

INDEPENDENT OFFICE OF ASSIGNED COUNSEL

Annual Report for 2024

Submitted by the Board of Directors of the Independent Office of Assigned
Counsel

Wendy Marie Weathers, Esq. Chair

Overview of the Office

The Independent Office of Assigned Counsel (OAC) is Westchester County's largest provider of mandated representation as defined by County Law Article 722, offering high quality legal representation by approximately 250 independent lawyers in private practice to low-income people with cases in the Criminal and Family Courts of the County as well as criminal and family law appeals and matters related to parole violations, revocations and appeals.

The office was created and operates pursuant to Westchester County Law Chapter 186, passed unanimously by this Honorable Board and signed into law by County Executive George Latimer in 2021. It is governed by a Board of Directors comprised of members selected in accordance with the law. Oversight of this office is also provided by the New York State Office of Indigent Legal Services (ILS).

Summary of State Funds Intended to Support the OAC

The primary source of funds to support this office and its initiatives are state grant funding provided by the New York State Office of Indigent Services (ILS). ILS has 2 main grants:

- Distribution Funding—a lump sum is granted to the County for the County to determine allocation among providers. It is a 3-year budget cycle. These grants cover funding for resources to support Family Court attorneys as well as Criminal Court attorneys. The OAC is the primary provider of parental legal representation. In the vast majority of cases, at least 2 assigned attorneys are involved in each case. Legal Services of the Hudson Valley is the other provider of parental representation. They do not receive funding from this funding stream.
- Hurrell-Haring Settlement Funds—ILS determines funding to each provider of criminal defense representation. The Legal Aid Society of Westchester and the OAC provide this representation.

There are also 3 smaller grants:

- Counsel at First Appearance in Criminal Cases (CAFA)—a lump sum is granted to the County to provide stipends to ensure counsel at arraignment in after court hours in criminal cases. This is a 3-year budget cycle. For the first time, the ACP was allocated funds to support this key justice initiative.
- Upstate Quality Improvement Grant—a lump sum granted to the County to determine allocation among providers. This is a 3-year budget cycle. Funds can be used for both Family and Criminal. The entirety of this Grant was allocated to the Legal Aid Society of Westchester.
- Second Upstate Family Representation Grant—a competitive 3-year grant submitted by the County to provide pre-petition representation to parents in Article 10 (Abuse/Neglect) cases and to provide support for attorney resources to improve the quality of representation.

State Grant Funding—Westchester County is Grantee

In 2024, the Budget Office allocated 33.63% of **Distribution 14**, or \$1,878,997.00 over 3 years to the OAC out of a total budget of \$5,586,933 with the balance allocated to the Legal Aid Society. We requested \$2,300,306.00, or 41% of the total. The decrease came in the area of funding for experts. We requested \$1,076,167, and received \$654,858.00. In the prior 3-year Distribution funding cycle, the OAC received \$376,972 out of a total budget of 2,793,498, or 13.49%. As such, we received a substantial increase from past Distribution cycles. It should be noted that the Assigned Counsel Panel represents approximately 80% of all mandated representation for which the County is responsible and further, that it provides almost all Family Court parental representation in the County. Distribution funds may be used for family court representation as well as criminal defense.

Indigent Legal Services allocated \$5,029,450 in the most recent **Hurrell-Haring** funding cycle, representing a 25.71% increase over the past allocation.

The County also allocated 50%, or \$120,500 to the OAC for **Counsel at First Appearance**.

The OAC deeply appreciates the growing support for the work that we do, so that attorneys have all the resources they need to do their finest work.

In 2024, the Division of Criminal Justice Services (DCJS) allocated \$1.5 million in **Aid to Defense** funds to the County. DCJS allocated an additional \$1.5 million for **Discovery Reform**. We believe that these funds will be most effectively utilized by the County if both providers of mandated representation and the District Attorney’s Office work together to determine the most effective way to address discovery access, download and retention issues.

Board of Directors Summary

The Board met regularly during the year to review reports from the Administrator and Deputy Administrator. Meetings were primarily public, but on occasion some parts of the meetings were conducted in Executive Sessions.

On December 3, 2024, and upon notice of the resignation of the Administrator, the Board of Directors voted unanimously to appoint Stephanie Perez Acting Administrator.

There is one vacancy on the OAC Board.

