

**GENESEE COUNTY  
DISTRICT ATTORNEY'S OFFICE  
2024  
ORGANIZATIONAL CHART**

<b>PRE-ARREST INVESTIGATIONS</b> in conjunction with Police Agencies	<b>MISDEMEANOR and VIOLATION PROSECUTIONS</b> in 14 Town and Village Justice Courts	<b>TREATMENT COURTS AND PROSECUTION OF MISDEMEANORS, VIOLATIONS and TRAFFIC TICKETS</b> in Batavia City Court	<b>VIOLATION OF PROBATION PROSECUTIONS</b> in all Courts
<b>GRAND JURY PRESENTATIONS</b>	<b>INTEGRATED DOMESTIC VIOLENCE COURT</b> in Supreme Court	<b>FELONY PROSECUTIONS AND YOUTH PART</b> in County Court	<b>APPEALS</b> in County Court, Appellate Division & Court of Appeals

**DEPARTMENT DESCRIPTION**

The District Attorney's Office prosecutes all criminal charges brought to this office by various arresting agencies in Genesee County. We assist the police agencies in pre-arrest investigations and applications for search warrants and, in conjunction with them we prepare applications for eavesdropping warrants or pen register orders; we do legal research; we consult with the police agencies and courts regarding bail; we meet with victims and witnesses and prepare felony cases for Preliminary Hearings and presentation to the Grand Jury. After a case had been indicted by the Grand Jury, the Prosecuting Attorney is present at all court appearances scheduled for the case. We draft all legal documents, prepare for and participate in hearings, negotiate pleas, prepare for trials,

select juries and prosecute cases through the verdict and sentencing. At sentencing we must address the issue of restitution for losses sustained by the victims. Proof of losses must be obtained by the District Attorney's office and, if a resolution can not be agreed upon, a hearing is conducted to resolve the matter. After a defendant has been sentenced, the D. A.'s office prepares appeal briefs and argues appeals in the Genesee County Court, the New York State Appellate Division and the New York State Court of Appeals. We also defend all post-judgment applications to vacate criminal convictions on the grounds of newly discovered evidence (or other grounds).

