



**Real Attorneys
Professional Defenders**

ASSIGNED COUNSEL PROGRAM

Michelle Parker, Executive Director

The Brisbane Building
403 Main Street, Suite 215
Buffalo, NY 14203

Phone (716) 856-8804
Fax (716) 856-0424

Officers 2024-2025

Joseph Terranova
President

Anne Joynt
Vice President

Pamela Thibodeau
Secretary

Ayoka Tucker
Treasurer

Kevin Stadelmaier
First Deputy Defender
Criminal Division

Yvonne Vertlieb
Second Deputy Administrator
Family Division

Lori A. Hoffman
Deputy for Quality Assurance

David Heraty
Deputy for Litigation Support
And Appellate Bureau

Matthew Powers
Deputy for Legal Education
Director of the
John R. Nuchereo
Center for Legal Excellence

Kevin C. Condon
Deputy for Child Welfare

October 24, 2024

Via email only
John Flynn
Lippes Mathias LLP
jflynn@lippes.com

Via email only
Hon. Erin M. Peradotto (ret.)
Harris Beach Murtha PLLC
eperadotto@harrisbeach.com

re: Task Force Subcommittee
Meeting on October 22, 2024

Dear Justice Peradotto and Chairman Flynn:

Thank you for meeting with us on Tuesday to discuss the advantages and challenges of an assigned counsel program in general, and the Erie County Bar Association's Assigned Counsel Program specifically.

ADVANTAGES

THE ACP IS COST EFFECTIVE

- Lean operations. Because we employ an "independent contractor model" nearly all direct client service, as well as most of the administration, is performed outside our office. We do not employ legal assistants to pen letters, welcome clients, or engage in much of the traditional work of a public defender's office. While we employ staff to conduct the business of intake, assignment, data entry and other tasks related to resource provision, our staff would be dwarfed by the bureaucratic behemoth created by a full-scale PD's office.

In November 2013, the NYS Office of Indigent Legal Services produced a report on the "Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York" ([see https://www.ils.ny.gov/node/232/cost-compliance-estimates.](https://www.ils.ny.gov/node/232/cost-compliance-estimates)) This report recommended that for every 1 attorney employed, .5 non-attorney staff are required. These staff include receptionists, legal assistants, paralegals, financial admin staff, social workers, investigators, discovery administration personnel, etc. With an estimated office of 200 attorneys, a staffed program would need to hire an additional 100 support staff.

Mission Statement

We strive to help those who cannot help themselves; who face steep odds against the power of the State; and who struggle with poverty, mental issues, helplessness, and dread. We save lives and we save families. We are the first line of defense for the freedoms granted to us by the U.S. Constitution and the Bill of Rights.

In Erie County ACP, we have 158 attorneys on the Criminal panel alone. To manage the work of those attorneys, the ACP employs approximately 33 full-time staff which include intake, assignment, attorney Deputy staff, social workers, investigators, management and other associated administrative staff. This is a .2 staff/attorney ratio, far less than required at a traditional public defender office. Additionally, our staff does not grow in tandem with our panel growth. Adding new panel attorneys does not lead to the addition of new staff paid for on County lines. It would be the opposite for a staffed program.

- Substantially less overhead. Again, because the ACP does not “employ” most personnel involved in the discharge of our responsibilities, we lack the traditional overhead costs associated with running a staffed program.
 - We do not maintain a large office space for the housing of nearly 300 personnel (attorneys and their support staff.)
 - We do not pay for any office space accompaniments (supplies, paper, postage, etc.)
 - We do not pay health insurance to our panelists and their support staff.
 - We do not pay retirement costs for our panelists and their support staff.
 - We do not cover panelists professional liability coverage.
 - We do not cover most technological needs (computers, phones, storage etc.) for our panelists and their support staff.
 - We do not compensate attorneys for their mileage, gasoline nor tolls, nor do we maintain a fleet of vehicles for attorneys to use to travel to court.
 - We do not absorb accrued time (personal leave, sick time, vacation, parental leave, FMLA leave, etc.) for our panelists and their support staff as a balance sheet liability.
 - We do not pay professional licensure fees for our panelists.

None of these expenses, which would add millions of dollars to the budget of a staffed program, are borne by the ACP. Our funding goes to direct client service voucher costs with a small percentage dedicated to program administration.

- ILS Funds ACP offices differently than staffed programs: As pointed out in our first presentation, ILS provides significant funding to ACP programs that it does not provide to staffed programs. For both 2024 and 2025, nearly \$4M is allotted each year for increased attorney voucher costs related not only to the April 2023 rate increase, but also for increased costs due to compliance with discovery obligations. Given that the allocation arises from a court-ordered stipulated settlement of the *Hurrell-Harring* litigation, we are confident that the State will continue to fund ILS in this respect going forward.
 - These funds are NOT available to staffed programs. Erie County would lose access to \$4M a year from ILS if they moved a majority of their indigent caseload into a staffed program. They would be forced to cover the shortage with County funds solely.
- ACP has decreased its reliance on Erie County Funding. ACP’s County funding requests/needs have decreased each year for the last three. In the 2025 Erie County Proposed budget, given our lean operations and infusion of State funding for increased attorney voucher costs, ACP’s budget with Erie County DECREASED by nearly 10% (\$1,808,073 less than 2024). We expect these trends to continue with ACP relying less on County funds over time as the calculus for increased attorney voucher costs borne by ILS increases.
- A staffed program will see increased costs in perpetuity. While ACP costs are likely to remain stable into the future, the opposite is true for a staffed program. In a unionized environment, there will be an annual negotiated step plus salary increase. Increases of 5% or more per staff member (steps plus raise) are not uncommon. Fringe expenses, including health insurance, rise each year. Associated supply and technology overhead increase each year. Any perceived savings seen in the short term will wane over

time. In contrast, ACPs costs are likely to remain stable, even given the inherent challenges in a “voucher” system (*see* below). It took 20 years for the NYS Legislature to raise the 18-b/ACP rate from \$60/\$75 to \$158/hour. While defenders from across the state, including our Program, have advocated for a COLA, that is unlikely to result in a short-term change in the rate. A recent proposal would match the rate paid to federal public defenders (who do have a COLA built into their rate) by 80% two years in the past. If this proposal is accepted, the earliest the 18-b rate would be increased would be seven (7) years and that increase would be less than \$2/hour.

