



2015

ANNUAL REPORT

FROM THE OFFICE OF

NEW YORK COUNTY DISTRICT ATTORNEY
CYRUS R. VANCE, JR.

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NEW YORK, NEW YORK 10013

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A MESSAGE FROM THE MANHATTAN DISTRICT ATTORNEY

CYRUS R. VANCE, JR.

New Yorkers deserve the fairest, safest, and most forward-looking criminal justice system in the nation. In 2015, our Office fought in courtrooms, communities, and Congress to bring that vision within reach.

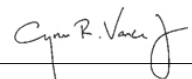
Manhattan continues to be the safest borough in the safest big city in America. I believe the role of the District Attorney's Office is not merely to help keep it that way—our job is to make New York even safer. That is why, in 2015, prosecutors in our Trial and Investigation Divisions leveraged innovative technology and new partnerships to shut down the violent street gangs, interstate gun traffickers, and international cybercriminals who are responsible for driving what crime remains. We secured justice for special victims, seniors, immigrants, and others targeted by financial fraudsters, and proactively educated these communities to prevent future crimes. And as Manhattan enjoyed continued gains in public safety, our signature, data-driven strategies to combat these crime drivers were replicated in prosecutors' offices across the country.

At the same time, we demonstrated that the choice between public safety and fairness in our justice system is a false one—we can have both. In 2015, issues like police tactics, racial disparities, and unnecessary incarceration leapt to the forefront of a robust national debate. An unlikely consensus formed across the ideological spectrum, challenging basic fundamentals about our justice system, and demanding that a new generation of voices be heard. As this critical dialogue played out, we launched *Project Reset*, a groundbreaking program to restore community confidence in law enforcement and provide alternatives to incarceration for 16- and 17-year-old, first-time offenders arrested for non-violent offenses. We hosted *Clean Slate*, Manhattan's first-ever warrant-forgiveness event, to offer New Yorkers with open summons warrants for the lowest-level offenses—like open containers of alcohol, and riding bicycles on sidewalks—an opportunity to have them cleared from their record, without fear of arrest. We stood with *Law Enforcement Leaders to Reduce Crime & Incarceration*, a bold, new group of law enforcement officials calling for an end to unnecessary incarceration, and founded the *Institute for Innovation in Prosecution* to reimagine the role of prosecutors in a reformed, 21st century justice system.

We continued to make transformative investments in New York's public safety infrastructure with ill-gotten gains seized in our financial crime prosecutions. From seeding an international, cross-sector effort to confront malicious cyber activity, to testing more than 56,000 backlogged rape kits nationwide, these allocations seize once-in-a-generation opportunities to improve public safety, prevent crime, and promote fairness in our system.

As one of America's leading criminal justice agencies, our work is not limited to Manhattan courtrooms and neighborhoods. Policymakers look to New York for leadership and guidance, and our Office advocates on issues of importance to local law enforcement and victims of crime nationwide. In 2015, we engaged federal lawmakers and the American public to ensure lawful access to criminal evidence on smartphones, and to stop criminals and terrorists from forming anonymous shell companies to conceal and carry out their plots.

2015 was a pivotal year for criminal justice—across America, and here at home. I'm excited for the potential the coming year brings. My best wishes for a safe and productive 2016.



CYRUS R. VANCE, JR.



the

MANHATTAN DISTRICT ATTORNEY'S OFFICE

DIVISIONS, BUREAUS, AND UNITS

The Manhattan District Attorney's Office serves and protects the People of New York through the fair administration of justice, without fear or favor. Building on a rich tradition of prosecutorial independence and courtroom excellence, the District Attorney's Office today is an internationally recognized leader in the development of innovative crime-fighting strategies and public safety initiatives. Each year, the District Attorney's Office handles approximately 100,000 cases with a staff of more than 500 assistant district attorneys and 700 investigative analysts, paralegals, and other highly trained support staff members. The legal work of the District Attorney's Office is further divided between the Trial, Investigation, and Appeals Divisions.

the TRIAL DIVISION

The Trial Division is principally responsible for prosecuting misdemeanor and felony crimes that are brought to the District Attorney's Office by other law enforcement agencies. Collectively comprised of six trial bureaus and other specialized units employing approximately 365 assistant district attorneys, each bureau is staffed by a team of prosecutors, legal supervisors, investigative analysts, and paralegals tasked with handling a diverse docket of cases. After an arrest takes place, the case is assigned to an assistant district attorney who is responsible for the case until a disposition by trial or plea. This vertical system of prosecution means that prosecutor stays with the case from start to finish, better serving the victims, witnesses, and members of law enforcement involved. Felony assistants in specialized units also develop particular expertise handling certain types of crime, such as sex crimes, child abuse, domestic violence, cybercrime, and hate crimes.

The Trial Division includes Trial Bureau 30, Trial Bureau 40, Trial Bureau 50, Trial Bureau 70, Trial Bureau 80, Special Victims Bureau, Cybercrime and Identity Theft Bureau, Crime Strategies Unit, Forensic Sciences/Cold Case Unit, Hate Crimes Unit, Vehicular Crimes Unit, Violent Criminal Enterprises Unit, and the Special Litigation Bureau.

the INVESTIGATION DIVISION

The Investigation Division focuses on the prosecution of crimes such as fraud and corruption, as well as crimes with greater global scope, such as white-collar crime, international money laundering, securities fraud, and terrorism. Because of the District Attorney's Office's location and geographic jurisdiction, prosecutors are able to bring cases involving criminal conduct against any parties anywhere in the world making use of financial institutions located in Manhattan. The Investigation Division also protects New York's most vulnerable populations through the work of specialized units tasked with handling fraud against the elderly and diverse immigrant communities, where unfamiliarity with the criminal justice system may make victims reluctant to come forward and report crimes.

The Investigation Division includes the Forensic Accounting and Financial Investigations Bureau, Public Corruption Unit, Major Economic Crimes Bureau, Rackets Bureau, Asset Forfeiture Unit, Tax Crimes Unit, Cybercrime and Identity Theft Bureau, Financial Frauds Bureau, Public Corruption Unit, and Investigations Bureau.

the APPEALS DIVISION

The Appeals Division is responsible for ensuring that convictions properly obtained by the District Attorney's Office are upheld in New York's appellate and federal courts. In addition to appellate research, writing, and advocacy, the Appeals Division advises assistant district attorneys on legal and jurisprudential developments relevant to the District Attorney's Office's work. The Appeals division collectively handles nearly 700 cases annually.



Intelligence-Driven Prosecution Symposium, December 3, 2015

the CRIME STRATEGIES UNIT

DATA-DRIVEN PROSECUTION

DRIVING AN ALREADY-LOW CRIME RATE EVEN LOWER REQUIRES AN AMBITIOUS, PROACTIVE APPROACH TO CRIME-FIGHTING THAT, IN MANY WAYS, REINVENTS THE ROLE OF THE BIG CITY PROSECUTOR.

To further that mission, the District Attorney's Office has developed and continues to implement new approaches to more effectively use prosecutorial resources to keep city streets safe. In 2010, District Attorney Vance created the Crime Strategies Unit ("CSU") to operationalize an intelligence-driven approach to crime fighting with prosecutors who are able to harness, analyze, and share intelligence in order to create data-driven prosecution strategies that address crime issues and target priority offenders. Within CSU, Manhattan is divided into five areas, with each area staffed by a senior assistant district attorney focused on analyzing criminal activity. These assistant district attorneys partner with investigators, community liaisons, and intelligence analysts to identify opportunities to reduce and prevent crime by improving the timely and accurate sharing of criminal intelligence gathered not only within the District Attorney's Office, but from other law enforcement agencies as well. Since CSU's inception, multiple jurisdictions throughout the nation have worked with the District Attorney's Office to replicate its approach, with new "Crime Strategies Units" established in St. Louis, Baton Rouge, Baltimore, Brooklyn, the Bronx, Staten Island, and the state of Delaware.

INTELLIGENCE-DRIVEN PROSECUTION SYMPOSIUM

In 2015, the District Attorney's Office hosted its second and third symposiums on Intelligence-Driven Prosecution for prosecutors interested in learning more about the innovative crime-fighting strategies developed by CSU. The two-day events were designed to share best practices, resources, and expert insight with prosecutors from around the country and also created an opportunity for prosecutors to work together and collaborate on contemporary criminal justice issues. The symposiums brought together leadership from more than two dozen jurisdictions and offered sessions on focused prosecution, technology, building cases, community partnerships, and prevention.

Through CSU, the District Attorney's Office is also using new types of technology to aid assistant district attorneys throughout the office and help them monitor violent individuals and crime trends in their catchment area. The innovative technologies developed by the District Attorney's Office to further data-driven prosecution include:

*** ARREST ALERT SYSTEM**

The Arrest Alert System, managed by CSU, ensures that priority defendants no longer pass through the criminal justice system without notice. It allows assistant district attorneys to receive notifications when a particular defendant has been arrested, and ensures that charging decisions, bail applications, and sentencing recommendations address these individuals' specific impact on criminal activity in local communities. The system also allows for outside law enforcement personnel to subscribe in order to enhance communication between various agencies.

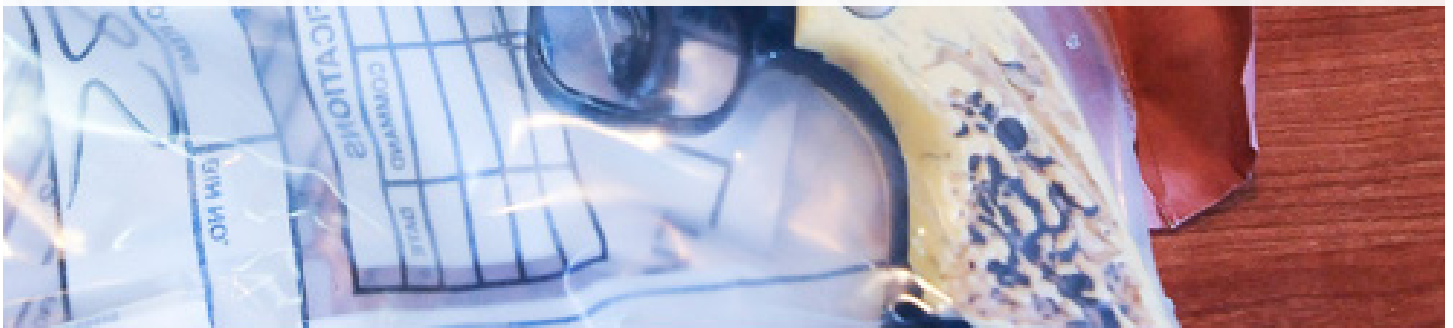
*** Surveillance Camera Interactive Map (S.C.I.M.)**

The District Attorney's Office developed a sophisticated mapping capability that enables prosecutors to locate and identify key surveillance cameras throughout Manhattan and then obtain footage.



