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**OFFICE OF THE PUBLIC DEFENDER**

**ANNUAL REPORT**

**2020**

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## INTRODUCTION

2020 was a challenging, but exciting, year for the Public Defender’s Office. Although the global COVID pandemic resulted in short-term challenges in how we provided our clients the excellent representation they deserve, we were still able to implement many new initiatives to improve the overall representation provided to clients. We created new policies, training programs, and office initiatives to implement the significant criminal justice reform that began on January 1<sup>st</sup> in New York State.<sup>1</sup> Additionally, we began implementing new initiatives funded by the influx of New York State grant money received under the *Hurrell-Harring* legislation.<sup>2</sup> Finally, we engaged on a significant effort to enhance Office diversity, examine office polices to enhance equity and inclusion, and further educate staff on diversity, equity, and inclusion principles.

Despite the COVID pandemic and the challenges it brought, our staff continued to work very hard in representing their clients and providing excellent representation. However, the COVID pandemic, and its impact upon the court system, required our

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<sup>1</sup> Beginning January 1, 2020 new criminal justice legislation on bail reform, criminal discovery reform, and speedy trial reform became effective.

<sup>2</sup> In 2019 Monroe County received a \$38,233,512 five-year grant to improve indigent defense. This funding was provided pursuant to New York State legislation passed in 2017 requiring the Office of Indigent Legal Services to assess each county’s indigent, criminal legal services needs in three areas: (1) caseload reduction to comply with new caseloads caps; (2) providing counsel at first appearance; and (3) improving the quality of indigent defense. This legislation was the result of a class action settlement colloquially known as “*Hurrell-Harring*”. Statewide it is anticipated that the cost of these improvements will be approximately \$250 million by 2023. Each year since the 2018-2019 NYS fiscal year, it is anticipated that the New York State Legislature will appropriate increasing funds to reimburse the counties for these expenses. \$50 million was appropriated in FY 2018-2019, \$100 million was appropriated in NYS FY 2019-2020; and \$150 million was appropriated in NYS FY 2020-2021. It is anticipated that \$200 million will be appropriated in NYS FY 2021-2022, and \$250 million in NYS FY 2022-2023. Over the five year period, it is anticipated that Monroe County will receive \$2,548,900 in FY 2018-2019; \$5,097,801 in FY 2019-2020; \$7,646,702 in FY 2020-2021; \$10,195,603 in FY 2021-2022; and \$12,744,504 in FY 2022-2023. This funding will be allocated to the Public Defender’s Office, the Monroe County Conflict Defender’s Office, and the Monroe County Assigned Counsel Plan to improve

Office to alter operations to begin virtual court appearances, as well as virtual meetings with clients. All of our partners in the court system collaborated to ensure that the local justice system maintained effective operations.<sup>3</sup>

To ensure the safety of staff, office protocols were developed to mandate cleaning and disinfecting of services, mask wearing, and limited interaction between staff and members of the public.<sup>4</sup> Additionally, the Office assisted employees in transitioning to working from home.

I would like to extend my thanks and appreciation to the staff for their dedication to providing excellent representation to our clients during the COVID pandemic. Furthermore, their collective willingness to exceed all demands that were placed upon them, both in representing clients and in following safety protocols, allowed our local legal system to continue to operate in a safe manner. Like other professionals in our community, they placed service to their clients above other concerns. Their actions this past year truly exemplified “public service.”

COVID also impacted the number of cases assigned to the Public Defender’s Office in 2020. As the courts were closed during much of the spring and summer of 2020, cases that resulted in an appearance ticket (in-lieu of an immediate arraignment) were not arraigned and assigned to the Public Defender’s Office until

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indigent criminal defense. The Monroe County Legislature accepted this grant on August 13, 2019.

<sup>3</sup> I would like to extend my thanks to the Monroe County Sheriff, Todd Baxter, his Monroe County Jail command staff, and all of his deputies who work in the Jail. Their efforts to provide us access to our clients during the pandemic, and to protect inmates from COVID, were exemplary and were an example of the professionalism of the Sheriff’s Office.

<sup>4</sup> It is important to recognize that the staff were still required to regularly interact with members of the public throughout the COVID pandemic. Throughout the past year, court proceedings resumed in-person appearances prior to the “surge.” As a result, many staff were required to attend court proceedings, and interact with scores of clients on a weekly basis, without complaint or a reduction in services offered to clients.

later in the year. As courts closed during the “surge” of COVID cases in the fall, arrests resulting in appearance tickets have not yet been arraigned and those potential clients will be assigned to the Public Defender’s Office in 2021. As a result, although case assignments were down in 2020 compared to 2019, we anticipate that case assignment numbers will increase significantly in 2021 (and likely surpass case assignment numbers in 2019).

In 2020, the Office continued its efforts in examining how to improve the representation we provide our clients. In Part I of this Report, the Office's efforts to improve client representation, increase contact with the community that we serve, continue our efforts to recruit highly qualified attorneys to be assistant public defenders, and increase office diversity, will be discussed. In Part II of this Report, the Office, its staffing, and caseloads are outlined. Part III will discuss plans for the Office.

## PART I: OFFICE INITIATIVES

### A. Introduction

The strength of this Office is in the enormously talented and committed people who work here. They are truly an asset to our community. It is through their efforts that the following improvements and initiatives were undertaken and accomplished in 2020.

### B. Diversity, Equity, and Inclusion

A commitment to becoming an anti-racist organization requires much more than a commitment to staff diversity. Furthermore, although enhancing staff diversity is an important goal, ensuring that all staff are equally valued and provided meaningful opportunities to provide feedback and grow professionally are also vital to becoming a

true anti-racist organization. This goal is especially important to the Public Defender's Office as it represents a diverse population of clients.

