

2012 ANNUAL REPORT OF THE DISTRICT ATTORNEY

In 2012 Orange County District Attorney Francis D. Phillips II completed his 27th year in office. The year included a high number of 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.

2012 SIGNIFICANT ACCOMPLISHMENTS

LOCAL COURTS

- Prosecuted a total caseload of more than 20,000 cases
- Prosecuted more than 1,400 DWI cases
- Conducted 49 Local Court trials
- Adjudicated 279 cases in the Newburgh Domestic Violence Court
- Processed 28 cases in Middletown Mental Health Court
- Graduated 16 participants in the Women's Enrichment Program
- Referred 420 participants to the Shoplifting Prevention Program
- Ordered 150 people to attend the Teen Victim Impact Panel Program
- Referred 94 people to misdemeanor Drug Courts

COUNTY COURTS

- Felony conviction rate of over 96%
- Prosecuted 828 felony cases in Orange County Court
- Conducted 24 County Court felony trials
- Prosecuted 55 cases in the Integrated Domestic Violence Court
- 37 Felony Drug Court participants

- 105 Judicial Diversion participants
- Prosecuted 33 Unemployment Fraud cases and recovered \$178,000 in restitution

APPELLATE COURTS

- Processed 587 matters, a 6% increase
- Responded to 71 FOIL requests

2012 INITIATIVE

- Implemented a county-wide policy and procedure for the police and prosecution response to critical incidents involving police officers

DISTRICT ATTORNEY INITIATIVES 1993 - 2010

- 2012: Critical Incident Response Protocol for Police.
- 2011: Expanded Women's Enrichment Program to Middletown.
- 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 cases before 74 Local Criminal Court Judges in 2012. 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 Court 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 2012, 828 felony cases were disposed of in our three County Court Parts. The felony conviction rate exceeded 96%.

Drug Treatment Courts

The District Attorney's Office prosecutes cases in specialized courts established by the Office of Court Administration. These include two felony-level courts: Drug Treatment Court and Judicial Diversion Court, both located in Goshen, and two misdemeanor Drug Courts in the cities of Newburgh and Middletown. All courts handled 236 cases.

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 is collocated with the City Court in Newburgh. Caseloads totaled 330 cases.

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 2012, 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 Office, the New York State Department of Environmental Conservation Police, the Palisades Interstate Park Police and the Metropolitan Transit Authority Police. We also prosecute 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: The District Attorney, 21 Assistant District Attorneys, seven investigators and 12 members of the support staff were located in the County Government Center. As of December, 2011 all operations in Goshen moved to 40 Matthews Street.

Middletown Office: Eighteen ADAs, including the Chief Assistant District Attorney, two Local Court prosecution teams, the Appeals Bureau and six 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.

District Attorney Staffing: 72 Positions

At full strength, the staff includes the District Attorney, 42 Assistant District Attorneys, 10 staff investigators and 19 support staff.

Staff Turnover

In 2012, three experienced Assistant District Attorneys left the staff.

BUDGET AND REVENUE

The 2012 budget was almost nine million dollars.

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 2012, the Local Court Bureau was staffed by 13 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 Parts. These courts meet both in the daytime and at night. ADAs receive no additional compensation in the form of overtime or compensatory time for these extra hours. The Local Court Bureau prosecutes more than 90% of our total caseload. Many of the cases involve petty offenses that can be dealt with by diversion of the offenders from the Criminal Justice System. Prosecution services are provided to 36 separate police agencies.

- **Caseload**

In 2012, the Bureau prosecuted approximately 20,000 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: 1,400 + 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 1,400 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 on 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 2012.

- **Early Felony Case Assessment: 1,048 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 ADAs perform early case assessment duties by evaluating 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 2012, 1,048 cases were screened.

2011 – 2012 FSU CASELOAD BY LOCAL COURT

LOCAL COURT	2011	2012
Blooming Grove	27	22
Village of Chester	16	10
Town of Chester	20	10
Cornwall	26	19
Crawford	14	15
Deerpark	11	11
Florida	4	6
Town of Goshen	28	24
Village of Goshen	25	14
Greenwood Lake	10	8
Greenville	6	15
Hamptonburgh	15	9
Harriman	4	0
Highlands	12	8
Maybrook	3	6
Middletown	113	146
Minisink	4	4
Town of Monroe	54	45
Village of Monroe	26	19
Town of Montgomery	34	20
Village of Montgomery	3	4
Mount Hope	7	3
City of Newburgh	159	124
Town of Newburgh	134	130
New Windsor	64	56
Port Jervis	42	40
Tuxedo	6	19
Tuxedo Park	0	0
Walden	16	19
Wallkill	134	132
Town of Warwick	15	30
Village of Warwick	10	7
Unionville	0	0
Washingtonville	13	5
Wawayanda	12	13
Woodbury	56	54
TOTAL	1,132	1,048

- **Local Court Litigation: 49 Trials Conducted**

Trial work in the Local Court Bureau continued at a high level with a total of 49 trials. There were 20 jury trials and 29 non-jury trials. Trial work included the crimes of Driving While Intoxicated, Assault, Criminal Possession of a Controlled Substance, Criminal Contempt and Sexual Misconduct.

- **Significant Local Court Trials in 2012**

People v Glen Smith: In this Village of Goshen case, the defendant, claiming to be a "sovereign citizen", refused to comply with County Court Officers' directives to remove his headgear upon entering the courthouse. He became combative and verbally abusive. He was convicted of Resisting Arrest and Disorderly Conduct after a jury trial and was sentenced to one year in the Orange County Jail.

People v Karen Ganz: The defendant was convicted after a bench trial of 15 misdemeanors, including Forgery in the Third Degree and Criminal Possession of a Forged Instrument in the Third Degree. The Town of Cornwall Court found the defendant guilty of submitting altered documents to her employer's school for reimbursement of medical coverage co-payments. The judge sentenced the defendant to a term of probation and ordered her to pay restitution to the school.

