

## July 2018 – Second ACP Summit Inspires Providers to Put Ideas into Practice

This highlight focuses on the assigned counsel programs (ACPs) and conflict providers, starting with the Second Annual ACP Summit which occurred on May 10, 2018, in Albany, New York. Co-sponsored by ILS and the Onondaga County Assigned Counsel Program, the Summit included the assigned counsel program leaders of the five *Hurrell-Harring* counties, as well as Bob Lonski and Claudia Schultz, former leaders of the Erie County Assigned Counsel Program, and Mardi Crawford, from the New York State Defenders Association. Bill Leahy welcomed participants, emphasizing the role ACPs play in ensuring quality representation for all defendants, and reminding everyone that true reform is not possible unless there is sufficient attention paid to building ACP infrastructures and elevating their roles in the communities they serve. Summit topics included:

- Changing Practice and Culture and Elevating Expectations
- From Triage to Quality: Representation under ILS Caseload Standards
- Implementing Attorney Evaluations/Recertification Systems
- Taking a Leadership Role and Navigating Pushback

During this year's Summit, the ACP leaders shared stories about the barriers to reform they have encountered and the various strategies they have used to overcome them. Though Summit participants celebrated the significant progress they have made in the past year, most of the discussions focused on building on this progress to achieve ongoing transformation. Participants also discussed ideas for elevating community understanding of public criminal defense as a vital public service, and thus the need for public defense leaders to have a significant role in the community.

During one of the discussions, Bob Lonski reminded the ACP leaders that transformation takes time, commitment, and persistence. Throughout the day, it was evident that while the ACP leaders are pleased with what has been accomplished thus far, they recognize the progress yet to be made. All the ACP leaders possess the motivation and persistence needed to continue the hard work involved in transforming public defense systems.

The ACP leaders agreed to continue the discussions started during the Summit through conference calls and ongoing in-person meetings. They have already scheduled a conference call for July 12, 2018 to discuss the Onondaga ACP's experience in implementing its attorney recertification protocol.

In terms of ongoing reform, Settlement implementation requires that each ACP develop a strong infrastructure that actively fosters quality representation. Development of training and mentoring programs has been a critical part of this infrastructure. In most of the *Hurrell-Harring* counties, the training and mentoring programs have been implemented only recently. Yet, in a short amount of time, the ACPs are already receiving positive feedback and seeing results. Below, is a brief illustration of this for each of the *Hurrell-Harring* counties.

## Onondaga County

Like the other *Hurrell-Harring* ACPs, the Onondaga County ACP's leadership recognizes that while skills-based CLE programs are more time-consuming, expensive, and challenging than "sit and listen" CLE programs, they are critical to skill and expertise development and confidence building. The ACP leadership regularly encourages attorneys to attend skills-based trainings through its weekly ACP Defender email newsletter and by affirmatively encouraging individual attorneys to attend such programs, particularly attorneys who need more skill development or who lack confidence. Recently, the ACP urged a long-time panel attorney who lacks trial experience to attend the Dennis R. Murphy Trial Advocacy Training Program, hosted by the Legal Aid Society in New York City. The ACP advised that this program would help the attorney prepare for a trial in which she will be serving as the second-chair attorney. The attorney finally agreed to go, and during the training sent the ACP this email in response to an update they had sent her:

Thanks for the update. BTW this training in L.I.C. is great. They really have us working, but I'm getting a lot out of it. I think I'll be more helpful with [the] trial that I am second chairing on 7/16. You were right, it is helping with my confidence :-)

## Ontario County

In Ontario County, *Hurrell-Harring* funding was used to send one of the more experienced ACP panel attorneys and Assistant Conflict Defender Carrie Bleakley, also a seasoned trial attorney, to a multi-day skill-based training on jury selection sponsored by the National Association of Criminal Defense Lawyers. Upon returning from the training, both the panel attorney and Ms. Bleakley reported that the skills they learned were invaluable. The training helped both develop strategies for confronting issues that are relevant in every trial, such as identifying potential jurors who cannot follow the instructions to convict only upon proof beyond a reasonable doubt. The training also helped in developing strategies for more sensitive case-related issues, such as identifying jurors who harbor biases against defendants because of their race or sexual orientation. Ms. Bleakley said these strategies were invaluable in a recent trial involving a homosexual defendant who was accused of having sexual contact with a 14-year old boy. Though the defendant was found guilty, the verdict occurred only after the jurors deliberated for 2 days.