GANGS *and* GUNS

SINCE TAKING OFFICE, DISTRICT ATTORNEY VANCE HAS COMMITTED TO REDUCING GUN AND GANG VIOLENCE IN THE COMMUNITY.



In 2010, District Attorney Vance created the Violent Criminal Enterprises Unit (“VCEU”) to lead these efforts, with a special focus on gang activity and illegal firearms trafficking within New York City. Since its formation, VCEU has brought 21 indictments against 64 gun traffickers operating between New York City and states including Virginia, North and South Carolina, Georgia, Ohio, New Jersey, and Pennsylvania. In addition, VCEU has increased gun trafficking prosecutions by the District Attorney’s Office by more than 1,000 percent and conducted investigations that have led to the removal of more than 1,000 illegal firearms from the streets of New York City. In total, since 2010, more than 3,000 guns have been recovered over the course of prosecutions led by the entire District Attorney’s Office. VCEU has also dismantled 18 street gangs over the course of 17 indictments involving more than 300 gang members.

PROSECUTORS AGAINST GUN VIOLENCE

Recognizing that gun violence not only impacts residents of Manhattan and New York City, but extends to communities across New York State and the entire county, District Attorney Vance and Los Angeles City Attorney Mike Feuer formed Prosecutors Against Gun Violence (“PAGV”) in 2013. The independent, non-partisan coalition identifies and promotes prosecutorial and policy solutions to address the national public health and safety crisis of gun violence. In 2015, the coalition grew to include prosecutors from 36 different jurisdictions, including Atlanta, Boston, the Bronx, Brooklyn, Charlotte, Chicago, Denver, Detroit, Houston, Las Vegas, Los Angeles, Manhattan, Miami, Milwaukee, New Orleans, Philadelphia, Portland, Queens, San Antonio, San Francisco, Seattle, and Staten Island.

In February, PAGV hosted its second national prosecutorial summit on gun violence prevention in Miami, which focused on gun violence and mental health. In October, the coalition’s third summit was held in Portland, Oregon, focusing on the intersection of domestic violence and gun crimes, and—in the wake of the Umpqua Community College (Oregon) tragedy—included an expert panel on mass shootings. The two summits brought together a number of notable guests and speakers from law enforcement, as well as gun safety advocates, in an effort to work together to develop effective solutions to this national epidemic.

In 2015, the group also advocated for common-sense federal policies to combat gun violence, including prohibiting terrorists from purchasing firearms, and opposing legislation to allow concealed weapon permits to be recognized across state lines.

Notable gang-related cases include:

- In June, District Attorney Vance and NYPD Commissioner William J. Bratton announced the indictments of 35 defendants for their roles in two separate **Washington Heights narcotics trafficking organizations** that possessed and sold cocaine and heroin. Two defendants were charged with Operating as a Major Trafficker, also known as the “Drug Kingpin” statute, and five defendants were charged with Criminal Sale of a Controlled Substance in the First Degree, both class A-I felonies. In the first indictment, the defendants allegedly sold crack cocaine and heroin on West 177th Street between Audubon and Saint Nicholas Avenues, beginning in April 2014. In a second, separate indictment, the defendants allegedly possessed and sold more than \$75,000 of powder cocaine over the course of six months, beginning in June 2014, through a delivery service in and around Washington Heights. In total, the two indictments charged 119 counts, including Conspiracy, Criminal Sale of a Controlled Substance, and Criminal Possession of a Controlled Substance. The indictments followed an investigation led by VCEU and detectives from the NYPD’s Narcotics Borough Manhattan North and Gang Division, which included the use of court-authorized wiretaps and dozens of undercover buys.

- In November, **Davon Pinkston** was sentenced to 60 ½ years-to-life in state prison for his role in a violent gang war that plagued West Harlem for years. Three of Pinkston’s co-defendants, **Javann Garnes, Keith Goodman, and Alejandro Rivera**, were also convicted of Conspiracy and other felony charges. The case was the result of a 2014 indictment that charged 103 members of “Money Avenue,” their allied gang, “Make it Happen Boys,” and rival gang, “3 Staccs.” To date, more than 96 defendants have been convicted for their roles in the conspiracy.

Notable gun trafficking cases include:

- In October, District Attorney Vance, Mayor Bill de Blasio, and NYPD Commissioner Bratton announced the indictment of **Samuel Barreto, Michael Akpan, Michael Rivera, Trayvon Smith, Carl Smalls, and Keith Hughes** for selling 74 illegal guns and ammunition to an undercover police detective posing as a Manhattan-based gun dealer. Barretto and Smalls were each charged with Criminal Sale of a Firearm in the First Degree, as well as a number of other Criminal Possession of a Weapon and Conspiracy charges. Rivera, Smith, Akpan, and Hughes were each charged with Conspiracy in the Fourth Degree, as well as additional serious felony charges related to the sale and possession of the illegal firearms.

- In October, **Jayquan Griffin** was also charged with selling 15 guns to an undercover detective in and around the vicinity of Morningside Park in West Harlem between November 2014 and August 2015. In total, Griffin charged an undercover detective more than \$15,000 for the firearms throughout the course of the investigation. Griffin faces multiple counts of Criminal Sale of a Firearm in the First and Third Degrees, and Criminal Possession of a Weapon in the Second Degree.

“Prosecutors are uniquely situated in our legal system, and uniquely situated to drive the change that our citizens demand . . . Beyond the oath of zealous representation, prosecutors take a separate oath to do justice. Their ‘client’ is not an individual, or even a person. It is fairness. Prosecutors are stewards of the integrity of the system, and must be held accountable as such.”

— DISTRICT ATTORNEY VANCE
HUFFINGTON POST OP-ED: “PROSECUTORS ARE UNIQUELY POSITIONED TO DRIVE CRIMINAL JUSTICE REFORM”

CRIMINAL JUSTICE REFORM

IN 2015—A TIME OF HEIGHTENED PUBLIC DEBATE ABOUT FAIRNESS IN THE JUSTICE SYSTEM—THE DISTRICT ATTORNEY’S OFFICE REAFFIRMED ITS POSITION AT THE FOREFRONT OF CRIMINAL JUSTICE REFORM.

PROJECT RESET

As a critical, national dialogue about race, incarceration, and police-community relations played out, the District Attorney's Office partnered with the Center for Court Innovation, the New York Police Department, and the Brooklyn District Attorney's Office to launch *Project Reset*, a groundbreaking initiative to provide alternatives to incarceration for 16- and 17-year-old, first-time offenders arrested for non-violent offenses. Under this innovative pilot program, teens who successfully complete counseling, community service, and youth intervention sessions at community justice centers are provided a one-time opportunity to avoid incarceration and the collateral consequences of a criminal record. In the program's first six months, 98 percent of participants successfully completed their interventions. Already, *Project Reset* is restoring confidence in the justice system, improving long-strained relationships between law enforcement and communities, and providing young, at-risk New Yorkers with critical early intervention.

"How much better it might be—how far will it go to create a climate of trust—if a young person who has done nothing more serious than fail to pay a subway fare on a school day receives not a trip downtown and a docket number, but a real intervention in his life, to put him on a positive path forward?"

— DISTRICT ATTORNEY VANCE

CLEAN SLATE

"Open warrants can weigh heavily on those who carry them due to the constant risk of arrest following a police encounter. Even for minor violations like littering or drinking in public, open warrants can affect the warrant holder's immigration status, and even his or her ability to get a job or enlist in the armed forces."

— DISTRICT ATTORNEY VANCE

In November, the District Attorney's Office hosted *Clean Slate*—Manhattan's first-ever warrant-forgiveness event—at the Soul Saving Station Church in Harlem. At *Clean Slate*, New Yorkers with open summons warrants for the lowest-level offenses—including open containers of alcohol, and riding bicycles on sidewalks—had an opportunity to have them cleared from their record, without fear of arrest. The event was a resounding success—hundreds of New Yorkers received a fresh start, and the District Attorney's Office freed up judicial resources to focus on more serious cases in Criminal Court. Programs like *Project Reset* and *Clean Slate* reflect District Attorney Vance's belief that the choice between public safety and fairness in our criminal justice system is a false one—both are possible.

LAW ENFORCEMENT LEADERS

In October, District Attorney Vance helped launch *Law Enforcement Leaders to Reduce Crime & Incarceration*—a bold, new group of more than 150 police chiefs, sheriffs, federal and state prosecutors, and attorneys general from all 50 states—to advance policies which reduce both crime and incarceration. *Law Enforcement Leaders* is also a project of the Brennan Center for Justice at New York University School of Law.

"More than 130 police chiefs, prosecutors and sheriffs—including some of the most prominent law enforcement officials in the country—are adding their clout to the movement to reduce the nation's incarceration rate."

— NEW YORK TIMES: "POLICE LEADERS JOIN CALL TO CUT PRISON ROSTERS"



"Clean Slate" Summons Warrant Forgiveness Event, November 17, 2015





CYBERCRIME

IDENTITY THEFT, FRAUD, and ABUSE

Today, nearly every case involves a cyber element, as information is increasingly stored on digital networks and smartphone devices, shared through social media, and exchanged by other means of electronic communication. In some cases, this information represents valuable digital evidence that becomes essential to a criminal investigation; in other cases, the protection and security of private, proprietary, and sensitive personal information is paramount.

Cyber schemes are becoming more and more pervasive, and at virtually any moment, hostile actors may be launching an onslaught of unseen attacks on global information systems, digital infrastructure, and service networks. Many of these attempted invasions fail, but without an adequate system of defense in place, an eventual breach is inevitable, given the sheer volume and tenacity of attacks. Consequently, cross-sector cooperation is more important than ever when it comes to addressing malicious cyber activity, which can be perpetrated from anywhere in the world, and directed at any target, including individuals and organizations.

Moreover, unlike other wrongdoers, determined cybercriminals are rarely constrained by common boundaries, borders, and laws. The sheer reach of modern cyber schemes, which may be global in scope and impact, emphasizes the importance of international collaboration, which the District Attorney's Office has facilitated and encouraged through a number of initiatives and programs.

GLOBAL CYBER ALLIANCE

In September, the District Attorney's Office partnered with the City of London Police and the Center for Internet Security to announce the formation of the Global Cyber Alliance, a coalition of organizations committed to reducing cyber risk and vulnerability through enhanced data and information sharing. The District Attorney's Office has pledged \$25 million in criminal forfeiture proceeds to fund the organization, which has received the support of more than 50 individuals representing leading actors in the public and private sector. As a non-profit organization with established headquarters in New York and London, the Global Cyber Alliance has no regional restrictions, financial motivation, or goal apart from the prevention of cyber attacks through enhanced international collaboration. The organization also serves as a voluntary clearinghouse, allowing organizations to initiate investigations, share threat data, and disclose information about breaches.

