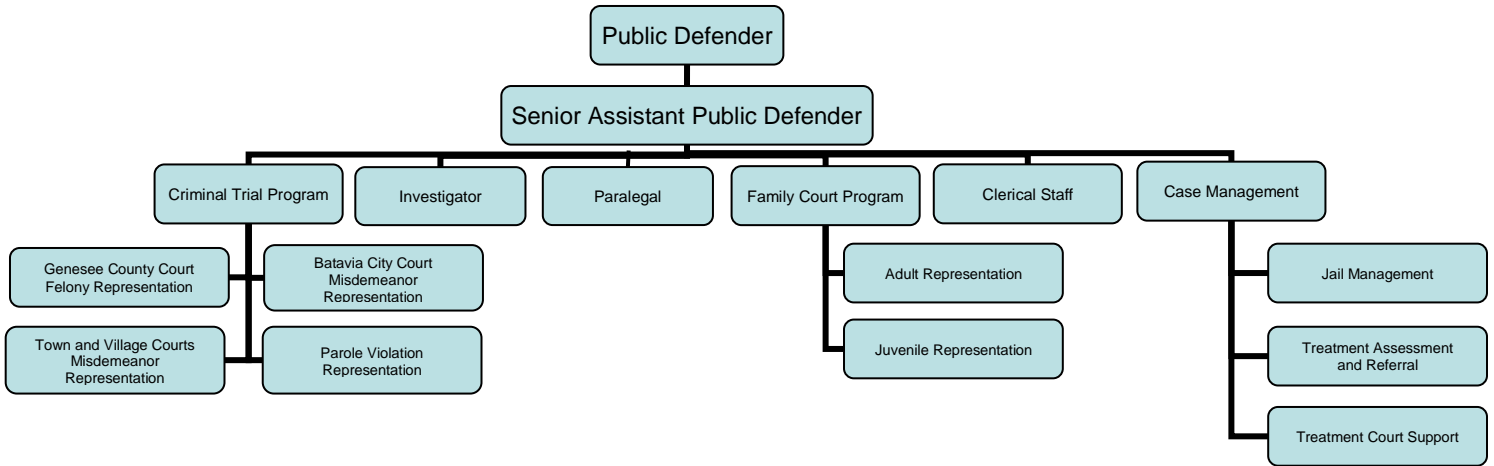


GENESEE COUNTY PUBLIC DEFENDER 2023 PROGRAM BUDGET

ORGANIZATIONAL CHART



DEPARTMENT DESCRIPTION

The Public Defender’s Office exists pursuant to constitutional and statutory mandate (United States Constitution’s Sixth Amendment and New York’s County Law Article 18-a). The Public Defender’s Office provides legal representation to:

1. Indigent individuals charged with violations, misdemeanors and felony crimes in the criminal courts of this County,
2. Indigent individuals charged with violations of the conditions of their parole or probation terms,
3. Indigent individuals accused of being fugitives and wanted by jurisdictions outside of New York,
4. Appellants/defendants who have been granted poor person status for the perfection of appeals for Genesee County,
5. Indigent individuals who are parties in proceedings involving issues of parental rights¹ or the loss of liberty in the Genesee County Family Court,
6. Juveniles petitioned, or removed by the County Court’s Youth Part, to Family Court with regard to allegations of juvenile delinquency or being a person in need of supervision², and
7. In certain specific situations, indigent individuals appearing in Supreme and Surrogate Court matters.

¹ These proceedings include child custody and visitation, child neglect and abuse, adoption and permanent loss of parental rights.

² This representation is funded in part by a contract with the New York State Unified Court System and is estimated to generate \$100,934 in revenue for the Department in 2022/2023.

The Department is mandated to zealously represent the indigent in the above proceedings. We benefit the justice system by fostering the efficient administration of our services. We also benefit the community as a whole (both county residents and non-county residents) by safeguarding the rights of the accused. The Department insures that the right to counsel is meaningfully and effectively provided. We also identify collateral needs of the client related to mental health and/or substance abuse and facilitate available services in an attempt to address issues that may have brought them into the criminal justice system or Family Court. County government achieves cost savings by the provision of mandated legal services at less cost than alternative means of delivery, such as an entirely “assigned counsel” program, through “jail management” by the office advocating and facilitating alternatives to incarceration and by a more holistic approach to client based advocacy which should reduce recidivism.

