

New York State Office of Indigent Legal Services
APPELLATE DEFENDER COUNCIL

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The Appellate Defender Council is a unique group devoted to quality in mandated appellate representation in NY State court criminal and Family Court appeals. Established by the NY State Office of Indigent Legal Services in 2018, the Council is a group of 21 appellate attorneys from throughout the state. Many members lead institutional programs that provide appellate representation in criminal and/or Family Court cases. In addition, Council members include experienced appellate attorneys from ILS, NYSDA, public defender offices, and assigned counsel programs. The Council seeks to address appellate issues of statewide importance; to provide insights and ideas about how to best improve appellate representation, in part by using funding available via statewide implementation of *Hurrell-Harring* reforms; and to present innovative, quality trainings presented by highly experienced attorneys.

Led by Robert Dean, the Council's Working Group on Preserving Appellate Rights has collaborated with other defender groups to present CLE trainings for trial attorneys throughout the state. Bob is the Attorney-in-Charge at the Center for Appellate Litigation in NYC and Chair of the State Bar Association's Committee on Mandated Representation. Future programs for trial attorneys will address how to preserve issues for appeal. The Working Group on Appellate Training, co-chaired by Drew DuBrin and Paul Skip Laisure, presented a pilot criminal defense CLE program in Albany on May 17 and September 13, 2019. Drew is Chief of Appeals at the Monroe County Public Defender's Office and author of a CPL 30.30 Manual. Skip is the Attorney-in-Charge at Appellate Advocates in New York City.

About 100 attorneys from throughout the state attended each session. The first session included remarks by Third Department Presiding Justice Elizabeth Garry and sessions on implicit bias in appellate practice; brief writing and oral argument; attacking guilty pleas and waivers of appeal; SORA appeals; and CPL Article 440 motions. The second program included a keynote address on U.S. Supreme Court practice by Jeffrey Green of Sidley Austin, and sessions on appellate strategy and ethics; representing appellate clients with mental health issues; amendments to CPL 30.30; and issues not requiring preservation, mode of proceeding errors, and harmless error analysis. The pilot training program was designed following a comprehensive survey of the NY mandated appellate representation bar regarding relevant training topics. Future plans include offering trainings on substantive topics, including Fourth Amendment law; regional trainings in each Appellate Division Department, in coordination with trainings provided by the courts; and CLE programs devoted to Family Court appeals.

In addition to developing a new appeals training regimen, the Appellate Defender Council has played, or is playing, a role in proposed legislation to amend laws impacting criminal appeals matters, such as CPL 380.55 and CPL 440.10 and 440.20; in implementing provisions in the Domestic Violence Survivors Justice Act providing for post-conviction resentencing motions; and in providing insights to ILS regarding appellate caseloads and data reporting. The Appellate Defender Council is chaired by Cynthia Feathers, ILS Director of Quality Enhancement for Appellate and Post-Conviction Representation.