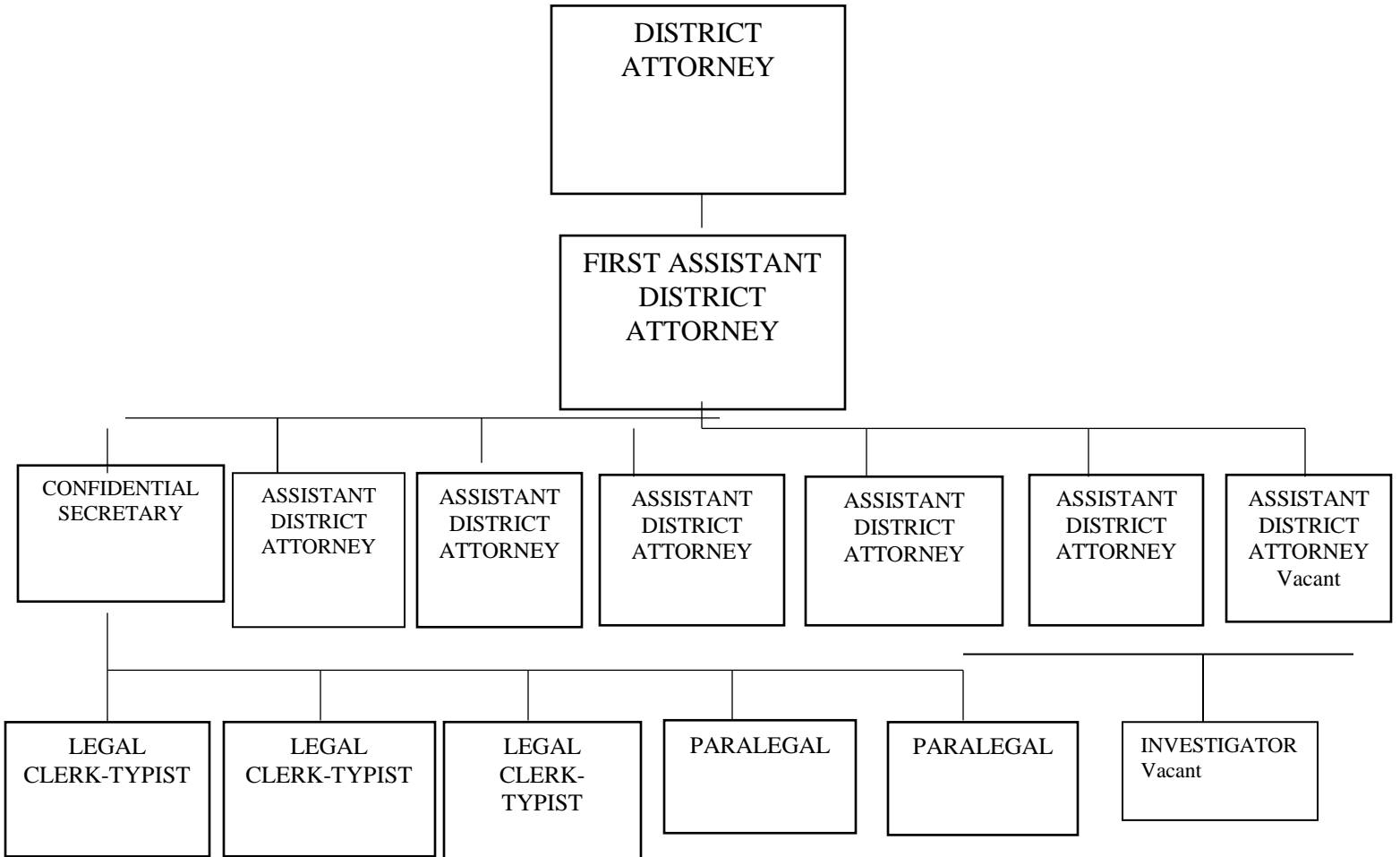
The District Attorney together with his assistants also offer periodic training opportunities to local law enforcement agencies.

The District Attorney's office prosecutes all misdemeanor cases and Penal Law violations (non-criminal offenses) in every Town and Village Court in the County. Pursuant to a contract between Genesee County and the City of Batavia, we also prosecute Vehicle and Traffic Law violations in the Batavia City Court and provide additional services to this Court which are not available to the other Local Criminal Courts in the County. Misdemeanor cases are handled in much the same way as felony cases, except that they do not go through the Grand Jury process.

The District Attorney's Office also prosecutes all Violations of Probation at both the County and City/Town/Village levels, as referred to the office by the Genesee County Probation Department. Furthermore, our Office represents the interests of the People of the State of New York in the County's Drug, DWI, Veterans and Mental Health Treatment Courts, held in the Genesee County Court and the IDV (Integrated Domestic Violence) Court held in the Genesee County Supreme Court.

**GENESEE COUNTY**  
**DISTRICT ATTORNEY'S OFFICE**

**STAFF CHART**



## DEPARTMENT: DISTRICT ATTORNEY

### STRATEGIC FRAMEWORK

#### Mission

The District Attorney is elected by the voters of Genesee County and is responsible to them for carrying out the prosecution of criminal cases referred to the District Attorney's Office by the various police agencies within the County, including the New York State Police, the Genesee County Sheriff's Office, the Batavia Police Department, the LeRoy Police Department, the Corfu Police Department and the New York State Park Police.

#### Key 2023 Accomplishments

##### **COMMUNITY EDUCATION, PUBLIC OUTREACH AND ADVISORY POSITIONS:**

Recognizing the need to bring about positive change in the field of criminal justice and educate members of the community with respect to our legal system, the District Attorney's office did the following:

1. Served on the STOP-DWI Advisory Board, the Justice for Children Team, the Genesee Community College Criminal Justice Advisory Committee.
2. Served on E-MDT team for Elder Abuse.
3. The attorneys in the Genesee County District Attorney's Office continued to provide support and assistance to the law enforcement agencies of Genesee County as needed 24 hours a day.