THE ACP IS AGILE AND FLEXIBLE

- **Non-Unionized Work Force** Neither our ACP Administrative Staff, nor our panel attorneys are unionized. We do not spend time in collective bargaining discussions, grievance meetings or other labor related time drains. Additionally, because we are not unionized, changes in procedures and policies related to the discharge of our cases do not require bargaining. When we see an issue that requires redress, we make changes quickly without regard to whether same is a fundamental change in working conditions. We set standards of practice to be followed without engaging in long, drawn-out discussions regarding adverse effects. Our on-site staff (deputies, social workers, investigators) are not bound by the strictures of a CBA and its mandatory wage and hour provisions. We are flexible and agile, addressing needs that arise without regard to whether same would be frowned upon by a union steward.

A staffed public defender office, whether created as a government-run office, or from the not-for-profit model, would be immediately unionized. While unions have undeniable positives, there are substantial negatives for an indigent defense organization. Any policy change must be discussed prior to implementation. Necessary changes take an inordinate amount of time to implement and often require bargaining. Employees are bound by stringent wage and hour requirements. Bargaining unit attorneys and staff have limited flexibility to operate outside the defined CBA requirements. The specter of a strike, while somewhat remote, is ever present.

Although Erie County maintains a robust Department of Labor Relations, the addition of 300 new staff would likely require funding to staff additional positions in Labor Relation as well as the Department of Personnel. Additionally, the time and expense involved with the negotiation of a new contract at the inception of an office would be substantial.

Additionally, while most public defender offices across NYS are unionized, such an environment is antithetical to a traditional client-oriented defense model. Several factors promote an environment where pressure exists to focus on the employee rather than the mission, such as stringent hourly limits, difficult disciplinary requirements for poor performance, and a philosophy that prioritizes employees over the clients they serve. You can ask the Legal Aid Bureau about the outcome when a staff attorney leaves Buffalo City Court at the conclusion of a 37.5-hour work week, even though incarcerated clients are awaiting an interview to prepare for a hearing. Unionized attorney environments can have real world negative consequences for clients. An ACP does not have these issues. The client is the most important consideration. Our model allows flexibility within our mission without regard to traditional difficulties faced by unionized workplaces.

- **Pandemic/Disaster Proof** During the Covid-19 Pandemic, traditional workplaces suffered tremendously due to overcapacity while work languished. The indigent defense sector was no exception. Despite court closures, the Legal Aid Bureau of Buffalo was forced to maintain staffing at the same levels as pre-pandemic, even though there was little work to do. The LABB lacked the flexibility to engage in layoffs and furloughs -- not only due to their union contracts, but also because of recruiting issues they would

face once the pandemic abated. ACP has no such issue. Most of our budget is dedicated to voucher payments. If there is no work to be done, there are no vouchers to be paid. If no vouchers are paid, County funds are returned; that is what happened during the pandemic years of 2020 and 2021. The ACP was not required to make any payments whatsoever to our panelists to keep them on “staff.”

- In contrast, should the County create a large, staffed program, when another pandemic hits then the County will be required to maintain, and pay, a large workforce irrespective of how little work there is to do.

THE ACP PANELS ARE AN EXPERIENCED & AVAILABLE WORKFORCE

- The Erie County ACP has been in business for over 60 years; it celebrated its Diamond Anniversary in 2022. The Bar Association of Erie County was at the vanguard when it created the Program in advance of the Supreme Court’s 1963 ruling in *Gideon*. In these 60+ years, the Program has cultivated attorneys of extraordinary talent and experience. All indigent clients charged with violent felonies in Erie County have been assigned by our office for several decades. This includes every non-retained homicide, rape, and robbery; and it includes high profile cases such as City Grill and the Tops Massacre. Our violent felony/homicide panelists are highly experienced and obtain tremendous results. The vast majority have established law practices which they would likely not leave to join a staffed program.
- There is a significant talent/experience gap between ACP and the current employee-staffed program. While the Legal Aid Bureau of Buffalo has talented staff, they have only a single attorney on staff (Michael Deal) who has tried a homicide case to conclusion. They have only a single attorney on staff (Sarah Ryan) who has tried a violent felony. Both attorneys are Criminal Division managers – therefore, they do not maintain a substantial active case load given their other important responsibilities. Upon information and belief, Legal Aid has undertaken a single jury trial in the last five years. That trial was conducted by an attorney who is now a member of the ACP Deputy Staff.
 - In contrast, ACP panel attorneys have collectively represented clients in countless jury trials over the same period.
- The recruitment and start-up of a large, staffed program would be a Herculean task. The idea that such a program would be able to entice established local homicide/violent felony defenders to abandon their practices to join either a County or not-for-profit program is unrealistic. If the ACP attorneys were of a mind to practice law in an institutional setting, then you would see attorneys migrate from our Program to the LABB, to the DA’s Office, or to the Department of Social Services – something that you rarely see. It would take years for a program to amass sufficient experienced attorneys to represent a client charged with a homicide or other violent felony. Trying these cases takes years of experience. Current staff at LABB – an employee staffed program -- lack such experience and would not be able to obtain that experience in the near to medium term.
 - In contrast, the ACP maintains a large panel of experienced attorneys. We have little difficulty assigning cases, typically within 24 hours of receipt. Reassignments, when conflicts arise, are typically no issue. We have sufficient panel attorneys to handle the most serious matters in the County. The current staffed program at LABB cannot make the same claim.
- Through “Second Chair” and “Co-Counsel” programs paid for by State funding, the ACP can enhance the education and experience of our panel attorneys. Because we do so many hearings, trials and other impactful litigation activities, we are able to cultivate the next generation of violent felony defenders. These are the panel attorneys who will perpetuate our program into the future, unbound by the strictures of a staffed, unionized environment.

- In contrast, Legal Aid has limited the opportunities for advancement. While their attorneys are expert in handling misdemeanor cases, they are nowhere near as adroit as our panel in handling serious matters.
- Several times over 2024, there were panel attorneys who went out on extended medical leave. Twice we were forced to re-assign a large volume of files. We did not have to hire any outside attorney, engage temporary workers or pull any attorney from their pending workload to cover the cases. The cases were seamlessly reassigned to altogether different panel attorneys, based on consideration of their caseload, courts of appearance and the level of the charges.
 - In contrast, a staffed Public Defender Office will have situations where the attorneys have illnesses, injuries, temporary disabilities, workers compensation claims, and deaths in the family – all manner of situations leading to attorney absences. Some situations would require adding a new, permanent, unionized staff member.
 - The ACP does not have that issue. We simply reassign another independent contractor who assumes responsibility for these cases at little to no cost to ACP’s 18-b resources funded by the County (\$3 case management system fee expense is borne by ILS).
- Clearly, an ACP presents a much more efficient system.