The largest portion of the caseload of the office is generated by referrals from the criminal courts. There are six attorneys (soon to be seven) in the criminal court division. As the primary indigent defense provider for the county, we must represent any defendant referred by the courts who is financially eligible (or who we have been ordered to represent) and who presents no conflict of interest issues. We have no means of controlling caseload. It must also be highlighted that due to the pandemic, from May 22, 2020 to July 2, 2021 our Judicial District Administrative Judge ordered that anyone who requested assigned counsel in our District was to be considered financially eligible for assigned counsel.

The Department’s Family Court division is staffed with two full-time attorneys and one part-time attorney. One full-time attorney and the part-time attorney are fully funded by an Attorney for Child contract awarded by the New York State Unified Court System’s Office of Court Administration (OCA) and a distribution grant from the New York State Office of Indigent Legal Services (ILS), respectively. Due to the nature of Family Court representations, ILS standards require lower caseloads for these attorneys than those in the criminal courts. As the primary indigent defense service provider for the County, we are initially assigned by the Family Court in those cases referred to on page one. We must represent any client referred by the Court who is financially eligible (or who we have been ordered to represent) and who presents no conflict of interest issue. As with the criminal court assignments, we have no means of controlling this caseload.

The answer to fiscal realities and constitutional mandates has been to obtain additional non-county revenue. Up until 1998, the Department relied solely on county funding with no additional outside revenue, a county service that was truly an unfunded state mandate. In 1999, the Department entered into a juvenile representation contract with the New York State Unified Court System’s Office of Court Administration, which provided us with \$9,385 in revenue that year. In 2005, the County received its first distribution grant from ILS. In 2010, ILS’ multiyear distribution grant to the County had grown to \$222,800.00.

From 1999 to 2017, the State funds to the County have grown from \$9,385 to \$316,872, in multiyear contracts. From 2018 to the present, the State has continued to fund the County (and this Department) through one OCA contract, ILS multiyear non-competitive distribution grants, ILS multiyear competitive grants and an ILS five year Hurrell-Harring (HH) reforms grant. We are currently in our third year budget of the five year HH grant and the fourth and fifth year's available revenue will be added to our 2023 budget as needed when proposed expenses are expected. In 2021, the county was awarded a new five year contract with OCA to provide legal representation to children charged with felonies in the Youth Part or petitioned to Family Court.

As has already been pointed out, our Department performs a State mandated service. In enacting Executive Law §832 in 2017, the State created the ILS office. ILS provides the counties grant funds to reimburse county funding for indigent defense representation. This funding has generally not been in the form of program directed grants but rather multiyear block grants available to the counties to improve the quality of services in the defense of the indigent. This funding could not be used to supplant county spending for such purposes, but only to supplement that spending.

In regards to the five year HH reforms grant funds, Executive Law §832 authorized ILS to formulate plans to insure that the reforms agreed to by the State in its settlement of the HH class action would be implemented in all the counties that were not members of the HH class. It also insured that county funds to implement each county's reform plan would be fully reimbursed by the State.

Going forward, we will actively seek and apply for all available ILS distribution grants and competitive grants. We are presently preparing a new application for an ILS competitive three year grant to provide more robust services in our Family Court division in 2023, including pre-petition outreach and counsel to parents being investigated for alleged child abuse or neglect. We will also continue to seek all possible funds for State reimbursement of our representation of indigent parolees facing parole violation charges.

Based on this Department's caseload in 2016, ILS concluded that to meet their minimum caseload standard reforms, this Department needed 6 more full-time attorneys in its criminal division and 7-1/2 new non-attorney positions (support staff). At that time, we had 4 attorneys in our criminal division and 6 non-attorneys. In 2022, we presently have 6 attorneys in our criminal division and still only 6 non-attorneys for our support staff. As long as State funding is available and space is available, we will continue to increase our staff to reach mandated minimum State standards.

GENESEE COUNTY PUBLIC DEFENDER

STRATEGIC FRAMEWORK

Mission

It is our mission to provide zealous advocacy within the framework of a broad vision of public defense work, to view each client not as a "case," but as whole person: a caring parent, a recent immigrant, a native New Yorker, a worker or a student, all with hope for the future. We are committed to working with our clients, their families and their communities to address the critical issues that circumscribe their lives, whether defending a client's rights and liberty, connecting them to mental health and/or substance abuse services for the first time or once again with a better support system, or encouraging them to engage in the civic life of their community to help insure that they will live and work in that community without violating the law.