6TH ANNUAL FINANCIAL CRIMES AND CYBERSECURITY SYMPOSIUM

In November, the District Attorney's Office hosted the 6th annual Financial Crimes and Cybersecurity Symposium at the Federal Reserve Bank of New York to bring together leaders in law enforcement, finance, regulation, and technology to share insights and best practices from divergent areas of government and industry.

When information about a cyber threat is not divulged, other institutions—in addition to the original target—may be left vulnerable to similar schemes. In some cases, entire industries may be negatively affected. No organization is immune to compromise, and in the past, the District Attorney's Office has prosecuted cases involving information breaches affecting government agencies, private companies, nonprofit organizations, academic institutions, and medical centers.

No matter how a case develops, nearly every cyber investigation begins with a similar type of breach: a stolen password, unauthorized use of a credit card, or unaccountable charges on a personal statement, all of which may be part of a greater scheme.

Some of the most common types of cyber schemes and notable cases prosecuted by the Cybercrime and Identity Theft Bureau include:

- In February, five individuals—**Devin Bazile, Sharniqkwa Dukes, Ahmeen Evans, Joshua Houghton** and **Annie Vuong**—were charged in a 394-count indictment for using personal information stolen from more than 200 patients of a Manhattan dental office.
- In April, **Arun Ganguly** was sentenced to 2-to-6 years in state prison after pleading guilty to defrauding investment funds, start-up companies, and high-net-worth individuals by convincing them to hire him as a financial consultant and investment advisor based on false pretenses, stolen identities, forged documents, and fictitious emails.
- In June, **Monique Walker**, an assistant clerk employed by Montefiore Medical Center, was indicted for stealing patients' names, dates of birth, and Social Security numbers, and selling patients' personal information to co-defendants who used the information to open accounts and place fraudulent orders on designer merchandise.
- In July, **Sylvaine Gnahore** was sentenced to 2 ½-to-7 ½ years in state prison for stealing more than \$1 million in corporate, personal, and tax refund checks that were diverted to accounts controlled by the defendant and co-defendants.
- In September, **Gerald Spears** was sentenced to 4-to-12 years in state prison for providing a co-defendant with a skimming device that was used to steal customers' information at a Hale & Hearty location in Midtown Manhattan.
- In December, **Kyle Steed**, an employee of Lenox Hill Hospital, was indicted for stealing patients' personal information and providing it to his co-defendant, **Krystle Steed**, who used the information to take over victims' credit card accounts and place fraudulent orders on luxury merchandise.

“As it stands today, Apple and Google have decided who can access key evidence in criminal investigations. I do not, and cannot believe it is right, that they should decide the path toward justice for victims around the country, or for our nation as a whole. I do not think we should, by default, cede this important decision to the tech industry.”

— DISTRICT ATTORNEY VANCE

LEADING THE DEBATE ON SMARTPHONE ENCRYPTION

As one of America’s leading criminal justice agencies, the District Attorney’s Office advocates on behalf of local law enforcement officials and victims of crime nationwide.

In September 2014, Apple engineered its mobile operating system—the software which runs iPhones and iPads—so that the company can no longer respond to judges’ warrants for criminal evidence on passcode-locked devices. Google, maker of the Android operation system, quickly announced plans to follow suit. The operating systems developed by Apple and Google run over 96 percent of smartphones worldwide.

Throughout 2015, District Attorney Vance engaged the companies, Congress, and the public in a dialogue about how this new level of encryption inhibits the investigation and prosecution of everyday crimes, explaining that as a result of the companies’ decisions, local law enforcement officials can no longer access crucial evidence of crimes stored on smartphones, even when the officials have a valid search warrant issued by a neutral judge.

In July, District Attorney Vance testified before the U.S. Senate Judiciary Committee at a hearing entitled “Going Dark: Encryption, Technology, and the Balance Between Public Safety and Privacy.”

At its 6th Annual Financial Crimes and Cybersecurity Symposium in November, the District Attorney’s Office released its “Report on Smartphone Encryption and Public Safety,” which contained proposed legislation to address the problem. The paper has been cited in hundreds of news stories, and the *New Yorker* called it the “most thorough report” to date on the subject of smartphone encryption.

Throughout the year, District Attorney Vance also authored a number of op-eds and participated in an ongoing, national discussion to educate the public on the impact of default device encryption on public safety. These included a *Washington Post* piece that explained local law enforcement’s position and debunked a number of myths, and a *New York Times* op-ed co-authored with international law enforcement partners in Paris, London, and Madrid.

As the debate over lawful access to smartphone evidence continues, the District Attorney’s Office is expected to play a leading role on this and other issues of importance to protecting public safety in our communities.





Financial Crimes and Cybersecurity Symposium, November 18, 2015

MAJOR ECONOMIC CRIMES

Financial markets are governed by rules intended to ensure safety and stability, and the prosecution of white-collar crimes—which may involve larceny, the falsification of business records, sanctions violations, tax crimes, and money laundering—is critically important to maintaining both international safety and the integrity of complex banking systems. Continuing the District Attorney’s Office’s legacy of battling white-collar crime, the Major Economic Crimes Bureau is dedicated to the investigation and prosecution of financial crimes. By virtue of its position at the center of Downtown Manhattan, a global marketplace, the District Attorney’s Office is able to prosecute a variety of crimes committed in the financial sector, as transactions that take place elsewhere and abroad may, in fact, involve U.S. dollars passing through local banks and entities.

SANCTIONS AND VIOLATIONS

The District Attorney’s Office is uniquely positioned to prevent sanctioned entities, terrorist organizations, and rogue states from obtaining money needed to operate and accessing the U.S. banking system. Enforcing sanctions violations is critically important for international public safety, as well as for the security of banking systems worldwide. Since 2009, nine banks have forfeited approximately \$12 billion for violating international sanctions or facilitating financial transactions for sanctioned entities, with a large portion of the funds being paid to the City and State of New York.

In October, the District Attorney’s Office and federal partners announced the resolution of a joint investigation into the criminal conduct of Crédit Agricole Corporate and Investment Bank (“CACIB”), a subsidiary of the French bank Crédit Agricole S.A., and the payment of \$312 million in penalties and forfeiture to resolve the matter. In the Deferred Prosecution Agreement (“DPA”) and corresponding Factual Statement, CACIB admitted that it violated New York State law by falsifying the records of New York financial institutions and allowing more than ten Sudanese banks to



maintain accounts, in spite of U.S. sanctions against Sudan. As admitted in the DPA and Factual Statement, between 2003 and 2008, CACIB, through its subsidiary in Switzerland, and its predecessor entities, violated U.S. and New York State laws by sending prohibited payments through the U.S. financial system on behalf of entities subject to U.S. economic sanctions.

“My Office and our partners are sending a clear message that financial institutions must comply with sanctions against rogue nations.”

— DISTRICT ATTORNEY VANCE

INVESTMENT FRAUD

Investment schemes built on deception and misrepresentation not only take advantage of the investing public, but weaken faith in the integrity of the entire financial system.

In December, the District Attorney’s Office announced the sentencing of Craig Rothfeld, Michael Romano, and Gregory Maleski, for defrauding investors out of approximately \$11

million through a scheme involving WJB Capital Group, Inc., a Wall Street securities broker-dealer that is no longer operational. Rothfeld and Romano were each sentenced to 1 ½-to-4 ½ years in state prison, and Maleski was sentenced to five years' probation and 250 hours of community service. The defendants previously pleaded guilty in New York State Supreme Court to various charges including Grand Larceny in the First Degree, Falsifying Business Records in the First Degree, Scheme to Defraud in the First Degree, Securities Fraud, and Tax Crimes.

In May, the District Attorney's Office, along with the City of London Police and federal partners, announced the indictment of Robert Depalo, Joshua Gladtko, Pangaea Trading Partners, and Excalibur Asset Management for defrauding foreign investors based in the United Kingdom out of approximately \$6.5 million through a private offering in New York. The defendants are accused of providing prospective investors with a private placement memorandum that contained false or misleading information related to material aspects of investments, enabling the defendants to defraud approximately two dozen foreign investors out of millions of dollars that were then diverted to the defendants' personal accounts. In August, Joshua Gladtko pleaded guilty to Grand Larceny in the Second Degree, Scheme to Defraud in the First Degree, and Securities Fraud.



Financial Crimes and Cybersecurity Symposium, November 18, 2015

TERROR FINANCING

In June, District Attorney Vance testified before the U.S. House of Representatives Financial Services Committee's Task Force to Investigate Terror Financing on the issue of incorporation transparency.

"Criminals currently can, and do, make use of our lax incorporation procedures and the anonymity those procedures permit, in order to carry out and conceal illegal conduct."

— DISTRICT ATTORNEY VANCE

Notable cases include:

- In January, the District Attorney's Office announced the shutdown of more than **70 websites for a scam targeting Bitcoin investors** and criminal charges against the Southeast Asia-based operators of websites that are alleged to have defrauded individuals by promising significant returns on virtual currency investments that were made through the sites using Bitcoin.
- In March, a talent agent, **Yugeshwar Rajkumar**, and several of the entities he operated in Manhattan were indicted for stealing more than \$1.3 million from multiple event promoters by promising to book famous recording artists for clients and instead pocketing the money intended to pay for the performances.
- In April, **Jean Jacques Chenier** was sentenced to 3-to-9 years in state prison for an elaborate scheme in which he fraudulently obtained more than \$3 million from investors and used the money for his own personal expenses and to pay off other investors.
- Additionally in April, **Lawrence Penn** was sentenced to 2-to-6 years in state prison and ordered to pay approximately \$8.3 million in restitution for stealing and laundering millions in investor funds from a Manhattan-based private equity fund that he managed. His co-defendant, Altura St. Michael Ewers was sentenced in March to 1-to-3 years in state prison.
- In May, **Daniel Fodiman** was indicted for defrauding investors through a multimillion dollar Ponzi scheme in which the defendant promised to fund profitable short-term investments. Fodiman allegedly solicited money from prospective investors on the premise that the funds would be used to purchase merchandise for profitable resale.
- In September, **John Puglisi**, an employee at a Manhattan-based life settlement provider, was indicted for stealing millions of dollars from a private equity fund seeking to invest in life insurance policies.



RACKETS

Within the District Attorney's Office, the Rackets Bureau conducts long-term investigations into corrupt activities and criminal enterprises, which may involve matters related to construction fraud and labor investigations, industry-wide corruption, terrorist activity, organized crime, and the exploitation of position for personal gain.

CONSTRUCTION FRAUD TASK FORCE

New York remains one of the most dynamic cities in the world, with one of the hottest real estate markets. This has led to the biggest building boom in a generation. During this unprecedented time of construction and development, there must be assurance that construction companies are committed to construction site safety to keep their employees and all New Yorkers safe. Preventing harm will always be more valuable than prosecuting wrongdoing after a tragedy.