#### OFFICE STAFFING

Staff recruitment and retention is a persistent problem throughout the workforce, and particularly so in government service. While we are happy to have filled our last Legal Clerk-Typist position, attracting and retaining qualified candidates for an Assistant District Attorney is still very difficult. This is particularly so now that the State of New York has increased the assigned counsel rate to \$158/hour. This would permit an attorney who works comparable hours to those of an Assistant District Attorney to earn considerably more. This increase led to one ADA leaving this office for private practice. Not only did we lose a valued member of the office, we lost the many many hours of training that went into this individual. Fortunately, that vacancy was filled within a reasonable time, however, we feel very lucky to have done so given the current state of the work force.

## **FELONY CASES**

The backlog of felony cases that resulted from COVID has now been completely cleared. While it was hoped that this would provide some relief and it has, the felony trial calendar still remains full. There were multiple trials, both jury and non-jury during the last year. Notable pending cases or those disposed of by plea are set forth below:

**People v. Raul Cruz**: In this case prosecuted by District Attorney Kevin Finnell, the defendant was convicted on his plea of guilty to two counts of murder in the second degree and after violating terms of the plea agreement imposed by the court (his 'Outley' terms) was sentenced to two consecutive terms of 25 years to life. Defense Counsel were Frederick Rarick, Esq. and Anthony Bruce, Esq.

**People v. Makeen Ithna-Asheri**: The defendant entered a plea of guilty to manslaughter in the second degree, for recklessly causing the death of his wife by providing her dangerous drugs and failing to obtain medical aid for her when she was in extremis. Defendant was sentenced to 2 1/3 years to 7 years in state prison. The case was handled by District Attorney Kevin Finnell. Defense Counsel was Jerry Ader, Public Defender.

**People v. Lorenzo Baker**: The defendant is charged by indictment for attempted assault in the first degree, three counts of criminal possession of a weapon in the second degree, reckless endangerment in the first degree. Defendant is alleged to have possessed and fired a loaded firearm towards a group of individuals who were gathered in the parking lot of a local church. The case is scheduled for trial in October 2023. This case is being prosecuted by District Attorney Kevin Finnell. Defense Counsel is Joseph Lobosco, Esq.

**People v. Anthony Armstrong**. The defendant is charged by indictment with burglary in the first degree, unlawful imprisonment in the first degree, criminal possession of a weapon in the third degree. Defendant is alleged to have unlawfully entered into a dwelling in the city of Batavia with intent to commit a crime therein and while in the residence he detained the resident prohibiting her from leaving. The case is currently pending defense motions in Genesee County Court. The case is being prosecuted by District Attorney Kevin Finnell. Defense Counsel is Zack Baisley, Esq.

**People v. Wesley Thigpen**: On October 24, 2022, Defendant entered a plea to Predatory Sexual Assault Against a Child (A-II felony) with agreed upon 10 – life with orders of protection and waiver of appeal. Defendant was sentenced to 10 years to life in DOCCS, consecutive to a current DOCCS sentence, with orders of protection and waiver of appeal. This case was handled by First Assistant District Attorney Joseph Robinson. Defense Counsel was Assistant Public Defender Jamie Welch.

**People v. Michael Jackson**: Defendant plead guilty to Attempted Burglary in the First Degree and Bail Jumping in the Second Degree on November 15, 2022 with a sentence

cap of no more than 6 years, but no less than 5 years. Defendant would also serve a period of post release supervision, an order of protection would be issued, agreed to pay restitution as requested and waived his right to appeal. On March 8, 2023, Judge Cianfrini found that defendant violated his Outley warnings by being re-arrested while incarcerated at the Orleans County Jail. Defendant was sentenced to 12 years for the Attempted Burglary in the First Degree and 1.5 to 3 years for the Bail Jumping in the Second Degree to run concurrently. Defendant is also to serve a five year period of post release supervision and an order of protection was issued. This case was handled by First Assistant District Attorney Joseph Robinson. Defense Counsel was Dan Dubois, Esq. and Assistant Public Defender Jamie Welch, Esq.

