




Office of the District Attorney
 County of Westchester

MEMORANDUM

To: Budget and Appropriations Committee
 Westchester County Board of Legislators

Date: 11/14/08

From: District Attorney Janet DiFiora 

Re: Fiscal and Program Impact of 2009 Proposed County Budget

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 offenses committed in our county. As such, I have and will continue to proactively investigate and vigorously prosecute those responsible for committing criminal acts. Integral to my ability to accomplish 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.

Further, it is my duty, and accepted responsibility, to insure that the resources and funding provided to this office by county government are utilized in an efficient and productive manner. The fact that my office accomplishes this objective is unquestionable. To insure that we continue to meet and even exceed the high fiscal standards that we set for ourselves, I have initiated a number of new programs and strategies.

The number of cases prosecuted by this office has grown significantly over the last several years, as outlined in the chart that follows:

Year	Cases Prosecuted
2003	30,314
2004	33,632
2005	35,477
2006	38,503
2007	38,673

During the first three quarters of 2008 this office prosecuted 30,228 and will potentially end the year with close to 40,000 prosecuted cases.

While my full 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 readily susceptible to statistical analysis. This is clearly apparent after a review of this year's activities and achievements

During 2008, the District Attorney's Office, along with a number of local law enforcement agencies, has continued to build an infrastructure – both human and technological – that this county has not seen before. As part of the Countystat Initiative the District Attorney meets on a monthly basis with the chief police executives of the six departments who patrol the jurisdictions responsible for 80% of Westchester's crime (Yonkers, Mount Vernon, Greenburgh, White Plains, New Rochelle and the Westchester Department of Public Safety). Information developed at these meetings underscores common problems that are driving countywide crime and allows for the development of joint strategies to

challenge emerging crime trends head-on. Building on the Countystat Initiative the District Attorney determined that a central clearinghouse was needed to enhance law enforcement efforts in Westchester County. Called the Westchester Intelligence Center, its principal mission is to support the criminal investigative process for all of Westchester's law enforcement agencies, through the collection and analysis of information and data. Each of the County's 43 police departments brings individual strengths to the communities they serve, however criminal activity extends beyond individual localities and political boundaries, impacting neighboring communities. During 2007 space was procured in a County building in downtown White Plains, construction was started and computer hardware and software were ordered. The Westchester Intelligence Center officially opened on May 21, 2008.

The Center is designed to serve as the facilitator for intelligence led policing in Westchester County. Weekly meetings are held at the Intelligence Center where various police agencies throughout the county are represented. An intensified focus is placed upon violent crime and criminal gang activity. Information shared at these meetings from countywide field intelligence officers is wedded with analysis of crime data to identify emerging crime patterns and cross jurisdictional offenses. Thereafter, monthly meetings are held with police administrators and managers for the purpose of formulating crime intervention strategies. Additionally, the Intelligence Center supports the efforts of Westchester's forty-three local police agencies with a host of law enforcement data resources to augment the criminal investigative process. When fully operational the Intelligence Center will have access to millions of records that will be available to investigators within minutes, instead of days or weeks.

The Center has already demonstrated much promise. Inquiries have been made to review cold case homicides, to assist with active investigations and to provide support to police agencies. Parochial interests have been discarded and a tactical approach to address crime by providing essential support for all of Westchester's police agencies is the Center's charge. In short order, the Center has piloted new data collection protocols with the New York State Division of Criminal Justice Services, is pursuing new protocols with the Bureau of Alcohol Tobacco and Firearms, and is moving forward to connect Westchester's law enforcement intelligence community's disparate data bases. The Westchester Intelligence Center, with the support of local police departments, is well positioned to provide more opportunities to abate violent crime through intelligence led policing resulting in increased public safety.

During 2008, the Westchester County District Attorney's Office continued its participation in the Statewide "Operation IMPACT" program, a DCJS sponsored multi-agency initiative whose goal is to reduce violent crime. The initial success of IMPACT law enforcement strategic planning in Westchester has resulted in the expansion of the program from its original member jurisdiction of Yonkers to include Mount Vernon, White Plains, Greenburgh, New Rochelle and the Westchester County Department of Public Safety.