In order to implement new hiring procedures, actively recruit staff of color, evaluate existing office policies for their impact upon office diversity, equity, and inclusion, and develop community outreach efforts to connect with our diverse client population, the Public Defender's Office created a new position to implement these important initiatives.<sup>5</sup> Danielle Ponder was hired in May of 2020 as the Office's Special Assistant Public Defender- Diversity and Inclusion Officer.<sup>6,7</sup> It is through her leadership, and the efforts of the staff, that the following accomplishments were made.

1. Recruitment and Hiring

Ensuring that the Public Defender's Office has a diverse staff is a priority of the Office. Our clients come from diverse backgrounds and cultures and it is incumbent upon the Office to provide culturally informed representation. Furthermore, there are significant advantages to offices that have a diverse staff, and who are striving towards becoming a fully inclusive office.

The primary focus of increasing Office diversity begins with enhancing the number of attorneys of color. This is a significant challenge, as according to the American Bar Association (ABA), people of color are not proportionally represented among the legal profession. As stated in a recent ABA report:<sup>8</sup>

The percentage of lawyers who are men and women of color –  
Hispanic, African American, Asian, Native American and mixed race –

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<sup>5</sup> This position was fully funded by Hurrell-Harring funds.

<sup>6</sup> <https://www.democratandchronicle.com/story/news/2020/07/28/danielle-ponder-returns-monroe-county-public-defenders-office-bolster-inclusivity-tiny-desk-concert/5430341002/>

<sup>7</sup> This position is the only DE&I position in a public defender's office outside of New York City.

<sup>8</sup> <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> at page 33.

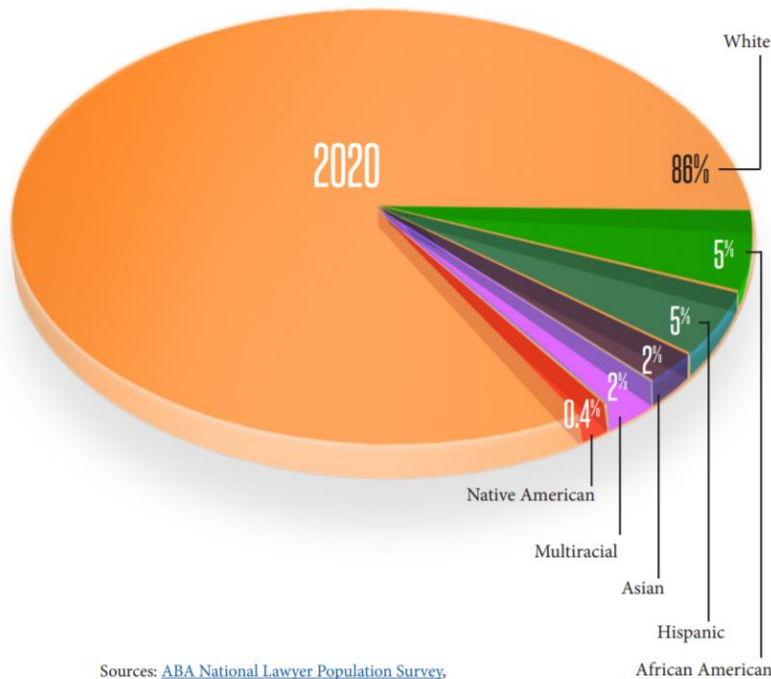
grew slowly over the past decade. Collectively, the number of lawyers of color grew less than 3 percentage points in the past 10 years, from 11.4% of all lawyers in 2010 to 14.1% of all lawyers in 2020, according to the ABA National Lawyer Population Survey.

White men and women are still overrepresented in the legal profession compared with their presence in the overall U.S. population. In 2020, 86% of all lawyers were non-Hispanic whites, a decline from 89% a decade ago. By comparison, 60% of all U.S. residents were non-Hispanic whites in 2019.

Nearly all people of color are underrepresented in the legal profession compared with their presence in the U.S. population. For example, 5% of all lawyers are African American – the same percentage as 10 years earlier – but the U.S. population is 13.4% African American.

Similarly, 5% of all lawyers are Hispanic – up from 4% a decade earlier – although the U.S. population is 18.5% Hispanic. And 2% of all lawyers are Asian – up slightly from 1.6% 10 years earlier – while the U.S. population is 5.9% Asian.

### ▶ 2020 Race and Ethnicity



The demographics of the prospective attorney applicant pool presents challenges for law offices seeking to improve attorney diversity. Relying upon the traditional, passive method of posting job announcements and screening applicants will not ensure that attorneys of color will apply to become assistant public defenders. Instead, active recruiting of attorneys (and law students) of color is a necessary first step towards enhancing diversity. This requires actively engaging in job fairs – especially those geared towards public interest, as well as developing relationships with bar associations that serve attorneys of color to network with attorneys looking to join high-quality public defender offices.<sup>9</sup>

Over the last half of 2020, the Office changed its recruitment to adopt these methods. Ms. Ponder and other staff participated in multiple virtual law school interview events, such as Harvard University; Buffalo University’s Public Defender’s Career Fair; the Equal Justice Works Public Interest Career Fair; and the New York University Public Interest Career Fair. Ms. Ponder also developed relationships with and the following affinity organizations: Black Public Defender Association; Minority Bar Association of Western New York; Metropolitan Black Bar Association; and the Rochester Black Bar Association. Additionally, job postings-- drafted to emphasize our Office’s commitment to diversity and inclusion -- were placed with each organization as well.

The Office also created a new position, Assistant Public Defender – Grade III, that does not require the applicant to be admitted to practice in New York State. This allows us to recruit attorneys of color across the United States instead of being limited

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<sup>9</sup> Although these efforts were limited by the COVID pandemic, once travel restrictions are lifted the Office’s

to attorneys of color who are barred in New York.

These efforts were an unqualified success. Since the above measures were adopted, the Office offered positions to eight (8) attorneys of color. Six (6) attorneys of color accepted positions with the Office<sup>10</sup> and are now employed as assistant public defenders.

