



Opening Arguments



Richard A. Brown

Remarks of Queens District Attorney Richard A. Brown 2010 Legislative Breakfast

This is the eighteenth year that we've had these breakfast meetings. They give me the opportunity to express my appreciation to each of you for the support that you've given to this office -- and the confidence that you've shown in us -- over the years. And it gives me, as well, the chance to talk to you about some of the things that we've accomplished during the past year -- and what it is that we can look forward to during the year ahead.

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Let me start by giving you a brief overview of some of our newest initiatives.

Innovative Approaches To Dealing With Drunk Driving

The Queens DWI Treatment Court for those who are charged with driving while intoxicated was the first of its kind in New York City. Since it opened in 2006, 155 defendants have participated in the program. A recently released study examining the effectiveness of the court has given it high marks. It found that the court offers a successful alternative to prison for first time felony DWI offenders. Offenders receive intensive substance abuse treatment leading to an extremely low rate of recidivism.

In addition, as of December 1, 2008, every felony DWI defendant that takes a treatment court plea in

Queens County has been required, as part of his or her sentence, to wear a monitoring bracelet for a minimum of 90 days. The monitor, called SCRAM (Secure Continuous Remote Alcohol Monitor), checks whether an individual has elevated alcohol levels by evaluating sweat gland secretions. Some DWI defendants are also wearing a GPS monitor so that we can determine whether, for example, they are attending required treatment programs. A sliding payment scale is available for those defendants who have difficulty paying the monitoring fee.

Only weeks ago, Queens County had its first arrest under the newly enacted Leandra's Law which makes it a felony to drive drunk with a child under 16 in the car. In our case, a 12 year old was present in the car while the intoxicated driver was traveling at 80 miles per hour. Additionally, the new law mandates the use of ignition interlock devices by all drivers convicted of DWI offenses which will be very helpful.

Family Justice Center

One of the initiatives of which we are most proud is our Family Justice Center which opened in July of 2008 and which offers a host of services and support to victims of domestic violence and their families. The Center is located in the building that

used to be occupied by the Probation Department on the Borough Hall side of the Courthouse. Our Domestic Violence Bureau is now located in the Center, together with nineteen City and non-profit agencies that offer counseling and support services in one safe, comfortable and user friendly location.

The Center is designed to make it easier for victims of domestic violence to get all of the support and assistance that they need in a welcoming and sensitive environment. For Queens residents, the Center has case managers who speak many languages and represent many cultures. The doors of the Center are open to all regardless of immigration status.

Since it opened, over 5,300 clients have visited the Center. In addition, over 1,100 children have accessed Margaret's Place -- the child friendly waiting area funded by a grant from the Joe Torre Safe at Home Foundation and named after Joe Torre's mother who was a victim of spousal abuse. The families that have accessed the Center receive case management, counseling, civil legal assistance and other services. A substantial number of the client visits (about 30%) were directed to our office's Domestic Violence Bureau for assistance in pursuing a criminal prosecution. Civil legal assistance is also available to victims in the area of family and immigration law regarding issues including child custody, support, divorce, visa information and employment authorization.

Child Advocacy Center

The Family Justice Center complements the Queens Child Advocacy Center on Queens Boulevard. The Child Advocacy Center continues to be a great success. Hundreds of joint interviews were conducted at the Center last year sparing physically or sexually abused children from repeated traumatic interviews by multiple agencies. And children needing physical or gynecological examinations received sensitive and expert medical services from our resident physician from LIJ/North Shore. Children and families in crisis were guided to appropriate counseling and

treatment services and strong cases were built for criminal prosecution. Our partners on the local, state and federal level who have helped make the Center a reality and provide critical support to sustain it deserve our praise.

Electronic Monitoring

In addition to SCRAM monitoring for DWI defendants, another program -- Operation Exclusion Zone -- utilizes electronic monitors in domestic violence cases. Specially screened defendants convicted of domestic violence are required to wear electronic ankle bracelets as a condition of the disposition of their cases. The GPS monitoring device is used to track the offender's movements and alert authorities and victims if they fail to remain a prescribed distance from their victim. The distance is specifically tailored for each case and is spelled out in the order of protection issued by the court -- copies of which are given to both the victim and the abuser.

If an abuser crosses into a prohibited zone, an alert is transmitted to the monitoring company which alerts the victim via a cellphone text message and calls 911 to send police to arrest the offender. Pursuant to a special arrangement with the Police Department, cases participating in the program receive a very prompt response to the GPS alert. The police precinct in which the victim lives is also provided with information about the domestic violence case, including a photograph and physical description of the offender. At the same time, an employee of the monitoring company remains on the phone and gives the 911 operator real time information on the offender's whereabouts.

