



Essex County Hosts 2008 College of the County Prosecutors Association of New Jersey



In September 2008, Essex County Prosecutor Paula T. Dow was sworn in as the new President of the County Prosecutors Association of New Jersey for the 2008- 2009 term. She was the first Essex County Prosecutor to hold this position. As the incoming president, it was in keeping with tradition that Essex County host the annual Prosecutor's weekend training and collaboration event.

Essex County did just that by hosting the 2008 College of the County Prosecutors Association. Beginning with the Awards Banquet on Friday evening, September 26, 2008, the College honored three Assistant Prosecutors for Distinguished Service. The awards given were for Outstanding Advocacy Over a Career, Outstanding Advocacy Over a Career in a Non-Trial Position and Outstanding Victim Advocacy.

Essex County's own Chief Assistant Prosecutor Robert D. Laurino was the recipient of the Outstanding Victim Advocacy award. A career prosecutor since 1980, Mr. Laurino has completed over 100 jury trials and handled thousands of cases involving sexual violence, including the Glen Ridge sexual assault case, where a young woman with mental retardation was sexually assaulted by



a group of high school athletes. He has advocated for victims of sexual violence for over two decades and has lectured nationally on issues involving sexual violence, forensic science and the abuse of individuals with developmental disabilities. He has also worked nationally to develop a training curriculum on these topics through the New Jersey Division of Criminal Justice, the National District Attorneys Association's National Institute in the Prosecution of Sexual Violence and the California District Attorneys Association.

The weekend event also featured several breaks with tradition including Essex County's selection of a new north Jersey venue on the Hudson River waterfront at the Hyatt Regency in Jersey City. Perhaps the most important break with tradition featured the development of a new Continuing Legal Education (CLE) credits honored by the attorney licensing boards of New Jersey, New York and Pennsylvania.

The educational portion of the 2008 College theme, "CSI: Forensics on Trial," featured a group of highly regarded, nationally known



experts in the field of forensic evidence. The program began with the keynote address given by John M. Butler, Ph.D. on "Emerging Issues: Points for Consideration in the Future of Forensic DNA Typing."

A world renowned expert in the field of forensic DNA, Dr. Butler leads the Human Identity Project Team at the National Institute of Science and Technology where his work is funded by the National Institute of Justice to evaluate and develop future technologies for forensic DNA typing. His book, Forensic DNA Typing, is a recognized treatise in the field of forensic DNA and was available to all program participants.

Seven breakout sessions followed the morning's keynote address on a variety of themes important to New Jersey prosecutors. Continuing the DNA theme, courses on "DNA Basics" and "Fighting Crime with DNA" were presented. The Basic DNA course was taught by Joseph R. Petersack, Director of the New Jersey State Police Office of Forensic Sciences DNA Laboratory. Mr. Petersack supervises the operation of the three DNA Units within the State Police lab: the Nuclear DNA Unit, the Mitochondrial DNA Unit and the CODIS Unit. With over 28 years of experience in forensic science, Mr. Petersack has testified as a forensic and DNA expert over 162 times in the Superior Courts of New Jersey.

The "Fighting Crime with DNA" course was taught by Robert Biancavilla, a career prosecutor and a nationally respected faculty

2008 COLLEGE OF THE COUNTY PROSECUTORS ASSOCIATION OF NEW JERSEY

We are proud to announce the following educational offerings:
CSI: FORENSICS ON TRIAL.

Date: Saturday 9/27/2008 Time: 8:45 AM - 2:15 PM

KEYNOTE ADDRESS: Dr. John Butler
A Fellow at the National Institute of Standards & Technology (NIST) and Leader of NIST's Human Identity Project Team, will discuss new and emerging forensic technologies: what can and can't be done.

Early work at the FBI Laboratory led to the development of many of the techniques used in modern forensic DNA testing

Post-9/11 work helped to develop new DNA analysis methods to aid in the identification of the remains of World Trade Center victims

His book, Forensic DNA Typing, is widely used around the world and is considered to be the leading text on forensic DNA technology

An engaging lecturer, he is recognized internationally as one of the foremost experts in the forensic use of DNA

USING DNA TO PROSECUTE VIOLENT CRIME
Assistant Suffolk County (NY) District Attorney Robert Biancavilla will discuss using DNA in the prosecution of major crimes. ADA Biancavilla has prosecuted many of the major DNA cases in the State of New York. He is an adjunct faculty member at the Hofstra University School of Law, and lectures nationally on forensic DNA investigation and trial issues.