More work needs to be done to increase attorney diversity, but with the new office procedures and policies implemented as described above, the Public Defender's Office will achieve the diverse workforce it desires.

The Public Defender's Office would like to thank both the Administration and the Monroe County Legislature for its support in our efforts to enhance office diversity. The creation of the Office's Special Assistant Public Defender- Diversity and Inclusion Officer by the Administration and its approval by the Legislature was vital to the initiatives we implemented this year. Furthermore, the Administration's assistance in creating the assistant public defender, grade III position was also an important part of our efforts. I am regularly asked by members of the County Legislature, as well as staff of the Administration, how they can assist in our efforts to enhance diversity. The commitment of the Administration and County Legislature to assisting our Office in these efforts is very much appreciated.

## 2. Training

In order to assist in the development of an inclusive workplace, the Public Defender's Office began a series of training for staff designed to educate staff on the principles of inclusivity and equity. Ms. Ponder provided cultural competence training

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DE&I Officer will travel to historically Black Law Schools to engage in recruitment.



to staff, new attorneys and the larger legal community.

To educate the newest attorneys in the Office, she also created a monthly cultural competence training program for town court attorneys. Finally, Ms. Ponder conducted a continuing legal education program entitled “*So You Want to be An Anti Racist Lawyer*”. She also conducted trainings on macroaggressions, representing the LGBTQ community and becoming an Anti-Racist organization. Community speakers, Yana Marie from Teen Empowerment and Tamara Leigh and Brittan Hardgers from Blaque Out Consultants also provided insight and education to our newest attorneys.

These trainings were not limited solely to the attorney staff. Our paralegal, secretary, and investigative staff were also trained on identifying and responding to microaggressions.

The leadership staff of the office (consisting of those persons who have supervisory roles in the Office) also participated in training on how to become an anti-racist organization, as well as leadership and diversity and inclusion training with the assistance of specialists Founder and Principal Consultant at Kimbrel Consulting<sup>11</sup> and Caitlin Drago, President of Inspire Improv and Coaching Inc.<sup>12</sup>

### C. Community Engagement

In 2020 the Office enhanced its efforts to engage with, and educate, the community.

During the aftermath of the unfortunate tragedies of George Floyd and Daniel Prude and the resultant community protests, the Public Defender’s Office staff

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10 At the time this Report was written, there were two offers of employment pending with attorneys of color.

11 <https://www.kimbrelconsultingco.com/>

12 <http://inspireimprov.com/welcome>

participated in expressing community outrage over the racial injustices in our communities. Ms. Ponder also organized the Public Defender’s March for Black Lives, and a large number of staff participated in the event.<sup>13</sup>

The Office hosted several “*Know Your Rights Community Legal Education Sessions*”. The sessions –held on Facebook - had over 150 participants and 8900 views. The Office also conducted a “*Know Your Rights in Family Court Community Legal Education Session*”, with 20 pre-registered participants and 1801 views. The Office also prepared digital “know your rights” cards.

Finally, the Office created several social media sites to update the community on issues relevant to criminal justice, family law, racial justice, and poverty.



<sup>13</sup> <https://www.wxnews.org/post/monroe-county-public-defenders-march-black-lives-matter>

D. Felony Caseload Reduction Initiative

Under the *Hurrell-Harring* legislation reference above, the Office of Indigent Legal Services was charged with the responsibility of issuing new caseload caps that will become mandatory (if funding is provided by the State) in 2023.<sup>14</sup>

These caseload caps are:

<b>Case Type</b>	<b>Maximum Annual Assignments</b>	<b>Minimum Average Hours</b>
Violent Felonies <sup>45</sup>	50	37.5
Non-Violent Felonies .	100	18.8
Misdemeanors and Violations	300	6.3
Post-Disposition (including Probation Revocation)	200	9.4
Parole Revocation	200	9.4
Appeals of Verdicts	12	156.3
Appeals of Guilty Pleas	35	53.6

Beginning July 1<sup>st</sup> of 2019, and continuing through the end of 2020, the Monroe County Public Defender’s Office implemented its “Felony Caseload Reduction Initiative” to begin the process of complying with these caseloads caps by 2023. Using a portion of the “*Hurrell-Harring*” grant funding available in the first two years of funding, the Public Defender’s Office sent approximately 2,200 felony cases to the Monroe County Assigned Counsel Panel for assignment to experienced program attorneys. This significantly reduced the unacceptably high caseloads in the felony bureau of the Office. Prior to this program, felony attorneys in the Office carried a caseload of approximately 200 non-violent felony cases per year or 85 violent felony cases per year. After the implementation of the program, felony caseloads have been

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14 The Indigent Legal Services Office’s report may be found here: <https://www.ils.ny.gov/files/Hurrell-Harring/Caseload%20Reduction/Caseload%20Standards%20Report%20Final%20120816.pdf>

reduced significantly and are close to the recommended caseloads listed above.

This has resulted in significant improvement in the quality of representation afforded clients charged with felony offenses.

With the addition of fourteen (14) felony staff positions, this program ended December 31, 2020.<sup>15</sup>

E. Next Court Date Reminder Program

In order to assist clients in their obligation to attend court proceedings, the Public Defender's Office implemented a "Next Court Date Reminder Program" in late 2019. Partnering with the New York State Defenders Association (the developer of the case management system used by the Office) the Public Defender's Office developed an automated text messaging/email reminder system for next court dates, office meetings, and other important client meetings. Our case management system, PDCMS, was modified to send these messages automatically.

Studies have established that an effective court reminder program can reduce failure to appear rates significantly. Effective reminder programs employ multiple reminders in advance of a defendant's next court appearance. The Public Defender's Office's court reminder program sends three texts or emails in advance of each court appearance to remind clients about their upcoming court appearance.

