

WAYNE COUNTY



PUBLIC DEFENDER

**2019**

# **Annual Report**

**26 Church St.**

**Lyons, NY 14489**

# Wayne County Public Defender

## 2019 Annual Report

### **MISSION STATEMENT:**

The Wayne County Public Defender's Office is a Wayne County Department that has been in existence since 1965. Our mission is to provide high-quality, client-centered, legal representation to people facing charges for crimes and violations of the Penal Law, Correction Law, Environmental Conservation Law and Vehicle and Traffic Law who are unable to afford an attorney.

When appropriate, we strive to address not only a client's case, but the issues underlying the client's situation. With the goal of avoiding future entanglements in the criminal justice system, we often refer clients to appropriate treatment and other community resources and undertake collateral representation when needed.

We also attempt to improve the efficiency and fairness of the criminal justice system as a whole by participating in the work of relevant professional organizations such as the New York State Defenders Association, the New York State Criminal Defense Lawyers Association, the Chief Defenders Association of New York, the National Association of Public Defenders and the New York State Bar Association.

### **STAFF:**

The Wayne County Public Defender's Office legal staff is currently comprised of one full-time Public Defender, five full-time assistant public defenders and four part-time assistant public defenders. The support staff for this office includes one criminal investigator, one Sentence Mitigation Specialist, one confidential secretary, and three senior clerk typists. Weekly staff meetings are held for all attorneys, our Mitigation Specialist, our investigator and one senior clerk typist on Tuesday mornings so that we can interface about the clients we have in common, review evolving legal issues and discuss office procedures.

#### **Full-time Attorneys:**

**ANDREW D. CORREIA** is the Public Defender since June 2018. Mr. Correia has worked for this office since 2001 with a short vacancy in 2010. A career Public Defender, he has practiced law since 1997. He is a Board member of the New York State Defenders Association and a member of the Chief Defender Association of New York as well as the New York State Association of Criminal Defense Lawyers

**KIM DUGUAY** joined the Public Defender's Office as the First Assistant beginning in September 2018. She brought with her 25 years of experience as a lawyer and a Masters in Social Work, concentrating in mitigation work. She has been a civil legal services attorney, a private practitioner, a member of death penalty defense teams

as a mitigation expert and, for seven years before she joined the WCPD, was an appellate advocate in the Monroe County Public Defender's Office. Ms. Duguay now advocates for clients in Drug Court, navigates the new and complex legal terrain of Raise the Age cases in the County Court Youth Part, administers our appeals and represents clients in various Justice Courts as well.

**ARLINE HANNA**, Assistant Public Defender, was hired in 2016 to fill a vacancy caused by a resignation. A native of Wayne County, Ms. Hanna previously worked at the Oneida County Public Defender's Office. She has practiced law since 2014. She represents clients in Justice Courts, parole violation matters and serious felony matters in Wayne County Court. She has also been responsible for training our Counsel at First Appearance attorney. Ms. Hanna is also currently the Vice-President of the Wayne Pre Trial Services Board.

**JOHN GILSENAN**, Assistant Public Defender, was hired in 2017 and began work in our office in January 2018. Mr. Gilseman previously worked as a public defender in Maryland and Michigan, and has handled appeals for the Hiscock Legal Aid Society in Syracuse. He now handles serious felony matters in County Court as well as various Justice Court cases and the occasional appeal. He has practiced law since 2011.

**GRIFFIN DAULT**, Assistant Public Defender, was hired in May 2019 under an Office of Indigent Legal Services Grant designed to assist in providing counsel at first appearance. Mr. Dault received his law degree from the University at Buffalo Law School in 2017 and has previously worked in private practice. Mr. Dault handles justice courts in Newark, Arcadia, Lyons and Ontario for us. Mr. Dault also carries a heavy load of appearances at the Centralized Arraignment Part at the Wayne County jail. He is originally from Webster NY.

