

# 2019 ANNUAL REPORT OF THE GREENE COUNTY DISTRICT ATTORNEY

## Mission Statement

The Greene County District Attorney's Office is committed to the prosecution of Criminal Offenses in a professional, efficient and ethical manner so as to enhance the safety and security of the citizens of Greene County

## I. Staff and Functions

Staff: 5 ADA's, 1 Investigator, 1 Victim Advocate/Legal Secretary, 1 Legal Secretary, 1 Paralegal & 1 Confidential Secretary.

Members of my office appear in the Greene County Court as well as the 16 justice Courts on a daily basis prosecuting Felonies, Misdemeanors, Violations and Traffic Offenses.

Court appearances involve participation in Identification hearings, Probable Cause hearings, Suppression hearings, Violation of Probation hearings, Felony trials, Misdemeanor trials, Sex Offender hearings and many other types of proceedings.

Members of my office closely work with the **11 police agencies** that serve Greene County. They include **New York State Police, Greene County Sheriff's Office, Catskill Village Police Department, Athens Village Police Department, Cairo Police Department, Coxsackie Police Department, Durham Police Department, Hunter Police Department, Windham Police Department., Department of Environmental Conservation & Department of Environmental Protection.** My staff is available 24/7 to assist these agencies during their investigation of criminal activity in Greene County. We are also available 24/7 to take calls from law enforcement seeking input on such issues as: bail recommendations, research on legal questions, questions as to whether a search warrant is required, whether blood can be taken from an unconscious person under certain circumstances, whether evidence needs to be sent to a Lab for DNA or fingerprint processing, whether further investigation is required before an arrest should be made, etc.

My staff also conducts Grand Jury proceedings. Grand Jury is held on nearly a weekly basis. These proceedings require meetings with witnesses of crimes, victims of crimes, investigators, expert witnesses; (such as computer crimes; social workers; accountants; scientist and forensic pathologist) and police officers for purposes of gaining a thorough knowledge of each case and for preparing witnesses to testify.

## II. Moving Forward With Paperless Files

In keeping up with the times my office has taken the initial steps to work with “paperless” files. In essence, in the near future I expect that all files will exist in our computer system, and not in a “file cabinet”.

To accomplish this, in the summer of 2019 high quality “**encrypted**” laptop computers were purchased for myself & all ADA’s. The cost of these quality computers was paid for using money seized from the arrest of drug dealers in conjunction with “Stop DWI” money donated by our Stop DWI coordinator Sheriff Greg Seeley. No County money was used to pay for this equipment.

All of our police agencies have agreed to forward legal documents to my office by way of email, as opposed to hand delivering paper documents. For this reason my office is able to create an electronic file in our computer system for each criminal file.

Each laptop now contains every criminal file that exists in our office. Now, rather than carrying a box load of files into Court my staff & I need only take a single laptop & a law book into Court.

Today’s computers are so user friendly that my staff & I are easily adapting to their use; & we do not miss lugging around large bulky paper files.

## III.

### NEW DISCOVERY LAWS TRAINING LAW ENFORCEMENT ASSISTANCE OF ALL 1<sup>ST</sup> RESPONDERS

Commencing January 2020 new Discovery & Bail laws became effective. The discovery rules mandate that DA’s provide vast amounts of material to defense attorneys within a very short period of time (20/35 days). This change places **tremendous demands on the manpower & resources of the District Attorney’s Office**. Without the use of laptops & electronic files it would be nearly impossible to comply with the new rules.

Throughout the year monthly “Police Chiefs” meetings are held. During the 2019 meetings I held a Power Point Presentation setting forth the discovery materials that are required to be turned over to defense counsel. Together my office and the Police Agencies created a procedure for gathering, delivering, testing & turning over evidence in such a manner as to effectively & expeditiously comply with the new rules.

It is with the cooperation, assistance & organized process of our Police Agencies & 1<sup>st</sup> Responders that we were able to meet the requirements of the new laws before the effective 1/1/20

date. Unlike many other counties we were well ahead of the curve. Many thanks to our Greene County Officers, 1<sup>st</sup> Responders & local State Police.

#### **IV. NEW BAIL LAWS**

Bail reform was another huge change during the 2019 year. Under the new law effective January 2020, many crimes were classified as “**NON-QUALIFYING OFFENSES**”, offenses for which an individual cannot be incarcerated prior to a conviction.