People v Patrick Mosher: The defendant, a former City of Middletown Police Officer, was convicted by a jury in the City of Middletown Court of Criminal Contempt in the Second Degree. The jury determined that the defendant violated an order of protection by remaining within a proscribed distance from the victim and trying to engage the victim to fight. He was sentenced to a period of probation.

People v Tyneisha Clark: The defendant was convicted after trial in the City of Newburgh Court of Reckless Endangerment in the Second Degree, Menacing in the Second Degree and Criminal Possession of a Weapon in the Third Degree for shooting a .22 caliber handgun towards the victim after an ongoing argument. The defendant was sentenced to nine months in jail.

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.

- **Two City Drug Courts: 94 Participants**

The primary mission of Drug Court is to improve the quality of life for communities by providing an alternative to traditional criminal prosecution for non-violent drug defendants. Before entering into Drug Court, defendants must plead guilty to the crime charged. Participants are afforded the opportunity to receive treatment, counseling, training and education in order to break the cycle of drug addiction. Many eligible offenders opt for jail time rather than face the rigors of intensive treatment programs. In 2012 there were a total of 94 participants which is an increase over the 2011 total of 83.

There are two active misdemeanor-level Drug Treatment Courts in Orange County. The City of Newburgh Drug Court opened in 2003 followed by the Drug Court in the City of Middletown in 2004. 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, 2012, 33 individuals were enrolled in the City of Newburgh Drug Court, and 21 in the Drug Court in Middletown. Multiple individuals successfully completed and graduated from the City Drug Courts in 2012.

- **City of Newburgh Domestic Violence Court: 279 Cases**

This specialized court was created in 2006. The Domestic Violence Court in the City of Newburgh handles misdemeanor crimes of domestic violence. Professionals who are specially trained to understand the particulars of domestic violence are assigned to this Court and provide victims' services to address this community problem. Priority is placed on offender accountability and victim safety.

In 2012, the Court processed 279 cases. At the end of 2012 there were 75 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: 28 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, 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 guilty 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, 2012 there were 28 participants.

- **The Veterans Track at the City of Middletown Court**

The Veterans Track was initiated in the late summer of 2012 as an initiative that will supplement the Newburgh Drug Treatment Court and specifically target those defendants who are veterans and who have alcohol and/or substance abuse problems. This track will enable liaisons from the local V.A. Hospital to assist the drug court treatment team of providers to better handle the problems of veterans charged with crimes who may have mental health issues (such as post traumatic stress syndrome) that need to be addressed as part of the defendant's recovery and successful participation in the Veterans Track.

Orange County Assistant District Attorneys participated in training with the assistance of Orange County Veterans' Services and local V.A. officials. The Track, when fully operational, will be a "hub court" allowing veterans charged in other local courts in Orange County to benefit from the program by having their case transferred to the City of Newburgh Court.

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 20102 a continuing goal of the District Attorney's Office was to expand the use of restorative justice practices in Orange County.

- **Group Conferencing**

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 offenses 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**

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 Orange 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.

- **Orange County John School**

The Orange County John School was created by the District Attorney's Office in 2003. The John School is a county-wide 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 are 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.

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: 16 Graduates/33% Increase**

Another successful restorative justice program created by the District Attorney's Newburgh Office is the Orange County Women's Enrichment Program. The county-wide 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 2011 this program was expanded to the Middletown area with referrals made from the City of Middletown Court.

In 2012, three separate classes were held with 16 women graduating. This was a 33% increase from 2011.

- **Shoplifting Prevention Program: 420 Participants**

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

Shoplifting behavior is a symptom of a problem. The Orange County Shoplifting Prevention Program recognizes this problem through education in order to change shoplifters' behavior to decrease the likelihood of recidivism. Defendants of any age who are arrested for shoplifting are eligible for the program. After admitting their guilt in court, the offender's case is adjourned in order to take and complete a six (6) hour on-line 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. Since its inception in 2005, over 2,200 individuals have successfully completed this program in Orange County.

DETECTING 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.

- **Teen Victim Impact Panel: 150+ Attendees**

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

Teen offenders who attend sessions are educated on the hazards and harm of these offenses to deter them from committing similar acts in the future. Teen Victim Impact Panels held in 2012 provided speakers who were victims or past offenders to tell their stories to the attending teens. Since its inception, over 1,200 youths have benefited from the program.

THE COUNTY COURT BUREAU

- **Organization**

In 2012, the Chief Trial Assistant District Attorney supervised 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 that were previously assigned to the Government Center, and are now at 40 Matthews Street. These include the individual members of the Special Victims, Violent Felony, Narcotics, Special Investigations, and Grand Jury Units.

The Supervisor is also responsible for overseeing the County Court motion calendar and all other aspects of County Court prosecutions.

- **Operation**

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

- **Caseload: 828 Dispositions**

As of January 1, 2013, 828 felony defendants had their cases disposed of in the year 2012. These dispositions also included indictments filed in 2011 or earlier but disposed of in 2012. A total of 783 defendants were convicted.

In 2012, 759 defendants pled guilty, 18 were found guilty after trial, and 36 cases resulted in acquittal or were dismissed. Almost 2%, or 15 cases, were disposed of in "other" manners including defendants who were found not responsible 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 24 felony trials in 2012 were slightly less than the number of trials completed in 2011. For statistical purposes, trials are counted by the number of defendants. Of the twenty-four trials that resulted in verdicts, 18 defendants were convicted and six were acquitted. The post-trial conviction rate for defendants in cases that resulted in verdicts was 75%.

The overall 2012 felony conviction rate exceeded 96%. As of January 2013, there were 181 felony cases pending in County Court.

