

September 2018 - Caseload Relief: Much More Than Reduced Caseloads

These narratives highlight how use of the *Hurrell-Harring* Settlement's caseload relief funding has not just reduced caseloads but has had other positive benefits. With reduced caseloads and a stronger staffing structure, providers have more time to, among other things: become involved in community initiatives that impact their clients and attend high-caliber trainings. These are described below.

Caseload Relief Allows Public Defense Leaders More Time to Become Involved in Community Initiatives that Impact Clients.

During a recent meeting with ILS, Leanne Lapp, the Ontario County Public Defender, explained how implementation of ILS caseload standards has given her the time needed to work on community initiatives that impact the Public Defender Office's clients. As an example, she told us of a recent collaboration with other county officials and community-based organizations to work on a grant submission to the federal Substance Abuse and Mental Health Services Administration (SAMHSA) for funding to enhance the screening, case management, support, and post-recovery services that the County's diversion courts provide. This collaboration included the Ontario County District Attorney, Ontario County's grants manager, court staff, as well as community-based organizations such as Catholic Charities and Finger Lakes Area Counseling and Recovery Agency. Ms. Lapp played an active role in designing and writing the grant proposal. Ontario County subsequently learned that SAMHSA had awarded the county a total of \$1.89 million over five years, with \$367,023 available the first year for increased case management and peer support. An article about this award is available here:

<https://fingerlakes1.com/2018/08/26/ontario-county-drug-court-gets-financial-boost-2/>

Ms. Lapp noted that prior to caseload standard implementation, she likely would not have been able to participate in this collaboration. She believes that there are long-term benefits to having the Public Defender Office at the table for this initiative in addition to the enhanced support services for Public Defender Office clients. For example, she could meet, and thus have "face time," with several key players in the community, which will help with future initiatives. She was also able to ensure that the voices of Public Defender Office clients and staff attorneys were heard in this initiative. She is optimistic that there will be additional opportunities like this in the future.

Similarly, the Onondaga County Assigned Counsel Program (Onondaga ACP) has been able to devote the time needed to participate in the Onondaga County Raise the Age Task Force, which has been meeting and collaborating to discuss implementation of the 2017 Raise the Age legislation, to go into effect October 1, 2018. At the ACP's urging, the County is planning on having young people charged with felony offenses and initially prosecuted in the criminal court's Youth Part represented by attorneys with the training and credentials needed to handle felony cases in criminal court and Juvenile Delinquency cases in Family Court. The goal is to ensure continuity of representation between criminal and Family Court such that every young person under the age of 18 arrested and prosecuted for a felony offense is represented by the same attorney, even if the case is ultimately transferred to Family Court. The ACP's participation has also prevented implementation of ill-advised practices, such as allowing young people charged with a felony offense to be interviewed by Probation without consultation with or access to defense counsel. As with Ontario County, Onondaga ACP's pre-Settlement staffing pattern

would not have allowed the program to actively participate in this important Task Force; Settlement funding has allowed the program to significantly bolster its staffing pattern, making these types of collaborations possible.

Caseload Relief Allows for Enhanced Access to Regional, State-wide, and National Training Opportunities, Which Also Creates Opportunities for Defense Attorneys to Network with and Learn from Attorneys from Other Jurisdictions.

In Schuyler County, caseload relief funding has allowed the Schuyler County Public Defender Office to hire an additional full-time attorney. Prior to this, the Schuyler County Public Defender Office's staffing pattern of only two full-time and one part-time attorney (who works evenings) limited opportunities to attend trainings and Continuing Legal Education (CLE) programs outside the county because attendance at such programs would leave the Office without necessary coverage. With an additional attorney, the Schuyler Public Defender Office attorneys are now able to attend more out-of-county trainings. Since May 2018, when the new attorney began, Schuyler Public Defender Office attorneys have attended several out-of-county trainings, including the following:

- June 1, 2018 2nd Annual Master Class in DWI Defense: Drug Editions (co-sponsored by the New York State Defender Association and the Ontario PD Office and held in Ontario County). The new attorney, Valerie Gardner, attended.
- June 22, 2018 Fighting for Fair Bail CLE program (sponsored by the Regional Schuyler/Tompkins County ACP and held in Ithaca, NY). Public Defender Wes Roe and staff attorney Mark Raniewicz attended.
- July 23-24, 2018 New York State Defender Association (NYSDA) Annual Meeting and Conference, held in Saratoga Springs, NY. Wes Roe and Mark Raniewicz attended.

