

Westchester County
District Attorney
Janet DiFiore

2006 Annual Report



*A Comprehensive Review of the
Westchester County
District Attorney's Office*

111 Dr. Martin Luther King, Jr. Blvd.
White Plains, New York 10601
914.995.3586 phone
914.995.2116 fax

2006 Annual Report

A Comprehensive Review of the Westchester County District Attorney's Office

A Message from the District Attorney



Janet DiFiore
District Attorney
Westchester County

During the first year of my administration, we have worked to develop and implement substantive policy initiatives, administrative changes and the building of collaborative relationships with local law enforcement agencies, our partners in government and the community to build the foundation upon which we achieve enhanced public safety in Westchester County.

Each initiative has been designed to improve public safety, better serve the needs of victims and provide local law enforcement with necessary tools and support.

I am proud of our hard work and achievements in 2006 and look forward to continuing to improve upon the way in which we serve the public safety needs of the people of Westchester County.

"I am proud of our hard work and achievements in 2006 and look forward to continuing to improve upon the way in which we serve the public safety needs of the people of Westchester County."

Janet DiFiore

A handwritten signature in black ink that reads "Janet DiFiore".

District Attorney
Westchester County

The District Attorney's Office in partnership with the Police Commissioners and Chiefs, the County Executive's office, County Government Agencies, City, Town, and Village Mayors, state and local legislators and other officials throughout the county, has developed and implemented new strategies to combat crime in Westchester County.

Our efforts are focused on examining and sharing information, current crime statistics, crime patterns, and intelligence as well as the pursuit of legislative changes. Below are the new and strengthened programs designed to enhance public safety and victim support in Westchester County.

Child Fatality Review Team



In conjunction with the County Executive, and the Department of Social Services (DSS), we secured the approval of the New York State Office of Children and Family Services to establish a local Child Fatality Review Team (CFRT). The goal of the CFRT is to focus on emerging issues, patterns or circumstances that have led to the death of any child under 18 years old who, at the time of their death, was under the care or guardianship of DSS; whose death was reported to the New York State Central Register for Child Abuse and Maltreatment; or whose death was unexplained, unexpected or suspicious.

The team is a multidisciplinary body comprised of representatives from the District Attorney's Office, DSS, Office of Medical Examiner, Westchester County Attorney's Office, Westchester County Department of Health, New York State Office of Children and Family Services, a forensic pediatrician, members of the police department(s) who handled the investigation of a specific case, victim assistance services, and emergency medical services.

Our team is the only local CFRT in the state that writes its own fatality report and is the only one to publish an independent report containing recommendations aimed at preventing future tragedies. In 2006, the team published two independent reports in response to child fatalities that occurred in Westchester County. In each case, the team's recommendations through the District Attorney's Office and the County Executive have been converted into public education campaigns; one focused on infant abandonment and the other on safe use of baby walkers.

Child Pornography Legislation

The District Attorney's Office extended its child protection and crime prevention efforts into the legislative arena by actively pursuing legislation to combat the dissemination of child pornography over the internet. In 2006, this office assisted in the drafting of the legislative language contained in the bill introduced by New York State Senator Stephen Saland and New York Assemblywoman Amy Paulin in their respective houses (NYS Bill #S748), to amend the current "Disseminating Indecent Material to Minors" law. The amended wording will clear up any confusion in how specific language in the law is interpreted. It will ensure that graphic written text, in addition to pictures or photographs transmitted over the internet to a minor, falls within conduct prosecuted by the law relating to indecent material. The amended wording continues to allow our office to prosecute those sexual predators who prey on children over the internet through written communication.*

* In March, 2007 NYS Bill #S748 was passed by the NYS Legislature.

Prisoner Reentry Task Force



Thousands of citizens return to Westchester County from jail and prison each year. More than half of the citizens returning from state prison are rearrested within three years. Many of these offenders face a variety of problems likely to interfere with their successful reintegration into their families and communities. The goal of the Prisoner Reentry Task Force is to assist returning ex-offenders in the successful reintegration back into our community.

