



Andrew M. Cuomo  
Governor

STATE OF NEW YORK  
**OFFICE OF INDIGENT LEGAL SERVICES**

80 S SWAN STREET, SUITE 1147  
ALBANY, NEW YORK 12210  
Tel: (518) 486-2028 Fax: (518) 474-5050  
E-Mail: [info@ils.ny.gov](mailto:info@ils.ny.gov)  
<http://www.ils.ny.gov>

William J. Leahy  
Director

Joseph F. Wierschem  
Counsel

**Improving the Quality of Mandated Representation Throughout the State of New York**

**INDIGENT LEGAL SERVICES BOARD**

**June 1, 2018**

**Agenda**

**Welcome to new Board member, Professor Suzette Melendez (via telephone)**

- I. Approval of minutes of April 13, 2018 meeting (attached)
- II. Report on initial meeting of Chief Judge DiFiore's **Commission on Parental Legal Representation** and other recent notable events (Angela Burton) (materials attached)
- III. **Update on Hurrell-Harring Implementation** (Kathy Dougherty, Executive Director of the Onondaga County Bar Association Assigned Counsel Program, Laurette Mulry, Attorney-in-Charge of the Legal Aid Society of Suffolk County, and ILS Chief HH Implementation Attorney Patricia Warth) (materials attached)
- IV. Update on statewide HH implementation (Joe Wierschem)
- V. Raise the Age (RTA) Task Force (Bill Leahy) (announcement attached)
- VI. Summary of recent employment offers, interviews and posting for positions (Bill)
- VII. Invitation to ILS Director Bill Leahy and Director of Research Andy Davies to attend Bureau of Justice Assistance Training and Technical Assistance meeting on June 7 (attached)
- VIII. Remaining 2018 Board Meetings:  

**Friday, September 21**

**Friday, November 30**
- IX. Executive session

## **Minutes for the Indigent Legal Services Board Meeting**

April 13, 2018

11:00 A.M.

New York City Bar Association

**Board Members Present:** Chief Judge Janet DiFiore, John Dunne, Carmen Ciparick, Vince Doyle (by telephone), Lenny Noisette (by telephone), Mike Breslin (by telephone)

**ILS Office Attendees:** Bill Leahy, Joseph Wierschem, Cynthia Feathers

**Invited guests:** Alison Verdini and Cillian Flavin from the Division of Budget (by telephone)

**Minutes recorded by:** Mindy Jeng

### **I. Approval of November 3, 2017 Meeting Minutes**

A motion to approve the November 3, 2017 meeting minutes was made and seconded. The minutes were approved by unanimous vote.

### **II. Report on Final FY 2018-2019 Budget**

Joe Wierschem reported on the FY 2018-19 ILS Budget. He noted that total funding increased by almost 50% over last year. Joe remarked that \$50 million was appropriated for the first year of the five-year phase in of *Hurrell-Harring* reforms, and that this level of funding demonstrated a real commitment by the Executive and Legislature to extend the reforms statewide.

The \$50 million Local Aid appropriation represents one-fifth of the Executive's \$250 million total cost estimate for full implementation of the three Statewide Expansion plans submitted by ILS to the Division of Budget in December, 2017 (counsel at arraignment, quality improvement and caseload relief). These plans are to be fully implemented by April 1, 2023. Joe noted that the FY 2018-19 Budget also continued full funding for the implementation of the Hurrell-Harring settlement and ILS' other grants and distribution programs. It also authorized the Office to add four administrative positions.

Joe commended the Division of Budget (DOB) for their tremendous assistance throughout the budget process.

Finally, Joe talked about the Article VII language in the FY 2018-19 Budget. That language does two important things for ILS. First, effective April 1, 2019, it transfers the authority to approve plans of bar associations to operate an assigned counsel program or conflict defender program from the Office of Court Administration to ILS – something the Board and Office have sought to accomplish for years. Second, the language requires indigent legal service providers

to file their annual reports with the Office and, very importantly, it provides ILS with the authority to revise the reporting form.

Multiple board members commended the Office for doing the work needed to get this budget approved.

Bill Leahy discussed the language in the Executive's FY 2018-19 Budget proposal that would have conditioned any Statewide Expansion expenditures on DOB approval of an operational plan. Chairwoman Helene Weinstein specifically asked a question about this approval language during Bill's testimony at the Joint Legislative Public Protection Budget Hearing in January. Bill acknowledged DOB's legitimate role of providing appropriate fiscal guidance and assuring the integrity of the budget process. He commended Joe for putting together our operational plan in cooperation with DOB. Bill gave credit for the final budget to the Governor and the legislature, and to the Board for its contribution to the FY 2018-19 ILS Budget request. There was broad support for the funding both upstate and downstate, and among Republicans and Democrats.

### **III. Presentation by Cynthia Feathers, Director of Appellate and Post-Conviction Representation**

Cynthia Feathers gave a presentation regarding appellate and post-conviction representation. She reported that many providers currently fall short of meeting the Appellate Standards that the Board approved in 2015 due to a lack of funding.

Cynthia formed an ILS Appellate Defender Council – a unique body that focuses on issues such as issue preservation and Family Court appellate representation. The Committee, which met for the first time in March, includes the four appellate providers in upstate New York and the four appellate legal aid providers in New York City, and representatives from NYSDA and ILS. The Council has two working groups, with one group focused on caseload relief and the other focused on mentorship and training. Cynthia stated that training is extremely important, yet many new appellate attorneys do not receive the training they need. In New York City, new attorneys receive three weeks of intensive training, while in upstate jurisdictions, 18B attorneys often only receive one day of voluntary training. Cynthia noted that trial attorneys also need training to better understand how to preserve a defendant's right to appeal. She is hoping to develop a boot camp for attorneys that would consist of two or three weekends over the course of a few months, and eventually have a skills academy or statewide conference for defense attorneys.

In addition to training, lawyers need ongoing supervision and mentorship. Cynthia emphasized that no brief should be filed without it having been reviewed by a second appellate attorney. She noted that Onondaga County has launched a mentoring program and the Monroe County public defender's office (with strong support from Judge Whalen) will have a mentorship program for appellate attorneys in the Seventh Judicial District.