So far, a little more than a dozen individuals have been fitted with the bracelet, one of whom violated the order. An alert was quickly sent. That individual was arrested and charged with criminal contempt. We hope that this program will help put teeth into our orders of protection -- which have long been considered mere pieces of paper -- as

offenders become aware that we really do know where they are .

Domestic violence defendants may also wear the GPS monitor to insure they are attending required anger management or substance abuse treatment programs.

Both SCRAM and Operation Exclusion Zone operate at virtually no cost to taxpayers because the defendants themselves are required to pay for their participation -- \$15 a day for a GPS monitor and \$11 a day for an alcohol monitor.

Videotaping of Interrogations

In July of 2007, we started a pilot project to conduct pre-arraignment videotaped interrogations of defendants charged with certain felonies. The interviews are conducted by investigators from our office or by assistant district attorneys in a room in Central Booking. The entire interrogation is videotaped from beginning to end - -and the defendant decides whether to speak to us knowing that the interrogation is being videotaped. A copy of the videotape is given to defense counsel at arraignment.

To date, the results of the program -- in which more than 4300 interviews have been conducted -- have been very positive. We have been able to obtain statements from defendants who were never questioned by the police -- or who did not provide detailed statements to the police. In some cases, these statements have helped to quickly resolve the case. In others, they have allowed us to better assess the strength of our cases -- and to make appropriate plea offers. And in some instances they have helped us to quickly exonerate individuals who have been mistakenly arrested.

Gun Buyback Program

Last February, we conducted a highly successful gun buyback program in St. Albans, Jamaica and the Rockaways in partnership with the NYPD and

six local churches. A record 919 weapons were taken off the streets and out of circulation. Among the weapons recovered were more than 500 pistols, assault weapons and sawed off shotguns.

Protecting Immigrants

Because Queens County is the most diverse county in the nation, we make a special effort to protect people who are new to this country and may be more vulnerable to deception and fraud. Only last week, we obtained a felony conviction against a Queens man who scammed more than 100 immigrants -- primarily from the Ecuadorian community -- of more than \$50,000 by promising to help them get US visas, permanent immigration status and other immigration documents on an expedited basis.

In September, we brought charges against a man who posed as a federal agent and defrauded nearly a dozen members of Queens County's West Indian community out of more than \$1 million. The defendant is alleged to have promised to assist his victims in obtaining "federally seized" properties at cheap prices or in gaining legal status in this country.

Mortgage and Real Estate Fraud

Not surprisingly in light of our national financial crisis, mortgage and real estate fraud continued to be a significant problem here in Queens in 2009. Our Economic Crimes Bureau has been faced with many new cases -- 286 complaints last year alone. Many of the victims of mortgage and real estate fraud are elderly. These are difficult and complex cases that require a significant investment of time and effort.

Here are just a few examples of mortgage fraud cases prosecuted in 2009. In one case, a Queens resident came to law enforcement when she received notice in the mail indicating that a mortgage of \$589,000 had been filed in her name and that a monthly payment of \$5,000 was due. An investigation revealed that a loan officer had stolen her

identity using information that the victim had provided in a prior loan application in order to help a realtor purchase a house for someone else with a poor credit history. The loan officer was convicted of several felonies.

In another case, a woman stole hundreds of thousands of dollars from a 93-year-old man with Alzheimer's disease by fraudulently refinancing a property that he owned in Bayside to steal its equity and by using a "straw buyer" to steal his primary residence in Jamaica. Because the defendant intentionally targeted the elderly, we were able to enhance the case under our State's Hate Crimes statute.

In a third case, a St. Albans man was convicted of stealing the identity of a 68 year old man who had been disabled as a result of a stroke. He then used a fraudulent power of attorney to steal his house out from under him and pocket the profits.

In addition to mortgage fraud, other types of frauds and financial crimes have mushroomed in both number and scope including identity theft, financial exploitation of the elderly, telemarketing scams, credit card fraud, counterfeit check fraud, trademark counterfeiting, and money laundering. Our Consumer Fraud Unit received close to 1300 telephone calls and walk in visits from individuals and businesses who were victims of a variety of scams in year 2009 alone.