- **Felony Trials Conducted: 2004 - 2012**

Felony Trials By Crime	2012	2011	2010	2009	2008	2007	2006	2005	2004
Murder/Homicide	4	1	5	6	6	6	3	4	5
Sex Crimes	1	4	6	2	3	6	4	4	12
Drugs	0	0	1	2	2	3	2	3	5
Robbery	2	5	0	2	3	4	4	5	3
Assault	3	3	7	2	4	8	4	1	9
Burglary	1	4	6	1	4	1	2	2	3
DWI	7	2	2	1	0	3	7	4	2
Other	6	10	9	2	6	4	6	12	13
Total	24	29	36	18	28	35	32	35	52

- **Significant Felony Convictions**

People v. Cory Byrd: City of Newburgh Murder of 4 Year Old, Marc Bookal

On December 14, 2009, 4 year old Marc Bookal disappeared from his City of Newburgh home while being cared for by his mother's boyfriend, Cory Byrd. Byrd claimed that little Marc disappeared after leaving the home and headed next door to his aunt's house. An extensive search was conducted for Marc by numerous law enforcement agencies. Partially decomposed and encased in two bags, Marc's remains were discovered in a wood pile in the City of Newburgh on March 24, 2010. An autopsy revealed that Marc was beaten brutally prior to his death and that his injuries would have caused certain incapacitation. The case was entirely circumstantial. No witnesses observed the beating of Marc or the disposal of his remains. The Grand Jury returned an Indictment against Cory Byrd accusing him of killing Marc Bookal and of tampering with evidence. After intensive pretrial proceedings in 2011, the defendant was tried before a jury in January of 2012, and convicted on January 26, 2012. He was sentenced to two consecutive sentences of 25 years to life on the Murder and Tampering charges for an aggregate of 50 years to life.

People v. Timothy Handel: Town of New Windsor Murder of Domestic Partner

Between July 7, 2011 and August 3, 2011, the defendant killed his girlfriend, Katie Connolly, the mother of his two little girls, by strangling her and then dismembering her body by cutting her arms and legs off with a reciprocating saw and burying her body behind a shed at the home where he was living. He was charged with her Murder and Tampering with Evidence. At trial he claimed that he had found her body after she had committed suicide and had no recollection of how her body became dismembered and buried. He was convicted of the Murder charge as well as two counts of Tampering with Evidence and was sentenced to 27 and 2/3 years to life in state prison.

People v. Ollie Dolson, Abiecer Calderon, Charles Dolson, Jose Soto and Maxwell Siebold: Middletown Murder

The defendants were indicted for their roles in the homicide of Eddie Ayala, who was stabbed to death during a robbery inside the Gino's Motel in the City of Middletown on October 18, 2010. During the incident, Ayala's wife was also stabbed and robbed and another person's property was stolen. All five defendants were arrested within six days and charged according to their involvement in the homicide. All five defendants plead guilty before trial. Jose Soto plead guilty to Robbery in the First degree, and was sentenced to 5 years in prison. Ollie Dolson plead guilty to Robbery in the First degree, and was sentenced to 16 years in prison. Charles

Dolson plead guilty to Manslaughter in the First degree, and was sentenced to 20 years in prison. Abiecer Calderon plead guilty to Manslaughter in the First degree, and was sentenced to 20 years in prison.

People v. Michael Mele: The Death of Laura Garza

On December 3, 2008, Laura Garza disappeared after meeting the defendant in a club in Manhattan, then coming up to his apartment with him in the Town of Wallkill. Her remains were found on April 11, 2010 in a field in Pennsylvania. Unfortunately, her remains did not reveal her cause of death. After an exhaustive two-year long investigation by the New York State Police, in December of 2010 he was indicted, without arrest, for causing her death and tampering with evidence, which included moving her body from his apartment in Wallkill, to Pennsylvania. Jury selection in the case began on January 9, 2012 and concluded on January 18, 2012. On the day testimony was to begin, January 23, 2012, the defendant pled guilty to Manslaughter in the First Degree and Tampering with Physical Evidence. On March 6, 2012 he was sentenced to 23 years in prison plus post-release supervision on the Manslaughter charge, and 1 1/3-4 years in prison on the Tampering with Physical Evidence charge, to run concurrently.

People v. Todd Sinclair: Port Jervis Murder

On February 2, 2011 at approximately 7:18 p.m. at the intersection of Prospect Street and Neversink Avenue, in the City of Port Jervis, Orange County, New York, the defendant shot and killed the victim Randy Kizer, a 21 year old man and, while doing so, nearly killed another civilian. The defendant then fled the area in his vehicle and he was ultimately apprehended in the Village of Monroe in his mother's car. On May 11, 2012, following a two week jury trial, the defendant was found guilty of Murder in the Second Degree, Criminal Possession of a Weapon in the Second Degree, and Reckless Endangerment in the First Degree. The defendant is still awaiting sentencing.

People v. Robert Seeley: Wallkill Home Invasion

On October 6, 2011, this defendant went to visit his aunt in the Town of Wallkill, but she wasn't home. He went next door and asked his aunt's neighbor, a 73 year-old woman, to use her phone. She recognized him as her neighbor's nephew and let him in to use her phone. Once inside her home, the defendant savagely beat her and cut her throat with a pair of scissors. Shortly thereafter, his aunt came home and noticed his car. She went over to the neighbor's home where she found the defendant standing over the bloodied and unconscious woman. His aunt called police, and the defendant fled. The manhunt for the defendant conducted by the Town of Wallkill Police and the New York State Police ended on October 7, 2011 when State Police spotted the defendant in a field from a helicopter, and descended down upon him. The defendant was charged with multiple crimes including Assault in the First Degree. On July 20, 2012 the defendant pled guilty to Assault in the First Degree, and on September 7, 2012 he was sentenced to 17 years in prison plus post-release supervision as a second violent felony offender. The victim has since recovered from her injuries.

People v. Brandon Rosado: City of Middletown Murder

Brandon Rosado shot two people in a car in the City of Middletown with a laser-sighted revolver from the second story window of the house the victims travelled past. Rosado was the leader of the gang "RBA" (Respected By All) while the victims were associated with a rival gang,

"MOE" (Money Over Everything). Victim Otis Davon Singleton was shot once in the head and died. Victim Peter Irons was shot in the knee and survived. In 2011, the defendant was indicted by a Grand Jury. On March 27, 2012, Rosado pled guilty to Manslaughter and was later sentenced to 16 years in State Prison. While awaiting sentence, Rosado assaulted an Orange County Sheriff's Office correction officer causing injury. Rosado was, again, indicted by a Grand Jury, pled guilty to the assault and was sentenced to a second term in State Prison.