In August, the District Attorney's Office, NYC Department of Investigation, Port Authority of New

York and New Jersey Office of the Inspector General, and the Business Integrity Commission announced the formation of a citywide Construction Fraud Task Force to identify and prosecute citywide corruption and fraud in the construction industry. The investigative agencies comprising the Task Force meet monthly and work collaboratively to probe the commission of crimes including fraud, larceny, and safety violations, among others.



CONSTRUCTION SAFETY

Also in August, Wilmer Cueva and Alfonso Prestia, as well as their respective companies, Sky Materials Corp. and Harco Construction, were indicted for recklessly causing the death of Carlos Moncayo, a Sky employee, by failing to heed and address repeated warnings about unsafe work conditions at an active construction site. Mr. Moncayo was killed when an unsecured trench in which he was working collapsed and fatally crushed him. The defendants are charged with Manslaughter in the Second Degree, Criminally Negligent Homicide, and Reckless Endangerment in the Second Degree.

INTERIORS CONSTRUCTION FRAUD

In December, John Cassisi, the former Director of Global Construction for Citibank's Citi Realty Services, pleaded guilty to one count each of Money Laundering in the Third Degree and Commercial Bribe Receiving in the First Degree, and was sentenced to 2-to-6 years in state prison for receiving at least half a million dollars in bribes, including cash payments and other lavish gifts, from contracting companies seeking business with the bank. Three others – Arthur Fazio, David Adelhardt, and

Edward Welsh, Jr. – as well as two corporations, Adelhardt Construction Corp. and ADCO Electrical Corp., have also pleaded guilty for their roles in facilitating these payments.

“Construction sites in New York City should be national models for safety. Whether union or nonunion, documented or undocumented, our workers deserve nothing less.”

— DISTRICT ATTORNEY VANCE

HEATING OIL INDUSTRY FRAUD

In November, the District Attorney's Office and partners announced the indictments of nine companies and 44 individuals in connection with various schemes to defraud heating oil customers by shorting deliveries and supplying less heating oil than the amount of a ticketed order while charging their victims full price for deliveries. The victims included residential, commercial, and municipal properties throughout New York City.

In order to short their customers and reserve oil for resale, the defendants allegedly used a variety of methods



Press Conference Announcing Criminal Charges in Conspiracy Case Involving Smuggling of Dangerous Contraband into Manhattan Detention Complex, June 18, 2015

to rig the meters on tanker trucks, evade regulatory controls, and conceal the actual amount of heating oil delivered to customers. Methods of rigging included the installation of a bypass valve that diverted heating oil to a hose leading back into the truck's tank; the use of a ball valve in the rear compartment of the truck that allowed air to pass through the pump instead of oil; and the application of a magnet to manipulate the meter's air eliminator, which also allowed air to flow through the meter instead of oil. Shorting deliveries resulted in a surplus of oil that was later sold to other customers and oil companies at significantly reduced prices.

Notable cases include:

- In June, **John Kojo Zi**, a purported property developer, was indicted for fraudulently obtaining titles to five buildings on the Upper West Side and in Hamilton Heights by filing forged deed transfers with the New York City Register's Office.
- Also in June, nine defendants were indicted for participating in a major fraud conspiracy that resulted in the **theft of approximately \$2.7 million** in federal public assistance funds.

GRAND JURY REPORT ON SALES SUPPRESSION SOFTWARE

Following an undercover operation in 2014 related to sales suppression software programs that revealed systematic abuse over the course of the months-long investigation, the District Attorney's Office empaneled a grand jury in 2015 to investigate ways to prevent fraud related to these programs. These programs—which include “Phantom-ware” and “Zappers”—can be used by businesses to automatically falsify financial records by giving the appearance of fewer and smaller transactions and, as a result, less taxable revenue. The Grand Jury's report recommended a series of reforms to prevent this type of fraud in the future, including making it a crime to manufacture, sell, purchase, possess, install, or use this software to defraud taxpayers.

BRIBERY IN CITY AGENCIES

In February, the District Attorney's Office and its partners announced the indictments of 50 defendants

involved in widespread housing fraud and bribery schemes in Manhattan, Brooklyn, and Queens. The defendants include 11 New York City Department of Buildings (“DOB”) employees and five New York City Department of Housing Preservation and Development (“HPD”) employees. The investigation revealed evidence of approximately \$450,000 worth of alleged bribes in numerous, distinct schemes between 16 DOB and HPD employees and 22 property managers and owners, six expeditors, two contractors, and one engineer. To date, 40 defendants have pleaded guilty for their roles in these schemes and one defendant was convicted after trial.

PUBLIC CORRUPTION

The Public Corruption Unit was formed in 2014 when District Attorney Vance expanded the Official Corruption and Public Integrity Units into a unified Public Corruption Unit. This unit is tasked with proactively investigating and prosecuting public corruption at all levels, from uniformed officers, to elected officials, to courthouse staff.

Notable corruption cases include:

- In March, former attorney **Dwayne Smith** pleaded guilty to Bribery in the Third Degree for bribing a court employee with the New York City Criminal Justice Agency to persuade arrestees to retain his services.
- In June, District Attorney Vance announced the indictment of four individuals—a New York City Department of Correction Officer, an inmate, and family members of the inmate—for their involvement in an alleged conspiracy that resulted in the smuggling of dangerous contraband into the **Manhattan Detention Complex**.
- In December, NYPD Officer **Jonathan Munoz** was charged for unlawfully arresting a man and illegally searching a woman in Washington Heights, in addition to filing falsified documents with the NYPD and the District Attorney's Office to conceal the circumstances of the man's arrest.



Press Conference Announcing Criminal Charges in Case Involving Widespread Bribery Schemes Involving DOB and HPD Employees, February 10, 2015

FINANCIAL FRAUD

The Bureau's prosecutions include schemes to defraud, employee thefts, fraudulent document crimes, thefts committed by attorneys and other professionals, the unauthorized practice of law, offenses related to real estate and housing, and the theft of public funds. The Bureau also supervises two specialized units dedicated to the protection of two particularly vulnerable groups of citizens: the Elder Abuse Unit, which investigates and prosecutes the financial exploitation of senior citizens, and the Immigrant Affairs Unit, which focuses on financial and other fraudulent schemes targeting the immigrant community.

FRAUD BY ATTORNEYS AND LEGAL PROFESSIONALS

Clients have a right to trust that they are receiving honest and fair representation from the attorneys they hire. Unfortunately, some attorneys betray this trust. In September, District Attorney Vance provided recommendations for avoiding fraud and misconduct when hiring an attorney, including questions to ask an attorney and how to confirm an attorney is licensed and in good standing.

UNEMPLOYMENT BENEFITS FRAUD

In December, the District Attorney's Office announced the indictments of eight individuals for individually collecting tens of thousands of dollars in unemployment insurance benefits to which they were not entitled because they were all employed during the time periods charged. The defendants collectively stole approximately \$245,000.

DEED FRAUD

In December, the District Attorney's Office announced the sentencing of Kajetan Belza, Christopher Cable, and Carrie Stevens to state prison after they pled guilty to stealing the identity of a Manhattan residential property owner and then accepting a \$525,000 check for the sale of her property, located at 79 West 118th Street. The

Notable cases include:

- In September, former personal injury attorney **Stephen Krawitz** was sentenced 4-to-12 years in state prison for stealing more than \$1.9 million from settlements obtained for the benefit of at least 57 of his firm's clients.
- In September, **Thomas Rubino** was indicted for forging the signatures of 76 New York State Supreme Court Justices while he was employed as a paralegal at a personal injury law firm.
- In October, **Joel Getreu** was sentenced to 1 ½-to-4 ½ years in state prison for stealing hundreds of thousands of dollars from clients of his personal injury law practice.
- In October, **Luigi Rosabianca** was indicted for stealing more than \$4.4 million from six of his clients' real estate proceeds.
- In December, **Claudine King**, a former real estate attorney, was indicted for stealing more than \$500,000 from former clients.

property is worth approximately \$1.19 million. Four additional co-conspirators, and two other individuals, have also been charged in separate New York State Supreme Court indictments for the fraudulent sale of the Harlem property, or other properties located in Manhattan, Brooklyn, and Queens.

ELDER ABUSE

The Elder Abuse Unit helps protect senior citizens from crimes of physical abuse, domestic violence, financial exploitation, and neglect. The Unit, which is situated in both the Investigation and Trial Divisions, is dedicated to the prosecution of crimes against seniors, but also to the prevention of these crimes through educational programs, partnerships, and events. If you are a senior who has been the victim of a crime, or you know someone who has been abused or exploited, please contact the Elder Abuse Unit's hotline at (212) 335-9007.

SENIOR SCAM PREVENTION WEEK

In December, the District Attorney's Office partnered with senior centers and news outlets to host "Senior Scam Prevention Week." This bilingual campaign aimed to increase awareness about common financial scams targeting seniors, and provided tips to help seniors and



their loved ones prevent victimization. Senior Scam Prevention Week featured daily segments airing on NBC 4 New York and Telemundo 47 New York's nightly newscasts, public service announcements in English and Spanish, and an event at Riverstone Senior Center in Washington Heights.

Notable cases include:

- In April, **Cherfeina Daniels** was sentenced to 1 ½-to-4 years in state prison for stealing approximately \$340,000 from an 84-year-old woman she was employed to care for as a home health aide. Daniels also convinced the incapacitated victim to name her as the primary beneficiary in two separate wills. As part of her plea, the defendant signed a confession of judgment for \$340,000 and renounced her right to inherit from the victim's wills.
- In June, **Francisco Flores** was sentenced to 8 years in state prison and 5 years' post-release supervision for violently robbing a 92-year-old man in Chelsea. The defendant previously pleaded guilty to Robbery in the Second Degree. Flores attacked the elderly man, and pushed him to the ground on West 18th Street near 8th Avenue. Flores then stole the victim's bag, containing his glasses and a Bible, and fled the scene.

IMMIGRANT AFFAIRS

The first of its kind in the country, the Immigrant Affairs Unit is specially dedicated to prosecuting crimes committed against immigrants and members of Manhattan's immigrant communities.

Since its creation, the unit has served as a national model for other law enforcement agencies, many of which have sought to recreate the same success by following the District Attorney's practice of designating experienced prosecutors to handle cases involving scams, fraud, and related crimes.

To date, the unit hotline has received more than 4,000 complaints in over 30 different languages, and prosecutors assigned to the unit have secured a number of significant convictions in a variety of cases. Serving crime victims is the primary focus of the Immigrant Affairs Unit, which also has an ancillary mission to educate individuals about protecting themselves from scams and fraud and to provide resources for community members.