We address these financial crimes both by individual case prosecutions and through long term investigations. In May, for example, after a 21 month investigation, our office and the New York City Police Department announced that an international forged credit card and identity theft ring had been successfully dismantled using New York's Enterprise Corruption law. Forty-five individuals were charged with having been responsible for stealing the credit cards and personal credit information of thousands of American and Canadian consumers, costing those individuals, as well as financial institutions and retail businesses, more than \$12 million in losses.

Expanded Alternatives to Incarceration/ Veterans' Services

Our office's broad array of alternative to incarceration programs and specialized courts continues to expand. We are currently, for example, in the planning stages of an initiative to offer specialized substance abuse, mental health and other services to veterans and their families within our existing treatment courts. Our experience has demonstrated that individuals returning from military service may have undiagnosed mental health and substance abuse problems that can contribute to their involvement in criminal activity. This new initiative will help to identify and address those issues and, hopefully, enable those who have served our country to return to law abiding, productive lives.

In addition, our two relatively new Mental Health Courts -- for misdemeanor and felony defendants -- continue to perform well. To date, 121 individuals have been accepted into our felony mental health court program and 137 into our misdemeanor program. However, the lack of sufficient mental health services and, particularly, housing for mental health court clients presents a serious obstacle to reaching the full potential of this court.

Human Trafficking/Internet Crimes Against Children

This past December, our office obtained the first conviction in the State under New York's new human trafficking statute. Another sex trafficking case is pending. In addition, our office continues to use the existing promoting prostitution statutes aggressively to prosecute pimps, particularly those who utilize underage girls -- sending three of these pimps to State prison for exploiting 13, 14 and 15 year old girls, respectively. We led the State last year in the number of prosecutions under the promoting prostitution statutes. Another area in which we have been especially active is prosecution of internet crimes against children.

Those are just a few of the newer initiatives that we have implemented in the last few years. They join a host of other innovative programs and initiatives that we have put in place over the years including our felony gun court; our specialized gun trafficking investigative initiatives; Operation Spotlight targeting misdemeanor recidivists; our Elder Abuse Project which provides social service assistance to elderly crime victims and our Elder Fraud Unit which prosecutes crimes involving financial exploitation of the elderly; our felony and misdemeanor drug courts; the Crimes Against Revenue program; Operation Guardian which targets child exploitation; a fugitive enforcement program which targets bail jumpers; our STAR TRACK school anti-violence program and other youth violence prevention initiatives; and our specialized DNA-based prosecutions for sex crimes, burglaries and other crimes.

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Next, let me talk for a moment about some of our accomplishments of last year.

Driving Down Violent Crime

2009 was another year in which we made significant progress in our effort to continue to lower the level of violence in the county and improve the quality of life of those who live and work here.

Crime continues to decline in Queens County. Homicides dropped last year from 95 to 80. To put that decrease in perspective, homicides were at a high of 361 in 1991 when I became District Attorney. They have declined dramatically since -- 78% since 1993 -- and have remained under 100 for the last 4 years. Homicide numbers have not been this low since the late 1960's.

Index crimes in Queens last year decreased by 10.2 %. Those numbers include both violent crimes and burglaries and grand larcenies. Since 1993, index crimes in Queens have declined an

unbelievable 78 %. Violent crimes have decreased by 70% during the same period.

One reason violent crime continues to decrease is that we continue to be vigilant in keeping the pressure up on what we see as some of the contributing factors to violence -- gang activity, drug trafficking and the proliferation of guns.

Aggressive Prosecution of Gun Crimes

In addition to our Gun Buyback program, we are taking full advantage throughout the borough of recent State legislation increasing the penalty for possession of a loaded firearm. We aggressively prosecute and target repeat offenders. Our success in this area is reflected in the fact that Queens County has the highest conviction rate in the City for gun possession.

In addition, in October, a nine month gun trafficking investigation led to the indictment of members of an illegal firearms ring that sold handguns, shotguns and ammunition to undercover police officers. The weapons purchased here had been transported from Virginia. The weapons sold for about \$1000 each. Investigations such as these get weapons off the streets, and keep them out of the hands of criminals.

Long Term Investigations

Our Investigations Division conducts long term investigations utilizing court ordered electronic surveillance and other sophisticated investigative techniques. In 2009, these investigations helped to dismantle many criminal enterprises that preyed on Queens communities.

For example, several major narcotics trafficking cases brought down drug gangs operating in the Queensbridge Houses in Long Island City, South Jamaica Houses and three Far Rockaway housing complexes: Ocean Bay Houses, the Beach 41st Street Houses and the Ocean Village development.