My office provided training to officers with respect to the new laws. Such training was necessary as the incarceration of an individual for an offense that is now classified as “**NON-QUALIFYING**” could result in civil liability to the County or local Police Agency. My office will do what it takes to protect our County & Police Agencies from such liability.

#### **EFFECT OF COVID-19**

**COVID-19** has created a need for social distancing. The effect is that upon the reopening of the Courts only a limited number of people will be allowed into the Courtroom at one time (ie: limited blocks of people each hour). As a result, the court sessions will be extended over a greater period of time thereby creating a demand for more ADA hours spent in the courtrooms, and less time in the office. For this reason a plan will have to be created in order to comply with new Discovery laws due to the fact that fewer staff are able to be present in the office to do the work.

#### **V. RAISE THE AGE**

As of 10/1/19 both 17 & 18 year old persons who commit crimes are considered “**Adolescent Offenders**”. This means that most of these cases will be prosecuted in “Family Court”, as opposed to “Criminal Court”.

These new laws were studied & reduced to a Power Point. I presented this Power Point to the various Law Enforcement agencies serving Greene County.

#### **VI. RED FLAG LAW**

Under the relatively new “Red Flag Law” certain qualified persons may bring to the attention of a Superior Court Judge his/her concern over a person possessing firearms of various sorts. Certain school officials are qualified to engage in this process. During the 2019 year my

staff studied this new law and its processes. These laws were also reduced to a power point. I presented this Power Point to Greene County School Officials at the Greenville High School.

One such Red Flag Law application was filed. The matter proceeded to a hearing before our County Court Judge, Honorable Terry Wilhelm. Upon the completion of the hearing the subject was precluded from possessing a firearm for a designated period of time. It should be noted that the person himself agreed that it would not be safe for him to have such a weapon.

## **VII. TRIALS**

2019 began with the commencement of a murder trial. The victim was Brandon Foster who went missing 1/27/17. His body was thereafter located in February 2018. An autopsy revealed that he was shot to death. His body was then buried in a crawlspace under the bedroom of his ex-girlfriend's home. Three persons were arrested in conjunction with this crime.

Carlos Graham was the 1<sup>st</sup> to be tried as evidence established that he shot Brandan Foster thereby killing him. Although Graham alleged self-defense, a jury of his peers voted with the prosecution by finding him Guilty of Murder and related crimes. Graham was sentenced to 25 to life plus 10 years.

The remaining 2 persons charged with related offenses were convicted of Felonies & sentenced to prison as well.

The completion of the Foster Murder trial rolled into yet another Murder case for my office. An inmate at Greene Correctional facility named Delmuth Tanner died. It is alleged that he was strangled in his cell by his roommate Anthony Paradise. During the 2019 year my office devoted numerous hours to the investigation, organization & delivery of discovery materials to defense counsel in preparation for a trial in this case.

Although a trial was scheduled for October 2019, the case was delayed so that a Psychological evaluation could be conducted upon the defendant. The trial is further delayed due to our Justice System being placed on "Pause" as a result of the Covid-19 Pandemic.

## **VIII. STUDENTS/INTERNS/JOB SHADOW**

Columbia & Greene Counties have many gifted high school & college students who are passionate about their desire to serve the community either as a police officer, prosecutor or defense attorney. We also have some of the most talented school teachers & professors teaching our students.

April 2019 marked the Greene County District Attorney's 3<sup>rd</sup> year of partnering with Quest Star & Columbia Greene Community College by having their students either "Job Shadow" or "Intern" in our office. In doing so these students appear in Courts with members of my staff where they watch hearings & observe arguments on legal issues. In addition, they appear at Court conferences which are held in the Judge's Chambers. It is through these conferences that they actually observe the "behind the scenes" handling of a case between the Prosecutor, Defense & the Judge.

Students learn much from their physical presence at live proceedings. I have been impressed by each & every one of my interns & job shadow students.

## **IX. YOUTH COURT**

Youth Court is a program now being utilized in Greene County. It is a program overseen by Greene County Community Action. The way it works is that in certain cases in which a teenager is accused of a crime, I will refer the case to Youth Court. The person accused will then have a trial before a local court judge. There will be a Prosecutor, Defense Counsel & Jury all of whom are made up of high school students.