Cynthia foresaw the need for a state appellate defender office, akin to those that have been created in other states.

Bill noted that Cynthia has launched a weekly "decisions of interest" e-mail newsletter, in which she reviews decisions issued by the appellate courts in New York, the Second Circuit, and U.S. Supreme Court concerning issues that may impact public defense representation. She provides a pithy summary of the salient facts and law. Board members expressed an interest in receiving this newsletter.

#### **IV. Recent Developments in Parental Representation**

Bill reported that NYSBA's Committee on Families and the Law is presenting its memorandum in support of State funding for mandated parental representation to the House of Delegates of the State Bar.

Bill also reported that the Chief Judge's Commission on Parental Legal Representation has scheduled its first meeting. The Commission Chair is Hon. Karen Peters, former Chief Judge of the Third Department. ILS is thrilled that the Commission is undertaking this important work. Bill also invited Board members to attend the Families Matter training conference in Albany on April 20-21. Finally, he highlighted the efforts of Chief Judge DiFiore and Angela Burton in advancing the issue of parental representation.

#### **V. Washington County Nominated for National Criminal Justice Award**

Bill informed the Board that Patricia Warth collaborated with the Washington County Public Defender to apply for the National Criminal Justice Award. In addition, NYSAC Executive Director Steve Acquario wrote a very impressive letter in support. Washington County has developed an effective model for providing counsel at arraignment in a rural county.

#### **VI. Bill's Indiana Law Review Article**

Bill stated that the article he wrote on how indigent legal defense reform was achieved in New York was published by the Indiana Law Review. He received a lot of help from ILS colleagues. Bill is pleased that the article has been distributed nationally, and hopes that it will help advance public defense reform.

#### **VII. ILS Office Attendance at the ABA Public Defender Roundtable and Summit**

Bill said that he and Andy Davies will be giving presentations at the ABA Public Defender Summit on bail reform, litigation, and indigent defense research. Andy Davies will be speaking about public defender workloads. Bill is also speaking in Indiana about New York's approach to indigent legal defense.

## **VIII. Progress Reports on *Hurrell-Harring* and Statewide Reform Implementation**

The *Hurrell-Harring* team completed their second annual update on eligibility criteria and procedures in the five lawsuit counties. The report concluded that all five HH counties were in compliance.

The HH team is currently in the process of producing a caseload standards report, which involves collecting data using the seven different case types under the ILS caseload limits. The team is short three staff who have joined the statewide implementation team. They are interviewing candidates to fill these positions.

The team has also scheduled a second annual assigned counsel program summit in May. The goal of the first summit was to have the ACP administrators talk to one another and form a network, which was a resounding success. This year, the goal of the summit is to for the administrators to review the progress they have made and develop their own agenda.

Bill shared that Susan Sommer, Counsel at the Mayor's Office of Criminal Justice in New York City, has been hard at work on the Statewide Expansion. She is working with judges and the Office to support the administrators of the assigned counsel programs in the city.

Bill stated that the statewide implementation team is traveling to all of the Statewide Expansion counties for in-person meetings. The second round of meetings may make greater use of video conferencing. By the end of May, the team will have completed in-person meetings with most of the 52 counties. The team is highly enthusiastic about the work.

## **IX. Remaining 2018 Board Meetings**

The remaining meetings are June 1, September 21, and November 30.

A motion to adjourn the meeting was made and seconded. The meeting was adjourned at 12:20 p.m.



NEW YORK STATE UNIFIED COURT SYSTEM  
**COMMISSION ON PARENTAL LEGAL REPRESENTATION**

25 BEAVER STREET, #1170, NEW YORK, NY 10004 • E-MAIL: PARENTREPRESENT@NYCOURTS.GOV  
HON. KAREN K. PETERS, CHAIR • JANET R. FINK, COUNSEL

**NYS Commission on Parental Legal Representation**

**AGENDA: MAY 17, 2018, 12:30 PM – 2:30 PM**

**Proskauer Rose LLP, 11 Times Square (8<sup>th</sup> Ave., 41 St.), NY, NY 10036**

**NOTE: Lunch will be provided.**

[If not attending in person: call 1-646-386-3535 or 1-888-795-5787 (US Toll-free); enter Meeting ID: 7849 followed by the # sign]

- 1. Introductions and Welcomes: Commission Mission**  
Hon. Karen K. Peters, Chair;  
Hon. Lawrence K. Marks, Chief Administrative Judge
- 2. Overview of Parent Representation: History, Standards, Legal Context, Issues:**  
Angela O. Burton, Esq., NYS Office of Indigent Legal Services
- 3. Issues, Questions and Concerns for Commission to Pursue: open discussion**
- 4. Strategy and Work Plan for the Commission**
  - a. Outreach to advocates, bar associations, client organizations, practitioners
  - b. Public hearings: possible dates and locations:
    - Sept. 13, 2018: Rochester
    - Sept. 27, 2018: New York City
    - Oct. 11, 2018: Albany
    - Oct. 23, 2018: Nassau County or White Plains (Judicial Institute)
  - c. Research needs
- 5. New business**
- 6. Next meeting**

Office of Indigent  
Legal Services

MAY 01 2018



NEW YORK STATE UNIFIED COURT SYSTEM  
**COMMISSION ON PARENTAL LEGAL REPRESENTATION**

25 BEAVER STREET, #1170, NEW YORK, NY 10004 • E-MAIL: PARENTREPRESENT@NYCOURTS.GOV  
HON. KAREN K. PETERS, CHAIR • JANET R. FINK, COUNSEL

**Parent Representation Commission: Contact List**

**Chair: Hon. Karen K. Peters**

P.O. Box 1192  
Woodstock, NY 12498  
PH: 845 417 4139  
Email: [Kpeters@nycourts.gov](mailto:Kpeters@nycourts.gov)

**Special Advisor: Angela Olivia Burton, Esq.**

Director of Quality Enhancement, Parent Representation  
New York State Office of Indigent Legal Services  
80 S. Swan Street, Room 1147  
Albany, NY 12210  
PH: 518-474-4859 Cell: 518-491-0094  
Email: [Angela.Burton@ils.ny.gov](mailto:Angela.Burton@ils.ny.gov)  
Web-site: <http://www.ils.ny.gov>