Under a contract with the PreTrial Services Corporation of the Monroe County Bar Association ("PreTrial"), staff from PreTrial work in the Public Defender's Office to obtain and enter the relevant data about clients' next court dates.

The Office now sends text reminders to every client in Superior Court, Rochester

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<sup>15</sup> Resolution No. 242 of 2020 adopted September 8, 2020.

City Court, and the courts in the towns and villages of Monroe County. The modification to our case management system allowing next court date reminders is now available to any New York indigent defense office that uses PDCMS free-of-charge (67 New York offices use PDCMS).

F. Failure to Appear Program

Unfortunately, clients do not always make their court appearances. Despite a common belief that this occurs intentionally as the result of a desire to avoid prosecution, the reality is that clients miss court for a variety of reasons unrelated to an intent to avoid prosecution. For instance, clients often have transportation issues (there are courts in Monroe County that are not on a bus line) or childcare issues that prevent them from making a scheduled court appearance.

Recognizing this reality, the New York State Legislature passed legislation (effective January 1, 2020) that requires courts to wait 48 hours before issuing a “bench warrant” to allow the defendant time to appear.

To assist clients in avoiding a bench warrant, and appearing in court, the Public Defender’s Office created a Failure to Appear Program. The staff from PreTrial who oversee the Next Court Date Reminder Program also staff the Failure to Appear Program. When an attorney notifies the staff that a client has missed a court appearance, the staff immediately attempts to contact the client to inform the client of what they need to do to avoid the issuance of a bench warrant (each court has different policies in place).

This program – coupled with the Next Court Date Reminder Program – has significantly reduced the number of bench warrants issued to Public Defender clients

for failure to appear.

G. Hiring Committee

Ensuring that each new hire exemplifies the qualities that make an excellent public defender is the responsibility of the hiring committee. Chaired by Special Assistant Public Defender Danielle Ponder, the committee members in 2020 (Special Assistant Public Defender Drew DuBrin, Special Assistant Public Defender Josh Stubbe, 1st Assistant Public Defender Jill Paperno, Assistant Public Defender Katherine Higgins, and Assistant Public Defender Natalie-Ann Knott) screen all applicants for open attorney positions, conduct all initial interviews with prospective applicants, and recommend to the Public Defender the top three applicants for each open position in the criminal court bureaus. As noted above, their efforts assisted in diversifying the Office staff.

H. Continuing Legal Education (CLE) Committee, Training and Skills Programs

(1.) CLE Programming

In order to effectively represent our clients, our attorneys must be provided frequent and regular trainings on changes in the law, and how to improve their trial skills. To accomplish the necessary training for staff, the Office conducts numerous Continuing Legal Education (CLE) programs and training programs. It is the responsibility of the CLE Committee to organize continuing legal education programs for staff attorneys and the legal community.

The Monroe County Public Defender's Office is an accredited CLE provider. The Office strives to provide staff attorneys and attorneys in the legal community high-quality CLE programs at no cost. In 2020 the Office sponsored **thirty-one** (31)

programs for the attorneys in the Office, and the private defense bar. Hundreds of attorneys from upstate New York attended the Office's CLE programs. All of the programs were **provided at no cost to the attendees.**

The programs offered in 2020 were:

- 1/10/20 – Defense Obligations & Investigations under Discovery Reform
- 1/24/20 – Client Confidentiality and Social Media
- 1/24/20 – Motor Vehicle Searches
- 2/14/20 – Defense Obligations & Investigations under Discovery Reform
- 2/28/20 – Who's the Boss? Attorney-Client Decision Making and The Application of Rule 3.3
- 3/05/20 – Bail and Discovery Reform
- 3/13/20 – Discovery 2020
- 4/24/20 – Exonerate Your Client Using Cell Phone Location Data
- 5/05/20 – Discovery Update
- 5/14/20 – Basics of Preliminary Hearings
- 5/15/20 – Grand Jury Minutes
- 5/22/20 – Who's the Boss? Attorney-Client Decision Making and The Application of Rule 3.3
- 6/05/20 – Bail Update
- 6/12/20 – Youth Part for Dummies
- 7/01/20 – Immigration Issues in Criminal and Family Court Proceedings
- 7/09/20 – So You Want to Be an Anti-Racist Lawyer? Let's Start with Implicit Bias
- 7/17/20 – Who's the Boss? Attorney-Client Decision Making and The Application of Rule 3.3
- 7/24/20 – Violation of Probation & Fugitive Matters
- 10/09/20 – Discovery 2020
- 11/13/20 – Violation of Probation & Fugitive Matters
- 11/20/20 – JDP 101
- 12/02/20 – Tips and Tactics for Grand Jury Practice
- 12/10/20 – Superior Court Informations
- 12/10/20 – Who's the Boss? Attorney-Client Decision Making and The Application of Rule 3.3
- 12/11/20 – Client as Witness
- 12/17/20 – Felony Sentencing
- 12/21/20 – Getting the Maximum Value Out of the Client Interview
- 12/22/20 – The Preliminary Hearing
- 12/22/20 – Discovery 2020
- 12/23/20 – Bail Update
- 12/29/20 – Discovery Reforms and Rollbacks – Felony Edition

Attorneys in the Office are often asked to present at various CLE programs throughout New York State. In 2020, Office attorneys presented at CLEs sponsored by the Chief Defenders Association of New York, the Greater Rochester Association for Women Attorneys, the New York State Defenders Association, and the New York State Association of Criminal Defense Lawyers.

Because of the work of this committee, and the attorneys in this Office who donated their time and effort speaking at CLEs, the legal community received valuable instruction in criminal and family law.<sup>16</sup>

(2.) Recorded Training Programs

As a result of the increased State funding to public defender offices statewide, offices throughout New York State are adding new assistant public defenders. Recognizing that our Office has some of the most experienced public defenders in New York, the Office developed a series of recorded training programs to educate new attorneys on the basics of representing clients accused of various misdemeanor offenses in local courts. These programs were designed to educate new attorneys on the elements of the offense, common defects in accusatory instruments, and strategies in handling the particular type of case. The video programs are between 45 minutes and 90 minutes, and each program includes the video presentation, PowerPoint, and additional handouts.

