




**OFFICE OF THE DISTRICT ATTORNEY  
WESTCHESTER COUNTY**

WESTCHESTER COUNTY COURTHOUSE  
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**ANTHONY A. SCARPINO, JR.**  
DISTRICT ATTORNEY

**TO:** Budget and Appropriations Committee  
Westchester County Board of Legislators

**FROM:** Anthony A. Scarpino, Jr.   
District Attorney

**DATE:** November 21, 2019

**RE:** Fiscal and Program Impact of 2020 Proposed County Budget

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The District Attorney is the chief law enforcement Officer of Westchester County, and pursuant to the Constitution and laws of the State of New York, is responsible for the investigation and prosecution of criminal offenses committed here. My mission is to create a safer and more secure community through the pursuit of truth and a commitment to justice. As such, I proactively investigate and prosecute those responsible for committing criminal acts. Integral to my ability to fulfill this mandate, is the concomitant responsibility of Westchester County government to provide the funding and the resources necessary to allow me to meet my stated objective and mission.

Further, it is the duty of my Office and my responsibility, to insure that the resources and funding provided to this Office by county government are utilized efficiently and productively. To insure that we continue to meet and exceed the high fiscal standards we set for ourselves, I continue to prioritize innovation and technology and maximize existing resources to initiate new programs and strategies. I also maintain and expand those ongoing programs which effectively support our prosecution and victim assistance services.

You have always been supportive of our work and for that I thank you. In last year's budget, you allowed us to add a Spanish translator to our Special Prosecutions division which has helped enormously on so many levels. We added a crime analyst and an Assistant District Attorney focused on narcotics. Strengthening our Gang, Firearms and Narcotics Unit has made a clear difference in the safety of Westchester County. Violent crime is down in our cities and other urban centers. Investigations, and subsequent prosecutions into drug and gang activity have resulted in extensive indictments in Yonkers, Mount Vernon, New Rochelle and Port Chester this past year, to name a few. These investigations also resulted in an innovative program as an offshoot of our Opioid Response Initiative – our Addiction Diversion Outreach Program, a collaboration with the County Department of Community Mental Health, offered support services to addicts and buyers identified in our investigations. Instead of arrest, we offered them hope and dozens of them took it.

With respect to discovery, prosecutors will not only be required to turn over information earlier, often within 15 days of the first court appearance, but also provide more comprehensive information, including audio and video files. In addition, we will have the responsibility of obtaining, reviewing and turning over items which are in the possession of law enforcement agencies. If a prosecutor is unable to file a "certificate of compliance" with their discovery obligations, they will be unable to state they are "ready" for trial and risk either dismissal of charges or have a piece of evidence ruled inadmissible.

As the District Attorney's Office has done historically, I have taken great care to prepare a budget which is both fiscally responsible and balances our understanding of the economic realities facing all levels of government with our obligation to meet criminal justice reform enacted by the New York State Legislature. Excluding negotiated increases in salary for CSEA and an increase for Assistant District Attorneys, the primary increase in the 2020 budget is for 11 new positions to help my Office successfully implement discovery reform (six of those provided for in 2019.) It should be noted, our original budget submission requested more personnel than is provided for in the County Executive's proposed budget. Our request was based upon testing we have done to determine how much work and staff hours it will take to comply with the new discovery laws for each prosecution. While our request for increased staffing was not fully supported in the proposed budget, should the board approve what has been proposed, we are prepared to work within it and hope to keep the lines of communication open should additional staffing be required to fulfill our mission in the new year.

When you look at every other major category of expenditure, other than Advance to Grants, you will see that I have managed to reduce my 2020 budget request as compared to the amount appropriated in 2019, while still creating a number of new and important initiatives and without sacrificing services. I have done so by continuing to maximize and reallocate the use of existing resources and efficiently utilize current staff to better serve the needs of the Office. It should be noted, the District Attorney's operating budget request for 2020, including fringe benefit costs, makes up approximately 2% of the County's \$2.1 Billion budget. It should also be noted that through prudent budget planning and effective resource management, we are projecting savings in our 2019 budget which will result in a substantial return of funding to the County's General Fund.

