the Protecting Immigrant New Yorkers (PINY) Task Force, a coalition of state, local, and federal agencies working together to protect immigrants from being defrauded. Under the OCDA’s Immigrant Affairs Initiative, immigrants who are victimized have a single point-of-contact, the immigrant affairs coordinator, for assistance and information about their cases. Lastly, the Unit continues to process the certification of U-visa applications in conjunction with OCDA’s Chief Trial ADA.
- **Continued to promote the Hate Crimes Awareness Initiative.** The Initiative is designed to raise awareness about the prevalence of hate crimes in our communities and to enhance the investigation and prosecution of hate crimes. The initiative is, in part, the result of investigations into several hate crimes that have been committed in Orange County in recent years. As part of the initiative, the District Attorney’s Office, with funding from the Jewish Federation of Greater Orange County, has developed an informational brochure, *Speak Up to Stand Up Against Hate*, and a related poster, both of which are available for public distribution. The District Attorney’s Office conducted a training seminar for law enforcement officers and school officials, to provide them with information about how to recognize and investigate hate crimes, so that the perpetrators of those crimes may be successfully prosecuted. The District Attorney’s Office has established a Hate Crimes Hotline, (800) 378-1411, that people can use to report hate crime incidents, and District Attorney

Hoovler has assigned a senior prosecutor to coordinate efforts to investigate and prosecute hate crimes. Finally, as part of the initiative, in the Fall of 2019, District Attorney Hoovler appeared as a guest speaker at an event sponsored by the Jewish Federation.

- **Continued to operate the Orange County SMART (Strategic Methods Aimed at Reducing Truancy) Program**, designed to bring the authority of the district attorney to bear on parents of truant students when those parents refuse to cooperate with efforts of school officials to remedy the causes of their children’s truancy.
- **Continued to build community relations.** Community prosecution is founded on the idea that prosecutors have a responsibility not only to prosecute cases but to solve public safety problems, prevent crime, and improve public confidence in the justice system. That requires collaborating with others (including residents, community groups, and other government agencies) and becoming an integral part of the community. The Community Affairs Unit has become a part of the community and responded to community needs through the following measures:

- **Anti-Drug Coalitions:** The Community Affairs Unit actively partners with the eight anti-drug coalitions in the County – TEAM Newburgh, the Middletown Cares Coalition, Operation PJ PRIDE, the Greenwood Lake Coalition, the Warwick Valley Coalition, the Tri-County Community Partnership, the Crusader Community Coalition, and the Town of Highlands Community Coalition – as well as the Wallkill Police Community Council. The Community Affairs Unit attends monthly meetings for each coalition, where it provides the community with office updates, listens to community issues, and addresses community concerns related to crime.



Senior ADA Matt Healy, second from left, at International Overdose Awareness Day, cosponsored by Operation PJ Pride, the Port Jervis Police Department, and Catholic Charities, August 2019

- The District Attorney’s Office participated in *Reality Tour*. *Reality Tour* is an evidence-based program designed to help prevent substance abuse among young people. The program involves a series of vignettes illustrating the consequences of substance abuse and brings in children and their parents as the target audience. In 2017, the Office presented the Operation PJ PRIDE coalition with a check for

\$3,500.00, the office's contribution to launch the *Reality Tour*. The first *Reality Tour* session took place in January 2019 and was the first of its kind in New York State.

- **National Night Out:** District Attorney Hoovler and members of his staff, appeared at the seven National Night Out Against Crime events held in Orange County, in the Cities of Newburgh, Middletown, and Port Jervis; the Towns of Wallkill, Mt. Hope and New Windsor; and the Village of Highland Falls. The District Attorney's Office had a table staffed by ADAs at each location. The ADAs displayed literature publicizing District Attorney Hoovler's community prosecution program and offered free items designed to provide the public with information that might be valuable in crime prevention. The ADAs also engaged with community members, discussed the office's functions and answered general questions.
- Continued to build upon community relations by continuing to engage in the following:
  - Hosted a series of anti-fraud presentations to groups of senior citizens throughout the County.
  - Continued to participate in career days in schools throughout the County, to serve as guest speakers at events, and to table at various community events.
  - Served as a guest speaker at the Red Ribbon Week Ceremony at Highland Falls Intermediate School, speaking about ways to remain drug- and alcohol-free. Red Ribbon Week is an ideal way for people and communities to unite and take a visible stand against drugs. The Red Ribbon Week Campaign was started when drug traffickers in Mexico City murdered DEA agent Enrique "Kiki" Camarena in 1985. That crime began the continuing tradition of displaying red ribbons as a symbol of intolerance towards the use of drugs. The mission of the Red Ribbon Campaign is to present a unified and visible commitment towards the creation of a drug-free America.
  - Continued to support and on occasion serve as guest speakers at *Breaking the Cycle* assemblies, on the topic of non-violent conflict resolution through forgiveness. *Breaking the Cycle's* main goals are to counteract youth violence; address bullying, peer pressure and racism; promote self-respect and respect for others; and to build links between educators, parents, students, and law enforcement.