Upon completion of the proof a verdict of Guilty or Not Guilty will be rendered. If Guilty the judge will impose whatever sentence he/she deems appropriate (not jail). These sentences have included restitution, an apology, community service & other such dispositions.

The youth court process has been impressive and has had a positive effect on all those involved. It is a program that is reserved for less serious offenses committed by persons who do not have a history of crime. Completion of the youth court process results in a withdrawal of the original charge.

## **X. DRUG OFFENSES**

### **a. Goals**

The District Attorney's Office was involved in numerous drug investigations and prosecutions this past year. We continue to focus on identifying those responsible for the distribution of illegal drugs in our communities, as well as identifying those who are struggling with drug addiction.

### **b. Drug Dealers**

My policy continues to allow little tolerance for **drug dealers**. For this reason my office goal is to secure a conviction and State Prison sentence for those who deal drugs in our community.

My office has secured numerous convictions of drug dealers over the past year. Numerous dealers were sentenced to State Prison.

### **c. Substance Abusers**

Over the past few years we have learned that many people have become addicted to opioids as a result of work related and sports related injuries. Due to these injuries they were prescribed opioid medications which resulted in an addiction. Once the prescription medication was terminated, some of those who became addicted turned to the street to purchase illegal opioids (such as pills or heroin) to eliminate their pain and satisfy their addiction.

Within the past few years our local medical professionals recognized this problem and have taken extreme steps to protect their patients from becoming addicted. This includes prescribing a one week supply of opioids at a time as opposed to a month supply; or prescribing pain management where appropriate instead of medication.

With respect to individuals who are charged with Criminal Possession of a Controlled Substance my office goal is to get them into treatment and onto the road of recovery.

## **XI. Drug Court**

**Drug Court** is a well-structured and vigorous program that entails “**Treatment**”, in conjunction with “**Probation Supervision**”, in conjunction with weekly meetings with our Drug Court Judge, **Honorable Charles Tailleux**.

Drug Court in Greene County is an alternative to incarceration for those defendants who are charged with crimes, have a non-violent criminal history, reside in Greene County, who are addicted either to substance(s) or alcohol and demonstrate a desire to lead a sober lifestyle. They are, by and large, county residents who likely would not been involved in our criminal justice system if they were sober. Our Drug Court provides an opportunity for defendants to achieve goals that they might have accomplished had they not suffered an addiction.

Time has proven that the success of Drug Court; namely, maintaining sobriety, not being rearrested and moving forward in life, far exceeds the success of those offenders who have not participated in Drug Court.

This success is undoubtedly due in part because of a screening process prior to admittance into Drug Treatment Court, but also because the program holds participants accountable through an immense amount of oversight and structure within and outside of the Court.

Participants are required to be evaluated by state certified mental health professionals, as well as alcohol/substance abuse professionals, to sign necessary releases, and to comply with all recommendations of professionals in order to graduate from the program.

Participants are also required to attend at least 3 ‘self-help’ meetings, typically AA, each week, and to call a 1-800 number every morning to see if they have been randomly chosen to subject themselves to an observed alcohol/drug test that day.

Participants are required to appear in County Court regularly during their time in Drug Court (Drug Court has 3 phases, the program lasts between 12 to 18 months). In phase 1 the participant appears in Court every week. Phase 2, every two weeks. Phase 3, every month. Participants in phase 3 are required to complete 25 hours of community service prior to graduation.

All participants in Drug Court are supervised by our County’s Department of Probation, where they are subjected to random home visits, random searches of their person and belongings, and random drug and alcohol screens in addition to those conducted at their treatment facility.

### **Drug Users Who Re-Offend**

Those participants who fail to comply with the requirements above are sanctioned by the Drug Court Team. The Team is composed of the County Court Judge, an Assistant District Attorney, the state’s Drug Court Coordinator, an Assistant Public Defender, a Probation Officer, a Greene County mental health counselor, and a State certified counselor from Twin Counties. This team meets every week to discuss the progress of every drug court candidate, and discusses the range of sanctions most appropriate for a violation of the Drug Court Rules. Sanctions are swift, and graduate in range from a verbal reprimand, to writing essays, to performing community service, and to serving jail time.