EXCEPTIONALLY HIGH START UP COSTS/HIGH CONFLICT POTENTIAL

- The start-up costs associated with the creation of a staffed program are immense. Even if the County maintained the “not for profit” model currently employed by Legal Aid (as opposed to an in-house County office model) substantial expenses would be incurred for office space, technology, recruitment, training etc. Additionally, given the experience gap noted above, a long rollout period of some number of years would be required before the staff attorneys had the experience to handle the caseload they would take on. In the meantime, the County would be paying vast sums to a largely undercapacity staff, and huge costs for office and fringe expenses. All of this could be avoided by maintaining the status quo.
- The larger the law office, the more conflicts that are created. Each year, the Legal Aid Bureau of Buffalo – whose reach is confined to a single court, largely misdemeanor/violation level offenses, and D/E felonies -- sends numerous cases to the ACP due to a conflict. These arise from co-defendant cases, prior client/witness relationships, “Attorney for Children” Unit conflicts and other associated issues. The ACP is the *de facto* “conflict defender” for Buffalo City Court. In 2023, the conflict percentage (i.e., the number of total cases that Legal Aid should have handled under their contract but was conflict-barred) was approximately 15%. However, that percentage will increase with every additional case type or court assigned to a staffed program. It could rise to over 30% if a staffed program was made primary in every Court in Erie County for all case types.
- This would require the continued maintenance of a robust ACP, at significant cost to the County. While we firmly believe there are likely only losses in the short to medium term, it’s possible that the County may forfeit potential cost savings. Such savings would be absorbed by the increase in conflicts. At the same time, conflict percentage varies from year to year. A staffed program must “plan” for the defense of all cases, meaning they employ and pay salary and fringe for employees that might not be needed due to undercapacity.

- An ACP does not have this issue. We pay attorneys only for the cases they are assigned and for which they submit a voucher. We permit only billing for the work performed by the assigned attorney – no billing is permitted for work done by support staff, interns, associates, or other attorneys.
- And to be clear, not every case assigned is vouchered. A substantial number of cases are resolved each year without payment to the attorney who handled the case, because the attorney elected not to submit a voucher.
- If we have co-defendant cases, we can assign counsel from within the Program because our attorneys have individual offices. This is a significant advantage over a staffed program: an ACP is largely “conflict-proof.”

COST OF STAFF TURNOVER

- A public defender model would be more affected by turnover than an Assigned Counsel program in terms of costs – whether it be tangible or intangible costs. The cost of turnover for a mid-level employee is approximately 1.5x the employee’s annual salary. For a higher-level employee, that cost can be as much as 2x their annual salary. These costs come from advertising job vacancies, the time it takes to recruit (screen, interview, background checks, etc.), onboarding, training and the costs of possible overtime in a union setting. Indirect costs would include lost productivity during the time the position is open, employee morale, employee burnout for covering open positions, and -- very importantly -- knowledge loss. **The largest intangible cost of turnover could be ineffective assistance of counsel, backlog of cases, and pressure to accept plea deals -- with the latter resulting in inequitable outcomes for public defense compared to those who can afford a private attorney.**

Across the state, staffed programs have significant staffing challenges. In the Monroe County Public Defender Office, a current job opening for a Public Defender Asst (annual salary \$71,066-\$98,372) is open and was posted originally on **January 1, 2024**. In the Monroe County Public Defender 2022 annual report (<https://www.monroecounty.gov/files/pd/2022%20ANNUAL%20REPORT.pdf>) the Monroe County Public Defender said that to meet staffing needs, it revised hiring standards to accept law school graduate who had taken the state bar exam but not yet been told that they had passed. This is hardly an outlier.

- In the periodic Bar Association of Erie County list of employment opportunities, there have consistently been job openings listed for the County of Erie DA’s office. That makes it apparent that the pool of criminal and family court attorneys is drastically low for a Public Defender model. They may attract some new law school graduates but will have more trouble hiring experienced attorneys like the Assigned Counsel Program has been able to do.
- Cost of Fringe Benefits vs. County Employee Fringe Benefit Cost Erie County fringe benefit costs are around 45%; the ACP’s fringe benefits costs were 33%-35% for the last 3 years.

CHALLENGES OF AN ACP

DAY TO DAY ACTIVITY CONTROL CHALLENGES

- The most obvious challenge is that panel attorneys are independent contractors, not our employees. We cannot control how they accomplish the work assigned to them. We cannot control their schedules. We

cannot demand that they take cases. They are free to accept or reject matters assigned based upon their own personal circumstances. While we can strongly advise courses of action and set standards by which attorneys should represent clients, we cannot direct their activities on a “day to day” basis. While some ACPs see this as a method by which to reduce supervision, taking the “*it’s their license, it’s their problem*” approach, the Erie County Bar Association ACP does not. ACP Deputy Staff are deeply and directly involved in “supervision” of panel attorneys. Attorneys who fail to abide by ACP standards are taken off the assignment rolls. While we cannot control their day-to-day activities, we can control whether we entrust them with cases assigned through the program.

- To mitigate the challenges of a traditional independent contractor model, ACP takes the following steps:
 - New Attorney and Felony Attorney Training Programs: In addition to providing a platform from which attorneys can join, and move up in panel hierarchy, we utilize these in-person sessions to indoctrinate our attorneys in the holistic model of defense we promote. Attorneys are advised that their continued ability to receive cases is contingent on them practicing a certain way. Attorneys who fail to practice in ways which promote excellent client outcomes are monitored and asked to appear for meetings with ACP Deputy Staff. We maintain lines of open communication with judges, court clerks, ADAs and other panel attorneys to monitor activities inside Courts. Deficient performance is addressed swiftly.
 - New and Felony attorney mentorship.: ACP maintains a stable of highly experienced attorney mentors who are paid through an ILS grant. These mentors are not only expert criminal defense practitioners, but also practice in the ways we would expect others would model. They have been strategically selected due to these attributes. All new panel attorneys are assigned one-on-one mentors for at least the first 18 months of their panel membership. Mentors practice “hand in glove” with their mentees and are available to them 24/7 to address issues inside their cases. Our Deputy of Quality Assurance runs that program and ensures that our panelist mentees are abiding by ACP best practices in defending clients assigned to them. After 18 months, panelists are reviewed and if good results are seen, the client is moved into our “mentor at large” program. There, they have access to our mentors at large for review and feedback on their cases.
 - Panel Review Meetings: Every two years, a panel attorney will have an in-person meeting with our Deputy Staff. Case assignments and metrics from the previous two years are reviewed and discussion had on specific cases. These meetings are used not only to address any perceived issues with their panel membership, but to assess whether the attorney is ready to elevate to another panel. No attorney is assigned to a higher-level panel unless they have met specific requirements.
 - Case Conferences. ACP has three monthly “general attorney case conferences” where attorneys are encouraged to meet with ACP staff to discuss their cases. These are well attended and provide a forum for discussion and performance review. While obviously useful in devising defense strategy, we also use them to promote holistic practice and discover deficiencies in performance which are immediately remedied. We also recommend and promote “individual case conferences” on more serious cases to get a handle on needed resources and strategy issues prior to trial. We require these conferences on homicide cases.