**People v. Jarrett Coniglio:** Defendant plea to Attempted Murder in the Second Degree on May 1, 2023 and made factual admissions under oath. There is an agreed upon cap of 14 years of incarceration to run concurrent with a current DOCCS sentence with orders of protection and waiver of appeal. Sentencing was scheduled for August 14, 2023, but defense counsel stated they were looking into filing a motion to withdraw the plea. Arguments on any motions that are filed is to take place on October 17, 2023. This case is being prosecuted by First Assistant District Attorney Joseph Robinson. Defense Counsel was Louis Mussari, Esq.

**People v. Ricardo Castillo:** Defendant was charged with multiple counts of Rape in the Second Degree (D violent felony), Rape in the First Degree (B violent felony), Criminal Sexual Act in the Second Degree (D violent felony) and Criminal Sexual Act in the First Degree (B violent felony). Defendant also had similar charged in Wyoming County. On March 29, 2023, Defendant waived indictment and entered a plea to two counts of Rape in the Second Degree. As part of this plea, Defendant also plead to a count of Rape in the Second Degree in Wyoming County. Agreements of the plea would be that Defendant is sentenced to 5 years in both counties to be served consecutively for a total of 10 years. On July 27, 2023, Defendant was sentenced in Genesee County Court to 5 years with an additional 10 years of post-release supervision and an order of protection. This sentence is being served consecutively to the 5 years he was sentenced to in Wyoming County. This case was handled by First Assistant District Attorney Joseph Robinson. Defense Counsel was Charles Zimmermann, Esq.

**People v. Arthur Brown:** Defendant plead guilty to Attempted Criminal Possession of a Weapon in the Second Degree (D violent felony), SORA violation (E felony) and Criminal Possession of a Controlled Substance in the Third Degree (B felony) on February 8, 2023. Conditions of the plea were that Defendant admit his status as a second violent felony offender and be sentenced to a minimum of 7 years to a maximum of 10 years in DOCCS, the sentences would run concurrent to each other, Defendant would forfeit \$2,405 and waive his right to appeal. Defendant made statements in the Pre-Sentence Investigation Report that minimized his actions. The People argued that Defendant violated his Outley warnings by making these statements. The court did not find the Defendant violated the Outley warnings. Defendant was sentenced to 7 years with 5 years of post-release supervision on the

Attempted Criminal Possession of Weapon in the Second Degree plea. Defendant was sentenced to 1 1/3 to 4 years with 5 years of post-release supervision on the SORA violation. Defendant was sentenced to 10 years with 5 years of post-release supervision on the Criminal Possession of a Controlled Substance in the Second Degree plea. All sentences to run concurrently to each other. This case was handled by First Assistant District Attorney Joseph Robinson. Defense Counsel was Joseph Lobosco, Esq.

**People v. Vincent Kovach**: Defendant is charged with Criminal Possession of an Assault Weapon in the Third Degree and Unlawful Purchase of Body Armor. The LeRoy Police Department answered a complainant about the defendant made by his then employer. These concerns led to the LeRoy Police Department asking for and obtaining an “Extreme Risk Protection Order” and in the process of serving that order they found Defendant to be in possession of an assault weapon and body armor. The case is being prosecuted by District Attorney Kevin Finnell. Defense Counsel is Daniel Killelea, Esq. The case is pending Motions in County Court.

### **FELONY TRIALS**

Felony trials that were conducted from September 1, 2022 to August 31, 2023 include:

**People v. Raul Cruz**: Genesee County Court, Promoting Prison Contraband in the First Degree, 2 Counts. Defendant was alleged to have possessed two “shanks” in his cell at the Genesee County Jail which he fashioned from a broken commissary coffee cup. A non-jury trial was held On August 16, 2023 before the Hon. Melissa L. Cianfrini. He was convicted of both counts and is awaiting sentence. District Attorney Kevin Finnell prosecuted the case. Opposing counsel was Anthony Bruce, Esq.