While my budget submission is replete with statistical information, statistics alone are not a measure of our accomplishments. Countless hours are spent on matters that are not proven readily by statistical analysis. This is abundantly clear after a review of our prior year's activities and achievements.

The District Attorney's Office continues to provide a substantial level of prosecution and investigative services to Westchester villages, towns and cities. The Local Criminal Courts Bureau operates eight Offices throughout Westchester County serving local residents, each of the County's local police departments and all 41 local criminal courts. Case intake handled by this Bureau has remained steady at almost 28,000 cases in 2018. The case load for 2019 is projected to be consistent with that figure as well. Almost all cases (with few exceptions) are commenced as a result of an arrest initiated by a local police department. While all felony cases, less than 4,000, are prosecuted in the Westchester County Court in White Plains, the rest are disposed of in individual local criminal courts. By having these locally based Assistant District Attorneys and Offices crime victims and police Officers are able to meet with prosecutors in their own communities, saving time and travel costs.

In addition to the prosecution services provided for these local arrests, specialized units within the Office respond to requests for investigative assistance from local police departments in matters pertaining to cybercrime, complex financial crimes, identity theft, narcotics enforcement, sex crimes, child abuse and homicides, as well as a number of other matters. By providing access to forensic accountants, forensic computer analysis, the ability to secure court orders, search warrants and subpoenas, as well as specially trained prosecutors and investigators, local police departments are spared the expense of maintaining these services themselves.

In order to accomplish our goals and objectives, our Office has several new initiatives and expanded initiatives including the following:

### **NYS Criminal Justice Agenda**

New York State enacted sweeping criminal justice legislation in 2019. In addition to discovery reform, the state also enacted changes to the bail statute which will affect when and how defendants are returned to their communities. It has also enacted laws which affect marijuana arrests and prosecution, the statute of limitations for rape victims, the victims of sexual assault and child abuse victims, as well as other new laws surrounding intimate partner abuse. In addition, the state's "red flag" law, which allows for extreme risk protection orders for the removal of certain weapons for individuals in crisis, went into effect in August. Our work includes training prosecutors and educating law enforcement agencies throughout the County on how these laws are followed.

### **Marijuana Prosecution Reform Policy**

In a continuing effort to promote fairness in how crime is prosecuted, my Office instituted a new marijuana prosecution policy in January 2019. Under it, the District Attorney's Office does not prosecute the possession of small amounts (two ounces or less) of marijuana, negating the collateral damage a conviction might impose. Specifically, we no longer prosecute (i) the violation offense in Penal Law §221.05, Unlawful Possession of Marijuana, and (ii) the B misdemeanor offense in Penal Law §221.10 (2), Criminal Possession of Marijuana in the Fifth Degree, based on the possession of an aggregate weight of more than 25 grams, provided the person is only charged with those offenses. We continue to prosecute the B misdemeanor offense Penal Law 221.10 (1) only as a violation.

### **Implementing Raise the Age Legislation**

My Office has taken on a leadership role in the implementation of Raise the Age legislation in Westchester and will continue to work collaboratively with our partners in the Department of Probation, the New York State Office of Court Administration, and youth advocacy organizations on this initiative. In 2017, New York State adopted legislation that raised the age of criminal responsibility to 18. Implementation began October 1, 2018 and went into full effect October 1, 2019. The legislation created a new Felony Youth Part, which handles all cases in which a 16- or 17-year-old is charged with a felony. This specialized part calendar is managed by an Assistant District Attorney also tasked with advising law enforcement agencies regarding the new law. Our Office has implemented an accelerated review process to comply with the requirements that all felony complaints be reviewed by the court within six days of arraignment. In addition, we handle the additional motion practice as our Office is required to prepare and file motion papers both in instances when we seek removal to Family Court and when we oppose removal to Family Court.