Key 2022 Accomplishments

The office has continued its aggressive stance towards alternative to incarceration issues and treatment intervention, including continued support and participation in the Genesee County Treatment Court, presided over by the Hon. Melissa Cianfrini, and judicial diversion of authorized County Court felony clients. Our aggressiveness is buttressed by the continued support of those in the criminal justice system and the community who understand that these alternatives to incarceration tend to benefit everyone.

The Department implemented a plan to represent youth in the Genesee County Court Youth Part. The plan will insure that adolescent offenders receive continuous legal representation in the criminal court and, if removed, in the Genesee County Family Court as alleged juvenile delinquents.

The Department continues to supervise its Counsel at First Appearance (CAFA) plan to insure that every defendant in this county appears with counsel at their initial arraignment even when that arraignment takes place after business hours Monday through Friday and anytime on Saturday, Sunday and holidays. We are also working on expanding that plan to include CAFA during business hours in the lower courts (Town/Village and City). We have also been taking a lead role in creating a Centralized Arraignment Part Court. Once approved, it will streamline the off-hours arraignments procedure insuring a more efficient process for all involved stakeholders.

We continue to assess ILS grant funding to use for the renovation of a portion of the county's "Engine House" building. Once realized, it will be repurposed for additional office space for our Department and possibly office space for a regional or local assigned counsel program.

We have begun digitalizing our closed files. This will eliminate the need for additional safe and secure storage space. It will also increase access to these files by all staff because their records will be available online.

The Department continues to be available every hour of every day, notwithstanding the waning pandemic and its precautions. It continues to be committed to helping our community in its return to normalcy. It is a reflection on this County Department's commitment to its mission.

Key 2023 Goals

The primary goal of the Public Defender's Office is, and has to be, to provide the best possible representation to each individual client and to guarantee the protection of the individual client's rights. By doing so, the integrity of the criminal justice system as whole is upheld.

In order to provide the highest level of quality legal representation, it will be our goal to continue to increase supervision and training of our staff, to meet or exceed legal education requirements for the staff, to work towards meeting the State's minimum standards for indigent defense representation and insure that each client's constitutional and statutory rights are protected.

This Department is cognizant of the financial issues that continuously face the County. As County employees, we will seek to develop the means to meet our obligations to our clients in the most financially responsible ways possible, by continuing to obtain State reimbursement for those expected increased costs associated with our services that are not already being paid for by the County. It is fortunate that the State now provides financial reimbursement to the County for many of our services.

We will continue to focus, where appropriate, on alternatives to incarceration, both pretrial and dispositional, with a particular emphasis on treatment alternatives. To further this end, we will continue to explore better methods for the system as a whole to identify low risk offenders (both current risk to the community and risk of recidivism) who would be appropriate for alternatives to incarceration. This effort can be assisted through our participation on the County's Criminal Justice Advisory Committee and our relationship with outside agencies. We will do this through the work of our paralegal and social worker and with new grant revenue, additional attorneys and another case manager/social worker. Many of these grant-funded positions are the result of complying with ILS' standards for representation in the criminal and family courts, in addition to their respective caseload standards.

The Department will continue to prepare and file applications with ILS for distribution grants and any available competitive grants. In 2023, we will be receiving ILS grant funds from Year Four and possibly Year Five of our five year HH reform contract and from various other continuing multiyear non-competitive ILS grants. We are also in the process of filing a September 2022 application for a multiyear ILS competitive grant to improve

the quality of representation to parents accused of child maltreatment. These funds will allow this Department to enhance the provision of county mandated services to clients, residents and non-residents of Genesee County, at no additional cost to the County and its taxpayers.

Finally, in 2023 the Department will continue to make its case to increase the County's Management Grade Level for its Assistant Public Defenders. The lack of pay parity with the District Attorney's Assistant District Attorneys affects hiring and retention of Department staff. Other than an outdated and inaccurate management salary study, there is no sound basis for the inequity in pay for these two positions. The assistant public defenders should not have to work nights and weekends (if they are permitted to do so) to supplement their salary simply because of an unsupportable and unfair grade level placement.

BUDGET SUMMARY

	<u>Adopted 2022</u>	<u>Requested 2023</u>	<u>Adopted 2023</u>
Salary/Fringe	1,710,204	1,952,875	1,952,875
Contractual	<u>300,597</u>	<u>316,616</u>	<u>316,616</u>
Total Appropriation	2,010,801	2,269,491	2,269,491
Revenue	<u>1,294,770</u>	<u>1,524,696</u>	<u>1,524,696</u>
Net County Support	(716,031)	(744,795)	(744,795)

BUDGET HIGHLIGHTS

1. 1010 Personal Services

Total 1010.0000 Personal Services – \$1,403,583 (\$787,897 funded by ILS grants, \$83,224 funded by a contract with NYS Unified Court System and \$532,462 funded by the County).