"IMPACT 5", the fifth year of the IMPACT program, saw the implementation of weekly meetings of field intelligence officers held at the Westchester Intelligence Center. Representatives from each member agency, together with representatives from the NYS Department of Parole, Westchester County Departments of Probation and Correction along with the NY State Police, and federal law enforcement agencies met to review notable incident reports and share information obtained by the member agencies during the preceding week. This sharing of information has been instrumental in the identification and location of gang members and the prosecution of both violent and non-violent crime within the member jurisdictions and elsewhere.

In 2007 collaborative efforts conducted under the auspices of Operation IMPACT included coordinated warrant sweeps in Yonkers and Mount Vernon, which resulted in the arrest of 66 of the most

notorious and violent felons wanted on warrants in those cities, as ranked by the respective police departments. In 2008 Operation IMPACT efforts resulted in the following:

- The Yonkers Police Department (YPD) completed an undercover operation targeting street level drug dealers doing business in the Getty Square/Locust Hill area. The investigation culminated in a sweep in May 2008. Forty subjects were charged with narcotic sales while 10 were charged with marihuana sales. Enhanced patrol enforcement conducted in the weeks following the sweep produced another 38 arrests, including 22 felony arrests and five search warrant executions.
- During the same time period, the Gang Unit of YPD conducted an investigation involving a mid-level drug distributor doing business in Yonkers. This investigation culminated in July 2008 with the arrest of the ringleader and ten of his associates, several of whom were charged with street sales of cocaine and painkillers. Investigators seized two handguns, a shotgun, and approximately one half pound of cocaine.
- In June 2008, the Mount Vernon Police Department, working with the Departments of Probation and Correction, conducted a "saturation" initiative which targeted 110 Mount Vernon probationers identified as possible violators or sources of intelligence. The operation yielded five arrests and the seizure of a pound of marihuana and various weapons.
- The New Rochelle Police Department (NRPD) has established a new robbery detail which utilizes crime analysis data to identify high probability targets as well as high probability offenders.
- The White Plains Police Department (WPPD) completed an undercover operation which targeted ongoing illegal narcotic activity in the Winthrop housing complex. The investigation concluded in July 2008, netting six arrests.

Assistant District Attorneys are assigned to these operations at the inception of each investigation and all arrests generated from Operation IMPACT are closely monitored by the District Attorney's staff to insure an expedited and enhanced prosecution.

The successful reentry into society of formerly incarcerated individuals is a critical component of our efforts to prevent crime by lowering recidivism. In 2007, with the District Attorney as chair, the newly formed Westchester County Reentry Task Force began its work. The Task Force, a collaboration of state and local agencies, and the not-for-profit and faith-based community is committed to improving the reentry of released offenders into their communities. The goal of the Task Force, which meets bi-monthly, is to assist men and women who have recently been released from prison and are returning to live in Westchester, by coordinating the delivery of appropriate supervision and services by different agencies in a way that overcomes gaps in services that may create barriers to successful reentry into the community. At the end of 2008 the Task Force will be completing its first full year of operation and since January has serviced 104 re-entrants. Nearly all have been referred to mental health and/or substance abuse services. Nearly three-quarters were referred for assistance with vocational training or employment and approximately 25% were referred for educational services. This entire program has been underwritten through state grant funding and the use of existing District Attorney personnel.