Sixteen programs were created and sent to every public defense office in New York State in 2019. In 2020 the Office created nine additional programs. Thus, twenty-

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<sup>16</sup> As a result of the numerous high-quality CLE programs presented by the Office over the last several years, the Office was awarded the Monroe County Bar Association's Raymond J. Pauley Award in 2016. The Pauley Award recognizes an attorney or organization that has made "exceptional contributions to the furtherance of



five programs are available for use by offices throughout New York State to help train their staff. The Office received positive feedback from numerous public defense offices that found the training videos helpful in training new staff attorneys.

#### I. Internship Committee and Program

In 2020, the Office continued our internship program. In addition to placing college students as interns, the Office continued to place law students, and in select cases, high school students. In 2020, the Office hosted over 20 student interns (from law schools, local colleges, and high schools) throughout the year. All of the student interns obtained valuable experience working in a large law office, and gained additional insight into the criminal justice system.

College and high school interns are offered the opportunity to observe the criminal justice system from a unique perspective, and they gain valuable experience as well. Working with their attorney-supervisors, interns review client files, assist staff during court proceedings, and observe a variety of court proceedings. Our interns also assist the Office, as we ask each intern to volunteer a few hours per week performing office work, such as filing and copying. We receive very positive reviews from the students who intern in the Office, and have successfully placed students from SUNY Brockport, SUNY Geneseo, the University of Rochester, Nazareth College, and the Rochester City School District.

## PART II: OFFICE ORGANIZATION

### A. Creation of Office and its Jurisdiction

In a 1963 landmark decision, the Supreme Court of the United States ruled that all indigent defendants had the right to be represented by counsel in criminal proceedings. In order to comply with the Supreme Court ruling, Article 18-B of the County Law of the State of New York was adopted by the State Legislature in 1965. This law required the various counties throughout the State to adopt a plan for the representation of indigent defendants. In compliance with the state mandate, on May 23, 1968, by virtue of Resolution No. 250 of 1968, the Monroe County Legislature adopted Local Law No. 5 of 1968, thus creating the Office of the MONROE COUNTY PUBLIC DEFENDER.

By law, the Public Defender is required to "represent, without charge, at the request of the defendant, or by order of the court with the consent of the defendant, each indigent defendant who is charged with a crime...in the county...in which such public defender serves."

The Monroe County Public Defender's Office represents individuals in the courts within Monroe County, including the City of Rochester and the towns and villages within the geographical boundaries of the County. This area has a population of approximately 750,000 people.

The office handles cases in:

- A. Town and Village Justice Courts
- B. Rochester City Court (including Rochester Drug Treatment Court)
- C. County Court (including Mental Health Court, Veterans Court, and Judicial Diversion Program Court)

- D. Supreme Court
- E. Family Court
- F. Appellate Division, Fourth Department
- G. Court of Appeals
- H. United States Supreme Court (when required)

The Public Defender represents the indigent accused at every stage of the criminal proceeding from the arraignment through final disposition, including, when appropriate, appeals from adverse judgments and decisions.

Our goal is to provide to the indigent who are accused of a crime, or who are entitled to representation in family court, truly competent legal representation which exceeds that which they would expect to obtain from privately retained counsel. An individual's constitutional rights must be protected regardless of his or her financial circumstances.

B. Staff

During 2020, our staff included 93 attorneys, 1 confidential assistant, 6 investigators, 10 investigative assistants, 3 office clerks, 2 trial assistants, 1 digital media technician, 10 full-time secretaries and 1 receptionist, who is bilingual. The attorneys are precluded from engaging in private practice.

Assistant public defenders are assigned to work in the Town Court Bureau, the City Court Bureau, the Superior Court Bureau (Non-Violent Felony Section and the Violent Felony Section), the Family Court Bureau, or the Appeals Bureau.

The Office staff takes great pride in the quality of the work they provide to our clients. Their work results in high-quality representation that advances justice in our community.

C. City Court Bureau

The Rochester City Court has a heavier caseload than any other Criminal Court in Monroe County. All felonies, misdemeanors and violations of the law committed within the geographical boundaries of the City of Rochester are handled by City Court. A City Court judge has preliminary jurisdiction over all felonies and complete jurisdiction over misdemeanors and violations.

The responsibilities of the Assistant Public Defender assigned to City Court include gathering information to assist the court in determining a defendant's eligibility for representation, appearing at arraignment, making bail applications, participating in pre-trial conferences, investigating and preparing a defense to the charges, preparation and argument of various types of motions, pre-trial hearings, preliminary hearings, trials, social service agency referrals, and sentencing.

In 2020, all of these responsibilities were carried out by a total of 16 Assistant Public Defenders and one Special Assistant Public Defender who supervised the City Court Section (while also handling a partial violent felony caseload). The attorneys share the enumerated responsibilities on a rotating basis.

In 2020, this Office was called upon to represent clients in approximately 4,000 cases in the City Court of Rochester. Although this number is significantly lower than in past years due to the reduction in cases attributed to the COVID pandemic, it is anticipated that once courts reopen there will be a significant influx of cases in Rochester City Court.

D. Town Court Bureau

The office is required to represent persons accused of crimes in the various town

and villages throughout the County. In 2020 the Office had 15 assistant public defenders (overseen by two Special Assistant Public Defenders) assigned to cover the Town and Village Justice Courts within the 21 towns and villages of Monroe County.<sup>17</sup>

The newly hired Assistant Public Defenders are traditionally assigned to the Town Courts. The Town Courts have heavy case loads, erratic court hours and varying local court procedures. The assignment of two Special Assistant Public Defenders (who also carry a violent felony caseload) to supervise the section enables us to provide our new attorneys with the appropriate training and orientation to the local justice court process and essential supervision so as to ensure quality representation for our clients.

