

ALTERNATE PUBLIC DEFENDER - 1171

MISSION STATEMENT

The mission of the Albany County Alternate Public Defender's Office is to provide the highest quality legal representation to those who cannot afford to hire an attorney and to ensure that the client's constitutional right to equal representation under the law is guaranteed.

WHO WE SERVE

We serve any individual who is financially unable to retain counsel without substantial hardship. Although the term *indigent* is often used in referring to public defense representation, Article 18-B of New York's County Law and 18 U.S.C. § 3006A (1989), its federal counterpart, as well as the legislative history of both statutes, specify that the proper standard to be employed in determining eligibility for appointed counsel is actually the financial inability to hire a lawyer. Pursuant to the *Hurrell-Harring* decision, new eligibility guidelines were finally implemented. On April 4, 2016, the Office of Indigent Legal Services issued new "Criteria and Procedures for Determining Assigned Counsel Eligibility." The new eligibility criteria were created as a guide to the courts in determining a person's eligibility and to address a longstanding problem in New York: the failure to have uniform eligibility criteria for use by all providers of indigent defense services across the state. The new eligibility criteria are scheduled to take effect in Albany County as of April 1, 2017. The eligibility determination for representation by this office will still be reserved for the judiciary, using these new guidelines, on a case by case basis. Once that determination is made, the Alternate Public Defender's Office is appointed to qualified individuals by the Court.

ABOUT OUR DEPARTMENT

The Alternate Public Defender's Office consists of one Alternate Public Defender, nine Assistant Alternate Public Defenders and two support staff. Five of those assistants are full time and have various assignments in all of Albany County's criminal courts and three of those assistants are assigned full time to cover Albany County Family Court. Every attorney in the office has trial experience and is knowledgeable in their field.

The Alternate Public Defender's Office is appointed by the Court to provide mandated legal representation for financially qualified individuals where a bona fide conflict of interest prevents the Albany County Public Defender's Office from accepting the assignment. We represent clients in both criminal and Family Court proceedings from the inception of the case through hearings, trial and sentencing. The Alternate Public Defender's Office does not handle appeals.

Pursuant to §722 of Article 18-B of the County Law, the governing body of each county... shall place in operation throughout the county a plan for providing counsel to persons charged with a crime (any offense punishable by incarceration) or who is entitled to counsel pursuant to section two hundred sixty-two or section eleven hundred twenty of the Family Court Act (including child custody cases), article six-C of the correction law, section four hundred seven of the surrogate's court procedure act or article ten of the mental hygiene law, who are financially unable to obtain counsel. Each plan shall also provide for investigative, expert and other services necessary for an adequate defense.

In 2015, the New York State Bar Association issued Revised Standards for Providing Mandated Representation to any personal financially unable to obtain counsel without substantial hardship under the guidelines listed in Article 18-B of the County Law. In addition, the NYS Office of Indigent Legal Services, in fulfillment of its responsibilities under Executive Law Article 30, Section 832 (3)(d), also provides additional standards and criteria for the provision of mandated representation in cases involving a conflict of interest.

The standards that the Albany County Alternate Public Defender's Office must abide by include:

- 1) Demonstrating a commitment to quality representation of every client;
- 2) Maintaining a manageable workload to ensure the capacity to provide quality representation. In no event shall those workloads exceed the national standards established in criminal cases by the National Advisory Commission on Criminal Justice Standards and Goals Standard 13.12, which sets forth the maximum cases per year as follows: 150 felonies or 400 misdemeanors.

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- 3) Access to and use of investigative services as needed to provide quality representation without restriction;
- 4) Access to and use as needed of the assistance of experts in a variety of fields;
- 5) Having the ability to provide representation for every eligible person at the earliest possible time and to begin advocating for every client without delay, in addition to providing continuous representation by the same attorney;
- 6) Having the ability to spend sufficient time with clients to establish a meaningful client/attorney relationship; to inform the client regularly as to the progress of the case; to provide documents prepared or received; and to provide the client with the opportunity to make an intelligent and informed decision where there is one to be made;
- 7) Operating under quality control procedures that provide for meaningful attorney qualifications and include mechanisms for evaluating attorneys;
- 8) Investigating potential consequences that can arise in cases and advising clients of such consequences;
- 9) Providing well prepared sentencing advocacy in criminal cases and well prepared dispositional advocacy in parent representation cases; and
- 10) Having and using adequate resources and procedures to main appropriate law office facilities and seek additional resources whenever the client needs require.
- 11) Ensuring that defendant's claims are preserved for argument in appellate court and that the trial attorney preserve the case file and provide it to appellate counsel upon request. Attorneys must also make sure that the client is advised of his right to obtain appointed counsel for an appeal.

2016 ACCOMPLISHMENTS AND CHALLENGES

The Alternate Public Defender's Office handles every case in which there is a bona fide conflict with the Public Defender's office, and thus directly reducing the appointment of assigned counsel in those cases and resulting in significant savings to Albany County. In 2016, this office received over 800 new criminal files, almost half of which were felonies, including a homicide. With the addition of the Family Court cases, this office typically handles an average of two thousand cases each year.