The most significant advancement in law enforcement is the refinement and application of DNA analysis. DNA is one of the most powerful and reliable evidentiary resources for the just conviction of the guilty and the exoneration of the innocent. The federal COMbined DNA Index System (CODIS), a national DNA database which maintains DNA profiles from convicted defendants, greatly enhances law enforcement's ability to solve crimes which otherwise would have never been solved. DCJS maintains the New York DNA databank, which is comprised of data generated from DNA testing conducted pursuant to national standards by accredited state laboratories. Evidence collected from crime scenes throughout the County is brought to the Westchester County Department of Labs and Research for testing and in the event a DNA profile is developed, the Lab uploads the DNA profile to CODIS. When a match

or "hit" is made, the Lab notifies the CODIS administrator, a designated assistant district attorney in the Trial Division. The case is then assigned to a trial assistant to coordinate for prosecution. CODIS hit notifications have increased dramatically over the last three years. In 2006 we received notification of only 22 hits. In 2007 my Office received Laboratory notification of 46 CODIS hits, 25 attributed to burglaries committed here in Westchester. One hit in 2007 was for a 1983 cold case homicide (an indictment was filed in 2008). By the end of the third quarter in 2008 we received notification of 74 CODIS hits. This represents a 70% increase in just three years.

The increase in the number of CODIS hits experienced by the District Attorney's Office is directly attributable to legislation which requires all defendants convicted of Penal Law felonies and certain enumerated misdemeanors to provide a DNA sample after conviction. In response to the absence of statutory guidelines for the collection of DNA samples, the DA's Office took the initiative to develop a preemptive strategy to ensure that every defendant who is convicted of a designated crime is, at some point during the prosecution of his or her case, captured for collection. Working in close collaboration with the Westchester County Departments of Probation and Correction, we have designed a model plan for local collection of DNA, which includes guidelines to ensure compliance with statutory mandates. The guidelines and procedures we have developed are intended to ensure that, to the fullest extent possible, DNA is collected from every defendant who is convicted of a statutorily designated crime, including those who because they are not sentenced to probation or incarceration may fail to submit a DNA sample. As to this latter category of defendants, an assistant district attorney has met with judges and court clerks from the 42 Westchester County local courts, along with representatives of all local police departments, and in collaboration with these agencies, has established a County-wide DNA local court collection system. Under this system, the local court will mandate, and the local police agency will collect, DNA samples from all designated defendants immediately after their local court sentence. Our system has been used as a model for the state.

At the end of 2007, Westchester County proudly held the distinction of having the highest and most successful DNA collection rate of all Impact Counties in the State of New York. In total during 2007, DNA samples from over 2,200 defendants were successfully collected in Westchester County and added to CODIS as a result of the use of the model collection system established by this Office.

The District Attorney has continued to work as a team with the Department of Social Services (DSS), local police and the Children's Advocacy Center to investigate child abuse cases. During 2007, CPS services received 6,127 reports of abuse and neglect. In 2008 there has been a significant increase with 5231 reports received by the end of the third quarter. This puts us on a course to potentially screen almost 7000 cases in 2008, an increase of almost 15%. Each of these reports is reviewed by an assistant district attorney to determine if any involved crimes against children and whether further police investigation is warranted. To enhance our multi-disciplinary investigation of these cases, the District Attorney and the County Executive led an effort by DSS, the Westchester Children's Advocacy Center, the Chiefs and Commissioners of Westchester's local police departments, mental health groups and victim advocacy organizations to create the necessary protocols.

In 2007, in recognition of Westchester's development of best practices towards the growth of a Multi-disciplinary Team (MDT), the Office of Children and Family Services (OCFS) awarded a grant to the District Attorney's Office for a new child abuse position. This grant allowed the Office to hire an Investigations Information Coordinator who facilitates the sharing of information amongst law enforcement, DSS and the Children's Advocacy Center. In 2008 Westchester's MDT was acknowledged to be in compliance with OCFS protocols and recognized as such.

During 2008 we continued the process of obtaining national accreditation for the Westchester Children's Advocacy Center and it is expected that the Center will obtain this accreditation next year. The Center functions as the hub of child abuse investigations. Members of the multi-disciplinary team conduct forensically sound interviews in a safe, child-friendly environment and when necessary, a forensic pediatrician physically examines the child. The Westchester Children's Advocacy Center has the distinction of being recognized as one of eight New York Centers of Excellence by the Child Abuse Medical Providers Program. So far, in 2008, we have conducted 274 joint interviews of children using this multi-disciplinary approach.