COST CONTROL CHALLENGES

- At the outset of a case, an ACP cannot predict what the cost of defending will total. While a public defender in a staffed office is paid a finite salary and theoretically works cases no matter how long they take at the same cost, the same cannot be said for an ACP. Cases assigned through ACP vary in cost dramatically based on a host of factors including complexity, court of record, and attorney assigned – which is why it is difficult to predict with certainty how much an ACP case will cost.

However, given historical data, we can reliably say that the funds that are currently provided by Erie County for the provision of indigent defense are highly likely to remain sufficient into the future. Without a dramatic rise in crime, cases are likely to remain near or below where they are today. We may see an increase in voucher costs as the impact of the CPL 245 discovery reform fully takes effect, however those increases are largely counteracted by the infusion of \$4M per year from ILS for increased attorney voucher costs. As such, we are likely to see a stabilization of costs for ACPs into the future despite the “unknowable” nature of costs from voucher to voucher. As noted above, cost stabilization is not an attribute of a staffed program. Staff program costs will rise perpetually, and annually, as salaries, fringe and office expenses increase.

- Staffing The ability to assign cases at levels which promote excellent “case per attorney” metrics is only as good as the size and talent of the panel of available attorneys. As the years proceeded after the 2004 rate increase without a further raise, ACP’s panel membership concurrently decreased. While many attorneys would readily represent indigent clients, their ability to do so in a cost-effective manner decreased for each year that passed without a raise. Obviously, the 2023 rate increase reversed this downward trend dramatically as evident by the fact that the ACP have added 27 attorneys to the panel since the increase. However, over time, without another increase, we will face the same issues. In the short term, we expect that our number of panel attorneys will continue to rise, given that our evening “New Panel Member” training classes have been at capacity in the last four times that we offered the series of classes.

SPECIFIC INQUIRIES FROM 10/22/2024

ILS Standards

We need to counter the impression some have passed along to the Task Force to the effect that the Erie County ACP has taken it upon itself to offer assignment of counsel when the accused individual is ineligible.

Following the March 2015 settlement of the *Hurrell-Harring* lawsuit, the NYS Office of Indigent Legal Services (ILS) was vested with the responsibility of developing and issuing criteria and procedures to guide courts in determining whether a person is unable to afford counsel and eligible for mandated representation. Following a series of public hearings, **ILS developed revised standards for financial eligibility** which essentially moved the standard from indigence to “inability to pay.” The revised standards apply to both PD/staffed offices and to assigned counsel programs – which is to say, the way that public indigent defense services are delivered has no bearing on availability of a defense.

The Erie County ACP is bound to follow the ILS standards which hold that “[a]n applicant shall be eligible for assignment of counsel when the applicant’s current available resources are insufficient to pay for a qualified attorney, release on bond, the expenses necessary for effective representation, and the reasonable living expenses of the applicant and any dependents.” Standards for Determining Financial Eligibility for

ILS holds that “[t]o streamline the eligibility determination process, there shall be presumptions of eligibility. A presumption of eligibility is rebuttable only where there is compelling evidence that the applicant has the financial resources sufficient to pay for a qualified attorney and the other expenses necessary for effective representation.

“A. Applicants are presumptively eligible for assignment of counsel if their net income is at or below 250% of the Federal Poverty Guidelines.

“B. Applicants who are incarcerated, detained, or confined to a mental health institution shall be presumed eligible for assignment of counsel.

“C. Applicants who are currently receiving, or have recently been deemed eligible pending receipt of, need-based public assistance, including but not limited to Family Assistance (TANF), Safety Net Assistance (SNA), Supplemental Nutrition Assistance (SNAP), Supplemental Security Income (SSI)/New York State Supplemental Program (SSP), Medicaid, or Public Housing assistance, shall be deemed presumptively eligible for assignment of counsel.

“D. Applicants who have, within the past six months, been deemed eligible for assignment of counsel in another case in that jurisdiction or another jurisdiction shall be presumed eligible. Appellate courts shall assign appellate counsel to appellants who were deemed eligible for assigned counsel by their trial court.”

In another departure from the past, ILS sets forth that “The resources of a third party shall not be considered available to the applicant unless the third party expressly states a present intention to pay for counsel, the applicant gives informed consent to this arrangement, and the arrangement does not interfere with the representation of the applicant or jeopardize the confidentiality of the attorney-client relationship.

“A. **The resources of a spouse shall not be considered available** to the applicant, subject to the above exception.

“B. **The resources of a parent shall not be considered as available to minor** applicants, subject to the above exception.” *Id.*

Here’s the 2024 ILS financial eligibility standards setting forth presumptive eligibility for net income at or below a 250% multiple of the current Federal Poverty Guidelines (FPG):

<https://www.ils.ny.gov/files/2024%20FPG%20Income%20Eligibility%20Chart.pdf> Net income means take home pay. For an average household including the applicant and 2 dependents, the annual net income for eligibility would be no higher than \$64,550. Living expenses are considered as well, which means one’s income might exceed the 250% multiple of FPG, but the net of living expenses will mean the person is eligible.

There are times when the Program’s review of financial eligibility reveals that an accused individual does not qualify for the Program’s services. In those cases, the Program instructs the attorney to cease work on the matter and to advise the individual that they need to retain counsel. This is a 5-year lookback as to the numbers of individuals denied ACP services:

	Cases Screened	Persons Eligible	Denied/ Ineligible	Denied as a Percentage
2019	20,307	19,558	749	4%
2020	15,770	15,520	250	2%
2021	19,930	18,437	1,493	7%
2022	24,510	22,584	1,926	8%
2023	26,302	24,449	1,853	7%

You can see that there was a drop in denials in 2020. During the pandemic, there was an Administrative Order for the Eighth Judicial District that “until the Administrative Order issued on March 16, 2020, and any subsequent amendment thereto is rescinded, all individuals seeking legal representation pursuant to Article 18-B of the County law shall be deemed eligible, regardless of financial ability to obtain counsel.” <https://eriebar.org/assigned-counsel-vouchers-approved-and-authorized-for-payment/> Obviously this was out of the control of the ACP. The Order was lifted in 2021.

