

*2019 Joint Budget Hearing Testimony  
Public Protection  
District Attorneys Association of the State of NY  
January 29, 2019*

Thank you for the opportunity to speak to you on behalf of the District Attorneys Association of the State of New York.

I am proud to be part of one of the world's greatest systems of justice and all of you should be proud of your role in improving our criminal justice system for all of the people of our state. Together we can continue to blaze trails with new initiatives, programs and policies. We share your goals of making improvements to how to enforce our laws and protect public safety. Our state deserves a criminal justice system that balances the rights of all New Yorkers. This includes holding those who commit crimes accountable, exonerating those who are falsely accused and continuously embracing initiatives that enhance the public trust in the criminal justice system.

We all know that today we have a very unique dynamic in our state government. You have the support within both houses to ensure that many, many bills can get passed this legislative session. I ask you to exercise caution and be deliberate before enacting wholesale changes. You have the opportunity to craft some of the most innovative changes and improvements to public safety and criminal justice in a generation. These are important matters to our state that will have profound benefits and consequences for years to come. I ask you to take a cautious approach and seek input from all sides to help reach smart solutions to these issues that impact all New Yorkers.

I am here to tell you that District Attorneys want to be part of these conversations. From our unique perspective and deep knowledge of criminal justice, we can help assess whether a proposal ensures sufficient protections to the accused as well as victims of crimes and whether a proposal will ultimately harm public safety. I ask you to listen. We owe it to our residents, businesses and visitors to keep NY one of the safest states in the country, while also balancing the rights of the accused.

We are concerned about a number of Public Protection items in the proposed Executive budget. Bail, discovery, speedy trial issues and asset forfeiture deal with serious and complex issues that should not be decided in the context of budget legislation and the accelerated schedule which attaches to Article 7 proposals. We should not give short shrift to the discussion that these items deserve. Some of these are items have already been introduced as stand alone bills by members of both houses. I ask that you take the time to fully digest the full impact of these pieces of legislation and take a careful approach to fully vet all of the language in the bills and the real life consequences.

New York is a large state geographically. We are a diverse state with nuanced regional difference and unique obstacles experienced by the many individual counties. Our communities have their own distinctive characteristics. Urban, rural and suburban areas

present different criminal justice challenges requiring different solutions. Any proposals that seek to overhaul the processes that are already in place and that are also already contributing to positive public safety trends must be scrutinized carefully.

Fundamental changes to the bail system or discovery timelines in criminal cases will have significant impacts on public safety in New York State as well as impact the ability to investigate future crime. We hope that these topics are given the time and consideration they deserve. These subjects should be considered with the care in which important criminal justice legislation is best considered: by full committee consideration in all the appropriate committees and by full debate in both houses. These are not issues with simple solutions.

### **Bail**

District Attorney offices both in New York City and around the state have found that only a small fraction of those charged with minor crimes or some major ones are being held in jails because of a failure to make bail, and those who are being held are held for good and sound reasons and not simply because of poverty or other obviously inappropriate factors. Despite this fact, problems with regard to bail in this state are worth examining and considering. Defense attorneys and advocates agree that New York already has one of the most progressive bail statutes in the country. Any bail proposal must be made in a careful manner and not crafted in back rooms or negotiated in secret without public transparency and opportunity for debate and comment by both those who support the measures and those who oppose.

The Governor's bail reform package would eliminate cash bail and all associated forms of financial security. Practically speaking, a given defendant would now be released at their own liberty, released under the least-restrictive non-monetary conditions, or detained. In order to detain a defendant a due process hearing would be held within 3 working days preceded by a disclosure of all statements, reports and Brady material germane to the hearing. The law provides that a protective order would be available. Rules of evidence would not apply to this hearing and a defendant may call and cross-examine witnesses. It is unclear what evidentiary rules would apply at such a hearing, but a defendant may cross examine witnesses and call others to testify on his behalf. As for which defendants are detained, careful consideration must be made so that we know dangerous people are held. After all, public safety is one of our main concerns. Judges need to be given the tools and resources to make proper decisions about who should be held and who should be released.

In addition to costs for pretrial services, any discussion of this bill must take into account costs related to the court system to conduct hearings, costs related to police departments and district attorneys offices to gather evidence and reports and staff for hearings. Adequate funding must be provided for any successful changes to our bail system. The state must provide sufficient funding so that the services are effective and so that individual counties are not burdened by the costs. If we have a system that is releasing people who are accused of misdemeanor and other violations, we must have a system that

includes drug and alcohol abuse evaluation, services and follow up. We must also provide adequate money for extradition costs and mechanisms for extradition.

