

April 2018 – Building Assigned Counsel Program Capacity Means Better Qualified Attorneys and Access to Counsel

1) 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.

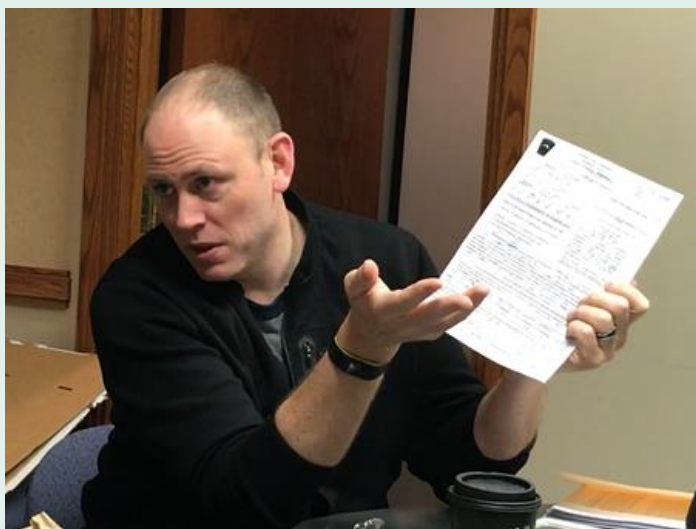
During the month of March 2018, the Onondaga County Assigned Counsel Program's (ACP's) Director of Quality Improvement, Laura Fiorenza, conducted a series of intensive trainings, effectively weaving Continuing Legal Education (CLE) programs for more experienced attorneys into its first ever comprehensive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

The Nuts and Bolts training was an intensive two-week training session, from February 26th through March 9th, 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 arraiving 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 6th, 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 March¹: March 9th, 16th, and 23rd. The last day of the Nuts and Bolts program, the participants attended the March 9th 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;

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

- 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
- 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

2) Washington County ensures access to justice and assigns counsel to a person prior to court involvement where she faced a legitimate possibility of criminal liability.

In March 2018, the Washington County Public Defender Office was assigned to represent a young man on a weapons possession charge. Reportedly, the young man was suicidal when he allegedly obtained a gun. The District Attorney's Office subpoenaed the young man's sister to testify before the Grand Jury convened to consider felony charges against him. She contacted the Assistant Public Defender who represented her brother to seek advice about how she should respond to the subpoena. The Assistant Public Defender realized that he could not advise her, and instead advised her to contact the Washington County Assigned Counsel Program (ACP) to determine if she was eligible for assignment of counsel. She did so, and Tom Cioffi, the Supervising Attorney, assessed her situation in compliance with the *ILS Criteria and Procedures for Determining Assigned Counsel Eligibility* (Eligibility Standards). Specifically, prior to these Eligibility Standards, the ACP would not determine assigned counsel eligibility until a person had been arraigned. However, Mr. Cioffi took note of Procedure 12 of the Eligibility Standards, and decided that because there is possible criminal liability attached to a subpoena, the sister needed the advice of counsel. Therefore, he assessed if she was financially eligible for counsel and upon determining that she was, assigned counsel.

The above not only reflects the ACP's commitment to complying with the Eligibility Standards, but also the enhanced professionalism of the Public Defender Office. Since the Assistant Public Defender Office had a supervisor readily available with whom he could consult, he immediately determined that he could not advise his client's sister, but he could recommend that she contact the ACP to obtain advice from an attorney who is professionally obligated to act in her best interest. This situation also reflects Washington County's two institutional providers effectively working in tandem to ensure access to counsel for people facing potential criminal liability who cannot afford the cost of a retained lawyer.

3) Suffolk County Assigned Counsel and Defender Program provides panel attorneys opportunities for training to enhance knowledge and skills and increase pride in the program.

Using *Hurrell-Harring* Settlement funding, the Suffolk County Assigned Counsel and Defender Program (ACDP) has made numerous training opportunities available to panel attorneys, with an increasing number of attorneys taking advantage of these opportunities. For example, the Suffolk County Bar Association sponsored an intense Trial Practicum that takes place over four months (February-May 2018), with programs at least two evenings per month. Some of the programs involve lectures and demonstrations; others involve skill development workshops during which participants receive hands-on experience. The Trial Practicum will finish with a mock trial. The ACDP reports that 43 ACDP panel attorneys are attending this intensive knowledge and skill development program.

The ACDP also provided scholarships for the New York State Defender Association's March 10, 2018 Annual Metropolitan New York Trainer. Topics included: Recent Developments in the Law; the New 2018 Court Rule on "Brady Orders" and How to Use It; Introduction to Raise the Age; and Implicit Bias in the Criminal Justice System. Eight

panel attorneys received scholarships for this program. On February 11, 2018, more than 30 panel attorneys attended a program delivered by Judge Mark Cohen, Supervising County Court Judge, about the new court rule involving Brady orders. Finally, about 20 panel attorneys have already signed up for May 1, 2018 DWI training sponsored by the New York State Bar Association.

During a recent meeting with ILS, Supervising Suffolk County District Court Judge Karen Kerr noted that panel attorneys have told her about the availability of these trainings and their importance in developing panel attorney knowledge and skills. It seems that the availability of opportunities such as this have enhanced the ACDP's credibility amongst panel attorneys. Because of *Hurrell-Harring* Settlement funding, and the ACDP's commitment to effectively using it, the ACDP is no longer limited to primarily reviewing and processing vouchers, but now offers panel attorneys an array of resources and supports, including training.