PRE-ARRAIGNMENT ASSIGNMENT

You advised that private retainer attorneys have complained that the ACP sends a letter to every accused individual to offer them free legal services. We do not.

Each accused individual is entitled to representation at arraignment, without regard to their financial eligibility. By way of background, referring to the 8/27/24 PowerPoint presentation: *see* slide 6:

- the NYCLU sued 5 upstate counties in *Hurrell-Harring*, asserting that deprivation of the right to counsel at a critical stage – including arraignment – amounted to denial of the right to counsel under *Gideon* (*Gideon* is originally referenced on slide 3: the Sixth Amendment right to counsel could not be effectively denied by a State by reason of a defendant’s inability to pay for a lawyer.)
- The State settled the *Hurrell-Harring* lawsuit and charged the NYS Office of Indigent Legal Services (ILS) with implementing the settlement as to the 5 upstate counties. In 2017, the State legislature passed, and the Governor signed into law, Executive Law § 832 and County Law § 722-e to codify and extend the HH settlement requirements statewide – including as to Erie County.

The HH settlement (<https://www.nyclu.org/court-cases/hurrell-harring-et-al-v-state-new-york-challenging-new-york-states-failure-provide-adequate#%3A%7E%3Atext%3DThis%20case%20addressed%20the%20State%2CHurrell%2DHarring%2C%20et%20al.>) included providing Counsel At First Appearance (CAFA) which requires the counties to ensure that every accused individual is represented at arraignment. Note: this is not confined to the indigent – it is for every accused person.

ILS funds the CAFA grant which provides the Program with the means to staff a criminal defense attorney at each scheduled arraignment. For courts which regularly have criminal matters on their court dates, we use the CAFA funds to staff an Attorney of the Day (AOD.) For courts that do not routinely have criminal matters on their court dates, we use the CAFA funds to staff an Attorney On Call (AOC), who will be available should there be an arrest within the jurisdiction that requires arraignment. The AOD/AOC represents only at arraignment, not for the defense of the remainder of the case. At the outset

of the CAFA Program, it was post-arraignment that Program assigned the defense to a panel attorney.

While each accused's matter is important, there is special attention paid to accused individuals awaiting arraignment that are in custody (i.e., a local lockup or the Sheriff's holding facilities.) As noted by ILS:

Moreover, there are other important issues at stake at arraignment that arise from the possibility of pre-trial incarceration. Those facing pre-trial detention often experience loss of employment and/or housing, the inability to financially support or care for family members, and loss of the day to day support of family and community. Studies have shown that clients who are incarcerated during their criminal matters are more likely to be sentenced to jail or prison and receive longer sentences. See [Pretrial Criminal Justice Research](#), Laura and John Arnold Foundation (2013).

<https://www.ils.ny.gov/node/56/hurrell-harring-settlement-implementation>

What emerged during the first few years of the ACP's CAFA program was that the AOD could be overwhelmed with cases. This posed a risk to the quality of representation, since overloading an arraignment counsel could compromise whether they could attend to the special needs of the clients who were already in jail. This also posed a risk to the quality of representation for noncustodial clients (i.e., clients not already in jail) because it could take days or weeks from the date the AOD represented them at arraignment until the Program located an attorney who accepted the case. This was during the time that the 18-b rate had been stalled at \$60/hour for misdemeanors and \$75 for felonies for some 18+ years; the sizes of our panels were shrinking, not growing – which affected how long it took until a panel attorney would accept to a post-arraignment assignment.

Therefore, the Erie County Bar Association ACP started a “Pre-Arraignment Assignment” program to assign as many non-custodial matters as possible prior to their arraignment. This program was first piloted in the Town of Hamburg in 2021 at the suggestion of the Hamburg Court Clerk, who had observed the inefficiencies of not having representation other than the AOD. It was later approved by the Office of Court Administration's Eighth Judicial District, the then-Chief Judge of Local Criminal Courts (Hon. William Boller, JCC) and the NYS Office of Indigent Legal Services.

The rollout took place on a graduated basis from June 2022 to December 2022; all Erie County local courts were given the opportunity to “opt out” of sending their non-custodial assignments to our office pre-arraignment. The program is currently active in all City, Town, and Village Courts in Erie County, except the Town of Cheektowaga, the Town of Lancaster (only as to Judge Cervi) and the City of Buffalo (the Legal Aid Bureau of Buffalo handles those arraignments.)

The goal of the program is to ensure that accused individuals receive assignment of counsel in the shortest possible window. As noted above, before we had this program, the accused individuals who were determined to be financially eligible for the Program were often forced to wait days or weeks between the time of arrest and assignment, because they were represented in-between those two events by the AOD at the arraignment. While accused individuals who could afford to do so could retain private counsel right after arrest, those who could not afford it were subject to delay between arrest and assignment. In that interval, many damaging events can occur, such as spoliation of evidence, changes to the scene, the memories of witnesses can dim, negative collateral consequences, etc. The “Pre-Arraignment Assignment” program put on an equal playing field both accused individuals who privately retained counsel and Program clients who were assigned counsel.

Having cases assigned at the earliest possible stage (as soon after arrest as possible) ensures that investigation and defense activities can begin promptly, and collateral issues related to the arrest can be mitigated. An assigned attorney's first responsibility following assignment is to contact the accused

individual and complete with them a confidential “Report of Financial Status” (RFS) to determine their eligibility for the Program’s services. The RFS is transmitted to our office and reviewed by a dedicated Eligibility Specialist. More than 98% of prearrest accused individuals qualify for our Program’s services, based on the Eligibility Guidelines promulgated by the NYS Office of Indigent Legal Services. The 1+% of accused individuals who do not qualify remain entitled to Counsel At First Appearance (i.e., at the arraignment) but the attorney-client relationship concludes thereafter.

Once a Court receives arrest paperwork from law enforcement and the case is docketed, the matter is immediately sent to a dedicated Program e-mail. Once received, it is added by our Intake staff to our case management system. It is then assigned to an attorney based on the level of offense and the Court in which the matter will appear. The average time between arrest and assignment is approximately 4.5 days, although it can be longer depending on the Court (smaller courts typically have more lead time). On our end, the cases are typically assigned within twenty- four (24) hours of our receipt. The assigned attorney appears with the accused individual on the date of arraignment and defends “vertically” thereafter (that is, one attorney maintains control of the defense from the time of arraignment to the date of conclusion.)