**DINA ALAWNEH**, Assistant Public Defender was hired in July 2019 for a full time position that consisted of a vacant part time position augmented to full time with funding from our Hurrell Haring State funding. Ms. Alawneh came to us from the Franklin County Public Defender's Office where she practiced both criminal and family law. She has been a lawyer since 2017 when she received her LL.M. from Duke University. Ms. Alawneh handles justice courts in Palmyra, Marion and Williamson as well as parole revocation matters. She has recently begun representing clients in Wayne County Court. Like all the full time attorneys in the office, Ms. Alawneh also spends substantial time in the Centralized Arraignment Part representing clients facing possible pre-trial detention. Ms. Alawneh is also fluent in Arabic.

#### **Our 2019 Part-time Attorneys:**

**Rick Youngman**- 24 years with this office, 45 years as a lawyer.

**William Hendricks**- with the office since 1986.

**John Grow**- with the office for 20 years.

**Peter Chambers**- Entering his 7<sup>th</sup> year with the office.

The part-time attorneys in this office have extensive experience practicing law and many years of service in our office. They now average over 20 years of employment here. Overall, they average roughly 25 years of experience in the practice of law. They are generally responsible for Justice Court representation, some supervision of Justice Court practice and some appeals, in collaboration with Ms. Duguay.

### **Support Staff:**

**DAVID P. PHILLIPS**, Criminal Investigator, was hired in 2011 upon the retirement of our prior Investigator. Mr. Phillips served as an Investigator in the Inspector General's Office of the New York Army National Guard for ten years. He has received additional investigative training from NYSDA and the National Defender Investigator Association. In 2019, Mr. Phillips was trained to become a certified operator of a Cellebrite machine, equipment designed to retrieve forensic evidence from cell phones and other digital devices. The equipment and training were paid for in full by an Office of Indigent Legal Services financial distribution.

**KIMBERLY GOLDING**, Sentencing Specialist, was hired in 2014 pursuant to a distribution applied for by this office through the State's Office of Indigent Legal Services (ILS). Ms. Golding has held a Masters in Social Work since 2005. Her work includes arranging and monitoring appropriate treatment for clients and writing thoroughly documented pieces of advocacy that our lawyers use to attain the best possible outcomes for our clients in court. She functions as our internal Drug Court coordinator and also is an integral part of our Raise the Age representation team.

**KATHY FOX-GROAT**, Confidential Secretary, was hired in 1992 with 12 years of legal secretary experience with a private law office. In addition to secretarial work for Mr. Correia, Ms. Fox-Groat handles purchasing, payroll, vouchers and assists Mr. Correia with office administrative responsibilities. She is also the point person for the extensive administrative work required to coordinate the seven separate Office of Indigent Legal Services monetary distributions this office currently is coordinating over four different agencies on behalf of the County, in an effort to minimize County costs while meeting our State mandates for quality of representation.

**DEBRA SEARS**, Senior Clerk Typist was hired in 2008. Ms. Sears oversees the data system and does initial client interviews at the jail along with numerous other duties related to cases pending in the Wayne County Court. Ms. Sears has been integral in managing our collaboration with Access to Justice, a non-profit group affiliated with Harvard Law School attempting to carry out a scientifically valid study showing the efficacy of text message notices in encouraging client appearances in courts and attorney appointments. Ms. Sears was also a partner in our coordination with the Wayne County IT department while we prepared for the influx of new information being provided to us as a result of the new Discovery Reform legislation.

**MARY ANN POWELL**, Senior Clerk Typist was hired in 2013. Among her other various office duties, Ms. Powell is our contact person regarding the new Eligibility Requirements as set out by the Office of Indigent Legal Services beginning in April of 2017. Mary Ann also spearheaded the months-long reorganization of our basement storage area.

**DEBRA HURLEY**, Senior Clerk Typist was hired in 2017. Ms. Powell and Ms. Hurley share the many and varied front office responsibilities. Ms. Hurley also takes responsibility for management of our office supplies.

### **COURT JURISDICTIONS:**

During 2018, the Public Defender's Office defended individuals in three County Courts, County Court Youth Part related to Raise the Age legislation, one Treatment Court, eighteen Justice Courts with thirty-one Judges and handled parole revocations as well as criminal and parole appeals.

#### **Wayne County Court:**

There are three Wayne County Court judges who have court calendars that are generally comprised of individuals charged with felonies and violations of probation. County Court matters are now generally handled by Mr. Correia, Ms. Hanna, Ms. Duguay and Mr. Gilsean. Ms. Alawneh and Mr. Dault also occasionally appear in County Court.