THE GRAND JURY UNIT

- **Organization**

All Assistant District Attorneys in the Goshen Office are assigned to felony prosecutions and present cases to the Grand Jury. They work under the supervision of the Chief Trial Assistant District Attorney. In addition, a Senior Assistant District Attorney serves as the Grand Jury Supervisor and oversees the operations of the Grand Jury and proofreads all of the documents that result from Grand Jury action as well as all Superior Court Informations.

- **Operation**

The Orange County Grand Jury operates 4 days per week. One term of the Grand Jury meets Mondays and Wednesdays and the other term meets Tuesdays and Thursdays. A Senior Assistant District Attorney supervises the Grand Jury Unit. All felony cases handled by the various felony prosecution units are processed through this unit.

- **Caseload: 785 Case Filings**

In 2012, the total number of case filings resulting from Grand Jury action decreased by 8.7% from 2011. The actual number of cases presented to the Grand Jury decreased by 20% from 633 in 2011 to 507 in 2012.

GRAND JURY CASELOAD 1990 – 2012

YEAR	FELONY FILINGS	NO BILLS	SENT BACK TO 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%
2011	857	3	0	860	-5.6%
2012	775	10	0	785	-8.7%

- **2012 Waivers of Indictment: 209 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 2012, 209 defendants waived indictment and entered guilty pleas to Superior Court Informations. These 209 defendants constituted 27% of all felony defendants prosecuted in the Orange County Court, which was a 0.6% increase in percentage of Superior Court Informations from 2011.

YEAR	TOTAL SCI DISPOSITIONS	TOTAL FELONIES FILED	SCI'S AS % OF FELONY CASES
2012	209	775	27%
2011	227	860	26.4%
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	1,024	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**

In 2012, four Assistant District Attorneys were assigned to this unit and worked under the supervision of the Grand Jury Supervisor. The members of the unit prosecuted cases sent to them by the Felony Screening Unit.

- **Operation**

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

- **Caseload**

Members of the General Crimes Unit screened 609 felony cases for Grand Jury presentation in 2012. This represented a 7% increase over 2011. Of those 609 cases, the members obtained 166 Indictments after Grand Jury presentation, accounting for 33% of all the Indictments returned by the Grand Jury in 2012. The remainder of the cases were either reduced to misdemeanors and prosecuted in the local courts, or prosecuted as felonies by way of Superior Court Informations. Members of the General Crimes Unit handled 90 Superior Court Informations, accounting for 43% of all such felony filings in 2012.

Members of the Unit conducted eight felony trials in County Court. This represented 33% of all felony trials for 2012.

Leandra's Law Cases: 42% Increase

2012 was the third full year in which Leandra's Law was in effect. Leandra's Law makes it an automatic felony when anyone operates a motor vehicle while intoxicated by alcohol or drugs and while a child fifteen years of age or less is a passenger in the vehicle, regardless of the lack of any prior convictions. All such arrests were prosecuted by members of the General Crimes Unit. The Orange County District Attorney's Office has maintained a zero tolerance POLICY in regard to these cases, and this policy has led to 20 individuals being indicted by the Grand Jury under Leandra's Law along with 7 others being prosecuted by way of Superior Court Informations. This represented a 42% increase in such prosecutions over 2011.

THE SPECIAL VICTIMS UNIT

- **Organization**

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

- **Operation**

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

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

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, Safe Homes of Orange County, 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**

In 2012 the unit screened 457 felony complaints. The majority of the caseload involved allegations of criminal contempt resulting from the violation of Court Orders of Protection, as well as sexual assaults. The total number of felonies prosecuted in County Court was 53. Of these, 42 resulted from Indictments and in 11 cases the defendant waived indictment. The Unit also conducted 16 Sex Offender Registration Act hearings and prosecuted 55 cases in the felony-level Integrated Domestic Violence Court

Integrated Domestic Violence Court: 55 Cases

In October of 2005 the Integrated Domestic Violence Court opened in Orange County Supreme Court. IDV is a branch of New York Supreme Court dedicated to dealing with domestic violence issues in criminal cases, Family Court cases and matrimonial cases. If there is a criminal case and a Family Court case, or a criminal case and a matrimonial case, they are automatically transferred to IDV Court. While each case retains its own separate identity, the cases are handled in the same court to promote judicial economy, victim convenience and information sharing. The Special Victims Unit participated in the planning stages of IDV during the entire year of 2005. In 2012 there were 55 cases handled by SVU in the IDV Court.

- **Significant Cases**

People v. Danty Martinez

Convicted after jury trial of Assault in the First Degree for the brutal assault of his three month old son, which resulted in permanent brain injury. Sentenced to 25 years in State Prison.

People v. Herbert Ploschke

Convicted after plea of Course of Sexual Conduct Against a Child in the First Degree for the sexual abuse of a child. Sentenced to 17 years in State Prison.

People v. Natascha Tiger

Convicted after plea of guilty to Endangering the Welfare of an Incompetent or Physically Disabled Person. Defendant was a home health aide who burned a physically incapacitated child in her care.

THE SPECIAL INVESTIGATIONS UNIT

- **Organization**

A Supervisory 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 Special Investigations Unit prosecutes complex crimes. These complex crimes include, vehicular homicide, vehicular assault, white-collar crimes, public corruption, police misconduct, animal cruelty, child pornography, thefts from the government and frauds involving public money and arson. The Unit is responsible for litigating all post acquittal psychiatric cases pursuant to CPL 330.20 as well as prosecuting crimes requiring the use of court-ordered eavesdropping warrants, commonly known as wiretaps. The Unit routinely assists Police Agency in the drafting of Search Warrants, Cell Site Orders, Global Positioning Orders, and other investigative documents.

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 2012, the Unit investigated 282 new cases. These investigations resulted in 33 indictments and 7 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.