**Appellate Consultant: Cynthia Feathers, Esq.**

Director of Quality Enhancement  
For Appellate and Post-Conviction Representation  
NY State Office of Indigent Legal Services  
80 S. Swan St., Suite 1147  
Albany, NY 12210  
PH: 518 473-2383; Cell: 518 949-6131  
Email: [cynthia.feathers@ils.ny.gov](mailto:cynthia.feathers@ils.ny.gov)

**General Consultants:**

**Betsy Ruslander, Esq.**

Director, Office of Attorneys for Children  
NYS Supreme Court, App. Div., 3<sup>rd</sup> Dept.  
286 Washington Avenue Extension, Suite 202  
Albany, NY 12203

PH: 518 471 4826; Fax: 518 471 4750  
Email: [Brusland@nycourts.gov](mailto:Brusland@nycourts.gov)

**William C. Silverman, Esq.**

Partner, Proskauer Rose LLP  
11 Times Square  
New York, NY 10036-8299  
PH: 212 969 3422; Fax: 212 969 2900  
Email: [Wsilverman@proskauer.com](mailto:Wsilverman@proskauer.com)



**Counsel: Janet Fink, Esq.**

Deputy Counsel, NYS Office of Court Administration  
25 Beaver Street - 11th Floor  
New York, NY 10004  
Tel: 212-428-2150; Fax 212-428-2155  
E-mail: [JFINK@nycourts.gov](mailto:JFINK@nycourts.gov)

**Co-Counsel: Shane T. Hegarty, Esq.**

Asst. Deputy Counsel, NYS Office of Court Administration  
25 Beaver Street - 11th Floor  
New York, NY 10004  
Tel: 212-428-2691  
Email: [Shegarty@nycourts.gov](mailto:Shegarty@nycourts.gov)

**MEMBERS:**

**Hon. Kevin M. Carter**

Erie County Family Court  
One Niagara Plaza  
Buffalo, NY 14202 Part 8 - 6th floor  
Phone: 716-845-7484  
Email: [kmcarter@nycourts.gov](mailto:kmcarter@nycourts.gov)

**Hon. Craig Doran**

Administrative Judge, 7<sup>th</sup> Judicial District  
Ontario County Courthouse  
27 No. Main St.  
Canandaigua, NY 14424  
PH: 585 412 5292; Fax: 585 412 5328  
Admin. Office: 545 Hall of Justice, 99 Exchange Blvd.,  
Rochester, NY 14614  
PH: 585 371 3752  
Email: [Cdor@nycourts.gov](mailto:Cdor@nycourts.gov)

**Hon. Gayle P. Roberts**

Judge, Family Court, Bronx County  
900 Sheridan Ave.  
Bronx, NY 10451  
PH: 718 618 2211  
E-mail: [Grobert@nycourts.gov](mailto:Grobert@nycourts.gov)

**Hon. Jeanette Ruiz**

Administrative Judge, NYC Family Court  
60 Lafayette St., 11 Fl.  
New York, NY 10013  
PH: 646 386 5190; Fax: 212 374 2127  
E-mail: [JERuiz@nycourts.gov](mailto:JERuiz@nycourts.gov)



**Hon. Kathie E. Davidson**

Administrative Judge, 9<sup>th</sup> Jud. District  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, NY 10601  
PH: 914-824-5479; Fax: 914-995-8647  
E-mail: [KDAVIDSO@nycourts.gov](mailto:KDAVIDSO@nycourts.gov)

**Hon. Dean Kusakabe**

Family Court, Kings County  
330 Jay St.  
Brooklyn, NY 11201  
347 401 9761  
Email: [Dkusakab@nycourts.gov](mailto:Dkusakab@nycourts.gov)

**Hon. Margaret T. Walsh**

Judge of the Family Court, Albany County, and Acting Supreme Court Justice  
30 Clinton Ave.  
Albany, NY 12207  
PH: 518 285 8671; Fax: 518 285 4537  
Email: [mtwalsh@nycourts.gov](mailto:mtwalsh@nycourts.gov)

**Hon. Theresa Whelan, Supervising Judge**

Family Court, Suffolk Co.  
John P. Cohalan, Jr. Court Complex,  
400 CARLETON Ave., Central Islip, NY 11722  
PH: 631 740 3627; Fax: (631) 853-4935  
Email: [Twhelan@nycourts.gov](mailto:Twhelan@nycourts.gov)

**Barbara J. Kelley, Esq.**

Allegany County Public Defender  
7 Court Street  
Belmont, NY 14813  
Phone: (585) 268-9246  
[Kelleybj@alleganyco.com](mailto:Kelleybj@alleganyco.com)

**Linda Gehron, Esq.**

President & CEO  
Hiscock Legal Aid Society  
351 South Warren Street  
Syracuse, NY 13202-2057  
Phone: (315) 422-8191  
Email: [lgehron@hlalaw.org](mailto:lgehron@hlalaw.org)

**Michele Cortese, Esq.**

Executive Director  
Center for Family Representation  
40 Worth Street, Suite 605  
New York, NY 10013  
Phone: 646-934-6635  
Email: [mcortese@cfrny.org](mailto:mcortese@cfrny.org)

**Tasha Lloyd, Esq.**

Associate Counsel, Justice Initiatives  
NYC Mayor's Office of Criminal Justice  
1 Centre Street, Room 1012N, New York, NY 10007  
PH: (646)576-3537 | Fax: (212)788-6815  
Email: [talloyd@cityhall.nyc.gov](mailto:talloyd@cityhall.nyc.gov)

**Tim Ross, PhD**

Managing Partner, Action Research Partners  
318 5<sup>th</sup> Street  
Brooklyn, New York 11215  
Voice: 347-886-4308  
Email: [tross@actionresearchpartners.com](mailto:tross@actionresearchpartners.com)

**Prof. Sarah Rogerson**

Director, Immigration Law Clinic  
Albany Law School  
80 New Scotland Avenue  
Albany, NY 12208-3494  
PH: 518 445-2328  
Email: [sroge@albanylaw.edu](mailto:sroge@albanylaw.edu)