Administrator's Summary

In General

In its first 2 years of operation, the OAC created a foundation, framework and sense of community that mirrors the most robust and mission-driven institutional providers. In addition to the services and resources provided to attorneys in 2023 that were outlined in the 2023 Annual Report, 2024 saw:

- a full training program
- The *Wednesday Wag*, a weekly podcast where various speakers, including panel attorneys, share ideas and knowledge
- *Dicta*, a quarterly newsletter; an attorney listserv; the Hub, a digital information center for attorneys to access templates; recorded trainings; forms and other data needed by assigned attorneys
- *ACP@ACP*, a mentoring program that leverages the knowledge and experience of panel members for the benefit of less experienced members
- A Second Chair program that exposes less experienced attorneys to complex trial cases handled by the most skilled trial counsel
- The first-ever conference for 18B attorneys, the Pannual Conference (see below)
- A telephone system that permits incarcerated clients to contact their 18B lawyers at no cost to client or attorney, thanks to the work done by County IT and DOC
- The OAC Handbook, which outlines rules, standards and expectations for attorney conduct as well as standards for admission to the various attorney panels

OAC provided important resources for attorney use in furtherance of high-quality legal representation and greater access to counsel by low-income litigants. It should be noted that, as discussed above, state grant funding through ILS is intended to be the primary funder of this office designed by this Honorable Board to replicate the resources, supports and accountability measures typically available in an institutional provider setting. It is respectfully submitted that given the numerous resources and supports provided to attorneys, rigorous standards for admission to the panel, high level of attorney accountability, vertical representation of all clients, and minimal administrative costs, Westchester's ACP is both highly efficient and cost-effective in general and by comparison to institutional providers of mandated representation.

Attorney Billing/Attorney Retention

Working closely with the Finance and IT Departments, the OAC continued to streamline the billing process for attorneys and experts to ensure both prompt payments for services rendered as well to maximize reimbursements from the State. As well, we readied our billing system to go fully paperless and anticipate that this new system will start on a limited basis on February 1, 2025.

Since January 2024, Westchester's Assigned Counsel Panel has attracted wide interest among attorneys, giving the OAC the luxury of selecting from a large pool of applicants, based on their qualifications and actual need.

Data Highlights

From January 1, 2024 to November 30, 2024, the OAC opened over 14,500 cases in the case management system, which puts us on track to open 17,000 vouchers in our e-voucher system. Opening a case permits attorneys to bill for services rendered on that case. It should be noted that this represents a significant reduction from 2023 and one that reflects the backlog from the prior provider that had to be cleared in order to allow attorneys to timely bill for services rendered prior to the inception of the OAC.

It should also be noted that in contrast to institutional providers, at the OAC, a client's multiple docket numbers associated with a particular matter and/or arraignment date, are considered a single case for billing and case volume data. As such, when comparing 18B case volume to that reported by other providers, we respectfully request that this be considered.

During the same time period, the OAC reviewed, corrected when necessary, and sent 12,500 vouchers to Finance, putting us on track to send over 14,000 vouchers by year end. This marks an increase from 2024, which we attribute to greater all-around accuracy and efficiency as a result of our digital payment system. As of December 13, 2024, the OAC remains 100% up-to-date processing vouchers, and all payable vouchers received by that date have been inputting preliminary payment data and sending them to Finance for payment.

Reimbursements

During the above-mentioned period, the OAC has sought and the County has received approximately \$6 million in reimbursements from State grants and the partial hourly rate reimbursement.

Staffing

In November, the Administrator submitted a letter of resignation to the Board of Directors effective, January 2025. The Board of Directors voted unanimously to appoint Stephanie Perez, the Deputy Administrator, Acting Administrator. The Accountant, who is the only team member qualified to seek reimbursement for grant funded expenditures and the partial rate increase submitted a letter indicating that she would be on extended leave beginning in January 2025. A temporary leave replacement has accepted an offer of employment and is expected to start before year end, intended to ensure continued revenue coming back to the County.

Attorney Rate Increase

In the FY 2024-25 State budget, the partial rate reimbursement is in effect until March 31, 2025.

2025 County Budget

The OAC budget was timely submitted to the County Budget Office. Anticipated revenue from State reimbursement is intended to offset the cost of all staff except 2 permanent administrative support staff (1 full-time, 1 part-time), \$40,000 to the Westchester County Bar Association, miscellaneous expenses, such as bar memberships for legal staff and, all pre-April 1, 2023 hourly attorney fees and a portion of those post-April 1, 2023 hourly attorney fees.

Objectives for 2025

The OAC intends to focus on:

- Broader early access to counsel for low-income litigants in both Criminal and Family Court
- Continued implementation of standards for high quality representation that all panel attorneys are required to meet
- Expansion of the digital billing platform to include greater accountability measures and opportunities for data collection and analysis
- Submitting reimbursement claims to ILS

Counsel at First Appearance (CAFA)

In April 2024, the 9th Judicial District implemented a weekend and holiday City Court Centralized Arraignment Part located in the Westchester County Courthouse. At inception, 2 attorneys per provider in 2 different courtrooms were arraiging defendants. Beginning in 2025, the program will be consolidated into 1 courtroom. Due to the prior 18B administrator's decision not to seek state funding for Counsel at First Appearance (CAFA) for 18B attorneys' Saturday City Court arraignments, ILS disallowed reimbursement for Saturdays based on supplantation when the OAC requested state funding for this representation. The OAC was granted 50% of a state CAFA grant, or \$120,500 per year for 3 years to pay for this program. As well, we were granted additional state funds to reimburse the cost of off hours Town and Village arraignments under CAFA.