- **Frauds Involving Theft of Public Money**

The Unit investigates and prosecutes cases of theft or misuse of public money in three areas:

1) Welfare Fraud, including Medicaid, food stamp, rent assistance, daycare assistance, and heat assistance benefits. The Unit works with the Orange County Department of Social Services and the Orange County Sheriff's Office to investigate in the pursuit of prosecution and the recovery of stolen public monies;

2) Worker's Compensation Fraud, including cases where an individual misrepresents the nature and degree of his/her injury or where an individual misrepresents whether he/she has returned to work. The Unit works with the Worker's Compensation Board and the Orange County Sheriff's Office to investigate in the pursuit of prosecution and the cessation of any future Worker's Compensation benefits to the target of the investigation;

3) Unemployment Insurance Benefit Fraud, including cases where an individual misrepresents to the Department of Labor that they have not gone back to work, when in fact he or she is at that time gainfully employed. The Unit works with the Department of Labor and the New York State Police to investigate in the pursuit of prosecution and the recovery of stolen public monies. The Unit's prosecution of these cases has resulted in the repayment of tens of thousands of dollars from the defendants;

4) New York State Income Tax Fraud, including cases where an individual misrepresents his or her total income and, thereby, fails to pay Personal Income Tax to the State, and cases where business collect, but fail to remit, Sales Tax collected from customers of the business. The Unit accepts referrals from the New York State Department of Taxation and Finance for the prosecution of such cases in keeping with Tax secrecy rules which govern the Department of Tax and Finance.

In 2012, the Unit prosecuted 33 cases of Unemployment Fraud and recovered restitution totaling \$178,033. The Unit also prosecuted cases of Welfare Fraud, Workers Compensation Fraud, Medicaid Fraud, and Tax Fraud.

- **Significant Cases**

People v. Jardell Ward: Town of New Windsor Attempted Murder of a Police Officer

Jardell Ward pulled a loaded pistol on a uniformed Town of New Windsor police officer in the Town of New Windsor during a traffic stop. Officer James Hurley drew his service weapon and shot Ward before Ward could pull the trigger. The Grand Jury indicted Ward for numerous crimes, including Attempted Murder in the First and Second Degree and Criminal Possession of a Weapon in the Second Degree. The Grand Jury also reported that P.O. Hurley was justified in using deadly force against Ward. Ward pled guilty to Criminal Possession of a Weapon in the Second Degree and on January 4, 2012, was sentenced of 15 years in State Prison. As Ward is not legally in the United States, he will be deported following the 15 year State Prison term.

People v. Christopher Canole: Town of Greenville Arson and Animal Cruelty

Christopher Canole poured lighter fluid throughout the mobile home where he lived with a coworker and his girlfriend after being taken in by them after falling on hard times. Canole then poured lighter fluid all over his bedroom and set it on fire and then left the mobile home. Canole's coworker and girlfriend narrowly escaped the fire, but their dog, Bingo, was killed in the blaze that completely destroyed the mobile home. Canole pled guilty to Arson in the Second Degree and was sentenced to 15 years in State Prison.

People v. Rasheena Dyer: City of Newburgh Teacher Beating

Rasheena Dyer stalked her boyfriend and his paramour, entered her boyfriend's apartment and brutally beat his paramour, a high school Spanish teacher, causing the paramour to suffer paralysis to one side of her body and permanent brain damage. Rasheena Dyer pled guilty and in May, 2012, was sentenced to up to 6 years in State Prison.

People v. Virgilio "Angel" Soto: Town of New Windsor Strip Club Arson

Virgilio "Angel" Soto climbed to the roof of the Sunset Strip, a gentleman's entertainment club and Soto's place of employment, axed a hole in the roof, entered the office of the club, removed \$6,200.00 U.S. Currency and the entire personnel file containing the personnel information on every entertainer ever to work at the club, and then set fire to the club using a chemical accelerant. The fire completely destroyed the Sunset Strip. In the meantime, Soto opened a new gentleman's entertainment club with a business partner in Middletown the very next day.

THE VIOLENT FELONY UNIT

- **Organization**

The Violent Felony Unit (VFU) consisted of one Senior Assistant District Attorney, and three Assistant District Attorneys for the first half of 2012, and two Assistant District Attorneys for the latter half of 2012.

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.

- **Caseload**

In 2012, the VFU screened 314 cases involving a total of 407 defendants. VFU was responsible for 89 Indictments and 37 Waivers of Indictment. The remainder of the cases are either awaiting Grand Jury presentment or were turned over to other units for prosecution.

- **Operation**

The VFU continued to work closely with police agencies on criminal investigations. The VFU ADAs assisted in writing search warrants, orders to show cause to obtain the DNA of suspects, and court orders to identify the location of suspect's cell-phones in an effort to locate the suspect. VFU also continued 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.

Significant VFU Cases

People v. Fredy Gutierrez-Pinto, et al: Newburgh Shooting

The defendant and his friends had a long-standing disagreement with a man. All had known each other when they previously lived in Guatemala. On August 5, 2011 in the City of Newburgh, one person lured the victim over to talk to him as the victim's wife was parking her car. The defendant then ran out and shot the victim nine times while yelling, "Die!" The victim survived his injuries. The defendant was finally apprehended and arrested on March 9, 2012. After a nine-day bench trial, the defendant was convicted on November 26, 2012 of the top count of Attempted Murder in the Second Degree and multiple other charges. On January 10, 2012 he was sentenced to 20 years in prison plus post-release supervision as a second violent felony offender. The victim has since recovered from her injuries.

People v. Christian Mojica: Middletown Shooting

This defendant was arrested by City of Middletown police on September 12, 2011 for approaching a man outside on the street then shooting him multiple times. The two had been involved in argument, allegedly involving drugs. The victim survived but suffered serious physical injury. On January 19, 2012 the defendant pled guilty to Assault in the First Degree. On February 22, 2012 he was sentenced to 14 years in prison plus post-release supervision.