#### **Wayne County Drug Treatment Court:**

One Wayne County Judge, Hon. Daniel G. Barrett, is assigned to this court which meets on a weekly basis. Ms. Duguay took over representation in Drug Treatment Court in October of 2018. Our Sentence Mitigation Specialist Kimberly Golding is also a member of the Treatment Court team and appears weekly in court both in support of our clients and to assist our lawyers with treatment related issues that arise from time to time. Ms. Golding functions as our office's Drug Court coordinator in order to ensure a smooth transition for the clients into this demanding Court. Successful cases in Treatment Court typically last from one to two years, depending on the client's progress.

#### **Youth Part in County Court as a result of Raise the Age legislation:**

As of October 1, 2018, 16 and 17 year old year old defendants charged with misdemeanors are now referred directly to the Family Court system. However, when our young clients face felony charges, those clients now begin in the Youth Part of Wayne County Court. In many cases, even felonies will eventually be referred to Family Court. In some cases, they will remain in the Youth Part. In all Youth Part cases there is voluminous work that must be done in a very short time to meet the expectations of the new statute. Ms. Duguay and Ms. Golding work as a team to meet those expectations and achieve the most favorable outcomes for our clients.

**Justice Courts:**

Each of the three Village Courts and fifteen Town Courts (each town having two Judges) in Wayne County was covered by one of our ten attorneys. The number of cases in these courts varies from year to year, therefore, the caseload of each court and attorney assignments are reviewed on an annual basis by the Public Defender with an eye towards keeping balanced caseloads amongst assistants. Our attorneys appear in most Justice Courts for a criminal calendar once or twice a month, with hearings and trials scheduled as needed.

**Parole Violations:**

We had 50 new parole revocation matters in 2019. None of those matters were carried over into 2020. These proceedings have no involvement with the Wayne County District Attorney's Office as they occur only with parole personnel and witnesses before an Administrative Law Judge at the Wayne County Jail. We submit for reimbursement from the State of New York for our representation of these parole clients. Unfortunately, we are usually reimbursed for only roughly one third of our actual costs. As of the writing of this report, the Governor's Executive Budget this year has zero dollars for this required parole representation. Normally, some amount of money is restored to the budget during the budget process.

**Appeals:**

Appeals occur when our clients exercise their right to have a higher Court decide whether the law was applied fairly in their case. Kim Duguay has taken on the role of administrator of our appeals given her extensive experience in appellate work and her positive working relationship with the Fourth Department Appellate Division. Our appeal numbers have increased substantially as we have become more aggressive in making sure our clients are aware of their appeal rights. In 2019 we opened 18 new appeals, and carried 13 of them into 2020.

**SUPPORT STAFF WORKLOAD:****Investigations:**

David Phillips is our full-time investigator. He carried out duties including interviewing clients and witnesses, preparing statements for witness signature, service of subpoenas, taking photographs of places of interest to our clients' cases, conducting electronic investigations, consulting with local law enforcement agencies, reviewing and collecting surveillance recordings as well as testifying in Court as needed regarding his work. In many instances, Mr. Phillips' work was indispensable to providing high quality representation to our clients, and was instrumental in allowing us to meet our ethical obligations of achieving the best possible outcomes for every client, in every case.

In addition, in 2019 Mr. Phillips became a certified Cellebrite operator, which will enable us to access digital information from our clients' phones and digital devices that is relevant to their cases.

In 2019 Mr. Phillips worked on a total of 161 cases for 10 different lawyers.

