



District Attorneys Association of the State of New York

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Message from the President

Hon. Kathleen B. Hogan, Warren County District Attorney



The District Attorneys Association is celebrating its 100th year. Having reached this milestone, we are mindful of the need to remain current on a variety of legal issues and improve the communication between our members and other government agencies. To facilitate this, I am introducing a monthly electronic newsletter that will keep you informed on the activities of the Association. The articles will cover trends and innovations in prosecution, effective office management, and updates on proposed and pending legislation. We hope that the newsletter encourages discussion and cultivates new ideas, so that we may become a stronger Association and continue to serve the people of this state effectively and compassionately.

Creation of the Morgenthau Award

On September 2, 2009, the District Attorneys Association of the State of New York (DAASNY) celebrated its centennial by honoring retiring New York County District Attorney Robert M. Morgenthau for his lifetime of public service with the creation of an award in his name.

The Morgenthau Award will be given annually to four assistant district attorneys who embody DA Morgenthau's sentiment, "The job of a prosecutor is not to obtain convictions like notches on a gun. The prosecutor's job is to protect the public and administer the laws."



DAASNY Creates New Fair and Ethical Administration of Justice Committee

At the DAASNY summer conference, the Board of Directors unanimously voted to implement a new committee, the Fair and Ethical Administration of Justice Committee, in order to thwart wrongful convictions and improve prosecutorial procedures. Spearheaded by Onondaga County District Attorney William

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William J. Fitzpatrick

Fitzpatrick, the Committee recognizes that DAASNY is particularly situated to provide a forum to address the issues raised by the rare wrongful conviction. The Fair and Ethical Administration of Justice Committee's mission is to promote the highest standards of prosecution by highlighting and evaluating best practices, disseminating and reviewing ethical issues, and assisting peer offices in the evaluation of difficult cases. The Committee is composed of 13 appointed district attorneys and their assistants from across the state and will meet bi-annually. Three subcommittees will meet on a regular basis and report back to the Committee: Best Practices and Procedures, Ethics, and Mutual Assistance.

To encourage innovation, the Best Practices and Procedures Subcommittee will share effective programs from around the state and examine practices in other jurisdictions to determine whether they would be successful in New York. The Subcommittee will review all proposals related to minimizing the likelihood of wrongful convictions.

Comprised of assistants from around the state, the Ethics Subcommittee will review and comment on opinions bearing on legal ethics, organize ethics trainings, analyze proposed rules and legislation, and make recommendations to DAASNY.

The Mutual Assistance Subcommittee is made up of experienced assistant district attorneys throughout the state who are available to assist in re-investigating any case in which a defendant has filed a post-judgment motion raising a colorable claim of actual innocence when that defendant remains incarcerated pursuant to the challenged judgment. Upon the conclusion of the re-investigation the designated assistant will report the factual findings to the District Attorney of the requesting county. A final report will be remitted to the Committee. If the investigation identifies issues that could inhibit the fair and ethical administration of justice, the Committee will refer these concerns to the Best Practices or Ethics Subcommittee for consideration and recommendation.

Until now, too much of the debate on wrongful convictions and actual innocence has been framed around an incorrect assumption – that wrongful convictions happen frequently. Indeed, when the New York State Bar Association Task Force on Wrongful Convictions examined the issue, over a 40-year period, 1973-2004, they could only find 50 defendants. Moreover, the report made no claim that all of these defendants were actually innocent. In this same time frame, there were 1,224,702 felony convictions in New York State. **Wrongful convictions made up 0.004082% of all convictions.**

The Fair and Ethical Administration of Justice Committee is just one way DAASNY is working toward improving procedures and making wrongful convictions even rarer than they already are. DAASNY, represented by President Kate Hogan, Warren County District Attorney, is also participating in the Justice Task Force, formed by Chief Judge Jonathan Lippman.

Spotlight On: Brooklyn ComALERT



In 1999, Brooklyn District Attorney Charles J. Hynes created the Community and Law Enforcement Resources Together (ComALERT) program to facilitate the re-entry of offenders from prison back into the Brooklyn community. Through grant funding, ComALERT provides a range of services to aid eligible parolees in their transition back into everyday life.

To be eligible, the individual must be under Parole supervision, have a history of substance abuse, reside in Brooklyn, and be willing to attend the program three times a week for substance abuse counseling, individual and group counseling, and employment placement services. Due to their unique issues, sex offenders and arsonists are not included.

Participants are closely monitored, they must submit to random drug testing and a parole officer is immediately notified of any violation of a program condition. Violations could lead to parole revocation, sending the offender back to prison, or sanctions such as more frequent drug testing.

ComALERT partners with a number of nonprofits to provide participants with health care, housing, and other needs. The Doe Fund's Ready, Willing, & Able program offers temporary employment to participants, giving them access to meals and a weekly stipend of \$200. The Ready, Willing, & Able program has a zero-tolerance policy for drugs. Participants are provided vocational training and job counseling to help them find steady employment.

A study done by the District Attorney's Office and Bruce Western of Harvard

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Check out the new and improved DAASNY web site at:

www.daasny.org

University revealed that recidivism rates for program graduates are significantly lower than general recidivism rates. Re-conviction and re-incarceration rates are 40% lower for ComALERT graduates than the comparison group.

Brooklyn's ComALERT highlights that district attorneys not only prosecute crimes, but do what is in their power to prevent them as well. Intervening to treat substance abuse and prevent re-offending has proven to be an effective means of breaking the cycle of recidivism.

More information can be found at:

<http://www.brooklynnda.org/ca/comalert.htm>