Around the country other states have eliminated cash bail. The experiences in these states can be instructive. New Jersey moved to a system where judges can order defendants jailed based in part on a risk assessment that weight the defendant's criminal history and the charges they face. They did not allocate money in the State budget for the system and relied on court fees for funding. A report to the Governor and the legislature last year warned that the system is "simply not sustainable" and faces a "substantial annual structural deficit" because its funding mechanism relies on court fees rather than the State budget. The report also found that the pretrial monitoring program lacks resources to keep tabs on people released and lacks resources to help defendants who suffer from mental health or addiction problems. Pretrial monitoring was found to be taxing on court staff and requires 24 hour staffing.

In 2016, Alaska enacted a comprehensive criminal reform bill which adopted "evidence based pretrial reforms" and created a pretrial services program that required an additional 40 state workers and supervises defendants placed in the community while waiting for the resolution of charges against them. The pretrial officers perform a risk assessment for each defendant. Alaska's Governor later asked for further changes to the law because of reports that dangerous felons are being released. It is being dubbed "catch and release" or "catch and re-offend" because violent and repeat offenders are being released immediately and committing further crimes.

Washington DC has also done away with cash bail but they have invested heavily in pretrial services. Currently their pretrial services program costs \$65 million a year. And they still experience lapses in the system. The agency supervises 14,000 people a year. Last year a man was arrested in a fatal shooting after he bypassed a court ordered monitoring device that was attached to his prosthetic, which he left at home. He was ordered to wear the tracker for a previous gun arrest. In another case, a man was released from court on a misdemeanor charge of assaulting a police officer and was charged in a fatal stabbing two days later on a Metro train.

I also need to point out the possible impact on drug courts. The way drug courts work right now is that defendants are held on bail and given the option of drug court or jail. If everyone gets presumptive release on drug cases nobody will go to drug court. We need to carefully examine how we treat drug crimes under any new bail proposal. I know I don't have to tell you how bad the opioid crisis is in our State. Drug courts around have been very successful in helping individuals get the services they need and stay clean.

I do not mention these examples to discourage you from reforming our bail statute, but, rather to ensure that caution is exercised to identify and address as many of these issue as possible.

## Discovery

I hope that any changes to New York's discovery statute are undertaken after careful consideration of the impact on witnesses. I also urge you to consider the costs involved in maintaining discovery and the costs involved in reviewing and exchanging discovery. Again, careful consideration must be given to widespread changes to our discovery statute and we stand ready to discuss with you more in the coming weeks. But I would like to point out a few obstacles.

Discovery proposals that are being discussed would require the people to produce initial discovery within 15 days after arraignment." The materials include the names and addresses of all possible witnesses who may have any information relevant to the offense or potential defense and which of those people may be called as witnesses at pretrial hearings. Fifteen days!! In many counties in our state our prosecutors are dealing with multiple police agencies including the State police. Each police agency has their own manner and turnaround time when providing reports. Some police agencies can take up to 30 days to provide a police report.

Prematurely exposing the identity of witnesses could result in more harassment, intimidation and violence against innocent citizens. Witnesses could increasingly refuse to cooperate if they know that their name, address and contact information will be given to the defendant well before trial. Public confidence in the criminal justice system could be eroded. It is critical to balance the rights of defendants to fashion a defense with the rights of witnesses to be free from tampering, manipulation, and intimidation.

Some of the transformative changes that are being proposed must be carefully thought out so that we maintain trust in the criminal justice system for all, including victims, witnesses and the accused. Witness tampering and intimidation is a fundamental threat to the rule of law. It makes it more difficult to detect crimes because many will go unreported to the police. It also makes it extraordinarily harder to prosecute crimes because it deprives the prosecution of credible witness testimony. Witness intimidation is cited as a primary reason for witnesses recanting statements at trial and research suggests that intimidation is most likely to be carried out against society's most vulnerable people, children, elderly, immigrants, victims of domestic violence. Witness intimidation has become easier with the use of social media. I have seen gang members post information about witnesses on Facebook and other online communities to provoke intimidation. Among certain communities, some of the very communities we seek to help the most, being labeled as a snitch carries a price of not just violence but of ostracism by neighbors and peers.