**People v. Stacey A. King**: Genesee County Court, Criminal Possession of a Forged Instrument in the 2<sup>nd</sup> Degree and Falsifying Business Records in the 1<sup>st</sup> Degree. Defendant was alleged to have presented a forged COVID-19 Vaccination Card which she presented to her employer, Premier Genesee Nursing Home, as proof of vaccination. A jury trial was held June 12, 2023 through June 15, 2023 before the Hon. Melissa L. Cianfrini. District Attorney Kevin Finnell prosecuted the case. Opposing counsel was Assistant Public Defender Jamie Welch, Esq. The Defendant was convicted and is awaiting sentencing.

**People v. Jeffrey D. Hall**: Genesee County Court, Sexual Abuse in the First Degree. Defendant was alleged to have grabbed the hand of a Door Dash delivery driver forcing her to touch his genitals. A jury trial was held April 10, 2023 through April 18, 2023 before the Hon. Melissa L. Cianfrini. District Attorney prosecuted the case. Opposing counsel was Assistant Public Defender Jamie Welch, Esq. The Defendant was convicted and sentenced to 6 months jail, 10 years of probation and must register as a sex offender.

**People v. Shane Vannname**: Genesee County Court, Rape in the First Degree, Sexual Abuse in the First Degree and Rape in the Third Degree. Defendant was alleged to have engaged in forcible sexual intercourse with his wife. A jury trial was held March 6, 2023 through March 10, 2023 before the Hon. Melissa L. Cianfrini. The case was prosecuted by District Attorney Kevin Finnell and Assistant District Attorney Andrew DiPasquale also participated for the People. Opposing counsel was Zack Baisley, Esq. The defendant was convicted of Rape in the Third Degree and sentenced to 1 1/3-7 years in state prison.

**People v Robert Williams**: The Defendant was convicted after a five day jury trial of Aggravated Cruelty to Animals and two counts of Criminal Mischief in the Fourth Degree for pouring caustic chemicals on two dogs. The Defendant was sentenced to six months jail on Aggravated Cruelty to Animals and 30 days on each Criminal Mischief conviction with 5 years of Post Release Supervision. This case was prosecuted by Assistant District Attorney Robert Zickl. Defense counsel was Frederick Rarick, Esq.

**People v. Melvin Huntley**: The Defendant was convicted of Predatory Sexual Assault in the First Degree, two counts of Course of Sexual Conduct Against a Child in the First Degree, two counts of Rape in the First Degree, five counts of Sexual Abuse in the First Degree, two counts of Sexual Abuse in the Third Degree and four counts of Endangering the Welfare of a Child. The trial lasted 7 days in Genesee County Court. The Defendant was sentenced on January 11, 2023 to 25 years to Life. The case was prosecuted by Robert Zickl. Defense Counsel was Nicholas Texido, Esq.

### **APPELLATE CASES**

During the period September 1, 2022 to August 31, 2023, Defendants perfected 7 appeals. Perfection of an appeal is necessary in order to bring the case in front of an appellate court. After perfecting an appeal a Defendant must then file a brief which triggers the Genesee County District Attorney's office responsibility to reply with a responding brief. Oral Argument on the appeal is then scheduled, usually in Rochester, and thereafter a decision is rendered. Notable appeals decisions received this year include:

**People v Doll**: The Defendant's most recent attempt to overturn his 2009 conviction for the murder of his friend, Joseph Benaquist, came in the form of a CPL 440 motion dated October 19<sup>th</sup>, 2022 which was brought in the Genesee County Court. The Defendant made several claims in his 48 page motion, including allegations of errors which occurred at his trial and newly discovered evidence. ADA Will Zickl, who served as co-counsel during the Defendant's trial, has answered the Defendant's numerous applications for post-conviction relief, including his direct appeal to the Appellate Division, Fourth Department and the Court of Appeals; his application for certiorari to the United States Supreme Court; and his previous CPL 440 motions. Defendant's latest motion was argued before the Honorable Sanford Church on March 10<sup>th</sup>, 2023.



Judge Church issued a decision dated May 15<sup>th</sup> 2023 which denied the motion entirely. The Defendant remains in the custody of the Department of Corrections.