ACP utilizes a one-page form issued to accused individuals who are represented at arraignment by the AOD as part of the Counsel at First Appearance (CAFA) Program (that is, not by counsel assigned through our Pre-Arraignment program.) For the most part, those cases involved accused individuals who are in-custody, where a “pre-arraignment” assignment is impossible given the time constraints. It also involves people with an outstanding bench warrant who have walked in. The AODs appearing for arraignments through our CAFA Program are directed to provide the form letter to the accused individual. In addition, the judge conducting the arraignment routinely asks the accused individual whether they can afford counsel. Those who say “yes” are directed to retain counsel. Those who say “no” or “I don’t know” are provided the attached form.

The attorneys who accept an assignment to represent an accused individual through the “Pre- Arraignment Assignment” program are directed to advise the person -- either in writing, or orally -- that they have the right to obtain counsel of their choosing. The Program worked with non-panel counsel (i.e., private retainer only) to draft a suggested template letter for the panel attorneys to use in their written communication to the accused individuals:

You are a defendant in a criminal case. The Constitution grants you the right to have an attorney present at all stages of the case. If you cannot afford one, the Erie County Assigned Counsel Program will assign one.

The Program assigned me to represent you at the next court date. Please contact me immediately so we can talk about your case.

The Program requires me to collect financial eligibility information. This is to see if you qualify for assigned counsel. We will discuss this when you contact me.

Again, please contact me immediately.

You have the right to select and retain an attorney of your choosing. If you choose to retain your own attorney, please contact the Erie County Assigned Counsel Program at 716-856-8804. Or email to info@assigned.org.

The Program is not, as we have been hearing, “stealing clients away.” The Program complies with the State goal to provide counsel to all accused individuals at arraignment, a critical stage of a criminal proceeding. We recognize those accused individuals who can afford to retain counsel (or whose parent, grandparent,

spouse or other loved one can afford it) will nearly always do so, rather than having an attorney they didn't select forced upon them. Despite doing outstanding work, public defender and 18-b attorney representation is still considered substandard by the public. This is a grossly unfair and insulting notion, but one that pervades. As such, those who have access to the means to privately retain their own counsel will do so.

Additionally, given the average time lapse between arrest and Pre-Arrest Assignment of 4.5 days, the accused individuals have ample time to consider their options after arrest.

Finally, ACP has taken great pains to reach out to the retained bar to maintain communications regarding their retained clients. Although a large percentage of the local criminal bar accept assignments through the Assigned Counsel Program, a small percentage does not. Those attorneys have been advised to be in touch with our office as soon after a retainer is signed. In those instances, we make efforts to ensure either that the case is not assigned if received by our office, or that the attorney to whom it is assigned discontinues communication and representation immediately after retained notification. In this way, we aim to prevent any suggestion of interference in a client's case. There are several attorneys who communicate regularly with the Program to advise they have been privately retained so that we can take steps to avoid unnecessary duplication of effort.

There have been human errors; probably 3 or 4 times this year, an assignment was made to a panel attorney even though a privately retained counsel had put the Program on notice of the retainer. That's out of thousands of assignments. I would be very surprised to hear that it has happened recently – we put in better controls to avoid it happening again. There's been human error the other way too: a privately retained attorney complained that we did an assignment despite notice of the retainer – and it turned out the notice of retainer was for an altogether different client. We're all human.

CRIMINAL JUSTICE REFORM REDUCED CASES

It is understandable that some private retainer counsel express that the private retained bar is beleaguered. The entire criminal defense bar has felt the upheaval associated with Criminal Justice Reform that has reduced the number of opportunities to represent accused individuals:

- The biggest issue: decriminalization of marijuana, which has eliminated an entire field of criminal cases, including traffic stop charges that used to arise from the alleged odor of marijuana. This eliminated low-level marijuana offenses as well as high level weapon possession cases that were formerly associated with alleged traffic stop marijuana odor.
- The inability of the NYS DMV to suspend a license for failure to pay fines has eliminated a large field of cases arising from suspended licenses (VTL 511) that used to emerge during a traffic stop.
- The elimination of cash bail in most instances means most clients are released from custody. This could go either way – it means the client has an opportunity to privately retain counsel.
 - o It also eliminates the situation where a Loved One is in the County lockup and so a parent, grandparent, or other anxious person comes up with the money to privately retain counsel. This would occur because of worries about Loved One being in jail and the undeserved stigma associated with public defender or 18-b assigned representation.

- As noted above, the expansion of persons who are financially eligible for assigned representation, based on the NYS Office of Indigent Legal Services (ILS) standards that were issued in the wake of the *Hurrell-Harring* settlement.
 - o It used to be that a parent’s income was considered when assessing eligibility for a minor; that is no longer the case.
 - o It used to be that a spouse’s income was considered when assessing eligibility; that is no longer the case.
 - o And the standards have broadened; an accused individual no longer must be ”indigent” to secure assigned representation; the standard is “inability to pay.” So, the proportion of the County population that is eligible for the Program’s services has expanded, due to State mandate, rather than local decree.

If a privately retained counsel is perceiving that their economic prospects have narrowed, it’s likely not because of a handful of cases where a financially eligible client elected to go with an assigned counsel. It has far more to do with Criminal Justice Reform that has inured to the benefit of accused individuals.

ACP HAS CONTROLS FOR BILLING

The ACP takes steps to ensure that attorneys are properly billing for their work.

- o Each voucher is subject to internal review before it is sent to the judge for approval. The internal review confirms that the voucher file contains the confidential Report of Financial Status (RFS), the disposition of the case, the sentence imposed, that the voucher is submitted timely, and that the billing time conforms to usual practices for the level of the charge or the amount of time. Attorneys are expected to document their work, providing detail and particularity, and accurately and honestly record the amount of time (in hours or increments thereof) spent on any given task. Information on time spent must be logged into the Program’s case management system. Attorneys are strongly urged to bill contemporaneously and to enter all time spent on cases into their DD7 case at the close of each business day.
- o Pursuant to an Order by Hon. Paula Feroletto on March 16, 2020, the ACP was authorized to approve and pay all vouchers submitted pursuant to County Law §722-b(4). The effect of this is that the Program continues to submit each voucher to the judge for approval. If the judge has not yet approved by the month-end cut-off for that month’s voucher payment, the Program will approve and pay the voucher. <https://eriebar.org/assigned-counsel-vouchers-approved-and-authorized-for-payment/>
- o The Fourth Department issued a similar Order on March 25, 2020 (*see* <https://eriebar.org/4th-dept-orders-covid-19-assigned-counsel-voucher-payments/>); that Fourth Department Order was rescinded on June 9, 2023.
- o Our Handbook sets forth that panel attorneys may bill for:
 - In-court time spent at/in court facilities including time spent in the presence of the judge, whether in the courtroom or in chambers.
 - For time traveling to correctional facilities to visit with clients (except for the Erie County Holding Center in downtown Buffalo.)