Notably, attending these regional and state-wide programs has allowed the Schuyler Public Defender Office attorneys to network and consult with attorneys from other counties, often in ways that directly benefit clients. For example, at the NYSDA Annual Conference in July 2018, Wes Roe connected with Nancy Ginsburg, Director of The Legal Aid Society's Adolescent Intervention and Diversion Project and discussed his 16-year-old client who is charged with an arson offense. She agreed to provide the Schuyler Public Defender Office with expert and technical assistance on the case.

Leanne Lapp, the Ontario County Public Defender, notes similar advantages to caseload standard implementation. During a meeting with ILS, Ms. Lapp reported that having manageable caseloads means that Ontario Public Defender Office attorneys have the time needed to attend high-caliber skills-based trainings. This was most evident in June 2018, when Ms. Lapp sent two staff attorneys to the National Criminal Defense College in Macon, GA. The premier hands-on trial trainer designed just for criminal defense lawyers, Macon is a challenging and intense two-week program. Both attorneys returned from the program excited about what they had learned and eager to put their new skills into practice. Having two attorneys attend this program would not have been possible prior to caseload standard implementation, because attorney workloads would have made it impossible to spare two attorneys for two weeks.

This is not the only training opportunity Ontario Public Defender Office staff attorneys recently have been able to take advantage of as a result of caseload relief funding. Attorneys were also able to attend the Fighting for Fair Bail CLE in Tompkins County on June 22, 2018; the training on suppression issues sponsored by the New York State Association of Criminal Defense Attorneys in New York City; and the New York State Defenders Association Annual two-day conference and CLE.

As with the Schuyler Public Defender Office, Ms. Lapp notes that these trainings are not just opportunities for knowledge and skill development for attorneys, but also opportunities to network with attorneys from other jurisdictions and to build important connections that promote the delivery of quality representation. For example, a few years ago, she sent a staff attorney to a DWI skills training sponsored by the National College for DUI Defense (NCDD). He returned very excited about the program and stated that NCDD would be interested in delivering the program in New York. Because of this connection, the Ontario Public Defender Office has co-sponsored (with the NCDD and the New York State Defenders Association) two day-long CLE programs on DWI defense, the second of which was delivered on June 1, 2018. Both programs attracted just over 100 attorneys, including, as noted above, Ms. Gardner, Schuyler County Public Defender Office's new staff attorney.

In its 2006 seminal report, *The Final Report to the Chief Judge of the State of New York*, the Commission on the Future of Indigent Defense Services (commonly known as the Kaye Commission), described New York's public criminal defense system as "a haphazard, patchwork composite of multiple plans... [resulting in] a fractured, inefficient and broken system."¹ As described in the Kaye Commission's report, public defense providers often worked on their crushing caseloads in isolation, lacking the time and resources needed to, among other things, collaborate with other criminal defense providers. Public defense providers also lacked the time to network with other community stakeholders, and often were not included in community initiatives that impact their clients. In many communities, public defense providers felt isolated and invisible.

With reasonable caseloads, the *Hurrell-Harring* providers have time to network and to participate in community initiatives. Ideally, this will allow them to establish themselves as important community stakeholders to be included in initiatives that impact low-income people at risk for, or with a history of, being arrested. Additionally, defense attorneys now have time and opportunities to meet defenders from other jurisdictions and to brainstorm on common issues they face. Doing so will enable defense providers to feel less isolated, ultimately promoting a less fractured system in which providers across the State can collaborate more often and more effectively on individual cases and on addressing systemic barriers to justice for low-income people.

¹ The Commission on the Future of Indigent Defense Services, *The Final Report to the Chief Judge of the State of New York*, at 15 (quoting the Spangenberg Report).