GRAND OPENING OF THE WASHINGTON HEIGHTS OFFICE

In March, the District Attorney's Office announced the grand opening of the Washington Heights office, which joins the Harlem Office as satellite sites where residents can meet with assistant district attorneys, counselors, and other advocates and receive direct assistance. Representatives from the Immigrant Affairs Unit are on-site on a weekly, rotating basis, and interpreters are available to help facilitate meetings with crime victims and community members. Representatives from other units are also available to speak to anyone requiring assistance, and residents and community members of Northern Manhattan will no longer have to travel downtown to access vital services or report a crime. Many victims may have similar stories: They may be new to the City, unfamiliar with the language, or perplexed by a complex legal system. Many individuals may be seeking someone to guide them through a complicated process, and unfortunately, scam artists will rarely hesitate to take advantage of another person's trust, which is why awareness is so important when it comes to possible scams.

"Regardless of where you come from, what language you speak, or your immigration status, you are welcome here."

— DISTRICT ATTORNEY VANCE

IMMIGRANT FRAUD PREVENTION WEEK

In May, the District Attorney's Office joined together with partners in media, government, and the community to host Fraud Prevention Week to increase awareness of common scams targeting recent immigrants and members of immigrant communities. The weeklong event series was organized in partnership with WXTV Univision 41, El Diario, WADO 1280 AM, and 92.7 AM, and featured a media campaign, phone bank, and community forum in Northern Manhattan. During the two-day phone bank event, more than 530 individuals called in to learn more about protecting themselves from scams and fraud. The phone lines were operated by volunteers and representatives from the Immigrant Affairs Unit, other City prosecutors' offices, and non-profit organizations who were able to field individual questions, file complaints, and make referrals to appropriate agencies for assistance.

CITIZENSHIP NOW

The District Attorney's Office also participated in an annual phone bank event hosted by the *New York Daily News* and City University of New York. During the event, hundreds of volunteer attorneys and community advocates were available to provide callers with free, confidential, and up-to-date information about U.S. citizenship and immigration laws, as well as common scams and fraud. Over more than a decade, the annual event has solicited calls from nearly 140,000 callers in more than 40 different languages.

Notable cases involving immigrant affairs include:

- In April, **Jenetta Ferguson**, a teacher of English as a second language, was indicted for stealing tens of thousands of dollars from student visa holders by misleading her victims and falsely promising to provide them with green cards in exchange for cash payments.
- In June, **Xue Fang Zhou** was sentenced to one year in jail and approximately \$12,000 in restitution for stealing approximately \$60,000 in cash and valuables through a scam involving a supposed blessing ritual performed over a victim's belongings for good luck.
- In July, **Juan Valoy** was sentenced to 1 1/3-to-4 years in state prison for stealing thousands of dollars from the victims of a Washington Heights apartment scheme that targeted Hispanic immigrants.
- In August, **Enrique Guerrero** was sentenced to 3-to-6 years in state prison for stealing thousands of dollars from individuals seeking affordable housing in Washington Heights.
- In August, **Vivian Cheng**, the owner and proprietor of Bestway Travel, a travel agency in Chinatown, was indicted for stealing thousands of dollars from her customers, who paid for roundtrip fare but received one-way tickets instead, leaving many stranded abroad.
- In September, **Jose Panchana** was indicted for posing as a hiring manager and stealing thousands of dollars from individuals seeking jobs, many of whom were recent immigrants.
- In October, **Koudedja Diawara** was sentenced to 2 1/3-to-7 years in state prison for stealing thousands of dollars from the victims of a Harlem apartment scam.



Senior Scams Prevention Day, December 17, 2015



SPECIAL VICTIMS

The Special Victims Bureau handles cases involving some of Manhattan's most vulnerable victims, including victims of domestic violence, child abuse, sex crimes, human trafficking, and elder abuse. The Bureau's investigators and prosecutors, working with the District Attorney's Office's Witness Aid Services Unit, are not only specially trained to bring justice to the victims in court, but also to help them recover from trauma, return to a place of safety, and move forward with their lives.

Housed within the Manhattan Family Justice Center, opened by District Attorney Vance and partners in 2014 at 80 Centre Street, the Bureau advocates for victims through the daily prosecution of street crimes, as well as through legislative initiatives designed to help protect victims. From cases involving victims of assault by a stranger to long-term human trafficking investigations, the Special Victims Bureau is fully equipped to serve victims of these often devastating crimes.

The District Attorney's Office regularly conducts presentations at community centers, schools, precincts, and other sites across Manhattan in order to raise

awareness and help prevent crimes from occurring. During these meetings, prosecutors and members of the Community Partnerships Unit offer resources for victims, provide a safe space to discuss concerns, and provide tips to help New Yorkers best protect themselves. The Sex Crimes Unit regularly conducts trainings to help individuals better identify and encourage reporting of sexual assault through open lines of communication with law enforcement. Examples include trainings for representatives from local colleges and universities, including NYU, Fordham, Columbia, CUNY, and trainings organized in conjunction with the New York Nightlife Association, tailored towards workers like bouncers, managers, and bartenders. Presentations are conducted year-round to raise awareness about crimes ranging from elder abuse to domestic violence.

HUMAN TRAFFICKING RESPONSE UNIT

District Attorney Vance created the Human Trafficking Response Unit (HTRU) in 2014, expanding on the Human Trafficking Program created in 2012. Housed within the Family Justice Center, a one-stop shop for victims of domestic violence and other crimes, HTRU investigates and prosecutes sex and labor trafficking cases, and provides support for victims and their families in partnership with advocacy groups. The Unit also works to identify victims in cases that may involve elements of trafficking from hundreds of street arrests that are screened and prosecuted by other areas of the Office,

including the Domestic Violence Unit.

In the year since HTRU's creation, the Office has expanded its investigative resources, including the innovative use of new technology to develop these cases. HTRU builds upon long-term investigative techniques—including wiretaps and forensic analytics—that make up the backbone of the evidence-based approach used to build these complex cases, where victims are often unwilling to testify or cooperate with the investigation.

Notable domestic violence cases include:

- In January, **Wei Chu Hu** was sentenced to 20 years-to-life in state prison for a fatal fire in his Spring Street apartment in January 2013. After arguing with his wife, Hu started a fire in the apartment he shared with his wife and son, which quickly spread through his five-story building. The fire led to the death of Renee Lea Williams, who lived above him, and destroyed the building, leaving it uninhabitable for dozens of residents for nearly two years.
- In February, **Thomas Hoey** was sentenced to 1 1/3-to-4 years in state prison for assaulting his girlfriend in their Upper East Side apartment building in May 2014. Hoey was convicted at trial of both the assault, and tampering with the evidence of the crime.
- In April, **Bismark Lithgow** was sentenced to 21-years-to-life for fatally stabbing his 19-year-old girlfriend, Francis Pellerano, a member of the Deaf community, in his Harlem apartment. Lithgow stabbed Ms. Pellerano victim 38 times, after which he left her body in a barrel in his room for three days. Lithgow had a history of irrational and controlling behavior, including a previous attempt to hire a hit man to kill an ex-girlfriend.

One such technique includes the analysis of online advertisements from prostitution services, which enables prosecutors to identify patterns that lead to both victims and perpetrators of human trafficking. A hallmark of HTRU's work in 2015 was the use of Memex, a groundbreaking new search tool that mines the internet, including the "dark" or "deep" web, for advertisements that would not be retrievable with a typical search engine. Memex organizes intelligence from these open-source, online ads into a database, which allows prosecutors to draw connections between ads, including the contact information and photos contained within. The initiative

Notable child abuse cases include:

- In May, **Gigi Jordan** was sentenced to 18 years in state prison for the death of her 8-year-old son Jude Mirra in February 2010. Jordan was convicted at trial of fatally poisoning her son by giving him extremely high doses of prescription medications.
- In August, **Jason Carroll** was sentenced to 25 years in prison and 20 years of post-release supervision for committing a criminal sex act against a two-year-old girl in a bathroom stall in Riverside Park. Carroll also pleaded guilty to possessing images depicting the sexual exploitation of children on the cell phone found in his possession.
- In October, **Richard Hovan**, a former high school teacher in the Bronx, was sentenced to 2 ½ years prison and 10 years of post-release supervision for the statutory rape of a 16-year-old student. Hovan was found guilty by a jury of five counts of Rape in the Third Degree, among other charges, for the sexual assaults that occurred in April and May 2011.



"Shine the Light" Domestic Violence Awareness Event, October 26, 2015

with IST Research, a technology company funded by the U.S. military's Defense Advanced Research Projects Agency (DARPA), was featured in an episode of CBS's "60 Minutes" in February.

“Building evidence-based prosecutions is essential to fighting human trafficking. We cannot rely on traumatized victims alone to testify in these complex cases. When sex traffickers create online ads for their victims’ sexual services, they leave a digital footprint that leads us to their criminal activity. Because those ads are frequently removed or intentionally hidden on the ‘dark web,’ it puts them beyond the reach of typical search engines, and therefore, beyond the reach of law enforcement. With technology like Memex, we are better able to serve trafficking victims and build strong cases against their traffickers.”

— DISTRICT ATTORNEY VANCE

MEMEX

Memex’s ability to scrape the web for expired advertisements and ads containing purposefully obfuscated telephone numbers played a crucial role in uncovering the large operation run by convicted trafficker Froilan Rosado, who was sentenced to 7-to-14 years in state prison this September.

Rosado was convicted of running a prostitution ring made up of approximately ten young women ranging in age from 15-to-18 years old, and trafficking an 18-year-old woman in the ring, forcing her to earn money through prostitution. Rosado advertised their commercial sexual services on Backpage.com, and drove victims to respondents’ apartments and hotel rooms across New York City.

If the victims did not obey his rules, including giving him half of the money that they brought in, he would yell at them and make violent threats. In one instance, Rosado choked a teenager who did not obey him, grabbing her by the throat and throwing her out of the car while it was stopped, then forcing her to have sex with a client. The defendant also used cocaine, prescription drugs, and marijuana to keep the victims under his control. Rosado was apprehended while sitting in his van with a pregnant 16-year-old girl outside of a hotel in Midtown where NYPD officers were conducting a prostitution sting.



“Shine the Light” Domestic Violence Awareness Event, October 26, 2015

Notable sex crimes cases include:

- In March, **Paul Grossman** was sentenced to 16 years in state prison and ten years post-release supervision for raping and sexually abusing a woman in his apartment in Midtown. Grossman was convicted at trial of strangling the victim until she lost consciousness, and then raping her when she awoke after telling her not to escape.

- Also in March, **Kevin Mitchell** was sentenced to 14 years in prison and 10 years of post-release supervision for raping a 30-year-old woman in her Murray Hill apartment in September 2013. Mitchell pleaded guilty to Rape in the First Degree for the attack in which he broke into the victim’s apartment and threatened her by saying that he had a gun and would slit her throat.

- In April, **Fermin Flores** was sentenced to 14 years in state prison and five years of post-release supervision for a January 2013 push-in sex assault in the East Village. Flores followed the victim home, and raped her after pushing her into her apartment as she unlocked her door.