In 2020, approximately 3,500 clients were assigned to our justice court staff of 15 full-time attorneys. Additionally, each staff attorney in the Town Court Bureau is required to staff one 12 hour arraignment shift (8:00 a.m. to 8:00 p.m.) each week under the CAFA Program. The Town Court Section also has the added responsibility of representing individuals whose cases have been transferred to Rochester Drug Treatment Court, Monroe County Mental Health Court, the Integrated Domestic Violence Court, or Monroe County Veterans Court.

E. Parole Representation Unit

In 2019, the Office created a new Parole Representation Unit to enhance the representation we provide to clients who are charged with violating the terms of their parole. These clients often have unique challenges, such as drug addiction issues, and face the possibility of having their parole revoked and returning to prison. Due to the

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<sup>17</sup> Although there are 21 Town and Villages in Monroe County with a justice court, almost all of those courts have at least two judges. The attorneys in the Town Court section must handle 49 separate courts in the 21 Towns and Villages in Monroe County.

increase in the number of parole violations in Monroe County since 2014,<sup>18</sup> the Office dedicated a full time attorney and a full time supervisor to this Unit. In 2020 an additional attorney was assigned to this unit.

F. Superior Court Bureau

In 2020, the Superior Court Bureau (divided into the non-violent felony section and the violent felony section) was staffed with the full time equivalent of 22 attorneys, including the 1st Assistant Public Defender, the 2nd Assistant Public Defender, and three Special Assistant Public Defenders (some senior staff have reduced caseloads due to supervisory responsibilities).

The attorneys in the Bureau handled felony cases, the most serious charges against the indigent accused. The attorneys appeared in all courts, including: Supreme Court, County Court, City Court and Town/Village Courts. The Bureau handled violent and nonviolent felony offenses.

The attorneys in this Bureau handled all aspects of the criminal process, including local court preliminary hearings, local court pleas and sentencing; superior court pleas and sentencing, hearings, motions, and trials. In addition, these attorneys handle probation violation proceedings, parole cases (preliminary hearings, final hearings, and administrative appeals), habeas corpus proceedings, and mental health proceedings under the Criminal Procedure Law.

In 2020 we also began providing vertical representation in all felony cases. This ensures that every person accused of committing a felony offense who is represented by this Office is provided an experienced felony attorney at the beginning of the case.

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<sup>18</sup> In 2014 the Office represented 806 persons charged with violating their parole. In 2019 that had increased

This Office remains committed to providing vertical representation in all cases since it provides the indigent accused the most effective representation possible.

In 2020, we were assigned to approximately 3,300 felony cases. Due to the Felony Caseload Reduction Initiative discussed above, felony caseloads for attorneys in the Public Defender's Office approximate the ILS caseload maximums.

F. Family Court Bureau

The role of the Public Defender's Office in Family Court has continually grown. The State Legislature has consistently expanded the right to counsel for indigent persons involved in the Family Court process to include more cases where counsel is required.<sup>19</sup> The State has also passed legislation requiring more court appearances in certain types of family court actions, which requires our family court attorneys to devote a significant amount of time to appearing in court.

In 2020, our Family Court staff was comprised of one Special Assistant Public Defender and ten Assistant Public Defenders. Each attorney is assigned to the "intake part" on a rotating basis and is responsible for handling the cases assigned to our office through completion.

In 2020, this office was assigned to represent approximately 2,400 new family law cases. To put this caseload into a historical perspective, in 1987, there were 5 attorneys in our Family Court section who were assigned to represent 865 clients. That 1987 caseload was within 10% of management guidelines which suggest that a maximum caseload of approximately 150 cases be assigned to each attorney per year.

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to over 1,100.

<sup>19</sup> The Public Defender's jurisdiction in Family Court is specifically set forth in § 262 of the Family Court Act, which includes representing indigent respondents in child abuse, child neglect, permanent termination of

Currently our 11 Family Court attorneys are each required to provide representation to significantly greater number of clients each year. Last year, each family court attorney was asked to represent over 218 cases per year.

This number is far above the recommended caseload for family court attorneys.

The goal of our family law staff is to attempt to maintain the family unit whenever possible and to assist clients to negotiate the network of court-ordered services and providers, thereby holding the state to its statutorily mandated obligation "to help the family with services [in order] to prevent its breakup."

#### G. Appeals Bureau

A person who is aggrieved by the final determination of a court has the constitutional right to at least one appeal. The Public Defender's Office is assigned by the Appellate Division or the appropriate appellate court to handle such proceedings. The Public Defender is assigned to appeal not only cases of our clients, but also for those defendants who want to appeal, but have exhausted their funds and who, after it is determined by the Court, cannot afford to retain private attorneys for purpose of an appeal.

The preparation and argument of appeals are specialties within the field of criminal law. Proper appellate practice requires not only a strong background in law, but also strong writing skills and the ability to orally argue the law before an appellate court. The appellate attorney must first familiarize himself with what went on in the court below and then must research the law pertaining to the issues that have been identified. The appeals attorneys argue cases before the Monroe County Court,

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parental rights, family offense, custody, paternity/support and support violation cases.



Appellate Division (Fourth Department), Court of Appeals and the United States Supreme Court (when required).

In 2020, our authorized appeal staff consisted of the Special Assistant Public Defender in-charge of the section and seven Assistant Public Defenders.

The attorneys in the Appeals Bureau of the Monroe County Public Defender are primarily responsible for representing persons appealing felony convictions, and perfecting family court appeals.

