

By [Elizabeth Cooper](#)

December 16, 2013 4:24PM

## Public Defender's Office gets a boost

---

Oneida County is creating five new positions in its Public Defender's Office Criminal Division.

Oneida County is creating five new positions in its Public Defender's Office Criminal Division.

The cost of the salaries, benefits and training — more than \$800,000 over three years — will be borne by the state, which is working to shore up its beleaguered public defender system.

"People forget the role government has in not only prosecuting, but defending," Oneida County Executive Anthony Picente said. "It comes at a great price, and that's what the state is acknowledging with these grants."

The county's Criminal Division attorneys had been fielding an average of 515 cases a year, more than the recommended 400, county figures show.

"That's way over standard," said Frank Nebush, who heads the Criminal Division. "If we are not able to do a good job here, where is justice."

Nebush and other local law enforcement officials will be meeting Wednesday with state officials to discuss the implementation of the three-year grants that will pay for some of the positions.

Under federal law, states must provide legal services to defendants who cannot afford it. New York is one of a minority of states that farms out this responsibility to its counties.

Oneida County budgeted more than \$2.9 million to its Public Defender Criminal and Civil divisions for 2013. Of that, more than \$2.1 million was for the Criminal Division.

The state only began doling out such grants recently.

In 2010, the state created an Office of Indigent Legal Services, which started operations in 2011.

"Our office was set up to assist the counties in their efforts to improve the quality of representation," said Office Director Bill Leahy.

The positions being added are:

- Confidential investigator. Salary: \$29,079.
- Two full-time assistant public defender III. Salary: \$46,572 each.
- Part-time assistant public defender III. Salary: \$28,800.
- Chief appellate counsel. Salary: \$73,856.

One first assistant public defender position is being eliminated, so there will be four new jobs in the department. That person is being promoted to the chief appellate counsel position, and the state is paying the difference between his present salary and the new one.

Two of the positions relate to appeals and parole-related cases.

The county used to contract services for parolees' appeals and parole revocations out to private attorneys. In 2010 that function was taken over by Nebush's office, at a savings to the county of about \$365,000 a year.

But all those cases fell to a single attorney.

"He was getting bombarded," Nebush said.

Now, all parole cases, as well as non-parole appeals, will be handled by the chief appellate counsel, one of the new full-time attorneys and the existing attorney who had been handling the cases.

The other three positions are part of an effort to get attorneys to all arraignments of defendants who will enter the public defender system.

Currently, such defendants sometimes are arraigned without their lawyer, if it happens after regular court hours, and then arraigned again when the lawyer can be present.

This means the attorney isn't always able to interview the client right away after the arrest, which can impact bail decisions and future defense, and creates a backlog on the court system, Nebush said.

In one three-month period in 2012, there were 114 arraignments after hours in Utica alone.

The new hires will work some of those off-hours, he said.

Picente said he is glad to be getting the three-year grants for the additional positions, but added, "What happens when they run out?"

The state's Leahy said he hopes funding continues.

"There really needs to be a permanent funding stream," he said. "Our intention is not just to have the current funding levels continue, but to push for significant additional state funding."

Follow @OD\_Cooper on Twitter or call her at 792-5006.

---

<http://www.uticaod.com/article/20131216/NEWS/131219515>