- In June, **Donelle Murphy** was sentenced to 15 years in state prison and 10 years of post-release supervision for attempting to rape a 21-year-old woman at knifepoint in her Kips Bay apartment in December 2013. Murphy was convicted by a jury for the sex assault in which he followed the victim home, knocked on her apartment door saying he was there to return her lost wallet, and pushed his way in after convincing her to open her door.

- Also in June, **Jean Rodriguez** was sentenced to 17 years-to-life in state prison for raping a woman in her Washington Heights apartment in July 2014. Rodriguez pleaded guilty to raping the woman after following her home and forcing his way into the apartment, where he held a pair of scissors to her neck and sexually assaulted her.



“I am calling on New York State legislators to give our prosecutors the same tools [as our neighboring states and federal partners], allowing us to better protect the children traffickers target for sexual exploitation and profit. The penal code must be changed to recognize the fact that children do not have the legal, psychological, or emotional capacity to consent to sexual activity, as reflected in our statutory rape laws. This view of children should not change simply because there is an exchange of money.”

— DISTRICT ATTORNEY VANCE

HTRU also continued its efforts to help financial institutions identify red flags in transactions that may indicate the presence of human trafficking. Begun as a series of roundtables and working groups in partnership with the Thomson Reuters Foundation, the District Attorney’s Office continues to conduct presentations for major banks, in conjunction with the Office’s Financial Intelligence Unit. Prosecutors in HTRU regularly conduct presentations across the country to help train law enforcement on how best to handle these cases.

CONCORDIA

District Attorney Vance hosted a roundtable on human trafficking and financial evidence at the 2015 Concordia Summit, a global gathering of government leaders, advocates, and business executives focused on cross-sector cooperation. The District Attorney’s Office also advocates for policies and reforms on behalf of victims, including enhanced legislation to protect child victims of sex trafficking. In January, District Attorney Vance penned an op-ed for *Gotham Gazette* calling for changes to sex trafficking laws in New York State—one of only four states that does not recognize that prostituted children, many of whom are too young to consent legally to sexual intercourse, are inherently victims of trafficking. This weakness in New York State’s laws means that prosecutors must still prove force, fraud, or coercion to obtain a sex trafficking conviction— even if the victim was a young child.

ACTION & ADVOCACY IN OUR COMMUNITIES

The District Attorney’s Office recognizes the importance and impact that strong community relations can have on safety and quality of life in our community. That is why staff ranging from paralegals to attorneys to investigators

regularly join members of the Community Partnerships Unit at events and meetings across Manhattan to discuss issues of importance to residents, improve communication between law enforcement and those we serve, and to advocate for changes important to community members.

Notable cold cases and DNA cases include:

- In July, **Jonquel Jones** was sentenced to 16 years in state prison and 25 years of post-release supervision for raping a tourist at knifepoint and sexually assaulting a 12-year-old girl in two separate incidents in 2013. The knifepoint rape remained unsolved until the victim's rape kit was tested, and a DNA profile developed from the kit matched the defendant's DNA profile that was uploaded to the New York State DNA Databank following a previous felony conviction.
- In December, **Melvin Kelly** was sentenced to 25 years-to-life in state prison for the May 1994 murder of a pregnant 32-year-old woman on the rooftop of a Harlem apartment building. Kelly pleaded guilty to raping and fatally strangling the woman, whose body was discovered hours later by a young boy. The case remained unsolved for 18 years until new forensic techniques were used to test for DNA recovered from underneath the victim's fingernails and on two tissues left by the defendant at the crime scene.

"Shine the Light" Domestic Violence Awareness Event, October 26, 2015



CRIME VICTIMS' CANDLELIGHT VIGIL

Each April, during National Crime Victims' Rights Week, District Attorney Vance co-hosts the Crime Victims Candlelight Vigil in conjunction with the Downstate Coalition for Crime Victims and the New York State Attorney General's Office. The offices aim to raise awareness about the needs of crime survivors, reflect on the lives that have been lost, and discuss crime prevention. District Attorney Vance delivered remarks at this year's vigil, which marked the event's 30th Anniversary, and featured multiple speakers, musicians, and a candle lighting ceremony.



"Shine the Light" Domestic Violence Awareness Event, October 26, 2015

DENIM DAY

In April, dozens of members of the District Attorney's Office wore jeans in honor of "Denim Day," an annual event held during Sexual Assault Awareness Month that promotes awareness of sexual violence and victim-blaming. Denim Day was sparked by a 1998 Italian Supreme Court decision overturning a rape conviction on the grounds that the victim's jeans were so tight that she must have helped her rapist remove them, implicating her as a consensual partner in the sexual assault. Each April, the District Attorney's Office joins advocates and survivors around the world in raising awareness of the destructive practice of victim-blaming.



"Shine the Light" Domestic Violence Awareness Event, October 26, 2015

NATIONAL NIGHT OUT AGAINST CRIME

In August, District Attorney Vance visited eight precincts across Manhattan as part of the annual National Night Out Against Crime, a yearly crime-prevention event designed to strengthen relationships between law enforcement and the neighborhoods they protect, and highlight local, community-based initiatives to combat crime. Dozens of members of the District Attorney's Office volunteered at 26 locations around the borough during this year's National Night Out.

DOMESTIC VIOLENCE AWARENESS MONTH

In October, National Domestic Violence Awareness Month, the District Attorney's Office took part in numerous events designed to raise awareness of this often

underreported crime, as well as to provide resources for victims and their families. On October 15, New York City "Go Purple" Day, members of the Special Victims Bureau donned purple, a symbolic color meant to raise awareness of domestic violence.

SHINE THE LIGHT ON DOMESTIC VIOLENCE

On October 26, District Attorney Vance and staff members marched in the annual "Shine the Light" event in Harlem, where survivors, advocates, elected officials, and law enforcement gather to speak out against domestic violence. The event, which took place at the Adam Clayton Powell, Jr., State Office Plaza—also home to the District Attorney's Harlem Office—featured music and dancing, as well as inspirational remarks delivered in English, Spanish, French, and American Sign Language.

VEHICULAR CRIMES

Manhattan District Attorney Cy Vance has made a groundbreaking show of toughness in the street wars that pit walking mankind against deadly motorists.

— NEW YORK DAILY NEWS EDITORIAL BOARD
MAY 3, 2015

The Vehicular Crimes Unit provides oversight and support for cases involving vehicle-related crimes, including Vehicular Homicide, Assault, DWI, and others. The unit works closely with the New York Police Department's Collision Investigation Squad and Highway Unit, often partnering with case detectives from the time an incident occurs, with assistant district attorneys routinely going to the scene of a collision to enhance the investigation of these cases. The unit also investigates cases in which, following a collision, the victim contacts the District Attorney's Office directly.

In 2015, the Unit's work led to a number of cases in which dangerous drivers were held responsible for their conduct in order to keep New York City streets and sidewalks safe.

- In April, **Danny Lin** was charged in New York State Supreme Court with Manslaughter in the Second Degree for fatally striking a 57-year-old man with his car while driving approximately 55 miles per hour in a 25 mile per hour zone on the Lower East Side in November 2014.
- In August, **Tiffany Allen** was indicted for Manslaughter in the Second Degree, Unlawful Fleeing a Police Officer in Motor Vehicle in the First Degree, and Reckless Driving, for leading police on a high-speed pursuit in Washington Heights which ultimately led to the death of the car's passenger.
- In November, **Roberto Mercado** was convicted of Criminally Negligent Homicide for fatally striking 61-year-old Jean Chambers with his car on the Upper West Side in July 2014.
- In December, **Stella Mednik** pleaded guilty in New York State Supreme Court to Assault, Vehicular Assault, Aggravated Unlicensed Operation of a Motor Vehicle, and other charges after crashing a car in Herald Square while under the influence of drugs and alcohol, seriously injuring pedestrians.

APPEALS

*Summaries of five cases representing successful litigation by the District Attorney's Office
in New York's appellate courts.*

People v. Sandra Diaz, 24 N.Y.3d 1187. The defendant permitted her three minor children and a minor niece to remain in her apartment knowing that her children's father was engaging in drug trafficking activity there. The Court of Appeals unanimously affirmed her convictions for first-degree unlawfully dealing with a child, rejecting her argument that she personally had to have engaged in drug trafficking in order to be guilty of that crime.

People v. Matthew Keschner and Aron Goldman, 25 N.Y.3d 704. The defendants, a chiropractor and a doctor, participated with others in a scheme to use a Harlem medical clinic as a means to commit systematic insurance fraud, stealing some \$6 million over a period of years. They were convicted of insurance fraud and enterprise corruption, among other crimes. On appeal, the Court of Appeals overruled lower-court authority and held that the enterprise corruption law's "continuity" requirement was met by proof that the group continued to exist "beyond individual criminal incidents" and did not mandate proof that the group would continue in existence even if it lost its principal organizer. Both defendants' convictions were affirmed.

In re 381 Search Warrants Directed to Facebook, Inc., 132 A.D.3d 11. As part of a major investigation into fraud on the Social Security disability benefits system, the District Attorney's Office applied for, and the Supreme Court issued, search warrants for the Facebook accounts of 381 specifically identified users. Facebook attempted to evade compliance with the warrants by moving to "quash" them, assertedly on behalf of its subscribers. Supreme Court denied that motion, and on appeal, the Appellate Division affirmed, ruling that neither the Constitution nor New York law provided the subscribers themselves with a right to such a pre-compliance challenge, and there was no basis for granting Facebook a right greater than that of its customers.

People v. Anthony Barksdale, 26 N.Y.3d 139. Police officers patrolling a neighborhood on foot entered a building enrolled in the Trespass Affidavit Program ("TAP"), a tenant protection program in which the building owner requests police assistance in addressing problems with trespassers. The officers noticed a lock on the door and a sign posted indicating participation in TAP. They saw the defendant standing in the lobby, and within a few minutes they asked him what he was doing there. Further questioning established that the defendant was trespassing, and upon arresting him the police discovered that he possessed a weapon. On appeal from the ensuing weapon possession conviction, the defendant argued that the officers did not have the required "objective, credible reason, not necessarily indicative of criminality" when they approached and began to question him. The Court of Appeals ruled that the officers had acted properly because the defendant's presence in the "private and protected" TAP building constituted an objective credible reason to request information from him.

People v. Matthew P., 26 N.Y.3d 332, 2015 WL 7288083. The defendant used a key stolen from the Metropolitan Transit Authority to sell access to the subway system for two dollars. He pled guilty to larceny, but on appeal he argued that he could not properly be charged with that crime because he had not taken any property owned by the Transit Authority. The Court of Appeals rejected that claim, stating that "taking away a portion of a person's or entity's business could constitute larceny under certain circumstances" and that the defendant "did not have any possessory right or lawful expectation" in the "business" he conducted through the use of the stolen key.