- For time spent meeting with clients and/or their family.
- For time spent meeting with/preparing witnesses.
- Time spent in conferences with opposing counsel and/or the client.
- Time spent in the courtroom waiting for the judge to appear and cases to be called.
- Time spent waiting for a jury verdict so long as the Judge has not ended deliberations on any given day.
- All other time spent representing a client, including time spent at court facilities for purposes other than appearing before the judge. (e.g., reviewing the file).
- For representing clients in post-disposition matters including assisting the client in filing a notice of appeal and applying for poor-person relief.
- For out-of-court time spent reviewing the accusatory instrument and all discovery (including documents, audio tapes, video tapes, police body cams and any other discovery).
- For time spent writing motions, post-hearing memoranda of law, motions *in limine* and any other relevant motions.
- For time spent in conference about the case (whether individual or group) with ACP deputies.
- For reasonable time spent preparing and reviewing correspondence.
- For time spent retaining and preparing experts.
- For time spent preparing for motions and trial.
- For time spent preparing mitigation and sentencing memoranda.
- Time spent in court appearances on more than one matter or in representing multiple clients must be apportioned such that the time billed for each case/client reflects the actual amount of time spent on that client's case.

If there are any discrepancies, the voucher will be rejected, and the attorney asked to correct or offer further explanation as to the billing time.

Additionally, all daily billing submissions are reviewed by Criminal Division management staff every six months. This is exclusive of the review that occurs at the time of voucher approval and payment. Daily billings are pulled for every panel attorney and checked for errors, duplicate billings or inadvertent mistakes. The Family Court Division management staff undertakes a billing review associated with periodic panel attorney review. Where issues are discovered, they are addressed with individual attorneys. In some circumstances, billings are corrected. In others, monies are refunded to the Program.

As you saw, the Buffalo News reported that there are high attorney vouchers. As we described to Mr.

Herbeck (but was not included in the article of 10/22/2024), the summary of the first six months is misleading. The payments from January 1, 2024, to June 30, 2024, do not represent work done between those dates. That total is for *vouchers paid* between those two dates, for the seven months of January through July (since we paid July early to maximize the County's end of quarter recovery of 50% of the 18-b increase from ILS.).

- Panel attorneys cannot submit a voucher until the close of a case. In general, we process vouchers 60 days behind; right now, in October 2024, the Program is reviewing and approving vouchers from the month of August 2024. We process and approve vouchers throughout the month and then issue payment on the first Friday of the following month.
- Prior to September 1, 2024, panel attorneys were allowed to submit their closed case vouchers up to 18 months after closing of the file. This resulted in significant delays between the dates work was completed and the date vouchers were paid. This practice was amended by an ACP Board resolution in June 2024 to reduce this interval to six months. However, it is common for cases to extend over multiple years, such that work performed in one calendar year is paid in the next, or the year after, or even the year after that.
- As to Mr. Tabashneck's total: about \$21k arose from non-18-b/\$158 hourly work (i.e., Attorney of the Day/Attorney on Call appearances that are not paid by the County's 18-b funding but paid through an ILS grant on a stipend basis; research and drafting mitigation reports that are paid through an ILS grant at \$150/hour.) Of the remaining \$251k, that represented 18-b payment on **330** vouchers (Felonies A through E, misdemeanors, and violations.) The average of his 18-b vouchers was **\$759.34**. That is in line with the average voucher amount for the Program.
 - We don't know why Mr. Tabshneck waited so long to submit that large number of vouchers; the point is that he was paid in accordance *with his number of assignments*. It was not a matter of him having excessive billable time from January 1 to June 30 totaling \$271k.
- We shared with Mr. Herbeck, but the article does not reflect that, as to Alexander Martin, "the \$214k arose from exclusively Family Court work; the assigned attorney is providing parental representation on matters as set forth in the Family Court Act. There was payment on **70** vouchers for an average of **\$3,062.52**. As you know, the assigned attorney does not issue a voucher until the conclusion of the file. Family Court matters last longer than most Criminal matters – it is common for a Family Court voucher to cover activity for multiple years. [] Making the same point: Mr. Martin was paid in accordance *with his number of assignments*. It was not a matter of him having excessive billable time from January 1 to June 30 totaling \$214k."
- Mr. Herbeck did not ask us about panel attorney James Maloney. If he had, applying the same analysis: as to his total of \$202K, about \$18.5k arose from non-18-b hourly work (i.e., AOC, Mentor, DWI Mentor at large) paid through an ILS grant at the rate of \$150/hour. Of the remaining \$183.7k, this arose from **130** Criminal (Homicide, A-E Felonies, Misdemeanors, Violations) vouchers, meaning his 18-b vouchers **averaged \$1,413.29** each. That is in line with the higher-level panels upon which he serves.

WHY NOT ACCEPT A PLEA AT ARRAIGNMENT

To meet the goal of proving high-quality representation, the Criminal panel attorneys are encouraged to avoid accepting a plea at time of arraignment. There is often insufficient time or communication with the client between the time of assignment and the time of arraignment to sufficiently research the collateral consequences of accepting a plea. A conviction by way of a plea – even an ACD -- can lead to outcomes that impact one’s job, housing, benefits, citizenship, education, access to student loans, ability to adopt or foster a child, ability to hold public employment or office (i.e., police officer, firefighter, notary, elected official), employment licensure, and more – invisible punishments which can impact someone’s life even if they did not know about them at the time of the plea bargaining.

Unless it’s a plea to a parking ticket or an outright dismissal, a criminal defense attorney at arraignment lacks sufficient information to know the collateral consequences of a plea offer without engaging in a thorough examination of the client’s circumstances and legal research.