From my perspective some of these discovery proposals would effectively delay trials not expedite the wheels of criminal justice. Arguments about which party should have turned over which documents at what point are sure to arise necessitating further in court hearings. There will also surely be more in court conferences surrounding the protection of witnesses.

Again, we stand ready to offer our perspective and suggestions for improvements to the discovery process to help craft a better system of balanced discovery. But we owe it to our witnesses to protect their safety and the safety and wellbeing of their families when they come forward. Sometimes investigating a case requires police officers and prosecutors to assess whether a witness requires guarantees of anonymity, assurances of non retaliation or promises of protection.

## **Speedy Trial**

To those accused of crime, a speedy trial is a constitutional right and a guarantee. However, to those of us in law enforcement, a speedy trial is equally critical. Preserving evidence, protecting witnesses, ensuring that memories are accurate and the advantage to closing yesterday's case today, so that staff and resources are available for tomorrow's cases helps to provide for an efficient, fair and accurate system by which justice is administered. When cases linger, it is usually the prosecution that is compromised and therefore that is why law enforcement is anxious for a swift resolution of criminal charges.

The Governor's budget proposal and various bills proposed by the legislature proposes changes to CPL 30.30, also known as "speedy trial."

Ironically, experience teaches that nothing will delay a matter's progress to resolution, more than a speedy trial motion, pursuant to CPL 30.30. The need to order court transcripts, from previously routine calendar calls, creates significant delay, but is necessary to accurately and ethically answer such motions. Experience also teaches that relief is rarely granted by the courts. This is because the prosecution is rarely responsible for delays that are not statutorily recognized and the artificial conclusion of serious matters is hardly an appropriate remedy to be dispensed lightly by our courts.

Currently, when a prosecutor announces readiness for trial, the court is able to ask details about the readiness and they do. The speedy trial proposals would require such statement to be accompanied by a certificate of good faith. Because prosecutors are required to make this statement in court the certificate required seems duplicative and redundant.

Any language that requires a defendant to be advised of their rights on the record or require an on the record inquiry must take into consideration the fact that many rural courts do not currently have a process for transcribing or recording proceedings.

DAASNY again recommends that the issue of speedy trial be carefully looked at and that the root causes of any court delays are examined. DAASNY remains interested in any partnership with the courts and other stakeholders to reduce any delays in the system. It is very likely that through dedicated and committed administrative solutions we can create a more efficient justice system.

## **Asset Forfeiture**

There is a proposal in the proposed Executive Budget concerning asset forfeiture. Again, this is a topic that should be afforded sufficient scrutiny and discussion.

The current asset forfeiture statutes, principally Article 13-A of the CPLR were the product of long and intensive review of the then existing provisions and took place over a two year period in 1982 and 1983. When Governor Mario Cuomo signed it into law it was considered a significant achievement.

Many people commit crimes to make money, spend money, and live a life of tax-free excess. One of the primary motivations for civil and criminal asset forfeiture is to take the profit out of crime and make the assets unavailable to fuel further criminal activities or place the public at risk. When used properly, asset forfeiture can be an extremely effective tool.

This proposal shows a major lack of understanding of New York's asset forfeiture law. NY's law is full of procedural protections for defendants. It is nothing like the federal law. It is one of the few effective ways we, as prosecutors, can help victims of financial crimes. The criminal justice system is terrible at enforcing restitution orders. The only real way to get assets back to victims is to seize and forfeit them. The Governor's proposed changes to the asset forfeiture law, if passed, will gut the law.

The proposal eliminates District Attorney's authority to sue for a money judgment, but instead, only permits them to sue to recover proceeds, substituted proceeds, instrumentalities or real property instrumentalities of crime. The bill would substitute that authority with the ability, only after forfeiture judgment is obtained to apply for a money judgment only if property subject to the judgment cannot be located. The problem with this is that criminals don't often clearly label their ill-gotten gains. Identifying specific assets subject to forfeiture would be nearly impossible. After stolen funds have been commingled with other funds, stolen or legitimate, it would be impossible to sustain a forfeiture action to recover a victim's money, because the proposed amendment to the statute would require that those funds be specifically identified. Even if we knew an exact dollar amount, we wouldn't be able to recover those funds because they couldn't be identified sufficiently to allege their identity in the forfeiture action. And allowing prosecutors to seek a money judgment after judgment is already obtained doesn't help, because we won't be able to obtain judgment in the first place without being able to identify specific assets.