In the occasional case in which a participant fails out of Treatment Court he/she is exposed to being sentenced up to the maximum jail time allowed offense he/she plead to. If sentenced to State Prison, their sentence usually includes “**Shock Incarceration**”. This means that the prison sentence includes a vigorous physical regimen together with a program of intense substance abuse counseling. Success of this rigorous program could result in an early release to parole supervision.

Fortunately, most participants do graduate and participate in a graduation ceremony, which is held at the County Courthouse. The graduates are recognized and lauded by the Judge and Team before the community at large, friends, and family for their achievement and progress. Many a graduate have referenced in their commencement speech how thankful they are that they were arrested and given the opportunity of Treatment Court, and how different their life is now as a result. The presence of many post-graduates and community leaders in the audience at our commencement reflects the strength of Greene County’s Drug Treatment Court Program.

## **XII. Drug Investigations**

My office continues to be directly involved in “undercover drug buys” through the use of various “Confidential Informants”. This process has resulted in arrests of numerous drug dealers, most of which resulted in significant drug prosecutions and sentences.

The investigator in my office continues to devote extensive amounts of time and effort to the investigation and prosecution of illegal drug cases. His work entails working in the field with the Greene County Sheriff’s Office, New York State Police, & local police agencies. This includes setting up & completing “Controlled Buys” of drugs, completing paperwork, writing & executing Search Warrants, etc.

It should be noted that “Drug Dealers” do not have 9:00 AM to 5:00 PM hours, This means that in addition to working in the office, my investigator is in the field working on drug cases during weekends, late night hours & early morning hours. In addition, he is out executing Search Warrants when the need arises, which is at all hours of the day & night.

Our progress would not be possible without the extensive time and effort that our own investigator devotes to these cases.

It has been said that due to our intense focus on drug investigations Greene County does not suffer a high degree of gang violence, or violent crime in general as seen in our adjoining counties.

My office is committed to fight the war on drugs, and I will continue to devote my office resources to prosecuting drug dealers in order to keep drugs off our streets and away from our schools. At the same time I will continue to work to identify “**drug users**” so that we can get these individuals into appropriate treatment programs with a goal of having them once again become productive members of society.

## **XIII. Violent Crimes**

It is my policy to take a tough stance against “Violent Criminal Behavior”. When criminals display violence against citizens of our communities I believe it is necessary to remove these criminals from society in order to protect the citizens of Greene County.

During the 2019 year my office has handled such violent crimes as Murder, Burglaries (Home invasions), Robberies, Felony Assaults, Possession of loaded weapons, and other such offenses. In addition, during the 2019 year my office devoted numerous hours to the investigation and trial preparation of the murder of an individual named Delmuth Tanner. A trial is expected to be scheduled later this year.



We also devoted much time & resources to the prosecution of a man from Columbia County named Raymond Adrian who engaged in a violent unprovoked attack upon one of our County residents. Once again “Substance” abuse is seen as the basis of the violence. This person was convicted after trial and will be sentenced later this year.

My staff and I will continue to zealously prosecute and seek harsh Prison sentences for Violent Felony Offenders.

#### **XIV. Weekly Meetings**

I continue to hold weekly staff meetings. These weekly meetings continue to be of tremendous value as our panel of attorneys review complex criminal cases. Our collaborative efforts continue to result in powerful strategies for the prosecution of such criminal cases.

#### **XV. Substance Awareness/Victim Impact Panel**

I continue to follow the policy that I imposed when I took office requiring **all persons** charged with an alcohol or drug related offense to attend a “Victim Impact Panel”. The “VIP” is a 2 hour program during which attendees hear from a panel of speakers that include:

- (a) People who have served serious sentences as a result of substance related offenses (they discuss how their crime has impacted their lives as well as the lives of their family and friends);
- (b) People who have been seriously injured or who have lost a loved one due to an alcohol or drug related offense;
- (c) Members of the Greene County Sheriff’s Office;
- (d) Members of the Greene County Probation Department;
- (e) Members of the Greene County District Attorney’s Office; and
- (f) Members of the New York State Police

This program is sponsored by the Greene County Probation Department, Greene County Sheriff Office & the Greene County District Attorney’s Office. Our Probation Department selects speakers who are appropriate to deliver a message to participants. Their selections have been excellent as their messages have been very powerful.

During the 2019 year, three Victim Impact Panels were held, with between 80 – 110 persons in attendance at each panel.