The District Attorney chairs the Prisoner Reentry Task Force which brings together the expertise and resources of Westchester County Departments of Probation, Corrections, Social Services and Community Mental Health, the state and local police community, substance abuse and treatment professionals, vocational and educational program providers and faith-based organizations. A collaborative and cooperative approach ensures that services including substance abuse treatment, mental health services, job placement, vocational training and educational programming will be delivered to reentry ex-offenders in a coordinated and comprehensive manner.

For ex-offenders successfully transitioned into the home there are immeasurable benefits for the children, families and communities with whom they reunite. The premise of our efforts lie in the belief that a successfully reintegrated ex-offender is less likely to commit new crimes, enter into the welfare system and will be in a better position to meet his or her family obligations.

Intelligence Center

A state-of-the-art, county-wide intelligence and analytical center is now being developed for Westchester County's law enforcement partners. The center will bring together Westchester's 43 independently-run police departments as well as each of the multi-jurisdictional police agencies operating within Westchester County in an unprecedented information sharing structure. The Intelligence Center will enable every participating department to look at crime across jurisdictional lines. By understanding what drives crime trends, our police departments will be able to develop and implement strategies that address and anticipate spikes in crime, enabling them to better protect citizens and visitors in Westchester County through smarter and more effective prevention and suppression strategies.

Forensic Science & DNA Technology



In response to the June 2006 expansion of the DNA databank requiring all defendants convicted of any felony, and some specified misdemeanors, to provide a DNA specimen for the State DNA Databank, the District Attorney's Office has taken the lead in coordinating the collection of DNA samples submitted for inclusion in the state databank by developing and implementing a comprehensive DNA collection process for Westchester County.

The office also established a designated team of ADAs to review all convictions for murder, First Degree Rape and First Degree Criminal Sexual Act obtained prior to 2000 (when New York's DNA databank became operational) to determine any possibility that a conviction was wrongfully obtained. These factors to be examined include a defendant's consistent assertion of innocence and the existence of evidence that may be susceptible to DNA analysis.

The District Attorney also commissioned a panel of independent experts to review the circumstances surrounding the investigation and prosecution of a young man who was wrongfully convicted of murder and served 16 years in state prison. At the conclusion of its review, a report containing the panel's findings will be submitted to the District Attorney.

T.E.S.T. Project



The District Attorney's Office worked with the Administrative Judge for the Ninth Judicial District, the Westchester County Department of Health and the Local Courts to implement a pilot program known as T.E.S.T. (Test to Eliminate Sexual Transmission). Adults arrested for certain petty offenses involving high-risk behaviors that may result in Human Immunodeficiency Virus (HIV) transmission may, upon arraignment in Local Court and through defense counsel, be offered the opportunity to participate voluntarily in a confidential HIV counseling and testing program in exchange for consideration of a reduced sentence. These services are offered at the County Health Department district offices in White Plains, Yonkers and New Rochelle free of charge with no appointment needed. It is hoped that T.E.S.T. can reduce the morbidity and mortality rates of HIV positive individuals in the county by increasing early detection and treatment and risk reduction behavior, among a population that may otherwise be unaware of their status. For more information on this project or to find out how to utilize the service, please call the Westchester County Department of Health at (914) 813-5000.

Prosecution Initiatives

Multidisciplinary Team to Investigate Child Abuse



Along with the Westchester County Chiefs of Police Association, the County Executive, DSS, the Westchester Institute of Human Development (WIHD) which operates the Westchester Children's Advocacy Center (CAC), the Chiefs and Commissioners of the 43 local police departments, mental health groups and victim advocate groups, we have begun the process of seeking approval from the State for a Multidisciplinary Team (MDT) as well as national accreditation for the Westchester Children's Advocacy Center (CAC) to enhance interagency investigations of child abuse cases. The Westchester County Chiefs of Police Association in collaboration with the District Attorney's Office created law enforcement protocols that advocate the use of a multidisciplinary model in the investigation of child abuses cases. The police have also committed to use the CAC for forensic interviews and medical examinations of child victims. The goal of the team is to better protect children in Westchester County while implementing best practices in the investigation and prosecution of serious child abuse cases. The law enforcement protocols were formally approved by the Westchester County Chiefs of Police Association and we are working towards our state approval.