For post-conviction forfeiture crimes, the law would permit suit only on proof of conviction of such a crime, but would remove the ability to sue based on conviction of crimes that are part of a common scheme or plan. The current law allows us to bring a civil suit to recover the proceeds of all crimes that arise out of the same common plan and scheme and not just the crime of conviction. We can sue for proceeds obtained from crimes that are committed outside the time period alleged in an indictment and on behalf of victims whose losses are not covered by the indictment. We still need to prove our civil claims in court by a preponderance of the evidence. This allows us to proceed on

behalf of more victims and try to collect more money on their behalf. The unintended consequence of the proposed legislation could force prosecutors to require guilty pleas to more counts of an indictment, just to ensure that we can seek forfeiture funds on behalf of every victim.

The proposal has another element that I find a bit absurd. When determining whether to release funds to a defendant for living expenses or attorney's fees for the forfeiture action or the underlying criminal action, the court is precluded from considering that the funds are alleged to be forfeitable as proceeds. This would permit a bank robber to protect from forfeiture the proceeds of a bank robbery, based on a claim that he needs those funds to live or pay his lawyer! This provision would also permit the same bank robber, if he used his own car and gun to carry out the robbery, to get those items back to pay his legal fees. This would also permit the perpetrator of white-collar fraud to prevent forfeiture of funds he stole from victims and allow him to use those funds for living expenses and legal fees.

The proposal would also put asset forfeiture funds into the hands of county finance officials that have no responsibility for law enforcement. This adds an unnecessary layer of bureaucracy to the handling of funds that should be going to victims and being spent to fund law enforcement activities.

We must make sure that we do not remove our ability to sue a non-criminal defendant, defined as a party who is not indicted, but who owns an interest in property that constitutes proceeds, substituted proceeds or an instrumentality of crime. Many criminals move money out of their name and into the name of a third party. Often these third parties are not indicted. If this proposal were enacted, prosecutors could not reach those assets. We would not be able to restrain funds and preserve them for victims. For example, in a recent case, an accountant stole money from his clients and transferred the funds to his wife. We restrained the account to preserve the stolen funds for the victims and named the wife as a non-criminal defendant.

These legislative changes would remove aspects of New York state law that have been working well and serving victims for several decades. We should fight hard to prevent this bill from taking effect.

#### **Additional Issues/Additional Budget Items**

Our point in all of this is to ask that any changes to all of these items be given the full attention and discussion that they deserve and that there is ample time for public input so that we thoroughly address all of the important details. These are integral components of our criminal justice system and any modifications must be made prudently.

Year after year New York continues to be a leader in public safety. New York is the fifth safest state in the country. New York has the lowest crime rate of any large state. New York also has the lowest imprisonment rate of any large state. Since 2007 crime has declined by 18% in New York State. New York State has a property crime rate 40% lower than the national average. There is no doubt that every day work of prosecutors is

an integral part of maintaining and improving the quality of life for all New Yorkers. Unfortunately, many District Attorney's offices are underfunded and understaffed. As we acknowledge the difficulties of balancing a budget and the challenges being fiscally responsible, I want to highlight DAASNY's priorities for the upcoming fiscal year. Many of these items are cost-neutral or even revenue generating.

### **Committee on the Fair and Ethical Administration of Justice & Best Practices Subcommittee**

In 2010 DAASNY created the Committee on the Fair and Ethical Administration of Justice to develop statewide law enforcement best practices that will promote fairness and reliability in the criminal justice system while protecting public safety and the rights of the accused. The Best Practices Subcommittee reflects the geographical diversity of the State with upstate and downstate, urban, rural and suburban representation and has built collaborative relationships with the over 550 police agencies around the State.

The role of a prosecutor is constantly evolving. There is an increasing need to share information among prosecutors and others seeking to improve the criminal justice system. We are engaged in transformative innovations and initiatives and we are constantly making improvements in prosecution techniques and programs that offer diversion and prevention. Through the Best Practices Committee's meetings, new ideas and reforms are discussed and committee representatives bring the ideas back to their offices to be looked at in greater detail.