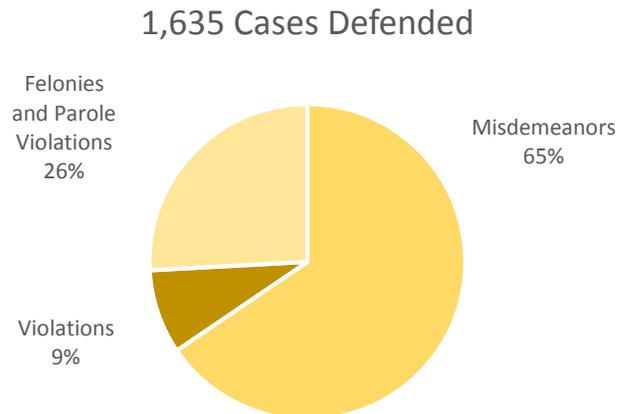
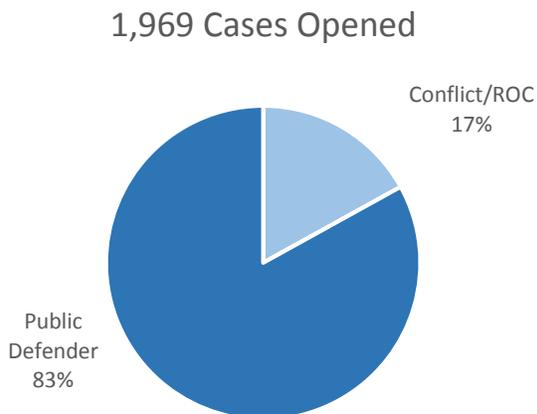
### **Sentence Mitigation Specialist:**

Ms. Golding fielded a total of 70 attorney requests for client assistance in 2019. Thirteen of those requests carried over in 2020. She has also done specific work for at least 18 Drug Treatment Court clients, although her work in Treatment Court is difficult to quantify numerically as she is always present to assist both the clients and our lawyers on an ongoing basis. She has been deeply involved in all three Raise the Age cases we have handled during 2019, working diligently on a sentence mitigation application that contributed substantially to a decision by the Court not to saddle our client with the lifelong stigma of a criminal record.

Her work entails not only direct client and family contact, but helping to arrange appropriate treatment for clients, reviewing medical, mental health and military records and summarizing them for the attorneys, and collaborating with existing resources outside the office. This often culminates in writing detailed pieces of evidence-based advocacy, in collaboration with the lawyers, for submission to the Judges on behalf of the clients. Ms. Golding's work has influenced the outcome of cases for many of our clients this year, resulting in less needless incarceration and more appropriate treatment, hopefully leading to a reduction in recidivism.

### **OVERALL CASELOAD:**

In 2019 the Public Defender's Office opened 1,969 cases of which 334 were handled by privately retained lawyers or assigned out of the office due to conflicts of interest. Of the 1,635 cases we defended, 425 were felonies or parole violations, 1,063 were misdemeanors and 147 were violations.



## **ANNUAL BUDGET:**

The Public Defender's total expenses for 2019 were \$1,633,628, with revenues of \$543,178. The vast majority of this revenue came from the ILS distributions discussed below.

## **DISTRIBUTIONS, REIMBURSEMENTS AND OUR SINGLE GRANT:**

The Public Defender's Office currently receives financial revenue through three Office of Indigent Legal Services Distributions and is planning for revenue from a fourth. In addition, in 2019, the Office of Indigent Legal Services finalized the financial support stemming from the Hurrell-Harring lawsuit settlement and the statute that followed last year expanding that fiscal support to the 57 non-settlement counties, of which Wayne County is one. This year we expect to arrange the second year of that Hurrell Haring funding to support improvements in the services delivered by our office. The Public Defender Office also has a single grant supporting the Counsel at First Appearance attorney position.

All distributions, reimbursements and grant payments and reports are closely tracked in quarterly financial reports filed by Ms. Fox-Groat.

## **ONGOING AND DEVELOPING ISSUES FOR 2020:**

### **Centralized Arraignments**

On April 1<sup>st</sup>, 2019 we began operation of the Centralized Arraignment part taking place at the Wayne County Jail 7 AM and 7 PM, every day of the year. This milestone could not have been reached without the hard work of the Wayne County Magistrates Association, the Wayne County Sheriff's Office, local law enforcement representatives, the administrative staff of the Seventh Judicial District and financial support for my office from the Office of Indigent Legal Services.

### **Discovery Reform**

On January 1<sup>st</sup>, 2020 new discovery rules in criminal case went into effect. Our office spent the last few months of 2019 preparing for the high volume of information we will be receiving from the District Attorney's Office. We worked with our database vendor and our County IT department to make sure that we had appropriate procedures and storage in place to keep the information organized and secure. So far in 2020 our internal procedures seem to be working well.

Respectfully submitted,



Andrew D. Correia, Esq.  
Wayne County Public Defender