Although “education” is the goal, an attendance fee is charged, which results in a contribution to the STOP DWI Program. These funds are used for both education and

prosecution of DWI and DWAI Offenses. Education, however includes the “Four D’s” offenses: Drunk Driving, Drugged Driving, Distracted Driving and Drowsy Driving.

### **XVI. School Involvement in Substance Awareness**

The Greene County Sheriff’s Office, Greene County Probation Department and Greene County District Attorney’s Office continue to work together to present the Victim Impact Panel to our schools. Our goal is to hold a Victim Impact Panel in each of the school districts each school year.

Each year Catskill High School stages the reenactment of a DWI crash scene. Much time & effort is devoted to this reenactment, with participation by CHS, Catskill Village Police, local Judges, members of the Public Defender’s Office and me as District Attorney. 2019 marks my 4<sup>th</sup> year of participation as a speaker and prosecutor for the reenactment.

### **XVII. Crime in the Prisons**

I continue to stress the need to keep Correction Officers within our local Jail and State Prisons (Coxsackie and Greene Correctional) safe. I assist in doing this by prosecuting such crimes as “assaults on Officers”, “possession of weapons in the Prisons” and “possession of controlled substances in the Prisons”. During the 2019 year, dozens of inmates were indicted and prosecuted on weapons charges, drug charges and assaults.

Statistics show that Prison Crime either levels off or declines when inmates know that their criminal activity within the facility will result in prosecution that adds additional years to their prison sentence.

### **XVIII. Computer and Electronic Crimes:**

#### **Requirement for Warrants**

With the new age of computers, cell phones and internet, we learn that invaluable evidence is stored and preserved both in a perpetrator’s cell phone as well as with cell and computer companies. This has led to a tremendous increase in the number of applications for search warrants. Whenever information is sought from one’s cell phone or from a computer or cell company a detailed application must be filed with a judge.

The average application takes approximately 4 to 6 hours to prepare. In addition, many times the warrant itself is prepared by my office, and a mini proceeding is required in front of a judge before a warrant is signed. Such applications have increased the amount of time that a member of my staff must devote to a criminal case. Nonetheless, the warrant process is well worth the time spent as it generally uncovers a tremendous amount of evidence in support of a case.

### **XVIII. Caseload Comparison**

Although our criminal caseload remains high; unlike some of our nearby counties, the rate of crime has not increased much over the past few years. I like to believe that the aggressive prosecutions of my office staff serves as a deterrent to criminal activity in Greene County. We will continue to maintain a high level of quality prosecution; prosecution that is governed by Ethic & Professionalism.

### **XIX. Vehicle and Traffic Offenses**

In addition to prosecuting criminal offenses, my office also prosecutes Vehicle and Traffic Offenses throughout the county. We prosecute several thousand such offenses each year.

Section 1144a of the Vehicle and Traffic Law requires a driver to move from a lane which is adjacent to the shoulder where an emergency vehicle is stopped and displaying emergency lights. I am keenly aware of the risk of danger an officer is exposed to each time he/she pulls over a vehicle on a highway. Because the safety and security of our Police Officers is of utmost importance, it is my policy that no violation of section 1144a of the V&T Law shall be reduced or plea bargained to a lesser offense.

### **XX. Working with schools**

My office continues to assist our school districts in dealing with issues of abuse of student truancy. We remind parents that excessive unexcused absences could well qualify as “neglect” and “child endangerment”.

### **XXI. Conclusion**

In conclusion, the Greene County District Attorney’s Office continues to be extremely active, and committed to securing the safety of our citizens. Our goal is to prosecute crime in an ethical, professional and efficient manner. My Office works hand in hand with the Greene County Probation Department, the Greene County Sheriff’s Office, the New York State Police and the various local Police Agencies in investigations, arrests and prosecutions of criminals.

I am proud of my staff of dedicated public servants who make up the Greene County District Attorney’s Office.

I will continue to work hard in order to maintain the trust that the citizens of Greene County placed in me to lead the District Attorney’s Office.

I am appreciative of the support our Greene County Administrator and Greene County Legislators have extended to me and to my office since my election. They continue to be genuinely concerned with the safety and welfare of the citizens of our community.

Respectively submitted,

JOSEPH STANZIONE, ESQ.,  
Greene County District Attorney