It is essential to have counsel at this critical stage in a legal action. Beyond that and with respect to criminal matters, funds for CAFA in the Town and Village Courts would go a long way toward instituting a fair rotation of attorneys that in turn best assures attorney independence—a key ingredient of high-quality legal representation and a mandate of Local Law Chapter 186.

Administrative Support to Expand Digital Billing Program

ILS granted funds to reimburse the cost of a Grade VI staffer, including fringe, to open cases in the digital billing system to ensure that attorneys can bill promptly for services rendered.

Training

The OAC recognizes the importance of professional development through education. As such, here is a sample of the programs put on by David Hymen, Director of Training from September 2024 to March 2025:

- i. **9/18/24 Wednesday Wag: Dr. Bhavana Pahwa from AWAKE (Asian Women’s Alliance for Kinship and Equality). Spoke about cultural norms and barriers regarding domestic violence, as well as how to give survivors opportunities for change**
- ii. **9/19/24 - CLE: Nuts & Bolts of Materiality**
- iii. **9/25/24 Wednesday Wag: Digital discovery issues (with Panel member Daniel Harnick)**
- iv. **10/1/24 - Infrequently Answered Questions: The Intersection of Federal and State Criminal Cases**
- v. **10/16/24 Wednesday Wag: Follow up to Pan Con Vicarious Trauma presentation with Ben Leavitt**
- vi. **10/29/24 CLE: “Compassionate Representation: Foundations of Mental Health and Co-Occurring Disorders” (with DCMH)**
- vii. **11/13/24 - Representing the Veteran Client: Military Culture – co-sponsored with NYSDA**
- viii. **11/20/24 - Practicing Parole: From Release to Revocation (With Wyoming County Public Defender)**
- ix. **11/22/24 - Wednesday Wag training on pre-petition assignment of family court attorneys and social workers to clients with certain criminal charges**
- x. **12/4/24: CLE “Compassionate Representation: Communication and De-Escalation” (with DCMH)**
- xi. **12/6/24 Wednesday Wag, Friday Edition about Vicarious Trauma and the Breath-Body-Mind™ technique (with DCMH)**
- xii. **12/13/24 Wednesday Wag, Friday Edition about Impacts of a New Administration on Non-Citizen Clients**
- xiii. **1/8/25 - Nuts & Bolts of Accusatory Instruments and Facial Sufficiency**
- xiii. **1/22/25 – Representing Veterans in Criminal Court**
- xiv. **2/5/25 CLE: DVSJA (Domestic Violence Survivors Justice Act) Basics- How to Advocate for Lower Sentences in Westchester County Court and Post-Conviction (with ILS).**
- xv. **2/26/25 – Representing Veterans in Family Court**
- xvi. **3/12/25--CLE on cybersecurity (with DoIT).**

Pannual Conference

On October 14, 2024, the OAC convened the first-ever conference for all members of Westchester’s Assigned Counsel Panel. The conference focused on 3 critical elements relevant to all assigned attorneys—high quality legal representation through the use of non-attorney experts, attorney wellness and exposure to vicarious trauma, and building a community of

colleagues. The DCE, County Attorney and Chair of the OAC Board of Directors were in attendance. County DoIT, DPW&T and the Parks Department were instrumental in pulling this together and in providing a space large enough to accommodate the attendees at the County Center.

Outlook for 2025

The future is bright for the OAC. In its first 2 years of operation, the office established itself by working collaboratively with multiple county departments, ILS, the court system, ACP attorneys and all stakeholders interested in working with us in furtherance of high quality, client-centered representation. Through efficiency, advocacy and commitment, we created new energy and high expectations, provided resources galore, including a robust training program, increased client access to counsel, a modern billing system and an attorney handbook that outlines our mutual responsibilities. There will be new leadership at the OAC in 2025 and it is respectfully submitted that the office is poised to do even more to further solidify itself as the county's leader in the mandated legal representation sector.

Conclusion

The OAC's administrative and legal team continue to innovate, focused on high quality, client-centered legal representation, efficient and cost-effective administration of mandated representation using a strategic approach that factors in trends in the law, client needs, attorney demographics and state funding opportunities to fulfill our statutory mandate, energize the legal community and provide dynamic leadership.