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**QUEENS DISTRICT ATTORNEY RICHARD A. BROWN TESTIFIES BEFORE
NEW YORK STATE BAR ASSOCIATION TASK FORCE ON WRONGFUL CONVICTIONS**
Urges Early Access To DNA Test Results And Expanding DNA Database To All Convicted Offenders

Queens District Attorney Richard A. Brown testified today at a public hearing before the New York State Bar Association's Task Force on Wrongful Convictions. The hearing was held at the Association of the Bar of the City of New York in Manhattan.

The purpose of the hearing was to receive public comment on the findings of a report issued last month by the Task Force, which offered preliminary recommendations at preventing the conviction of a person for crimes he or she did not commit.

In appearing before the Task Force, District Attorney Brown said, "While wrongful convictions are, fortunately, extremely rare, we must continue to do everything that we can to prevent them – and to set them aside where they are found to have occurred."

According to District Attorney Brown, "Few changes in our criminal justice system would have as direct and important an effect on preventing wrongful convictions as early access to DNA test results from an expanded database. DNA is a powerful tool to exonerate those who have been wrongfully convicted. And yet we have moved far too slowly in expanding our DNA database – and still do not take samples from all convicted offenders. We must ensure that we have prompt access to DNA test results that will definitively establish a defendant's guilt or innocence."

In his testimony, District Attorney Brown stressed that wrongful convictions are seldom the result of intentional misconduct – they are more likely the result of inadvertent mistakes. "Police and prosecutors rely on the credible accounts of civilian victims and witnesses as to how the crime was committed and who committed it. And sometimes these victims and witnesses make mistakes," said the District Attorney.

District Attorney Brown went on to outline a number of steps that his office undertakes to prevent such mistakes from having tragic consequences. Among the steps are:

- ▶ No criminal case brought to the District Attorney's office by the police may proceed until it is screened by the District Attorney's Intake Bureau, which is staffed with veteran prosecutors who carefully review each case for legal and factual sufficiency;
- ▶ A "riding" program which puts assistant district attorneys at virtually every major crime scene where they speak to investigating officers, take statements from victims and witnesses, supervise lineups and try, from the very earliest point, to determine the true facts of each case; and

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- ▶ An innovative new program in which District Attorney staff conduct videotaped interrogations of defendants awaiting arraignment on felony charges. The interrogations are conducted in Central Booking and the entire interrogation is videotaped from beginning to end – and the defendant decides whether to speak to the District Attorney’s Office knowing that the interrogation is being videotaped. A copy of the videotape is given to defense counsel at arraignment.

The District Attorney also noted in his testimony that his office has been moving more and more toward vertical prosecutions so that the same assistant district attorney who rides the case puts the case into the grand jury and also brings the case to trial. This helps to ensure that the trial assistant has the best understanding of all the facts and circumstances rather than having to rely on another assistant’s investigation or analysis.

“Also extraordinarily helpful is our office’s plea policy – which severely limits post-indictment plea bargaining,” said District Attorney Brown. “The requirement for rapid grand jury presentment puts pressure on prosecutors to move so quickly that often small problems and inconsistencies in the evidence are overlooked or resolution of those problems is put off until after indictment. Our plea policy helps to remove this pressure to indict swiftly or risk the release of the defendant on bail. This gives us more time to thoroughly investigate and review cases before they are indicted. We also use this pre-indictment time to investigate alibi defenses, speak with additional witnesses or examine other evidence that defense counsel asks us to examine. The extra time also allows us to wait for the completion of scientific or other tests. In a number of cases, this time has enabled us to explore a claim of innocence and ultimately exonerate the accused promptly, before indictment.”

District Attorney Brown urged defense counsel to contact his office with any evidence that they might possess that raises concerns about a defendant’s guilt. “We treat wrong man allegations with the seriousness they deserve whenever they are made,” he said. “We are always ready to listen to claims of innocence. When a credible claim is raised – even post-conviction – a senior prosecutor is assigned to review it. In a number of cases, we have devoted a team of attorneys and investigators to conduct a complete re-investigation of the cases – even years after the conviction. Our office has earned a reputation for fairness because we are not afraid to take a hard look at a case – even after conviction – to make sure that justice has been done.”

District Attorney Brown also noted that we must:

- ▶ Ensure that the criminal justice system itself receives sufficient funding and resources to reduce the pressure of volume in the courts, ensure manageable caseloads for every attorney handling criminal cases and maintain sufficient investigative and support staff;
- ▶ Change attitudes and work habits that foster an atmosphere in which mistakes can go unnoticed by instilling in every participant in the criminal justice system – police, prosecutors and defense attorneys – through training and encouragement, a sense of individual and personal responsibility for obtaining a just result; and, finally,
- ▶ Demand the highest ethical and professional standards of all participants in the criminal justice system.

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In concluding his testimony, District Attorney Brown said, “One of the most important means by which a District Attorney can send a clear and unequivocal message to his or her assistants regarding their professional responsibilities is training.”

District Attorney Brown noted that his office has a full-time director of training and routinely conducts in-house mandatory training sessions. In addition, he pointed out that the New York State District Attorneys Association has a training committee that conducts daylong regional training programs, and that the New York Prosecutors Training Institute – of which District Attorney Brown is the Chair – makes sure that assistant district attorneys in offices large and small, in every area of the State, have access to free, quality programs. Assistant district attorneys are also sent on a regular basis to the National District Attorneys Association’s National Advocacy Center in South Carolina and to other training programs across the country on a regular basis.

In closing, District Attorney Brown said, “We must also guard against moral exhaustion and cynicism. We must trust each other more and eschew gamesmanship for better communication and cooperation in areas where we have a common, vital interest. For as I said at the outset of my testimony, there is one thing upon which we can all agree – one conviction of an innocent person is one too many.”

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Note to Editors:

Press release e-version of release – as well as District Attorney’s prepared testimony – can be found posted at www.queensda.org.