Finally, the Bureau has continued to assist in the research, analysis and presentation of trial court cases. This work is instrumental in ensuring that our attorneys are able to provide the best possible representation for our clients. This work occurs on a variety of levels. Pretrial motions and written requests for jury charge in felony cases are regularly reviewed and edited by attorneys from this Bureau. Additionally, Bureau attorneys research numerous evidentiary issues, sometimes preparing memoranda or motions for trial attorneys. Bureau attorneys have also assisted trial attorneys on collateral issues that sometimes arise.

In 2020, the seven attorneys in our Appeals Bureau closed approximately 111 cases.

#### H. Investigation Bureau

During 2020, the Monroe County Public Defender's Office employed six full-time investigators, one of whom is the Chief Investigator in charge of the section.

The statistics for 2020 are as follows:

INVESTIGATIVE SECTION ANNUAL STATISTICS	CRIMINAL TRIAL PARTS	FAMILY COURT/ APPEALS	TOTAL
INVESTIGATION/ INTERVIEWS	1,748	281	2,029
SUBPOENAS	86	76	162
LOCATE/NOTIFY	105	11	116
MISCELLANEOUS (TRANSLATIONS, PHOTOS, MEASUREMENTS, ETC.)	420	52	472

In 2020, almost 2,700 criminal and family court investigation requests were handled by our investigative staff. The work performed by our investigative staff is reflected in our ability to successfully resolve cases for our clients either by disposition or trial.

### PART III: THE FUTURE OF THE OFFICE

As we look ahead to 2021, the Office plans to continue its efforts to improve our representation to our clients, improve our discourse with the community we serve, and continue to enhance the diversity of our staff. The initiatives outlined above will continue, and we will continue looking at how technology may improve Office operations and efficiency.

To enhance our efforts to increase staff diversity, we will explore how to improve our internship program to attract students of color who wish to become assistant public

defenders, or work in a public defender office. With the anticipated end of the COVID pandemic later this year, we hope to engage in active recruitment at law schools throughout the country.

In order to improve client communication, the Office will explore greater enhancement of our case management system to include a client portal and the ability to apply for a public defender on-line in advance of their first court appearance. We will also explore the creation of a client services webpage to help direct clients to other resources they may need.

With anticipated increased *Hurrell-Harring* funding the Office hopes to add staffing in all areas of the Office, implement a program to assess clients harm reduction needs using social workers, and begin developing a sentencing mitigation unit.

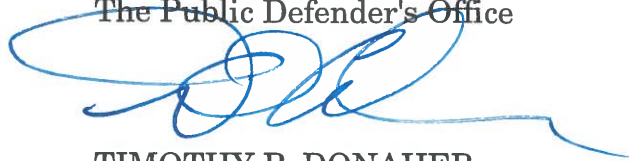
#### PART IV: CONCLUSION

Every member of the Public Defender's Office is proud of the amount of work done in the past year, but each individual takes a great deal more pride in the quality of the services we provide. We continue to stress respect for the judicial process and absolute integrity in the handling of all cases assigned to this Office.

It is important to note that the success this Office has achieved is due in part to the support given to us by the Monroe County Legislature and the County Administration. Both the Legislature and the Administration take seriously the obligation of government to ensure justice for all. We would like to take this opportunity to express our thanks for that support, and we look forward to their support in the future.

In conclusion, I would like to note that this Office's excellent reputation is the result of the dedication, commitment, and talent of the attorneys and the support staff. I am enormously proud of their efforts and the results they achieve for our clients.

Respectfully submitted for  
The Public Defender's Office



TIMOTHY P. DONAHER  
Monroe County Public Defender

COURT ACTIVITY SUMMARY 2020

NEW CLIENTS.....16,297

FELONY..... 2,191

FELONY (Drug A and B).. 101

FELONY (VFO)..... 1,068

HOMICIDE ..... 29

MISDEMEANOR..... 6,134

VIOLATION..... 1,257  
(City and Justice)

PROBATION VIOLATION.... 264  
(Superior)

PROBATION VIOLATION.... 412  
(City and Towns)

APPEALS..... 95

FAMILY COURT..... 3,958

PAROLE..... 638

FUGITIVES..... 51

SORA..... 68

PLEAS AS CHARGED.....364

FELONY..... 65

MISDEMEANOR..... 278

VIOLATION..... 21

PLEAS TO LESSER

FELONIES..... 268

To Lesser Felony..... 33

To Misdemeanor..... 235

PLEAS TO LESSER (Con't)

MISDEMEANORS.....1,761

To Lesser Misd..... 26

To Violation..... 1,735

CLOSED CASES: [OTHER]:

A.C.D..... 247

PRIVATE ATTY..... 500

ASSIGNED COUNSEL..... 3,558

W/D D.A, DIS'D ON MOTION..... 2,422

TRIALS.....21

FELONY..... 7

MISDEMEANOR..... 9

VIOLATION..... 5

FINDING AFTER TRIAL\*

GUILTY AS CHARGED  
(or to part of indict.  
when highest court)..... 4

GUILTY TO LESSER  
(or to part of indict.  
when lesser court)..... 7

NOT GUILTY..... 5

TRIAL ORDER OF DISMISSAL..... 1

MISTRIAL..... 1

\* does not include pleas taken during trial or cases where PD relieved before sentencing

PUBLIC DEFENDER STAFF (as of 2/1/21)

Administration

Donaher, T. Public Defender  
Ponder, D. Special Assistant- Diversity, Equity & Inclusion  
Tronolone, T. Conf. Asst. to the Public Defender  
(Vacant) Secretary to Special Counsel  
Gucciardo, L. Confidential Secretary  
Anthony, J. Executive Secretary  
Rivera, N. Receptionist-Bilingual  
Cook, K. Data Officer

Superior Court

Appeals

Paperno, J.	1st Asst. Pub. Def.	DuBrin, D.	Special Assistant
Teifke, E.	2 <sup>nd</sup> Asst. Pub. Def.	Enright, C.	Paralegal
Cianca, J.	Special Assistant	Davis, T.	Sr. Asst. Pub. Def.
Doran, M.	Special Assistant	Hobbs, J.	Asst. Pub. Def.
Scalia, D.	Special Assistant	Juergens, D.	Asst. Pub. Def.
Beaty, G.	Secretary	Nelson, B.	Asst. Pub. Def.
Adam, J.	Asst. Pub. Def.	Somes, J.	Sr. Asst. Pub. Def.
Bahl, V.	Asst. Pub. Def.	Symes, H.	Asst. Pub. Def.