- Hosted mock trial sessions for the Middletown and City of Newburgh Junior Police Academies. The Junior Police Academies are designed to engage juveniles and provide them with insight and experience with basic police procedures. The mock trial session involved the participants studying a fact pattern and assuming the roles of judge, prosecutor, defense attorney, defendant, victim, witness, and juror, with the help and guidance of a local judge, prosecutor, and defense attorney. The participating prosecutor and defense attorney delivered an opening statement, questioned the witnesses, and delivered a summation.
- Participated in the Gidney Avenue Memorial School literacy program, by volunteering as a community leader. As volunteers, members of the Unit read to at least four classes per session. Grades ranged from K-5 and included English as a Second Language classes.
- Served as a guest speaker for the City of Newburgh Police Department's Youth Police Initiative (YPI) Graduation, a training program designed to bring together youth from the community and police officers.
- Made hundreds of appearances at town board meetings, schools, and community events, including presentations to educate the community regarding the upcoming bail and discovery reforms.

### **LOCAL CRIMINAL COURT BUREAU**

Assistants assigned to the Local Criminal Court Bureau are responsible for handling most prosecutions in the local criminal courts in Orange County's 22 towns, 19 villages, and three cities. Combined, there are a total of approximately 70 local criminal court parts. Local criminal courts meet both in the daytime and at night, handle misdemeanor and petty offense cases, and exercise preliminary jurisdiction over most felony cases. In 2019, the Bureau prosecuted approximately 20,000 cases, representing more than 90 percent of OCDA's total caseload.

Attorneys in the Bureau are also responsible for operations in several of Orange County's specialty courts, including:

- Middletown Drug Court
- City of Newburgh Drug Court
- City of Newburgh Veterans' Court
- Middletown Mental Health Court Connections Program
- Port Jervis Mental Health Court Connections Program

Attorneys in the Bureau are also responsible for referring appropriate cases to various diversion programs throughout the County. Those programs include:

- Dispute Resolution Center – programs to mediate differences between parties
- Orange County John School – a program for non-violent sex offenders arrested for soliciting prostitutes, where health and law enforcement officials and community members discuss a variety of topics
- Shoplifting Prevention Program
- Teen Victim Impact Panel – Group session held for defendants under 21 years of age, where defendants listen to victims of crimes and share how alcohol-related offenses have affected their lives

### **DWI POLICY**

In 2019, OCDA continued its restructured DWI policy, which was created in consultation with Orange County police chiefs and the New York State STOP-DWI chairperson. The policy, among other things, compels first-time offenders, in order to be eligible for a guilty plea to a reduced charge, to receive alcohol- and substance-abuse evaluations and, if necessary, treatment, so that they might avoid becoming felons or killing people on the highways. Statistics reflect that approximately ten percent of first-time DWI offenders require some form of treatment.

## BUDGET AND GRANTS

(All figures are in dollars, except for the percentage change)

	2015	2016	2017	2018	2019	2020	Approximate % Change (2019-20)
Annual Budget (adopted)	9,191,427	9,342,670	10,040,096	10,372,275	10,473,280	11,702,033	+12
Grants – Total	520,665	545,465	725,995	656,299	646,749	737,206	+14
Gun-Involved Violence Elimination Grant	213,465	213,465	213,465	275,129	275,129	300,318	+9
Byrne Justice Assistance Grants	25,000	15,000	75,000	N/A	N/A	75,000	N/A
Crimes Against Revenue Program Grant	100,000	89,000	89,000	89,000	112,810	112,810	No Change
Violence Against Women Formula Grant	35,600	35,600	35,600	35,600	35,600	35,600	No Change
Aid to Prosecution Grant	71,600	107,400	71,600	100,240	100,240	100,240	No Change
Non-Fatal Newburgh Shootings	N/A	N/A	105,363	105,363	113,238	113,238	No Change

NOTES: 1. With respect to the Significant Cases described above, a criminal charge is merely an allegation that a defendant has committed a violation of the criminal law, and it is not evidence of guilt. All defendants are presumed innocent and entitled to a fair trial, during which it will be the State of New York’s burden to prove guilt beyond a reasonable doubt.

2. In 2019, due to significant changes in the law regarding, especially, criminal discovery, OCDA was restructured, such that the specialized prosecution units described above were done away with, in favor of a three-bureau office structure that does not explicitly provide for specialization among ADAs. Due to that restructuring, the statistics quoted above take into account actual numbers of cases prosecuted by the units until the restructuring took place, together with estimates of cases that would have been handled by the respective units, had the restructuring not occurred.