A photograph of a laboratory setting. In the foreground, a green plastic test tube rack holds several test tubes. One test tube contains a red liquid, while others are empty or contain clear liquids. In the background, a pink plastic rack holds more test tubes, some of which are labeled with handwritten text. The background is slightly blurred, focusing attention on the test tubes in the foreground.

INVESTING *in* PUBLIC SAFETY

and ELIMINATING RAPE KIT BACKLOGS NATIONWIDE

Beginning in 2014, the District Attorney's Office announced a series of transformative investments aimed at making New York City safer and the criminal justice system more fair. Using asset forfeiture funds obtained through settlements with international banks for violating U.S. sanctions, the District Attorney's Office has committed millions of dollars toward projects aimed at having a lasting impact on public safety, both immediately and in the decades to come. Each initiative was selected with the goal of helping to solve and prevent crimes, and aid crime victims seeking justice.

To ensure that these investments are well-executed and sustainable over the long-term, the District Attorney's Office engaged The City University of New York Institute for State and Local Governance to provide strategic advice and technical assistance.

Within the past six years, the Manhattan District Attorney's Office's investigations into nine banks have resulted in the forfeiture of approximately \$2 billion to New York State and \$1.02 billion to New York City. The annual budget of the Manhattan District Attorney's Office in 2014 was \$97.5 million.

"The national rape kit backlog represents a tragic and longstanding failure of government at all levels, the impact of which has been borne disproportionately by women . . . Today we are empowering our partners across the country to be able to make those phone calls. To be able to tell survivors of sexual assault that their ordeal was not forgotten, that they were not forgotten, and that we are going to pursue justice. I am saying today, to all the women awaiting justice, you are not forgotten."

— DISTRICT ATTORNEY VANCE

ENDING THE RAPE KIT BACKLOG NATIONWIDE

In September, District Attorney Vance announced the 32 recipients of an unprecedented grant program administered by the Office to test backlogged rape kits across the United States. In doing so, he addressed a



Press Conference Announcing \$38 Million in Grants to End Rape Kit Backlogs Nationwide, September 10, 2015

women's—and, indeed, human—rights issue that has been overlooked for decades.

When the \$38 million initiative was first announced in November 2014, District Attorney Vance urged "other elected officials across the country to ... join our call to test each and every rape kit in the United States."

A month later, following several years of delays, Congress allocated its own \$41 million toward this same cause. Currently, there is no reliable estimate of the total number of untested rape kits nationwide, as no one has ever prioritized their testing on a national scale before District Attorney Vance. Through the District Attorney's initiative alone, more than 56,000 kits are in the process of being tested in 32 different jurisdictions in 20 states. Combined, the nearly \$80 million investment will test approximately 70,000 kits.

Every single jurisdiction that applied to the Manhattan District Attorney's grant program in 2015 received funding. The Office negotiated with two private forensic labs to secure a testing rate of \$675 per kit, significantly lower than the estimated nationwide average of \$1,000 to \$1,500 per kit, essentially doubling the number of kits that can be tested over the course of this grant.



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The DNA evidence contained in rape kits is a powerful tool for identifying suspects, convicting perpetrators, preventing future offenses, and exonerating the innocent. Each rape kit represents a survivor who underwent an hours-long procedure at a hospital or rape crisis center immediately following a traumatic attack. And each untested rape kit represents a survivor who hoped that justice would be achieved, only to have the evidence of this brutal violation gather dust on the shelf of a storage facility.

“So convinced is Manhattan District Attorney Cyrus R. Vance Jr. (D) of the importance of rape kits in improving public safety that he is dedicating [\$38 million] to help eliminate the backlog that has become a national disgrace. The money is the single largest financial contribution toward testing the hundreds of thousands of rape kits that have sat — for years and even decades — untouched in police storage facilities.”

— WASHINGTON POST EDITORIAL BOARD: “RAPE KIT CONTRIBUTIONS SPUR CONGRESSIONAL ACTION”



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We know that testing rape kits is a smart investment because New York City pioneered the clearing of its own rape kit backlog. Between 2000 and 2003, the City sent out approximately 17,000 rape kits for testing, creating a model for other large cities. From those kits, the Manhattan District Attorney’s Office was able to file 49 indictments based on DNA cold case hits. Combined, those offenders are now serving more than 900 years in jail. We also know from experience that testing kits in one location leads to crimes being solved in other states.



Press Conference Announcing \$38 Million in Grants to End Rape Kit Backlogs Nationwide, September 10, 2015

Take Detroit, where in 2009, more than 11,000 untested rape kits were discovered in an abandoned police warehouse. As of October 2015, Detroit has tested approximately 10,000 kits, resulting in 2,616 DNA matches linked to crimes committed in 39 states and Washington D.C., and the identification of 652 potential serial rapists. Clearly, testing rape kits has a dramatic impact on public safety nationwide.

Groups like the Joyful Heart Foundation, which acted as a technical advisor to the Manhattan District Attorney’s Office for this initiative, consider the national rape kit backlog to be “one of the clearest and most shocking demonstrations of how we regard these crimes in our society.” As District Attorney Vance has said, “That the rape kit backlog has existed for so long requires us to ask ourselves whether, despite the best efforts of so many, there are other ways in which we are still failing to protect adequately women who are victims of crime.”

It is our hope that this initiative will also restore faith in the justice system for those who have not received it.

“STAY ON TRACK” YOUTH ELECTRONIC MONITORING

This Alternative to Incarceration pilot program attempts to lower recidivism among a class of defendants who may be eligible for youthful offender status, but who require additional monitoring because they are deemed at high-risk of re-offending. In September, the Manhattan District Attorney’s Office partnered with the software company Corrisoft and the Center for Court Innovation on a remote supervision program that combines conventional GPS monitoring with smartphone technology. The goal is to provide multiple parties—program staff, defense attorneys, prosecutors, and a judge—with significant contact with the defendant between court dates. These multiple contacts will ideally provide the level of oversight and positive interaction that gives this category of defendants the best chance of success.

INSTITUTE FOR INNOVATION IN PROSECUTION AT JOHN JAY

Bringing together prosecutors, academics, law enforcement officials, and other leaders, the Institute for Innovation in Prosecution (IIP) at the John Jay College of Criminal Justice was formed in September to support the development of the next generation of ideas and thought leaders in the field of prosecution. The IIP is guided by an Advisory Board comprising national leaders in criminal justice reform to examine and develop practical solution to critical issues facing the criminal justice system in the 21st century, including how prosecutors can address issues of racial disparity and implicit bias in the criminal justice system; pre-trial diversion and release; release and re-entry; and share best-practice models.

“SATURDAY NIGHT LIGHTS” YOUTH VIOLENCE PREVENTION PROGRAMMING

In October, the District Attorney’s Office’s award-winning “Saturday Night Lights” program expanded to include 17 programs across Manhattan at 14 different locations, including centers at five NYCHA developments. Since 2011, this comprehensive youth violence prevention initiative has provided world-class sports training and academic tutoring to more than 5,000 boys and girls between the ages of 11 and 18, completely free of charge. In 2015, ten community-based organizations were awarded funding to offer Saturday Night Lights programming, ranging from basketball to volleyball, soccer, tennis, baseball, and dance.



FOR INFORMATION ON ENROLLING A CHILD OR TEEN IN ONE OF THE SATURDAY NIGHT LIGHTS PROGRAMS, PLEASE EMAIL SNL@DANY.NYC.GOV OR CALL (212) 335-9082.



Saturday Night Lights Soccer Tournament, June 26, 2015

NYPD MOBILITY INITIATIVE

In 2014, the District Attorney's Office, the Mayor's Office, and the NYPD rolled out the Mobility Initiative, a \$160 million project to enhance the NYPD's mobile communications. The program equips police officers with up to 41,000 mobile devices, including tablets for every patrol car, smartphones for every cop, and customized software and mobile applications designed specifically for the NYPD. For the first time, officers have real-time 911 call data, warrant information, photographs of missing persons and suspects, and fingerprint scanning available to them at the swipe of a finger. By bringing all of the crime-fighting resources currently available to NYPD officers at the precinct onto one mobile platform, the program streamlines law enforcement efforts and increases the safety of New Yorkers and police officers alike.

All officers assigned to patrol precincts, as well as Transit, Housing and Special Operations Division officers, have received their devices. Already, the Mobility Initiative has enabled them to work more efficiently, respond to situations faster, recover illegal weapons, and apprehend wanted suspects. Some examples include:

- **Illegal firearms recovered:** Officers were alerted to shots fired and discovered eight shell casings at the location. Using their Initiative-provided smartphones, the officers checked the vicinity for individuals with open warrants. One active warrant was discovered, and upon arrival at the individual's residence, officers recovered two semiautomatic firearms. In another case, officers were alerted on their smartphones to a robbery in progress at a nearby subway station. The officers were able to locate and arrest the perpetrator—who was carrying a loaded firearm—before the incident was even broadcast over the department radio.
- **Suspects apprehended:** A suspect wanted for eight bank robberies was recognized by employees of nearby banks. Officers were alerted on their Initiative-provided smartphones, and responded before the alert was broadcast over the department radio. Using the description of the suspect provided on their phones, the officers located and apprehended him blocks away from his last location. In another incident, officers were alerted on their devices to a cell phone robbery in progress. Using their Initiative-provided phones, the officers located the two suspects, dialed the victim's phone number, and heard the stolen phone ringing in one of the suspect's pockets.
- **"Paperwork" done efficiently:** Mobile access to NYPD databases has enabled officers to enter arrest information and complete other "paperwork" while in transit, while waiting at hospitals and courtrooms, and during other officer "down" periods—freeing up more time to patrol, investigate, and keep our neighborhoods safe.

ADDRESSING MENTAL HEALTH IN THE CRIMINAL JUSTICE SYSTEM: SUPERVISED RELEASE

In July, District Attorney Vance joined Mayor de Blasio, Mayor's Office of Criminal Justice Director Elizabeth Glazer, Police Commissioner Bratton, City Council Speaker Melissa Mark-Viverito and others in announcing an initiative to reduce unnecessary jail time for people awaiting trial. The Manhattan District Attorney's Office funded approximately \$14 million of the total \$17.8 million program to supervise 3,000 eligible defendants safely in the community, instead of detaining them in jail while they await trial. Supervised release is part of the four-year project by the de Blasio administration aimed at reducing the number of people with mental and behavioral health issues needlessly cycling through the criminal justice system. The Manhattan District Attorney's Office is funding \$40 million of the total \$130 million project.

** Today, people with mental illness represent 38 percent of the overall New York City jail population.*

IMPROVING SAFETY IN PUBLIC HOUSING

In August, District Attorney Vance joined NYCHA Chair and CEO Shola Olatoye and City Council Speaker Mark-Viverito for the groundbreaking of new, energy-efficient LED lighting for the entrances, walkways and parking areas at the Polo Grounds Towers in Harlem. This lighting project will replace the development's outdated exterior lighting system, which was installed when the buildings were originally built in the late 1960s and does not provide adequate lighting. In 2014, District Attorney Vance pledged \$101 million to improve security and enhance residential safety at 15 public housing developments citywide. This investment allows for infrastructure improvements, including an increase in exterior security cameras, camera connection to NYPD networks, lobby and elevator cameras, new doors, key fob access, and improved exterior lighting.