DAASNY's Best Practices Committee has become a national role model in developing innovative strategies aimed at improving the criminal justice system and preventing wrongful convictions. Statewide, the committee has been a leader in initiatives such as enhanced identification procedures, video interrogation protocols, as well as many other issues important to modern day prosecutors. The Committee also developed *The Right Thing*, an ethics handbook that collects in one place the most significant cases and rules that govern ethical behavior by prosecutors. The handbook has been adopted by every District Attorney's office in the State and has served as an example for other jurisdictions drafting similar ethical handbooks.

To continue to maintain the Best Practices Committee DAASNY asks for \$50,000 to help fund staff for the committee including a part-time independent chair and expenses related to meetings, travel, communication, data collection and analysis.

### **New York Prosecutors Training Institute (NYPTI)**

Over the past twenty-five years, the most important advancement in the state criminal justice system was the creation of NYPTI. Now, prosecutors throughout the state receive

high-level training including ethics instruction that is second to none. Beyond training, NYPTI provides personal and online assistance and resources to prosecutors throughout the state. NYPTI spurs information sharing and collaboration among prosecutors, and between prosecutors and other criminal justice agencies in order to promote problem solving- all while maximizing scarce resources. Some highlights of NYPTI's services:

- **Training:** NYPTI provides training each year on numerous topics including ethics, forensics, technology, office management, best practices and conviction integrity. All live trainings are recorded and available online. In 2017, to date, NYPTI provided 1,542 Continuing Legal Education (CLE) certificates to prosecutors in New York State.
- **Research and Writing:** NYPTI helps with research and drafting significant motions and appeals, mostly for the 39 counties with fewer than 10 Assistant District Attorneys.
- **Twenty-First Century Case Tracking:** NYPTI created and oversees a case-management system, PCMS, which 53 counties use. Beyond tracking cases, PCMS produces grant reports and documents to facilitate e-discovery and E-filing.
- **Combatting Heroin:** Through PCMS, NYPTI created a simple way for prosecutors and the Special Narcotics Prosecutor to combat the drug abuse epidemic by sharing data on heroin cases and drug traffickers.
- **Public online information:** From their public website, NYPTI provides CrimeTime, an online sentencing calculator relied upon by judges, defense attorneys and prosecutors. It also includes searchable compilations of criminal statutes, caselaw and new appellate decisions as they are released.
- **Protecting Victims and Witnesses:** Short-term emergency assistance is provided to threatened witnesses (not informants) for their basic needs in mostly domestic violence, gang related and sexual assault cases.
- **Digital Evidence Management System (DEMS):** NYPTI developed a digital evidence management system that enables prosecutors to accept, view, share and otherwise manage the many types of multi-media evidence that is now routine in criminal cases. Today, 21 counties now handle and turn over discovery electronically, including police body camera footage, recorded interrogations and surveillance videos. Initial funding was provided by New York County, but ongoing funding is needed to continue this project and provide a statewide solution to electronic discovery exchange.

To maintain current services DAASNY requests an appropriation of \$2.75 million for NYPTI and \$275,000 to continue NYPTI's witness protection program.

### **State Aid to Prosecution**

DAASNY commends the work New York State Division of Criminal Justice Services (DCJS) Commissioner Michael Green has done to make the distribution of this grant more fair and equitable. This essential aid is one of the most important components of the funding of District Attorney's offices. However, the funding of the grant has been reduced significantly over the past 10 years. The reductions in Aid to Prosecution have come at a time when the responsibilities of prosecutors have systematically increased. Prosecutors are increasingly expanding the duties of their staff, utilizing new technologies and adapting to new crime trends.

Funding for Aid to Prosecution must be restored to a more reasonable level. We strongly urge that funding for 2017-2018 be increased to \$15 million.

### **District Attorney Salary Reimbursement Program**

In December, 2015, the New York State Commission on Legislative, Judicial and Executive Compensation voted to increase the salaries of New York State judges. State Judicial Law 183-a requires that a District Attorney's salary match the County Court Judge or Supreme Court Judge in a county depending on the population of that county. In the last two State budgets, the legislature did not allocate funding to help counties meet the District Attorney salary increases that were tied by statute to judicial salary increases. Cash-strapped counties were reluctant to pay for that unfunded mandate. As a result, not all district attorneys are being paid what the law requires them to be paid for their services and they are in a political quandary if they demand what is rightfully owed to them by statute. With due consideration to this new and ongoing financial obligation, it is essential that the budget be modified to provide this support.

We strongly request increasing the funding by \$1.7 million to cover the salary increase. This would bring total funding to \$5.9 million.