**People v Hanes**: The Defendant was convicted after a jury trial of Murder in the Second Degree for the fatal bludgeoning of Raymond Morgan on July 24<sup>th</sup>, 2018, and as a result was sentenced to 25 years to life in prison. On October 31, 2022, the Defendant filed a 72 page brief in support of his claims that his conviction was against the weight of the evidence, that the People withheld evidence favorable to him, that the Prosecutor committed misconduct and that he was provided ineffective assistance of counsel, among others. ADA Will Zickl filed a 31 page brief in response, and argued the matter before the Appellate Division, Fourth Department on March 2<sup>nd</sup>, 2023. That court issued a decision dated July 28<sup>th</sup>, 2023 which affirmed the Defendant's conviction and sentence. The Defendant remains in the custody of the Department of Corrections.

### **Key 2024 Goals**

1. To continue to seek justice for all participants of the criminal justice system including victims and defendants.
2. To hold steadfast in our plea practices in order to best serve the public, despite the staffing shortages that continue to plague our office.
3. To continue our efforts to conserve consumable resources and otherwise be mindful of our budget and expenses. We will respect Genesee County pay scales when hiring and we will continue to seek other funding sources when possible.
4. To take advantage of additional revenue sources where appropriate to supplement county funds.
5. When appropriate, we will continue to use forfeiture funds to defray expenses which would otherwise use County funds.
6. We continue to encourage all office staff to reduce their reliance on consumables including paper and ink/toner. We encourage the Assistant District Attorney's as well as the other office staff to transmit documents digitally whenever possible.
7. We have renewed our contract with the Department of Social Services to provide funding to the District Attorney's Office relating to prosecution of Public Assistance Fraud cases.

## **BUDGET SUMMARY**

<b><u>Appropriation By Object</u></b>	<b><u>Adopted 2022</u></b>	<b><u>Actual 2022</u></b>	<b><u>Adopted 2023</u></b>	<b><u>Projected 2023</u></b>	<b><u>Adopted 2024</u></b>
Salary/Fringe	1,269,150	1,198,180	1,445,852	1,209,811	1,833,069
Equipment	-0-	560	-0-	-0-	3,000
Contractual	<u>59,679</u>	<u>125,501</u>	<u>57,273</u>	<u>39,965</u>	<u>58,795</u>
Total Appropriation	1,328,829	1,324,242	1,503,125	1,250,867	1,894,864
Revenue	<u>199,967</u>	<u>452,748</u>	<u>206,885</u>	<u>90,134</u>	<u>635,055</u>
Net County Support	1,128,862	871,494	1,296,240	1,160,732	1,259,809
FTE's	8.75	8.75	11	13	13

## **BUDGET HIGHLIGHTS**

### **Salary/Fringe:**

Listed below are the salaries that are covered in part or completely by the Revenues generated by this office.

Stop DWI (\$18,604): This amount represents funding that is applied toward the salaries all of Assistant District Attorneys (\$12,600), as well as Court Reporting Services (\$5,000.00) and Gerstenzang DWI Publication (\$1,004). Funding is applied for annually.

City Court Prosecutorial Services (\$68,917): A portion of the salaries of Victor Mui and Andrea Siverling will be paid by the City of Batavia for Prosecutorial Services.

Aid to Prosecution (\$188,944): A portion of the salary and fringe benefits for Joseph J. Robinson are paid from this grant. Funding is applied for annually.

DA Salary Reimbursement (\$72,189): District Attorney position.

DSS (\$24,099): Robert R. Zickl and Jessica Carlson.

**Equipment:** A new shredder is being requested (\$3000).

**Contractual:** We increased line item for Copier Cost/Copy due to the increased rate per page with our new copier. The line item for Personnel Training was increased by \$770 to help cover the cost for to cover the cost of the NYPTI Assessment, NYPTI Summer College for two ADA's and the Defensive Driving Class for all ADA's.

<b><u>INDICATORS (Cases Opened)</u></b>	<b><u>Actual 2021</u></b>	<b><u>Actual 2022</u></b>	<b><u>Current 2023</u></b>
New Felonies (Including felony Violations of Probation)	418	483	347
Misdemeanors, Violations, Infractions and misdemeanor Violations of Probation	1097	1004	763
Indictments	127	123	85
Superior Court Informations	80	120	88