**Prof. Martin Guggenheim**

New York University School of Law  
245 Sullivan St.  
New York, NY 10012  
PH: 212 998 6460; Fax: 212 995 4031  
Email: [guggenh@mercury.law.nyu.edu](mailto:guggenh@mercury.law.nyu.edu)

**Susan B. Lindenauer, Esq.**

45 Gramercy Park North, Apt. 8A  
New York, NY 10010  
PH: 212 982 0298; Fax: 212 477 6728  
Email: [Alindenauer@nyc.rr.com](mailto:Alindenauer@nyc.rr.com)

**Jeannette Vega**

Parent Advocate Training Director, RISE Magazine  
2110 Arthur Avenue, Apt. 55  
Bronx, New York 10457  
PH: Cell: 929-431-5606

Email: [jeanette@risemagazine.org](mailto:jeanette@risemagazine.org)

**Michael Hein**

Ulster County Executive  
Ulster County Office Building  
244 Fair Street, 6<sup>th</sup> Fl.  
Kingston, NY 12401  
PH: 845 340 3800  
Email: [exec@co.ulster.ny.us](mailto:exec@co.ulster.ny.us)

**Michael Williams**

Chief Clerk, Suffolk County Family Court,  
John P. Cohalan, Jr. Court Complex,  
400 Carleton Ave., Central Islip, NY 11722  
PH: 631 853 4280; fax: 631 853 5851  
Email: [mwilliam@nycourts.gov](mailto:mwilliam@nycourts.gov)

**Ex Officio**

**Hon. Edwina G. Mendelson**

Deputy Chief Administrative Judge for Justice Initiatives  
111 Centre Street - Room 944  
New York, NY 10013  
PH: (646) 386-3980 (Chambers); (212) 401-9116 (fax)  
EMAIL: [ERICHARD@NYCOURTS.GOV](mailto:ERICHARD@NYCOURTS.GOV)

**Excerpts from *Hurrell-Harring* Highlights Shared with the Parties:  
Onondaga County Assigned Counsel Program &  
Suffolk County Legal Aid Society**

**Onondaga County Assigned Counsel Program (ACP)**

***Access to time and resources is making a noticeable difference in Onondaga County courts (August 2017 highlight).***

Doug Dowty, the courts and legal affairs reporter for the *Syracuse Post-Standard*, called ILS to discuss the noticeable difference he is observing in criminal defense practice in Onondaga County. Mr. Dowty explained that for the past few months, he has seen more second-chair attorneys involved in cases and more non-attorney supports being used by the defense. He has also repeatedly heard from assigned counsel panel attorneys that they are no longer “being nicked and dimed by the Assigned Counsel Program” on their vouchers.

Mr. Dowty went on to explain that the recent trial of 17-year old Farod Mosley fully illuminates the change he is observing, as well as the importance of a well-resourced defense. Farod was charged with second-degree murder and burglary for allegedly killing an 18-year old female acquaintance and then stealing her television. He was represented by Chuck Keller as lead attorney and Todd Smith as second-chair attorney. Mr. Dowty observed most of the trial, and in his opinion having a second-chair attorney was critical because of the many complex legal and forensic issues involved.

He also noted that a key trial issue was the time of death. The defense’s original forensic pathologist became unavailable at the last minute because of a scheduling conflict. The Assigned Counsel Program (ACP) worked with Mr. Keller to ensure that he could retain an experienced and credentialed forensic pathologist from New York City, who effectively rebutted the prosecution’s forensic pathologist about the time of death. Consistent with the defense’s theory, Farod was found not guilty of second-degree murder, but guilty of the burglary charge. Mr. Dowty remarked that though Mr. Keller is a quality defense attorney, this outcome likely would not have been possible without Mr. Smith’s involvement as a second-chair attorney and without resources, including the last-minute access to a high-quality forensic pathologist. He further remarked that the trial outcome did not represent “defense trickery” but instead the system working as it should. In his view, because of an adequately-resourced defense, a young man was found not guilty of a murder that he probably did not commit.

As it happened, ILS was meeting with Laura Fiorenza, the ACP’s Quality Enhancement Director, the morning after the verdict in Farod’s case. She had been texting back and forth with Chuck Keller throughout the trial. That morning, he texted to say he had just realized that because Farod was found not guilty of the murder charge, he is eligible for youthful offender adjudication on the burglary charge. Ms. Fiorenza immediately called Mr. Keller to urge him to retain a sentencing advocate to enhance the chances of Farod being adjudicated a youthful offender.

This was not the only recent success in which an Onondaga County ACP panel attorney had effectively utilized a second-chair attorney and non-attorney supports. On June 6, 2017, Mr. Keller and his second-chair attorney, Steven Heath, achieved an acquittal after trial for their client, Lakeisha Brown, who was charged with first and second-degree manslaughter for the stabbing death of her abusive boyfriend. On June 21, 2017, panel attorney Susan Carey and her second-chair attorney, Patrick Hennessey, achieved an acquittal after trial for their client, Sangsouriyah Maniphonh, who was charged with second-degree murder for the shooting death of Jonathan Diaz. Ms. Carey and Mr. Hennessey convinced the jury that Mr. Maniphonh had acted in self-defense. On July 18, 2017, panel attorneys Ben Coffin and Lou Manneria, had murder charges against their client, Woodrow Holmes, dismissed after evidence was revealed showing that Mr. Holmes likely acted in self-defense at the time of the killing. In all these cases, the ACP panel attorneys had obtained and effectively used investigators with the assistance of the ACP. Some of the lawyers involved, including Susan Carey, Ben Coffin, and Chuck Keller, had also participated in the April 2017 trial trainer that the ACP co-sponsored with the New York State Defender Association and the New York State Association of Criminal Defense Lawyers.