Domestic Violence Unit

A new domestic violence unit of our Special Prosecutions Division has been established in our Yonkers branch office. Staffed by a senior domestic violence prosecutor and bi-lingual aide, this unit of the Domestic Violence Bureau has been able to conduct prompt case assessment and bring specialized domestic violence services directly to victims in their own community. Preliminary reviews have indicated that the case dismissal rate has dropped dramatically since inception of the unit. We will continue to track this data and examine the long term impact of the new unit.

Mandated Reporters of Child Abuse

Mandated Reporters of Child Abuse training and education, in partnership with the County Executive, were developed and delivered to school teachers and administrators. Additionally, internal training for all ADAs and investigators regarding their responsibilities as mandated reporters was conducted by members of our Child Abuse Bureau.

Elder Abuse Training

Expanded and improved to identify and investigate elder abuse crimes in Westchester County. The expansion included the training of local bankers to detect fraud and other financial abuse of the elderly and the development and distribution of a comprehensive tool kit with training materials and an instructional video for internal use by local banks.

Domestic Violence Legal Partners



The Special Prosecutions Division initiated a collaborative effort involving the District Attorney's Office, domestic violence agencies and attorney's representing victims in both civil and criminal cases. This group has come together in order to better serve domestic violence victims and their families by improving agency interaction when dealing with domestic violence cases and providing appropriate access to victim information during the prosecution of criminal domestic violence cases. The group shares best practices and exchanges policy ideas and practices. For instance, at its first meeting the partners agreed to increase the use of waivers that allow domestic violence agencies to share more information with the District Attorney's Office. This practice will hopefully increase conviction rates by improving the ability of the District Attorney's Office to reach victims. The Domestic Violence Legal Partners also coordinated a CLE session hosted at the Pace University Law School Women's Justice Center where attorneys representing domestic violence victims from all over Westchester were educated and informed about the use of visas for domestic violence victims through a joint presentation by the District Attorney's Office and My Sister's Place.

Resumed the Prosecution of Violations of Probation



The District Attorney's Office has taken back the responsibility to prosecute violators of probation in both Supreme and Local Court. In order to effectively prosecute these violations a senior Assistant District Attorney (ADA) has been assigned to handle all probation violation cases in Supreme Court. Additionally, an ADA from the Special Prosecutions Division has been assigned as a liaison to the probation department's domestic violence unit.

Expanded the Vertical Prosecution of Violent Felony Offenders



Experienced prosecutors assigned to the Superior Court Trial Division (SCTD) handle homicides, sex crimes, major cases, arsons, bias cases, and Combined DNA Index System (CODIS) cases from inception, through Grand Jury presentation and trial. This same model is used by the Special Prosecutions Division for child fatalities and felony level domestic violence and child abuse cases.

Police officers throughout the county will have increased access to veteran prosecutors at every stage of the investigation and prosecution serious felony cases. These prosecutors assist police in the collection and presentation of evidence through court procedures such as the issuance of search warrants or subpoenas; they understand forensic evidence and are able to speak with experts in all forensic fields including DNA, ballistics, fingerprints, trace, toxicology, automobile accident, etc. Civilian witnesses and victims benefit from the availability of a veteran prosecutor to answer their questions from the earliest stages of the prosecution.

This vertical approach is designed to ensure the highest conviction rate in these most serious cases.

Trial Teams

Established the practice of utilizing teams consisting of two assistants, a lead prosecutor and a junior prosecutor, for our most serious and complex cases. The team approach enables us to prosecute complex trial cases more efficiently while offering invaluable training for junior assistants.

Sex Crimes Bureau

Transferred into the Superior Court Trial Division in order to vigorously prosecute all adult sex crimes cases and is under the supervision of the Chief of the Superior Court Trial Division. The Sex Crimes Bureau maintains a 24/7 duty roster to allow for a Sex Crimes prosecutor to be available to police and victims from the instant a sex crime is reported to our office.