In 2008 the High Technology Bureau of the District Attorney's Office continued to aggressively pursue and curb the rising tide of identity theft cases in Westchester County. Police departments across Westchester County have reported a startling increase in these types of cases during the last year. The investigation of many of identity theft cases often leads across State lines and often involves sophisticated forensic analyses of computers, telecommunication equipment and financial or banking records. The resources needed to put these cases together are often beyond those possessed by many local police department. The High Technology Bureau has become the "go-to" unit within this Office for police departments engaging in identity investigations. By possessing both the forensic hardware and the human resources necessary to utilize this equipment the High Technology Bureau has participated in the investigation and prosecution of dozens of individuals charged with identity theft. In addition the High Technology Bureau continues to monitor internet pedophile traffic. By working closely with federal authorities we insure that cases against individuals preying on our children are prosecuted to the full extent of the law.

According to the statistics maintained by the NYS Division of Criminal Justice Services (DCJS), in 2007, the Westchester County District Attorney's Office had a felony conviction rate of over 97%. This number includes both pleas and trial convictions. By way of comparison, in 2007 the statewide conviction rate for felony offenses was 91%. The percentage of defendants convicted of felony offenses in 2007 who were sentenced to jail/prison was 79% as compared to the state rate of 72%. Our conviction rate in 2007 for violent felony offenders, individuals charged with crimes such as murder, manslaughter, robbery, burglary, aggravated assaults, sex offenses, kidnapping, gun possession, and arson was better than 95%, surpassing the Statewide average conviction rate for violent felony offenses of 89%. The percentage of defendants convicted of violent felony offenses in this County in 2007 who were sentenced to prison/jail was 91% as compared to the state rate of 80%. We achieved these better than statewide felony conviction rates in a timely and expeditious manner. In 2007, statewide, prosecutors required an average of 277 days to dispose of a felony case while this Office required only 226 days to disposition, thus saving not only time but also money.

During 2008 the District Attorney's Office has continued working on the Second Look Project which commenced following the events surrounding the Deskovic case. Two assistant district attorneys have been designated to review case files of murder convictions obtained prior to the year 2000, the year when STR DNA testing was the norm in forensic analysis in our cases. The purpose of the review is to determine whether the DNA technology available today may be meaningfully employed in any particular case. The task is an arduous one; however, the goal of ensuring, without question, the validity of each and every conviction is paramount.

In summary, I have taken care to present to you a budget which I believe to be both fiscally responsible as well as realistic in terms of allowing me to carry out my legal mandate. Many of the initiatives and programs outlined above have been established and/or continued without a request for

increased funding by utilizing existing staff and identifying/maximizing available resources. This is also true of the Intelligence Center, which, to date, has been funded, through a prudent use of existing resources, grant funding and existing personnel.

Although significant in its own right in terms of actual dollars, the District Attorneys budget comprises only a comparatively small (under 2%) component of the overall county budget. In presenting this budget to the Board of Legislators as an elected official, I wish to stress that I have worked closely with the Budget Department in order to submit a request which is both prudent and responsible and one that takes into account the financial times as they exist today and as they will extend into 2009. As such, I am not requesting the implementation of any new programs or the funding of any new positions. Furthermore, I have directed my Office to incur additional savings in Annual Regular (1010) by forgoing salary increases for my legal and executive staff and by not immediately filling vacant positions. Also, we have decreased our request in a number of accounts, such as: Overtime (1400), Equipment (2300 & 2400), Education & Training (4160) and Travel Expenses (4140). These changes place the District Attorney's 2009 Proposed Budget at a modest general increase of 1.7% over the Adopted 2008 Budget; 88% percent of this increase reflects funding requested in the Advance to Grants line that is necessary to replace lost state revenue. In addition, I believe that by effectuating savings from the 2008 budget and returning these monies to the County's general fund that I have demonstrated my commitment to work with the administration, the Budget Department and the Board of Legislators.