People v. Thomas Cousar and Corey Owens: Newburgh Shooting

These defendants were both arrested on January 1, 2012 in the City of Newburgh and charged with Attempted Murder in the Second Degree and Assault in the First Degree. The defendants asked two men to step outside from a bar because of a dispute over a woman. Defendant Cousar stabbed one of the men, then defendant Owens shot the same man. The victim suffered serious physical injury. On April 20, 2012 both defendants pled guilty to Assault in the First Degree. On May 23, 2012 both defendants were sentenced to 11 years in prison plus post-release supervision.

People v. David Myrden: Newburgh Bank Robbery

On January 20, 2012, the defendant walked into the TD North Bank on Broadway in the City of Newburgh wearing a mask, displayed what appeared to be a hand gun at a teller, and demanded money. The teller turned over money, including "bait" money which included a GPS tracking device. Once the defendant left the bank, the GPS notified police of his location. Police stopped him minutes later with the bait money and a BB gun. On June 5, 2012 the defendant pled guilty to Robbery in the Second Degree. On July 17, 2012 the defendant was sentenced to 12 years in prison plus post-release supervision.

People v. Eric Mannings, et al: Warwick Robbery

The defendant was arrested January 10, 2012 in the Town of Warwick and charged with Robbery in the First Degree after approaching a man on the street and robbing him at knife-point for \$6. He pled guilty to Robbery in the First Degree on July 24, 2012. He was sentenced on September 20, 2012 to 10 years in prison plus post-release supervision.

People v. Donnell Kornegay, et al: Walkkill Burglaries

After multiple home burglaries in the City of Middletown and the Town of Walkkill, police arrested this defendant and charged him with three counts of Burglary in the Second Degree. Two buttons were found at the scene of one of the burglaries. When the defendant was brought in by police, police noticed the jacket he was wearing happened to be missing two buttons. The recovered buttons matched the remaining buttons of his jacket. On May 30, 2012 the defendant pled guilty to two counts of Burglary in the Second Degree, and on July 3, 2012 he was sentenced to 7 ½ years in prison plus post-release supervision.

People v. Curtis Mack: Middletown Gang Assault

On July 27, 2011 this defendant was arrested by City of Middletown Police and charged with Attempted Gang Assault in the First Degree. The defendant, along with four others, got into a fight with a man at the Colonial Diner in Middletown. The fight was allegedly gang related. Outside of the diner, the fist-fight continued until the defendant ended it by stabbing the victim multiple times. On January 19, 2012 the defendant pled guilty to Attempted Gang Assault in the First Degree, and on February 9, 2012 he was sentenced to 8 years in prison plus post-release supervision.

People v. Koshanah Tabon: Walkkill Robbery

This defendant was arrested on May 5, 2012 in the Town of Walkkill and charged with Robbery in the First Degree. The defendant entered the Kohl's department store empty handed. He proceeded to pick up some sheets and walk directly to the returns department attempting to return them to get cash or a store credit. When loss prevention tried to stop him, he pulled out a knife, circled around them with the knife, then fled. On October 1, 2012 the defendant pled

guilty to Attempted Robbery in the First Degree. On December 11, 2012 he was sentenced to 7 years in prison plus post-release supervision.

People v. Wayne Steinhilber: Crawford Home Invasion

In early July, 2011 the victim in this case woke up in his home in the Town of Crawford to a masked man holding a knife to him demanding money. The victim described the mask as a hooded sweatshirt on backwards with slits cut to create eye holes. As the perpetrator demanded money, the victim recognized the voice as that of the defendant, an acquaintance. The defendant stole money, and stabbed the victim in the hand during the home invasion. On July 7, 2011 the defendant was arrested and charged with multiple counts, including Burglary in the First Degree. On August 1, 2012 after an eight-day bench trial, the defendant was found guilty of the top count of Burglary in the First Degree as well as multiple other charges. He currently awaits sentencing.

THE NARCOTICS AND GUN UNIT

- **Organization**

The Narcotics Unit consists of a Senior Assistant District Attorney and two Assistant District Attorneys. It is responsible for prosecuting all felony level drug cases, including marijuana. The Unit is also responsible for prosecuting gun cases when the defendant is linked to gang activity.

- **Operation**

The Narcotics Unit handles a variety of felony cases in which the police seize illegal substances from individuals. These include street encounters, search warrants, and vehicle stops. Orange County's many highways present a convenient means for drug dealers to travel throughout the state. The Narcotics Unit works to resist this criminal commerce by prosecuting those found in possession of drugs on our highways. Additionally, various police agencies employ undercover officers who pose as drug purchasers so that neighborhood drug dealers may be 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. Additionally the Narcotics Unit has focused this year on prosecuting known gang members throughout Orange County who possessed guns.

- **Caseload**

The Narcotics Unit reviewed 375 felony cases, involving 450 defendants in 2012. The Narcotics Unit presented 150 cases to the Grand Jury in 2012 involving 180 defendants. Another 44 cases were prosecuted by way of Superior Court Information.

Felony Drug Treatment Court: 37 Defendants/ 11 Graduates

Narcotics Unit ADAs are also cognizant that drug treatment may work as an alternative to incarceration for certain nonviolent 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 City of Newburgh and City of Middletown 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 2012, there were 37 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 2012, eleven (11) defendants graduated from the program.

Two defendants failed and were sentenced to incarceration.

Judicial Diversion: 105 Defendants/ 24 Graduates

The felony-level Judicial Diversion Program allows for various non-violent offenders to have their criminal prosecutions deferred in lieu of court-ordered drug treatment. 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 even 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 2012, 105 cases were placed on the Judicial Diversion calendar in total. Of those 105 cases, six cases were ultimately removed from the Judicial Diversion Program.

The charges against the participants include the following: Possession of Controlled Substances as well as Possession of Marihuana, Forged Documents, Possession of Stolen Property, Grand Larceny, Conspiracy and Burglary in the Third Degree. In 2012, 24 defendants graduated and had their cases diverted.

- **Significant Narcotics Prosecutions**

The Hudson Valley Safe Streets Task Force Sweep

During 2012, a continued proactive investigation, dubbed "Operation Blood Drive" and "Operation Black Crown," used federal, state, and local law enforcement officers to work with the U.S. Attorney's Office for the Southern District of New York and the Orange County District Attorney's Office. Undercover officers and physical surveillance were used to infiltrate drug trafficking crews that controlled the distribution of crack cocaine, heroin, and guns in several areas of Newburgh, New York. Several gang members were arrested and prosecuted.