Labor Racketeering Unit



Reorganized staff to focus personnel and resources to form a new partnership with outside agencies, such as the New York State Department of Labor, the New York State Dormitory Authority and the New York State Attorney General's Office, to investigate all aspects of labor racketeering which involve allegations of bid ridding, kickback schemes and prevailing wage violations.

Through the use of various investigative techniques, including the use of informants, document analysis, and both conventional and electronic surveillance, illegal schemes involving the labor industry can be uncovered. These schemes include payoffs for labor peace, collusive bidding, payoffs to avoid compliance with union contracts such as no show jobs, embezzlements from union or benefit funds and false invoicing schemes. By uncovering these corrupt and illegal practices, offending parties may be charged with crimes such as Bribe Receiving, Grand Larceny, Falsifying Business Records, and Offering a False Instrument for Filing.

School District Fraud Unit



This new unit, created by reassigning experienced attorneys and investigators from other areas of the office, will focus on crimes committed against Westchester County school districts or by school district employees. The School District Fraud Unit will be particularly sensitive to the misappropriation of taxpayer money and any misfeasance that affects the academic or financial integrity of our schools, such as the embezzlement of school funds or test tampering. The unit is designed to work in conjunction with local police departments and local officials, including school administrators as well as auditors and investigators from the New York State Comptroller's office and other regulatory agencies to identify, investigate and prosecute those offenders who steal taxpayer money or who otherwise violate the Penal Law of this state in their fiduciary role as educators or in their dealing with our county's educators.

Gang Violence and Firearms Bureau

Developed in response to the growing number of guns and gun crimes in Westchester County, the Bureau has taken an active role in the coordination of intelligence, investigations and dissemination of information across jurisdictional lines around gun possession and gun violence. The Bureau plays an active role in "Countystat," a taskforce headed up by the District Attorney's Office and numerous local police departments to present unified law enforcement strategies throughout the County. Investigators from local police departments and members of the District Attorney's Office, along with investigators from the Westchester County Jail, the Westchester County Department of Probation and the New York State

Division of Parole, meet weekly to share intelligence and solve gun related crimes. A new partnership has been formed with the Bureau of Alcohol Tobacco and Firearms (BATF) to aggressively track the origin of illegal handguns recovered in Westchester County. With the Westchester County Department of Public Safety's Ballistics Unit and the BATF, the Bureau seeks to solve seemingly unrelated gun crimes by linking shell casings recovered at crime scenes, and crime guns involved in other incidents throughout Westchester County, with the aid of the Integrated Ballistics Identification System.

High Technology Crime Bureau



The High Technology Crime Bureau investigates and prosecutes cases that involve the criminal use of computers and telecommunications systems. The High Technology Crime Bureau faces the challenge of applying existing penal laws to criminal activity techniques as the rapidly changing technology alters the location of the evidence to be found in a computer system and the means required to access it. The High Technology Crime Bureau provides assistance and training to law enforcement agencies and prosecutor's offices throughout the country.

Over the past year, the High Technology Crime Bureau has partnered with the New York State Internet Crimes Against Children Task Force in prosecuting defendants who have brought or possessed child pornography in Westchester County, with the Department of Justice's Project Safe Childhood, a federal program designed to prosecute pedophiles on the local, state and federal levels and has expanded the scope of its investigations to address the increased use of rapidly changing technology in the commission of crimes including identity theft, all in an effort to stem the tide of stolen identities used for criminal purposes.

Crimes Against Revenue Prosecution Unit (CARP)



Both proactively and in conjunction with the New York State Department of Taxation and Finance, the members of the Unit investigate and prosecute those who violate tax laws and reclaim the lost revenue from those in noncompliance. The investigations brought by the Unit focus on individuals as well as entities which fail to report income earned, underreport income received and evade payment of taxes collected on behalf of the State. Potential crimes committed by targets of investigations brought by the CARP Unit include violations of the New York State Tax Law; Repeated Failure to File a Return, False Returns and the New York State Penal Law; Grand Larceny, and Offering a False Instrument for Filing.