DNA BASICS
An analyst from the New Jersey State Police Laboratory will present a basic course on the forensic use of DNA.

COMPUTER FORENSICS
Michael Geraghty, Vice President of High Technology Investigations for Prudential Financial, will discuss using computer forensics to solve crimes. Mr. Geraghty is a former member of the New Jersey State Police, where he was responsible for developing the High Technology Crimes Unit. He regularly trains prosecutors and investigators for the National Center for Missing and Exploited Children.

FORENSIC EXPERTS
Psychologist Dr. Veronique Valliere of Fogelville, Pennsylvania, will discuss how to use expert witnesses in sexual assault, domestic violence, and Megan's Law cases. Dr. Valliere has testified numerous times as an expert in Pennsylvania and New Jersey, and lectures nationally on victimization and sex offender typology.

TOXICOLOGY
Deputy Attorney General Viktoria Kristiansson will discuss prosecuting alcohol and drug facilitated sexual assault cases: is it drunken sex or rape? DAG Kristiansson is a former Senior Attorney for the National District Attorneys Association (NDAA). She has lectured nationally on issues concerning violence against women.

EVIDENCE FOR PROSECUTORS
Essex County Executive Assistant Prosecutor Hilary Brunell will discuss strategies for effective advocacy using the N.J.R.E. EAP Brunell is a career prosecutor who has argued extensively before the Appellate Division and New Jersey Supreme Court and taught at Seton Hall Law School, Widener Law School, the NAC and the NCDA.

ETHICS
Jennifer Long, Esq., of the NDAA, a former Philadelphia Assistant District Attorney, and Robert D. Luzzino, Chief Assistant Essex County Prosecutor, will present an interactive discussion on ethics for prosecutors.

CLE Credits provided

member of the New York State Prosecutors Training Institute, the American Prosecutors Research Institute and the National College of District Attorneys, as well as the Saint John's University and Hofstra University Schools of Law.



Evidence proved to be an important topic, too. Michael T. Geraghty, former Vice President for Prudential Financial's High Technology Investigations Division taught, "Evidentiary Issues and Internet Investigations." A nationally recognized expert in computer crimes, Mr. Geraghty has testified as an expert before the United States Congress as well as in the United States Federal District Courts, the New Jersey Superior Court and the Royal Canadian Provincial Court. Mr. Geraghty, a former New Jersey State Trooper was responsible for the formation and development of the New Jersey State Police's High Technology Crimes Unit which has garnered accolades for its accomplishments in computer crimes investigations. He presently coordinates training for the National Center for Missing and Exploited Children.

One of the most highly attended courses of the College was the Basic Evidence for Prosecutors course taught by our own Hilary Brunell. This course focused prosecutors on the complexities of the rules and exceptions concerning impeachment, hearsay, prior statements by witnesses, as well as the use of character and other crimes evidence at trial. Ms. Brunell, an Executive Assistant Prosecutor, is the training officer for the Essex County Prosecutor's Office. She has published several articles on appellate topics and has served as a faculty lecturer for Widener University School of Law, as well as

the National Advocacy Center of the National District Attorneys Association and the National College of District Attorneys.

Regarding the use of forensics for the prosecution of special victim cases, Veronique Valliere, Ph.D., lectured attendees about "Perpetrators and Victims of Interpersonal Violence: Understanding and Explaining the Dynamics." Dr. Valliere is a licensed psychologist with 18 years experience of working with violent offenders and their victims. She has published on the treatment of sexual offenders and their victims and has trained judges, police, parole, polygraphers, and prosecutors about violent offenders and sexual offenders. She has also testified as an expert in psychology, child abuse and sexual abuse in the state courts of both New Jersey and Pennsylvania.



