



Conviction Review Unit

**Report on the Review of Convictions Stemming from a
2017 Mount Vernon Undercover Narcotics Operation**

May 10, 2023

The Conviction Review Unit (“CRU”) of the Westchester County District Attorney’s Office (“WCDAO”) conducted a review (the “Review”) of a 2017 narcotics buy operation (“the Operation”) conducted by the Mount Vernon Police Department (“MVPD”), which utilized an undercover police officer from the Westchester County Police - Department of Public Safety (“WCPD”). Thirty-two individuals were initially charged in the Operation. For the reasons summarized below, the District Attorney is currently taking steps to vacate and dismiss the remaining 27 convictions and charges.

The CRU commenced the Review based upon: (1) requests from certain Operation individuals who asked that their cases, as well as the Operation as a whole, be examined for wrongful convictions and irregularities; and (2) allegations made by a former MVPD officer that were surreptitiously recorded by another MVPD officer. In the secretly-recorded conversations, the former MVPD officer alleged that an unnamed WCPD undercover officer, while working in Mount Vernon, was told by MVPD Narcotics Division officers to misidentify individuals as drug dealers, and that the undercover officer did, in fact, make false identifications, and was forced by a MVPD detective to falsify reports. This Office determined that the former MVPD officer was apparently referring to the Operation. The District Attorney requested that the CRU, an independent unit of the WCDAO that she created upon taking office in 2021, conduct its own investigation. After an exhaustive examination, the CRU’s findings formed the basis of the District Attorney’s decision to seek to vacate the convictions.

The CRU’s findings and the District Attorney’s determination was, first and foremost, based upon the discrepancies, inconsistencies and contradictions in the undercover and MVPD reports detailing purported drug sales that were a part of the Operation. The Operation cases did not have corroborative evidence sufficient to overcome the identified inconsistencies and unreliability of the undercover and MVPD officer accounts and problematic identifications. Indeed, a review of the prosecution files stemming from the Operation revealed that many of the cases had either no corroboration, or no sufficiently reliable corroboration, of the reported drug sale, such as a report or other indication that a narcotics transaction was actually observed by anyone other than the undercover, or, in certain cases, a confidential informant. Although some prosecution files include a back-up officer’s report that an undercover narcotics purchase was observed through surveillance, other files either: (1) did not include a back-up officer’s surveillance report, or (2) the back-up officer’s report stated that the officer did not observe the hand-to-hand transaction, or (3) the back-up officer’s report did not reference a transaction between the undercover officer and the suspect.

The Review also revealed that the undercover narcotics sales conducted during the Operation were charged as many separate cases, which involved approximately 30 prosecutors from different parts of the WCDAO without sufficient centralized oversight. This inadvertently created a situation in which material and potentially exculpatory information learned in one case was not disclosed to defense attorneys in other Operation cases. In

certain instances, the prosecutors did not come into possession of all of the reports that were directly related to their Operation cases during the pendency of the case, and, therefore, those reports were never provided to the defense.

The unreliability of the investigation as detailed above, and the failure to uniformly obtain and disclose materials, caused the District Attorney to lose faith in all of the prosecutions that stemmed from the Operation, and to seek to vacate all of the Operation defendants' convictions.