***Onondaga County Assigned Counsel Program mobilizes its mentors and arraignment attorneys to address systemic unfairness in judicial and prosecutorial arraignment practices (February 2018 highlight).***

In early-February 2018, Laura Fiorenza mobilized the Assigned Counsel Program (ACP) mentors and panel attorneys to respond to two arraignment related issues. The first issue arose from a memo that David Gideon, Special Counsel, 5<sup>th</sup> Judicial District Town and Village Courts, emailed to all the 5<sup>th</sup> Judicial District magistrates. This memo states that while magistrates can *sua sponte* dismiss a case when the accusatory instrument is facially insufficient, there is “no ability for the defendant or defense counsel to raise the same [issue] orally at the time of arraignment.” Mr. Gideon stated that this notice was necessitated by the fact that there have been “many oral motions made for insufficiency during the arraignment process of the Centralized Arraignment Part.”

Ms. Fiorenza sent this memo to the ACP mentors for their input and advice. They uniformly responded that if a local criminal court accusatory instrument is not sufficient as prescribed by the law, and if the court is satisfied that based on the available facts it would be impossible to file an accusatory instrument which is sufficient, the court must dismiss the case. Or as one mentor stated: “A jurisdictionally defective accusatory deprives the court of...well...jurisdiction.” Using this input from the mentors and the caselaw they sent her, Ms. Fiorenza emailed arraignment attorneys practice tips and advisories and ultimately a memorandum detailing, with case law support, why arraignment judges should entertain motions for insufficiency at arraignment, even when made orally.

The second issue arose in response to a February 1, 2018 Syracuse *Post-Standard* editorial published by District Attorney (DA) William Fitzpatrick. In this editorial, Mr. Fitzpatrick said that his office has long had progressive bail practices and does not request bail in most misdemeanor cases. Ms. Fiorenza, however, noticed that at arraignments, Assistant District Attorneys (ADAs) are regularly asking the court to set cash bail in misdemeanor cases. She

emailed Mr. Fitzpatrick's editorial to arraigning attorneys and advised that they should alert the judge and arraigning ADAs of the District Attorney's policy and ask that the ADAs be held to it. Additionally, Ms. Fiorenza reached out to arraigning attorneys and obtained information about specific cases in which the arraigning ADA had not complied with the District Attorney's policy. Armed with this information, she requested a meeting with the leadership in the District Attorney's Office to put them on notice that there is a gap between the practice of arraigning ADAs and the District Attorney's publicly-stated policy.

Alan Rosenthal, an ACP mentor and criminal defense attorney who has practiced in Onondaga County for 30 years, told the *Hurrell-Harring* Team that this is the first time he has seen ACP panel attorneys mobilized in this fashion. He noted that Ms. Fiorenza's leadership on these issues, and her effective use of mentors to help address them, has instilled a sense of renewed energy among many of the panel attorneys.

***March Madness: The Onondaga County Assigned Counsel Program conducts an intensive series of trainings for new and experienced attorneys during the month of March 2018 (April 2018 highlight).***

During the month of March 2018, the Onondaga County Assigned Counsel Program's (ACP's) Director of Quality Improvement, Laura Fiorenza, conducted a series of intensive trainings, effectively weaving Continuing Legal Education (CLE) programs for more experienced attorneys into its first ever comprehensive Nuts and Bolts program for attorneys new to the panel.

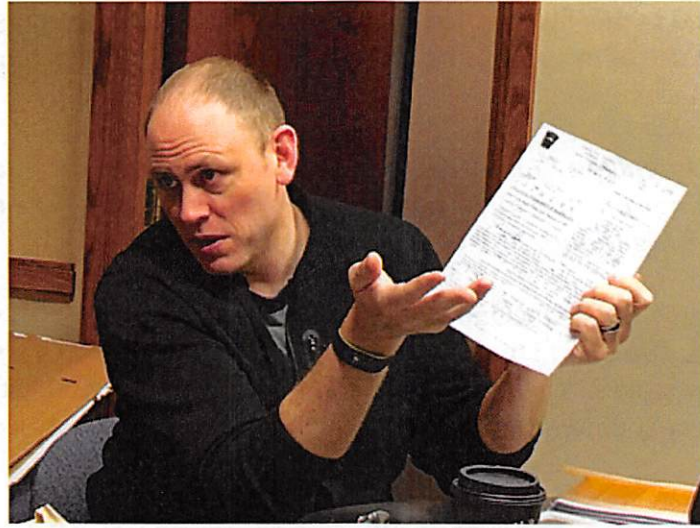
The Nuts and Bolts training was an intensive two-week training session, from February 26<sup>th</sup> through March 9<sup>th</sup>, 2018 that focused on criminal defense basics, court observations, use of mentor and resource attorneys, and introductions to ACP staff and other key players in the Onondaga County criminal justice community. While there were some training topics that included just a training session delivered by an experienced practitioner (such as "Sentencing Basics"), others included a training session followed by a court observation relevant to that topic, and then a discussion period after to analyze what had occurred in court. For example, the training on arraignments included a full training session on the basics of representation at arraignments and arraignment documents. The following day, the program participants went to the Syracuse City Court arraignment session, where Ms. Fiorenza introduced them to the judge and the panel attorneys providing arraignment representation. They then observed the arraignment session, with Ms. Fiorenza pointing out various arguments and players. Following this observation, the program participants were introduced to the topics of Aggressive Bail and Sufficiency Arguments. The day after, they were paired with a panel attorney to participate in pre-arraignment client interviews and then shadow the arraigning attorney during arraignments.

Conducting the Nuts and Bolts training in this manner produced an effective mix of "classroom" training, discussion, and hands-on in-court experience. It also created opportunities for the new panel attorneys to meet judges, court personnel, and other panel attorneys, and to get a real feel for the criminal court environment in Onondaga County.