Bahr, R. Sr. Asst. Pub. Def.  
Baker, C. Asst. Pub. Def.  
Brach, K. Asst. Pub. Def.  
Caputo, J. Sr. Asst. Pub. Def.  
Clark, M. Sr. Asst. Pub. Def.  
Doran, J. Asst. Pub. Def.  
Ejimadu, C. Asst. Pub. Def.  
Grippe, J. Asst. Pub. Def.  
Haselbauer, K. Sr. Asst. Pub. Def.  
Hellwig, B. Asst. Pub. Def.  
Higgins, K. Asst. Pub. Def.  
Infantino, M. Asst. Pub. Def.  
Knott, N. Asst. Pub. Def.  
Kuttner, j. Asst. Pub. Def.  
McCarthy, M. Asst. Pub. Def.  
Mills-Lexvold, C. Asst. Pub. Def.  
Myers, G. Sr. Asst. Pub. Def.  
Park, D. Asst. Pub. Def.  
Phillips, M. Asst. Pub. Def.  
Opalinski, K. Asst. Pub. Def.  
Rosmus, E. Sr. Asst. Pub. Def.  
Roth, C. Asst. Pub. Def.  
Russell, D. Asst. Pub. Def.  
Santacroce, F. Asst. Pub. Def.  
Spangler, T. Asst. Pub. Def.  
Sullivan, T. Asst. Pub. Def.  
Tischler, S. Sr. Asst. Pub. Def.  
Winward, T. Asst. Pub. Def.

Trial Assistants

Cooper, B. Trial Assistant  
Milliman, S. Trial Assistant

Office Clerks

Cash-Maslyn, K. Office Clerk  
Dadson, P. Office Clerk  
Reed, Z. Office Clerk

City Court

Bradley, J. Special Assistant  
 Fish-Krasz, J. Secretary  
 Graim, M. Secretary  
 Sands, K. Invest. Asst.  
 Behrndt, D. Invest. Asst.  
 Short, E. Invest. Asst.  
 Clark, B. Asst. Pub. Def.  
 Cleeton-Gandino, W. Asst. Pub. Def.  
 Dahan, S. Asst. Pub. Def.  
 DeBaise, M. Asst. Pub. Def.  
 Gokey, M. Asst. Pub. Def.  
 Guzierwicz, D. Asst. Pub. Def.  
 Hoge, J. Asst. Pub. Def.  
 Martinez, J. Asst. Pub. Def.  
 Mathias, J. Asst. Pub. Def.  
 McClary, C. Asst. Pub. Def.  
 McNelis, M. Asst. Pub. Def.  
 Phengsiaroun, A. Asst. Pub. Def.  
 Swift, W. Asst. Pub. Def.  
 Weir, W. Asst. Pub. Def.  
 Wolfe, G. Asst. Pub. Def.  
 Zielinski, A. Asst. Pub. Def.

Justice Court

Stubbe, J. Special Assistant  
 Riley, E. Special Assistant  
 Loughridge, P. Secretary  
 Smith, B. Secretary  
 Vargas, J. Invest. Asst.  
 Hagan, T. Invest. Asst.  
 Bechrakis, M. Asst. Pub. Def.  
 Bell, O. Asst. Pub. Def.  
 Brown, C. Asst. Pub. Def.  
 Caron, R. Asst. Pub. Def.  
 Davis, R. Asst. Pub. Def.  
 Garvin, J. Asst. Pub. Def.  
 Gorman, S. Asst. Pub. Def.  
 Harned, L. Asst. Pub. Def.  
 Jones, P. Asst. Pub. Def.  
 King, L. Asst. Pub. Def.  
 O'Neill, J. Asst. Pub. Def.  
 Spong, A. Asst. Pub. Def.  
 Strazzeri, F. Asst. Pub. Def.  
 (Vacant) Asst. Pub. Def.  
 (Vacant) Asst. Pub. Def.  
 (Vacant) Asst. Pub. Def.

Family Court

Fine, A. Special Assistant  
 Arguinzoni, A. Secretary  
 Hutton, A. Paralegal  
 (Vacant) Paralegal (Job Share)  
 Menard, T. Paralegal (Job Share)  
 Scrivens, M. Paralegal  
 Bruce, L. Asst. Pub. Def.  
 Darby, A. Asst. Pub. Def.  
 Erturk, E. Asst. Pub. Def.  
 Lind, D. Asst. Pub. Def.  
 Menard, J. Asst. Pub. Def.  
 Rizzari, K. Asst. Pub. Def.  
 Sartori, S. Asst. Pub. Def.  
 Turner, R. Asst. Pub. Def.  
 Wirley, B. Asst. Pub. Def.  
 Wright, J. Asst. Pub. Def.

Parole

Griffin, J. Special Assistant  
 Opalinski, K. Asst. Pub. Def.  
 Seppeler, M. Asst. Pub. Def.

Investigations

Morse, L. Chief Investigator  
 Camacho, M. Spec. Urban Inv.  
 Dowda, L. Spec. Urban Inv.  
 Gordon, L. Spec. Urban Inv.  
 Pagan, G. Spec. Urban Inv.  
 Zimmer, L. Spec. Urban Inv.  
 Cummings, B. Asst. Pub. Def.  
 Tsiamouris, C. Digital Media Tech.