Newburgh

In addition, during 2012 the Orange County District Attorney's Office prosecuted known gang members on various weapons and narcotic charges under New York Law. These arrests were made by the City of Newburgh Police Department and the Town of Newburgh Police Department. Several search warrants and various street encounter type cases resulted in several handguns being taken off the streets of Newburgh.

Numerous search warrants were conducted by the City of Newburgh Police Department throughout the year which targeted mid-level narcotics dealers.

Middletown

The City of Middletown Police Department was actively engaged in working with CNET, a unit of the New York State Police devoted to narcotics investigations. Together they targeted dealers which resulted in felony arrests. Most dealers were sentenced to state prison terms or terms in the Orange County Jail.

ANIMAL ABUSE TASK FORCE

- **Organization**

The Orange County Animal Cruelty Task Force includes Assistant District Attorneys from the Appeals Bureau of the District Attorney's Office and members from the Orange County Sheriff's Office. The Task Force provides local police and members of the New York State Police with assistance in drafting search warrants and seizure orders pursuant to the Agriculture and Markets Law, answering legal questions, drafting local criminal court accusatory instruments, and crime scene investigation of animal cruelty cases. The members of the Task Force also provide training in the investigation and prosecution of animal cruelty cases to members of local police departments and Assistant District Attorneys.

- **Operation**

Assistant District Attorneys work with citizens, police agencies, animal control officers and members of local organizations, such as local branches of the Humane Society and the Hudson Valley SPCA, to investigate animal cruelty complaints and to save abused domestic animals and place them in shelters. After an investigation is complete and the offender is arrested, misdemeanor cases are prosecuted by the Local Criminal Court Bureau. The Special Investigations Unit in the County Court Bureau handles felony animal abuse prosecutions. In appropriate cases, the District Attorney's Office seeks court-ordered restitution to help cover the costs of the maintenance and care of the abused animals that are the subject of the criminal prosecution, and also seeks orders that bar convicted defendants from ownership of pets.

- **Caseload**

In 2012, the Task Force investigated 18 new matters, which resulted in criminal charges being filed in 14 cases in the local criminal courts. One matter was referred back to the town animal control officer for prosecution as a town code violation. Of the new 2012 matters that were prosecuted in the local criminal courts, 8 cases resulted in guilty pleas. The Special Investigations Unit prosecuted 1 case.

- **Significant Cases**

People v Sylvia Panetta: Town of Wallkill

Sylvia Panetta is charged under a 150 Count Information with multiple counts of Animal Cruelty, multiple violations of the State's shelter laws for outdoor dogs, and multiple town code violations. The charges against Ms. Panetta stem from the investigation of a complaint which ultimately resulted in the removal of 70 dogs from the defendant's property after the dogs were found living in filthy conditions both inside and outside the defendant's residence. The outside dogs were found living in a series of outside kennels that lacked proper shelter for the dogs. Two of the dogs that were seized required emergency surgery that resulted in the amputation of a limb of one dog and in the partial amputation of the second dog's toes after the dogs were found to have existing injuries that were left untreated. Many of the other dogs also showed signs of long-term neglect and malnutrition.

People v Thomas Ross: City of Middletown

Thomas Ross was charged with one count of animal cruelty after his dog was found in an emaciated condition and with infected wounds that covered its body. The dog was examined

by a veterinarian, who confirmed that the dog was severely dehydrated, was suffering from malnutrition, as well as from both flea and tapeworm infestation. Ross was convicted upon a plea of guilty to animal cruelty and was sentenced to a conditional discharge and ordered to pay restitution.

People v Christopher Callahan: Town of Woodbury

Christopher Callahan was charged with animal cruelty after members of the Hudson Valley SPCA discovered a dog that was living in an apartment that was strewn with feces and urine and without food or fresh water. Callahan was convicted upon a plea of guilty and was sentenced to a fine and \$1225.00 in restitution. In addition, the court ordered the defendant's forfeiture of the dog and issued a no pet order.

People v Regina Moriarty: City of Middletown

On September 20, 2011, an emaciated dog with open wounds that were covered with insects was found tied up in defendant's yard in the City of Middletown. The dog's discovery followed several months of neglect, during which time the dog had remained tied up outside during the summer months and was rarely fed. Regina Moriarty pleaded guilty to animal cruelty and was sentenced to a conditional discharge, a fine, and ordered to pay \$2500.00 in restitution.

THE APPEALS BUREAU

- **Organization**

The Appeals Bureau is located in the District Attorney's Middletown Office, along with the Local Criminal Court Bureau. In 2012, the Executive Assistant District Attorney and three assistant district attorneys were assigned to the Bureau. The Executive Assistant District Attorney is also assigned to the Orange County Animal Cruelty Task Force and provides assistance with the prosecution of animal cruelty cases in the local criminal courts. A second appeals assistant assists with the review of animal cruelty complaints. In addition, in March, 2012, the Appeals Bureau resumed the responsibility for responses to Freedom of Information Law (FOIL) requests made to the District Attorney's Office. One appeals assistant serves as the Records Officer. The Chief of the County Court Bureau and the Team Leader for the Special Investigations Unit also responded to a number of FOIL requests, and the Team Leader continues to provide assistance with some of the FOIL responses.

- **Operation**

The Appeals assistants regularly appear in the New York State Supreme Court, Appellate Division, and Appellate Term for the Ninth and Tenth Judicial Districts, the Orange County Court, the New York State Supreme Court on state habeas corpus and Article 78 proceedings, and the New York State Court of Appeals. The District Attorney's Office also responds to all federal habeas corpus petitions in the United States District Court and appeals to 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 appellate and other legal work, appeals assistants provide legal advice and guidance to various police departments in Orange County, assist in the drafting of search warrants and animal seizure orders and in the review and drafting of local criminal court accusatory instruments, and provide legal assistance to all of the prosecutions units in the Orange County District Attorney's Office. The members also provide office training, and all appeals assistants are assigned to provide training as part of the Local Criminal Court Bureau's monthly training program. Training topics covered such areas as local criminal court accusatory instruments, search and seizure, motion practice, summations, and the rules of evidence and criminal procedure.