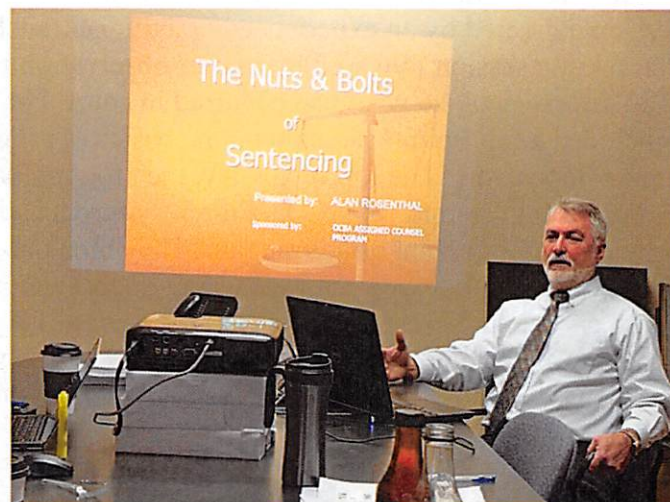


Upon completion of the Nuts and Bolts training, the new panel attorneys were assigned a mentor, who will work closely with them both in and out of court. Ms. Fiorenza has assigned the new panel attorneys to various court sessions (some to City Court, some to one of the town and justice courts), and is monitoring their case assignments so that they do not take a full caseload right away. On April 6<sup>th</sup>, the new panel attorneys had another training session, during which they met the mentors and resource attorneys, were trained on completion of vouchers, and were provided an opportunity to discuss case-related and law-practice related issues they are having.

Below are pictures from the Nuts and Bolts program:



Charles Keller, who presented on common paperwork in criminal cases, client interviews, and effective arraignment representation



Alan Rosenthal, who presented on New York State sentencing basis

In addition to conducting the Nuts and Bolts program, the ACP also partnered with the Onondaga County Bar Association to present CLE programs on three Fridays in March<sup>1</sup>: March 9<sup>th</sup>, 16<sup>th</sup>, and 23<sup>rd</sup>. The last day of the Nuts and Bolts program, the participants attended the March 9<sup>th</sup> CLE, which not only was an opportunity to learn a substantive legal topic, but also to meet other attorneys in the community. (Nuts and Bolts program participants were also encouraged to attend the other two Friday CLEs). The topics for this CLE series included:

- Case Assessments and Use of Experts, presented by Robert Wells, President of the New York Association of Criminal Defense Lawyers;
- Mitigation Investigation and Sentencing Advocacy, presented by Alan Rosenthal, Ann Usborne, the ACP's new sentencing advocate, and Amy Knibbs, Director of the Center for Community Alternatives' Client Specific Planning program;
- Post Indictment Motions, presented by John Brunetti, former County Court Judge and current ACP Resource Attorney;
- When Your Criminal Client is Also on Parole, presented by Craig Schlanger, Supervising Attorney, Hiscock Legal Aid's Parole Revocation Defense Unit;
- Sufficiency at Arraignments, presented by Ben Coffin, an ACP Mentor Attorney and CAP part arraignment attorney;
- Bail, Speedy Trial, and Discovery Reform Updates, presented by Marie Ndiaye and Sean Hill, Katal Center for Health Equity, and Justice; and
- Immigration Issues and Criminal Law, presented by Sharon Ames, the Regional Immigration Assistance Center

Below are pictures from these CLE programs:



Marie Ndiaye, Ben Coffin, John Brunetti, Sean Hill, and Craig Schlanger

---

<sup>1</sup> Originally, four CLEs were scheduled, but one had to be cancelled due to inclement weather.

## **Suffolk County Legal Aid Society**

***Every penny counts - having even a small fund for experts has provided Suffolk County Legal Aid Society attorneys with a critical advocacy tool (August 2017 highlight).***

The *Hurrell-Harring* Quality Improvement Plan has made \$50,000 available to the Suffolk County Legal Aid Society (SCLAS) for experts. Previously, SCLAS had no money available for experts, and had to apply to the court for expert services. SCLAS' Sabato Caponi recently told ILS that the funding available for experts is making a significant difference in cases. SCLAS attorneys have used the funds to pay for substance abuse evaluations by credentialed evaluators, which are often a precondition for a favorable plea offer from the prosecution. They have also used the funds for experts in more serious cases. For example, in one case, the SCLAS used the funding to retain a neuropsychologist, who discovered that their client has a serious brain injury from childhood which likely was a contributing factor to the charged crime. The SCLAS will use this information to advocate for a less punitive disposition for the client.

***The Suffolk County Legal Aid Society: twenty-three newly hired, well-trained lawyers (October 2017 highlight).***

Using a combination of quality and caseload relief funding, the Suffolk County Legal Aid Society (SCLAS) has hired twenty-three new lawyers. But while newly hired attorneys formerly did not have an opportunity for any formalized training upon starting their employment with SCLAS, this group of new hires will not start representing clients until first participating in a comprehensive training program coordinated by Kent Mosten, Sab Caponi, Bryan Browns, and Joe King, and then conducting court observations and shadowing more experienced attorneys. To facilitate group discussion and more in-depth conversations, the SCLAS has divided the class of new lawyers into three groups: 1) the "advance team" of four lawyers who started on August 1, 2017 and finished the formal training program in September 2017; 2) a group of 9 recent law school graduates who started their formal training in early September 2017 and are targeted to finish in mid-October 2017; and 3) another group of 10 recent law school graduates who are training at the same time, but in a different location. Training topics include: substantive and procedural criminal law; defense strategies; the "lay of the land" (local court practices); practice, trial, and advocacy skills; social work aspect of criminal defense practice; investigations; and collateral consequences, including the immigration consequences of a conviction.

The SCLAS trainers report that these newly hired attorneys are eager and committed to getting the most out of this training opportunity. Below is a picture of one of the training groups:





***The Suffolk Legal Aid Society is using the addition of staff not just to reduce caseloads but to transform its practice (February 2018 highlight)***