### **Gun Involved Violence Elimination (GIVE)**

The Gun Involved Violence Elimination (GIVE) initiative focuses on the reduction of firearm-related homicides and shootings in communities in 17 counties outside of New York City that collectively report 86% of violent crime. This program under the leadership of DCJS Commissioner Michael Green has been very successful in both reducing gun violence in many counties and enhancing gun involved crime reduction strategies. Despite the program's success and New York's leadership in gun safety, this program has, unfortunately, seen repeated cuts in funding. From a high of \$15.6 million in 2010-2011, GIVE received \$14.39 million in last year's budget. This shortfall will continue to impact the success of GIVE. DAASNY recommends an appropriation of \$15.5 million for GIVE.

## **Videotaping Interrogations**

In 2010, the District Attorney's Association and New York's law enforcement community, along with DCJS and the New York State Bar Association, stood together to announce their endorsement of video recording interrogations of suspects in custody. DAASNY continues to reiterate its endorsement of this practice.

DCJS has been a strong partner in this endeavor and has funded the majority of the interview rooms built in the state. While embracing this technology, district attorneys are now experiencing first-hand the ongoing costs that come with using this technology, such as transcription, translation, photocopying, storage, presentation software for courtroom use, and equipment maintenance and replacement. Investment in video recording of interrogations is money well spent; it directly contributes to a fair, strong and transparent criminal justice system.

DAASNY recommends \$500,000 in additional funding for police departments in order to enable them to continue to develop and maintain video recording locations. DAASNY also recommends \$500,000 in additional funding for District Attorneys for the purchase of equipment for videotaping of interrogations as well as money for technology to facilitate storage, transcription, transfer and other associated details related to video recordings.

## **Body-worn cameras**

A survey of DAASNY members indicated that while several larger police agencies have begun equipping officers with body-worn cameras, there is still a long way to go. District Attorneys have a vested interest in equipping police officers with cameras; cameras memorialize police-civilian encounters from a different visual perspective. District Attorneys are so committed to this initiative, some offices are assisting police departments by helping to fund the purchase of cameras; many offices do not have the resources to provide this assistance.

The cost of purchasing the cameras, which averages close to \$1,000 per camera, is only part of the equation. Maintenance, storage of digital evidence, software to "tag" camera footage in a way that connects it to the correct arrest record, transcription of materials, and discovery compliance all create ongoing expenses. Without significant state funding, once police begin routinely wearing recording devices district attorneys will have to deal with the ongoing costs that come with using this technology. Obligations associated with these recordings include reviewing, redacting, transcribing, translating and disclosing thousands of hours of recordings. It is estimated that for every 100 cameras on the street a District Attorney's office will need one additional staff member. There are also costs associated with storage, which range from \$100 per month to \$1000.

DAASNY recommends that an initial amount of \$1.5 million be allocated to equip officers statewide with cameras, as well as for prosecutors to access, transcribe, translate and disclose recorded material, a cost that remains to be established. It must be noted that

a final yearly cost for body worn cameras is yet to be determined.

However DAASNY recommends that costs associated with this new technology be revisited yearly so that prosecutors are able to utilize this new technology and easily provide the material to courts and defendants.

### **Crimes Against Revenue**

The Crimes Against Revenue Program (CARP) was initiated in 2004 as a means to hold accountable those who defraud the state of revenue from taxes owed, as well as programs such as Medicaid, public assistance, and worker's compensation.

This program is not just self-sustaining, it is *revenue-generating*. Over \$160 million has been returned to the state since the program began— a 70% increase over the \$90 million in grants provided to district attorneys' offices.

The CARP program has been increasing and expanding every year, however funding has been decreasing. The budget for Fiscal Year 2016-2017 provided for \$14.3 million for CARP. Last year's budget provided for \$13.5 million. The cost of investigating these matters continues to increase.

In the 2010-2011 budget year, upon the recommendation of DCJS and the New York State Tax and Finance Department, this program was expanded to allow all counties to participate in the program which was then funded at \$16 million to account for the additional anticipated requests. The number of District Attorney's Offices taking part in CARP has expanded accordingly from 13 to 28, plus the office of the Special Narcotics Prosecutor, for a total of 29 offices.

We propose the appropriation of CARP funds at \$17 million.

### **Motor Vehicle Theft and Insurance Fraud Prevention Program**

This competitive grant program provides funds for innovative local programs aimed at reducing insurance fraud and motor vehicle theft, which is dangerous and costly to all New Yorkers. As a highlight of how successful this program is there has been a reduction in motor vehicle theft by nearly 80% in New York State.