The "Handling Rape Cases with Voluntarily Intoxicated Victims" course was taught by Jennifer Long and Viktoria Kristiansson. Both Ms. Long and Ms. Kristiansson are career prosecutors with extensive trial experience in sex crimes and domestic violence. Ms. Long, the former director of the National Center for the Prosecution of Violence against Women at the American Prosecutors Research Institute, presently is the director of *AEquitas*, a national training and technical assistance organization for prosecutors and allied professionals dealing with issues relating to the prosecution of violence against women. She has traveled the country lecturing on violence against women and has published many articles on this topic.

Ms. Kristiansson is a Deputy Attorney General in New Jersey specializing in issues

concerning the prosecution of violence against women. Prior to working as a Deputy Attorney General, Ms. Kristiansson was the Senior Attorney for the National Center for the Prosecution of Violence Against Women at the American Prosecutors Research Institute, the research and technical assistance division of the National District Attorneys Association. She has developed training materials and lectured extensively across the country on topics involving violence against women, and victims and witnesses with developmental disabilities.

Anchoring all of the courses for prosecutors on forensics and evidence was a course on "Ethical Considerations." This course was specially developed for prosecutors using an ethics case study based on the real life case of former Durham County District Attorney Michael B. Nifong's mishandling of the sexual assault case brought against three Duke University lacrosse players. Developed by Jennifer Long, Director of the National Center for the Prosecution of Violence against

Women and the Essex County Prosecutor's Office's own Robert D. Laurino, the course provided an interactive discussion for prosecutors focusing on charging decisions, absolute immunity, discovery, and prejudicial pre-trial statements. Each course was presented twice in order to afford each attendee the opportunity to take four courses following the keynote address of Dr. John M. Butler.

The 2008 College of the County Prosecutors Association of New Jersey was dedicated to recognizing the commitment that New Jersey's County Prosecutors and their Assistant Prosecutors make to serve the public. The College's focus was to recognize and nurture their collective efforts through a weekend program of professional recognition, education and information sharing in a relaxed, informal setting. The Essex County Prosecutor's Office can be proud of the role that Prosecutor Dow and the members of her staff played in carrying out this successful effort.



THE CHANGING FACE OF FORENSIC EVIDENCE

Less than 25 years ago when law enforcement sought assistance from science in solving crime, the best it could hope for was

a clear set of fingerprints or determining whether a blood stain contained type A, B, or O blood. With the advent of DNA typing, the field of forensic evidence has been forever changed.

From its origins in British laboratories, forensic DNA testing has revolutionized the field of forensic science. The power of DNA to identify individuals lies in its simplicity: no two individuals, except identical twins, will have the same genetic profile. Today scientists are able to look at 13 or more regions on a gene to discern an individual's unique genetic profile. Applying statistical calculations, the scientists may then be able to determine the individual who was the source of the genetic profile contained in the evidence recovered from the crime scene.

The Federal Bureau of Investigation realized the vast potential for DNA evidence. In 1994, the United States Congress authorized the creation of the Combined DNA Index System (CODIS) as the FBI Laboratory's national DNA database. One part of the database would contain DNA samples obtained from



defendants upon their conviction of a crime, while another part would contain evidence samples from unsolved cases. Recognizing that most crimes are committed by repeat offenders, the FBI would regularly compare the DNA sample of convicted offenders to evidence recovered from crime scenes to see if a match occurred. Any match or "hit" would be of tremendous assistance to criminal investigations by providing law enforcement with investigative leads concerning the identity of potential suspects. The CODIS system has since been expanded to include a separate database to identify missing persons and unidentified human remains.



The New Jersey Legislature authorized this State's participation in the CODIS system in 1994 under the auspices of the New Jersey State Police. Today there are almost 200,000 profiles of New Jersey offenders and 8,000 New Jersey crime scene evidence samples in the CODIS system. The New Jersey State Police Office of Forensic Sciences is recognized as one of the premier state laboratories in the country. The Essex County Prosecutor's Office has forged a close working relationship with the laboratory to handle its cases. The lab is not only able to provide regular ("nuclear") DNA testing, but it also acts as only one of four regional FBI

laboratories in the country to perform mitochondrial DNA testing. Mitochondrial DNA is particularly useful where the evidence samples may have been degraded, as in the case of a decomposed body. The laboratory is also able to perform Y-STR DNA testing, which is able to develop a DNA profile based on the Y chromosome carried exclusively by males.