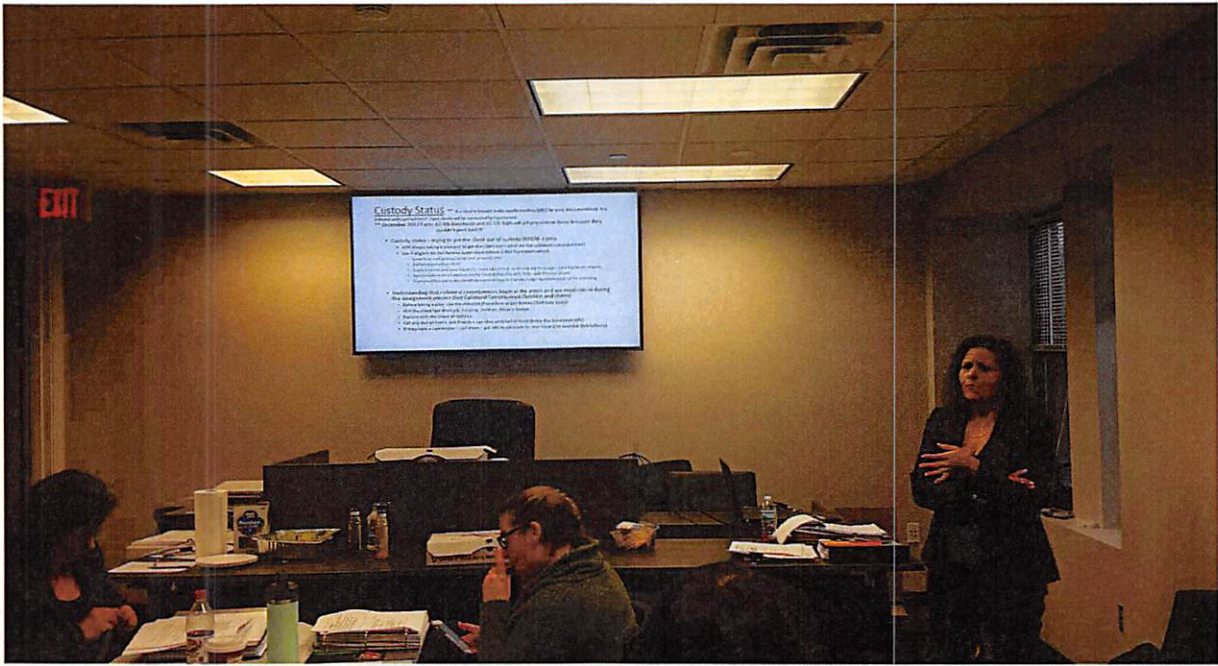
Liz Justesen, Suffolk County Legal Aid Society's (SCLAS') Outreach Director, has prepared and is delivering to SCLAS staff a comprehensive training program on holistic, client-centered representation. The program begins with the following quote from Arthur von Briesen, a founding president of the Legal Aid Society:

*No one will dare trample the rights of the poor and helpless underfoot, as long as the appearance of the Society's attorney in court demands respect and careful consideration of the rights of its clients.*

This training program builds on the SCLAS' transition to a team approach of representation. Under this team approach, every attorney is part of a team that includes a supervising attorney, a paralegal, a social worker, and an investigator. The team approach is being implemented initially in District Court.

Ms. Justesen's holistic representation program includes: an overview of what holistic representation is and its four pillars; a description of how holistic representation fits within the SCLAS' team approach; and information about community-based resources that are available to SCLAS clients and SCLAS' role in some of these community-based programs. Every SCLAS staff person (attorney and non-attorney) is required to attend this program. To facilitate discussion and accommodate everyone's schedule, the training is occurring in small groups of about 18 participants from SCLAS' different bureaus.

Below is a photograph from one of these trainings in SCLAS' new training room:





## Leahy, Bill (ILS)

---

**From:** BJA NTTAC <nttac@bjatraining.org>  
**Sent:** Wednesday, April 18, 2018 3:26 PM  
**To:** 'BJA NTTAC'  
**Cc:** 'Sarathy-Jones, Priya (OJP)'  
**Subject:** Justice for All Act Training and Technical Assistance Meeting - Invitation to Participate

**ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.**

Dear Esteemed Colleague:

The Bureau of Justice Assistance (BJA) is pleased to invite you to the *Justice for All Act Training and Technical Assistance Meeting* on Thursday, June 7, 2018 from 8:00 a.m. to 5:00 p.m. ET at the Office of Justice Programs (810 Seventh Street NW, Washington, DC 20001). This meeting will bring together criminal justice stakeholders across disciplines to explore the issues facing state and local jurisdictions in their commitment to ensure the obligations of the Sixth Amendment.

Beginning in fiscal year 2017, BJA received funds under the Justice for All Act Reauthorization to provide technical assistance – including strategic planning support and information – to state and local governments requesting support to meet Sixth Amendment obligations, such as the rights to a speedy public trial, an impartial jury, the assistance of defense counsel, and the ability to call and confront witnesses.

This interactive meeting will engage stakeholders to discuss how the Justice for All Act Reauthorization training and technical assistance (TTA) resources can best address the needs of state and local practitioners and policymakers. Participants will discuss the issues facing law enforcement, prosecutors, court administrators, jury commissioners, the judiciary, and public defenders in securing Sixth Amendment obligations to assist all those involved in the administration of justice. Attendees will have the opportunity to learn about where and how the first round of funding is being deployed, as well as the work of existing TTA providers involved in the project.

To attend, please register by Thursday, May 10, 2018 via <http://www.cvent.com/d/stqcfb>. An email confirming your registration will be sent to you.

Following registration, the BJA National Training and Technical Assistance Center (NTTAC) will contact you to provide information and guidance on logistics, including making travel arrangements. Please note that because travel costs will be covered with federal funds, we advise you not to make any travel arrangements until you receive that guidance.

This event is invitation-only; therefore, if you are unable to attend, you may designate a person to attend on your behalf. We request that you reach to Priya Sarathy Jones at [Priya.Sarathy-Jones@usdoj.gov](mailto:Priya.Sarathy-Jones@usdoj.gov) to confirm your replacement. Should you have any questions, please contact BJA NTTAC at [nttac@bjatraining.org](mailto:nttac@bjatraining.org) or 1-855-BJA-TTAC (1-855-252-8822) or Priya Sarathy Jones at the email above.

BJA looks forward to the dialogue and exchange of ideas that will take place during the meeting.