On October 1, 2022, we will have 16 employees in our Department. Eight (8) of those employees are fully funded by non-county funds, either ILS grants or a contract for services with the NYS Unified Court System. Five (5) employees' salaries and/or fringes are presently supplemented by a ILS grants. In addition, our Department is still planning on hiring a second Senior Assistant Public Defender, one (1) additional Assistant Public Defender and a Social Worker, all of whose salary and fringe benefits would be funded through ILS grants.

2. **Total 1040.0200 Hourly Pay-On-Call** – \$130,000 (fully funded by ILS grants)

Our ILS Counsel at First Appearance (CAFA) contract and HH Reforms contract provide grant funding for attorneys to appear at off-hours (nights, weekends and holidays) arraignments of defendants in the City, Town and Village courts. The CAFA contract pays a daily stipend for being on call and reimburses for the cost of travel and the HH Reforms contract pays a stipend for each arraignment. All of the associated fringe benefits are funded through the CAFA contract.

3. **4000 Contractual**

Line 2010.0019 - Bookcase - \$1,300 (ILS Funded) for the purchase of three (3) bookcases for new staff.

Line 2010.0020 - Desk - \$1,900 (ILS Funded) for the purchase of three (3) desks for new staff.

Line 2010.0022 - Chairs - \$1,450 (ILS Funded) for the purchase of three (3) chairs for new staff.

Line 2010.0025 – Filing Cabinets - \$1,400 (ILS Funded) for the purchase of three (3) filing cabinets for new staff.

Line 2022.0001 – Computers/IPads - \$2,700 (ILS Funded) for the purchase of three (3) laptops for new staff.

Line 2026.0035 – Computer Accessories - \$575 (ILS Funded) for the purchase of three (3) sets of computer accessories for new staff.

Line 4110.0000 - Office Supplies - \$2,000 (County funded)

Line 4110.0011 – Copier Cost/Copy - \$1,400 (County funded)

Line 4130.0000 – Paper - \$1,200 (County funded)
Increased this expense line by \$200 due to the increased cost associated with paper.

Line 4140.0000 – Postage - \$1,400 (County funded)

Line 4150.0000 – Printing - \$500 (County funded)

Line 4160.0000 – Publications - \$22,980 (\$15,164 funded by ILS grant, \$2,132 funded by our Attorney for the Child Contract and \$5,684 funded by the County)

Increased this expense by \$4,429 from last year due to rising costs and the inclusion of the associated expenses with three (3) new hires.

Line 4290.0300 – Long Distance - \$120 (fully funded by ILS grant)

Line 4290.0035 - Cell Phone - \$2,043 (fully funded by ILS grant)
Reduced this expense by \$1,027 from last year.

Line 4290.0400 – NY Phone Basic Service - \$2,622 (fully funded by ILS grant)
Increased this account by \$524 from last year due to telephone service price increase.

Line 4540.0000 - Personnel Mileage - \$10,000 (\$9,000 funded by ILS grant and \$1,000 funded by the County)

Line 4550.0000 - Personnel Training - \$4,000 (\$3,500 funded by ILS grant and \$500 funded by the County)

Line 4660.0000 – Contracted Other - \$16,000 (\$15,000 funded by ILS grant and \$500 funded by the County)

Line 4660-2000 – Appellate Services - \$100,000 (fully funded by ILS grant)
This expense line funds our contract with the Legal Aid Bureau of Buffalo for appellate representation for Genesee County.

Line 4880.0000 – Program Expense - \$13,026 (fully funded by ILS grant and AFC contract)
This expense line funds our New York State Defenders Association Public Defense Case Management System (PDCMS) licenses, Zoom service for teleconferencing and Thomson Reuters' CLEAR Investigations Advanced, a web based investigation program. This line was increased by \$2,121 from last year due to increasing service costs.