With New Jersey joining the CODIS system, Essex County became the first prosecutor's office in the state to have a positive match on a previously unidentified offender, as well as the first prosecutor's office in the state to have a positive match on multiple cases committed by a serial sex offender. The Essex County case State v. DeLoatch, 354 N.J. Super. 76 (L.Div.2002), which has been cited nationally, was the first reported case in New Jersey to find the current DNA testing procedures to be scientifically reliable and admissible at trial.

To keep pace with advances in forensic science, law enforcement has had to change its approach to evidence collection. In 2005, the Essex County Prosecutor's Office established a Sexual Assault Nurse Examiner (SANE) program. Specially trained registered nurses now collect forensic samples from the bodies of sexual assault victims for laboratory analysis. A year later in 2006, the Prosecutor's Office revamped its Crime Scene Unit. Crime Scene Unit Detectives were specially trained to recognize and properly collect evidence that has the potential for DNA analysis.

In 2008, the Prosecutor's Office was awarded a national grant to establish a Cold Case Unit. This was a clear recognition of the power of DNA to solve crimes that may be decades old. With the growth of the FBI's CODIS database, the ECPO was able to obtain convictions in 2009 on two sexual assault cases that were 15 and 17 years old, respectively.

The public's new-found interest in forensic science is evidenced by the way it has permeated pop culture, including such media shows as CSI. Unfortunately such programs have created unrealistic expectations concerning DNA and the criminal justice system, which has been popularly referred to as the "CSI effect."

While television depicts DNA evidence being regularly found, collected, analyzed, and cases solved in the span of an hour, this is far from reality. Not all items recovered may yield DNA samples. Laboratory analysis generally can take up to 90 days, although emergent matters may be specially processed in as little as a day or two. Criminal cases may take many months before they ultimately go to trial. To combat popular myths, prosecutors have had to present in court what is popularly called negative evidence - testimony regarding why DNA was not found in a particular case.



Forensic science has truly revolutionized evidence collection. Laboratories continue to invent new testing methods to develop genetic profiles from even smaller samples of evidence. Genetic analyzers are being developed to one day instantaneously produce a DNA profile at the scene of a crime. As forensic technology advances, the Essex County Prosecutor's Office will continue to meet the challenges of this new and exacting science.

SPECIAL ENFORCEMENT & EDUCATIONAL INITIATIVES, VEHICULAR HOMICIDE



In addition to investigating fatal and serious bodily injury collisions when they happen, members of the Vehicular Homicide Unit of the Essex County Prosecutor's Office maintain a proactive approach to help reduce the number of fatal and serious motor vehicle collision in Essex County by participating in various educational and enforcement initiatives. These initiatives help to make the roads of Essex County safer for drivers and pedestrians. Some of these initiatives the VHU participated in 2008 were:

The New Jersey Teen Driver Safety Study Commission

A series of deadly teen driver crashes in New Jersey led traffic safety and law enforcement professionals across the state to push for the passage of a bill establishing

a Teen Driver Safety Study Commission. Governor Corzine signed the bill into law in March 2007. The Commission's charge was to evaluate the state of teen (16 to 20 year-olds) driving in New Jersey and make recommendations that would reduce the number of teen driver crashes and, ultimately, save lives.

Detective Arnold Anderson of the Essex County Prosecutor's Office Vehicular Homicide Unit was appointed by the then Governor Corzine to represent the law enforcement community on the Commission. As a member of the Commission, Detective Anderson poured over the latest national and international teen driving research; analyzed NJ licensing; looked at crash and motor vehicle violation data; reviewed teen licensing requirements in other states and countries; and heard from experts in a variety of fields including law enforcement, driver education/training, and child psychology. The Commission also invited public comment on highway safety through the office's public website and through hearings across the state.

As a result of its research and outreach, the Commission determined that more could and should be done to improve the way the state educates and licenses teen drivers. The Commission also concluded that effort is needed to monitor teens' driving, enforce laws and sanction unsafe behavior.