** Five percent of New York City residents live in public housing, yet crimes committed on New York City Housing Authority property account for 20 percent of all violent crime citywide.*



LEGISLATION

In addition to investigating and prosecuting cases, the District Attorney's Office advocates for legislation that increases public safety by giving prosecutors stronger and more effective tools to combat crime, provide greater protection to victims, and increase justice for all individuals who come before the court.

CYBERCRIME AND IDENTITY THEFT

Out of the 100,000 cases that the District Attorney's Office files every year, more than a quarter involve cybercrime, identity theft, and associated crimes. Victims of these crimes range from multi-national banks and corporations, to seniors and immigrants. At the District Attorney's Office, prosecutors have handled cases involving cybercriminals who target data as banal as a ten-person email distribution list in order to sell the list to a telemarketer. In crimes of violence, fraud, larceny, and terrorism, cyberspace has become the common instrumentality.

But in case after case, prosecutors in New York City and around the state are hamstrung by New York's antiquated computer crime and identity theft laws, which were written decades ago and have not been amended to

keep pace with technology. These laws do not reflect how people communicate or how companies conduct their businesses, and they do not provide adequate punishment for the serious damage suffered by victims of cybercrimes and identity thefts.

For example, the current Identity Theft statute in the Penal Law does not distinguish between more and less severe instances of identity theft. Under New York State law, a defendant who engages in identity theft that causes losses of \$2,001 faces the same charge as a defendant who engages in identity theft that causes losses of \$500,000, or more. Similarly, a defendant who steals the identities of numerous victims may be subject to no greater penalty than a defendant who steals the identity of a single person because under the current law, a defendant's crimes cannot be aggregated.

This necessary legislation, Bill S.4072, amends the Identity Theft, Larceny, and Scheme to Defraud statutes to create distinctions in severity of crimes ranging from Class A misdemeanors to Class B felonies, with thresholds triggered by the dollar amount of damages or the number of identities assumed. Defendants whose thefts cause greater losses, measured in dollars or victims, should face greater penalties than those defendants whose crimes

cause smaller losses.

Definitions must be changed within the Penal Law so that they cover behavior that plainly should be covered. For example, many statutes make it a crime to steal, alter, copy or otherwise trespass on “computer material,” but the Penal Law defines “computer material” as consisting principally of medical records, government records, or data that provides a competitive advantage to the individual accessing it without permission. It does not include personal, non-commercial information that may be equally dear to the rightful owners of such data. As a consequence, when a hacker steals someone’s private information, he or she generally can only be charged with Computer Trespass or Computer Tampering at the A-misdemeanor level. Bill S.4072 includes a simple but important fix: Expand the definition of “computer material” to allow prosecutors to charge these crimes as E felonies. These are just a few examples of how Bill S.4072 would amend the Penal Law to better protect the state’s citizens from cybercrime and identity theft—the fastest growing crimes in New York and around the country.

GRAND JURY BUSINESS RECORDS

The District Attorney’s Office previously brought an indictment against an international cybercrime ring that stole credit card information from more than 1,600 users of StubHub. This is just one of many cases that the office has brought against cybercriminals and identity thieves. As these crimes continue to grow in numbers, the importance of investigating and bringing these criminals to justice—and preventing them from victimizing even more New Yorkers—cannot be overstated. But because of New York’s antiquated Criminal Procedure laws, these investigations are coming at an unnecessary cost to our state’s taxpayers.

For example, in order to secure an indictment in the StubHub case, prosecutors had to obtain routine—but necessary—grand jury testimony from representatives of eight technology companies. Each employee’s testimony lasted no more than five minutes, and most questions required simple yes or no answers. The witnesses, many of whom live and work in other parts of the country, required airfare, hotel accommodations, and a travel stipend while in New York. The total cost to taxpayers for mere minutes of testimony? Nearly \$10,000.

Under current New York law, grand jury witnesses must testify in-person on purely ministerial, non-substantive matters. When prosecutors introduce email

or other electronic evidence to the grand jury, they must call in a representative from a company such as Google simply to say that Google is indeed the custodian of those emails; that testimony has nothing to do with the actual substantive content of those emails. These witnesses’ testimony might last no more than a few minutes, and is almost always perfunctory, but often requires the prosecutor to spend thousands of dollars on travel and accommodation expenses.

This costly, impractical law—which has been abolished by the federal government and more than half of our sister states—imposes substantial costs on the state’s taxpayers, as well as time-consuming burdens on businesses, law enforcement, grand jurors, and victims. This requirement also has a chilling effect on prosecutors’ offices whose limited budgets prevent them from investigating cybercrimes and identity thefts, which may involve extensive records.

For these reasons, businesses such as Google, Facebook, and Yahoo, as well as the New York City Bar Association, the State Privacy and Security Coalition, and the Internet Alliance, have advocated for eliminating this requirement. State Senator Brad Hoylman has introduced Bill S.3870, which allows all business records and electronic records and data to be presented to a grand jury for authentication through a signed affidavit rather than calling a live authenticating witness.

This bill would also make it less cumbersome for victims of identity theft to seek justice. New York law already allows certain other crime victims’ testimony to be admitted to the grand jury via affidavit—those victims whose testimony would be limited to resolving the question of a legal right or status of the witness or her property. Examples include the owner of a stolen car, the owner of a home that was burglarized, the ostensible writer of a forged check, or the owner of a credit card. But under current law, identity theft victims must testify in-person before a grand jury, even though most identity theft schemes victimize individuals across city, state, and even international lines. Bill S.3870 amends the Penal Law to include identity theft victims among those who may testify before the grand jury via affidavit.

SEX TRAFFICKING

New York’s sexual assault laws—in line with other states and the federal government—recognize that children do not possess the legal, psychological, or emotional capacity to consent to sexual activity. This is true regardless of

whether or not they were “compelled” to perform sexual activities. When it comes to sex trafficking, however, New York does not afford young victims of this crime the same protection. Under state laws, a prostituted child is deemed to be a victim of sex trafficking only if the prosecutor can show that her victimizer compelled her with force, fraud, or coercion. The fact that a child cannot consent to sex is not enough to prove that she was forced into prostitution. Essentially, the laws view an exploited child differently if there is an exchange of money (and of course, it is the child’s promoter who often receives the profits).

Most other U.S. states and the federal government rightfully recognize that prostituted children are victims of sex trafficking. Sexually exploited children are victims of sex trafficking simply because they are unable to consent to sex. But New York’s laws impose a legal distinction between child victims of sex trafficking and child victims of other sexual crimes. The consequence of this legal distinction is the difficulty of securing adequate justice for child sex trafficking victims in our state.

Everyday across New York, children as young as 13 years old are promoted for sex, according to New York’s Office of Children and Family Services. These child victims of prostitution are often runaways or foster children who are targeted for their youth and vulnerability. These children deserve the strongest protections possible. New York cannot be an outlier when it comes to recognizing basic facts about the sexual exploitation of children. The District Attorney’s Office is urging the state Legislature to amend the penal code so sex trafficking can be proved without evidence of force, fraud, or coercion when the victim is less than 18 years old. This would simply ensure that New York’s sex trafficking laws align with its existing statutory rape laws. It’s time for New York to join 46 states, the federal government, and the international community in recognizing that a sexually exploited child is a victim, plain and simple.

PUBLIC CORRUPTION

New Yorkers deserve an honest, ethical government that works for them. But corruption in state government has depleted our public coffers, and degraded our public confidence. These cases are a reminder that state criminal statutes do not meaningfully prohibit, penalize, or deter corruption at the highest levels of government. The failure of New York’s district attorneys to bring corruption cases

at the highest levels of government is not for lack of will or trying. It’s for lack of state penal laws that adequately outlaw the conduct. It’s because—compared to federal counterparts—assistant district attorneys are fighting high-level corruption with one hand tied behind our backs. In 2013, District Attorney Vance shared ideas on how to close this gap with the Moreland Commission to Investigate Public Corruption. These proposals were the recommendations of a special task force convened during District Attorney Vance’s term as president of the District Attorneys Association of the State of New York, and had been unanimously approved by all 62 of New York’s elected district attorneys.

These recommendations include:

- **End transactional immunity:** Contrary to the laws of 49 states, every witness before a New York State grand jury automatically receives full immunity about anything to which they testify. As a result, prosecutors are reluctant to call the very people who know about corruption, for fear of giving them a lifetime pass for their transgressions. This defies logic, and should end today.
- **Close the bribery carve-out for public officials:** To prosecute a person for bribing a real estate developer, a labor leader or even a professional boxer, a state prosecutor need prove only an “intent to influence” the recipient of the bribe. Bribery of a public official, on the other hand, also requires an explicit “understanding or agreement” between the bribe giver and the official for the crime to be complete. In practice, this means that those who bribe public officials are less likely to be prosecuted than those who bribe boxers. There is no justification for this imbalance.
- **Criminalize undisclosed self-dealing:** New York State needs a law that specifically targets public servants who further their own, undisclosed economic interests in the performance of their official duties. A 2010 U.S. Supreme Court opinion limited the ability of our federal partners to prosecute undisclosed self-dealing. This provides an opening for state prosecutors to lead the charge against high-level corruption. More than ten other states punish undisclosed self-dealing as a felony. New York’s district attorneys need a similarly powerful tool.

VICTIM ASSISTANCE

The Manhattan District Attorney's Office is a safe place to report crime, and victims are strongly encouraged to contact specialized units for assistance.

SPECIAL VICTIMS: (212) 335-4308

For assistance with issues related to domestic violence, child abuse, human trafficking, and family violence

SEX CRIMES: (212) 335-9373

For assistance with issues related to sexual assault, abuse, and other criminal sexual acts

IMMIGRANT AFFAIRS: (212) 335-3600

For assistance with issues related to fraud and scams targeting immigrant communities

ELDER ABUSE UNIT: (212) 335-9007

For assistance with issues related to abuse and financial crimes committed against senior citizens

HATE CRIMES: (212) 335-3100

For assistance with issues related to crimes committed against individuals based on race, religion, gender, and sexual orientation

CYBERCRIME AND IDENTITY THEFT: (212) 335-9600

For assistance with issues related to identity theft and cybercrime

PUBLIC INTEGRITY: (212) 335-8987

For assistance with issues related to bribery, larceny, false filings, campaign finance abuse, and criminal violations of ethics laws

FINANCIAL FRAUD: (212) 335-8900

For assistance with issues related to embezzlement, fraudulent documents, insurance fraud, arson, unauthorized practice of law, bank fraud, and crimes committed by attorneys and other professionals

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