A number of the drug sales were made in close proximity to schools - PS 40 in Jamaica, MS 33 in Far Rockaway and the Western Queens Nursery School in Long Island City. In some instances, undercover officers purchased guns along with drugs.

In May, a nine month investigation of an auto theft ring that was stealing high end automobiles from dealerships in Jamaica, Woodside, Bayside, Corona, and Whitestone as well as Long Island, Brooklyn and New Jersey lead to the arrest of eight individuals and put that ring out of business. The constant pressure of operations such as these has been part of the reason why auto theft has dropped so dramatically in Queens.

A series of investigations into lucrative sports betting rings operating in Queens and across the nation that took in millions of dollars in profits resulted in the indictment of the ringleaders on gambling, money laundering and enterprise corruption charges.

Other investigations last year resulted in indictments in cases involving organized crime, insurance fraud, crime at our airports, credit card fraud, identity theft, money laundering, financial exploitation of the elderly and all sorts of other types of criminal activity.

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As many of you have heard me say in the past, I am extremely proud of the talented and dedicated men and women with whom we work -- men and women who work extremely hard to make this county a safe place in which to live and work. Significantly, over 50% of our assistants have been with us over 10 years, 55% are women and over one quarter are minorities. Minorities constitute 43% of our detectives, paralegals, secretaries and other support staff.

As noted, our Investigations Division continues to conduct important long term investigations.

Our Legal Affairs Division oversees the many training and continuing legal education programs that

help our assistants hone their legal skills and keep up to date on new developments in the law. And the Division includes our Appeals Bureau which provides legal guidance to assistants throughout the office, defends our convictions in state and federal courts and responds to a vast array of post-conviction motions and proceedings.

We have no appellate backlog. Our office has argued in our appellate courts some of the most significant cases in the State. We are in the Federal Courts on a regular basis; we have argued before the United States Supreme Court -- and our judges continue to praise our professionalism.

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Our Major Crimes Division includes our Homicide Investigations and Homicide Trials Bureaus, our Special Victims Bureau, which handles all sexual assaults, child physical and sexual abuse and crimes against the elderly, and our Domestic Violence Bureau. They work on some of the most violent and most challenging cases we see, including many high profile cases.

Our Trial Division is responsible for the vast majority of the office's prosecutions from the thousands of misdemeanors to felony gun cases, burglaries, robberies, gang violence, narcotics, and the prosecution of career criminals.

The assistants in our Major Crimes and Trial Divisions bring to their work great skill and talent, extraordinary dedication, and compassion and sensitivity for crime victims and their families. The slides playing before you highlight many of the cases successfully prosecuted by the Trial and Major Crimes Divisions.

And many of you are familiar with the important work of our Special Prosecutions Division which runs a host of crime prevention, school based, and community outreach programs, attends all of our precinct council and community board meetings,

provides speakers for schools, community groups and town hall meetings, coordinates our many advisory councils, and so much more. The slides that you see on the television screen at the end of the room also highlight the Division's ongoing initiatives.

Prosecuting Cases With Efficiency and Professionalism

Last year we handled 76,745 arrest cases here in Queens -- up over 80% since 1993. We take particular pride in the expeditious fashion in which we process those cases.

Queens County once again last year had the best arrest to arraignment time in the City -- 20.87 hours. The citywide average was 25.39 hours. We have the highest percentage of cases arraigned within 24 hours. We arraigned 74.65% of our defendants within 24 hours last year. The citywide average was 55.15%. Our arrest to sworn complaint time was 8.04 hours -- well below the Citywide average of 10.22 hours. That means that those accused of crime in Queens spend as little time as possible in detention before they see a judge -- and that we get our police officers back out on the street more quickly to do their jobs rather than having them hanging out in courthouse corridors.

Queens County also has the lowest felony complaint dismissal rate and the lowest indictment dismissal rate in the City. We have the highest felony conviction rate in the City.

Queens County convicts 20.0% of the City's violent felons and of all the City's convicted violent felons who go to State prison, 24.5% come from Queens County.

We have reduced our Supreme Court caseload over the past 13 years (since our plea policy was implemented) by almost 52% -- from 3,300 down to 1,700; misdemeanor pleas in Supreme Court are down from 13% to 2%; and we have returned 16

criminal trial parts to the Supreme Court for use as civil trial parts; and

Our Domestic Violence Bureau has the highest conviction rate in the City; it has the lowest dismissal rate; and it takes more pre-indictment felony pleas than the rest of the City combined. We are extremely grateful for the Federal Violence Against Women Act funding which supports our Domestic Violence Bureau and the incredible work they do.