2017 GOALS AND PERFORMANCE TARGETS

The Alternate Public Defender's Office will continue to provide the highest quality legal representation possible and will always ensure that the rights of our clients are protected. Through County and State funded education and trainings, this staff will continue to increase the quality of defense services provided to our clients.

SUMMARY OF BUDGET CHANGES

The 2017 Executive budget for the Albany County Alternate Public Defender's Office does not include any substantive programmatic changes.

The staff of the Alternate Public Defender's Office deals with multiple members of the public on a daily basis. A typical case involves interaction with, not only our client, but often also includes speaking with the worried parents and family members of the accused, arranging drug or mental health services with providers as alternatives to incarceration, negotiating potential plea bargains with members of the District Attorney's Office and conferencing with the judges, discussing cases with experts and investigators and/or preparing witnesses for hearings or trials.

A1171 Alternate Public Defender		2016 Count	2017 Count	2015 Expended	2016 Adjusted	2017 Requested	2017 Proposed	2017 Adopted
Personnel Services Individual								
A1171	11044 001 670001	1	1	\$102,349	\$104,397	\$106,484	\$106,484	-
A1171	12025 001 670002	1	1	\$88,326	\$90,093	\$91,895	\$91,895	-
A1171	12025 002 670003	1	1	\$87,799	\$90,076	\$91,879	\$91,879	-
A1171	12025 003 670004	1	0	\$30,000	\$30,600	-	-	-
A1171	12025 004 670005	1	1	\$66,453	\$67,783	\$69,139	\$69,139	-
A1171	12025 009 670007	1	1	\$7,668	\$67,783	\$69,139	\$69,139	-
A1171	12025 005 670010	1	1	\$66,453	\$67,783	\$69,139	\$69,139	-
A1171	12025 006 670011	1	1	\$61,550	\$67,783	\$69,139	\$69,139	-
A1171	12025 007 670012	1	1	\$64,616	\$65,909	\$67,228	\$67,228	-
A1171	12025 008 670013	1	1	\$66,453	\$67,783	\$69,139	\$69,139	-
A1171	16401 001 670009	1	1	\$39,523	\$40,314	\$41,121	\$41,121	-
A1171	16412 001 670016	1	1	\$35,884	\$36,602	\$37,335	\$37,335	-
<i>Personnel Services Individual Subtotal</i>		12	11	\$717,074	\$796,906	\$781,637	\$781,637	\$0
Personnel								
Personnel Non-Individual								
A 1171	19950	Longevity Raise		\$5,450	\$5,450	\$6,850	\$6,850	\$0
A 1171	19951	Health Insurance Buyout		\$4,000	\$8,000	\$8,000	\$8,000	\$0
Subtotal for: Personnel Non-Individual				\$9,450	\$13,450	\$14,850	\$14,850	\$0
Equipment								
Contractual Expenses								
A 1171	44020	Office Supplies		\$1,647	\$2,250	\$2,250	\$2,250	\$0
A 1171	44035	Postage		\$624	\$900	\$900	\$900	\$0
A 1171	44036	Telephone		\$1,167	\$1,800	\$1,800	\$1,800	\$0
A 1171	44037	Insurance		\$2,688	\$2,823	\$2,592	\$2,592	\$0
A 1171	44039	Conferences, Training, Tuition		\$2,240	\$3,000	\$3,000	\$3,000	\$0
A 1171	44040	Books Transcripts Subscript		\$9,643	\$7,000	\$7,000	\$7,000	\$0
A 1171	44042	Printing And Advertising		\$43	\$60	\$60	\$60	\$0
A 1171	44046	Fees For Services		\$11,742	\$15,000	\$15,000	\$15,000	\$0
A 1171	44065	Photocopier Lease		\$615	\$999	\$2,400	\$2,400	\$0
A 1171	44070	Equipment Repair And Rental		\$500	\$1,800	\$0	\$0	\$0
A 1171	44903	DGS Shared Services Charges		\$29,136	\$29,618	\$30,705	\$30,705	\$0
Subtotal for: Contractual Expenses				\$60,044	\$65,250	\$65,707	\$65,707	\$0
Fringe Benefits								
A 1171	89010	State Retirement		\$118,866	\$157,860	\$129,918	\$129,918	\$0
A 1171	89030	Social Security		\$54,806	\$61,686	\$60,931	\$60,931	\$0
A 1171	89060	Hospital and Medical Insurance		\$119,387	\$127,804	\$151,141	\$151,141	\$0
Subtotal for: Fringe Benefits				\$293,058	\$347,350	\$341,990	\$341,990	\$0
Total Appropriations				\$1,079,626	\$1,222,956	\$1,204,184	\$1,204,184	\$0
Revenue								
A1171	03025	Indigent Legal Services Fund		(\$366,510)	(\$318,578)	(\$235,576)	(\$235,576)	\$0
Total Revenue				(\$366,510)	(\$318,578)	(\$235,576)	(\$235,576)	\$0
County Share				\$713,116	\$904,378	\$968,608	\$968,608	\$0