4. **8000 Benefits**

8010.0000 Social Security Tax - \$95,082 (\$56,910 funded by ILS grant, \$5,160 funded by AFC contract and \$33,012 funded by the County)

8011.0000 Medicare Tax - \$22,237 (\$13,310 funded by ILS grant, \$1,207 funded by AFC contract and \$7,720 funded by the County)

8020.0000 Retirement - \$200,906 (\$122,191 funded by ILS grant, \$7,906 funded by AFC contract and \$70,809 is funded by the County)

8030.0000 Medical - \$217,391 (\$133,966 funded by ILS grant and \$83,425 funded by the County)

8030.0001 Medical Buyback - \$7,500 (fully funded by ILS grant/AFC contract)

8040.0000 Dental - \$5,040 (\$3,060 funded by ILS grant and \$1,980 funded by the County)

8040.0001 Dental Buyback - \$200 (fully funded by ILS grant/AFC contract)

8070.00 Vision - \$936 (\$528 funded by ILS grant and \$408 funded by the County)

Total Appropriations: \$ 2,269,491

5. **Revenue**

3025 – Indigent Legal Services

ILS Distribution Grants #10 and #11 for the State’s fiscal years 2023-2024:

Revenue: \$427,669

These distribution grants fund:

- a. One (1) full-time assistant public defender’s salary and fringe benefits,
- b. One (1) part-time assistant public defender’s salary and fringe benefits,
- c. A portion of a full-time investigator’s salary and fringe benefits,
- d. A portion of a full-time paralegal’s salary and fringe benefits,
- e. One (1) full-time legal clerk typist’s medical and one-half (1/2) of her retirement fringe benefits,
- f. The increase in salary and corresponding fringe benefits for our clerk-typist because her job title was changed to legal clerk-typist,
- g. A portion of staff mileage,
- h. A portion of trainings/continuing legal education;
- i. A portion of legal reference materials and memberships;
- j. A portion of fees, licenses and subscriptions;
- k. Basic phone service for four (4) employees,
- l. Cellular service for one (1) cellphone, and
- m. Cellular service for one (1) tablet.

ILS 3rd Upstate Quality Improvement and Caseload Reduction grant for the period of July 1, 2020 through June 30, 2023:

Revenue: \$100,000

This grant funds the Appellate Services Contract with the Legal Aid Bureau of Buffalo.

ILS 3rd CAFA (Counsel at First Appearance) grant for the period of January 1, 2020 to December 31, 2023

Revenue: \$159,315

This grant funds counsel at a defendant's first appearance during "off hours" arraignments, which includes contractual services to compensate attorneys on a per diem basis (or stipend) and the associated fringe benefits and mileage for these appearances. This grant also funds a stipend of \$2,500 plus fringe benefits for the Confidential Secretary/Office Manager, who insures compliance with contract terms and County procedures for payment.

ILS HH Reforms 5-Year grant for the State's fiscal years 2019-2023):

Revenue: \$735,278

Some of the expenses this grant funds:

- a. Three (3) assistant public defender's salary and fringe benefits,
- b. A portion of a full-time investigator and paralegal's salary and fringe benefits;
- c. A stipend of \$5,000 plus fringe benefits for the Confidential Secretary,
- d. The increased supplemental salary and fringe benefits for two (2) assistant public defenders based on an upward modification of the assistant public defenders' management grade level from 116 to 118,
- e. Westlaw books and licensing services for the appropriate Department staff,
- f. A portion of personnel mileage,
- g. A portion of personnel training,
- h. Experts, transcript fees and interpreter services;
- i. Subscriptions and memberships for personnel;
- j. Program expenses for NYPDCMS licenses, CLEAR Investigations Advanced and Zoom; and
- k. Renovations to the first floor of the "Engine House" to provide one additional office.

In 2023, this grant may also fund an additional full-time senior assistant public defender and a social worker, design and engineering studies and second floor renovations at the "Engine House".

This five year grant was authorized by the State to implement the statewide reforms that they previously agreed to implement in five counties in the settlement of the class action of *Hurrell-Harring v. The State of New York*. This grant funding is scheduled to be available until 2023 and is expected to be continued in some form. It is expected that in settling this class action the State accepted the responsibility to adequately fund indigent criminal defense, which it is doing now and must continue to do so to avoid another larger class action suit.

3025.3 – N.Y.S. Division of Criminal Justice Services:

Anticipated Revenue: \$1,500

This State agency reimburses a percentage of assigned counsel's time spent on representing indigent parolees on parole violation charges at their recognizance and parole revocation hearings. Upon notice from the State that they would once again be partially funding this program, the Department submitted a voucher reimbursable costs for the period of April 1, 2021 to March 31, 2022. Payment of \$1,403.70 was received on August 30, 2022.

**3090 – N.Y.S. Unified Court System's Office of Court Administration
contract for Family Court juvenile representation:**

Revenue \$100,934

Total Revenue: \$1,524,696