Sincerely,  
BJA NTTAC

---

Bureau of Justice Assistance  
National Training and Technical Assistance Center  
1-855-BJA-TTAC (1-855-252-8822)



## Leahy, Bill (ILS)

---

**From:** Brocklebank, Natalie (ILS)  
**Sent:** Monday, April 30, 2018 3:51 PM  
**To:** Christenson, Nora (ILS); Leahy, Bill (ILS)  
**Cc:** ils.sm.media; Macri, Joanne (ILS)  
**Subject:** FW: GOVERNOR CUOMO ANNOUNCES RAISE THE AGE IMPLEMENTATION TASK FORCE



For Immediate Release: 4/30/2018

GOVERNOR ANDREW M. CUOMO

### GOVERNOR CUOMO ANNOUNCES RAISE THE AGE IMPLEMENTATION TASK FORCE

*Team of Social Service and Law Enforcement Experts Will Evaluate State and Local Efforts to Implement the Groundbreaking Raise the Age Law*

Governor Andrew M. Cuomo today announced the members of New York State's Raise the Age Implementation Task Force. The Task Force, comprised of social service and law enforcement experts from both public and non-profit sectors, is charged with reviewing and evaluating the implementation of the historic Raise the Age Law at both the state and local levels.

"Raising the age of criminal responsibility is an essential pillar to social justice reform and critical in allowing New Yorkers the chance to reach their full potential," **Governor Cuomo said.** "This expert Task Force is a significant step forward in our efforts to end recidivism in this state, as they oversee the implementation and effectiveness of the Raise the Age Law in order to help men and women contributing to our society free themselves of non-violent criminal convictions."

As part of historic legislation championed by Governor Cuomo in 2017, New York State will raise the age of criminal responsibility in the state from 16 to 18 over the next two years. Specifically, the law will take effect for individuals who are 16 years old on October 1, 2018, and on October 1, 2019 for 17-year-olds. The Task Force will be responsible for not only monitoring the overall effectiveness of the law by reviewing the state's progress in implementing its major components, but also evaluating the effectiveness of the local adoption and compliance to the law.

To do this, the Task Force will convene working groups comprised of a broad base of stakeholders who can provide expert analysis and address particular subject matter areas that relate to the successful implementation of the legislation. The Task Force will be required to provide an initial report of their findings by August 1, 2019 regarding the first phase of implementation and an additional report one year later with respect to the second phase of implementation.



## The Members of the Raise the Age Task Force are:

- Anthony Annucci, Acting Commissioner of the Department of Corrections and Community Supervision
- Hon. Michael Coccoma, Deputy Chief Administrative Judge for Courts Outside New York
- David Condliffe, Executive Director, Center for Community Alternatives
- RoAnn Destito, Commissioner of the Office of General Services
- Nancy Ginsburg, Esq., Director of Adolescent Intervention and Diversion Team of the Legal Aid Society
- Eric Gonzalez, District Attorney, Kings County District Attorney's Office
- Mike Green, Executive Deputy Commissioner of the Division of Criminal Justice Services
- Peter Kehoe, Executive Director, NYS Sheriffs' Association
- William Leahy, Director, NYS Office of Indigent Legal Services
- Robert Maccarone, Deputy Commissioner and Director of the Office of Probation and Correctional Alternatives at the Division of Criminal Justice Services
- Hon. Edwina G. Mendelson, Deputy Chief Administrative Judge for Justice Initiatives
- Sheila Poole, Acting Commissioner of the New York State Office of Children and Family Services
- Naomi Post, Executive Director, Children's Defense Fund-NY
- Allen Riley, Commissioner of the State Commission of Correction
- Todd Scheuermann, Unit Chief, of the New York State Division of Budget

Additionally, the Task Force will review the implementation and effectiveness of the law's record sealing provision by analyzing the number of individuals who have applied and been granted sealing, as well as the overall effectiveness of the law's sealing requirements.

This provision allows eligible individuals to petition the court to seal up to two misdemeanor convictions; one misdemeanor and one felony conviction; or one felony conviction. To be eligible, an individual must have no convictions on their record for at least 10 years and have no charges pending. Individuals who were incarcerated may not apply until a decade following their release date. Excluded from sealing are convictions for sex crimes or any offense requiring registration as a sex offender; child pornography; murder, manslaughter and other homicide charges; certain conspiracy charges; and any crime defined by law as a Class A or violent felony.

The seal applies to all public court records and those maintained by the state Division of Criminal Justice Services. The repository for New York's criminal history records; law enforcement records are excluded. Once sealed, convictions can only be provided under certain circumstances, including to state or federal law enforcement acting within the scope of their duties including for hiring purposes; and pistol permit licensing officials. Individuals and their attorneys also will have access to the information. Additional information is available [here](#).

The Raise the Age law and the sealing provision are just two examples of the Governor's extensive work to improve the state's criminal justice system and reduce barriers faced by people with criminal convictions. This past year, the Governor's 2018 State of the State agenda included a sweeping, five-pronged reform package to overhaul the state's criminal justice system by reshaping New York's antiquated bail system, ensuring access to a speedy trial, improving the disclosure of evidence in the discovery process, transforming asset forfeiture procedures, and implementing new initiatives to help individuals transition from incarceration to their communities.



Prior to that, the Governor passed legislation requiring law enforcement to video-record custodial interrogations for serious offenses, allowed the use of photo arrays to identify witnesses to be admissible at trial and extended the landmark *Hurrell-Harring* settlement's indigent criminal defense reforms to the entire State, becoming the first State in the Nation to overhaul its public defense system in such a drastic manner.

In the time since Governor Cuomo took office, New York State has closed 24 prisons and juvenile detention centers—more than in any other period under one Governor in state history. The prison population has also decreased by more than 6,000 within that time. The Governor also established the Work for Success Initiative which has helped over 18,000 formerly incarcerated people find work upon their release. Additionally, Governor Cuomo formed the state's first Council on Community Re-Entry and Reintegration in 2014 to address obstacles formerly incarcerated people face upon re-entering society. Since its launch, the Council has helped spur a number of changes to improve re-entry ranging from adopting "Fair Chance Hiring" principles in state agencies to issuing guidance that forbids discrimination at New York-financed housing based on a conviction alone.

###

Additional news available at [www.governor.ny.gov](http://www.governor.ny.gov)  
New York State | Executive Chamber | [press.office@exec.ny.gov](mailto:press.office@exec.ny.gov) | 518.474.8418

[UNSUBSCRIBE](#)