- **Caseload: 6% Increase**

In 2012, the Bureau handled a total of 587 matters that included 52 state appeals, including 3 appeals before the New York State Court of Appeals, 4 habeas corpus responses in the United States District Court, 371 motion responses, 24 oral arguments, and 4 post-judgment hearings in the County Court and in various local criminal courts. The workload represented a 6% increase in the number of assignments that were completed in comparison to 2011.

Appeals assistants also assisted with the preparation of 24 search warrants and animal seizure orders.

There were 71 FOIL responses to more than 100 FOIL requests.

The members of the Bureau also conducted 6 training sessions.

New York State Court of Appeals and Appellate Division, 2d Department

In 2012, appeals to the New York State Court of Appeals and to the Appellate Division, Second Judicial Department resulted in 41 reported decisions, including 32 appellate victories and 4 losses. In 4 matters, the Appellate Division reassigned the defendants' appeal to a different appellate attorney, and in one case, the Appellate Division granted a defendant's coram nobis motion to file a late notice of appeal. The number of reported decisions is less than the 50 reported decisions that were received in 2011.

Appellate Term, 9th and 10th Judicial Districts

In 2012, the Office also received 14 decisions decided by the Appellate Term for the 9th and 10th Judicial Districts in appeals from the local criminal courts. These decisions included 11 appellate victories and 3 losses, including 6 successful People's appeals of local criminal court orders that improperly granted defendants' motions to dismiss criminal charges or suppress evidence. In two decision, the Appellate Term reversed orders that granted the defendants' post-judgment motions to vacate their convictions.

- **Federal Habeas Corpus Litigation**

The United States District Court for the Southern District of New York issued a total of 15 decisions in federal habeas corpus proceedings that were handled by the Orange County District Attorney's Office. In 10 decisions, the District Court denied the defendants' federal challenges to their respective state convictions. In 5 Reports and Recommendations, the assigned United States Magistrate Judge recommended the dismissal of the federal petitions.

- **Significant Appellate Cases**

People v Monroe Bussey: Newburgh Murder

The Court of Appeals modified defendant's judgment by reducing his conviction for Depraved Indifference Murder to Manslaughter in the Second Degree, and as modified affirmed defendant's judgment, including his convictions for Murder in the Second Degree (felony murder) and Kidnapping in the First Degree, and remitted the matter to County Court for resentencing on the manslaughter conviction. The County Court resentenced defendant to a concurrent sentence of five to fifteen years. Defendant's convictions arise from the September 3, 2007 beating and killing of twenty-one year old Jeffrey Beary. Defendant, co-defendant Earl Bell, Jr., and co-defendant Michael Thomas lured Beary into Bell's backyard, savagely beat Beary, stripped Beary of his clothing, wrapped a blanket around Beary's head with duct tape, and then stuffed Beary into the trunk of Bussey's car and drove from the City of Newburgh to Poughkeepsie and dumped Beary's body in a shallow creek. Beary was discovered the next day on September 4, 2007. Defendant is currently serving concurrent sentences of twenty-five years to life and five to fifteen years, and a consecutive sentence of one and one-third to four years (People v Bussey, 19 NY3d 231 [2012]).

People v Patrick Asaro: Mount Hope Vehicular Homicide

The Appellate Division affirmed defendant's convictions for Manslaughter in the Second Degree, Assault in the Second Degree (four counts), Assault in the Third Degree (two counts), Reckless Endangerment in the Second Degree, and Reckless Driving. Defendant was convicted as the result of fatal traffic collision that occurred in the Town of Mount Hope after the vehicle that he was driving crossed over a double yellow line and had a head-on collision with a vehicle that

was headed in the opposite direction. The driver of the other vehicle was killed, and passengers in both the decedent's car and the defendant's car sustained serious injuries. Defendant was sentenced to concurrent sentences of three to ten years, three years and a three-year period of post-release supervision, and one-year terms of incarceration on the remaining counts. Leave was granted by the Court of Appeals, and the matter is expected to be argued before the New York Court of Appeals in 2013 (People v Asaro, 94 AD3d 773, lv granted, 19 NY3d 1101 [2012]).

People v Robert Williams: Domestic Homicide

Following a jury trial, defendant was convicted of Manslaughter in the First Degree and Criminal Possession of a Weapon in the Third Degree for the fatal stabbing of his girlfriend, with whom he shared an apartment in the Town of Newburgh. Defendant was sentenced as a second felony offender to a determinate prison sentence of twenty-five years and a five-year period of post-release supervision and to a concurrent indeterminate sentence of three and one-half to seven years. The Appellate Division affirmed defendant's convictions (People v Williams, 97 AD3d 769 [2012]).

People v Desiree Miranda: Infant Homicide

On April 23, 2009, defendant's eleven month-old daughter died as a result of fatal injuries that she sustained after defendant's then boyfriend, Christian Lujan, dropped a weight on the young child. X-rays that were taken as part of the autopsy revealed that the child had suffered multiple rib fractures between February, 2009 and April 20, 2009, and that her injuries had healed by the time of her death. Additional medical records also revealed that the child suffered a broken leg in December, 2008. Following a jury trial, defendant was convicted of Assault in the Second Degree (two counts), Reckless Endangerment in the First Degree, and Endangering the Welfare of a Child (three counts). The court sentenced defendant to concurrent determinate terms of imprisonment of seven years and a three year period of post-release supervision, a concurrent indeterminate term of imprisonment of two and one-third to seven years, and to concurrent one-year terms on the remaining misdemeanor counts. Christian Lujan was separately convicted of Criminally Negligent Homicide and was sentenced to a term of one and one-third to four years. The Appellate Division affirmed defendant's convictions (People v Miranda, 97 AD3d 698 [2012]).