Last year our office drafted 889 search warrants and our assistants attended and supervised 422 lineups in police precincts across the county. Our assistants responded to 280 crime scenes, police precincts and hospitals in 2009.

We continue to be a national leader in the number of court-authorized wiretaps that we do. According to the most recent wiretap report, Queens County did over 10% of the wires in the entire country -- more than any other jurisdiction except Los Angeles. And, significantly, we've never had any one of our wires controverted.

Challenges Posed By Repeated City, State and Federal Budget Cuts

The major challenge that our office faces today is the combination of repeated -- and substantial -- City, State and Federal budget cuts that we have suffered in recent years -- and are continuing to suffer -- as a result of our national, State and city fiscal crises. In the upcoming fiscal year alone, we face potential new cuts totaling close to 17% of our current operating budget. These come on top of the devastating series of cuts imposed since September 11, 2001 -- cuts that have -- in spite of the efforts of many of you in providing us with new funding -- never been fully restored.

Let me give you some sense of the gravity of our situation.

On the City level, during this current Fiscal Year

(2010), we initially took baselined budget reductions of 3.68% and 5 % and 2% – totaling \$3.7 million. As a result of extensive negotiations and a series of new cost saving initiatives, however, we were able to offset these cuts --- but for one year only. That means that these cuts will reappear in our FY 2011 budget -- and beyond -- along with an additional .5% baselined cut -- amounting to close to \$170,000 -- enacted, as well, during this fiscal year. On top of that, this last month we were told by the Mayor's Office of Management and Budget to submit a proposal to meet possible additional reductions of 4% or \$2.1 million non-baselined in FY 2010 and 8% or \$3.8 million baselined in FY2011.

Overall, this newest round of proposed reductions would represent a staggering 17% or \$7.8 million dollar further cut to our current operating budget in FY2011 alone. This would be in addition to an overall loss of \$7.4 million we took in city funding between September 11, 2011 and FY2009 – monies that, to date, have never been fully restored – even with your efforts to provide some restoration and new initiative monies.

And last year, even the City Council funding of close to \$540,000 that you have been providing since FY2004 to help offset some of these cuts, was reduced by close to 50% -- down to \$258,000.

And while the City has provided us with some new stimulus monies which we intend to use over the course of FY2011 and FY2012, these monies only replace a small fraction of what we have lost overall.

On the State level, the news is similarly troubling. We are told, for example, to expect steep additional reductions in our State Aid to Prosecution funding. This would follow two separate 6% reductions enacted in both State FY 2008-2009 and FY 2009-2010. In the past two years, state cuts, coupled with reductions in Federal Justice Assistance grants and other Federal and State funding cuts, have already cost us over \$1.0 million dollars. And these cuts follow five previous

cuts that we received in State Aid to Prosecution monies during the Cuomo and Pataki years - which cost our office close to \$1.5 million dollars.

I am, of course, mindful of the extraordinary fiscal challenges that state and local government face today and remain committed to doing our fair share to help address New York's budgetary problems. But these proposed cuts, if implemented, will have a devastating impact upon the day to day operations of this office.

It is penny wise and pound foolish from my point of view to attempt to remedy the situation by cutting public safety dollars to the point where our ability to maintain the gains of the last decade is in jeopardy. We have accomplished a great deal -- and I don't want to see us move backward.

As a result of all of our previous cuts -- City, State and Federal -- we have been forced to substantially reduce costs just to maintain our core functions -- things such as case intake, hearings, trials, appellate litigation and our highly specialized investigative initiatives. And yet arrests remain high. As noted, since 1993, arrests are up over 80 % -- from about 42,500 in 1993 to more than 76,000 last year. And new trends such as the proliferation of real estate and mortgage fraud require additional attention.

All of this is terribly frustrating. We have demonstrated time and time again that given the necessary resources we can produce dramatic results -- both in attacking specific crime problems and in reducing overall crime. It is agonizing to consider having to abandon programs that we know work well and that increase efficiency and save money. You have heard me describe many of them today.

And so, once again, we ask for your help. We need restoration of the cuts that we have suffered. And beyond that, we need you to work with us to help provide the resources necessary to allow us to continue to do our job in the manner in which the

residents of Queens County deserve . With your help, I trust that we will be able to continue to reduce the level of violence within our county, improve the quality of life of our residents -- and to do justice in the prosecution of our cases.

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