The Commission's final report contained 47 recommendations. A number of the recommendations were new and innovative, including: requiring Graduated Driver Licensing (GDL) holders to display an identifier on their vehicles when behind-the-wheel to aid with enforcement; sanctioning not just the teen driver for committing a GDL violation, but the other teen passengers in the car as well; developing an "event-

based,” rather than point-based, sanctioning system to deter GDL violations; banning plea agreements for GDL holders; and requiring a parent/teen orientation as a pre-requisite for obtaining a permit.

The Commission has made a substantial impact. Already, new laws require a teen driver decal, lowering the curfew for provisional drivers under 21 to 11 p.m., and limiting the number of teen passengers allowed to one unless a parent or guardian is present. The State changed the name of the provisional license to “probationary” to send a stronger message to teens that driving is a privilege, not a right.

The Commission remains active, working with the media to keep the issue of teen driving on the front page. An increase in the number of GDL violations being written and a variety of increased educational efforts across the state are paying off. The number of teen fatalities dropped from 80 in 2007 to 60 in 2008. The number was down again through the first five months of 2009. The Commission’s comprehensive approach to teen driving safety provides a model for other states to address the issue.

In October of 2009, the New Jersey Teen Driver Safety Study Commission received the Peter K. O’Rourke Special Achievement Award from the Governors Highway Safety Association.

Comprehensive Traffic Safety: Pedestrian Safety

In 2008, The New Jersey Division of Highway Traffic Safety, the Essex County Prosecutor’s Office and the Traffic Officers Association of Essex County, entered into a partnership with the Alan M. Voorhees Transportation Center (VTC), and Rutgers University, to develop a pilot program that can be implemented statewide to reduce the number of collisions between vehicles and pedestrians crossing within crosswalks. The “Cops in the Crosswalk”, program run by Detective Arnold Anderson and the Essex County Prosecutor’s Office ran through the summer months of 2008 and was monitored

closely for its impact on the “percentage of yielding” to pedestrians in Montclair and South Orange. Both municipalities saw increases in drivers yielding to pedestrians in the crosswalk.

This program was the first coordinated Pedestrian Safety Enforcement (PSE) effort with structured training and enforcement over time. The effort included training, enforcement, and evaluation. The effort was a partnership between the NJ Division of Highway Traffic Safety, NJDOT, ECPO, VTC, and South Orange and Montclair P.D.s.

The findings from this effort proved that enforcement of pedestrian laws using structured operations can yield significant changes in “yield to pedestrian” behavior. The promotion of this program should be encouraged so as to promote more PSE operations to improve pedestrian safety in the state. The response from participating enforcement agencies was extremely positive and other PD’s across the state are eager for the training and wish to carry out operations in the future.

A total of 1,946 motor vehicle summonses were issued during the enforcement period and pedestrian yielding rates increased from 11% to a high of 48% in only a few short months.

Comprehensive Traffic Safety: Keeping An Eye Out For Aggressive Drivers

Another new and innovative program developed in 2006 and implemented in 2008 was MOP-UP or Middle of the Pack – Undercover Patrols. A \$25,000 federal grant from the New Jersey Division of Highway Traffic Safety enabled the Essex County Prosecutor’s Office to equip ordinary, unmarked vehicles with state of the art digital video cameras that were deployed throughout the streets of Essex County to catch aggressive drivers in the act. The Essex County Prosecutor’s Office worked with members of the Essex County

Sheriff's Department to seek out aggressive drivers. The goal of the project was to show the public that instead of "There's never a cop around when you need one," it is more accurate to say "You never know when a cop is driving right next to you."

The Results:

Police agencies in Essex County have continued to participate in the various themed traffic safety campaigns sponsored by the New Jersey Division of Highway Traffic Safety.

Since 2005, yearly automobile-related deaths in Essex County have reduced significantly each year. The 52 automobile fatalities in 2008 represented the lowest number of motor vehicle fatalities in Essex County since 1997. In addition, a statewide seat belt usage survey conducted by the New Jersey Institute of Technology, (NJIT), showed the statewide seatbelt usage rate rose to 92.67%.

The Essex County Prosecutor's Office is proud to have played a role in this accomplishment.