## **Common Sense Gun Safety and the Red Flag Law**

After advocating for the passage of New York State's Red Flag Law, also called the Extreme Risk Protection Order (ERPO) law, my Office now helps law enforcement agencies and educators understand how to access the law and use it to its potential to keep our families, schools and communities safe. As of August 2019, an Extreme Risk Protection Order allows members of law enforcement to remove access to weapons from individuals in crisis and bar them from purchasing firearms. With the enactment of this law, there is a civil legal process which allows law enforcement to prevent a potentially violent incident.

## **Focused Investigations**

The Gang, Firearms and Narcotics Bureau in our Investigations Division, created in 2017, has aggressively pursued gang-related criminal activity, which includes the sale of narcotics, robberies, gun-running, identity theft and other criminal activity that fuels firearms-related violence. To combat gun-related crime, the Bureau works closely with the FBI Safe Streets Task Force and the Federal Bureau of Alcohol, Tobacco and Firearms (ATF) to identify and track the origins of illegal handguns, and maintains daily contact with the Westchester County Department of Public Safety's Ballistics Unit, the Westchester Intelligence Center, local police departments and the New York City Police Department to solve gun crimes that occur across municipal borders. As noted earlier, this concerted effort, working in collaboration with local law enforcement, has resulted in a drop in violent crime in our urban areas.

Other focused units in our Investigations Division include Identity Theft and Cybercrime, an ever-expanding area of crime. The ID Theft unit investigates and prosecutes individuals and groups who steal the personal identifying information of others and use this information to personally profit. Typically, stolen personal identifying information obtained through the "Dark Web," computer hacking, mail theft or by using illegal credit card skimmers and other such devices. It is then encoded onto fraudulent credit cards, used to counterfeit checks or inserted in fraudulent loan applications to steal money and hurt victims. The Cybercrime Bureau is instrumental in investigating and prosecuting child pornography distributed by and downloaded from the internet. Children around the world are victims as long as this crime continues. We take this responsibility very seriously.

## **Alternatives to Incarceration**

Alternatives to incarceration are a major focus of my Office. In particular, I have been a strong advocate for programs that emphasize drug treatment and recovery over incarceration. Specialty courts encourage disposition of criminal cases to reduce incarceration rates and allow offenders to get the help they need without the stigma of a criminal conviction.

I'd like to outline a number of initiatives we are involved in:

## **Expanding Specialty Diversion Courts**

The Drug Courts initiative is expanding. My Office partnered with the Chief Administrative Judge of the Ninth Judicial District to create “hub courts” for the adjudication of cases where defendants are suffering from substance abuse disorders. Designating City Courts as “hub courts” allows Village and Town Justices to divert cases to a drug treatment court where defendants will receive substance abuse treatment and supportive services to promote long-term recovery. This year, a new “hub court” opened in Peekskill to serve residents in northern Westchester.

Similarly, Mental Health Court is a coordinated effort to provide an alternative to incarceration for individuals with serious and persistent mental illness. The team consists of the judge, counselors from the County Department of Community Mental Health, a prosecutor and defense counsel, and a probation Officer. The aim is to provide ongoing treatment and community-based services. We have an ADA dedicated to handle these special cases.

Until this year, in Mental Health Court, interim probation was limited to only one year. However, it was different in felony Drug Court. Noting that disparity, in June, our Office was instrumental in drafting a change to the existing statute which was passed and signed into law. It now extends interim probation to two years in all treatment courts.

## **New Court Providing Support to Veterans**

New in 2020: The Chief Administrative Judge of the Ninth Judicial District established a Veterans Court in Westchester County open to any criminal defendant who has served in the U.S. military. At the request of the defense, the defendant may be evaluated and, if he or she is a candidate for diversion, the case is transferred to the Veterans Court. A volunteer veteran mentor is assigned to the defendant and a treatment plan is created for the participant. The program recognizes that the behavior which resulted in criminal charges may be the result of a traumatic period in the military. The program’s objective is to provide the necessary services so the defendant may make a smoother transition to civilian life and avoid the stigma of a criminal conviction. This will be a new part in the County Criminal Court. It will be manned by an Assistant District Attorney and will function in a manner similar to the Integrated Domestic Violence court.