Criminal Investigators

The District Attorney's Office maintains a squad of 38 criminal investigators. In 2006, the unit has established and enhanced three units to address growing criminal activity in those areas:

- **Violent Crimes Task Force:** Creation of a unit that identifies, investigates and arrests individuals and groups who have demonstrated the propensity to commit violent crimes and are involved in the trafficking of narcotics and guns. The unit uses confidential informants, undercover officers, electronic surveillance and eavesdropping equipment to gain intelligence and evidence against offenders.
- **Public Integrity Squad:** Increased the staffing of the unit to enhance investigations into public corruption. Informants, undercover officers and forensic accountants are some of the elements used as part of the investigatory process.
- **Identity Theft Squad:** To proactively investigate the proliferation of ID theft, the unit was established and works on a continuing basis with local, state and federal law enforcement agencies, representatives from the banking industry, credit card companies and corporate security departments.

Training and Community Outreach

A strong foundation for enhancing public safety and preventing victimization is not possible without comprehensive training and community education efforts. In conjunction with each of the Office's five divisions, we have enhanced the level of training and education of our ADAs and strengthened our community outreach programming.

Training and Education Bureau

This recently created Bureau trains and educates prosecutors, police and other government workers so as to enhance the services provided by our office. The following are cited as examples of our training initiatives.

- Mock Trial Training Program: established to train new ADAs on substantive law and procedure.
- Community Service: requirements for all ADAs to serve a minimum of fifteen hours of each year in activities related to crime prevention and education outside of their regularly scheduled business day.
- Continuing Legal Education: training is now provided in-house to ADAs on a regular basis, employing experienced ADAs, private practitioners, state and federal judges and law school professors to lecture and instruct in all areas of substantive and procedural law. The training has also been made available to other government service lawyers.
- Sensitivity Training Programs: at the Simon Wiesenthal Center in New York City will be attended by all Branch and Bureau Chiefs.
- Police Training: re-established our relationship with the Police Academy and now actively engaged in providing training by experienced ADAs on a regular and monthly basis to police officers from throughout the County.
- All newly hired assistant district attorneys: assigned the Appeals and Special Litigation Division now perform calendar duty in the White Plains branch office. This will ensure that all ADAs practice in a day to day court environment expanding their legal perspectives, before they transition out of the Appeals Division into other Divisions of the District Attorney's Office.

Internship Program



In recognition of the importance of having students experience the work performed by the prosecutor's office, a robust internship program has been developed and implemented for high school, college, and law students who participate at all levels of the organization, in all disciplines. In 2006, 97 interns participated; 43 law students, 41 college students and 13 high school students. We have also established an externship program along with Pace University School of Law. Law students, in the extern program, are authorized by the Appellate Division, 2nd Department to practice in Criminal Court under the supervision of an experienced ADA. Four students practiced in Local Court, three were assigned to the Special Prosecutions Division and one was assigned to the Investigations Division.

Time/Case Disposition Productivity Review

Designed and implemented a management tool to track dispositions associated with matters pending in the local criminal courts. This review is designed to identify the most expeditious manner of resolving criminal cases in the town, village and city courts of Westchester County.

Internal and External Communication

The Criminal Law News

A newsletter designed to inform the police community of emerging legal issues that affect policy and address new crimes, procedural changes in the law and evolving legal issues. The newsletter is published and distributed throughout the law enforcement agencies in the county and to jurisdictions outside of Westchester.

DWI Wallet-Sized Procedural Reminder Cards

Designed, printed and distributed to each police department, reference cards for police officers to carry on patrol to enhance DWI arrest protocols and procedures.

Freedom of Information Law (FOIL)

In compliance with the law we have established new procedures to better serve public requests for information and to provide timely compliance with these requests. A FOIL officer as well as an Appeals officer has been designated to process all FOIL requests.



Janet DiFiore
Westchester County District Attorney
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, New York 10601
914.995.3586 phone
914.995.2116 fax