In order to investigate and prosecute motor vehicle theft and insurance fraud cases, funding is critical to pay for enhanced enforcement and sting operations and specialized training for prosecutors, police officers and investigators. DAASNY recommends the appropriation continue at last year's funding of \$3.75 million.

### **Prosecutor Recruitment and Retention**

The 2008-2009 Enacted Budget appropriated \$1.5 million for District Attorneys outside of New York City to recruit and retain prosecutors. This program enabled District

Attorneys to retain prosecutors with trial skills, legal experience and familiarity with their communities. Well-trained, experienced prosecutors are desperately needed, but attorneys burdened by student loans and the rising costs of living expenses are forced to leave the public sector for higher paying jobs in the private sector or even public defender offices.

The appropriation of this program has been completely defunded. DAASNY strongly recommends reinstituting this program at the previous funding level of \$1.5 million to ensure the integrity of the statewide prosecuting infrastructure.

### **Tuition Reimbursement Program**

The Tuition Reimbursement Program for Prosecutors and Indigent Legal Services Attorneys, a “loan forgiveness” program, allows prosecutors and public defenders with at least three years of experience to receive up to \$3,400 a year in forgiveness of their student loans if they continue in public service. By easing the burden of undergraduate and law school loans that regularly exceed \$100,000; our offices are able to maintain continuity in personnel.

DAASNY is not asking for additional funding for this program, we are requesting that in conjunction with our counterparts at the Association of Legal Aid Attorneys that changes be made to meet the contemporary needs of public sector attorneys. These changes can be made within the most recent budget appropriation and require no additional funds. The changes we request are:

- Increase the maximum annual loan reimbursement from \$3400 to \$4000;
- Increase the period of eligibility from 6-8 years of service;
- Add a tolling provision so that time spent by the ADA on maternity and military leave would no longer be considered an “interruption” to the service year, which under the current statutory construct prevents them from receiving loan assistance.

DAASNY supports the continued appropriation of \$2.43 million along with the legislative revisions detailed above.

### **Office of the Special Narcotics Prosecutor (SNP)**

The Office of the Special Narcotics Prosecutor (SNP) has unique jurisdiction over felony narcotics cases. SNP spearheads investigations into narcotic importation rings and provides critical statewide leadership combating the epidemic of prescription drug diversion and abuse and the seismic problems related to the explosion of heroin and fentanyl distribution throughout the state. The office has taken a major role in conducting investigations, developing strategies, and crafting legislation to curb the sale of pharmaceuticals by criminal rings, rogue doctors and unscrupulous pharmacists. The black market for prescription drugs involves not only the sale of narcotic pills, but also Medicaid fraud and corrupt practices by doctors and pharmacists. The Special Narcotics

Prosecutor works with local, state and federal law enforcement, and partners with the Department of Health and OASAS to address the scourge of prescription drug abuse, which can lead to heroin addiction. The Office works hand in hand with the State Police and local authorities to find the sources of heroin and fentanyl that flood our communities.

Since 1990-1991, the SNP budget has been cut by 74.6%, from \$3.5 million to \$825,000 in 2017-2018.

Every week – if not every day – we hear news stories about how prescription drug abuse and heroin abuse are destroying the lives of people of all ages and their families. This is not the time to reduce funding – it is time to shore up funding.

DAASNY requests that \$825,000 be provided to SNP in next year's District Attorneys offices around the state have consistently been doing more with less money. In recent years we have responded to the need to expand our functions, to increase our work in the communities. Like you, we understand that prevention is the best way to achieve crime reduction. We have spearheaded educational initiatives and created numerous diversion programs including those for veterans and youthful offenders. We continue to develop initiatives and search for better ways to address the needs of those suffering from addiction the elderly, the mentally ill and victims of domestic violence.

With regard to any of the public safety proposals that will be discussed in upcoming weeks, w ask you to take into account the fact that our offices and our prosecutors are already stretched and additional hearings will require additional prosecutors and investigators.

I understand this is a busy day and I appreciate the opportunity to testify. In an effort to save time, I am providing a copy of DAASNY's budget request that was made to the Governor's office this past October. There you can see additional priorities and initiatives as well as more in depth items I discussed today.

As always, I along with my fellow District Attorneys look forward to working with you this legislative session.