## **Expanded Overdose Response Initiative (ORI) Addiction Diversion Outreach Program**

The District Attorney’s Office began its Overdose Response Initiative (ORI) in March 2016 in an effort to hold sellers and their suppliers responsible for fatal and nonfatal overdoses in Westchester County. To supplement this initiative, the District Attorney’s Office launched a task force composed of prosecutors, County and local law enforcement Officers, and members of the Westchester Intelligence Center to track and investigate fatal and nonfatal overdoses of heroin. Evidence obtained that identifies sellers and suppliers of a lethal “brand” of heroin, fentanyl, oxycodone or other controlled substance is communicated to the Westchester Intelligence Center, which maps incidents and performs analysis to determine links between overdose victims and potential sellers and suppliers. This allows investigators to target for prosecution the drug dealers who are distributing the most dangerous drugs. In 2019, the ORI expanded its mission with the Addiction Diversion Outreach Program, which extends social services to drug users identified as buyers during undercover narcotics wiretaps and surveillance. Working with the County Department of Community Mental Health, prosecutors facilitate services instead of prosecuting individuals suffering from a drug addiction. Addiction diversion outreach is an important alternative to incarceration.

### **School Safety Commission**

My Office has established a School Safety Commission comprised of leaders representing schools, educators, health experts, County Commissioners, and law enforcement throughout Westchester County. The Commission has been meeting since September 2018. Its mission is to facilitate and implement best practices to keep our children and young adults safe and make our schools and campuses safe havens rather than targets of violence. A report entitled "Creating Safer Schools: Recommendations to Strengthen and Enhance Prevention, Planning and Response to School Violence," was issued in September 2019. It combines best practices being used at the state level and across the country to create a proactive climate to prevent school violence of any kind; and to plan for action and response if a threat or incident takes place in one of the 400-plus school facilities here in Westchester.

### **Enhanced Training Program for Our Newest Prosecutors**

Offices across the country have been asked to intensify their in-house training of prosecutors as one measure to avoid wrongful convictions. In 2018, my Office launched an enhanced training program for our newest Assistant District Attorneys. To support this goal, our new Assistant District Attorneys will go through four phases of training: (1) a two-week orientation familiarizing them with the work of our Office; (2) assignment to our Motions Bureau supplemented with a series of 14 lectures and an opportunity to shadow colleagues in the local courts; (3) weekly lectures and interactive skills workshops to supplement work assignments; and (4) supervised participation in actual proceedings. This enhanced training experience will instill confidence in our Assistant District Attorneys by providing them with a stronger foundation and a better understanding of their essential role in our Office. In addition, our Office is planning to mandate implicit bias training for all staff over the next year.

### **Office of Immigrant Affairs**

Approximately 25% of Westchester County residents are immigrants. With such a diverse population, I established an Office of Immigrant Affairs within the Bureau of Strategic Planning and Community Outreach. This Office has embarked upon an aggressive community outreach program to assist our immigrant communities in accessing the criminal justice system. Special attention is paid to investigating and prosecuting crimes that exploit immigrants, such as financial fraud, unfair wages and immigration scams.

Just this month, we indicted a Washington State resident for defrauding 17 victims in Yonkers. The Grand Jury returned an 87-count indictment for his scheme in which he targeted adults in families with US-Born children. He charged his victims an average of \$8,000 for allegedly processing fraudulent U-Visa requests and a pathway to citizenship.

### **Hate Crimes**

Throughout the state, hate incidents have seen an uptick over the past year. Our Hate Crimes Unit continues to review and evaluate all incidents of alleged hate and bias with local police departments to determine whether an incident rises to the level of a criminal act and whether it was motivated by bias. When a hate crime has been committed, this Office vigorously prosecutes it. A big part of the work of The Hate Crimes

Unit is to educate and inform the community about bias. The Hate Crimes Unit Assistant District Attorney routinely gives presentations to schools, faith-based organizations, police departments, veterans' groups and other community organizations to educate and help prevent hate in the County.