During the monthly ACP panel attorney meeting following the conference, Ms. Bleakley shared with panel attorneys the strategies she had learned. She also described the training as "eye opening," and motivation to reconsider and completely revamp her previous strategies for jury selection. In so doing, Ms. Bleakley not only shared substantive information with panel attorneys, but she also compellingly conveyed that these types of skill trainings can be invaluable even for seasoned attorneys.

## Schuyler County

For the past several years, the Tompkins County ACP has used ILS Distribution funding to sponsor a series of CLEs for panel attorneys. After regionalizing with Schuyler County, the ACP received additional funding for training, which has allowed the program to bolster these CLE

trainings, make them available to attorneys on the Schuyler panel, and offer scholarships to Schuyler attorneys for skill-based trainings. The ACP has used this funding to, among other things, send Schuyler panel attorneys to the week-long Trial Academy sponsored by the Young Lawyer's Section of the New York State Bar Association and held at Cornell Law School in May 2018.

More recently, on June 21, 2018, the regional Schuyler/Tompkins ACP used *Hurrell-Harring* training funding to conduct a half day training entitled "Fighting for Fair Bail." Josh Norkin, head of the Legal Aid Society's Decarceration Project, and Lance Salisbury, ACP Supervising Attorney, were the speakers. About 40 people attended, including: case workers from O.A.R., a non-profit organization with case workers from Schuyler and Tompkins counties who can be used to assist with collecting information needed for zealous bail advocacy; Laura Fiorenza from the Onondaga ACP and about three other Onondaga ACP attorneys; Wes Roe, the Schuyler Public Defender, and one of his staff attorneys; and attorneys from Cortland and Wayne counties. Josh Norkin provided the legal overview and framework for zealous bail advocacy, including a discussion of the various legal challenges to be made when an arraignment court sets bail that a client cannot make as well as a discussion of the four forms of bail that are seldom used but most accessible to low-income clients (i.e., partially secured bond, partially secured surety bond, unsecured bond, and unsecured surety bond). Lance Salisbury had, in the months preceding the CLE, applied about six times for these seldom used forms of bail. He had some successes and, even where denied, some collateral benefits. Thus, he had concrete practical tips for attorneys who practice in upstate counties. The ACP followed-up the CLE by emailing all the Schuyler and Tompkins panel attorneys advocacy tools to assist in fighting for the pre-trial release of their clients.

## Suffolk County

The Suffolk County ACP has also urged panel attorneys to attend skills-based trainings, sending several panel attorneys to the Trial Practicum sponsored by the Suffolk County Bar Association and conducted over a series of evenings between February and May 2018. More recently, the ACP sent an attorney to the New York State Defender (NYSDA) week-long basic trial skills training in Saratoga, New York. After the training, this attorney sent the ACP the following email conveying her gratitude for the opportunity:

Thank you for sponsoring me to go to the NYSDA Trial CLE at Skidmore College- June 17th to June 22nd. I learned invaluable trial techniques and strategies that will benefit both my criminal and family court panel clients. The program was extremely intense. Our days began at around 8:00 am and often ended after 8:00 pm. I was given an opportunity to practice trial skills several times a day. I was given immediate feedback and tips from the legal and communications aspect. The program had seasoned attorneys as well as actors (communication coaches) to advise us. Travel to the program and back was a blessing, as well. You both were very responsive to me, and I appreciate it.

Thank you once again.

## Washington County

In Washington County, the ACP recently implemented its Mentor Program, with Terrence Kindlon, a highly-regarded and seasoned trial attorney from Albany as mentor. ACP Supervising Attorney, Tom Cioffi, connected Mr. Kindlon to an ACP attorney who had a felony DWI trial scheduled. Mr. Kindlon and his wife, Laurie Shanks (an Albany Law School professor and nationally-recognized trainer) met with this attorney to help him prepare for trial, which was conducted June 26-28, 2018. The trial ended in a not guilty verdict on all counts. During the trial, while the jury was deliberating, the attorney sent the following email to ILS:

The jury just got charged on a felony trial in Washington County and I am in the awkward stage of waiting for verdict. I wanted to personally thank you for all that you do and have done. It is my understanding that the mentor program was your brainchild and I was lucky enough to work with Terry Kindlon and Laurie Shanks in preparation for this trial. I cannot begin to articulate the degree to which they helped. I learned more in a few hours than in my last three trials combined. I think the mentor program is a wonderful addition and Terry and Laurie are absolutely amazing.

As a post-script, this attorney has recently accepted a position with the Warren County Public Defender Office and will be starting there soon. Though his departure will be a loss to the Washington ACP, because of his experience working in a *Hurrell-Harring* Settlement county, he will bring to the Warren County his skills, enthusiasm, and a keen sense of what can be accomplished through the Settlement initiatives.