ERIE SPENDS LESS ON PUBLIC DEFENSE THAN MONROE

In 2024, the County of Erie budgeted \$25.8M for spending on public or indigent defense as a whole: the ACP (\$20.3M) and the Legal Aid Bureau of Buffalo (\$5.5M.) In 2024, the County of Monroe budgeted \$207M (the Office of the PD: \$10.3M; and \$10.4 for the Conflict Defender and ACP.)

Monroe County has 79.04% of Erie County’s population. Even though it’s 79.04% of Erie County’s size, Monroe County’s spending is 80.11% of amount that Erie is spending on public or indigent defense.

That gap will widen by the end of 2024. When the County of Erie developed the 2024 budget, the state budget was not yet finalized. The 18-b rate increase was projected to cost Erie County \$10.8M in 2024 – which contemplated only that the State would offset 50% of the County’s expense for the 18-b increase for the last quarter of the State’s fiscal year (1/1/24 – 3/31/24) which is also the first quarter of the County’s fiscal year. Now that the State’s 2024-2025 budget is in effect, it is confirmed that the State will continue to offset 50% of the County’s expense for the 18-b increase for the County’s second, third and fourth quarters of 2024 (plus the first quarter of 2025.) For 2024, it is safe to project that the 18-b pay increase will cost Erie County about \$5.4M, not \$10.8.

We do not have access to the amount of the ILS 18-b offset to the Monroe County ACP; it will not be as robust as the ILS offset to Erie County, because the Erie ACP is so much bigger. Suffice it to say, the correlation gap between population and spending will continue to move the needle in favor of the Erie County ACP model.

LEGAL AID BUREAU – FAMILY COURT WORK

All parental representation matters that are eligible for assignment pursuant to the Family Court Act are assigned to an ACP Family Court division panel attorney.

LABB has a staff of attorneys who serve as “Attorney for the Child” (AFC) pursuant to appointment by the Fourth Department of the Appellate Division of the Supreme Court. LABB staff attorneys also defend as AFC the Juvenile Delinquency cases that are prosecuted by the Erie County Department of Law (*n.b.*: not prosecuted by the Office of the Erie County District Attorney.) LABB does not represent parents or other parties in parental representation matters (other than representing a child as AFC.) An attorney serving in the position of AFC would have a conflict of interest as to parental representation.

The AFC program is administered by the four Appellate Departments of the NYS Supreme Court. Locally, in addition to appointing LABB staff attorneys as an AFC, the Fourth Department also maintains a panel list of private counsel who act as AFC upon appointment by the Fourth Department. That panel is akin to an assigned counsel program; we have nothing to do with running it.

By way of information, in any situation where a LABB staff attorney is appointed as an AFC, that creates a conflict going forward for the LABB for any matter involving the representation of the parents. That means the office, not just the staff attorney. This includes non-Family Court issues, such as arrest in any municipality.

Family Court: Rife With Conflicts

In nearly all Family Court matters, there is an inherent conflict built into the litigation. Other than Support Violation matters (these are very few of our cases) each case that comes into Family Court has two or more parties who are in conflict with each other. In general, there is a Mom and a Dad in Family Court to resolve issues of custody. In Family Court Act Article 10 cases (Abuse/Neglect) it is common to have numerous parties in conflict with each other before the court. A mother appearing as a respondent may have several children with different fathers. Each of those parents is entitled to representation. Essentially a staff-attorney model (whether intragovernmental or not-for-profit) in parental representation would require that a minimum of 50% of the cases be sent out to another office due to a conflict.

The beauty of the ACP model is that it is conflict-free. Our panel members function as independent contractors and are therefore fully available to step into the complex nature of the relationships between the clients without engendering prohibitive conflicts. An ACP model provides greater flexibility for appointing counsel in a conflict-rich environment.

TO DO FIXED ASSIGNMENT OF ATTORNEYS IN THE TOWN OF CHEEKTOWAGA WOULD REQUIRE A 50% INCREASE IN EXPENSE

To cover the non-conflict caseload in Cheektowaga, a staffed defender office would need at least 10 full time attorneys. LABB currently assigns their attorneys roughly 313 cases/attorney; that is much higher than what ILS would like, but their staffing levels mandate these caseloads.

Cheektowaga had 2,196 misdemeanor cases assigned through September 30, 2024. Extrapolating that forward means 2,928 misdemeanor cases for the year. Dividing 2,928 by 313 equals 9.3 attorneys. Figuring in coverage for accrued time (i.e., vacation, sick leave, parental leave, FMLA, etc.) means using a figure of 10. At \$174,356 salary plus fringe/year (the current average cost of an Erie County Assistant District Attorney salary and fringe), the cost would be \$1,743,560. Add in 5 support staff for those 10 attorneys at approximately \$90K salary and fringe, the total for just the cost of **staff salaries/fringe totals \$2,193,560**. These costs are for staff only. This does not include mileage, vehicles, or other accouterments of running a large, staffed PD office. And all costs will increase annually as discussed above.

The ACP cost per misdemeanor voucher to date is \$498 (1/1/24 – 8/31/24.) Multiplying that number by 2,928 means the ACP is spending \$1,458,144 in 2024 for Cheektowaga misdemeanors. That is at least **\$735,416 less** than what it would cost a PD to staff the Court at their current case/attorney load. A cost that is more stable, given the length of time between 18-b adjustments by Albany.

Furthermore, this does not account for the felony matters assigned in Cheektowaga. Those cases require seasoned, experienced personnel to handle them. More attorneys would be required to handle those matters, further increasing the cost to defend.

CONCLUSION

There are considerable cost savings and flexibility by maintaining the current model for providing public indigent defense in Erie County. The County of Erie can be proud that it is providing high quality, holistic representation to financially eligible accused individuals in the most economical way possible.

Frankly, a thorough examination would likely indicate that there would be substantial savings if the ACP were to move from being the *de facto* conflict defender for matters in Buffalo City Court and assume responsibility for the D/E felonies, or all BCC cases for that matter. We do not propose to do so. The Legal Aid Bureau of Buffalo provides important support for financially eligible individuals, including reentry for formerly incarcerated individuals and veterans, immigration support, housing rights, family stability, workers' rights and consumer rights. Without the infrastructure of the LABB's Criminal Division, the LABB would likely cease to exist. The ACP does not propose such disruption to the individuals and families for whom the LABB does great work every single day.

On behalf of First Deputy Kevin Stadelmaier, Second Deputy Yvonne Vertlieb, CFO Hope Keilman, and ACP Board President Joseph Terranova, we continue to be at your disposal for any further questions that you or the other members of the Task Force may have.

Sincerely,

Michelle Parker

Michelle Parker
Executive Director/Chief Defender