### **Domestic Violence, Child and Elder Abuse**

Our Special Prosecutions Division continues to find new ways to work with partners in protecting our most vulnerable residents. Specially trained units work aggressively to combat crimes against them. Prosecutors work closely with law enforcement agencies, specialty domestic violence courts, three separate multidisciplinary teams for child abuse, human trafficking and elder abuse cases; as well as social services and victim services agencies; and the County's Child Advocacy Center and Child Fatality Review Team. The Division has established 24-hour phone lines for both elder abuse and domestic violence. Working with community partners, planning is underway to create a lethality threat assessment tool this year to be used by all law enforcement agencies responding to domestic violence emergencies.

### **Other Community Outreach**

This Office also plays an important role in preventing crime by educating the public. The Office makes hundreds of presentations annually. Cybercrime, elder abuse, bullying, drinking and driving, internet safety, financial fraud, drug abuse and hate crimes are just a few of the many topics explained to schools and community groups throughout the County each year. We also sponsor specialized training sessions for law enforcement agencies including topics on Legal Updates, Human Trafficking, Sex Crimes, Child Abuse, Elder Abuse, Sexual Assault Investigations, Identification Procedures, Hate Crimes and Post-Arrest Procedure and Documentation.

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# District Attorney's Office

## 2020 Proposed Budget

## District Attorney Program Area and Services

- The goal of the Westchester County District Attorney's Office is to provide fair, effective and expeditious investigation and prosecution of criminal offenses committed in Westchester County. In order to accomplish this goal, the office is organized as follows:
- **Appeals and Special Litigation Division** -The Appeals and Special Litigation Division responds to legal challenges to criminal charges or convictions. This division is comprised of the Appeals, Motions, Special Litigation, and Training and Education Bureaus.
- **Investigations Division**-To proactively reduce crime, this division employs a wide variety of investigative tools including the latest technology, experienced investigative resources and a core group of experienced prosecutors.

# Core Programs & Functions

- **Local Criminal Courts and Grand Jury Division**-This division is comprised of the Local Criminal Courts Bureau and the Grand Jury Bureau. The Local Criminal Courts Bureau includes eight branch offices. The Grand Jury Bureau oversees the presentation of a wide variety of cases to the Grand Jury for indictment.
- **Special Prosecutions Division** -This division investigates and prosecutes all cases of domestic violence, child abuse, human trafficking and elder abuse.
- **Superior Court Trial Division**-This division is responsible for obtaining fair, just and timely dispositions of felony indictments either by trial verdict or by a plea of guilty in the Superior Courts of Westchester County.

# Core Programs & Functions

- **Criminal Investigators-** The primary mission of the criminal investigators is to provide support to the prosecutors and our over 40 local police departments in the investigation and prosecution of crimes committed in Westchester County.
- **Administration Unit-** This Unit facilitates financial reporting, budgeting and forecasting, payroll, personnel, purchasing and procurement, accounts payable, grant administration, information technology, contract administration, record center operations, training and travel requests, and victim witness assistance.

# Budget Summary

ITEM	2019	2020
Operating Positions	228	239
Trust Positions	14	14
<b>TOTAL POSITIONS</b>	<b>242</b>	<b>253</b>
Personal Service	25,908,493	27,613,600
Equipment	181,325	121,119
Materials & Supplies	297,873	292,750
Contractual Expenses	2,546,948	2,651,948
Inter-Departmental Charges	1,138,324	1,152,179
<b>TOTAL EXPENDITURES</b>	<b>30,072,963</b>	<b>31,831,596</b>

# Budget Summary

ITEM	2018	2019
Inter-Departmental Revenue		
Departmental Revenue		
State & Federal Aid	847,449	713,656
<b>TOTAL REVENUE</b>	<b>847,449</b>	<b>713,656</b>
<b>DEPARTMENT TAX LEVY</b>	<b>29,225,514</b>	<b>31,117,940</b>

# New Initiatives & Highlights

- **NYS Criminal Justice Agenda**
- **Marijuana Prosecution Reform Policy**
- **Implementing Raise the Age Legislation**
- **Common Sense Gun Safety & the Red Flag Law**
- **Focused Investigations**
- **Alternatives to Incarceration**
- **Expanding Specialty Diversion Courts**
- **School Safety Commission Established**